582

BENGAL SECRETARIAT LIBRARY

CHITTY'S
COLLECTION OF STATUTES,
WITH NOTES THEREON.

THE THIRD EDITION,

CONTAINING

ALL THE STATUTES OF PRACTICAL UTILITY

IN THE

Civil and Criminal Administration of Justice,

TO THE

PRESENT TIME,

BY

W. N. WELSBY AND EDWARD BEAVAN,
ESQUIRES, BARRISTERS-AT-LAW.

IN FOUR VOLUMES.

VOL. IV.

TITLES "RAILWAYS" TO "WILLS."

LONDON:
HENRY SWEET, 3, CHANCERY LANE;
STEVENS AND SONS, 26, BELL YARD;
Law Booksellers and Publishers.

1865.

LONDON:
BRADBURY AND EVANS, PRINTERS, WHITEFRIARS

4230

HES—*continued.* PAGE
3 & 4 Vict. c. 15 . . . 725
5 & 6 Vict. c. 54 . . . 732
9 & 10 Vict. c. 73 . . . 737
10 & 11 Vict. c. 104 . . . 742
†14 & 15 Vict. c. 53 . . . 743
23 & 24 Vict. c. 93 . . . 743

EATRES.
6 & 7 Vict. c. 68 . . . 750

OLLS.
23 & 24 Vict. c. 51 . . . 753

OWNS IMPROVEMENT ACTS.
10 & 11 Vict. c. 34 . . . 754
†21 & 22 Vict. c. 98 . . . 784
†23 & 24 Vict. c. 30 . . . 784
26 & 27 Vict. c. 13 . . . 784

TRADE MARKS (COUNTERFEITING).
25 & 26 Vict. c. 88 . . . 786

TRUSTEES.
10 & 11 Vict. c. 96 . . . 791
12 & 13 Vict. c. 74 . . . 793
13 & 14 Vict. c. 60 . . . 794
15 & 16 Vict. c. 55 . . . 806
22 & 23 Vict. c. 35, ss. 26—33 . . . 808
23 & 24 Vict. c. 38, ss. 9—12 . . . 810
——— c. 145 . . . 811
25 & 26 Vict. c. 108 . . . 814

UNIVERSITIES.
23 & 24 Vict. c. 59 . . . 815

USES AND TRUSTS.
27 Hen. VIII. c. 10 . . . 819
——— c. 16 . . . 824
† 5 Eliz. c. 26 . . . 825
29 Car. II. c. 3, s. 7 . . . 825
4 & 5 Anne, c. 16, s. 15 . . . 825

USURY.
12 Anne, st. 2, c. 16 . . . 825
14 Geo. III. c. 79 . . . 829
58 Geo. III. c. 93 . . . 830
† 3 Geo. IV. c. 47 . . . 831
3 & 4 Will. IV. c. 98, s. 7 . . . 831
† 5 & 6 Will. IV. c. 41 . . . 832
2 & 3 Vict. c. 37 . . . 832
17 & 18 Vict. c. 90 . . . 833

VACCINATION.
3 & 4 Vict. c. 29 . . . 834
4 & 5 Vict. c. 32 . . . 835
16 & 17 Vict. c. 100 . . . 835
24 & 25 Vict. c. 59 . . . 838

VESTRIES.
58 Geo. III. c. 69 . . . 838
59 Geo. III. c. 85 . . . 884
1 & 2 Will. IV. c. 60 . . . 845
† 7 Will. IV. & 1 Vict. c. 45 . . . 851
13 & 14 Vict. c. 57 . . . 852
16 & 17 Vict. c. 65, s. 1 . . . 854

VOLUNTEER ACT, 1863.
†26 & 27 Vict. c. 65 . . . . . .

WARRANT OF ATTORNEY.
3 Geo. IV. c. 39 . . . . . .
1 & 2 Vict. c. 110, ss. 9, 10, 60, 61 . . . . . .
6 & 7 Vict. c. 66 . . . . . .
12 & 13 Vict. c. 106, ss. 135—137 . . . . . .

WASTE.
52 Hen. III. c. 23, s. 2 . . . . . .
6 Edw. I. c. 5 8

WATERWORKS.
10 Vict. c. 17 86
26 & 27 Vict. c. 93 87

WEIGHTS AND MEASURES.
5 Geo. IV. c. 74 88
† 6 Geo. IV. c. 12 88
5 & 6 Will. IV. c. 63 88
16 & 17 Vict. c. 29 89
18 & 19 Vict. c. 72 89
22 & 23 Vict. c. 56 90

WILLS.
32 Hen. VIII. c. 1 904
34 & 35 Hen. VIII. c. 5 904
29 Car. II. c. 3, ss. 5, 6, 12, 19—24 908
4 Anne, c. 16, s. 14 913
25 Geo. II. c. 6 913
39 & 40 Geo. III. c. 98 916
55 Geo. III. c. 192 920
†11 Geo. IV. & 1 Will. IV. c. 40 922
1 Will. IV. c. 47 922
3 & 4 Will. IV. c. 104 927
1 Vict. c. 26 928
2 & 3 Vict. c. 60 945
8 & 9 Vict. c. 97 945
11 & 12 Vict. c. 87 945
15 Vict. c. 24 946
17 & 18 Vict. c. 113 947
†20 & 21 Vict. c. 77 949
24 & 25 Vict. c. 114 949
——————— c. 121 949

APPENDIX 951

CHRONOLOGICAL TABLE OF STATUTES 1035

ADDENDA ET CORRIGENDA 1059

INDEX 1105

CONTENTS OF VOL. IV.

(Of the Statutes marked thus † the Titles only are given.)

PAGE

RAILWAYS.

1 & 2 Vict. c. 98 1
3 & 4 Vict. c. 97 5
5 & 6 Vict. c. 55 8
† —— —— c. 79 12
7 & 8 Vict. c. 85 12
8 Vict. c. 20 18
9 & 10 Vict. c. 57 55
†10 & 11 Vict. c. 42 56
11 Vict. c. 3 56
13 & 14 Vict. c. 83 63
14 & 15 Vict. c. 64 65
17 & 18 Vict. c. 31 65
21 & 22 Vict. c. 75 73
22 & 23 Vict. c. 59 73

—— CLAUSES ACT, 1863.

26 & 27 Vict. c. 92 . . . . . 75a

REGISTRATION DEEDS.

7 Anne, c. 20 76
2 & 3 Anne, c. 4 82
5 & 6 Anne, c. 18 85
6 Anne, c. 35 87
8 Geo. II. c. 6 93

—— (BIRTHS, &c.).

6 & 7 Will. IV. c. 86 99
† 7 Will. IV. c. 1 109
1 Vict. c. 22 109
† 3 & 4 Vict. c. 92 113

RELIGIOUS WORSHIP.

18 & 19 Vict. c. 81 113
—— —— c. 86 116
23 & 24 Vict. c. 32 117

SAVINGS BANKS.

9 Geo. IV. c. 92 (Rep. by 26 & 27 Vict. c. 87) 117
3 & 4 Will. IV. c. 14, ss. 27—35 127
7 & 8 Vict. c. 83 (Rep. by 26 & 27 Vict. c. 87) 129
16 & 17 Vict. c. 45 132
19 & 20 Vict. c. 41 138
22 & 23 Vict. c. 20 139
—— —— c. 53 (Rep. by 26 & 27 Vict. c. 87) 142
23 & 24 Vict. c. 137, ss. 1, 2 (Rep. by 26 & 27 Vict. c. 87) . . . 142

—— (POST OFFICE).

24 Vict. c. 14 142
26 Vict. c. 14 . . . . . 143a
† —— —— c. 25 . . . . . 143c
26 & 27 Vict. c. 87 . . . . . 143d

PAGE

SCIENTIFIC AND LITERARY SOCIETIES.
17 & 18 Vict. c. 112 144

SESSIONS OF THE PEACE
57 Geo. III. c. 91 149
†59 Geo. III. c. 28 150
† 3 Geo. IV. c. 46 150
9 Geo. IV. c. 43 150
10 Geo. IV. c. 46 153
11 Geo. IV. & 1 Will. IV. c. 70, s. 35 153
4 & 5 Will. 4, c. 27 154
——— c. 47 154
6 & 7 Will. IV. c. 12 155
1 Vict. c. 19 156
† 1 & 2 Vict. c. 4 157
5 & 6 Vict. c. 38 157
† ——— c. 53 159
7 & 8 Vict. c. 33, s. 7 159
——— c. 61 159
——— c. 71 160
†12 & 13 Vict. c. 18 161
——— c. 45 161
†14 & 15 Vict. c. 55 166
21 & 22 Vict. c. 73, ss. 8—12 166
22 & 23 Vict. c. 65 167

SET-OFF.
2 Geo. II. c. 22, s. 13 167
8 Geo. II. c. 24, s. 5 174
9 Geo. IV. c. 14, s. 4 175
23 & 24 Vict. c. 126, ss. 20, 21 175

SEWERS.
23 Hen. VIII. c. 5 175
† 7 Anne, c. 9 182
——— c. 10 182
3 & 4 Will. IV. c. 22 183
4 & 5 Vict. c. 45 200
12 & 13 Vict. c. 50 204
16 & 17 Vict. c. 125 205
†17 & 18 Vict. c. 111 207
18 Vict. c. 30 207

SHERIFF.
3 Edw. I. c. 26 207
1 Rich. II. c. 12 208
28 [Vulgo 29] Eliz. c. 4 209
8 & 9 Will. III. c. 27 212
1 Anne, st. 2, c. 6 214
6 Anne, c. 12 215
3 Geo. I. c. 15, ss. 3, 9, 13, 14, 16, 17 216
20 Geo. II. c. 37 219
24 Geo. II. c. 48, s. 12 219
26 Geo. II. c. 14, s. 2 220
32 Geo. II. c. 28, ss. 11, 12 220
7 Geo. III. c. 29 221
43 Geo. III. c. 46, s. 5 222
†59 Geo. III. c. 64 222
3 Geo. IV. c. 46 222
4 Geo. IV. c. 37 225
11 Geo. IV. & 1 Will. IV. c. 70, s. 33 226
3 & 4 Will. IV. c. 42, s. 20 226
——— c. 99 227
5 & 6 Will. IV. c. 28 230
1 Vict. c. 55 230
2 & 3 Vict. c. 59, s. 2 234
5 & 6 Vict. c. 98, s. 31 234
8 & 9 Vict. c. 11 235

PAGE

SHERIFF—*continued.*
22 & 23 Vict. c. 21, ss. 28 to end 235

SHIPS AND SHIPPING.
6 Geo. IV. c. 125, ss. 19—77 238
†16 & 17 Vict. c. 69 247
†——— c. 107 247
——— c. 129 247
——— c. 131, ss. 12, 13, 24, 28, 29 249
17 & 18 Vict. c. 5 250
——— c. 104 251
——— c. 120 382
18 & 19 Vict. c. 91 388
†——— c. 111 391
——— c. 119 391
†22 & 23 Vict. c. 37 421
25 & 26 Vict. c. 63 421
26 & 27 Vict. c. 30 437
——— c. 51 . . . . . 437*a*

SPIRITUOUS LIQUORS.
24 Geo. II. c. 40, s. 12 437
25 & 26 Vict. c. 38 438

STAMPS.
1 Anne, st. 2, c. 22, s. 5 438
31 Geo. III. c. 25, ss. 10, 19 442
35 Geo. III. c. 55, ss. 8—11 442
36 Geo. III. c. 52 443
37 Geo. III. c. 19, s. 3 456
——— c. 136, ss. 5, 6 456
42 Geo. III. c. 99, s. 2 457
43 Geo. III. c. 126, ss. 5, 6 457
45 Geo. III. c. 28, ss. 4, 5, 7 458
46 Geo. III. c. 43, ss. 4—10 459
48 Geo. III. c. 149, ss. 22—34 460
54 Geo. III. c. 133 462
——— c. 144, ss. 3—12 466
55 Geo. III. c. 184 467
1 & 2 Geo. IV. c. 55 549
3 Geo. IV. c. 117 550
5 Geo. IV. c. 41, s. 3 552
6 Geo. IV. c. 41 552
9 Geo. IV. c. 49, ss. 1, 4, 11, 12, 15 553
3 & 4 Will. IV. c. 23, ss. 5, 6 554
† ——— c. 97 554
† 4 & 5 Will. IV. c. 57 554
† ——— c. 60 554
† 5 & 6 Will. IV. c. 20 554
——— c. 64, ss. 2, 3, 7 555
† 6 & 7 Will. IV. c. 76 555
1 & 2 Vict. c. 85 555
5 & 6 Vict. c. 79 556
† ——— c. 82 565
6 & 7 Vict c. 72 565
7 Vict. c. 21 566
8 & 9 Vict. c. 76 569
13 & 14 Vict. c. 97 571
16 & 17 Vict. c. 5 589
——— c. 59 591
——— c. 63 597
†——— c. 71 600
17 & 18 Vict. c. 83 600
18 Vict. c. 27 607
19 & 20 Vict. c. 81 609
†21 Vict. c. 20 610
——— c. 24 610
22 & 23 Vict. c. 36 611

PAGE

STAMPS—*continued.*
23 Vict c. 5 612
——— c. 15 612
23 & 24 Vict. c. 80 617
——————— c. 111 620
24 & 25 Vict. c. 21 625
——————— c. 91, ss. 17, 25—38 627
——————— c. 92 629
25 Vict. c. 22 630

STATUTES.
33 Geo. III. c. 13 636
48 Geo. III. c. 106 636
13 & 14 Vict. c. 21 636
†19 & 20 Vict. c. 64 637
†24 & 25 Vict. c. 101 637

STOCK CERTIFICATE ACT, 1863.
26 Vict. c. 28 637

STOCK JOBBING.
7 Geo. II. c. 8 640
†24 & 25 Vict. c. 95 4

SUCCESSION DUTY.
16 & 17 Vict. c. 51 644
22 & 23 Vict. c. 21, ss. 12—15 657
†24 & 25 Vict. c. 92 658

SUNDAY.
1 Eliz. c. 2, s. 14 658
3 Jac. I. c. 4, ss. 27, 28 658
1 Car. I. c. 1 658
3 Car. I. c. 1 659
29 Car. II. c. 7 660
†11 & 12 Vict. c. 49 663

TELEGRAPH ACT, 1863.
26 & 27 Vict. c. 112 . . . . . 662*a*

TENDER.
56 Geo. III. c. 68, ss. 11, 12 663
3 & 4 Will. IV. c. 98, s. 6 664

TIME.
24 Geo. II. c. 23 665
25 Geo. II. c. 30 670

TITHES.
45 Edw. III. c. 3 671
†27 Hen. VIII. c. 20 672
31 Hen. VIII. c. 13, s. 21 672
32 Hen. VIII. c. 7 673
†37 Hen. VIII. c. 12 675
2 & 3 Edw. VI. c. 13 675
7 & 8 Will. III. c. 6 680
——————— c. 34, ss. 4, 5 682
11 & 12 Will. III. c. 16 682
1 Geo. I. stat. 2, c. 6, ss. 2—4 683
†53 Geo. III. c. 127 684
7 Geo. IV. c. 15 684
2 & 3 Will. IV. c. 100 684
4 & 5 Will. IV. c. 83 688
5 & 6 Will. IV. c. 74 689
——— ——— c. 75 690
6 & 7 Will. IV. c. 71 691
1 Vict. c. 69 713
1 & 2 Vict. c. 64 716
2 & 3 Vict. c. 62 716

BENGAL SECRETARIAT LIBRARY

A

COLLECTION OF STATUTES,

&c , &c.

RAILWAYS (a).

1 & 2 Vict c 98. An Act to provide for the Conveyance of the Mails by Railways. [14th August, 1838]

1 & 2 Vict. c. 98 (b)

Postmaster general may require railway companies to convey the mails (c)

"Whereas it is expedient that provision should be made by law for the conveyance of the mails by railways at a reasonable rate of charge to the public" BE IT ENACTED, That in all cases of railways already made or in progress or to be hereafter made within the united kingdom, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam, or by any locomotive or stationary engines, or animal or other power whatever, it shall be lawful for the postmaster general, by notice in writing under his hand delivered to the company of proprietors of any such railway, to require that the mails or post letter bags shall from and after the day to be named in any such notice (being not less than twenty eight days from the delivery thereof) be conveyed and forwarded by such company on their railway, either by the ordinary trains of carriages, or by special trains, as need may be, at such hours or times in the day or night as the postmaster general shall direct, together with the guards (d) appointed and employed by the postmaster general in charge thereof, and any other officers of the post office, and thereupon the said company shall, from and after the day to be named in such notice, at their own costs, provide sufficient carriages and engines on such railways for the conveyance of such mails and post letter bags to the satisfaction of the postmaster general, and receive, take up, carry, and convey by such ordinary or special trains of carriages or otherwise, as need may be, all such mails or post letter bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the post office, and also receive, take up, carry, and convey, in and upon the carriages carrying such mails or post letter bags, the guards in charge thereof, and any other officers of the post office, and shall receive, take up, deliver,

---

(a) See ante, Vol I, tit. "COMPANIES," Vol II tit "LAW S CLAUSES," &c , and see Hodges on Railways, Talford on Railways, Shelford on Railways, and Wordsworth on Railways

With respect to offences connected with railways, see 24 & 25 Vict c 97, ss 35, 36, 24 & 25 Vict c 100, ss 32, 33, 34, ante, Vol II, tit "CRIMINAL LAW"

(b) See 7 & 8 Vict c 85, s 11, post, extending the provisions of this Act for the transmission of the mails by railway

(c) A company has been held liable under this statute in an action on the case, to an officer of the post office, whom the postmaster general had required to be conveyed in the carriage conveying the mails for injury sustained by him through the neglect of the company to use proper care and skill in conveying him and in conducting the carriage (*Collett v London and North Western Railway Company*, 16 Q B 984, 20 L J Q B 411)

Where by articles of agreement between the S & B Railway Company of the one part, and the S U and N W Companies of the other part, it was agreed, that during the continuance of a certain lease, the S U and N W Companies would not convey or carry any passengers, cattle, luggage, goods, or other matters or things from any part of the line demised by the lease to any point of the S. & B line, and would not use the demised line to compete for any traffic which should properly belong to the S & B Company, it was held, that the agreement was not illegal, as binding the S U and N W Companies not to carry soldiers and their families, &c, according to 7 & 8 Vict c 85, s 12, post, p. 15, or the mails, according to this Act, if Government should require it, for that the agreement imposed no such obligation (*Shrewsbury and Birmingham R C v London and North Western R C*, 17 Q B 652, 21 L J Q B 89)

(d) By 10 & 11 Vict c 85, s 16, post, power is given to the postmaster-general to send mails by railways in manner prescribed by this Act, without a guard.

14 & 2 Vict. 98

and leave such mails or post letter bags, guards, and officers at such places in the line of such railway on such days, at such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to speed of travelling places, times, and duration of stoppages and times of arrival as the postmaster general shall in that behalf from time to time order or direct Provided always that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the directors of such railway or railways for the conveyance of passengers by their first class trains, but that no alteration in the rate of speed of any train by which the mails shall be conveyed shall be made until six calendar months previous notice shall be given to the postmaster general of any such intended alteration

If required carriage to be applied exclusively to such conveyance

2 That it shall be lawful for the postmaster general (if he shall see fit) to require that the whole of the inside of any carriage used on any railway for the conveyance of mails or post letter bags shall be exclusively appropriated for the purpose of carrying the mails

Railway company if required to provide separate carriage for sorting letters

3 That the company of proprietors of any such railway shall, on being required so to do by the postmaster general, provide and furnish (in addition to the carriages aforesaid) a separate carriage or separate carriages, fitted up as the postmaster general, or such person as he shall nominate in that behalf shall direct, for the purpose of sorting letters therein, and shall forward the same carriage or carriages by their railway at such hours or times, and subject to all such reasonable regulations as aforesaid as the postmaster general shall in that behalf order or direct, and such company of proprietors shall receive, take up, carry and convey in any such last mentioned carriage or carriages all such post letter bags and officers of the post office as the postmaster general shall reasonably require and shall deliver and leave any post letter bags and officers of the post office at such places on the line of the railway as the postmaster general shall in that behalf from time to time reasonably order and direct

Postmaster general may direct mails to be carried on railway in mail coaches in lieu of company's carriages

4 That in case the postmaster general shall at any time be desirous of sending by any such railway any of her majesty's mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post office therein, instead of sending the said mails or post letter bags, guards, and officers of the post office by carriages to be provided by such railway company as aforesaid, then and in any such case such railway company shall, at the request of the postmaster general, signified by such notice as aforesaid, cause such mail coaches or mail carts, with the mails or post letter bags and guards thereof, and carriages for sorting letters, with any officers of the post office therein, to be conveyed by the usual or proper trucks or frames on their said railway, subject to such regulations and restrictions of the postmaster general as hereinbefore mentioned,

Railway companies to be subject to directions of post office respecting conveyance of mails

5 That for the greater security of the mails or post letter bags so to be carried or conveyed by railways the company of proprietors of such respective railways along which such mails or post letter bags, mail coaches, or carts and carriages for sorting letters shall be so required by the postmaster general to be conveyed, and their respective officers, servants, and agents, shall obey, observe, and perform all such reasonable regulations respecting the conveyance, delivering, and leaving of such mails and post letter bags, guards, and officers of the post office, mail coaches, or carts and carriages on any such railways, or on the line thereof, as the postmaster general, or such officer of the post office as he shall nominate in that behalf, shall in his discretion from time to time give or make, Provided always, that it shall not be lawful for any officer or servant of the post office to interfere with or give orders to the engineer or other person having the charge of any engine upon any railway along which mails or post letter bags shall be conveyed, but if any cause of complaint shall arise the same shall be stated to the conductor or other officer of the railway company having the charge of the train, or to the chief officer at any station upon the railway, and in case of any default or neglect on the part of any officers or servants of the railway company to comply with any of the regulations of the postmaster general or other officer of the post office so to be nominated as aforesaid the railway company shall be wholly responsible for the same

Remuneration to railway companies for conveyance of mails (a)

6 That every company of proprietors of any railway along which such mails or post letter bags, mail coaches, carts, or carriages shall be so required by the postmaster general to be conveyed, shall be entitled to such reasonable remuneration to be paid by the postmaster general to any such company of proprietors for the conveyance of such mails, post letter bags mail guards and other officers of the post office, mail coaches, carts, and carriages, in manner required by such postmaster general, or by such officer of the post office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the postmaster general and such company of proprietors, or in case of difference of opinion between them then as shall be determined by arbitration as hereinafter provided, but so that the services which may be required by the postmaster general, or by such officer of the post office as he in that behalf shall nominate as aforesaid, to be performed by any such company of proprietors be not suspended, postponed, or deferred by reason of such remuneration not having been then fixed or agreed on between the said postmaster-

(a) See *The Lord Advocate* v *The Edinburgh and Perth R C*, 13 Sess Ca 907

general and such company of proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

1 & 2 Vict. c. 98.

7. That notwithstanding any agreement entered into between the postmaster-general and any such company, or any award to be made on any such reference as aforesaid, fixing the amount of remuneration to be paid to such company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the postmaster-general, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as hereinafter provided, a fresh agreement shall be entered into between the postmaster-general and such company, regulating the future amount of remuneration to be paid by the postmaster-general to such company for such increased or diminished services, as the case may be; or if the parties cannot agree on such amount the same shall be referred to arbitration in like manner as hereinbefore is mentioned and hereinafter provided as to any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any railway company for any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the postmaster-general to be forwarded for the conveyance of the mails, but so that nevertheless such increased or diminished services shall not be suspended, postponed, or deferred by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the postmaster-general and such company of proprietors, or by reason of the award on any reference to arbitration to determine the amount of such increased or diminished remuneration not having been then made.

Agreements between postmaster-general and railway companies as to amount of remuneration, &c., may be altered.

8. That it shall be lawful for the postmaster-general, and he is hereby authorised, at any time during the continuance of the services of any company of proprietors as aforesaid, to give to such company, by writing under his hand, six calendar months' previous notice that such services or any part thereof shall cease and determine; and thereupon, at the expiration of such six calendar months' notice, the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine.

Postmaster-general may terminate services of railway companies on notice;

9. That it shall be lawful for the postmaster-general at any time during the continuance of the services of any company of proprietors as aforesaid, by notice in writing under his hand, absolutely to determine and put an end to the same or any part thereof, without giving any previous notice, or on giving any notice less than six calendar months in respect thereof, and thereupon the said services shall cease and determine accordingly: Provided nevertheless, that in case the postmaster-general shall, without giving six calendar months' notice as aforesaid, at any time determine the services to be required by the postmaster-general of any company of proprietors, or any part of such services, without any cause whatever, or for any cause other than the default by such company of proprietors in the performance of any of the services to be required of them by the postmaster-general, or the breach by such company of proprietors of any of their engagements with the postmaster-general, then and in any such case the postmaster-general shall make to such company a full and fair compensation for all loss thereby occasioned, the amount thereof in case the parties differ about the same shall be ascertained by arbitration as hereinafter mentioned.

or may terminate services of railway companies without notice, subject to certain conditions.

10. That on all carriages to be provided for the service of the post-office on any such railway there shall on the outside be painted the royal arms, in lieu of the name of the owner and of the number of the carriage, and of all other requisites, if any, prescribed by law in respect of carriages passing on any such railway; but the want of such royal arms on any carriage belonging to or used by the post-office shall not form an objection to such carriage running on any railway, anything to the contrary notwithstanding.

Royal arms to be painted on engines or carriages provided for the service of the post-office.

11. That it shall not be competent or lawful to or for the company of proprietors of any railway to make any bye-laws, orders, rules, or regulations which shall militate against or be contrary or repugnant to any of the enactments herein contained; and that if any company of proprietors shall make or shall have made any such bye-laws, orders, rules, or regulations, either prior or subsequently to the postmaster-general signifying to the said company his intention that the mails or post letter bags, mail coaches, carts, or carriages shall be conveyed by such railway, all such bye-laws, orders, rules, and regulations, so far as they shall militate against or be contrary or repugnant to any of the enactments herein contained, shall be and be deemed absolutely void and of no effect, in like manner as if such bye-laws, orders, rules, or regulations had never been made or passed, anything to the contrary in anywise notwithstanding.

Bye laws of railway companies not to be repugnant to provisions of Act.

12. That if the company of proprietors of any railway, or any of their respective officers, servants, or agents, shall refuse or neglect to carry or convey any mails or post letter bags, when tendered to them for such purpose by the postmaster-general or any officer of the post-office, or shall refuse to carry on their railway any mail coaches, carts, or carriages as hereinbefore provided, when so required by the postmaster-general, or shall refuse or neglect to receive, take up, deliver, and leave any such mails or post letter bags, mail guards, or other officers of the post-office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as the postmaster-general shall from time to time reasonably direct or appoint, as hereinbefore

Penalty for refusing or neglecting to convey mails

1 & 2 Vict c 98

provided, or shall not obey, observe, and perform all such regulations respecting the conveyance of the mails and post letter bags mail coaches, carts, and carriages on any such railways as the postmaster general, or such officer of the post office as he shall nominate in that behalf shall make for the purposes aforesaid, then and in any such case the company of proprietors who, or whose officer servant or agent, shall so offend in the premises shall for every such offence forfeit and pay a sum not exceeding twenty pounds, provided nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such company under any bond which may have been given by them under the provisions hereinafter contained

Postmaster general may require railway companies to give security by bond (a)

13 That it shall be lawful for the postmaster general, if he shall so think fit, to require the company of proprietors of any railway already made or in progress or to be hereafter made within the united kingdom to give security by bond to her majesty, her heirs and successors, conditioned to be void if such company shall from time to time carry or convey, or cause to be carried or conveyed, all such mails or post letter bags, mail guards and other officers of the post office, mail coaches, carts, and carriages in manner hereinbefore mentioned, when thereunto required by the postmaster general, or any officer of the post office duly authorised for that purpose and shall receive, take up, deliver, and leave all such mails or post letter bags guards and officers mail coaches, carts and carriages at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore mentioned, and shall obey, observe, and perform all such regulations respecting the same as the postmaster general shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters, and things as by this Act are required or directed to be done or performed by or on the part or behalf of such company, their officers, servants, and agents, and every such bond shall be taken in such sum and in such form as the postmaster-general shall think proper, and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, and also whenever and so often as the postmaster general shall in his discretion require the same to be renewed, and if any company of proprietors of any such railway as aforesaid shall, when so required as aforesaid, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the postmaster general to execute to her majesty, her heirs and successors, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond whenever and so often as the same shall by or in pursuance of this Act be required to be renewed, such company of proprietors shall forfeit one hundred pounds for every day during the period for which there shall be any refusal neglect or default to give or renew such security as aforesaid, after the expiration of the said one calendar month

Lessees of railway not being a body corporate or company not to be required to give security by bond above 1000l

14 Provided always, That in all cases in which any railway or part of a railway may previous to the passing of this Act have been demised or let by the company of proprietors thereof, the body corporate or company, or other persons to whom the same shall have been so demised or let, their successors, executors, administrators, or assigns, shall during the continuance of such lease be liable to all the provisions of this Act for or in respect of such railway or part of a railway, in lieu of such company of proprietors, but so that such lessees (not being a body corporate or company), their executors, administrators, or assigns, shall not be required in respect of any such railway or part of a railway to give security under the foregoing enactment to any amount in any one bond exceeding the sum of one thousand pounds, and shall not in any one year be liable in damages to be recovered upon any bonds which they may have given to any amount exceeding the sum of one thousand pounds and costs of suit

Service of notices

15 That all notices under the provisions of this Act by or on behalf of the postmaster general to any company of proprietors of any railway as aforesaid shall be considered as duly served on any company of proprietors, in case the same shall be given or delivered to any one or more of the directors of such company, or to the secretary or clerk of such company, or be left at any station belonging to such company

For settling differences between postmaster general and railway companies in certain cases

16 That in all cases in which the postmaster general and any company of proprietors of any railway shall not be able to agree on the amount of remuneration or compensation to be paid by the postmaster general to such company of proprietors for any services performed or to be performed by them as hereinbefore mentioned the same shall be referred to the award of two persons, one to be named by the postmaster general, and the other by such company, and if such two persons cannot agree on the amount of such remuneration or compensation, then to the umpirage of some third person, to be appointed by such two first named persons previously to their entering upon the inquiry, and the said award or umpirage, as the case may be, shall be binding and conclusive on the said parties and their respective successors and assigns

Companies after contracts have existed for a certain period may

17 That after any contract entered into or award made under the authority of this Act shall have continued in operation for a period of three years, it shall be competent for any railway company who may consider themselves aggrieved by the terms of remuneration fixed by such contract or award, by notice under their common seal, to require that it shall be referred to arbitrators to determine whether any and what alteration ought to

---

(a) See, as to a bond under this section, *Attorney General v. London and North Western R C*, Johns 28

be made therein, and thereupon such arbitrators or umpire to be appointed as herein before mentioned shall proceed to inquire into the circumstances, and make their award therein, as in the case of an original agreement Provided always, that the services performed by such railway company for the post office shall in nowise be interrupted or impeded thereby

1 & 2 Vict c 98

refer them to arbitrators to decide as to their continuance

18 That in all references to be made under the authority of this Act the postmaster general or the railway company, as the case may be, shall nominate his or their arbitrator within fourteen days after notice from the other party, or in default it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator and such arbitrators shall proceed forthwith in the reference, and make their award therein within twenty eight days after their appointment, or otherwise the matter shall be left to be determined by the umpire, and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty eight days after the matter shall have been referred to him then a new umpire shall be appointed by the two first named arbitrators, who shall in like manner proceed and make his award within twenty eight days or in default be superseded, and so *toties quoties*

Nomination of arbitrators to be within a limited time after application for references made

19 That whenever the term "company of proprietors," or "railway company," or "company" is used in this Act, the same shall extend to and be construed to include the proprietors for the time being of any railway, whether a body corporate or individuals, and also (during the continuance of any demise or lease as aforesaid) any person, whether a body corporate or company or individuals to whom any railway or part of a railway may previous to the passing of this Act have been demised or let, and their successors, executors, administrators, and assigns, unless the subject or context be otherwise repugnant to such construction, and that the provisions of this Act shall be construed according to the respective interpretations of the terms and expressions contained in an Act passed in the first year of the reign of her present majesty intituled "An Act for consolidating the Laws relative to Offences against the Post Office of the United Kingdom and for regulating the judicial Administration of the Post Office Laws, and for explaining certain Terms and Expressions employed in those Laws," so far as those interpretations are not repugnant to the subject or inconsistent with the context of such provisions and that this present Act shall be deemed and construed to be a post office Act within the intent and meaning of the said last mentioned Act, and the pecuniary penalties hereby imposed shall be recovered and recoverable in the manner and form therein particularly mentioned and expressed with reference to the pecuniary penalties imposed by the post office Acts Provided nevertheless, that any justice of the peace having jurisdiction for any county through which any railway shall pass, in respect of which any penalty or forfeiture under this Act shall have been incurred, shall and may hear and determine any offence against this Act which may subject any company to a pecuniary penalty not exceeding twenty pounds, and a summons issued under the post office Acts by any such justice against any railway company for the recovery of any such penalty shall be deemed to be sufficiently served in case either the summons or a copy thereof be delivered to any officer, servant, or agent of such company, or be left at any station belonging to such company

Construction of terms.

1 Vict. c. 3

3 & 4 Vict c. 97 An Act for regulating Railways.

3 & 4 Vict. c. 97

[10th August, 1840]

1 and 2 [These sections are repealed by 5 & 6 Vict. c. 55, s 3]

3 That the lords of the said committee may order and direct every railway company to make up and deliver to them returns, according to a form to be provided by the lords of the said committee, of the aggregate traffic in passengers, according to the several classes, and of the aggregate traffic in cattle and goods respectively, on the said railway, as well as of all accidents which shall have occurred thereon attended with personal injury, and also a table of all tolls, rates, and charges from time to time levied on each class of passengers, and on cattle and goods, conveyed on the said railway, and if the returns herein specified shall not be delivered within thirty days after the same shall have been required, every such company shall forfeit to her majesty the sum of twenty pounds for every day during which the said company shall wilfully neglect to deliver the same, and every such penalty may be recovered in any of her majesty's courts of record Provided always, that such returns shall be required in like manner and at the same time from all the said companies, unless the lords of the said committee shall specially exempt any of the said companies, and shall enter the grounds of such exemption in the minutes of their proceedings

Returns to be made by railway companies.

4 That every officer of any company who shall wilfully make any false return to the lords of the said committee shall be deemed guilty of a misdemeanor

Penalty for making false returns

5 That it shall be lawful for the lords of the said committee, if and when they shall think fit, to authorise any proper person or persons to inspect any railway, and it shall be lawful for every person so authorised, at all reasonable times, upon producing his authority, if required, to enter upon and examine the said railway, and the stations, works, and buildings, and the engines and carriages belonging thereto Provided always, that no person shall be eligible to the appointment as inspector as aforesaid who shall

Board of trade may appoint persons to inspect railways

3 & 4 Vict c. 97

within one year of his appointment have been a director or have held any office of trust or profit under any railway company.

Penalty on persons obstructing inspector

6. That every person wilfully obstructing any person, duly authorised as aforesaid, in the execution of his duty, shall, on conviction before a justice of the peace having jurisdiction in the place where the offence shall have been committed, forfeit and pay for every such offence any sum not exceeding ten pounds; and on default of payment of any penalty so adjudged, immediately or within such time as the said justice of the peace shall appoint, the same justice, or any other justice having jurisdiction in the place where the offender shall be or reside, may commit the offender to prison for any period not exceeding three calendar months; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

Copies of existing bye-laws to be laid before the board of trade;

7. "And whereas many railway companies are or may hereafter be empowered by Act of parliament to make bye-laws, orders, rules, or regulations, and to impose penalties for the enforcement thereof, upon persons other than the servants of the said companies, and it is expedient that such powers should be under proper control:" BE IT ENACTED, That true copies of all such bye-laws, orders, rules, and regulations made under any such powers by every such company before the passing of this Act, certified in such manner as the lords of the said committee shall from time to time direct, shall, within two calendar months after the passing of this Act, be laid before the lords of the said committee; and that every such bye-law, order, rule, or regulation, not so laid before the lords of the said committee within the aforesaid period, shall, from and after that period, cease to have any force or effect, saving in so far as any penalty may have been already incurred under the same.

otherwise to be void

No future bye laws to be valid till two calendar months after laid before the board of trade.

8. That no such bye-law, order, rule, or regulation made under any such power, and which shall not be in force at the time of the passing of this Act, and no order, rule, or regulation annulling any such existing bye-law, rule, order, or regulation which shall be made after the passing of this Act, shall have any force or effect until two calendar months after a true copy of such bye-law, order, rule, or regulation, certified as aforesaid, shall have been laid before the lords of the said committee, unless the lords of the said committee shall, before such period, signify their approbation thereof.

Board of trade may disallow bye-laws.

9. That it shall be lawful for the lords of the said committee, at any time either before or after any bye-law, order, rule, or regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the company who shall have made the same their disallowance thereof, and, in case the same shall be in force at the time of such disallowance, the time at which the same shall cease to be in force; and no bye-law, order, rule, or regulation which shall be so disallowed shall have any force or effect whatsoever, or, if it shall be in force at the time of such disallowance, it shall cease to have any force or effect at the time limited in the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same.

Provisions of railway Acts requiring confirmation of bye-laws repealed.

10. That so much of every clause, provision, and enactment in any Act of parliament heretofore passed as may require the approval or concurrence of any justice of the peace, court of quarter sessions, or other person or persons, other than members of the said companies, to give validity to any bye-laws, orders, rules, or regulations made by any such company, shall be repealed.

11. [This section is repealed by 7 & 8 Vict. c. 85, s. 16.]

Prosecutions to be under sanction of board of trade, and within one year, &c.

12. That no legal proceedings shall be commenced under the authority of the lords of the said committee against any railway company for any offence against this Act, or any of the several Acts of parliament relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed.

Punishment of servants of railway companies guilty of misconduct.

13. That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, guard, porter, or other servant in the employ of such company who shall be found drunk while employed upon the railway, or commit any offence against any of the bye-laws, rules, or regulations of such company, or shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon the railway belonging to such company, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, or other servant so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch, before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this Act; and every such person so offending, and every person counselling, aiding, or assisting therein as aforesaid, shall, when convicted before such justice as aforesaid (who is hereby authorised and required, upon complaint to him made, upon oath, without information in writing, to take cognisance thereof, and to act summarily in the premises), in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard labour as aforesaid, for such

period, not exceeding two calendar months, as such justice shall appoint; such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner. 3 & 4 Vict. c. 97.

14. Provided always, That (if upon the hearing of any such complaint he shall think fit) it shall be lawful for such justice, instead of deciding upon the matter of complaint summarily, to commit the person or persons charged with such offence for trial for the same at the quarter sessions for the county or place wherein such offence shall have been committed, and to order that any such person so committed shall be imprisoned and detained in any of her majesty's gaols or houses of correction in the said county or place in the meantime, or to take bail for his appearance, with or without sureties, in his discretion; and every such person so offending, and convicted before such court of quarter sessions as aforesaid (which said court is hereby required to take cognizance of and hear and determine such complaint), shall be liable, in the discretion of such court, to be imprisoned, with or without hard labour, for any term not exceeding two years. Justice of the peace empowered to send any case to be tried by the quarter sessions.

15. [Punishment of persons obstructing railway] (a).

16. That if any person shall wilfully obstruct or impede any officer or agent of any railway company in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith, or if any person shall wilfully trespass (b) upon any railway, or any of the stations or other works or premises connected therewith, and shall refuse to quit the same upon request to him made by any officer or agent of the said company, every such person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such officer or agent, or any person whom he may call to his assistance, until such offender or offenders can be conveniently taken before some justice of the peace for the county or place wherein such offence shall be committed, and when convicted before such justice as aforesaid (who is hereby authorised and required, upon complaint to him upon oath, to take cognizance thereof, and to act summarily in the premises), shall, in the discretion of such justice, forfeit to her majesty any sum not exceeding five pounds, and in default of payment thereof shall or may be imprisoned for any term not exceeding two calendar months, such imprisonment to be determined on payment of the amount of the penalty. For punishment of persons obstructing the officers of any railway company, or trespassing upon any railway.

17. That no proceeding to be had and taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by *certiorari*, or by any other writ or process whatsoever, into any of her majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding. Proceedings not to be quashed for want of form, or removed, &c.

18. "And whereas many railway companies are bound, by the provisions of the Acts of parliament by which they are incorporated or regulated, to make, at the expense of the owner or occupier of lands adjoining the railway, openings in the ledges or flanches thereof (except at certain places on such railway in the said Acts specified), for effecting communications between such railway and any collateral or branch railway to be laid down over such lands, and any disagreement or difference which shall arise as to the proper places for making any such openings in the ledges or flanches is by such acts directed to be referred to the decision of any two justices of the peace within their respective jurisdictions: and whereas it is expedient that so much of every clause, provision, and enactment in any Act of parliament heretofore passed, as gives to any justice or justices the power of hearing or deciding upon any such disagreement or difference as to the proper places for any such openings in the ledges or flanches of any railway, should be repealed:" BE IT THEREFORE ENACTED, That so much of every such clause, provision, and enactment as aforesaid shall be repealed. Repeal of all provisions in railway Acts that empower two justices to decide disputes respecting the proper places for openings in the ledges or flanches of railways.

19. That in case any disagreement or difference shall arise between any such owner or occupier, or other persons, and any railway company, as to the proper places for any such openings in the ledges or flanches of any railway (except at such places as aforesaid), for the purpose of such communication, then the same shall be left to the decision of the lords of the said committee, who are hereby empowered to hear and determine the same in such way as they shall think fit, and their determination shall be binding on all parties. Board of trade to determine such disputes in future.

20. That all notices, returns, and other documents required by this Act to be given to or laid before the lords of the said committee shall be delivered at or sent by the post Communications to the board to

---

(a) Repealed by 24 & 25 Vict. c. 95. See now, as to the offence of doing or omitting anything, so as to endanger passengers by railway, 24 & 25 Vict. c. 97, s. 36; 24 & 25 Vict. c. 100, s. 34, ante, Vol. II., tit. "CRIMINAL LAW."

(b) An owner of land severed by a railway claimed compensation from the company; the question was submitted to a jury, who awarded to him compensation, on the footing that there was to be a total separation of his land without any communication being made, and he received the payment as such compensation: it was held that this was an arrangement with the company under their Act; and that the owner of the land, afterwards crossing the railway for the purpose of the occupation of his land, was a trespasser within this section (*Manning* v. *Eastern Counties R. C.*, 12 M. & W. 237, 3 Railw. C. 637; *Grand Junction R. C.* v. *White*, 2 Railw. C. 559, 8 M. & W. 214). See also, as to what is a wilful trespass under this section, *Jones* v. *Taylor*, 1 E. & E. 20.

3 & 4 Vict. c. 97.

be left at their office

to the office of the lords of the said committee; and all notices, appointments, requisitions, certificates, or other documents in writing, signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this Act, be deemed to have been made by the lords of the said committee; and service of the same upon any one or more of the directors of any railway company, or on the secretary or clerk of the said company, or by leaving the same with the clerk or officer at one of the stations belonging to the said company, shall be deemed good service upon the said company.

Communications by the board how to be authenticated.

Meaning of the words "railway" and "company."

21. That wherever the word "railway" is used in this Act it shall be construed to extend to all railways constructed under the powers of any Act of parliament and intended for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and wherever the word "company" is used in this Act it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless the subject or context be repugnant to such construction.

Act may be amended, &c.

22. That this Act may be amended or repealed by any Act to be passed in the present session of parliament.

5 & 6 Vict c 55

5 & 6 Vict. c. 55. An Act for the better Regulation of Railways, and for the Conveyance of Troops. [30th July, 1842.]

3 & 4 Vict. c. 97

"Whereas by an Act passed in the third and fourth years of the reign of her present majesty, intituled 'An Act for regulating Railways,' provision was made for the supervision of railways: and whereas it is expedient for the safety of the public to make further provision for that purpose:" BE IT ENACTED, That this Act shall come into operation on the passing thereof.

Commencement of Act.

Recited Act and this Act to be construed together

2. That the provisions of the said recited Act and of this Act shall be construed together as one Act, except so far as the provisions of the said recited Act are hereby repealed, or shall be inconsistent with the provisions of this Act.

3. [This section repeals ss. 1 and 2 of 3 & 4 Vict. c. 97.]

Notice of intended opening of railway.

4. That no railway or portion of any railway shall be opened for the public conveyance of passengers until one calendar month after notice in writing of the intention of opening the same shall have been given, by the company to whom such railway shall belong, to the lords of the committee of her majesty's privy council appointed for trade and foreign plantations, and until ten days after notice in writing shall have been given by the said company to the lords of the said committee of the time when the said railway or portion of railway will be, in their opinion, sufficiently completed for the safe conveyance of passengers, and ready for inspection.

If railway opened without notice, company to forfeit 20l.

5. That if any railway or portion of any railway shall be opened without such notice as aforesaid, the company to whom such railway shall belong shall forfeit to her majesty the sum of twenty pounds for every day during which the same shall continue open until the said notices shall have been duly given and shall have expired; and every such penalty may be recovered in any of her majesty's courts of record, or in the court of session or in any of the sheriffs' courts in Scotland.

Board of trade empowered to postpone the opening.

6. That if the officer or officers appointed by the lords of the said committee to inspect any such railway or portion of railway shall, after inspection thereof, report in writing to the lords of the said committee that, in his or their opinion, the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the establishment for working such railway, together with the grounds of such opinion, it shall be lawful for the lords of the said committee, and so from time to time, as often as such officers shall after further inspection thereof so report, to order and direct the company to whom such railway shall belong to postpone such opening for any period not exceeding one calendar month at any one time, until it shall appear to the lords of the said committee that such opening may take place without danger to the public; and if any such railway, or any portion thereof, shall be opened contrary to any such order and direction of the lords of the said committee, the company to whom such railway shall belong shall forfeit to her majesty the sum of twenty pounds for every day during which the same shall continue open contrary to such order and direction; and any such penalty may be recovered in any of her majesty's courts of record, or in the court of session or in any of the sheriffs' courts in Scotland: Provided always, that no such order as aforesaid shall be binding upon any railway company unless thereupon shall be delivered to the said company a copy of the report of the officer or officers on which such order shall be founded.

Notice of accidents to be given to the board of trade.

7. That every railway company shall, within forty-eight hours after the occurrence upon the railway belonging to such company of any accident attended with serious personal injury to the public using the same, give notice thereof to the lords of the said committee; and if any company shall wilfully omit to give such notice every such company shall forfeit to her majesty the sum of five pounds for every day during which the omission to give the same shall continue: and every such penalty may be recovered in

any of her majesty's courts of record, or in the court of session or in any of the sheriffs' courts in Scotland. 5 & 6 Vict. c. 55.

8. That the lords of the said committee may order and direct any railway company to make up and deliver to them returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the lords of the said committee shall deem necessary and require for their information with a view to the public safety; and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such company shall forfeit to her majesty the sum of five pounds for every day during which the said company shall neglect to deliver the same; and every such penalty may be recovered in any of her majesty's courts of record, or in the courts of session or in any of the sheriffs' courts in Scotland: Provided always, that all such returns shall be privileged communications, and shall not be evidence in any court whatsoever. Board of trade empowered to direct returns.

9. "And whereas by an Act passed in the second and third years of her present majesty, and intituled 'An Act to amend an Act of the Fifth and Sixth Years of His late Majesty King William the Fourth relating to Highways,'" IT WAS ENACTED, that whenever a railway crosses or shall hereafter cross any turnpike road, or any other highway or statute labour road for carts or carriages in Great Britain, the proprietors or directors of the said railway shall make and maintain good and sufficient gates across each end of such turnpike or other road at each end of the said crossings, and shall employ good and proper persons to open and shut such gates, so that the persons, carts, or carriages passing along such turnpike or other road shall not be exposed to any danger or damage by the passing of any carriages or engines along the said railway: and whereas by the Acts relating to certain railways it is provided that such gates shall be kept constantly closed across the railway, except during the time when carriages or engines passing along the railway shall have to cross such turnpike or other road: and whereas experience has shown that it is more conducive to safety that such gates should be kept closed across the turnpike or other road instead of across the railway;" BE IT THEREFORE ENACTED, That, notwithstanding anything to the contrary contained in any Act of parliament heretofore passed, such gates shall be kept constantly closed across each end of such turnpike or other roads, in lieu of across the railway, except during the time when horses, cattle, carts, or carriages passing along such turnpike or other road shall have to cross such railway; and such gates shall be of such dimensions and so constructed as, when closed across the ends of such turnpike or other roads, to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway while the gates are closed; Provided always, that it shall be lawful for the lords of the said committee, in any case in which they are satisfied that it will be more conducive for the public safety that the gates at any level crossing over any such turnpike or other road should be kept closed across the railway, to order and direct that such gates shall be kept so closed, instead of across the road; and such order of the lords of the said committee shall be a sufficient authority for the directors or proprietors of any railway company to whom such order is addressed for keeping such gates closed, in the manner directed by the lords of the said committee. Gates at level crossings to be kept closed across the road (*a*). 2 & 3 Vict. c. 45. Proviso.

10. "And whereas it is expedient that further provision be made for the safety of the public in respect of the fences of railways:" BE IT ENACTED, That all railway companies shall be under the same liability of obligation to erect, and to maintain and repair, good and sufficient fences throughout the whole of their respective lines, as they would Railway companies to erect and maintain fences (*b*).

(*a*) A railway company is, under this section, bound to keep the gates at the ends of level crossings closed against all persons and cattle upon the highway, whether lawfully there or not, and they are liable to an action for any injury arising from a breach of that duty. And in an action on the case against a railway company for not keeping gates closed across the ends of a highway which crossed the railway upon a level, pursuant to this section, whereby two horses of the plaintiff, "then lawfully being on the said highway," strayed upon the railway and were killed, the defendants traversed that the horses were lawfully on the highway. It appeared that the horses, having been put into a field of the plaintiff's, the fences of which were sufficiently sound for ordinary purposes, had accidentally escaped and got into a public road, and thence along the highway through the gate upon the line of the railway: it was held, that as against the company the horses were lawfully upon the highway (*Fawcett* v. *York and North Midland R. Co.*, 16 Q. B. 610; see *Sharrod* v. *London and North-Western Railway Company*, 4 Ex. 580, 6 Railw. C. 239. And see 8 & 9 Vict. c. 20, s. 68, and notes, post).

As to the duties of railway companies coming within the operation of the Railways Clauses Act in respect of gates at level crossings, see 8 & 9 Vict. c. 20, s. 47, post, p. 30, n. (*e*); and see also per *Jervis*, C. J., in the *Manchester, Sheffield, and Lincolnshire R. C.* v. *Wallis*, 23 L. J. C. P. 87, 14 C. B. 213, as to the substitution of that section for this, in the case of such companies.

(*b*) See now, as to the duties of railway companies coming within the operation of the Railways Clauses Act, as to fences, 8 & 9 Vict. c. 20, ss. 68, 69, and the notes thereto, post; and see per *Jervis*, C. J., ubi supra, as to the substitution of the last-mentioned sections for this section.

5 & 6 Vict. c. 55.

have been if every part of such fences had been originally ordered to be made under an order of justices by virtue of the provisions to that effect in the Acts of parliament relating to such railways respectively.

Disputes between connecting railways to be decided by the board of trade.

11. That where two or more railway companies whose railways have a common terminus or a portion of the same line of rails in common, or which form separate portions of one continued line of railway communication, shall not be able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, it shall be lawful for the lords of the said committee, upon the application of either of the parties, to decide the questions in dispute between them, so far as the same relate to the safety of the public, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either of the parties respectively; and if any railway company shall refuse or wilfully neglect to obey any such order made upon or against such company by the lords of the said committee pursuant to this provision, such company shall forfeit to her majesty the sum of twenty pounds per day for every day during which such refusal or neglect shall continue; and every such penalty may be recovered in any of her majesty's courts of record, or in the court of session or in any of the sheriffs' courts in Scotland.

Powers of making branch communication with railways, and of entering upon them with locomotive engines, to be regulated by the board of trade.

12. "And whereas powers of laying down branch lines opening into the ledges or flanches of main lines of railway, and of entering upon and passing along such main lines with carriages and waggons drawn by locomotive engines, or by other mechanical or animal power, and also powers to form roads or railways across existing railways on a level, have been given by various Acts relative to railways to the owners or occupiers of lands adjoining the railway, and to other persons with their consent; and whereas experience has shown that the exercise of such powers without limitation would in many cases be attended with danger to the public using such railway:" BE IT THEREFORE ENACTED, That if, in the case of any railway on which passengers are conveyed by steam or other mechanical power, it shall appear to the lords of the said committee that such power as aforesaid cannot be so exercised without seriously endangering the public safety, and that an arrangement may be made with a due regard to existing rights of property, it shall be lawful for the lords of the said committee to order and direct that such powers shall only be exercised subject to such conditions as the lords of the said committee shall direct: Provided always, that no railway shall be considered a passenger railway if two-thirds or more of the gross annual revenue of such railway shall be derived from the carriage thereon of coals, iron-stone, or other metals or minerals.

Defining a passenger railway.

Alteration of dangerous level crossings.

13. "And whereas in many cases railways have been made to cross turnpike roads, highways, and private roads and tramways, on the level, and the companies to whom such railways belong would in some cases be willing at their own expense to carry such roads and tramways over or under such railways by means of a bridge or archway for the greater safety of the public, but have no authority so to do: and whereas it would promote the public safety if railway companies were enabled, under the sanction and authority of the lords of the said committee, to substitute bridges or archways for such level crossings as aforesaid:" BE IT THEREFORE ENACTED, That in all cases where any railway company shall be willing, at their own expense, to carry any turnpike road, highway, or private road or tramway over or under their railway by means of a bridge or arch in lieu of crossing the same on the level, it shall be lawful for the lords of the said committee, on the application of the said company, and after hearing the several parties interested, if it shall appear to the lords of the said committee that such level crossing endangers the public safety, and that the proposal of the company does not involve any violation of existing rights or interests without adequate compensation, to give the said company full power and authority for removing the danger at their own expense, either by building a bridge, or by such other arrangement as the nature of the case shall require, subject to such conditions as the lords of the said committee shall direct.

Power for railway companies to enter upon adjoining lands to repair accidents.

14. "And whereas it is essential for the public safety, and also for the proper maintenance of railways in a state of efficiency for the public service, that railway companies should have the power, in case of accidents or slips happening or being apprehended to their cuttings and embankments or other works, to enter upon the lands adjoining their respective railways, for the purpose of repairing or renewing the same, and to do such works as may be necessary for the purpose:" BE IT THEREFORE ENACTED, That it shall be lawful for the lords of the said committee to empower any railway company, in case of any accident or slip happening or being apprehended to any cutting, embankment, or other work belonging to them, to enter upon any lands adjoining their railway for the purpose of repairing or preventing such accident, and to do such works as may be necessary for the purpose: Provided always, that in case of necessity it shall be lawful for any railway company to enter upon such lands and do such works as aforesaid, without having obtained the previous sanction of the lords of the said committee; but in every such case such railway company shall, within forty-eight hours (*a*) after such entry, make a report to the lords of the said committee, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the lords of the said committee shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also, that such works shall be as little injurious to the said adjoining lands as the nature of the accident or

(*a*) See *Tower* v. *Eastern Counties R. C.*, 3 Railw. Ca. 374.

apprehended accident will admit of, and shall be executed with all possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled in the same manner as cases of disputed compensation are directed to be settled by the Acts relating to the railway on which such works may become necessary; Provided always, that no land shall be taken permanently by any railway company for such works without a certificate from the lords of the said committee as hereinafter described. 5 & 6 Vict. c. 55.

15. "And whereas by various Acts relating to railways compulsory powers are given to railway companies of purchasing and taking lands for the construction of such railways, and it is provided that such compulsory powers shall not be exercised after the expiration of certain limited periods from the passing of the said Acts; and whereas it is sometimes found necessary for the public safety that additional land shall be taken after the expiration of such periods for the purpose of giving increased width to the embankments and inclination to the slopes of railways, or for making approaches to bridges or archways, or for doing such works for the repair or prevention of accidents as are hereinbefore described:" BE IT THEREFORE ENACTED, That, in every case in which the lords of the said committee shall certify that the public safety requires additional land to be taken by any railway company for such purposes as aforesaid, the compulsory powers of purchasing and taking land contained in the Act or Acts of such railway company, together with all the clauses and provisions relative thereto, shall, as regards such portion or portions of land as are mentioned in the certificate of the lords of the said committee, revive and be in full force for such further period as shall be mentioned in such certificate: Provided always, that any railway company applying to the lords of the said committee for any such certificate shall give fourteen days' notice in writing, in the manner prescribed by the Act or Acts of such company for serving notices on landowners, of their intention to make such application to all the parties interested in such lands, or such of them as shall be known to the company, and shall state in such notice the particulars of the lands required; and if any of such parties interested shall apply within the said period of fourteen days to the lords of the said committee, such party shall be heard by them before any such certificate is given: Provided also, that where any such application shall have been made by any railway company to the lords of the said committee, upon which application any such certificate shall have been refused, the directors of such railway company shall, if required by the lords of the said committee, repay to the party resisting such application any expenses which he or they may have incurred in resisting such application. Compulsory powers of taking land for the purpose of railways extended, where thought necessary for safety by the board of trade.

16. "And whereas by various Acts relating to railways it is enacted, that no carriage or waggon shall carry or bear at any one time upon the railway (including the weight of such carriage) more than four tons, and experience has shown that it is in many cases more conducive to safety to use a heavier description of carriage or waggon upon railways than was originally contemplated:" BE IT THEREFORE ENACTED, That every provision contained in any such Act or Acts respectively limiting the weight to be carried or borne at any one time in any carriage or waggon upon any railway (including the weight of such carriage or waggon) to four tons shall be and the same is hereby repealed, and that notwithstanding anything in any Act contained, it shall be lawful for any railway company to use and to permit to be used upon any railway carriages or waggons carrying or bearing (including the weight of such carriage) a greater weight than four tons, subject to such regulations as may from time to time be made and be in force pursuant to any Act or Acts of parliament already or hereafter to be passed in that behalf. Carriages of greater weight than four tons may be used on railways.

17. "And whereas by the said recited Act for regulating railways provision is made for the punishment of servants of railway companies guilty of misconduct, and it is expedient to extend such provision:" BE IT ENACTED, That it shall be lawful for any officer or agent of any railway company, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any engine driver, waggon driver, guard, porter, servant, or other person employed by the said or by any other railway company, or by any other company or person, in conducting traffic upon the railway belonging to the said company, or in repairing and maintaining the works of the said railway, who shall be found drunk while so employed upon the said railway, who shall commit any offence against any of the bye-laws, rules, or regulations of the said company, or who shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engines, carriages, or trains shall be or might be obstructed or impeded, and to convey such engine driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, with all convenient despatch before some justice of the peace for the place within which such offence shall be committed, without any other warrant or authority than this Act; and every such person so offending, and every person counselling, aiding, or assisting therein, as aforesaid, shall, when convicted upon the oath of one or more credible witness or witnesses before such justice as aforesaid (who is hereby authorised and required, upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises), in the discretion of such justice, be imprisoned, with or without hard labour, for any term not exceeding two calendar months, or, in the like discretion of such justice, shall for every such offence forfeit to her majesty any sum not exceeding ten pounds, and in default of payment thereof shall be imprisoned, with or without hard Punishment of persons employed on railways guilty of misconduct.

5 & 6 Vict. c. 55.

labour, as aforesaid, for such period, not exceeding two calendar months, as such justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such penalty shall be returned to the next ensuing court of quarter sessions in the usual manner.

Sheriffs to have jurisdiction in Scotland.

18. That in all cases in which by the present or the said recited Act for regulating railways, it is provided that offenders shall be taken before one or more justices of the peace for the place within which the offence was committed, it shall be lawful, in case the offence is committed in Scotland, to take such offenders before the sheriff of the county, or other magistrate acting for the district within which such offence shall be committed, or where such offender shall be apprehended, without any warrant or authority other than this Act; and such sheriff or magistrate is hereby empowered and required, on the application of the railway company, to proceed in all respects as if the words "sheriff or magistrate" had been substituted for the word "justice" in the said Acts, and shall be entitled summarily, and without a jury, to execute the powers thereby and hereby committed to him.

Communications to and from the board of trade, and service of notices, &c., on railway company.

19. That all notices, returns, and other documents required by this Act or by the said recited Act to be given to or laid before the lords of the said committee shall be delivered at or sent by the post to the office of the lords of the said committee; and all notices, requisitions, orders, regulations, appointments (a), certificates, certified copies, and other documents in writing signed by one of the secretaries of the said committee, or by some officer appointed for that purpose by the lords of the said committee, and purporting to be made by the lords of the said committee, shall, for the purposes of this and of the said recited Act, be deemed to have been made by the lords of the said committee, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto; and service of the same at one of the terminal offices of any railway company on the secretary or clerk of the said company, or by sending the same by post addressed to him at such office, shall be deemed good service upon the said company.

Railway companies shall convey military and police forces at prices to be settled (b).

20. That whenever it shall be necessary to move any of the officers or soldiers of her majesty's forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessaries and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities.

Meaning of the words "railway" and "company."

21. That whenever the word "railway" is used in this or in the said recited Act it shall be construed to apply to all railways used or intended to be used for the conveyance of passengers in or upon carriages drawn or impelled by the power of steam or by any other mechanical power; and whenever the word "company" is used in this or in the said recited Act it shall be construed to extend to and include the proprietors for the time being of any such railway, whether a body corporate or individuals, and their lessees, executors, administrators, and assigns, unless in either of the above cases the subject or context be repugnant to such construction.

Application of penalties.

22. That all penalties under this Act, for the application of which no special provision is made, shall be recovered in the name and for the use of her majesty, in the manner provided by the said recited Act for regulating railways.

5 & 6 Vict. c. 79.

5 & 6 Vict. c. 79. An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the Laws relating to the Stamp Duties. [5th August, 1842.]

[See post, tit. "Stamps," and 10 & 11 Vict. c. 42.]

7 & 8 Vict. c. 85.

7 & 8 Vict. c. 85. An Act to attach certain Conditions to the Construction of future Railways authorised or to be authorised by any Act of the present or succeeding Sessions of Parliament; and for other Purposes in relation to Railways.

[9th August, 1844.]

If, after twenty one

"Whereas it is expedient that the concession of powers for the establishment of new lines of railway should be subjected to such conditions as are hereinafter contained for

(a) See *Wilts, Somerset, &c., R. C. v. Fooks*, 3 Exch. 728.

(b) Amended by 7 & 8 Vict. c. 85, s. 12, post, p. 15.

the benefit of the public:" BE IT ENACTED, That if at any time after the end of twenty-one years from and after the first day of January next after the passing of any Act of the present or of any future session of parliament for the construction of any new line of passenger railway, whether such new line be a trunk, branch, or junction line, and whether such new line be constructed by a new company incorporated for the purpose or by any existing company, the clear annual profits divisible upon the subscribed and paid-up capital stock of the said railway, upon the average of the three then last preceding years, shall equal or exceed the rate of ten pounds for every hundred pounds of such paid-up capital stock, it shall be lawful for the lords commissioners of her majesty's treasury, subject to the provisions hereinafter contained, upon giving to the said company three calendar months' notice in writing of their intention so to do, to revise the scale of tolls, fares, and charges limited by the Act or Acts relating to the said railway, and to fix such new scale of tolls, fares, and charges applicable to such different classes and kinds of passengers, goods, and other traffic on such railway, as in the judgment of the said lords commissioners, assuming the same quantities and kinds of traffic to continue, shall be likely to reduce the said divisible profits to the said rate of ten pounds in the hundred: Provided always, that no such revised scale shall take effect, unless accompanied by a guarantee to subsist as long as any such revised scale of tolls, fares, and charges shall be in force, that the said divisible profits, in case of any deficiency therein, shall be annually made good to the said rate of ten pounds for every hundred pounds of such capital stock: Provided also, that such revised scale shall not be again revised or such guarantee withdrawn otherwise than with the consent of the company, for the further period of twenty-one years.

7 & 8 Vict. c. 85.

years from the passing of the Act for the construction of any future railway, the profits shall exceed 10*l.* per cent., the treasury may revise the scale of tolls, and fix a new scale

Proviso.

2. That whatever may be the rate of divisible profits on any such railway it shall be lawful for the said lords commissioners, if they shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of her majesty, upon giving to the said company three calendar months' notice in writing of their intention, and upon payment of a sum equal to twenty-five years' purchase of the said annual divisible profits, estimated on the average of the three then next preceding years: Provided that if the average rate of profits for the said three years shall be less than the rate of ten pounds in the hundred, it shall be lawful for the company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase-money shall be paid to the said company: Provided also, that such option of purchase shall not be exercised, except with the consent of the company, while any such revised scale of tolls, fares, and charges shall be in force.

Option of purchase of future railways

Proviso.

3. Provided always, That the option of revision or purchase shall not be applied to any railway made or authorised to be made by any Act previous to the present session; and that no branch or extension of less than five miles in length of any such line of railway shall be taken to be a new railway within the provisions of this Act; and that the said option of purchase shall not be exercised as regards any branch or extension of any railway, without including such railway in the purchase, in case the proprietors thereof shall require that the same be so included.

Existing railways not to be subjected to the options.

4. "And whereas it is expedient that the policy of revision or purchase should in no manner be prejudged by the provisions of this Act, but should remain for the future consideration of the legislature, upon grounds of general and national policy: and whereas it is not the intention of this Act that under the said powers of revision or purchase, if called into use, the public resources should be employed to sustain an undue competition against any independent company or companies:" BE IT ENACTED, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by parliament, by an Act or Acts to be passed in that behalf, for authorising the guarantee or the levy of the purchase-money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options or either of them shall be exercised; and that no bill for giving powers to exercise the said options, or either of them, shall be received in either house of parliament unless it be recited in the preamble to such bill that three months' notice of the intention to apply to parliament for such powers has been given by the said lords commissioners to the company or companies to be affected thereby.

Reservation to parliament of the consideration of future policy in regard to the said options.

5. That, from and after the commencement of the period of three years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any railway within the provisions hereinbefore contained (distinguishing, if the said railway shall be a branch railway or one worked in common with other railways, the receipts, and giving an estimate of the expenses on account of the said railway, from those on account of the trunk line, or other railways), by the directors of the company to whom such railway belongs or by whom the same may be worked; and every such railway company shall once in every half year during the said period of three years cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said railway for the half year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the said lords commissioners, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of

Accounts to be kept, and to be open to inspection.

7 & 8 Vict c 85

two or more directors of the said railway company, and shall send a copy of the said account to the said lords commissioners on or before the last days of August and February respectively, or such other days as shall in each case be directed by the said lords commissioners, in each year, and it shall be lawful for the said lords commissioners, if and when they shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said company during the said period of three years, and it shall be lawful for any person so authorised, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers, and other documents of the company at the principal office or place of business of the company, and to take copies or extracts therefrom

Companies to provide one cheap train each way daily (a)

6 "And whereas it is expedient to secure to the poorer class of travellers the means of travelling by railway at moderate fares, and in carriages in which they may be protected from the weather" BE IT ENACTED, That on and after the several days hereinafter specified all passenger railway companies which shall have been incorporated by any Act of the present session, or which shall be hereafter incorporated, or which by any Act of the present or any future session have obtained or shall obtain, directly or indirectly, any extension or amendment of the powers conferred on them respectively by their previous Acts, or have been or shall be authorised to do any act unauthorised by the provisions of such previous Acts, shall, by means of one train at the least to travel along their railway from one end to the other of each trunk, branch, or junction line belonging to or leased by them, so long as they shall continue to carry other passengers over such trunk, branch, or junction line, once at the least each way on every week day, except Christmas Day and Good Friday (such exception not to extend to Scotland), provide for the conveyance of third class passengers to and from the terminal and other ordinary passenger stations of the railway, under the obligations contained in their several Acts of Parliament, and with the immunities applicable by law to carriers of passengers by railway, and also under the following conditions, (that is to say,)

Such train shall start at an hour to be from time to time fixed by the directors, subject to the approval of the lords of the committee of privy council for trade and plantations

Such train shall travel at an average rate of speed not less than twelve miles an hour for the whole distance travelled on the railway, including stoppages

Such train shall, if required, take up and set down passengers at every passenger station which it shall pass on the line

The carriages in which passengers shall be conveyed by such train shall be provided with seats, and shall be protected from the weather, in a manner satisfactory to the lords of the said committee

The fare or charge for each third class passenger by such train shall not exceed one penny for each mile travelled

Each passenger by such train shall be allowed to take with him half a hundredweight of luggage, not being merchandise (b) or other articles carried for hire or profit, without extra charge, and any excess of luggage shall be charged by weight, at a rate not exceeding the lowest rate of charge for passengers' luggage by other trains

Children under three years of age accompanying passengers by such train shall be taken without any charge, and children of three years and upwards, but under twelve years of age, at half the charge for an adult passenger

And with respect to all railways subject to these regulations which shall be open on or before the first day of November next, these obligations shall come into force on the said first day of November, and with respect to all other railways subject to these obligations, they shall come into force on the day of opening of the railway, or the day after the last day of the session in which the Act shall be passed by reason of which the company will become subject thereunto, which shall first happen

---

(a) Amended by 21 & 22 Vict c 75, post

(b) This provision is equivalent to notice that the company will carry with each passenger fifty-six pounds of luggage, but not merchandise (see per *Parke*, B, *Great Northern R C* v *Shepherd*, 8 Ex 34, 21 L J Ex 114)

Under this section a husband and wife travelling together are entitled to carry one hundred weight (*Ib*)

Railway companies, like other carriers of passengers for hire, are at common law only bound to carry their *personal* luggage, therefore, if a passenger has merchandise among his personal luggage, or so packed that the carrier has no notice that it is merchandise, he is not responsible for its loss But if the merchandise is carried openly, or so packed that its nature is obvious, and the carrier does not object to it, he will be liable (*Great Northern R C* v *Shepherd*, 8 Ex 30, 21 L J Ex 114, 286, *Cahill* v *London and North Western R C*, 31 L J C P 271, 30 *Ib* 289, 10 C B N S 154, *Belfast, &c, R C* v *Keys*, 9 H L C 556)

The luggage of a passenger by railway, though never delivered to any servant of the company, but kept by the passenger during the journey, is nevertheless in point of law in the custody of the company, so as to render them responsible for its loss (*Great Northern R C* v *Shepherd*, supra).

7 That if any railway company shall refuse or wilfully neglect to comply with the provisions of this Act as to the said cheap trains within a reasonable time, or shall attempt to evade the operation of such order, such company shall forfeit to her majesty a sum not exceeding twenty pounds for every day during which such refusal, neglect, or evasion shall continue

7 & 8 Vict c 85

Penalty for non-compliance

8 Provided always, That, except as to the amount of fare or charge for each passenger by such cheap trains, which shall in no case exceed the rates hereinbefore in such case provided, the lords of the said committee shall have a discretionary power, upon the application of any railway company, of dispensing with any of the conditions hereinbefore required in regard to the conveyance of passengers by such cheap trains as aforesaid in consideration of such other arrangements, either in regard to speed, covering from the weather seats, or other particulars as to the lords of the said committee shall appear more beneficial and convenient for the passengers by such cheap trains under the circumstances of the case, and shall be sanctioned by them accordingly, and any railway company which shall conform to such other conditions as shall be so sanctioned by the lords of the said committee shall not be liable to any penalty for not observing the conditions which have been so dispensed with by the lords of the said committee in regard to the said cheap trains and the passengers conveyed thereby

Board of trade to have a discretionary power of allowing alternative arrangements

9. That no tax shall be levied upon the receipts of any railway company from the conveyance of passengers at fares not exceeding one penny for each mile by any such cheap train as aforesaid

When no tax to be levied

10 That whenever any railway company subject to the hereinbefore mentioned obligation of running cheap trains shall, from and after the days hereinbefore specified on which the said obligation is to accrue, run any train or trains on Sundays for the conveyance of passengers it shall, under the obligations contained in its Act or Acts of parliament, and with the immunities applicable by law to carriers of passengers by railway, by such train each way, on every Sunday, as shall stop at the greatest number of stations, provide sufficient carriages for the conveyance of third class passengers at the terminal and other stations at which such Sunday train may ordinarily stop, and the fare or charge for each third class passenger by such train shall not exceed one penny for each mile travelled

Where companies run trains on the Sunday cheap trains to be likewise provided

11 "And whereas by an Act passed in the second year of the reign of her majesty, intituled 'An Act to provide for the Conveyance of the Mails by Railways,' provision was made for the transmission of the mails by railway, and it is expedient that such provision should be extended ' BE IT ENACTED, That it shall be lawful for the postmaster general to require, in the manner and subject to the conditions as to payment for service performed prescribed by the said Act, that the mails be forwarded upon any such railway as is hereinbefore last mentioned at any rate of speed which the inspector general of railways for the time being shall certify to be safe, not exceeding twenty seven miles in the hour, including stoppages and it shall be also lawful for the postmaster general to send any mail guard with bags not exceeding the weight of luggage allowed to any other passenger (or subject to the general rules of the company for any excess of that weight) by any trains other than a mail train, upon the same conditions as any other passenger, provided that in such last mentioned case nothing herein or in the last recited Act contained shall be construed to authorise the postmaster general to require the conversion of a regular mail train into an ordinary train or to exercise any control over the company in respect of any ordinary train, nor shall the company be responsible for the safe custody or delivery of any mail bags so sent

Railway companies to afford additional facilities for the transmission of the mails 1 & 2 Vict. c. 98 (a).

12 ' And whereas by an Act passed in the sixth year of the reign of her majesty intituled 'An Act for the better Regulation of Railways, and for the Conveyance of Troops,' it was among other things enacted, that whenever it shall be necessary to move any of the officers or soldiers of her majesty s forces of the line, ordnance corps, marines, militia, or the police force, by any railway, the directors thereof shall and are hereby required to permit such forces respectively, with their baggage, stores, arms, ammunition, and other necessaries and things, to be conveyed at the usual hours of starting, at such prices or upon such conditions as may from time to time be contracted for between the secretary at war and such railway companies for the conveyance of such forces, on the production of a route or order for their conveyance signed by the proper authorities and whereas it is expedient to amend such provision, in regard to the prices and conditions of conveyance by any new railway or any railway obtaining new powers from parliament ' BE IT ENACTED, That all railway companies which have been or shall be incorporated by any Act of the present or any future session or which by any Act of the present or any future session shall have obtained or shall obtain any extension or amendment of the powers conferred by their previous Acts or any of them, or have been or shall be authorised to do any Act unauthorised by the provisions of such previous Acts, shall be bound to provide such conveyance as aforesaid for the said military, marine and police forces, at fares not exceeding twopence per mile for each commissioned officer

Certain companies to convey military and police forces at certain charges 5 & 6 Vict. c. 55 (b).

(a) See *Reg* v *Irish South Eastern R C*, 1 Ir L R (N S) 29, *Shrewsbury and Birmingham R C* v *London and North-Western R. C*, 17 Q B 652, 21 L J Q B 89, *Lord Advocate* v *Edinburgh and Perth R C*, 13 Sess. Ca. 907

(b) See *Shrewsbury and Birmingham, R. C* v *London and North Western R C*, 17 Q B 652, ante, p 1, n (c)

7 & 8 Vict. c. 85.

proceeding on duty, such officer being entitled to conveyance in a first-class carriage, and not exceeding one penny for each mile for each soldier, marine, or private of the militia or police force, and also for each wife, widow, or child above twelve years of age of a soldier entitled by Act of parliament or by competent authority to be sent to their destination at the public expense, children under three years of age so entitled being taken free of charge, and children of three years of age or upwards, but under twelve years of age, so entitled, being taken at half the price of an adult; and such soldiers, marines, and privates of the militia or police force, and their wives, widows, and children so entitled, being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather; provided that every officer conveyed shall be entitled to take with him one hundredweight of personal luggage without extra charge, and every soldier, marine, private, wife or widow shall be entitled to take with him or her half a hundredweight of personal luggage without extra charge, all excess of the above weights of personal luggage being paid for at the rate of not more than one halfpenny per pound, and all public baggage, stores, arms, ammunition, and other necessaries and things (except gunpowder and other combustible matters, which the company shall only be bound to convey at such prices and upon such conditions as may be from time to time contracted for between the secretary at war and the company), shall be conveyed at charges not exceeding two pence per ton per mile, the assistance of the military or other forces being given in loading and unloading such goods.

Companies to allow lines of electrical telegraph to be established

13. "And whereas electrical telegraphs have been established on certain railways, and may be more extensively established hereafter, and it is expedient to provide for their due regulation:" BE IT ENACTED, That every railway company, on being required so to do by the lords of the said committee, shall be bound to allow any person or persons authorised by the lords of the said committee, with servants and workmen, at all reasonable times to enter into or upon their lands, and to establish and lay down upon such lands adjoining the line of such railway a line of electrical telegraph for her majesty's service, and to give to him and them every reasonable facility for laying down the same, and for using the same for the purpose of receiving and sending messages on her majesty's service, subject to such reasonable remuneration to the company as may be agreed upon between the company and the lords of the said committee, or in case of disagreement as may be settled by arbitration: Provided always, that, subject to a prior right of use thereof for the purposes of her majesty, such telegraph may be used by the company for the purposes of the railway, upon such terms as may be agreed upon between the parties, or, in the event of difference, as may be settled by arbitration.

Electrical telegraph established by private parties to be open to the public

14. That where a line of electrical telegraph shall have been established upon any railway by the company to whom such railway belongs, or by any company, partnership, person or persons, otherwise than exclusively for her majesty's service, or exclusively for the purposes of the railway, or jointly for both, the use of such electrical telegraph, for the purpose of receiving and sending messages, shall, subject to the prior right of use thereof for the service of her majesty and for the purposes of the company, and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said railway company, be open for the sending and receiving of messages by all persons alike, without favour or preference.

Appointment of inspectors by board of trade

3 & 4 Vict. c. 97

15. "And whereas by an Act passed in the fourth year of the reign of her majesty, intitled 'An Act to regulate Railways,' power is given to the lords of the said committee to appoint any proper person or persons to inspect any railway, and the stations, works, and buildings, and the engines and carriages belonging thereto; and in order to carry the provisions of this Act into execution it is expedient that the said power be extended:" BE IT ENACTED, That the said power given to the lords of the said committee of appointing proper persons to inspect railways shall extend to authorise the appointment by the lords of the said committee of any proper person or persons for such purposes of inspection as are by the said Act authorised, and also for the purpose of enabling the lords of the said committee to carry the provisions of this and of the said Act and of any general Act relating to railways into execution; and that so much of the last-recited Act as provides that no person shall be eligible to the appointment as inspector who shall, within one year of his appointment, have been a director, or have held any office of trust or profit under any railway company, shall be repealed: Provided always, that no person to be appointed as aforesaid shall exercise any powers of interference in the affairs of the company.

16. [This section repeals 3 & 4 Vict. c. 97, s. 11.]

If railway companies contravene or exceed the provisions of their Acts, or of any general Act, the board of trade to certify the same to the attorney-general, &c., who shall

17. That whenever it shall appear to the lords of the said committee that any of the provisions of the several Acts of parliament regulating any railway company, or the provisions of this Act or of any general Act relating to railways, have not been complied with on the part of any railway company or any of its officers, or that any railway company has acted or is acting in a manner unauthorised by the provisions of the Act or Acts of parliament relating to such railway, or in excess of the powers given and objects defined by the said Act or Acts, and it shall also appear to the lords of the said committee that it would be for the public advantage that the company should be restrained from so acting, the lords of the said committee shall certify the same to her majesty's attorney general for England or Ireland, or to the lord advocate for Scotland, as the case may require; and thereupon the said attorney-general or lord advocate shall, in case such default of the railway company shall consist of non-compliance with the provisions of the Act or Acts relating thereto or of this Act, or of any general Act relating to

railways, proceed by information, or by action, bill, plaint, suit at law or in equity, or other legal proceeding as the case may require to recover such penalties and forfeitures, or otherwise to enforce the due performance of the said provisions, by such means as any person aggrieved by such non compliance, or otherwise authorised to sue for such penalties might employ under the provisions of the said Acts, and in case the default of the railway company shall consist in the commission of some act or acts unauthorised by law, then the said attorney general or lord advocate, upon receiving such certificate as aforesaid, shall proceed by suit in equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the judge in equity or other judge to whom the application is made shall be authorised and required to grant, if he shall be of opinion that the act or acts of the railway company complained of is or are not authorised by law) to restrain the company from acting in such illegal manner, or to give such other relief as the nature of the case may require

7 & 8 Vict c 85

proceed against them (a)

18 Provided always, That no such certificate as aforesaid shall be given by the lords of the said committee until twenty one days after they shall have given notice to the company against or in relation to whom they shall intend to give such certificate of their intention to give such certificate, and that no legal proceedings shall be commenced under the authority of the lords of the said committee against any railway company for any offence against any of the several Acts relating to railways or this Act, or any general Acts relating to railways, except upon such certificate of the lords of the said committee as aforesaid, and within one year after such offence shall have been committed

Notice to be given to the company and prosecutions to be under the sanction of the board of trade and within one year after the offence

19 And whereas many railway companies have borrowed money in a manner unauthorised by their Acts of incorporation or other Acts of parliament relating to the said companies upon the security of loan notes or other instruments purporting to give a security for the repayment of the principal sums borrowed at certain dates, and for the payment of interest thereon in the meantime and whereas such loan notes or other securities issued otherwise than under the provisions of some Act or Acts of parliament have no legal validity, and it is expedient that the issue of such illegal securities should be stopped but such loan notes or other securities having been issued and received in good faith as between the borrower and lender, and for the most part for the lawful purposes of the undertaking, and in ignorance of their legal invalidity, it is expedient to confirm such as have been already issued " BE IT ENACTED, That from and after the passing of this Act any railway company issuing any loan note or other negotiable or assignable instrument purporting to bind the company as a legal security for money advanced to the said railway company otherwise than under the provisions of some Act or Acts of parliament authorising the said railway company to raise such money and to issue such security, shall for every such offence forfeit to her majesty a sum equal to the sum for which such loan note or other instrument purports to be such security Provided always, that any company may renew any such loan note or other instrument issued by them prior to the passing of this Act for any period or periods not exceeding five years from the passing of this Act

Issue of loan notes and other illegal securities by railway companies prohibited

Loan notes already issued may be renewed.

20 That where any railway company, before the 12th day of July, 1844, shall have issued or contracted to issue any such loan notes or other unauthorised instruments, the company may and shall pay off such loan notes or other instruments as the same may fall due, subject as hereinbefore provided, and until the same shall be so paid off the said loan notes or other instruments shall entitle the holders thereof to the payment by the company of the principal sum and interest thereby agreed to be paid

Loan notes already issued to be paid when due

21 That a register of all such loan notes or other instruments shall be kept by the secretary and such register shall be open, without fee or reward, at all reasonable times, to the inspection of any shareholder or auditor of the undertaking, and of every person interested in any such loan note or other instrument desirous of inspecting the same

Register of loan notes

22 " And whereas the remedies now in force for the recovery of tithe commutation rent charges are in many instances ineffectual for such parts thereof as are charged upon lands taken for the purposes of a railway, and it is therefore expedient to extend the said remedies when the said rent charges may have been duly apportioned BE IT ENACTED, That in all cases in which any such rent charge, or part of any rent charge, has been or hereafter shall be duly apportioned under the provisions of the Acts for the

Remedy for recovery of tithe rent charged on railway land

(a) Where it is the interest of the public to prevent an illegal act being committed by a railway company, neither the right of the attorney general to file an information at his discretion to restrain such an act, nor the jurisdiction of the Court of Chancery to entertain such a suit, is taken away by this and the following section, although there is no certificate of the Board of Trade The only effect of this is, that if the Board of Trade has certified to the attorney general, he is *bound* to act, and compel the railway company to abstain from doing that which is in violation of the law, and not only is the discretion of the attorney general taken away in that case, but if the judge finds that the acts are not authorised by the law, his discretion also is taken away, and he is bound to grant the injunction (*Attorney General* v *Great Northern R C*, 1 Drew & Sm 154, 29 L J Ch 794)

7 & 8 Vict c 85

commutation of tithes in England and Wales, upon lands taken or purchased by any railway company for the purposes of such company, or upon any part of such lands, it shall be lawful for every person entitled to the said rent charge, or parts of such rent charge, in case the same has been or shall be in arrear and unpaid for the space of twenty one days next after any half yearly day fixed for the payment thereof to distrain for all arrears of the said rent charge upon the goods chattels, and effects of the said company, whether on the land charged therewith, or any other lands, premises, or hereditaments of such company, whether situated in the same parish or elsewhere, and to dispose of the distress when taken, and otherwise to demean himself in relation thereto, as any landlord may for arrears of rent reserved on a lease for years Provided always, that nothing herein contained shall give or be construed to give a legal right to such rent charge, when but for this Act such rent charge was not or could not be duly apportioned

Communications to and from board of trade, service of notices &c

23 That all notices, requisitions, orders, regulations, appointments, certificates, certified copies, and other documents in writing signed by some officer appointed for that purpose by the lords of the said committee shall for the purposes of this Act be deemed to have been made by the lords of the said committee and all certificates of any thing done by the lords of the said committee in relation to this Act, and certified copies of the minutes of proceedings or correspondence of the lords of the said committee in relation thereto, signed by such officer, shall be deemed sufficient evidence thereof, and that in the absence of evidence to the contrary, without proof of the authority of the person signing the same or of the signature thereto, and service of the same at one of the principal offices of any railway company on the secretary or clerk of the said company, or by sending the same by post addressed to him at such office, shall be deemed good service upon the said company, and all notices, returns, and other documents required by this Act to be given to or laid before the lords of the said committee shall be delivered at or sent by post addressed to the office of the lords of the said committee

Penalties

24 That all penalties under this Act for the application of which no special provision is made shall be recovered in the name and for the use of her majesty, and may be recovered in any of her majesty's courts of record, or in the court of session or in any of the sheriff courts in Scotland

Interpretation of Act.

25 That where the word "railway" is used in this Act it shall be construed to extend to railways constructed under the powers of any Act of parliament and when the words "passenger railway' are used in this Act, they shall be construed to extend to railways constructed under the powers of any Act of parliament upon which one third or more of the gross annual revenue is derived from the conveyance of passengers by steam or other mechanical power and whenever the word "company' is used in this Act it shall be construed to extend to include the proprietors for the time being of any such railway, and that where a different sense is not expressly declared, or does not appear by the context, every word importing the singular number or the masculine gender shall be taken to include females as well as males, and several persons and things as well as one person or thing

8 Vict c 20

8 Vict. c 20 An Act for consolidating in one Act certain Provisions usually inserted in Acts authorising the making of Railways [8th May, 1845]

"Whereas it is expedient to comprise in one general Act sundry provisions usually introduced into Acts of parliament authorising the construction of railways, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves and whereas a bill is now pending in parliament intituled 'An Act for consolidating in One Act certain Provisions usually inserted in Acts authorising the taking of Lands for Undertakings of a public Nature,' and which is intended to be called The Lands Clauses Consolidation Act, 1845 ' BE IT ENACTED, That this Act shall apply to every railway which shall by any Act which shall hereafter be passed be authorised to be constructed, and this Act shall be incorporated with such Act and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

Operation of this Act confined to future railways

Interpretations in this Act

And with respect to the construction of this Act and of other Acts to be incorporated therewith BE IT ENACTED, as follows

special Act

2 The expression "the special Act,' used in this Act, shall be construed to mean any Act which shall be hereafter passed authorising the construction of a railway, and with which this Act shall be so incorporated as aforesaid, and the word "prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed, the expression "prescribed for that purpose in the special Act" had been used, and the expression "the lands" shall mean the lands which shall by the special

"prescribed

'the lands"

Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the railway and works, of whatever description, by the special Act authorised to be executed. 8 Vict. c. 20 "the undertaking."

3. The following words and expressions, both in this and the special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) Interpretations in this and the special Act:

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include also the singular number: number:

Words importing the masculine gender only shall include females: gender:

The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure: "lands:"

The word "lease" shall include an agreement for a lease: "lease:"

The word "toll" shall include any rate or charge or other payment payable under the special Act for any passenger, animal, carriage, goods, merchandise, articles, matters, or things conveyed on the railway: "toll" (a):

The word "goods" shall include things of every kind conveyed upon the railway: "goods:"

The word "month" shall mean calendar month: "month:"

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster or Dublin, as the case may require: "superior courts:"

The word "oath" shall include affirmation in the case of quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath: "oath:"

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town. "county."

The word "sheriff" shall include under sheriff or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff or clerk of the peace, the expression "the sheriff" or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate: "the sheriff:" "the clerk of the peace:"

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter: and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together: "justice:" "two justices:"

Where under the provisions of this or the special Act any notice shall be required to be given to the owner of any lands, or where any act shall be authorised or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the company: "owner:"

The expression "the company" shall mean the company or party which shall be authorised by the special Act to construct the railway: "the company:"

The expression "the railway" shall mean the railway and works by the special Act authorised to be constructed: "the railway:"

The expression "the board of trade" shall mean the lords of the committee of her majesty's privy council appointed for trade and foreign plantations: "board of trade:"

The expression "the bank" shall mean the bank of England, where the same shall relate to moneys to be paid or deposited in respect of lands situate in England; and shall mean the bank of Ireland where the same shall relate to moneys to be paid or deposited in respect of lands situate in Ireland: "the bank:"

The expression "turnpike road" shall, when applied to any road in Ireland, include any road upon which her majesty's mails are or shall be carried in mail carriages; or such other roads as the commissioners of public works in Ireland shall consider to require arches of greater width or height than by this Act is required for public carriage roads: "turnpike road," Ireland:

The expression "surveyor," applied to a road or highway, shall, as to railways in Ireland, include the county surveyor: "surveyor," Ireland:

The expression "overseers of the poor," when applied to Ireland, shall include the poor law guardians of the electoral division and the clerk of the guardians of the union through which such railway may pass. "overseers of the poor," Ireland

(a) See post p. 42, n. (c).

8 Vict c 20

Short title of the Act

4 That in citing this Act in other Acts of parliament, and in legal instruments, it shall be sufficient to use the expression "The Railways Clauses Consolidation Act, 1845"

Form in which portions of this Act may be incorporated in other Acts

5 And whereas it may be convenient, in some cases, to incorporate with Acts hereafter to be passed some portion only of the provisions of this Act" BE IT THEREFORE ENACTED, That for the purpose of making any such incorporation, it shall be sufficient in any such Act to enact that the clauses of this Act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this Act, in the words introductory to the enactment with respect to such matter) shall be incorporated with such Act and thereupon all the clauses and provisions of this Act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act shall relate

And with respect to the construction of the railway and the works connected there with, BE IT ENACTED as follows

The construction of the railway to be subject to the provisions of this Act and the Lands Clauses Consolidation Act

6 In exercising the power given to the company by the special Act to construct the railway, and to take lands for that purpose, the company shall be subject to the provisions and restrictions contained in this Act and in the said Lands Clauses Consolidation Act, and the company shall make to the owners and occupiers of and all other parties interested in any lands taken (a) or used for the purposes of the railway or injuriously affected (b) by the construction thereof, full compensation for the value of the lands so taken or used and for all damage sustained by such owners, occupiers and other parties, by reason of the exercise as regards such lands, of the powers by this or the special Act, or any Act incorporated therewith, vested in the company (c), and, except where otherwise provided by this or the special Act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof and all the provisions of the said last mentioned Act shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof

Errors and omissions in plans to be corrected (d)

7 If any omission, misstatement, or erroneous description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands described on the plans or books of reference mentioned in the special Act, or in the schedule to the special Act, it shall be lawful for the company, after giving ten days notice to the owners of the lands affected by such proposed correction, to apply to two justices for the correction thereof, and if it shall appear to such justices that such omission, misstatement, or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been misstated or erroneously described, and such certificate shall be deposited with the clerks of the peace of the several counties in which the lands affected thereby shall be situate, and shall also be deposited with the parish clerks of the several parishes in England, and with the postmasters of the post towns in or nearest to such parishes in Ireland, in which the lands affected thereby shall be situate and such certificate shall be kept by such clerks of the peace, parish clerks, and postmasters respectively along with the other documents to which they relate, and thereupon such plan, book of reference or schedule shall be deemed to be corrected according to such certificate, and it shall be lawful for the company to make the works in accordance with such certificate

Works not to be proceeded with until plans of all alterations authorised by parliament have been deposited (e)

8 It shall not be lawful for the company to proceed in the execution of the railway unless they shall have previously to the commencement of such work deposited with the clerks of the peace of the several counties in or through which the railway is intended to pass a plan and section of all such alterations from the original plan and section as shall have been approved of by parliament, on the same scale and containing the same particulars as the original plan and section of the railway, and shall also have deposited with the clerks of the several parishes in England, and the postmasters of the post towns in or nearest to such parishes in Ireland, in or through which such alterations shall have been

---

(a) See *Burkinshaw* v *Birmingham and Oxford Junction R C*, 6 Railw Ca. 600, 5 Exch 475

(b) See 8 Vict c 18, s. 63, ante, Vol II, p 1164, tit "LANDS CLAUSES," &c, *East and West India Docks, &c* v *Gattke*, 6 Railw Ca. 371, 3 Mac & G 155, *Chamberlain* v *West End of London, &c, R C*, 31 L J Q B 201

(c) See *Watkins* v *Great Northern R C*, 16 Ad & E 961, 20 L J Q B 391, post, p 33, n (b)

The company may execute works occasioning damage to a party whose lands are not entered upon, before the amount of compensation under this statute is ascertained, paid, or deposited (*Hutton* v *London and South Western R C*, 7 Hare, 259, see *Lister* v *Lobley*, 7 Ad & E 124, *In re Pollock*, 13 Jur 760)

(d) See *Taylor* v *Clemson*, 2 Q B 978, 3 Railw Ca 65, *Romp* v *West End of London and Crystal Palace R C*, 1 Kay & J 681

(e) The deposit of plans *per se* constitutes no obligation, and, unless incorporated in the Act,

authorised to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively 8 Vict c 20

9 The said clerks of the peace, parish clerks and postmasters shall receive the said plans and sections of alterations and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same in the like manner, and upon the like terms, and under the like penalty for default as is provided in the case of the original plans and sections by an Act passed in the first year of the reign of her present majesty, intituled, &c 7 W 4 & 1 Vict c 83

Clerks of the peace &c to receive plans of alteration, and allow inspection.

10 True copies of the said plans and books of reference, or of any alteration or correction thereof, or extract therefrom, certified by any such clerk of the peace, which certificate such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice and elsewhere as evidence of the contents thereof

Copies of plans, &c, to be evidence.

11 In making the railway it shall not be lawful for the company to deviate from the levels of the railway, as referred to the common datum (*b*) line described in the section approved of by parliament and as marked on the same, to any extent exceeding in any place five feet, or, in passing through a town (*c*), village, street, or land continuously built upon two feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made, or in case any street or public highway shall be affected by such deviation (*d*) then the same shall not be made without the like consent of the trustees or commissioners having the control of such street or public highway (*e*), or, if there be no such trustees or commissioners, without the like consent of two or more justices of the peace in petty sessions assembled for that purpose, and acting for the district in which such street or public highway may be situated, or without the like consent of the commissioners for any public sewers, or the proprietors of any canal, navigation, gas works or waterworks affected by such deviation

Limiting deviation from datum line described on sections (*a*).

---

it creates no right between the parties to the suit, the plans being deposited, not for the purpose of exhibiting the surface appearance, but of showing the *datum* line (*Beardmer* v *London and North Western R C*, 1 Hall & Tw 161, 5 Railw Ca. 728, *North British R. C* v *Todd*, 12 Cl. & Fin 722, *Reg* v *Caledonian R C*, 16 Q B 19 *Wood* v *North Staffordshire R C*, 1 Mac & G 278, 13 Jur 466)

(*a*) By a railway Act, the lands to be taken for the *line* of the railway were not to exceed twenty two yards in breadth, except in places required (*inter alia*) for embankments and cuttings, and the section which gave the power to deviate in the *line* and *section*, limited the *deviation from the line delineated* on the plan deposited with the clerk of the peace *to* 100 *yards*, and provided that it should not *extend into the lands* of any person not mentioned in the book of reference unless omitted by mistake, and so certified It was held, that the same powers were incidental to the deviation as to the original line, and that therefore the company were not limited to 100 yards in those places in the deviation required for embankments and cuttings, but only in the actual line of the railway, that it was not competent for P to object that lands of another person, not mentioned in the book of reference, were taken for such purpose, and that the line or centre, from which measurements were to be made, was the *medium filum* of the twenty two yards of land to be taken, and not of the space between the two rails (*Doe d Payne* v *Bristol and Exeter R C*, 6 M & W 320, 2 Railw Ca. 75) See the following cases on similar sections of private Acts *Reg* v *Bristol and Exeter R C.*, 2 Railw Ca 99, 11 A & E., 202 n (*a*), *Dun Navigation Co* v *North Midland R C*, 1 Railw Ca. 135, *Reg* v *Eastern Counties R C*, 10 Ad & E. 531, 1 Railw Ca 509, 2 ib 260, *Taylor* v *Clemson*, 2 Q B 978, 3 Railw Ca. 65

(*b*) See *North British R. C* v *Todd*, 12 Cl & Fin 722, 4 Railw Ca. 449

(*c*) Where, on the trial of an issue, the question was, whether a railway at a particular place passed through a town within the meaning of this section, and the judge merely told the jury that the word "town in the Act was to be understood in its ordinary sense it was held, that this was a misdirection, and that the judge should have given the jury such a definition as would have been a guide to enable them to decide the particular question before them "Town" means the space on which the dwelling houses are collected so near to each other that they may be said to be continuous. An open space occupied as a mere accessory to the convenience of dwelling houses would also be in the town (*Elliot* v *South Devon R C*, 2 Ex 725, 5 Railw Ca 500, *Reg* v *Cottle*, 16 Q B 412 See also as to the meaning of the word "town," generally, *Incumbent of Brompton, ex parte*, 5 De G & Sm 626, 22 L J Ch 281)

(*d*) See *Doe d Armistead* v *North Staffordshire R C*, post, p 22, n (*d*)

(*e*) As to when a street may be lowered to obtain the necessary height under a bridge, not withstanding the provisions of a local Act prohibiting any alteration without consent, see *Reg* v *Eastern Counties R. C*, 3 Railw Ca. 22, 2 Q B 569

4230

8 Vict c 20

Proviso

Provided always, that it shall be lawful for the company to deviate from the said levels to a further extent without such consent as aforesaid, by lowering solid embankments or viaducts, provided that the requisite height of headway as prescribed by Act of parliament be left for roads, streets, or canals passing under the same

Proviso

Provided also, that notice of every petty sessions to be holden for the purpose of obtaining such consent of two justices as is hereinbefore required shall, fourteen days previous to the holding of such petty sessions, be given in some newspaper circulating in the county, and also be affixed upon the door of the parish church, in which such deviation or alteration is intended to be made, or, if there be no church, some other place to which notices are usually affixed

Public notice to be given previous to making greater deviations

12 Before it shall be lawful for the company to make any greater deviation from the level than five feet, or in any town, village, street, or land continuously built upon, two feet, after having obtained such consent as aforesaid, it shall be incumbent on the company to give notice of such intended deviation by public advertisement, inserted once at least in two newspapers, or twice at least in one newspaper, circulating in the district or neighbourhood where such deviation is intended to be made, three weeks at least before commencing to make such deviation, and it shall be lawful for the owner of any lands prejudicially affected thereby, at any time before the commencement of the making of such deviation, to apply to the board of trade, after giving ten days' notice to the company, to decide whether, having regard to the interests of such applicants, such proposed deviation is proper to be made, and it shall be lawful for the board of trade, if they think fit, to decide such question accordingly, and by their certificate in writing either to disallow the making of such deviation or to authorise the making thereof, either simply or with any such modification as shall seem proper to the board of trade, and after any such certificate shall have been given by the board of trade it shall not be lawful for the company to make such deviation, except in conformity with such certificate (a)

Power to the owners of adjoining lands to appeal to the board of trade against such deviations

Arches tunnels, &c, to be made as marked on deposited plans

13 Where in any place it is intended to carry the railway on an arch or arches or other viaduct, as marked on the said plan or section, the same shall be made accordingly, and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly (b), unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made

Limiting deviations from gradients, curves &c

14 It shall not be lawful for the company to deviate from or alter the gradients, curves, tunnels, or other engineering works (c) described in the same plan or section, except within the following limits, and under the following conditions, (that is to say,)

Subject to the above provisions in regard to altering levels, it shall be lawful for the company to diminish the inclination or gradients of the railway to any extent, and to increase the said inclination or gradients as follows (that is to say,) in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the board of trade to be consistent with the public safety, and not prejudicial to the public interest, and in gradients of or exceeding the inclination of one in a hundred, to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the board of trade as aforesaid'

It shall be lawful for the company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than half a mile, or to any further extent authorised by such certificate as aforesaid from the board of trade

It shall be lawful for the company to make a tunnel, not marked on the said plan or section, instead of a cutting, or a viaduct instead of a solid embankment, if authorised by such certificate as aforesaid from the board of trade

Lateral deviation

15 It shall be lawful for the company to deviate from the line delineated on the plans so deposited, provided that no such deviation (d) shall extend to a greater distance than the limits of deviation delineated upon the said plans, nor to a greater extent in passing through a town, village, or lands continuously built upon than ten yards, or elsewhere to a greater extent than one hundred yards from the said line (d), and that the railway by

---

(a) See *Peares* v *Wycombe R. C*, 1 Drew 244

(b) According to the construction of this section with ss. 14, 15, the company are bound to make a tunnel at the spot marked, and cannot deviate therefrom without consent, unless authorised so to do by their special Act But, where they have deviated their line at a spot where a tunnel is marked, they are not bound to make a tunnel in the deviated line (*Little* v *Newport, Abergavenny, &c*, *R C*, 12 C B 752, 22 L J C P 39)

(c) These words mean, other engineering works *ejusdem generis*, that is, other engineering works in the formation of the railway itself (*Beardmor* v *London and North Western R C*, 5 Railw Ca. 728, 1 Hall & Tw 161)

This section is applicable only to works on the line of railway itself, and does not apply to collateral works, such as cross roads or bridges for carrying them over the line (*Reg* v *Caledonian R. C*, 16 Q B 19)

(d) The expression "deviation" is here used

means of such deviation be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference without the previous consent in writing of such person, unless the name of such person shall have been omitted by mistake and the fact that such omission proceeded from mistake shall have been certified in manner herein or in the special Act provided for in cases of unintentional errors in the said books of reference 8 Vict c 20

16 Subject to the provisions and restrictions in this and the special Act, and any Act incorporated therewith it shall be lawful for the company, for the purpose of constructing the railway (a), or the accommodation works connected therewith hereinafter mentioned, to execute any of the following works, (that is to say,) Works to be executed

They may make or construct, in, upon, across, under, or over any lands or any streets, hills, valleys, roads, railroads, or tramroads, rivers (b), canals brooks streams, or other waters, within the lands described in the said plans or mentioned in the said books of reference or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences as they think proper, Inclined planes, &c

They may alter the course of any rivers not navigable, brooks, streams or watercourses, and of any branches of navigable rivers, such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges passages or other works over or under the same, and divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, roads (c), streets, or ways or raise or sink the level of any such rivers or streams, roads, streets (d), or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper, Alteration of course of rivers, &c

---

with reference to the *medium filum* of the railway as laid down in the parliamentary plans (*Doe d. Armistead* v *North Staffordshire Railway Company*, 16 Q B 526) The company may, notwithstanding this section, take for collateral purposes land beyond the distance of one hundred yards from the line delineated on their deposited plans, and beyond the limits of deviation marked on the plans, if such land be scheduled in the company's Act, and included in their plans and books of reference (*Ibid*)

(a) A railway company, empowered by Act of parliament to construct "a railway and works, within certain limits as to space and time is authorised, under this section, within such limits, without the consent of the owner, to take land for the purpose of constructing the various works mentioned in this section, although the line be opened, and the works be not necessary, but only convenient for the purposes of the line (*Sadd* v *Maldon, Witham &c R C*, 6 Exch 143)

(b) This applies to navigable and non navigable rivers (*Abraham* v *Great Northern R C*, 16 Q B 586)

(c) Where a railway company, having made a substituted road, inclosed and took possession of the portion of the old road which had ceased by the diversion to form part of the turnpike road, it was held that there was nothing in the General Turnpike Act, 3 Geo 4, c 126, or in this section, or ss. 53, 54, 55, 56, or elsewhere in this Act, to place the company in the position of trustees of the substituted road, so as to transfer to them the soil of the old road (*Marquis of Salisbury* v *Great Northern R C*, 5 C B N S 174, 28 L J C P 40)

(d) This Act contains no restriction as to the height at which any bridge over a street is to be made, but only a restriction as to the ascent (*Beardmer* v *The London and North Western R C*, infra) By a clause in a special railway Act, after reciting that plans and sections of the railway, showing the respective lines and roads thereof, and also books of reference containing the names of the owners, lessees, and occupiers of the lands through which the respective lines of railway were intended to pass, had been deposited with the clerks of the peace, it was enacted that, subject to the provisions in that and the recited Acts, it should be lawful for the company to make and maintain the railway and works in the line and upon the lands delineated on the said plans On one of the plans so deposited was a cross section showing the mode in which a particular street, in a large town, was to be carried over the intended railway by a bridge, and showing also the intended approach to that bridge along the street to be an ascent of 1 in 40 In executing the works, the company proceeded to make the approach to the bridge at an ascent of 1 in 115, by means of which they considerably raised the level of the street opposite the plaintiff's premises, thereby obstructing the access thereto, and otherwise damaging the plaintiff's enjoyment of his premises it was held, that the company had a right, under this Act, to raise the level of the street, and that they were not restricted from so doing by the clause in the special Act, referring to the plans and sections deposited with the clerks of the peace (*Beardmer* v *London and North Western R. C*, 1 Hall & Tw 161, 5 Railw Ca. 728, see *Manser* v *Northern and Eastern Counties R. C*, 2 Railw Ca 380, *Att. Gen* v *Eastern Counties R C*, 3 Railw Ca. 337, 10 M & W 263, *Breynton* v *London and North Western R C*, 10 Beav 238, 4 Railw C 553, and see *Reg* v *East and West India Docks, &c*, *R C*, 2 L. & B 466, 22 L J Q B 380)

8 Vict c 20

Drains, &c — They may make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway ;

Warehouses, &c (a) — They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they think proper

Alterations and repairs — They may from time to time alter, repair, or discontinue the before mentioned works or any of them, and substitute others in their stead , and

General power — They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway ,

Proviso as to damages — Provided always, that in the exercise of the powers by this or the special Act granted the company shall do as little damage as can be (b), and shall make full satisfaction (c) in manner herein and in the special Act, and any Act incorporated therewith, provided, to all parties interested for all damage by them sustained by reason of the exercise of such powers

Works below high water mark not to be executed without the consent of the lords of the admiralty — 17 It shall not be lawful for the company to construct on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and reflows, any work, or to construct any railway or bridge across any creek, bay, arm of the sea, or navigable river, where and so far up the same as the tide flows and reflows, without the previous consent of her majesty, her heirs and successors, to be signified in writing under the hands of two of the commissioners of her majesty's woods, forests, land revenues, works, and buildings, and of the lord high admiral of the united kingdom of Great Britain and Ireland, or the commissioners for executing the office of lord high admiral aforesaid for the time being, to be signified in writing under the hand of the secretary of the admiralty, and then only according to such plan and under such restrictions and regulations as the said commissioners of her majesty s woods, forests, land revenues, works, and buildings, and the said lord high admiral or the said commissioners, may approve of, such approval being signified as last aforesaid and where any such work, railway, or bridge shall have been constructed it shall not be lawful for the company at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like consents or approvals , and if any such work, railway, or bridge shall be commenced or completed contrary to the provisions of this Act, it shall be lawful for the said commissioners of her majesty s woods, forests, land revenues, works, and buildings, or the said lord high admiral, or the said commissioners for executing the office of lord high admiral, to abate and remove the same and to restore the site thereof to its former condition, at the cost and charge of the company , and the amount thereof may be recovered in the same manner as a penalty is recoverable against the company

Alteration of water and gas pipes &c — 18 It shall be lawful for the company, for the purpose of constructing the railway, to raise, sink, or otherwise alter the position of any of the watercourses, water pipes, or gas pipes belonging to any of the houses adjoining or near to the railway, and also the mains and other pipes laid down by any company or society who may furnish the inhabitants of such houses or places with water or gas, and also to remove all other obstructions to such construction, so as the same respectively be done with as little detriment and inconvenience to such company, society, or inhabitants as the circumstances will admit, and be done under the superintendence of the company to which such water pipes or gas pipes belong, and of the several commissioners or trustees, or persons having control of the pavements, sewers, roads, streets, highways, lanes, and other public pas

---

(a) A railway company were empowered by their Act, with which the Consolidated Acts were incorporated, to make and maintain "the railway and works on the line, and in the manner thereby provided The company proceeded to take, under their compulsory powers, the whole of a strip of land numbered in the plans, part of which was more than 100 yards distant from the lines intended to be laid down, alleging that it was required, not only for these lines, but also for the general purposes of the traffic it was held by Lord Cottenham, C , that, under the powers of the Act, the company were authorised to take the whole of such land for the general purposes of their Act, although a small portion only was required for the lines of rail (*Cother* v *The Midland R C*, 2 Phill 469, 5 Railw Ca 187 See *Boswell* v *Glasgow and South Western R C*, 13 Scss Ca 1157)

(b) The proviso, that in exercise of their powers the company shall do as little damage as can be, relates to the mode of doing works authorised to be done, but does not regulate what those works shall be (per Lord Campbell, C J , *Reg* v *East and West India Docks, &c R C*, 2 E & B 466, 22 L J Q B 380). If a company carry on their works in such a way as to cause more damage than the necessity of the case requires, a court of equity will interfere to restrain them (see *Manser* v *North Eastern R C*, 2 Railw Ca 380 , *Coats* v *Clarence*, 1 Russ & M 181 , *Abraham* v *Great Northern R C*, 16 Q B 586 , *Att Gen* v *London and South Western R C*, 3 De Gex & S 439) And an action will lie for damage caused by negligence in the execution of their statutory powers (*Lawrence* v *Great Northern R C*, 16 Q B 643 ; *Clothier* v *Webster*, 31 L J C P 316)

(c) See *Ramsden* v *Manchester, South Junction, and Altrincham R C*, 1 Ex. 723, 5 Railw Ca. 552

sages and places within the parish or district where such mains, pipes, or obstructions shall be situate, or of their surveyor, if they or he think fit to attend, after receiving not less than forty eight hours notice for that purpose 8 Vict c 20

19 Provided always, That it shall not be lawful for the company to remove or displace any of the mains or pipes (other than private service pipes), syphons, plugs, or other works belonging to any such company or society, or to do anything to impede the passage of water or gas into or through such mains or pipes, until good and sufficient mains or pipes, syphons, plugs, and all other works necessary or proper for continuing the supply of water or gas as sufficiently as the same was supplied by the mains or pipes proposed to be removed or displaced, shall, at the expense of the company, have been first made and laid down in lieu thereof, and be ready for use, in a position as little varying from that of the pipes or mains proposed to be removed or displaced as may be consistent with the construction of the railway, and to the satisfaction of the surveyor or engineer of such water or gas company or society, or, in case of disagreement between such surveyor or engineer and the company, as a justice shall direct Company not to disturb pipe until they have laid down others

20 It shall not be lawful for the company to lay down any such pipes contrary to the regulations of any Act of parliament relating to such water or gas company or society, or to cause any road to be lowered for the purposes of the railway, without having a covering of not less than eighteen inches from the surface of the road over such mains or pipes. Pipes not to be laid contrary to any Act, and 18 inches surface road to be retained.

21 The company shall make good all damage done to the property of the water or gas company or society, by the disturbance thereof, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the mains, pipes, or works of such water or gas company or society, or with the private service pipes of any person supplied by them with water Company to make good all damage

22 If it shall be necessary to construct the railway or any of the works over any mains or pipes of any such water or gas company or society, the company shall, at their own expence, construct and maintain a good and sufficient culvert over such main or pipe, so as to leave the same accessible for the purpose of repairs When rail way crosses pipes com pany to make a culvert.

23 If by any such operations as aforesaid the company shall interrupt the supply of any water or gas they shall forfeit twenty pounds for every day that such supply shall be so interrupted, and such penalty shall be appropriated to the benefit of the poor of the parish in which such obstruction shall occur, in such manner as the overseers of the poor of the parish shall direct. Penalty for obstructing supply of gas or water

24 If any person wilfully obstruct any person acting under the authority of the company in the lawful exercise of their power, in setting out the line of the railway or pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the railway, or deface or destroy any marks made for the same purpose, he shall forfeit a sum not exceeding five pounds for every such offence Penalty for obstructing construction of railway

And whereas there are large tracts of land in Ireland subject to flood and injury by water and the rivers, streams, and watercourses are in many places obstructed by shoals, insufficient bridges, culverts, weirs, and other works, whereby the waters thereof are elevated above their natural level and whereas an Act of parliament was passed in the second year of the reign of his late majesty King William the fourth, intituled "An Act to empower Landed Proprietors in Ireland to sink, embank and remove Obstructions in Rivers" and whereas another Act was passed in the sixth year of the reign of her present Majesty, intituled "An Act to promote the Drainage of Lands, and Improvement of Navigation and Water Power in connexion with such Drainage, in Ireland," and by the said last mentioned Act public commissioners were appointed to carry the said last recited Act into execution and whereas it is essential for carrying into effect the purposes of the said Acts, and for the improvement of agriculture, that ample provision be made in all railway works in Ireland for the free and uninterrupted passage of the waters at such level as will be sufficient not only for the present but all future discharge of the waters from lands crossed by or being on either side of such works and that the bridges of railways crossing all watercourses, rivers, lakes, or estuaries which are or hereafter may be made navigable shall be so constructed as to admit of the commodious navigation of the same therefore, with respect to the provision to be made for the drainage of land in Ireland which may be crossed by the railway, and for the protection of the navigation connected therewith, BE IT ENACTED as follows 1 & 2 W 4, c 57 5 & 6 Vict. c 89

25 If the special Act shall authorise the construction of a railway in Ireland, the company shall and they are hereby required, from time to time, before proceeding to construct any portion of the railway, to submit to the commissioners acting in execution of the said Act of the sixth year of her present majesty, or any Act amending the same, such plans, sections, and surveys as shall be necessary to enable the said commissioners to decide upon the number and adequacy of the waterways of all bridges, culverts, tunnels watercourses, and other works across the line of such portion as aforesaid of the railway, for the free and uninterrupted discharge of the waters from all lands crossed by or lying on either side of or near the railway, at such level as shall in the opinion of the said commissioners be sufficient for the present and prospective drainage and improvement of such lands and (in cases of rivers, lakes, estuaries, or watercourses, which are now or may be capable of being made navigable) upon the height and adequacy of all bridges and works crossing the same, for the commodious navigation thereof The company from time to time to submit to the drainage commissioners in Ireland plans, &c of the portion of the railway which they are about to execute.

26 The said commissioners shall and they are hereby required, without any unnecessary delay, to investigate, by such means as to them shall seem fit, the adequacy of Such commissioners

8 Vict. c. 20.

to investigate and report on the works necessary for drainage.

all such works for such purposes as aforesaid, and to decide and certify, by a writing under their hands, or the hands of any two of them, the number, situation, and least possible dimensions as to breadth, depth, and height of the several openings of such bridges, culverts, tunnels, or other works connected with such portion of the railway as aforesaid which shall be necessary for the passage of water, or for navigation under or across such railway; and it shall not be lawful for the company to proceed with the execution of any of the works connected with any portion of the railway without having first obtained such certificate as aforesaid respecting such portion of the railway, under the hands of the said commissioners or any two of them, as aforesaid; nor shall the company be at liberty to deviate from such certificate in respect to such works, nor to execute the same otherwise than in conformity therewith, without the previous approbation in writing of the said commissioners.

Summary application to the court of chancery to enforce the execution of such works.

27. It shall be lawful for the said commissioners to apply by petition in a summary way to the court of chancery, complaining of any omission on the part of the company to submit such plans, sections, and surveys to the said commissioners as aforesaid, or of the omission to construct any such bridge, culvert, tunnel, or other works for the passage of water, in such manner as shall be so certified by the said commissioners, and thereupon it shall be lawful for the said court to direct such works to be made or constructed by the company in such manner as shall be conformable to the certificate of the said commissioners, and to the said court shall seem necessary or proper, and to make from time to time such further or other order for restraining the company or any other persons from proceeding with any of the works connected with such portion of railway, except in conformity with the certificate of the said commissioners, and to issue any writ of injunction for the purpose aforesaid; and such court shall have power to award costs to be paid by such company or persons.

Saving of the powers of the drainage commissioners.

28. Nothing in this or the special Act shall extend or be construed to prejudice or affect the powers or authorities of the commissioners acting in execution of the said Act of the sixth year of her present majesty, but all such powers shall be in full force as to the formation of any cut, river, or watercourse across the railway, but such powers shall not be exercised so as to prevent or obstruct the working or using of the railway.

The drainage commissioners in Ireland to have power to decide questions as to the execution of works or to execute works for carrying watercourses across the railway.

29. And whereas it is expedient to encourage the establishment of manufactories to be worked by water power in Ireland: BE IT THEREFORE ENACTED, That whenever it may be requisite for the formation of a watercourse for manufacturing purposes to construct an arch, culvert, tunnel, or watercourse beneath or an aqueduct above any railway in Ireland, and that differences shall have arisen between the directors of such railway and the person interested in obtaining the water power, either as to the manner in which such works shall be executed, or the amount of compensation which should be paid, it shall be lawful to refer the questions in issue to the commissioners acting under the said recited Act of the fifth and sixth years of the reign of her majesty Queen Victoria, and their decision thereon shall be final and conclusive; and if the said commissioners shall be of opinion that the proposed works can be executed without injury to the railway, and if they shall think proper so to do, they may undertake the execution of so much of the said works as shall be in connexion with such railway, at the expense of the parties for whose benefit the watercourse shall be made, with the same powers and authorities as are given by the said Act for the execution of any works for drainage.

And with respect to the temporary occupation of lands near the railway during the construction thereof, BE IT ENACTED as follows:

Company may occupy temporarily private roads within five hundred yards of the railway.

30. Subject to the provisions herein and in the special Act contained, it shall be lawful for the company, at any time before the expiration of the period by the special Act limited for the completion of the railway, to enter upon and use any existing private road, being a road gravelled or formed with stones or other hard materials, and not being an avenue or a planted or ornamental road, or an approach to any mansion-house, within the prescribed limits, if any, or, if no limits be prescribed, not being more than five hundred yards distant from the centre of the railway as delineated on the plans; but before the company shall enter upon or use any such existing road they shall give three weeks notice of their intention to the owners and occupiers of such road, and of the lands over which the same shall pass, and shall in such notice state the time during which, and the purposes for which, they intend to occupy such road, and shall pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compensation for the use and occupation of such road, either in a gross sum of money or by half-yearly instalments, as shall be agreed upon between such owners and occupiers respectively and the company, or in case they differ about the compensation the same shall be settled by two justices, in the same manner as any compensation not exceeding fifty pounds is directed to be settled by the said Lands Clauses Consolidation Act.

Power to owners and occupiers of road and land to object that other roads should be taken.

31. It shall be lawful for the owners and occupiers of any such road, and of the lands over which the same passes, within ten days after the service of the aforesaid notice, by notice in writing to the company, to object to the company making use of such road, on the ground that other roads, such as the company are hereinbefore authorised to use for the purposes aforesaid, or that some public road, would be more fitting to be used for the same; and upon the objection being so made such proceedings may be had as are hereinafter mentioned with respect to lands temporarily occupied by the company, in respect of which three weeks notice is hereinafter required to be given, and in the same

manner as if in the provisions relative to such proceedings the word road or roads, or the words road and the land over which the same passes, as the case may require, had been substituted in such provisions for the word lands. 8 Vict. c. 20.

32. Subject to the provisions herein and in the special Act contained, it shall be lawful for the company, at any time before the expiration of the period by the special Act limited for the completion of the railway, without making any previous payment, tender, or deposit, to enter upon any lands within the prescribed limits, or, if no limits be prescribed, not being more than two hundred yards distant from the centre of the railway, as delineated on the plans, and not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally (*b*) planted, and not being nearer to the mansion-house of the owner of any such lands than the prescribed distance, or if no distance be prescribed, then not nearer than five hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of that portion of the railway, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes; (that is to say), Power to take temporary possession of land without previous payment of price (*a*).

For the purpose of taking earth or soil by side cuttings therefrom;
For the purpose of depositing spoil thereon;
For the purpose of obtaining materials therefrom for the construction or repair of the railway or such accommodation works as aforesaid; or
For the purpose of forming roads thereon to or from or by the side of the railway:

And in exercise of the powers aforesaid it shall be lawful for the company to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the railway, and also to dig and take from out of any such lands any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the railway or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature: Provided always, that nothing in this Act contained shall exempt the company from an action for nuisance or other injury, if any done, in the exercise of the powers hereinbefore given, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid: Provided also, that no stone or slate quarry, brick field, or other like place, which at the time of the passing of the special Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the company, either wholly or in part, for any of the purposes lastly hereinbefore mentioned.

33. In case any such lands shall be required for spoil banks or for side cuttings, or for obtaining materials for the construction or repair of the railway, the company shall before entering thereon (except in the case of accident to the railway requiring immediate reparation) give three weeks notice in writing (*c*) to the owners and occupiers of such lands of their intention to enter upon the same for such purposes; and in case the said lands are required for any of the other purposes hereinbefore mentioned the company shall (except in the cases aforesaid) give ten days like notice thereof, and the company shall in such notices respectively state the substance of the provisions hereinafter contained respecting the right of such owner or occupier to require the company to purchase any such lands, or to receive compensation for the temporary occupation thereof, as the case may be. Company to give notice previous to such temporary possession.

34. The said notice shall either be served personally on such owners and occupiers, or left at their last usual place of abode, if any such can, after diligent inquiry, be found, and in case any such owner shall be absent from the united kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or if there be no such occupier, shall be affixed upon some conspicuous part of such lands. Service of notices on owners and occupiers of lands.

35. In any case in which a notice of three weeks is hereinbefore required to be given it shall be lawful for the owner or occupier of the lands therein referred to, within ten days after the service of such notice, by notice in writing to the company to object to the company making use of such lands, either on the ground that the lands proposed to be taken for the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner, in order to the beneficial enjoyment of other neighbouring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such purposes by the company; and upon objection being so made such proceedings may be had as hereinafter mentioned. Power to owner to object that other lands ought to be taken.

(*a*) See *Innocent* v. *North Midland R. C.*, 1 Railw. Ca. 242.

(*b*) See *Stone* v. *Commercial R. C.*, 1 Railw. Ca. 396, 4 M. & Cr. 122.

(*c*) A notice given by a company under this section, of their intention to take temporary possession of land, ought to state for which of the purposes mentioned in the section the land is meant to be used; and a notice that the company intend to enter upon the land for those purposes, or some or one of them, is not sufficient (*Poynder* v. *Great Northern R. C.*, 16 Sim. 3, 5 Railw. Ca. 196, 2 Phill. 330).

8 Vict c 20

Power to two justices to order that the lands and materials shall not be taken

36 If the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or of the materials contained therein, are essential to be retained by the owner in order to the beneficial enjoyment of other neighbouring lands belonging to him, it shall be lawful for any justice, on the application of such owner, to summon the company to appear before two justices at a time and place to be named in the summons, such time not being later than the expiration of the said twenty-one days notice, and on the appearance of the company, or, in their absence, upon proof of due service of the summons, it shall be lawful for such justices to inquire into the truth of such ground of objection, and if it appear to such justices that for some special reason, to be stated in the order after mentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial enjoyment of other neighbouring lands belonging to him, and ought not therefore to be taken or used by the company, it shall be lawful for such justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such order, shall not be taken or used by the company, and after service of such order on the company it shall not be lawful for them to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such order they are ordered not to take or use

Power to justices to order other lands to be taken

37. If the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity, and such as the company are hereinbefore authorised to use for the purposes aforesaid, would be more fitting to be used by the company, and if in such case the company shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any justice, on the application of such owner or occupier, to summon the company and the owners and occupiers of such other lands to appear before two justices at a time and place to be named in such summons, such time not being more than fourteen days after such application nor less than seven days from the service of such summons, and on the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to determine summarily which of the said lands shall be used by the company for the purposes aforesaid, and to authorize the company to occupy and use the same accordingly

Power to the justices to summon other owners before them

38. If in the case last mentioned it shall appear to such justices, upon the inquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the company are hereinbefore authorised to take or use for the purposes aforesaid, would be more fitting to be used by the company than the lands of the person who shall have been so summoned as aforesaid, it shall be lawful for the said justices to adjourn such inquiry, and to summon such other person to appear before them at any time, not being more than fourteen days from such inquiry nor less than seven days from the service of such summons, and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such justices to determine finally which lands shall be used for the purposes aforesaid, and to authorise the company to occupy and use the same accordingly

The company to give sureties if required

39. Before entering, under the provisions hereinbefore contained, upon any such lands as shall be required for spoil banks or for side cuttings, or for obtaining materials or forming roads as aforesaid, the company shall, if required by the owner or occupier thereof, seven days at least before the expiration of the notice to take such lands as hereinbefore mentioned, find two sufficient persons, to be approved of by a justice, in case the parties differ, who shall enter into a bond to such owner or occupier in a penalty of such amount as shall be approved of by such justice, in case the parties differ, conditioned for the payment of such compensation as may become payable in respect of the same in manner herein mentioned

Company to separate the lands before using them

40. Before the company shall use any such lands for any of the purposes aforesaid they shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner, in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads, and in case of any difference between the owners or occupiers of such roads and lands and the company as to the necessity for such fences and gates, such fences and gates as any two magistrates shall deem necessary for the purposes aforesaid, on application being made to them in like manner as hereinbefore is provided in respect to the use of such roads

Lands taken for getting materials, &c, to be worked as the surveyor of owner may direct

41 That if any land shall be taken or used by the company, under the provisions of this or the special Act, for the purpose of getting materials therefrom for the construction or repair of the railway, or the accommodation works connected therewith, they shall work the same in such manner as the surveyor or agent of the owner of such land shall direct, or, in case of disagreement between such surveyor or agent and the company, in such manner as any justice shall direct, on the application of either party, after notice of the hearing the application shall have been given to the other party.

Owners of lands may compel company to purchase lands so

42 In all cases in which the company shall in exercise of the powers aforesaid enter upon any lands for the purpose of making spoil banks or side cuttings thereon, or for obtaining therefrom materials for the construction or repair of the railway, it shall be lawful for the owners or occupiers of such lands, or parties having such estates or interests therein as, under the provisions in the said Lands Clauses Consolidation Act mentioned,

would enable them to sell or convey lands to the company, at any time during the possession of any such lands by the company, and before such owners or occupiers shall have accepted compensation from the company in respect of such temporary occupation, to serve a notice in writing on the company requiring them to purchase the said lands, or the estates and interests therein capable of being sold and conveyed by them respectively; and in such notice such owners or occupiers shall set forth the particulars of such their estate or interest in such lands, and the amount of their claim in respect thereof; and the company shall thereupon be bound to purchase the said lands, or the estate and interest therein capable of being sold and conveyed by the parties serving such notice.

8 Vict. c. 20. temporarily occupied.

43. In any of the cases aforesaid, where the company shall not be required to purchase such lands, and in all other cases where they shall take temporary possession of lands by virtue of the powers herein or in the special Act granted, it shall be incumbent on the company, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent to be fixed by two justices, in case the parties differ, and shall also within six months after they shall have ceased to occupy the said lands, and not later than six months after the expiration of the time by the special Act limited for the completion of the railway, pay to such owner and occupier, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers herein or in the special Act granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

Compensation to be made for temporary occupation.

44. The amount and application of the purchase-money and other compensation payable by the company in any of the cases aforesaid shall be determined in the manner provided by the said Lands Clauses Consolidation Act for determining the amount and application of the compensation to be paid for lands taken under the provisions thereof.

Compensation to be ascertained under 8 Vict. c. 18 (a).

45. That it shall be lawful for the company, in addition to the lands authorised to be compulsorily taken by them under the powers of this or the special Act, to contract with any party willing to sell the same for the purchase of any land adjoining or near to the railway, not exceeding in the whole the prescribed number of acres for extraordinary purposes; (that is to say,)

Land to be taken for additional stations, &c. (b).

For the purpose of making and providing additional stations, yards, wharfs, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the railway, and for the erection of weighing-machines, toll-houses, offices, warehouses, and other buildings and conveniences:

For the purpose of making convenient roads (c) or ways to the railway, or any other purpose which may be requisite or convenient for the formation or use of the railway.

And with respect to the crossing of roads, or other interference therewith (d), BE IT ENACTED as follows:—

46. If the line of the railway cross any turnpike road or public highway, then (except where otherwise provided by the special Act (e) either such road shall be carried over the

Crossing of roads (f).

(a) Payment of or security for compensation in respect of damages consequential upon the execution of works, is not a condition precedent to the commencement of such works (*Hutton* v. *London and South Western R. C.*, 7 Hare 259, 18 L. J. Ch. 345; *Lister* v. *Lobley*, 7 Ad. & E. 124; see 8 & 9 Vict. c. 18, s. 22, &c., ante, Vol. II., p. 1154, tit. "LANDS CLAUSES," &c.).

(b) This section has reference to lands wanted for additional conveniences only, as landowners may be willing to sell, and which lie beyond the limits of deviation, the amount being limited under the special Act (*per* Parke, B., *Sadd* v. *Maldon, &c., R. C.*, 6 Railw. Ca. 784, 6 Exch. 143). This section does not control the 16th section (*Ib.*).

(c) As to what is a road within this section, see *Eton College* v. *Great Western R. C.*, 1 Railw. Ca. 200.

(d) The sections of this Act "with respect to the crossing of roads, or other interference therewith," are applicable to the interference with roads incidentally, and do not apply where the object of the special Act is to change the nature of that road (*Tanner* v. *South Wales R. C.*, 5 E. & B. 618, 25 L. J. Q. B. 7, post, p. 32, n. (c)).

(e) Where by a railway Act it was provided that it should be lawful for the company, in constructing their railway, to carry the same on a level across a road at a particular point, provided the company should erect and maintain a good and sufficient public foot bridge, for the use of foot passengers over such road at or near the point of level crossing, it was held, that such a provision was permissive, and not mandatory (*Dover Harbour, Warden &c., of*, v. *London, Chatham, and Dover R. C.*, 30 L. J. Ch. 474).

(f) The preamble of the London and Brighton

6 Vict. c. 20.

railway, or the railway shall be carried over such road (*a*), by means of a bridge, of the height and width and with the ascent or descent by this or the special Act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed and at all times thereafter maintained at the expence of the company (*b*): Provided always, that, with the consent of two or more justices in petty sessions, as after mentioned, it shall be lawful for the company to carry the railway across any highway, other than a public carriage road, on the level.

Provision in cases where roads are crossed on a level (*c*).

47. If the railway cross any turnpike road or public carriage road on a level, the company shall erect and at all times maintain good and sufficient gates across such road, on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates; and such gates shall be kept constantly closed across such road on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway; and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein: Provided always, that it shall be lawful for the board of trade, in any case in which they are satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road should be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road, and in such case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

As to crossing of turnpike roads adjoining stations.

48. Where the railway crosses any turnpike road on a level adjoining to a station, all trains on the railway shall be made to slacken their speed before arriving at such turnpike road, and shall not cross the same at any greater rate of speed than four miles an hour; and the company shall be subject to all such rules and regulations with regard to such crossings as may from time to time be made by the board of trade.

Railway Act, after reciting that the establishment of a railway communication between London and Brighton will be of great public advantage, enacts (sect. 3)—That it shall be lawful for the company to make and maintain a main line of railway and branches, with all proper warehouses, wharfs, and all other suitable and proper works, communications, approaches, and conveniences attached to or connected with the same. By the 12th sect. the usual powers are conferred on the company for making and maintaining the railway, and (among others) to make or construct upon, across, or over any roads, &c., such roads, ways, cuttings, &c., as the company shall think proper. The company having purchased a private wharf, separated from one of their terminus stations by a turnpike road, laid down on the road stone blocks, so as to form two runs or stone ways level with the road, for the purpose of facilitating the passage of goods from the wharf across the road to the station. It was held, that the company were not authorised by their Act to interfere with the road in such a manner (*London and Brighton R. C.* v. *Cooper*, 2 Railw. Ca. 312; see *London and Brighton R. C.* v. *Blake*, 2 Railw. Ca. 322; *Bell* v. *Hull & Selby R. C.*, 6 M. & W. 699, 2 Railw. Ca. 279, 1 Railw. Ca. 616; *Northam Bridge and Road Company* v. *London and Southampton R. C.*, 1 Railw. Ca. 653, 6 M. & W. 428; *Att.-Gen.* v. *London and Southampton R. C.*, 1 Railw. Ca. 302, 9 Sim. 78; *Reg.* v. *Birmingham and Gloucester R. C.*, 2 Q. B. 47, 2 Railw. Ca. 694, 709; *Reg.* v. *London and Birmingham R. C.*, 1 Railw. Ca. 317; *Manchester and Leeds R. C.* v. *Reg.*, 2 Railw. Ca. 711, 3 Q. B. 528; *Reg.* v. *Eastern Counties R. C.*, 2 Q. B. 569, 3 Railw. Ca. 22; *Clarence R. C.* v. *Great North of England R. C.*, 4 Q. B. 46; 13 M. & W. 706; *Att.-Gen.* v. *Eastern Counties R. C.*, 10 M. & W. 263, 2 Railw. Ca. 823; *Aldred v. North Midland R. C.*, 1 Railw. Ca. 404; *Breynton* v. *London and North Western R. C.*, 10 Beav. 238; on appeal, 4 Railw. Ca. 553).

(*a*) Where a railway crosses a public highway not on a level, the company have an option either to carry the road over the railway or the railway over the road (*South Eastern R. C.* v. *Reg.*, 17 Q. B. 485, 20 L. J. Q. B. 428, 4 H. L. Ca. 471).

(*b*) Under this section, a railway company having carried a road over the railway by a bridge, is bound to keep both bridge and road, and all the approaches thereto, in repair; and such repair includes not only the structure of the bridge and the approaches, but the metalling of the road on both (*North Staffordshire R. C.* v. *Dale*, 8 E. & B. 836, 27 L. J. M. C. 147; *Newcastle-under-Lyme and Leek Turnpike Roads, Trustees of*, v. *North Staffordshire R. C.*, 5 H. & N. 160, 26 L. J. M. C. 150).

(*c*) As to the substitution of this section, in the case of railways coming under the operation of this Act, for 5 & 6 Vict. c. 55, s. 9, ante, p. 9, see the remarks of Jervis, C. J., *Manchester, &c., R. C.* v. *Wallis*, 23 L. J. C. P. 87, 14 C. B. 213.

49 Every bridge to be erected for the purpose of carrying the railway over any road shall (except where otherwise provided by the special Act) be built in conformity with the following regulations, (that is to say,) 8 Vict c. 20 Construction of bridges over roads (a)

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty five feet if the arch be over a turnpike road (b), and of twenty five feet if over a public carriage road (c), and of twelve feet if over a private road

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a turnpike road, and fifteen feet for a space of ten feet if over a public carriage road, and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet

The clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private carriage road

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a turnpike road, one foot in twenty feet if over a public carriage road, and one foot in sixteen feet if over a private carriage road not being a tramroad or railroad, or if the same be a tramroad or railroad the descent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed the same shall not be greater than as it existed at the passing of the special Act.

50 Every bridge (d) erected for carrying any road over the railway shall (except as otherwise provided by the special Act) be built in conformity with the following regulations, (that is to say), Construction of bridges over railway

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet

The road over the bridge shall have a clear space between the fences thereof of thirty five feet if the road be a turnpike road (e), and twenty five feet if a public carriage road, and twelve feet if a private road

The ascent shall not be more than one foot in thirty feet if the road be a turnpike road (e), one foot in twenty feet if a public carriage road, and one foot in sixteen feet if a private carriage road, not being a tramroad or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than the prescribed rate of inclination, and if no rate be prescribed, the same shall not be greater than as it existed at the passing of the special Act

51. Provided always, That in all cases where the average available width for the passage of carriages of any existing roads within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width, in the case of a turn The width of the bridges need not exceed the width of the road in

---

(a) See *London and Birmingham R. C* v *Grand Junction Canal Company*, 1 Railw Ca 224 *Priestley* v *Manchester and Leeds R. C*, 2 Railw Ca. 134, 4 Y & C Exch 63, *Illingworth* v *Manchester and Leeds R C*, 2 Railw Ca. 187 *Reg* v *Norwich and Brandon R C*, 3 Dowl & L 385, *Att Gen* v *The Eastern Counties R C*, 10 M & W 263, 2 Railw Ca 823 *Manchester and Leeds R. C* v *Reg*, 3 Q B 528, 2 Railw Ca. 711, 3 *ib* 631, *Att Gen.* v *London and Southampton R C*, 9 Sim 78, 1 Railw Ca. 302, *Reg* v *Rigby*, post, p 32, n (a)

(b) A road on which toll gates are by law erected, and tolls taken thereat, is a turnpike road within the meaning of this Act (*The Northam Bridge, &c*, *Company* v *London and Southampton R C*, 6 M & W 428, 1 Railw Ca. 653) but a street, not being a road maintained by tolls payable by passengers is not (*Reg* v *East and West India Docks, &c*, *R. C*, 2 E & B 466, 22 L J Q B 380)

(c) In a contract between a railway company and a proprietor of land to be crossed by the line of railway, this Act should be expressly referred to, if the company intend to claim the benefit of its provisions Therefore, where a company contracted "to provide and erect a suitable bridge over a street (marked in a plan referred to in the deed) as then planned or intended," and the plan showed that the street was intended to be forty two feet wide it was held, in the absence of any reference in the deed to the Act, that the company were not at liberty to narrow the street to twenty five feet, but must make a bridge with an arch of the full width of the street (forty two feet) (*Clarke* v *Manchester, Sheffield, &c.*, *R C*, 1 Johns & H 631)

(d) It seems that the word "bridge" would not include the approaches to it so far as the provisions as to the width of the road are concerned (*Reg* v *London and Birmingham R C*, 1 Railw Ca. 317, *Reg* v *Birmingham and Gloucester R C*, 2 Q B 47, 2 Railw Ca 694, see *Great North of England, &c. R. C* v *Clarence R C*, 1 Col 507, 3 Railw Ca. 605)

(e) A street, not being a road maintained by tolls payable by passengers, is not a turnpike road within this section (*Reg* v *East and West India Docks, &c R C*, 2 E & B 466, 22 L J Q B 380, and see supra, note (b))

8 Vict c 20 certain cases

pike road or public carriage road, than twenty feet Provided also, that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the company shall be bound at their own expense, to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened, or the maximum width herein or in the special Act prescribed for a bridge in the like case over or under the railway (a)

Existing inclinations of roads crossed or diverted need not be improved (b).

52 Provided also That if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the company, then the company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

Before roads interfered with others to be substituted (c)

53 If, in the exercise of the powers by this or the special Act granted, it be found necessary to cross cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad or railway, either public or private, so as to render it impassable for or dangerous or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with (d), and shall at their own expense maintain such substituted road in a state as convenient (e) for passengers and carriages as the road so interfered with, or as nearly so as may be

---

(a) The effect of this section taken with s 49 is, that, if the average available width for the passage of carriages on any road is more than 35 feet, the road may be narrowed to 35 feet under the arch, Where it is less, the arch may be made of the same width as the road so that it be not less than 20 feet wide if the road be afterwards widened, the arch must be widened in proportion up to, but not beyond 35 feet. In this reckoning, footpaths are not to be taken into account. Therefore, where the road, including footpaths, was 43 feet wide, but without them only 28, and the railway arch, 35 feet in width, stood partly upon and narrowing the footpath, but left the carriage way of its original width it was held, on indictment for obstructing the carriage way, that ss 49, 51, of this Act, and a railway Act incorporating the Act, were complied with, although the special Act provided that, whenever the railway crossed the road otherwise than at right angles, the bridge should be made with a skew arch (which had been done in this instance), "so as not in any manner to alter the direction of or interfere with the line of the said roads, or the footpaths to the same" (*Reg* v *Rigby*, 14 Q B 687)

(b) As to the mode of determining the relative steepness of a diverted road and an old road, see *Att Gen* v *London and Southampton R C*, 1 Railw Ca. 283

(c) If the surveyor of the highways objects to the substituted road, he is not authorised in obstructing it, but must resort to the usual legal remedies (*London and Brighton R C* v *Blake*, 2 Railw Ca. 322)

As it seems that the Act is altogether silent as to what is to be done with the old road when a new one is substituted, the result is (in the case of a public road), that the easement before enjoyed by the public over it is taken away, and the right of the owner of the soil must prevail (see the judgment of Crowder, J, in *Marquis of Salisbury* v *Great Northern R C*, 5 C B N S 174, 28 L J C P 40 ante, p 23, n (c).

Where a special Act incorporating this Act authorised the alteration of a public line of tram road into a railway to be worked by locomotive power, the promoters were held to be not bound by this section, before interfering with the tram road for this purpose, to erect and maintain a substituted tramroad equally convenient for the sections of this Act with reference to the crossing of roads, or other interference therewith (see commencement of s 46), are only applicable to the interference with roads incidentally, and do not apply where the object of the special Act is to change the nature of the road (*Tanner* v *South Wales R C*, 5 E. & B 618, 25 L. J Q B 7)

(d) See, on the corresponding clause of the Scotch Act (8 & 9 Vict c 33), *Law* v *Caledonian R C*, 18 Sess Ca. 1122

(e) "Convenient" means convenient both for the company and the public (*Reg* v *Sharpe*, 3 Railw Ca 33 See further *Edwards* v *Grand Junction R C*, 7 Sim 342, 1 Railw Ca. 173 *Aldred* v *North Midland R C.*, 1 Railw Ca 404, *London and Brighton R C* v *Blake*, 2 Railw Ca 322)

It would seem that if the company divert a highway and obstruct the old road, making a new one, which is neither as convenient for the passengers as the old one, nor as near thereto as might be, they will be indictable (*Reg* v *Scott*, 3 Q B 543, 3 Railw Ca 187, *Reg* v *Great North of England R C*, 9 Q B 315, *Rex* v *Russell*, 6 B & C 566, *Rex* v *Pease*, 4 B & Ad 30)

A company was empowered "to divert or alter any roads or ways, in order the more conveniently to carry the same over or under the railway"

54. If the company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and such penalty shall be paid to the trustees, commissioners, surveyor, or other person having the management of such road, if a public road, and shall be applied for the purposes thereof, or in case of a private road the same shall be paid to the owner (*a*) thereof, and every such penalty shall be recoverable with costs by action in any of the superior courts. 8 Vict. c. 20. Penalty for not substituting a road.

55. If any party entitled to a right of way over any road so interfered with by the company shall suffer any special damage (*b*) by reason that the company shall fail to cause another sufficient road to be made before they interfere with the existing road (*c*), it shall be lawful for such party to recover the amount of such special damage from the company, with costs, by action on the case in any of the superior courts, and that whether any party shall have sued for such penalty as aforesaid or not, and without prejudice to the right of any party to sue for the same. Party suffering damage from interruption of road to recover in an action on the case.

56. If the road so interfered with can be restored compatibly with the formation and use of the railway, the same shall be restored to as good a condition as the same was in at the time when the same was first interfered with by the company, or as near thereto as may be; and if such road cannot be restored compatibly with the formation and use of the railway, the company shall cause the new or substituted (*e*) road, or some other sufficient substituted road, to be put into a permanently substantial condition, equally convenient (*f*) as the former road, or as near thereto as circumstances will allow; and Period for restoration of road interfered with (*d*).

The company in carrying a road under the railway had erected a skew bridge, which diverted the road to an angle of 45 degrees, instead of 34 degrees, which was the angle made at that particular point by the old line of road. At the trial of an indictment against the company's engineer for so doing, the learned judge directed the jury, that, if the public sustained inconvenience by the alteration, they should find for the crown; but that if the work was done in a mode in which an experienced engineer would do it, having reasonable regard to the interests both of the company and the public, the company had a right to make such diversion. The jury having found for the defendant on this ruling, the court refused to grant a new trial (*Reg.* v. *Sharpe*, 3 Railw. Ca. 33).

If the new road is decidedly more inconvenient in some important particular, and there is no increase of convenience gained in any other respect to counterbalance it, then it seems the new road cannot be considered to satisfy this part of the section. Where, therefore, a company made a substituted road 27 feet broad instead of 40, which was the width of the original road, and the new road was less convenient as a drift-way, it was held not to be authorised by a similar provision to the above in their Act (*Reg.* v. *London and Birmingham R. C.*, 1 Railw. Ca. 317). It would be no excuse for the company that the steepness of the land and the state of the earth rendered it impossible to do what the Act required, or that by reason of the expiration of their powers they were unable to take the necessary land, or that their statute did not authorise their injuring a particular description of property, and that they could not act up to the provisions of their statute without injuring that very description of property (*Reg.* v. *Birmingham and Gloucester R. C.*, 2 Q. B. 47, 2 Railw. Ca. 694).

(*a*) Where in the case of a private road this penalty is made payable to the owner thereof, the tenant of the land over which the railway passes, and not the reversioner, is, it seems, the proper party to sue for the penalty (*Collinson* v. *Newcastle and Darlington R. C.*, Walford, Railways, 99; *Mann* v. *Great Southern and Western R. C.*, 9 Ir. C. L. Rep. 105). At Nisi Prius it had been held otherwise (*Collingwood* v. *Newcastle and Darlington R. C.*, 1 Car. & K. 546; see *Chorlton-upon-Medlock* v. *Walker*, 12 L. J. Exch. 88, 10 M. & W. 742).

(*b*) The remedy by action for an interference with a private right of way is by this Act taken away, except where special damage has been suffered (*Watkins* v. *Great Northern R. C.*, 16 Q. B. 961, 20 L. J. Q. B. 391; and see *Moore* v. *Great Southern, &c., R. C.*, 10 Ir. C. L. Rep. 46).

(*c*) See *Tanner* v. *South Wales R. C.*, ante, p. 32, n. (*e*).

(*d*) It was held, with reference to the corresponding section in the Scotch Act, that an action lay against the company for not restoring a road within the given period (*Caledonian R. C.* v. *Colt*, 3 Macq. 833).

(*e*) As to the right of property in the old road when a new one is substituted for it, see *Marquis of Salisbury* v. *Great Northern R. C.*, 5 C. B. N. S. 174, 28 L. J. C. P. 40, ante, p. 23, n. (*c*), p. 32, n. (*c*).

(*f*) It seems that the restoration must be to the original width of the old road (*Reg.* v. *Birmingham and Gloucester R. C.*, 2 Q. B. 47, 2 Railw. Ca. 694). Where the company were not doing as little damage as could be, in diverting a road, they were restrained from interfering with it until they should have provided another as convenient (*Att.-Gen.* v. *London and South-Western R. C.*, 3 De Gex & S. 439). This section does not apply to the case where a road passes over a bridge, made by the company over their railway (*North Staffordshire R. C.* v. *Dale*, 8 E. & B. 836, 27 L. J. M. C. 147, ante, p. 30, n. (*b*)).

8 Vict. c. 20.

the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, within the following periods after the first operation on the former road shall have been commenced, unless the trustees or parties having the management of the road to be restored by writing under their hands consent to an extension of the period, and in such case within such extended period; (that is to say,) if the road be a turnpike road, within six months, and if the road be not a turnpike road, within twelve months.

Penalty for failing to restore road (a).

57. If any such road be not so restored, or the substituted road so completed as aforesaid, within the periods herein or in the special Act fixed for that purpose, the company shall forfeit to the trustees, commissioners, surveyor, or other person having the management of the road (b) interfered with by the company, if a public road, or if a private road to the owner (c) thereof, five pounds for every day after the expiration of such periods respectively during which such road shall not be so restored or the substituted road completed; and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

Company to repair roads used by them (d).

58. If in the course of making the railway the company shall use or interfere with any road (e), they shall from time to time make good all damage done by them to such road; and if any question shall arise as to the damage done to any such road by the company, or as to the repair thereof by them, such question shall be referred to the determination of two justices; and such justices may direct such repairs to be made in the state of such road, in respect of the damage done by the company, and within such period as they think reasonable, and may impose on the company, for not carrying into effect such repairs, any penalty not exceeding five pounds per day as to such justices shall seem just; and such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the company, if a public road, and be applied for the purposes of such road, or if a private road the same shall be paid to the owner thereof: Provided always, that in determining any such question with regard to a turnpike road the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the company on such road in the course of the using thereof.

Proceedings on application to justices to consent to level crossings of bridleways and footways.

59. When the company shall intend to apply for the consent of two justices, as hereinbefore provided, so as to authorise them to carry the railway across any highway other than a public carriage road on the level, they shall, fourteen days at least previous to the holding of the petty sessions at which such application is intended to be made, cause notice of such intended application to be given in some newspaper circulating in the county, and also to be affixed upon the door of the parish church of the parish in which such crossing is intended to be made, or if there be no such church some other place to which notices are usually affixed; and if it appear to any two or more justices acting for the district in which such highway at the proposed crossing thereof is situate, and assembled in petty sessions, after such notice as aforesaid, that the railway can, consistently with a due regard to the public safety and convenience, be carried across such highway on the level, it shall be lawful for such justices to consent that the same may be so carried accordingly.

Appeal against the determination of the justices.

60. If either party shall feel aggrieved by the determination of such justices upon any such application as aforesaid, it shall be lawful for such party, in like manner and subject to the like conditions as are hereinafter provided in the case of appeals in respect of penalties and forfeitures, to appeal to the quarter sessions of the county or place in which the cause of appeal shall have arisen; and it shall be lawful for the justices in such quarter sessions, upon the hearing of such appeal, either to confirm or quash the determination, or to make such other order in regard to the method of carrying the railway across such highway as aforesaid, as to them shall seem fit, and to make such order concerning the costs both of the original application and of the appeal as to them shall seem reasonable.

Company to make sufficient approaches and fences to bridleways and footways crossing on the level (f).

61. If the railway shall cross any highway other than a public carriageway on the level, the company shall at their own expence make and at all times maintain convenient ascents and descents and other convenient approaches, with handrails or other fences, and shall, if such highway be a bridleway, erect and at all times maintain good and sufficient gates, and if the same shall be a footway, good and sufficient gates or stiles on each side of the railway where the highway shall communicate therewith.

(a) It would seem that these penalties are in the nature of cumulative remedies to hasten performance (see per Ld. Campbell, C., *Caledonian R. C.* v. *Colt*, 3 Macq. 838).

(b) That is, one who is clothed with some duty in respect of the public *ejusdem generis* with that of "trustee," "commissioner," or "surveyor" (*Reg.* v. *Wilson*, 18 Q. B. 348, 21 L. J. Q. B. 281).

(c) See ante, p. 33, n. (a).

(d) An order of justices under this section, directing a railway company to repair the damage done by them to a road, is sufficient, if it describes the road by name and length, finding that the company have done damage and injury thereto, and then orders them to make good that damage (*London and North-Western R. C.* v. *Wetherall*, 20 L. J. Q. B. 337).

(e) See *Tanner* v. *South Wales R. C.*, 5 E. & B. 618, 25 L. J. Q. B. 7, ante, p. 32, n. (c).

(f) It would seem that if the fence of a railway obstructs a way, it is the duty of persons having

62 If, where the railway shall cross any highway on the level, the company fail to make convenient ascents and descents or other convenient approaches, and such hand rails, fence, gates, and stiles as they are hereinbefore required to make, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders within the parish or district where such crossing shall be situate, after not less than ten days notice to the company, to order the company to make such ascent and descent or other approach, or such handrails, fences, gates, or stiles as aforesaid, within a period to be limited for that purpose by such justices, and if the company fail to comply with such order they shall forfeit five pounds for every day that they fail so to do, and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such person as they think fit, in executing the work in respect whereof such penalty was incurred

8 Vict c. 20 Justices to have power to order approaches and fences to be made to highways crossing on the level.

63 If the commissioners or trustees of any turnpike road, or the surveyor of any highway, apprehend danger to the passengers on such road in consequence of horses being frightened by the sight of the engines or carriages travelling upon the railway, it shall be lawful for such commissioners, or trustees, or surveyor, after giving fourteen days notice to the company, to apply to the board of trade with respect thereto and if it shall appear to the said board that such danger might be obviated or lessened by the construction of any works in the nature of a screen near to or adjoining the side of such road, it shall be lawful for them, if they shall think fit, to certify the works necessary or proper to be executed by the company for the purpose of obviating or lessening such danger and by such certificate to require the company to execute such works within a certain time after the service of such certificate, to be appointed by the said board

Screen for roads to be made if required by the board of trade

64 Where by any such certificate as aforesaid the company shall have been required to execute any such work in the nature of a screen they shall execute and complete the same within the period appointed for that purpose in such certificate, and if they fail so to do they shall forfeit to the said commissioners, or trustees, or surveyor, five pounds for every day during which such works shall remain uncompleted beyond the period so appointed for their completion, and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred

Penalty for failing to construct

65 Where, under the provisions of this or the special Act, or any Act incorporated therewith, the company are required to maintain or keep in repair any bridge, fence, approach, gate, or other work executed by them, it shall be lawful for two justices, on the application of the surveyor of roads, or of any two householders of the parish or district where such work may be situate, complaining that any such work is out of repair, after not less than ten days notice to the company, to order the company to put such work into complete repair within a period to be limited for that purpose by such justices and if the company fail to comply with such order they shall forfeit five pounds for every day that they fail so to do, and it shall be lawful for the justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair

Justices to have power to order repair of bridges &c (a).

66 "And whereas expence might frequently be avoided, and public convenience promoted, by a reference to the board of trade upon the construction of public works of an engineering nature connected with the railway, where a strict compliance with the provisions of this or the special Act might be impossible, or attended with inconvenience to the company, and without adequate advantage to the public" BE IT ENACTED, That in case any difference in regard to the construction, alteration, or restoration of any road or bridge, or other public work of an engineering nature, required by the provisions of this or the special Act, shall arise between the company and any trustees, commissioners, surveyors, or other persons having the control of or being authorised by law to enforce the construction of such road, bridge, or work, it shall be lawful for either party, after giving fourteen days notice in writing of their intention so to do to the other party, to

Board of trade empowered to modify the construction of certain roads, bridges, &c where a strict compliance with the Act is impossible

---

a right to use the way not to destroy the fence in order to abate the obstruction, but to seek their remedy in a court of law (*Ellis* v *London and South-Western R Co.*, 2 H & N 424 26 L J Ex 349)

(a) Where a navigation company were empowered under a local Act to make the river navigable and to take tolls, and "to amend or alter such bridges or highways as might hinder the passage or navigation, leaving them or others as convenient in their room, &c., and they had forty years ago destroyed a ford across the river in the common highway, by deepening its bed, and built a bridge over the same place it was held that they were bound to keep such bridge in repair, as under a continuing condition to preserve the new passage in lieu of the old one, which they had destroyed for their own benefit (*Rex* v *Kent*, 13 East, 220; see *Rex* v *Kerrison*, 3 M & Sel 526, *Rex* v *Lindsey*, 14 East, 317, *Rex* v *Bristol Dock Company*, 6 B & C 181 *Reg* v *Bristol Dock Company*, 2 Q B 64, *Priestley* v *Manchester and Leeds R C*, 2 Railw Ca. 134, 4 Y & C Exch 63, *London and Birmingham R C* v *Grand Junction Canal Company*, 1 Railw Ca 224, *Att. Gen* v. *Eastern Counties R C*, 3 Railw Ca. 337)

8 Vict. c. 20. or inconvenient.

apply to the board of trade to decide upon the proper manner of constructing, altering, or restoring such road, bridge, or other work; and it shall be lawful for the board of trade, if they shall think fit, to decide the same accordingly, and to authorise, by certificate in writing, any arrangement or mode of construction in regard to any such road, bridge, or other work which shall appear to them either to be in substantial compliance with the provisions of this and the special Act, or to be calculated to afford equal or greater accommodation to the public using such road, bridge, or other work; and after any such certificate shall have been given by the board of trade, the road, bridge, or other work therein mentioned shall be constructed by the company in conformity with the terms of such certificate, and being so constructed shall be deemed to be constructed in conformity with the provisions of this and the special Act: Provided always, that no such certificate shall be granted by the board of trade unless they shall be satisfied that existing private rights or interests will not be injuriously affected thereby.

Authentication of certificates of the board of trade, service of notices, &c.

67. That all regulations, certificates, notices, and other documents in writing purporting to be made or issued by or by the authority of the board of trade, and signed by some officer appointed for that purpose by the board of trade, shall, for the purposes of this and the special Act, and any Act incorporated therewith, be deemed to have been so made and issued, and that without proof of the authority of the person signing the same, or of the signature thereto, which matters shall be presumed until the contrary be proved; and service of any such document, by leaving the same at one of the principal offices of the railway company, or by sending the same by post addressed to the secretary at such office, shall be deemed good service upon the company; and all notices and other documents required by this or the special Act to be given to or laid before the board of trade shall be delivered at, or sent by post addressed to, the office of the board of trade in London.

And with respect to works for the accommodation of lands adjoining the railway, BE IT ENACTED as follows:

68. The company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway (*a*) (that is to say),

Gates, bridges, &c.:

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made (*b*); and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof:

Fences (*c*).

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof

---

(*a*) It would seem that this section does not apply to matters occurring below the surface of the land (*Reg.* v. *Fisher*, 32 L. J. M. C. 12).

(*b*) See *Marriage* v. *Eastern Counties, &c. R. Companies*, 2 H. & N. 625, 27 L. J. Ex. 185.

(*c*) This section would seem, in respect of railways coming under the operation of this Act, to be a substitution for 5 & 6 Vict. c. 55, s. 10, ante, p. 9 (see per Jervis, C. J., *Manchester, Sheffield and Lincolnshire R. C.* v. *Wallis*, 14 C. B. 213, 23 L. J. C. P. 85).

As to what is a sufficient fence under this section, see *Bessant* v. *Great Western R. C.*, 8 C. B. N. S. 368.

The duty imposed upon railway companies by this section, as to the making and repairing of fences between their railways and the adjoining lands, is not more extensive than that imposed upon ordinary tenants by the common law (*Ricketts* v. *East and West India Docks, &c. R. C.*, 12 C. B. 160, 21 L. J. C. P. 201; and see *Sharrod* v. *London and North Western R. C.*, 4 Ex. 580, 6 Rail. Ca. 239). Therefore, assuming a highway running parallel with the railway, to be "adjoining land" within the meaning of this section, the company are not responsible for injury done to cattle *straying* thereon, in consequence of their getting through an open gate into the station-yard, and thence on to the railway; though it would be otherwise if the owners of the cattle were using the highway according to the dedication of the owner of the soil, by driving them along it (*Manchester, Sheffield and Lincolnshire R. C.* v. *Wallis*, ubi supra; *Midland R. C.* v. *Daykin*, 17 C. B. 126, 25 L. J. C. P. 73). Hence, also, this section does not oblige the company to fence off their railway from adjoining land belonging to themselves (*Roberts* v. *Great Western R. C.*, 4 C. B. N. S. 506, 27 L. J. C. P. 266; and see *Marfell* v. *South Wales R. C.*, 8 C. B. N. S. 525, 29 L. J. C. P. 315).

If the owner of the cattle contribute to the injury by leaving a gate unfastened, which he ought to keep locked, the company will not be liable (*Ellis* v. *London and South Western R. C.*, 2 H. & N. 424, 26 L. J. Exch. 347; and see *Haigh* v. *London and North Western R. C.*, 1 F. & F. 646).

from straying thereout, by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be: 8 Vict. c. 20

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed: Drains (a).

Also proper watering places for cattle where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places; and such watering places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places: Watering places (b).

Provided always, that the company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of the making them.

69. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by two justices; and such justices shall also appoint the time within which such works shall be commenced and executed by the company. Differences as to accommodation works to be settled by justices (c).

70. If for fourteen days next after the time appointed by such justices for the commencement of any such works the company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs; and the reasonable expenses thereof shall be repaid by the company to the party by whom the same shall so have been executed; and if there be any dispute about such expenses the same shall be settled by two justices: Provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time nor use them in any other manner than is unavoidably necessary for the execution or repair of such accommodation works. Execution of works by owners on default by the company.

71. If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the company, or directed by such justices to be made by the company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the company, or, in case of difference, as shall be authorised by two justices. Power to owners of land to make additional accommodation works.

72. If the company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their engineer, and according to plans and Such works to be constructed

---

(a) See *Priestley* v. *Foulds*, 2 Rail. Ca. 422, 2 M. & G. 175; *Bagnall* v. *London and North Western R. C.*, 7 H. & N. 423, 31 L. J. Ex. 121, 400.

(b) See *Reg.* v. *York & North Midland R. C.*, 14 L. J. Q. B. 277.

(c) This section and the preceding one would seem, from the remarks of Jervis, C. J. (*Manchester, &c. R. C.* v. *Wallis*, 23 L. J. C. P. 87), to be substituted, in the case of railways coming under this Act, for 5 & 6 Vict. c. 55, s. 10, ante, p. 9.

Where a railway company had made drains upon their line for their own purposes, which, when kept open and clear, carried off water which otherwise percolated through the subjacent strata into, and interfered with the working of, certain mines under the railway, but which had not been worked till subsequently to the making of the line; it was held that such drains were not such accommodation works as the justices had jurisdiction over (*Reg.* v. *Fisher*, 32 L. J. M. C. 12).

A jury having been empannelled under 8 Vict. c. 18, to assess the amount of compensation to be paid to a landowner for land compulsorily taken, and other lands injuriously affected by severance, &c., the landowner claimed the expense of erecting a bridge to connect his premises with the highway, which was severed by the line. The jury found a gross sum for the purchase of the lands required by the company, a sum for severance, and a sum "for severance owing to the crossing, and the expense incurred thereby." Evidence was given that this last sum would be the cost of the bridge. It was held, that the jury were not warranted in awarding the latter sum, inasmuch as that was a matter for the adjudication of justices under this section; and as this was an excess of jurisdiction, a certiorari would lie to remove the proceedings (*In re South Wales R. C.* v. *Richards*, 6 Rail. Ca. 197, 13 Q. B. 988).

8 Vict c 20 under the superintendence of the company's engineer.

specifications to be submitted to and approved by such engineer; nevertheless the company shall not be entitled to require, either that plans should be adopted which would involve a greater expense than that incurred in the execution of similar works by the company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the company.

Accommodation works after five years

73. The company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or, if no period be prescribed, after five years from the completion of the works, and the opening of the railway for public use.

Owners to be allowed to cross until accommodation works are made (a).

74. Until the company shall have made the bridges or other proper communications which they shall under the provisions herein, or in the special Act, or any Act incorporated therewith, contained, have been required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses, and other animals, directly (but not otherwise) across the part of the railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless, if the owner or occupier of any such lands have in his arrangements (b) with the company received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

Penalty on persons omitting to fasten gates

75. If any person omit to shut and fasten any gate set up at either side of the railway, for the accommodation of the owners or occupiers of the adjoining lands, as soon as he, and the carriage, cattle or other animals, under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Power to parties to make private branch railways communicating with the railway (c).

76. That this or the special Act shall not prevent the owners or occupiers of lands adjoining to the railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons, with the consent of such persons, any collateral branches of railway to communicate with the railway, for the purpose of bringing carriages to or from or upon the railway, but under and subject to the provisions and restrictions of an Act passed in the sixth year of the reign of her present majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops;" and the company shall, if required, at the expense of such owners and occupiers and other persons, and subject also to the provisions of the said last-

5 & 6 Vict c 55

(a) By a railway Act it was enacted, that it should be lawful for the owners and occupiers of lands through which the railways should be made, at all times, for the purpose of occupying the same lands, to pass and repass, and to lead horses, &c., directly over and across such parts of the railway as should be made in or upon their lands. Section 180 provided, that the company should at their own expense, so soon as the railway should be laid out and formed, make such communication as two or more justices of the peace should upon the application of the owner, &c. (in case of any dispute), judge necessary and appoint. Section 186 prohibited any person from riding, leading, or driving any horse, &c., upon the railway, "except only in directly crossing the same as aforesaid, at places *to be appointed* for that purpose, for the necessary occupation of the respective lands through which the railway shall pass." It was held, that until the company had made a communication, a party whose land has been severed by the railway had a right to pass from his property on one side of the railway to the other, at any point, and that the words "to be appointed" in section 186 must be read with the addition of "when such places shall have been appointed" (*Grand Junction R. C.* v. *White*, 2. Rail. Ca. 559, 8 M. & W. 214; see *Monkland and Kirkintilloch R. C.* v. *Dixon*, 3 Rail. Ca. 273).

(b) *Manning* v. *Eastern Counties R. C.*, 12 M. & W. 237, 3 Rail. Ca. 637.

(c) Where by a clause in an Act of parliament it was enacted "That nothing herein contained shall be construed to prevent any owner or occupier of any ground through which the said railway may pass from carrying at his or their own expense any railway or other road, or any cut or canal which such owner or occupier is authorised to make in his or her lands or grounds, across the said main railway, within the respective lands or grounds of such owner or occupier:" it was held, that the right given by the clause was not confined to the state of the land at the time the Act passed, but was intended for the convenience of the occupiers from time to time of the land partly on one side, and partly on the other of the principal railway, and that without reference to the title under which it was held (*The Monklund and Kirkintilloch R. C.* v. *Dixon*, 3 Rail. Ca. 273; see *Bishop* v. *North*, 11 M. & W. 418, 3 Rail. Ca. 459; *Dand* v. *Kingscote*, 2 Rail. Ca. 27, 6 M. & W. 174; *Farrow* v. *Vansittart*, 1 Rail. Ca. 602; *North Union R. C.* v. *Bolton and Preston R. C.*, 3 Rail. Ca. 345).

As to what is such a permanent obstruction and injury by the wrongful act of the railway

mentioned Act, make openings in the rails, and such additional lines of rail as may be necessary for effecting such communication, in places where the communication can be made with safety to the public, and without injury to the railway and without inconvenience to the traffic thereon; and the company shall not take any rate or toll or other moneys for the passage of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions (that is to say), 8 Vict. c. 20.

Restrictions and conditions

No such branch railway shall run parallel to the railway:

The company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel:

The persons making or using such branch railways shall be subject to all bye-laws and regulations of the company from time to time made with respect to passing upon or crossing the railway, and otherwise; and the persons making or using such branch railways shall be bound to construct, and from time to time, as need may require, to renew, the offset plates and switches according to the most approved plan adopted by the company, and under the direction of their engineer.

And with respect to mines lying under or near the railway, BE IT ENACTED, as follows:

Company not to be entitled to minerals.

77. The company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Mines lying near the railway not to be worked if the company willing to purchase them (a).

78. If the owner, lessee, or occupier of any mines or minerals lying under the railway, or any of the works connected therewith, or within the prescribed distance, or, where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose; and if it appear to the company that the working of such mines or minerals is likely to damage the works

---

company, to the right to use a siding, as to entitle the reversioner to maintain an action against the company, see *Bell* v. *Midland R. C.*, 10 C. B. N. S. 287, 30 L. J. C. P. 273, and to obtain an injunction to restrain the obstruction, *Same* v. *Same*, 3 De G. & J. 673.

(a) A railway company, having purchased land for the purpose of their railway by agreement, and having taken a conveyance in the form given in the Lands Clauses Act, schedule (A), and not being willing to purchase the minerals, after notice of the owner's intention to work them pursuant to this section, is not entitled to the adjacent or subjacent support of the minerals; but the owner is entitled to get them, notwithstanding that the getting of such minerals would cause the surface to subside, unless the company pay compensation. Therefore where, under such circumstances, the company had given notice that the working of the mines was likely to damage the works of the company, but refused to pay compensation, it was held that the owner of the minerals was entitled to recover compensation which had been assessed under this section (*Fletcher* v. *Great Western R. C.*, 4 H. & N. 242, 28 L. J. Ex. 147, 29 *Ib.* 253; *Great Western R. C.* v. *Fletcher*, 5 H. & N. 689). This case is not affected by the decision in *Caledonian R. C.* v. *Sprot*, 2 Macq. 449, for in that case the conveyance was not a conveyance under the statute, but an ordinary private assurance (*Great Western R. C.* v. *Fletcher*, 5 H. & N. 692. But see *North Eastern R. C.* v. *Elliott*, 1 Johns. & H. 145, 2 De G. F. & J. 423, 30 L. J. Ch. 160). So where a canal Act provided that the canal company should not be entitled, on purchasing lands for making a canal, to any coal mines, &c., under the same, but that such mines should belong to the same persons as would have been entitled to them if the Act had not been made; but it required the owners to give notice to the company of their intention to work their mines within ten yards of the canal, and that the company might inspect the mines, and might stop the further working of them, paying compensation to the owners. It was held, that the right of the owners to work within the ten yards was left as before the Act, if after notice given by them to the company the latter did not purchase out their rights; and that the canal being damaged by the nearer approach of the mine after such notice and non-purchase, no action lay against the coal-owner for such injury, which happened by the default of the company in not purchasing; *aliter*, where the house of one claiming under a grant from the owner of the soil was undermined (*Wyrley &c. Canal N. C.* v. *Bradley*, 7 East, 368; see *Dudley Canal N. C.* v. *Grazebrooke*, 1 B. & Ad. 59; *Stourbridge N. C.* v. *Earl Ward*, 30 L. J. Q. B. 108; *Dand* v. *Kingscote*, 6 M. & W. 174, 2 Railw. Ca. 27; *Finch* v. *Birmingham Canal N. C.*, 5 B. & C. 820; *Fenton* v. *Trent and Mersey N. C.*, 2 Railway Ca. 837, 9 M. & W. 203; *Cromford Canal Company* v. *Cutts*, 5 Railway Ca. 442).

8 Vict. c. 20.

of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same; and if the company, and such owner, lessee, or occupier, do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

If company unwilling to purchase, owner may work the mines (a).

79. If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby, by action in any of the superior courts.

Mining communications (b).

80. If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said mines, but no such airway, headway, gateway, or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall be described not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

The owner of lands granting to a railway company the right to make and maintain a tunnel through his land, is in the same position with respect to his right to work mines under this and the preceding section, as if the company had actually purchased the land; and the rule that a grantor cannot derogate from his own grant does not apply (*London and North Western R. C.* v. *Ackroyd*, 31 L. J. Ch. 588).

By a local Act, a company was empowered to take lands, with an exception of mines, for a railway, paying the value of the lands, and making compensation for damages sustained by reason of the execution of the works, and for damage, loss, or inconvenience sustained by reason of the execution of any of the powers of the Act, such value and compensation to be fixed by agreement, or assessed by a jury;—mines to be worked by the owner, so that no damage be thereby done to the railway, and, in case of damage, the owner to repair it at his own expense, or the company to repair in case of neglect or refusal, and recover the expenses from the owner. It was holden that the owner of land taken by the company, and for which compensation was paid, could not, upon afterwards discovering that a mine to which he was entitled could not be worked without doing damage to the railway, claim further compensation in respect of the loss sustained thereby. Compensation in respect of such contingent loss should have been claimed at the time of the original agreement or assessment (*Rex* v. *Leeds and Selby R. C.*, 3 Ad. & E. 683, 5 Nev. & M. 246; and see *Lawrence* v. *Great Northern R. C.*, 16 Q. B. 643).

(a) A railway company is responsible for injuries sustained by reason of water escaping from a stream in flood-time, or collected from rain falling on the railway, and flowing along a cutting of the railway and percolating through the substratum into mines beneath, although such mines had not been worked at the time of the formation of the railway. And such damage is the subject of an action, and not of compensation under the compensation clauses of the railway Acts (*Bagnall* v. *London and North-Western R. C.*, 7 H. & N. 423, 31 L. J. Ex. 121, 480). See also note to preceding section.

(b) Under a canal Act, the land over which the canal passed was purchased by the company, but the coal-mines and coal were reserved to the owners, their heirs and assigns, who were to be at liberty to work the mines *so as not to injure the canal*. A., the owner of land over which the canal passed, sold it to the company, and afterwards leased the coal up to the side of the canal on one side, and up to the towing-path on the other, to B. A. subsequently contracted with the company for the sale to them of the coal under the canal and towing-path, and eight yards on each side, which they required for the safety of their canal. It was held, that B. was entitled to compensation in respect of the interest in the coal which he had acquired under the lease, viz., the profit to be derived from the coal when gotten, after deducting the expenses of getting it (*Barnsley Canal Navigation Company* v. *Twibill*, 7 Beav. 19, 3 Railw. Ca. 471).

81. The company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the railway, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines, by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration.

8 Vict. c. 20. Company to make compensation for injury done to mines;

82. If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

and also for any airway or other work made necessary by the railway.

83. For better ascertaining whether any such mines are being worked or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for this purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

Power to company to enter and inspect the working of mines.

84. If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

Penalty for refusal to inspect.

85. If it appear that any such mines have been worked contrary to the provisions of this or the special Act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier by action in any of the superior courts.

If mines improperly worked, the company may require means to be adopted for the safety of the railway.

And with respect to the carrying of passengers and goods upon the railway, and the tolls to be taken thereon, BE IT ENACTED as follows:

86. It shall be lawful (*a*) for the company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and

Company to employ

(*a*) A railway company, authorised by the legislature to use locomotive engines, are not responsible for damage from fire occasioned by sparks emitted from an engine travelling on their railway, provided they have taken every precaution in their power, and adopted every means which science can suggest, to prevent injury from fire, and are not guilty of negligence in the management of the engine (*Vaughan* v. *Taff Vale R. C.*, 5 H. & N. 679, Exch. Ch., 29 L. J. Ex. 247, reversing the judgment of the Ex., 3 H. & N. 743, 28 L. J. Ex. 41; *Rex* v. *Pease*, 4 B. & Ad. 30; *Freemantle* v. *London and North Western R. C.*, *Bliss* v. *Same*, 10 C. B. N. S. 89, 31 L. J. C. P. 12).

This section is an enabling provision; and if a company act as carriers, they are not bound to carry all kinds of goods from and to every station on the line: they may limit their business as carriers from and to the two termini, and to particular descriptions of goods. But if they profess to carry goods from one station to another, they are bound to carry all goods tendered to them for that purpose, if they have sufficient conveniences (*Johnson* v. *Midland R. C.*, 6 Railw. Ca. 61, 4 Exch. 367; and see *Oxlade* v. *North Eastern R. C.*, 3 L. T. N. S. 671).

If the company receive goods for the purpose of carrying, they become common carriers (*Palmer* v. *Grand Junction R. C.*, 4 M. & W. 749).

A parcel was delivered at Lancaster to the Lancaster and Preston Junction Railway Company, directed to a person at a place in Derbyshire; the person who brought it to the station offered to pay the carriage, but the book-keeper said it had better be paid by the person to whom it was directed. The Lancaster and Preston Junction Railway Company were known as the proprietors of the line only as far as Preston, where the railway united with the North Union line, and that afterwards with another, and so on to Derbyshire. The parcel having been lost after it was forwarded from Preston, it was held that the defendants were liable for its loss (*Muschamp* v. *The Lancaster and Preston Junction R. C.*, 8 M. & W. 421, 2 Railw. Ca. 607; and see *Directors, &c., of the Bristol and Exeter R. C.* v. *Collins*, 7 H. L. Ca. 194, 29 L. J. Ex. 41, reversing the

8 Vict. c. 20. locomotive power, carriages, &c

to carry and convey upon the railway all such passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the special Act authorised to be taken by them (*a*).

Company empowered to contract with other companies (*c*).

87. It shall be lawful for the company from time to time to enter into any contract with any other company; being the owners or lessees or in possession of any other railway for the passage over (*b*) or along the railway by the special Act authorised to be made of any engines, coaches, waggons, or other carriages of any other company, or which shall pass over any other line of railway, or for the passage over any other line of railway of any engines, coaches, waggons, or other carriages of the company, or which shall pass over

---

judgment of the Exch. Ch., 1 H. & N. 517, 26 L. J. Ex. 103, and affirming the judgment of the Ex. in *Collins* v. *Bristol, &c., R. C.* 11 Ex. 790, 25 L. J. Ex. 185; *Crouch* v. *Great Western R. C.*, 2 H. & N. 491; *Wilby* v. *West Cornwall R. C.*, 2 H. & N. 703; *Mytton* v. *Midland R. C.*, 4 H. & N. 615; *Cozon* v. *Great Western R. C.*, 5 H. & N. 274; *Scothorn* v. *South Staffordshire R. C.* 8 Ex. 341; *Hayes* v. *South Wales R. C.*, 9 Ir. C. L. Rep. 474; *Watson* v. *Ambergate, &c., R. C.*, 15 Jur. 448; *Wilson* v. *York, Newcastle and Berwick R. C.*, 17 L. T. 223).

As to the liability of a railway company for injury occasioned to a passenger travelling in the same carriage over their line and on to the line of another company, where a collision took place, see *Great Western R. C.* v. *Blake*, infra, n. (*c*).

In an action on the case, the declaration alleged that the defendants were proprietors of a railway and carriages for the conveyance of passengers, cattle, &c., for hire; that they received nine horses of the plaintiff to be safely and securely carried in carriages of the defendants for hire, and that it thereupon became their duty safely and securely to carry and to deliver the said horses; and averred a loss by reason of the insufficiency of the carriage. It appeared that the plaintiff received the ticket from the defendants' clerk, stating the amount paid for the carriage of the horses, and having the following memorandum annexed:—"This ticket is issued subject to the owner's undertaking all risks of conveyance whatever, as the company will not be responsible for any injury or damage (however caused) occurring to horses or carriages while travelling, or in loading or unloading." It was held that the terms contained in the ticket were part of the contract for the carriage of the horses, upon which the defendants' duty arose, and that the allegation that the defendants received the horses "to be safely and securely carried" by them was disproved. It was held also, that notwithstanding the contract, the plaintiff might have charged the defendants with breach of duty in not providing sufficient carriage (*Shaw* v. *York and North Midland R. C.*, 13 Q. B. 347, 18 L. J. Q. B. 181; *Austin* v. *Manchester and Sheffield R. C.*, 16 Q. B. 600, 20 L. J. Q. B. 440; *Chippendale* v. *Lancashire and Yorkshire R. C.*, 21 L. J. Q. B. 22; *Great Northern R. C.* v. *Morville*, 21 L. J. Q. B. 319; *Carr* v. *Lancashire and Yorkshire R. C.*, 7 Exch. 707, 21 L. J. Ex. 261; *Fowles* v. *Great Western R. C.* 7 Ex. 699).

As to the duties and liabilities of railway companies in respect of the personal luggage of passengers, and of personal luggage when mixed with merchandise or merchandise taken as personal luggage, see *Richards* v. *London and South Coast R. C.*, 7 C. B. 819, 18 L. J. C. P. 251; *Great Northern R. C.* v. *Shepherd*, 8 Ex. 30, 21 L. J. Ex. 114, 286; ante, p. 14, n. (*b*); *Cahill* v. *London and North Western R. C.*, 31 L. J. C. P. 271, 30 *ib.* 289, 10 C. B. N. S. 154; *Belfast, &c. R. C.* v. *Keys*, 9 H. L. Ca. 556; *Munster* v. *South Eastern R. C.*, 4 C. B. N. S. 676. As to goods deposited in the cloak room at a railway station, see *Van Toll* v. *South Eastern R. C.*, 12 C. B. N. S. 75.

(*a*) Where a railway company were required by their special Act to carry as common carriers for hire, and to afford to all persons, conveying or sending goods upon their railway, every reasonable convenience and facility for loading and unloading goods: the Act also authorised the company, for carriage of goods, to demand a toll not exceeding 3*d.* per ton per mile: it was held, that the company were not entitled to charge an additional sum for services performed, accommodation afforded, and expense and risk incurred in and about the receiving, loading, unloading, and delivering the goods at their stations (*Pegler* v. *Monmouthshire R. C.*, 6 H. & N. 644, 30 L. J. Ex. 249).

(*b*) "Passage over" means with the ordinary incidents of passing over, *i. e.*, with the right of stopping to take up passengers and goods (*Simpson* v. *Denison*, 10 Hare, 51).

(*c*) This section does not enable one railway company, under colour of passing over the line of another company, to carry the whole of the traffic of the other railway over which they may agree to pass (*Simpson* v. *Denison*, 10 Hare, 51; and see also *Great Northern R. C.* v. *Eastern Counties R. C.*, 9 Hare, 306; *London, Brighton, &c. R. C.* v. *London and South-Western R. C.*, 4 De Gex & J. 362, 28 L. J. Ch. 521); but merely gives one company a limited power to run a portion of its traffic, only when it is necessary for the purposes of its own traffic, over the line of another railway company (*Winch* v. *Birkenhead, &c. R. C.*, 5 De G. & S. 562).

As to what are tolls within this section, see *Simpson* v. *Denison*, ubi supra; *South Yorkshire*

their line of railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective railways. 8 Vict. c. 20.

88. Provided always, that no such contract as aforesaid shall in any manner alter, affect, increase, or diminish any of the tolls which the respective companies, parties to such contracts, shall for the time being be respectively authorised and entitled to demand or receive from any person or any other company, but that all other persons and companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said railways, upon the same terms and conditions, and on payment of the same tolls, as they would have been in case no such contract had been entered into. Contracts not to affect persons not parties thereto

89. Nothing in this or the special Act contained shall extend to charge or make liable the company further or in any other case than where, according to the laws of the realm, stage coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the company of any protection or privilege which common carriers or stage coach proprietors may be entitled to; but, on the contrary, the company shall at all times be entitled to the benefit of every such protection and privilege. Company not to be liable to a greater extent than common carriers (a).

90. "And whereas it is expedient that the company should be enabled to vary the tolls upon the railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favouring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the company or of particular parties (b):" it shall be lawful, Power to vary tolls.

Railway and River Dun Co. v. *Great Northern R. C.*, 9 Ex. 55, S. C. in error, *ib.* 642.

A *bonâ fide* agreement between two groups of railway companies, being respectively the owners of independent conterminous routes, to divide the profits of the whole traffic in certain fixed proportions, calculated on the experience of the past course of traffic, is not *ultra vires*; and it is no objection to such a contract that its object is to avoid competition (*Hare* v. *London and North Western R. C.*, 2 Johns. & H. 80, 30 L. J. Ch. 817).

Where the plaintiff purchased a ticket at the Paddington station of the Great Western Railway Co., and paid one fare for his conveyance from thence to Milford; but the line of the Great Western Railway Company terminates a short distance beyond Gloucester, whence the line to Milford belongs to another company, by arrangement between which company and the Great Western the lines are worked, and the fares paid by the passengers apportioned between them. The plaintiff was conveyed in the same carriage which he entered at Paddington towards Milford, and after the train had passed on to the line of the other company, it came into collision with a locomotive engine left on that line by the servants of that company. There was no negligence on the part of the driver of the train. It was held (in Exch. Ch.), that the Great Western Railway Company were responsible to the plaintiff, since, under the circumstances, there was an implied contract on their part that they would use reasonable care to maintain the whole line from Paddington to Milford in a condition fit for traffic (*Great Western R. C.* v. *Blake*, 7 H. & N. 987, 31 L. J. Ex 346).

(a) See 17 & 18 Vict. c. 31, s. 7, post.

(b) See 17 & 18 Vict. c. 31, s. 2, and the notes thereon, post, and see too *Att.-Gen.* v. *Birmingham and Derby Junction R. C.*, 2 Railw. Ca. 124, infra.

By a railway Act it was enacted, that all persons should have free liberty to pass along and use the railway with carriages, upon payment of certain rates and tolls. The company was empowered to provide locomotive or other propelling power, and to charge for the use thereof certain additional rates, to carry goods, &c., and to make reasonable charges for such conveyance, in addition to the rates or tolls by the Act authorised; they were empowered from time to time to reduce any of the said rates or tolls, and again to raise them, so as not to exceed the amount authorised by the Act; the rates and tolls were at all times to be charged equally, and after the same rate per ton per mile throughout the whole of the railway, in respect of the same description of articles, and no reduction or advance was, directly or indirectly, to be made partially, or in favour of or against any particular person, or be confined to any particular part of the railway, but was to extend to the whole of the railway, and to all persons whomsoever using the same, or carrying the same description of articles thereon. The company acted themselves as carriers, charging the public at the rate specified in their printed bills for carriage, including the collection, weighing, loading, unloading, and delivery of the goods. They also carried goods for other carriers, allowing them a certain deduction for the trouble of collection, &c., which was performed by the carriers. In their dealings with a particular carrier, they refused to make such allowance, but were willing to perform for him all the things which formed the consideration for that allowance, and which, in fact, he performed for himself. It was held, that the company were not justified in withholding the allowance from such carrier, and, therefore, that the charges to him were not equal or reasonable.

The same company also made the following

8 Vict c 20 therefore, for the company, subject to the provisions and limitations herein and in the special Act contained, from time to time to alter or vary the tolls by the special Act authorised to be taken, either upon the whole or upon any particular portions of the

---

distinction as to charges. In their dealings with the public, if there were several packages from one consignor to several consignees, or *vice versa*, the charge was made upon the aggregate weight; in the case of carriers, if there were several packages consigned by or to different individuals, the charge was upon the separate weight of each package, unless it was known that more than one package belonged to the same sender, or was going to the same consignee, in which case they were charged on the aggregate weight. In all cases of carriers, the company dealt with and recognised the carriers only as their consignor and consignee of the goods. It was held, that they were bound to treat them so for all purposes, including the mode of charging in the aggregate, and had no right to make a distinction in that respect between them and individuals (*Parker* v. *Great Western R. C.*, 11 C. B. 588; *Parker* v. *Bristol and Exeter R. C.*, 6 Ex. 702; *Piddington* v. *South Eastern R. C.*, 5 C. B. N. S. 111, 27 L. J. C. P. 295). The charges, however, must be both *unreasonable* and *unequal*, for mere inequality will not entitle a person to recover (*Garton* v. *Bristol and Exeter R. C.*, 1 B. & S. 112, 154, 30 L. J. Q. B. 273; *Baxendale* v. *Eastern Counties R. C.*, 4 C. B. N. S. 63). And where a number of parcels of a similar description, which would have been charged in the aggregate and at a lower rate than as separate parcels if sent from one consignor to one consignee, were, when sent from one consignor to several different persons, charged as separate parcels, it was held that, under the circumstances, there was nothing to show that the charges made were unreasonable, regard being had to the additional trouble incurred by the company (*Baxendale* v. *Eastern Counties R. C.*, supra; *Garton* v. *Bristol and Exeter R. C.*, 1 B & S. 112).

Such Acts of parliament are to be construed strictly against the parties obtaining them, and liberally in favour of the public (*Parker* v. *Great Western R. C.*, ubi supra; *Stockton and Darlington R. C.* v. *Barrett*, 7 M. & G. 870).

A company were authorised "to carry and convey upon the railway all such passengers, goods, &c., as shall be offered to them for that purpose, and to make such *reasonable charges* for such carriage and conveyance as they may from time to time determine upon." They were empowered "from time to time to make such orders for fixing, and by such orders to fix the sums to be charged by them in respect of small parcels (not exceeding 500 lbs. weight each), as to them shall seem proper." They were also empowered to carry passengers, goods, &c., on other railways, "and to make such *reasonable charges* for such carriage, &c., as they may determine." The company, under the powers of the above Acts, became carriers of goods for hire between Manchester and London, using for that purpose their own and other railways. They published a list of charges, which divided the "rates by merchandise trains" into seven classes, from 16*s.* to 60*s.* per ton. Then followed "boxes, bales, hampers, or other packages, when they contain parcels, &c., under 112 lbs. weight each, directed, consigned, or intended for different persons, or for more than one person, 1*d.* per lb. weight." The plaintiffs caused several small parcels, each under 112 lbs., intended for different persons, to be packed in a hamper, and tendered to the company for carriage, offering at the same time to pay at the rate of 60*s.* per ton for the carriage. The company refused to carry it on those terms, and demanded 1*d.* per lb. It was held that this charge was not a reasonable one (*Pickford* v. *Grand Junction R. C.*, 3 Railw. Ca. 193, 10 M. & W. 399). In the following cases also it has been held that railway companies having in their Acts provisions either the same as, or similar to, those above referred to, were bound to make no difference in their charges for such packed parcels (*i. e.*, packages containing several parcels consigned to different persons), and parcels not so packed: viz., *Parker* v. *Great Western R. C.*, 11 C. B. 545; *Crouch* v. *Great Northern R. C.*, 11 Ex. 742; *Same* v. *Same*, 9 *ib.* 556; *Edwards* v. *Great Western R. C.*, 11 C. B. 588; *Piddington* v. *South Eastern R. C.*, 5 C. B. N. S. 111, 27 L. J. C. P. 295; *Garton* v. *Bristol and Exeter R. C.*, 4 H. & N. 33, 831, 7 H. L. Ca. 477. The obligation, however, depends upon statute, and does not exist at common law. Therefore, where a railway company constituted such under certain Acts under which they were required to charge equally all persons and after the same rate for the carriage of goods of a like description by their railway between Folkestone and London, and created a steamboat company between Folkestone and Boulogne by another Act, which made no provision for equality of charges in respect of the conveyance of goods by sea, the other Acts having no application to sea transit; it was held that the plaintiff could not recover from the company the amount of extra charge he had paid them for packed parcels carried from Boulogne to London by them for hire (*Branly* v. *South Eastern R. C.*, 12 C. B. N. S. 63,

railway, as they shall think fit; provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton per mile or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of railway under the same circumstances, and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the railway.

8 Vict c. 20. Tolls to be charged equally under like circumstances.

91. "And whereas authority has been given by various Acts of parliament to railway companies to demand tolls for the conveyance of passengers and goods and for other services over the fraction of a mile equal to the toll which they are authorised to demand for one mile:" therefore, in cases in which any railway shall be amalgamated with any other adjoining railway or railways, such tolls shall be calculated and imposed at such rates as if such amalgamated railways had originally formed one line of railway.

How tolls to be calculated where railways amalgamated.

92. It shall not be lawful for the company at any time to demand or take a greater amount of toll, or make any greater charge for the carriage of passengers or goods, than they are by this and the special Act authorised to demand; and upon payment of the tolls from time to time demandable, all companies and persons shall be entitled to use the railway, with engines and carriages properly constructed as by this and the special Act directed, subject nevertheless to the provisions and restrictions of the said Act of the sixth year of her present majesty, intituled "An Act for the better Regulation of Railways, and for the Conveyance of Troops," and to the regulations to be from time to time made by the company by virtue of the powers in that behalf hereby and by the special Act conferred upon them.

Railway to be free on payment of tolls (a).

5 & 6 Vict. c. 55.

93. A list of all the tolls authorised by the special Act to be taken, and which shall be exacted by the company, shall be published by the same being painted upon one toll board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations or places where such tolls shall be made payable.

List of tolls to be exhibited on a board.

94. The company shall cause the length of the railway to be measured, and milestones, posts, or other conspicuous objects to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

Milestones

95. No tolls shall be demanded or taken by the company for the use of the railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, or at which the milestones hereinbefore directed to be set up and maintained shall not be so set up and maintained; and if any person wilfully pull down, deface, or destroy any such board or milestone, he shall forfeit a sum not exceeding five pounds for every such offence.

Tolls to be taken only whilst board exhibited and milestones set up (b).

---

31 L. J. C. P. 286; see also *Baxendale* v. *Eastern Counties R. C.*, 4 C. B. N. S. 63).

By a railway Act it was provided that the charges by previous Acts authorised to be made for the carriage of passengers, goods, &c., should be at all times charged *equally*. Among the charges in the above-mentioned list was one for "Manchester packs," 65*s.* per ton, with a notice at the foot of the list, that "goods were brought to the station at Camden Town without extra charge," and "no charge for booking or delivery in London." The company made an agreement with C. & H., that the latter should carry from the station, and deliver in London, all goods carried on the railway, and should for so doing receive 10*s.* out of every 65*s.* per ton. It was held, under the circumstances, that the charge of 65*s.* per ton to a consignee, who was willing to receive the goods at Camden Town, was both *unreasonable* and *unequal* (*Pickford* v. *Grand Junction R. C.*, 10 M. & W. 399; and see *Garton* v. *Bristol and Exeter R. C.*, 1 B. & S. 112, 30 L. J. Q. B. 273; *Same* v. *Same*, 6 C. B. N. S. 639; *Baxendale* v. *Great Western R. C.* (*Reading Case*), 5 C. B. N. S. 336; *Garton* v. *Great Western R. C.*, *ib.* 669).

In *Attorney-General* v. *The Birmingham and Derby Junction R. C.* (2 Railw. Ca. 124), an injunction was refused to restrain a railway company from charging a smaller fare to passengers who travelled from H. to D., with an intention of proceeding thence to L. by another railway, than they charged passengers from H. to D. who had no such intention; it not appearing that the higher charge was more than the railway Act permitted, or that the public were prejudiced by the arrangement. See, further, *Stockton and Darlington R. C.* v. *Barrett*, 7 M. & Gr. 870; *Reg.* v. *Leicestershire and Northampton Union C. C.*, 3 Railw. Ca. 1.

The company has no right to open a parcel, to ascertain whether it contains other parcels addressed to different persons (*Crouch* v. *London and North Western R. C.*, 2 Car. & K. 389). As to the power of varying tolls, see *Rex* v. *Grand Junction C. C.*, 3 Railw. Ca. 14; *Rex* v. *Glamorganshire C. C.*, *ib.* 16.

(a) See *Great Northern R. C.* v. *Eastern Counties R. C.*, 9 Hare, 306. Quære, whether the power to use the railway thus reserved to the company extends to the stations of the company (*Midland R. C.* v. *Ambergate R. C.*, 10 Hare, 359).

(b) See *Garton* v. *Bristol and Exeter R. C.*, 1 B. & S. 112.

8 Vict. c. 20.

Tolls to be paid as directed (a).

96. The tolls shall be paid to such persons, and at such places upon or near to the railway, and in such manner and under such regulations, as the company shall, by notice to be annexed to the list of tolls, appoint.

In default of payment of tolls, goods, &c. may be detained and sold.

97. If, on demand (b), any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the premises of the company, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the moneys arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto, or it shall be lawful for the company to recover any such tolls by action at law.

Account of lading, &c. to be given.

98. Every person being the owner or having the care of any carriage or goods passing or being upon the railway shall, on demand, give to the collector of tolls at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of the number or quantity of goods conveyed by any such carriage, and of the point on the railway from which such carriage or goods have set out or are about to set out, and at what point the same are intended to be unloaded or taken off the railway; and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Penalty for not giving account of lading.

99. If any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading, to such collector or other officer or servant of the company demanding the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the company a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundred weight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundred weight, (as the case may be,) which shall be upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

Disputes as to amount of tolls chargeable.

100. If any dispute arise concerning the amount of the tolls due to the company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein or in the special Act contained, the same shall be settled by a justice; and it shall be lawful for the company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

Differences as to weights, &c.

101. If any difference arise between any toll collector or other officer or servant of the company and any owner of or person having the charge of any carriage passing or being upon the railway, or of any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same; and if upon such measuring or examination such goods appear to be of greater weight or quantity or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage, or the respective owners of such goods, shall also, at the option of the company, be liable to pay, the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than and of the same nature as shall have been stated in such account, then the company shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as shall appear to any justice, on a summary application to him for that purpose, to have arisen from such detention.

(a) An embankment company was by an Act of parliament empowered to make a road, and to erect turnpikes upon or across "any lanes or ways leading, or that might hereafter lead, out of the same," and to take tolls at such turnpikes. By subsequent Acts, another company was empowered to make a railway, and it was enacted, that all persons should have free liberty to use the same, with carriages properly constructed, upon payment only of such rates and tolls as should be demanded by the railway company, not exceeding the sums mentioned by that Act. The railway was afterwards made, and it crossed the embankment company's road. It was held, that the railway, though made and opened to the public by Act of parliament, was a "way" within the meaning of the first-mentioned Act; and that the clause in favour of the public in the railway Act did not take away the vested right of the embankment company to their tolls; and, consequently, that they might take toll of persons crossing their road upon the railway (*Rowe* v. *Shilson*, 4 B. & Ad. 726).

(b) A demand of the sum actually due for tolls is a condition precedent to the right to sell under this section (*Field* v. *Newport, &c. Railway Company*, 8 H. & N. 409, 27 L. J. 396, Ex.).

102 If at any time it be made to appear to any justice, upon the complaint of the company, that any such detention, measuring, or examining of any carriage or goods, as hereinbefore mentioned was without reasonable ground, or that it was vexatious on the part of such collector or other officer, then the collector or other officer shall himself pay the costs of such detention and measuring, and the damage occasioned thereby, and in default of immediate payment of any such costs or damage the same may be recovered by distress of the goods of such collector, and such justice shall issue his warrant accordingly

8 Vict c 20 Toll collector to be liable for wrongful detention of goods

103 If any person travel or attempt to travel in any carriage of the company, or of any other company or party using the railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance and with intent to avoid payment thereof or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence forfeit to the company a sum not exceeding forty shillings

Penalty on passengers practising frauds on the company

104 If any person be discovered, either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants and other persons on behalf of the company, or such other company or party as aforesaid, and all constables, gaolers, and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he be otherwise discharged by due course of law

Detention of offenders (a)

105 No person shall be entitled to carry, or to require the company to carry, upon the railway, any aquafortis oil of vitriol, gunpowder, lucifer matches, or any other goods which in the judgment of the company may be of a dangerous nature, and if any person send by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book keeper or other servant of the company with whom the same are left, at the time of so sending he shall forfeit to the company twenty pounds for every such offence, and it shall be lawful for the company to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact

Penalty for bringing dangerous goods on the railway (b)

106 If any collector of tolls or other officer employed by the company be discharged or suspended from his office, or die, abscond, or absent himself, and if such collector or other officer, or the wife widow, or any of the family or representatives of any such collector or other officer, refuse or neglect, after seven days notice in writing for that purpose, to deliver up to the company, or to any person appointed by them for that purpose, any station, dwelling house office, or other building, with its appurtenances, or any books, papers or other matters belonging to the company in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the company to any justice, it shall be lawful for such justice to order any constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein and to take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the company or any person appointed by them for that purpose

Delivery of matters in possession or custody of toll collector at removal.

107 That the company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the special Act for the year ending on the thirty first day of December or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the directors or some of them, and by the auditors, and shall, if required, transmit a copy of the said account free of charge, to the overseers of the poor of the several parishes through which the railway shall pass (c), and also to the clerks of the peace of the counties through which the railway shall pass, on or before the thirty first day of January then next, which last mentioned account shall be open to the inspection of the public at all seasonable hours, on payment of the sum of one shilling for every such inspection Provided always, that if the said company shall omit to prepare or transmit such account as aforesaid if required so to do by any such clerk of the peace or overseers of the poor, they shall forfeit for every such omission the sum of twenty pounds

Annual account to be made up, and a copy transmitted to the clerk of the peace, &c.

(a) A railway company, though a corporation, is liable to an action for false imprisonment, if the act be committed by the authority of the company, the authority need not be under seal, but it lies on the plaintiff to give evidence justifying the jury in finding that the company s servants who imprisoned him, or some of them, had authority from the company so to do (*Goff* v *Great Northern R C* 30 L J Q B 148, which case see, as to what is sufficient evidence of authority from the company to the superintendent of the line to apprehend under this section See, also, *Giles* v *Taff Vale R C* 2 K & B 822)

(b) See as to the necessity of guilty knowledge to support a conviction under this section, *Hearne* v *Garton*, 28 L J M C 216

(c) The object of this would seem to be to facilitate the rating of the line See on this subject, ante, tit " Poor

8 Vict. c 20

And with respect to the regulating of the use of the railway, BE IT ENACTED AS FOLLOWS

Company to regulate the use of the railway

108 It shall be lawful for the company from time to time, subject to the provisions and restrictions in this and the special Act contained, to make regulations for the following purposes, (that is to say,)

For regulating the mode by which and the speed at which carriages using the railway are to be moved or propelled,

For regulating the times of the arrival and departure of any such carriages

For regulating the loading or unloading of such carriages, and the weights which they are respectively to carry,

For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages;

For preventing the smoking of tobacco and the commission of any other nuisance, in or upon such carriages, or in any of the stations or premises occupied by the company

And generally, for regulating the travelling upon, or using and working of the railway But no such regulation shall authorise the closing of the railway, or prevent the passage of engines or carriages on the railway, at reasonable times, except at any time when in consequence of any of the works being out of repair or from any other sufficient cause, it shall be necessary to close the railway or any part thereof

Power to make regulations by bye laws 3 & 4 Vict c 97 (a).

109 For better enforcing the observance of all or any of such regulations it shall be lawful for the company subject to the provisions of an Act passed in the fourth year of the reign of her present majesty, intituled "An Act for regulating Railways," to make bye laws, and from time to time to repeal or alter such bye laws and make others, provided that such bye laws be not repugnant to the laws of that part of the united kingdom where the same are to have effect, or to the provisions of this or the special Act, and such bye laws shall be reduced into writing and shall have affixed thereto the common seal of the company, and any person offending against any such bye law shall forfeit for every such offence any sum not exceeding five pounds, to be imposed by the company in such bye laws as a penalty for any such offence; and if the infraction or non observance of any such bye law or other such regulation as aforesaid be attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, it shall be lawful for the company summarily to interfere to obviate or remove such danger, annoyance or hindrance, and that without prejudice to any penalty incurred by the infraction of any such bye law

Publication of such bye laws (b)

110 The substance of such last-mentioned bye laws, when confirmed, or allowed according to the provisions of any Act in force regulating the allowance or confirmation of the same shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the company according to the nature or subject matter of such bye laws respectively, and so as to give public notice thereof to the parties interested therein or affected thereby, and such boards shall from time to time be renewed as often as the bye laws thereon or any part thereof shall be obliterated or destroyed; and no penalty imposed by any such bye law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

(a) See *Chilton* v *London and Croydon R C*, 16 M & W 212, 5 Railw Ca. 4 This power to make bye laws for the purposes specified would seem to imply that the company shall not make them for other purposes (see *Child* v *Hudson's Bay Company*, 2 P Wms 209)

Where a company was empowered to make bye laws for the good government of the company, and for the good and orderly using the navigation, and also for the well governing of the bargemen, watermen, and boatmen, who should carry any goods, wares, or merchandise, upon any part of the said navigation, and to impose and inflict such reasonable fines or forfeitures upon all persons offending against the same as to the major part of the company should seem meet, not exceeding 5*l* it was held, that this power did not authorise the company to make a bye law that the navigation should be closed on every Sunday throughout the year, and that no business should be transacted thereon during such time (works of necessity only excepted), nor should any person during such time navigate any boat, &c., nor should any boat, &c, pass along any part of the said navigation on any Sunday, except for a reasonable distance for the purpose of mooring the same, and except on some extraordinary necessity, or for the purpose of going to or returning from any place of divine worship, under a penalty of 5*l*, and that such bye law was illegal and void (*Calder and Hebble Navigation Company* v *Pilling*, 14 M & W 76, 3 Railw Ca 735, see *Great Western R C.* v *Goodman*, 12 C B 313, 21 L J C P 197)

Bye laws duly made by a railway company, pursuant to sects 108, 111 of this Act, and confirmed and allowed as by law required, are "public documents," a certificated copy of which is admissible in evidence under 14 & 15 Vict c 99, s. 14 (*Motteram*, app, *Eastern Counties R C* resp, 7 C B N S 58, 29 L J M C 57)

(b) Where a bye law imposed a penalty upon

111. Such bye laws, when so confirmed, published, and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same, and for proof of the publication of any such bye laws it shall be sufficient to prove that a printed paper or painted board, containing a copy of such bye laws, was affixed and continued in manner by this Act directed, and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be (a) 8 Vict c 20 Such bye laws to be binding on all parties.

And with respect to leasing the railway, BE IT ENACTED as follows

112 Where the company shall be authorized by the special Act to lease the railway or any part thereof to any company or person, the lease to be executed in pursuance of such authority shall contain all usual and proper covenants on the part of the lessee for maintaining the railway, or the portion thereof comprised in such lease, in good and efficient repair and working condition during the continuance thereof, and for so leaving the same at the expiration of the term thereby granted, and such other provisions, conditions, covenants, and agreements as are usually inserted in leases of a like nature Exercise of power to lease the railway

113 Such lease shall entitle the company or person to whom the same shall be granted to the free use of the railway or portion of railway comprised therein, and during the continuance of any such lease all the powers and privileges granted to and which might otherwise be exercised and enjoyed by the company, or the directors thereof, or their officers, agents, or servants, by virtue of this or the special Act, with regard to the possession, enjoyment, and management of the railway, or of the part thereof comprised in such lease, and the tolls to be taken thereon, shall be exercised and enjoyed by the lessee, and the officers and servants of such lessee under the same regulations and restrictions as are by this or the special Act imposed on the company, and their directors, officers, and servants, and such lessee shall, with respect to the railway comprised in such lease, be subject to all the obligations by this or the special Act imposed on the company Powers vested in the company may be exercised by the lessee

And with respect to the engines and carriages to be brought on the railway, BE IT ENACTED as follows

114 Every locomotive steam engine to be used on the railway shall, if it use coal or other similar fuel emitting smoke, be constructed on the principle of consuming and so as to consume its own smoke, and if any engine be not so constructed the company or party using such engine shall forfeit five pounds for every day during which such engine shall be used on the railway Engines to consume their smoke (b).

115 No locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the railway unless the same have first been approved of by the company, and within fourteen days after notice given to the company by any party desirous of bringing any such engine on the railway the company shall cause their engineer or other agent to examine such engine at any place within three miles distance from the railway to be appointed by the owner thereof, and to report thereon to the company, and within seven days after such report, if such engine be proper to be used on the railway, the company shall give a certificate to the party requiring the same of their approval of such engine, and if at any time the engineer or other agent of the company report that any engine used upon the railway is out of repair, or unfit to be used upon the railway, the company may require the same to be taken off, or may forbid its use upon the railway until the same shall have been repaired to the satisfaction of the company, and upon the engine being so repaired the company shall give a certificate to the party requiring the same of their approval of such engine, and if any difference of opinion arise between the company and the owner of any such engine as to the fitness or unfitness thereof for the purpose of being used on the railway, such difference shall be settled by arbitration Engines to be approved by the company, and certificate of approval given (c). Unfit engines to be removed

116 If any person, whether the owner or other person having the care thereof, bring or use upon the railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by Penalty for using improper engines (d).

---

a passenger getting into or out of a carriage whilst in motion, it was held, on appeal against a conviction for a breach of this bye law, that it was sufficient to show that copies of the bye laws were properly affixed at the stations at which the party entered and quitted the train, without showing publication at every station on the line (*Motteram*, app, *Eastern Counties R C*, resp, supra)

(a) See *Motteram*, app, *Eastern Counties R C*, resp, supra.

(b) The penalty imposed by this section only attaches where the engine using coal, &c, is so constructed as not to consume its own smoke when used with proper care, and under ordinary circumstances, and, therefore, where an engine is properly constructed, but owing to the carelessness of the persons using it, the smoke is emitted instead of being consumed, there is no liability to the penalty (*Manchester, Sheffield, and Lincolnshire R C v Wood*, 29 L J M C. 29)

(c) The provisions of this section will be enforced by injunction, although the application is made by a company in order to impede the traffic over their line of a competing company (*Midland Rail Co v Ambergate, &c. R C.*, 10 Hare, 359).

(d) The remedy given by this section is cumulative, and the company has at common law a

8 Vict. c. 20.

the company to remove any such engine from the railway, such person do not forthwith remove the same, or if, after notice given by the company not to use any such engine on the railway, such person do so use such engine, without having first repaired the same to the satisfaction of the company, and obtained such certificate of approval, every such person shall in any of the cases aforesaid forfeit to the company a sum not exceeding twenty pounds; and in any such case it shall be lawful for the company to remove such engine from the railway.

Carriages to be constructed according to company's regulations

117. No carriage shall pass along or be upon the railway (except in directly crossing the same as herein or by the special Act authorised), unless such carriage be at all times, so long as it shall be used or shall remain on the railway, of the construction and in the condition which the regulations of the company for the time being shall require; and if any dispute arise between the company and the owner of any such carriage as to the construction or condition thereof, in reference to the then existing regulations of the company, such dispute shall be settled by arbitration (a).

Regulations to apply also to company's carriages

118. The regulations from time to time to be made by the company respecting the carriages to be used on the railway shall be drawn up in writing, and be authenticated by the common seal of the company, and shall be applicable alike to the carriages of the company and to the carriages of other companies or persons using the railway; and a copy of such regulations shall, on demand, be furnished by the secretary of the company to any person applying for the same.

Penalty for using improper carriages

119. If any carriage, not being of such construction or in such condition as the regulations of the company for the time being require, be made to pass or be upon any part of the railway (except as aforesaid), the owner thereof, or any person having for the time being the charge of such carriage, shall forfeit to the company a sum not exceeding ten pounds for every such offence, and it shall be lawful for the company to remove any such carriage from the railway.

Owner's name, &c to be registered, and exhibited on carriages

120. The respective owners of carriages using the railway shall cause to be entered with the secretary or other officer of the company appointed for that purpose the names and places of abode of the owners of such carriages respectively, and the numbers, weights, and gauges of their respective carriages; and such owners shall also, if so required by the company, cause the same particulars to be painted in legible characters on some conspicuous part of the outside of every such carriage, so as to be always open to view; and every such owner shall, whenever required by the company, permit his carriage to be weighed, measured, or gauged at the expence of the company.

On non-compliance carriage may be removed.

121. If the owner of any carriage fail to comply with the requisitions contained in the preceding enactment, it shall be lawful for the company to refuse to allow such carriage to be brought upon the railway, or to remove the same therefrom until such compliance.

Carriages improperly loaded, or suffered to obstruct the road, may be unloaded or removed.

122. If the loading of any carriage using the railway be such as to be liable to collision with other carriages properly loaded, or to be otherwise dangerous, or if the person having the care of any carriage or goods upon the railway suffer the same or any part thereof to remain on the railway so as to obstruct the passage or working thereof, it shall be lawful for the company to cause such carriage or goods to be unloaded and removed in any manner proper for preventing such collision or obstruction, and to detain such carriage or goods, or any part thereof, until the expences occasioned by such unloading, removal, or detention be paid.

Company not to be liable for damage by such unloading, &c.

123. The company shall not be liable for any damage or loss occasioned by any such unloading, removal, or detention as aforesaid, except for damage wilfully or negligently done to any carriage or goods so unloaded, removed, or detained; nor shall they be liable for the safe custody of any such carriage or goods so detained, unless the same be wrongfully detained by them, and then only for so long a time as the same shall have been so wrongfully detained.

Owners liable for damage by their servants.

124. The respective owners of engines and carriages passing or being upon the railway shall be answerable for any trespass or damage done by their engines or carriages, or by any of the servants or persons employed by them, to or upon the railway, or the machinery or works belonging thereto, or to or upon the property of any other person; and every such servant or other person may lawfully be convicted of such trespass or damage before any two justices of the peace, either by the confession of the party offending, or upon the oath of some credible witness; and upon such conviction every such owner shall pay to the company, or to the person injured, as the case may be, the damage to be ascertained by such justices, so that the same do not exceed fifty pounds.

Owners may recover from servants.

125. It shall be lawful for any owner of an engine or carriage who shall pay the amount of any damage caused by the misfeasance or negligence of any servant or other person employed by him to recover the amount so paid by him from such servant or other person

---

right to distrain any engine incumbering their railway, if no certificate of approval has been given (*Ambergate, &c. Rail. Co.* v. *Midland R. C.*, 23 L. J. Q. B. 17, 2 E. & B. 793).

(a) See *Rhymney R. C.* v. *Taff Vale R. C.*, 29 Beav. 153, 30 L. J. Ch. 482. Such a provision as that contained in the above section, to refer differences to arbitration, does not oust the jurisdiction of the court of chancery (*Ib.*).

by the same means as the company are enabled to recover the amount of such damage from the owner of any engine or carriage 8 Vict. c 20

And with respect to the settlement of disputes by arbitration (a), BE IT ENACTED as follows

Appointment of arbitrators when questions are to be determined by arbitration

126 When any dispute authorised or directed by this or the special Act, or any Act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred, and every appointment of an arbitrator shall be made on the part of the company, under the hand of the secretary or any two of the directors of the company, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made, and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation, and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final

Vacancy of arbitrator to be supplied

127. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed *ex parte*, and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid

Appointment of umpire

128 Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under this or the special Act, and if such umpire shall die or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final

Board of trade empowered to appoint an umpire on neglect of the arbitrators

129 If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the board of trade shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

In case of death of single arbitrator the matter to begin *de novo*

130. If where a single arbitrator shall have been appointed, such arbitrator shall die, or become incapable to act, before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special Act, in the same manner as if such arbitrator had not been appointed.

If either arbitrator refuse to act the other to proceed *ex parte*.

131 If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties

If arbitrators fail to award within 21 days the matter to go to umpire

132 If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

Power for arbitrators to call for books, &c

133. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrator and umpire to make declaration

134. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall, in the presence of a justice, make and subscribe the following declaration, that is to say,

"I *A B* do solemnly and sincerely declare, That I will faithfully and honestly, and

(a) See 22 & 23 Vict. c 59, post

8 Vict. c. 20. to the best of my skill and ability, hear and determine the matters referred to me, under the provisions of the Act [*naming the special Act*]. *A. B.*

"Made and subscribed in the presence of

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Costs to be in the discretion of the arbitrators

135. Except where by this or the special Act, or any Act incorporated therewith, it shall be otherwise provided, the costs of and attending every such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators.

Submission to arbitration may be made a rule of court

136. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties.

The award not to be set aside for matter of form

137. No award made with respect to any question referred to arbitration under the provisions of this or the special Act shall be set aside for irregularity or error in matter of form.

Service of notices upon company (a)

138. That any summons or notice, or any writ, or other proceeding at law or in equity, requiring to be served upon the company, may be served by the same being left at or transmitted through the post directed to the principal office of the company, or one of their principal offices where there shall be more than one, or being given personally to the secretary, or in case there be no secretary then by being given to any one director of the company.

Tender of amends

139. That if any party shall have committed any irregularity, trespass, or other wrongful proceeding in execution of this or the special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such party make tender of sufficient amends to the party

---

(a) The Great Western Railway Company, by the Act incorporating them, were to have two termini, one at Bristol, the other at Paddington; two general half-yearly meetings were to be held, one at Bristol, the other at Paddington; an equal number of directors was to be chosen from the residents near each place. All the general business was transacted at Paddington, where the secretary resided, and where orders were issued. It was held that Paddington was the only "principal office" of the company within this section (*Garton* v. *Great Western R. C.*, E. B. & E. 837, 27 L. J. Q. B. 375).

An Act incorporating a company for making a railway from Dublin to Drogheda enacted that, in case of any summons or writ upon the company, "personal service thereof upon a secretary or clerk of the company, or leaving the same at the office of the company, or of a secretary or clerk, or delivering the same to some inmate at such office of the company, or at the usual place of abode of such secretary or clerk, or in case the same respectively should not be found or known, then personal service thereof upon any other agent, &c., or on any director of the company," should be deemed good service. A writ of summons having been issued out of the Court of Exchequer in Middlesex, against the company, who had not any office in England, or any secretary or clerk to represent them here, was served upon one of the directors of the company in London: it was held, that such service was null and void, that the proper service was upon the secretary or clerk at his office, but that the parties residing in Ireland were not amenable to the jurisdiction of the court (*Evans* v. *Dublin, &c., R. C.*, 14 M. & W. 142, 3 Railw. Ca. 760). And where the defendants' line, with the exception of six miles, was in Scotland, their principal office was in Scotland, and they had no office out of Scotland, except a joint station with another company at Carlisle, used only for receiving passengers and goods: by one of their Acts, the Companies Clauses Act was incorporated with their Act, so far as was necessary for carrying into effect the English portion of the line: it was held, that a service of a writ of summons on the company's secretary, while attending a meeting in London, was sufficient (*Wilson* v. *The Caledonian R. C.*, 5 Exch. 822, 6 Railw. Ca. 772). And see 8 & 9 Vict. c. 16, s. 135, ante, Vol. I., p. 754, tit. "COMPANIES."

As to the service of writs of ejectment, see Common Law Procedure Act, 1852, ss. 168, seqq.; and see also *Doe d. Fisher* v. *Roe*, 10 M. & W. 21; *Doe d. Bayes* v. *Roe*, 16 M. & W. 98; *Doe d. Burgess* v. *Roe*, 4 Dowl. & L. 311.

A railway company has been held to carry on its business, within the meaning of 9 & 10 Vict. c. 95, s. 60 (ante, Vol. I., p. 1194, tit. "COUNTY COURTS"), only at the principal office where the directors meet, and the general business of the company is transacted (*Shiels* v. *Great Northern R. C.*, 30 L. J. Q. B. 331). It also "dwells" there within the meaning of s. 128 of the same Act; and therefore where the plaintiff in an action against the company dwells more than 20 miles from such principal office, the Superior Courts have concurrent jurisdiction (*Adams* v. *Great Western R. C.*, 6 H. & N. 404, 30 L. J. Ex. 124).

injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court. 8 Vict. c. 20.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, BE IT ENACTED as follows:

Provision for damages not otherwise provided for (a).

140. In all cases where any damages, costs, or expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, or any other justice, on application, shall issue their or his warrant accordingly.

Distress against the treasurer.

141. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, and expenses payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid he may retain the amount so paid by him, and all cost and expenses occasioned thereby, out of any money belonging to the company, coming into his custody or control, or he may sue the company for the same.

Method of proceeding before justices in questions of damages, &c.

142. Where in this or the special Act any question of compensation, expenses, charges, or damages, or other matter, is referred to the determination of any one justice or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Publication of penalties.

143. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special Act, or by any bye law of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for such publication.

144. If any person pull down or injure any board put up or affixed as required by this or the special Act for the purpose of publishing any bye law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

145. [Penalties to be summarily recovered before two justices] (b).

Penalties to be levied by distress.

146. If forthwith upon any such adjudication as aforesaid the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress, and such justices, or either of them, shall issue their or his warrant of distress accordingly.

147. [Imprisonment in default of distress] (c).

148. [Distress how to be levied] (d).

149. [Distress not unlawful for want of form] (e).

(a) See *Mayor, &c., of Blackburn* v. *Parkinson*, 1 E. & E. 71, 28 L. J. M. C. 7.

(b) This section is the same as s. 136 of 8 Vict. c. 18, ante, Vol. II., p. 1187, tit. "LANDS CLAUSES," &c.

(c) This section is the same as s. 149 of 8 Vict. c. 16, ante, Vol. I., p. 756, tit. "COMPANIES."

(d) This section is the same as s. 150 of 8 Vict. c. 16, ante, Vol. I., p. 756, tit. "COMPANIES."

(e) This section is the same as s. 151 of 8 Vict. c. 16, ante, Vol. I., p. 756, tit. "COMPANIES."

8 Vict. c. 20.

Application of penalties.

150. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish, or if the place wherein the offence shall have been committed shall be extra-parochial, then such justices shall direct such remainder to be applied in aid of the poor's rate of such extra-parochial place, or, if there shall not be any poor's rate therein, in aid of the poor's rate of any adjoining parish or district.

Penalties to be sued for within six months.

151. No person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any offence made cognisable before a justice, unless the complaint respecting such offence shall have been made before such justice within six months next after the commission of such offence.

Damage to be made good in addition to penalty (a).

152. If, through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the special Act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses making default

153. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence.

Transient offenders.

154. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special Act, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special Act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Form of conviction.

155. The justices before whom any person shall be convicted of any offence against this or the special Act, or any Act incorporated therewith, may cause the conviction to be drawn up according to the form in the schedule to this Act annexed.

Proceedings not to be quashed for want of form, &c.

156. No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by *certiorari* or otherwise into any of the superior courts (b).

157. [Parties allowed to appeal to quarter sessions on giving security] (c).

158. [Court to make such order as they think reasonable] (d).

159. [Receiver of metropolitan police district to receive penalties incurred within his district] (e).

Persons giving false evidence

160. That every person who, upon any examination upon oath, under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Money paid into the bank of Ireland to be exempt from ushers poundage. 1 & 2 Vict. c. 117.

161. That all sums of money which have been or shall be paid into the bank of Ireland in the name and with the privity of the accountant-general of the court of chancery of Ireland, under the provisions of an Act passed in the second year of the reign of her present majesty, intituled "An Act to provide for the Custody of certain Moneys paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to works or undertakings to be effected under the authority of Parliament," shall and may be paid out and applied under any order of the said court of chancery exempt from ushers poundage.

And with respect to the provision to be made for affording access to the special Act by all parties interested, BE IT ENACTED as follows:

Copies of special Act

162. The company shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act,

---

(a) See 8 Vict. c. 16, s. 154, ante, Vol. I., p. 756, tit. "COMPANIES."

(b) 8 Vict. c. 18, s. 145, ante, Vol. II., p. 1188, tit. "LANDS CLAUSES," &c.

(c) This section is the same as s. 159 of 8 Vict. c. 16, ante, Vol. I., p. 757, tit. "COMPANIES."

(d) This section is the same as s. 160 of 8 Vict. c. 16, ante, Vol. I., p. 757, tit. "COMPANIES."

(e) This section is the same as 8 Vict. c. 18, s. 148, ante, Vol. II., p. 1188, tit. "LANDS CLAUSES," &c.

printed by the printers to her majesty, or some of them; shall also within the space of such six months deposit in the office of each of the clerks of the peace of the several counties into which the works shall extend a copy of such special Act, so printed as aforesaid: and the said clerks of the peace shall receive, and they and the company respectively shall retain, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the first year of the reign of her present majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

8 Vict. c. 20. to be kept and deposited, and allowed to be inspected (a).

7 W. 4 & 1 Vict. c. 83.

163. [Penalty on company failing to keep or deposit such copies] (b).

164. That this Act shall not extend to Scotland.

SCHEDULE REFERRED TO BY THE FOREGOING ACT (c).

9 & 10 Vict. c. 57. An Act for regulating the Gauge of Railways. [18th August, 1846.]

9 & 10 Vict. c. 57

"Whereas it is expedient to define the gauge on which railways shall be constructed:" BE IT ENACTED, That after the passing of this Act it shall not be lawful (except as hereinafter excepted) to construct any railway for the conveyance of passengers on any gauge other than four feet eight inches and half an inch in Great Britain, and five feet three inches in Ireland: Provided always, that nothing hereinbefore contained shall be deemed to forbid the maintenance and repair of any railway constructed before the passing of this Act on any gauge other than those hereinbefore specified, or to forbid the laying of new rails on the same gauge on which such railway is constructed within the limits of deviation authorised by the several Acts under the authority of which such railways are severally constructed.

On what gauge railways shall be made.

2. That nothing hereinbefore contained shall apply to any railway constructed or to be constructed under the provisions of any present or future Act containing any special enactment defining the gauge or gauges of such railway, or any part thereof, or to any railway which is in its whole length southward of the great western railway, or to any railway in any of the counties of Cornwall, Devon, Dorset, or Somerset, for which any Act has been or shall be passed in this session of parliament, or to any railway in any of the last-mentioned counties now in course of construction, or to the two railways severally to be constructed under the authority of two Acts passed in this session of parliament, severally intituled "An Act for making a Railway from the Great Western Railway at West Drayton, to Uxbridge in Middlesex," and "An Act for making a Railway from the Great Western Railway at Maidenhead in Berkshire to the town of High Wycombe in the county of Buckingham;" or to so much of an Act passed in this session, intituled "An Act to authorise certain Extensions of the Line of the Oxford, Worcester, and Wolverhampton Railway, and to amend the Act relating thereto," as authorises the construction of a branch railway from the Oxford, Worcester, and Wolverhampton Railway to the town of Witney in the county of Oxford; or to an Act passed or which may be passed in this session of parliament "to authorise the construction of a Railway from Melin-y-Manach to Rhydydefydd in the county of Glamorgan."

Exception of certain railways

9 & 10 Vict. c. clxvi.
9 & 10 Vict. c. ccxxxvi.
9 & 10 Vict. c. colxxviii.

3. That the several railways authorised to be constructed by an Act passed in the last session of parliament, intituled "An Act for making a Railway, to be called 'The South Wales Railway,'" and by an Act also passed in the last session of parliament, intituled "An Act making a Railway from Monmouth to Hereford, with Branches therefrom to Westbury, and to join the Forest of Dean Railway," and by two Acts passed in this session of parliament, severally intituled "An Act for completing the Line of the South Wales Railway, and to authorise the Construction of an Extension and certain Alterations of the said railway, and certain Branch Railways in connexion therewith," and "An Act for making a railway communication between the City of Bristol and the proposed South Wales Railway in the County of Monmouth, with a Branch Railway therefrom," shall be constructed on the gauge of seven feet.

Certain railways to be on the broad gauge

8 & 9 Vict. c. cxc.
8 & 9 Vict. c. cxci.
9 & 10 Vict. c. cv.

4. That it shall not be lawful after the passing of this Act to alter the gauge of any railway used for the conveyance of passengers.

Gauge not to be altered.

5. That nothing hereinbefore contained shall be deemed to affect the provisions of two Acts passed in the last session of parliament, respectively intituled "An Act for making

Provision as to the Ox-

(a) See 8 Vict. c. 68, s. 150, ante, Vol. II., p. 1188, tit. "LANDS CLAUSES."

(b) This section is the same as 8 Vict. c. 18, s. 151, ante, Vol. II., p. 1189, tit. "LANDS CLAUSES."

(c) This is the same as Schedule (C) to 8 Vict. c. 18, ante, Vol. II., p. 1189, tit. "LANDS CLAUSES."

9 & 10 Vict c 57 ford and Rugby and Oxford Worcester and Wolverhampton Railways 8 & 9 Vict c clxxxviii 8 & 9 Vict. c clxxxiv

a Railway from the City of Oxford to the Town of Rugby, and "An Act for making a Railway from Oxford to Worcester and Wolverhampton, with respect to the gauge on which they are to be formed, or the additional rails which according to the several provisions of the last two recited Acts are to be or may be laid down and maintained on the railways thereby authorised, or with respect to the powers thereby conferred on the commissioners of her majesty's privy council for trade and foreign plantations concerning the construction and use of the railways thereby authorised

Penalty on company for constructing railways contrary to this Act

6 That if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this Act, the company authorised to construct the railway, or, in the case of any demise or lease of such railway, the company for the time being having the control of the works of such railway, shall forfeit ten pounds for every mile of such railway which shall be so unlawfully constructed or altered, during every day that the same shall continue so unlawfully constructed or altered, and in estimating the amount of any such penalty any distance less than one mile shall be estimated as a mile.

Railways constructed contrary to this Act may be abated

7 That, over and above the penalty hereinbefore provided, if any railway used for the conveyance of passengers shall be constructed or altered contrary to the provisions of this Act, it shall be lawful for the commissioners of her majesty's woods, forests, land revenues, works, and buildings, or for the lords of the committee of her majesty's privy council for trade and foreign plantations, to abate and remove the same or any part thereof so constructed or altered contrary to the provisions of this Act, and to restore the site thereof to its former condition

Recovery of penalties 8 & 9 Vict c xx

8 That all penalties under this Act may be recovered from the company liable to pay and make good the same, as, under the provisions of an Act passed in the last session of parliament, intituled "An Act for consolidating in one Act certain Provisions usually inserted in Acts authorising the making of Railways," a penalty for any infringement of the last recited Act is recoverable against a company authorised to construct a railway

10 & 11 Vict. c 42

10 & 11 Vict. c 42 An Act to transfer the Collection and Management of the Duties in respect of Stage Carriages, Hackney Carriages, and Railway Passengers, from the Commissioners of Stamps and Taxes to the Commissioners of Excise. [25th June, 1847.]

[See post, tit. "STAMPS"]

11 Vict c 3

11 Vict c. 3. An Act to give further Time for making certain Railways [20th December, 1847.]

"Whereas divers Acts of parliament have been passed for making railways, and in such Acts respectively certain periods of time are limited within which only the powers thereby granted, whether for making the railways or for the compulsory purchase of the lands therein referred to, can be lawfully exercised and whereas it is expedient that in certain cases further time be granted for the purposes aforesaid ' BE IT ENACTED, That

Railway companies may apply to commissioners of railways for extension of time for purchase of lands, &c

if any railway company, or person authorised by any Act or Acts of parliament to construct a railway or any works connected with a railway, or to purchase lands for any such purpose, desire that the period limited by such Act or Acts for the completion of such railway or works, or for the purchase of such lands, be extended, such company or person may, at any time within two calendar months after the passing of this Act, make application, in writing, to the commissioners of railways, setting forth what extension of time is desired by them or him, and to what part of the railway, or the works or lands connected therewith, the same is intended to apply, and the grounds on which such application is made

Commissioners may require company to give notice of application by advertisement in the "Gazette"

2 That if it appear to the said commissioners that there are sufficient grounds for entertaining such application, they shall require the company, or person making the same, to give notice of such application having been made, by advertisement, inserted in such form as shall be approved of by the said commissioners, once in the London, Edinburgh, or Dublin "Gazette," accordingly as such railway or works or land are in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such railway or works or lands to which the extension of time is intended to apply is situated, and affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any such part of such railway or works or lands is situated, and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed extension of time, and who desires to object thereto, may bring such objections before the said commissioners

Commissioners of railways by warrant

3 That upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all such objections, if any,

which have been brought before them, the said commissioners may, if they think fit, and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two or more of the said commissioners, extend the period allowed by any such Act or Acts as aforesaid, whether for the completion of such railway or works or for the compulsory purchase of lands for that purpose, for such further time as the said commissioners think fit, not exceeding two years from the expiration of the periods so allowed by such Act or Acts respectively; and they may so extend such periods respectively, either as to the whole of such railway or works, and the whole of the lands required for the same, or as to so much of such railway or the works or the lands connected therewith, as shall be specified for that purpose in such warrant.

11 Vict c 3. under their seal, may, upon proof that notice has been given, enlarge the time for the completion of purchases and works.

4. That when any such warrant as aforesaid is granted by the said commissioners, the Act or Acts of parliament authorising the construction of the railway or works mentioned or referred to in such warrant shall, as to the portion of railway or the works or lands described thereby or comprised in such warrant, be construed as if the extended period or periods of time mentioned in such warrant had been by such Act or Acts limited as the period or periods respectively within which the powers of such Act or Acts might lawfully be exercised, whether for the construction of such railway or works or for the compulsory purchase of the lands required for the same, instead of the periods mentioned in such Act or Acts respectively.

Acts mentioned or referred to in such warrants to be construed with reference to the same

5. Provided always, That this Act shall not have the effect of reviving any powers which had expired before the making of such application, and that it shall not prejudice or affect any contract or agreement entered into before the passing of this Act; and where before the passing of this Act any contract hath been entered into or notice given by any such railway company or person, for purchasing, taking, or using any lands which, under any such Act or Acts as aforesaid, such company or person is entitled to purchase, take, or use, this Act, or any warrant thereunder, shall not authorise any extension of the time allowed for the purchase of the lands comprised or mentioned in such contract or notice; and every such contract and notice respectively shall be construed and shall take effect, and the same proceedings shall be had thereunder, and all parties thereto shall be entitled to the same rights and remedies in respect thereof, both at law and in equity, as if this Act had not been passed.

Not to revive expired powers

Existing contracts and notices to take lands to be construed as if this Act had not passed.

6. That within one calendar month after the day on which any such warrant as aforesaid is granted by the said commissioners they shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin "Gazette," accordingly as the railway, works, or lands mentioned therein is or are in England, Scotland, or Ireland.

Notices of warrants being granted to be published in the "Gazette"

7. Provided always, That whenever any such warrant as aforesaid shall have been granted by the said commissioners for extending the time within which any of the powers given by any such Act or Acts may lawfully be exercised, the justices, arbitrators, umpires, or juries respectively, as the case may be, who under the provisions of such Act or Acts shall award or assess the compensation to be made by any such company or person as aforesaid to the owners or occupiers of or other persons interested in any lands taken or used for the purposes of any such railway or works, or injuriously affected by the construction thereof, shall, in estimating the amount of such compensation, have regard to and make compensation for the additional damage (if any) sustained by such owners, occupiers, or other persons, by reason of any such extension of time having been granted as aforesaid.

Parties aggrieved by extension of time being granted may have compensation for additional damage.

8. That no railway company authorised by Act of parliament to construct a railway, or any works connected with a railway, who had not before the twenty-seventh day of November in the year 1847 executed any part of the works, or entered into any contract or agreement for the execution of any part of the works which they were for the first time authorised by such Act to construct, shall within twelve calendar months after the passing of this Act enter into any contract or agreement for the execution of any works so for the first time authorised by such Act, excepting always from this enactment contracts and agreements for the construction of part of any railway or works which by any Act shall have been substituted by way of deviation from any part of the line of such railway as authorised by some previous Act, or in lieu of some other works authorised by some previous Act, and also contracts and agreements for the construction of such other works as the company shall be authorised to proceed in constructing by the consent of the holders of three-fifths of the shares or stock held by such of the shareholders of such company as shall signify their assent thereto or dissent therefrom within the time and in the manner hereinafter mentioned, or as they shall be authorised to proceed in constructing by an order of the said commissioners of railways published in the London, Edinburgh, or Dublin "Gazette," according as the works are situated in England, Scotland, or Ireland; and all contracts and agreements entered into in contravention of this enactment shall be utterly void and of no effect.

Contracts for new works not to be entered into for a limited period, except in certain cases

9. That, for the purpose of ascertaining such consent of the shareholders as aforesaid a general meeting of the shareholders of such company shall be held within six weeks after the passing of this Act, of which public notice shall be given by public advertisement in the manner required or usually adopted for advertising the extraordinary general meetings of such company; and a circular letter shall be sent by the post, addressed to each of the shareholders of such company, according to his registered address or other known address, describing the portion of line or works proposed to be executed, and stating that a general meeting of the shareholders of such company will be held, at a time and place mentioned in such circular, for the purpose of determining whether a contract for execu-

Mode of ascertaining consent of shareholders to the making of contracts for new works.

11 Vict. c. 8.

ting such works shall be entered into or not within the twelve months next after the passing of this Act, and requesting such shareholder to signify his assent to or dissent from the making of such contract, according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto; and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof; and at the meeting so to be held the chairman thereof shall cast up the number or amount of shares or stock held by shareholders assenting to the making of such contract, and the number or amount of shares or stock held by shareholders dissenting therefrom, whether such assent have been signified by the shareholder sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof; and such chairman shall thereupon publicly announce the number or amount of shares or stock of the shareholders assenting to the making of such contract, and the number or amount of the shares or stock of those dissenting therefrom, and shall state whether or not the holders of three-fifths of the whole of such shares or stock consent to the making of such contract: Provided always, that in computing the number or amount of the shares of shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have paid all the calls then due by him upon the shares held by him.

Certificate of the chairman of company, countersigned by the secretary, to be evidence of consent.

10. That a certificate under the hand of the chairman of the company, and countersigned in each case by the secretary of the company, stating that such meeting as aforesaid has been duly held, and such circular letter sent, and such consent given as aforesaid, in cases where the same is given, shall, within one week after the day of holding such meeting, be deposited in the office of the said commissioners of railways; and such certificate, or a copy thereof, certified under the seal of the said commissioners to be a true copy, shall be received as evidence in all courts, and before all justices and others, that such consent was duly given within the time aforesaid.

SCHEDULE REFERRED TO BY THE FOREGOING ACT.

(1.) Name of Railway.	(1.) Name of Shareholders.	(1.) No. of Shares or amount of Stock held by him.	(1.) Works proposed to be contracted for.	(2.) Whether assenting or dissenting.

(1) The secretary will insert these particulars.

(2) In this column the shareholder will write the word "assenting" or "dissenting," as the case may be, and sign his name thereunder.

13 & 14 Vict. c. 83.

13 & 14 Vict. c. 83. An Act to facilitate the Abandonment of Railways, and the Dissolution of Railway Companies, in certain cases. [14th August, 1850.]

"Whereas divers joint-stock companies have been incorporated by Act of parliament for making railways, and it has been found that such railways, or certain parts thereof, cannot be made or carried on with advantage either to the promoters thereof or to the public, and it is expedient therefore that facilities should be given for the abandonment of such railways or parts of railways, and for the dissolution of such companies, or some of them, and winding up the concerns thereof:" BE IT THEREFORE ENACTED, That if any company authorised by Act of parliament heretofore passed to make a railway desire that the making and carrying on of such railway or some part thereof, whether commenced or not, be abandoned, such company may, by the authority and with the consent of the holders of three-fifths of the shares or stock of such company, represented in manner hereinafter mentioned at a general meeting of shareholders to be convened in manner hereinafter mentioned, make application in writing to the commissioners of railways, setting forth the particulars of the railway or portion of the railway desired to be abandoned by them, and the grounds upon which such application is made.

Railway company may apply to commissioners of railways to abandon undertaking.

Directors may call meeting to consider such application.

2. That it shall be lawful for the directors of any such railway company at any time to call a meeting of the shareholders thereof for the purpose of determining whether such application shall be made to the commissioners of railways, and so from time to time as they shall see fit.

3. That it shall be lawful for any number of shareholders of any such company, not being less than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, but exclusive of any shares or stock held by or in the names of the directors of the company or any of them, or by or in the name of any person in trust for the directors or any of them, or for the company, and which shareholders shall have paid all the calls then due on the shares held by them, by writing under their hands to require the directors of such company to call a meeting for the purpose aforesaid, and upon the receipt of any such requisition such directors shall forthwith proceed to call a meeting of the shareholders of such company on a day to be named by them, not being less than fourteen nor more than twenty-eight days after the receipt of such requisition Provided always, on the default of the directors to call and advertise such meeting within fourteen days after the receipt of the requisition, it shall be lawful for the requisitionists to call such meeting themselves, at a time and place to be appointed by them, of which fourteen days notice shall be given by them by advertisement as hereinafter provided Provided also, that when any meeting of any such company shall have been called pursuant to any such requisition as aforesaid, the directors of such company shall not be required to call any further meeting of such company upon any further requisition for the like object until twelve months shall have elapsed since the holding of such previous meeting.

13 & 14 Vict c. 83

Share holders may require directors to call meeting

4 That after any such meeting has been called by the directors, or after the receipt of any such requisition as aforesaid, it shall not be lawful for the directors to make any payments out of the moneys of the company for the purposes of the railway proposed to be abandoned, except in discharge of *bonâ fide* debts or liabilities, or in performance of contracts or engagements previously entered into, and in payment of the expenses of calling and holding such meeting, nor to enter into any contracts or engagements on behalf of the company with respect to the railway so proposed to be abandoned, nor to make any calls, nor to register the transfer of any shares, until the meeting called as aforesaid shall have determined whether such application shall be made

After receipt of requisition directors not to make any payments, except, &c nor to enter into contracts, nor make calls

5. That the calling of any such meeting shall be by public advertisement in the manner required or usually adopted for advertising the extraordinary general meetings of such company, and where such meeting is called by the directors of the company a circular letter shall be sent by the post addressed to each of the registered shareholders of such company, according to his registered address or other known address, seven clear days at least before the holding of such meeting, and stating that a general meeting of the shareholders of such company will be held at a time and place mentioned in such circular, for the purpose of determining whether application shall be made to the commissioners of railways that such railway or the part thereof specified in such notice may be abandoned, and requesting such shareholder to signify his assent to or dissent therefrom, which may be according to a form to be contained in such circular letter, which form shall be to the effect set forth in the schedule hereto, and such circular letter shall request such shareholder either to return such form, signed by him, in a letter addressed to the secretary of such company, or to attend such general meeting as aforesaid, and deliver the same, so signed by him, to the chairman thereof, and in the case of every such meeting, whether called by the directors or by such requisitionists as aforesaid, the shareholders may signify their assent to or dissent from the proposed application, either by attending such meeting in person or by letter addressed to the secretary of the company, stating the assent or dissent of such shareholders, in a form which shall be to the effect of the form set forth in the schedule hereto, and signed by such shareholders respectively

Mode of calling meeting and signifying the consent of the shareholders to the application.

6. That at the meeting so to be called as aforesaid the scrutineers to be appointed as hereinafter mentioned shall cast up the amount of shares held by shareholders assenting to the making of such application, and the amount of shares held by shareholders dissenting therefrom, whether such assent or dissent have been signified by the shareholder sending to the secretary of the company such form as aforesaid, signed by him, or by such shareholder attending such meeting, and delivering in the same to the chairman thereof, and such scrutineers shall report to the chairman the amount of shares of the shareholders assenting to such application, and the amount of the shares of those dissenting therefrom, and the said chairman shall thereupon publicly announce to the meeting the said amounts respectively, and shall state whether or not the holders of three fifths of the whole of such shares represented in manner aforesaid at the meeting consent to such application Provided always, that in computing the amount of shares of the shareholders assenting or dissenting as aforesaid no share shall be taken into account the holder whereof shall not have been duly registered, or who shall not have paid all the calls then due by him upon all the shares held by him, unless such calls shall have been made within three months prior to the holding of such meeting, or if such meeting be held pursuant to a requisition of shareholders as hereinbefore provided, then three months prior to the day on which such requisition was presented to the directors

The number of the shareholders assenting or dissenting to be ascertained by scrutineers, and reported to the chairman

7. That the chairman of the directors of such company, if present, or in his absence the deputy chairman, if any, of such directors, shall be the chairman of such meeting as aforesaid, or if neither such chairman nor deputy chairman of the directors be present, any shareholder chosen for that purpose by a majority of the shareholders present at the meeting shall be the chairman thereof

Chairman of the meeting

8 That at every such meeting the shareholders present thereat shall elect three share-

Meeting to

13 & 14 Vict. c. 83.

elect scrutineers.

holders of the company to be scrutineers for the purposes aforesaid, and in electing such scrutineers each shareholder shall have one vote only, and shall vote for one scrutineer only; and the decision of such scrutineers, or of any two of them, upon any of the matters hereby intrusted to them, shall be final in all respects.

Adjournment of meeting on application of scrutineers.

9. That for the purpose of receiving the report of the said scrutineers the chairman of such meeting may, if he think fit, on the application of any one of such scrutineers, and he shall, if required by more than one of such scrutineers, adjourn such meeting to some time to be appointed by him, not less than one clear day nor more than seven clear days from the day of holding such meeting.

Certificate of the chairman to be evidence

10. That a certificate under the hand of the chairman of the meeting, stating that such meeting as aforesaid has been duly held, and such consent given as aforesaid in cases where the same is given, shall within one week after the day of holding such meeting be deposited in the office of the said commissioners of railways.

Shareholders desiring abandonment, and complaining that the sense of the company has not been fairly ascertained, may apply to the commissioners.

11. Provided always, That if it appear to any of the shareholders of any such company who shall have signed any such requisition, or been present at any such meeting as aforesaid at which the proposal to apply to the said commissioners to authorise the abandonment of the whole or part of a railway shall have been negatived or alleged to be negatived, either that such meeting was not duly called, or that the sense thereof was not duly taken according to the true intent and meaning of this Act, and that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application would have been given, it shall be lawful for any such shareholders, not being less in number than five, and holding in the aggregate not less than one-twentieth of the capital or stock of the company, consisting of shares or stock whereon all calls for the time being have been paid up, and which shareholders shall have paid all the calls then due on the shares held by them, to apply to the said commissioners, setting forth in writing the grounds on which they complain of the decision alleged to have been come to at such meeting as aforesaid, and praying that a further meeting may be called, and if it appear to the said commissioners (after hearing the parties complained of, if they desire to be heard) that there is good reason to believe that if such meeting had been duly called, and the sense thereof duly taken, the consent of such meeting to the proposed application to the said commissioners would have been given, the said commissioners shall certify their judgment to that effect, and shall direct a further meeting to be called by the directors of such company at the time and place to be appointed by the said commissioners, and the said directors shall call such meeting accordingly, or in default thereof it shall be lawful for the shareholders who complained to the said commissioners of the proceedings of the former meeting to call such meeting, and all the provisions of this Act shall apply to any further meeting so directed to be called in like manner as to any original meeting hereinbefore authorised or required to be called.

If meeting determine that application shall be made, directors not to proceed meanwhile.

12. That if at any such meeting any railway company shall determine, as hereinbefore mentioned, that such application as aforesaid shall be made, or if the said commissioners shall certify as aforesaid their judgment, that if such meeting had been duly called and the sense thereof duly taken the consent of such meeting to the proposed application to the said commissioners would have been given, then, as from the date of the resolution so come to at such meeting, or the date of the said certificate, as the case may be, the directors of such company shall not have power to proceed any further with the making of the railway, or the part thereof so proposed to be abandoned, until the decision of the commissioners of railways with respect to such application be made, and then only in accordance with such decision.

Commissioners of railways to direct advertisements of application.

13. That if it appear to the said commissioners that there are sufficient grounds for entertaining such application, the said commissioners shall require and direct the company making the same to give notice of such application having been made, by advertisement inserted, in a form to be approved of by the said commissioners, once in the London, Edinburgh, or Dublin "Gazette," according as the railway or part of the railway proposed to be abandoned is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part proposed to be abandoned of such railway is situated, and affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any part of such railway where the whole is proposed to be abandoned, or in which any part proposed to be abandoned, is situate, and in Ireland such notice shall also be affixed to the Roman Catholic chapel, and where there shall be no such church or chapel on some public or conspicuous place of such parish; and every such notice shall set forth within what time and in what manner any person who thinks himself aggrieved by any such proposed abandonment, and who desires to object thereto, may bring such objection before the commissioners.

Commissioners to have power to inspect the company's books and other documents, and to send an officer for local inspection.

14. That, for the purpose of ascertaining the state and condition of the company making any such application, and of inquiring into the expediency of the proposed abandonment of railway, and of determining the terms and conditions on which the same may be authorised by them, it shall be lawful for the commissioners of railways, by themselves or by any officer appointed and specially empowered by them for that purpose, to inspect the books of accounts, minutes of proceedings, or any other books, papers, or documents in the possession or control of such company, and also, if they see fit so to do, to send, at the expence of such railway company, or at the expence of any person who applies to them for that purpose, an officer to be appointed by them to inspect the railway or proposed railway or works so proposed to be abandoned, and to collect evidence on

the spot relative to such abandonment; and if any such company, or any of their officers or servants, shall refuse such inspection by the said commissioners, or any officer appointed and specially empowered by them for that purpose, or refuse or wilfully neglect to produce to the said commissioners or any such officer, on demand, any books, papers, or documents in the possession or control of such company, every such company shall for every such refusal or neglect forfeit to her majesty the sum of twenty pounds, and a further sum of five pounds for every day during which such refusal or wilful neglect shall be continued. 13 & 14 Vict. c. 83.

15. That upon proof to the satisfaction of the said commissioners that such notice has been duly given, and after the expiration of the time therein appointed for bringing objections before the said commissioners, and after considering all the objections, if any, brought before them, the said commissioners may, if they think fit, and upon such terms and conditions as they think fit, by warrant under their seal, and signed by two or more of the said commissioners, authorise the abandonment of the railway or portion of railway described in such warrant. Commissioners may authorize the abandonment of the railway or of part.

16. Provided always, that in considering the objections which may be made by any of the shareholders of any railway company to the proposed abandonment of a part only of the railway of such company, and in determining the terms and conditions on which the said commissioners may think fit to authorise any such partial abandonment, the said commissioners shall have regard to the local situation of the lands and residences of the shareholders so objecting with reference to the portion of railway proposed to be abandoned; and in the case of any such shareholders being original subscribers to the undertaking, and not being solicitors, agents, or engineers employed in promoting the same, and whose places of residence or lands are adjoining or near the line of the portion of railway so proposed to be abandoned, it shall be lawful for the said commissioners, if they think fit so to do, in any direction which (under the provision hereinafter contained) they may give for reducing the capital of the company authorised to construct such railway, to provide, at the request of any such last-mentioned shareholders, that the nominal amount of the shares held by them in such company may be reduced to the amount then already paid up by them respectively, or to such other extent as the said commissioners may think fit to order in that behalf, or the said commissioners may, at the like request, direct any such shares to be cancelled, and a part of the moneys that may have been paid up in respect of such shares, bearing such proportion to the whole as the said commissioners having regard to all the circumstances of the cases shall think fit to determine, to be repaid to such shareholders. In considering objections of shareholders to partial abandonment, commissioners to have regard to local circumstances. Power to reduce or cancel the shares of the objectors in certain cases.

17. That within one month after the day on which any such warrant as aforesaid is granted by the said commissioners the railway company to which the same applies shall cause notice thereof to be inserted in the London, Edinburgh, or Dublin "Gazette," according as the railway or part of railway mentioned therein is situate in England, Scotland, or Ireland, and once in each of three successive weeks in some newspaper published or circulating in each county in which any part of such abandoned railway is situate, and to be affixed for three successive Sundays on the principal outer door of the church or churches of every parish in which any such part of such railway is situate, and in Ireland such notice shall also be affixed to the Roman Catholic chapel, and where there shall be no such church or chapel, on some public or conspicuous place of such parish; and every such notice shall require all persons having any claims or demands upon the said company for compensation or otherwise, by reason of the abandonment of railway authorised by such warrant, to transmit the statement of such claims or demands to the secretary of such company, at the office or usual place of business of the same company, within four months from the date of such warrant. Abandonment of railway to be advertised, and demands on the company for compensation to be sent in

18. That, upon proof to the satisfaction of the said commissioners that notice of such warrant has been duly published in manner hereinbefore required, the said commissioners shall certify the same accordingly; and such certificate shall be received in all courts of justice or elsewhere as evidence that such notice was duly published as aforesaid. Commissioners to certify due publication of notice.

19. That after the granting of any such warrant, and the publication of such notice thereof as aforesaid, the company shall (subject to the provisions hereinafter contained) be released from all liability to make, maintain, or work the railway mentioned in such warrant, or the part thereof thereby authorised to be abandoned, or to purchase any of the lands required for the making thereof, or to complete the purchase of any such lands for the purchase of which notice may have been given, or any contract entered into, by or on behalf of the company, or to complete any contract for or concerning the making, maintaining, or working of the railway so to be abandoned, or any other contract relating to the railway or part of railway so authorised to be abandoned which by reason of such abandonment cannot be performed: Provided always, that nothing in this Act contained shall extend to release the company from any liability to complete the purchase of any land for the purchase of which any contract may have been entered into by or on behalf of the company, and which contract may have been in part performed, or by virtue or in pursuance of which a specified sum or price as the consideration for the purchase of the lands thereby agreed to be sold to or taken by the company shall have been fixed or ascertained previously to the passing of this Act, notwithstanding the time for the completion of the purchase named in such contract shall have been subsequently extended by agreement or arrangement with the company. After the granting of warrant the company to be released from liability to make the railway.

20. Provided always, That in every case in which before the granting of any such warrant any notice hath been given or contract entered into by or on behalf of the com- Compensation to be

13 & 14 Vict. c. 83.

made where contracts have been entered into or notice given.

pany named therein for purchasing any lands which such company were by the Acts relating thereto empowered to purchase for the purpose of constructing the railway or portion of railway so authorised to be abandoned, and from which contract such company would be relieved under the provisions hereinbefore contained, or where any contract hath been entered into for or concerning the constructing, maintaining, or working of the railway or part of railway so authorised to be abandoned, or any other contract relating thereto, which by reason of such abandonment cannot be performed, the company shall make to the owners or occupiers of and other parties interested in such lands, or being parties to such contracts as aforesaid, compensation, to be determined by arbitration as hereinafter mentioned, for all injury or damage, if any, sustained by such owners, occupiers, and other parties by reason of such purchase not being completed pursuant to such notice, or by reason of such contract not being performed.

Compensation to adjoining landowners in lieu of accommodation works.

21. That where any railway or part of a railway so authorised to be abandoned shall have been then made or commenced, such company shall make to the owners and occupiers of the lands adjoining the railway or part of a railway so commenced or made, and authorised to be abandoned, compensation, to be determined by arbitration as hereinafter mentioned, for all such injury or damage, if any, as shall be sustained by such owners or occupiers by reason of the omission to make gates, passages, drains, watercourses, bridges, and such other works, for the accommodation of lands adjoining the railway, as such company would have been required to make if such railway had not been allowed to be abandoned.

Where roads have been carried across abandoned line of railway by means of a bridge or tunnel, company to make compensation, in lieu of keeping bridges, &c. in repair, except where the road is restored to its former state.

22. That where the line of any railway so authorised to be abandoned shall have been wholly or partially laid out, and any road shall have been carried across such line of railway by means of a bridge or tunnel over or under such railway, which bridge or tunnel the company to whom such railway belonged would, in case the same had not been abandoned, have been liable to keep in repair, then in every such case, except where such bridge or tunnel shall, with the permission of the said commissioners, be by such company removed, and such road restored to the like or an equally convenient and good state as the same was in before it was interfered with by the makers of such railway, to the satisfaction (in case of difference between such company and the owner or persons having the management of such road) of the commissioners of railways, such company shall pay to the owner of such road, if it be a private road, or to the trustees, surveyors of highways, or other persons having the management of such road, if it be a turnpike or other public road, a sum of money, to be determined by arbitration as after mentioned, in lieu and discharge of their liability to keep such bridge or tunnel, and also the roadway over the same, in repair.

Compensation to trustees and overseers of public roads, how to be applied.

23. That every sum so to be paid as last aforesaid to such trustees, surveyors, or other persons as aforesaid shall be by them forthwith paid over to the treasurer of the county where the bridge or tunnel in respect of which such sum was paid is situate, and shall be by him invested in consolidated bank annuities or other public securities, and the dividends or income thereof shall, until parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the justices in quarter sessions having jurisdiction where such bridge or tunnel is situate, shall order.

Application of moneys paid.

24. That every sum so to be paid as last aforesaid in Scotland to such trustees or other persons as aforesaid shall be by them paid into bank, and the interest to arise thereon shall, until parliament shall otherwise provide, be applied in the maintenance of the bridge or tunnel in respect whereof the same was paid, in such manner as the sheriff of the county in which such bridge or tunnel is situate, in case of any difficulty arising, shall direct.

Amount of compensation to be settled by arbitration, pursuant to 8 & 9 Vict. c. 20, and 8 & 9 Vict. c. 33.

Claims for compensation to be made within six months after publication of warrant for abandonment.

25. That the amount of the compensation so to be made in the several cases aforesaid shall be determined, in case of difference, by arbitration, in the manner provided by the Railways Clauses Consolidation Act, 1845, or the Railways Clauses Consolidation Act (Scotland), 1845, as the case may require, and for that purpose all the clauses of the said Railways Clauses Consolidation Acts, with respect to the settlements of disputes by arbitration shall be deemed to be incorporated by this Act: Provided always, that no such railway company shall be liable to make any compensation in respect of damage alleged to have been sustained by reason of the abandonment of the railway or part of the railway, or the non-completion of any contract of such company in any of the cases aforesaid, unless the claim for such compensation shall have been made within six months after the publication in the "Gazette" of the notice of the warrant for such abandonment as hereinbefore provided.

Company to be still liable for damage occasioned by their entry on lands for taking levels, &c. pursuant to 8 & 9 Vict. c. 18, or 8 & 9 Vict. c. 19.

26. Provided also, That the authority so as aforesaid given for abandoning the making of any such railway or part of a railway shall not prejudice or affect the right of the owner or occupier of any lands to receive from such company compensation for any damage that may have been occasioned by the entry of such company upon such lands, for the purpose of surveying and taking levels, and of probing or boring to ascertain the nature of the soil, or of setting out the line of the railway, pursuant to the provisions for that purpose in the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland), 1845, contained.

27. That all the lands acquired by such company for the purposes of the railway or part of railway so authorised to be abandoned shall be sold by such company within the time limited or prescribed for that purpose in the warrant authorising the abandonment of such railway, and if no time be therein prescribed for that purpose, then within two years from the date of such warrant, in the manner prescribed by the said Lands Clauses Consolidation Acts with respect to the sale of superfluous lands; and for that purpose all the clauses of the said last-mentioned Acts with respect to the lands acquired by the promoters of the undertaking under the provisions of their special Act, but which are not required for the purposes thereof, shall be deemed to be incorporated with this Act: Provided always, that the offer to be made by the railway company pursuant to the said Acts to sell such lands to the person entitled to the lands from which the same were severed shall be made at a price or sum not greater than the price or sum at which such lands were purchased by such company.

13 & 14 Vict. c. 83.

Lands purchased by the railway company to be sold within a limited time.

28. That when the said commissioners of railways, by any such warrant as aforesaid, authorise the abandonment of a part only of the railway of any railway company, they may, if they think fit, require that the capital authorised to be raised by such company in respect of such railway shall be reduced to such extent and in such manner as the said commissioners think fit, and so that such reduction do not bear a greater proportion to the whole capital so authorised to be raised than the cost of the part of the railway so authorised to be abandoned would have borne to the cost of the whole railway; and they may also, if they think fit, in like manner reduce the amount which such company are authorised to borrow on mortgage or bond, and every such reduction shall be expressed in the said warrant; and in every such case the capital of such company, and their power of borrowing money, shall be reduced and limited in conformity with the directions for that purpose contained in such warrant; and such company shall have all the same powers for enforcing the payment of calls in respect of the shares in the capital when reduced in the manner required by the said commissioners, and for enforcing the forfeiture of any such shares in default of payment of such calls, as such company would have had in respect of the original capital of such company if this Act had not been passed: Provided always, that nothing herein contained shall authorise the said company to reduce or interfere with any amount of capital paid up or called for before the 11th day of February, 1850, and entitled to any preferential or guaranteed dividend or interest.

Where part of a railway is authorized to be abandoned, the commissioners may require the capital to be reduced.

29. That after the granting of any such warrant as aforesaid for the abandonment of the whole railway of any railway company the powers of such company for the construction, maintenance, and management of such railway shall cease, and such company shall continue to exist only for the purpose of winding up their affairs, and they shall accordingly, subject to the provisions herein contained with respect to the sale of lands acquired by such company for the purposes of their railway, proceed with all convenient speed to collect and to convert into money all their property and effects, and shall in the first place pay and satisfy all their debts and liabilities, and after full payment and satisfaction thereof shall distribute the surplus funds among the shareholders of the company in proportion to their shares and interests therein, and for the purposes aforesaid all the powers of such company shall continue in full force and effect; and when and so soon as the same shall have been fully accomplished such company shall be dissolved, and cease to exist.

After warrant for abandonment of the whole railway the powers of the company are to cease, except for winding up.

30. That, notwithstanding the provision in the Joint Stock Companies Winding-up Amendment Act, 1849, excepting railway companies incorporated by Act of parliament from the application of the Joint Stock Companies Winding-up Act, 1848, the said two several Acts shall nevertheless apply to any railway company incorporated by Act of parliament in respect of which an order may have been made by the certificate for winding up the affairs of such company previous to the passing of the said Joint Stock Companies Winding-up Amendment Act, 1849, and the proceedings for winding up the same shall proceed and be carried on under the said Joint Stock Companies Winding-up Act, 1848, and the said Joint Stock Companies Winding-up Amendment Act, 1849, or either of them.

Provisions of 11 & 12 Vict. c. 45, and 12 & 13 Vict. c. 108, to apply to cases where order of winding-up was made prior to passing of said Acts.

31. That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in England or Ireland, any shareholder of such company may present a petition under the Joint Stock Companies Winding-up Act, 1848, or any Act for the amendment of such Act, for the winding up of the affairs of such company under the said Act, and for that purpose the railway company whose railway is so authorised to be abandoned shall, if the court shall think fit so to order, (notwithstanding anything to the contrary thereof in the said Joint Stock Companies Winding-up Act, or in the Joint Stock Companies Winding-up Amendment Act, 1849,) be deemed to be a company to which the said Act applies.

When warrant has been granted for abandoning the whole railway, shareholders may petition for winding-up under the 11 & 12 Vict. c. 45, notwithstanding anything in 12 & 13 Vict. c. 108.

32. That where any such warrant as aforesaid shall have been granted for the abandonment of the whole railway of any railway company in Scotland, any shareholder of such company may present a petition to the court of session, praying the said court to sequestrate such company, and it shall thereupon be lawful for the said court to issue a deliverance awarding sequestration of such company, and to appoint a factor, who shall take possession of and recover the estate of such company, and realise and manage the same, for the purpose of this Act, and for winding up and distributing the same with

Court of session, upon petition, may sequestrate any railway company for the abandonment of

13 & 14 Vict. c. 83.

due regard to the rights and interests of the creditors and shareholders, and of all others concerned therein.

which a warrant has been granted

Court of session to establish rules for adjustment of claims.

33. That it shall be competent to the said court to establish, by Acts of sederunt to be passed by them, all such rules and regulations as may be necessary in relation to the summary statement, discussion, and adjudication of all claims at the instance of creditors, shareholders, and other parties against such company, and by such rules and regulations to apply, as far as may be practicable and expedient, towards the purposes of this Act, the provisions of an Act passed in the session of parliament holden in the second and third years of the reign of her present majesty, intituled "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland;" and it shall be competent to the said court so also to establish all such other rules and regulations as may be necessary for carrying fully into effect the purposes of this Act.

2 & 3 Vict. c. 41.

In case of petition for winding-up, landowners are to be deemed creditors in respect of the compensation given by this Act

34. That in the event of the affairs of any such company being wound up under any such petition, the compensation hereinbefore directed to be given to the owners and occupiers of lands and others in respect of the damage sustained by them by reason of such abandonment in the cases hereinbefore mentioned, or by reason of the non-completion of any such contract as aforesaid, or otherwise, shall be deemed a demand claimed from, and when ascertained in the manner provided by this Act a debt due from, such company, and the party by whom such compensation is claimed shall be deemed a "creditor," in England or Ireland, within the provisions of the said Joint Stock Companies Winding-up Act, or, in Scotland, within the provisions of the said recited Act of the second and third years of the reign of her present majesty; and in case any lands purchased by such railway company shall be sold by the official manager under the said Act, they shall be sold in the manner and subject to the provisions contained in this Act.

Act not to affect actions or suits commenced before 11th Feb. 1850.

35. Provided always, that this Act, or any proceeding thereunder, shall not prejudice or affect any action or suit or other proceeding at law or in equity commenced before the 11th day of February, 1850, or any action or suit brought in connexion with and during the dependence of and involving the same matter with such action or suit, nor any action, suit, or other proceeding against a company which shall not have obtained a warrant authorising the abandonment of the railway or part of a railway in respect of which such action, suit, or other proceeding shall be instituted, unless such company shall, within three days after notice for that purpose from the party suing them, give such party notice of their intention to apply for such warrant, and shall obtain the same, and serve notice thereof on such party within three calendar months thereafter, but all such actions and suits and other proceedings shall be proceeded with, and judgments recovered, and rules, orders, and decrees made therein shall be enforced, as if this Act had not been passed, save only that the same, after notice given by the company of their intention to abandon as aforesaid, shall be suspended for three calendar months, if the warrant be refused, or be not obtained within that time.

Nothing herein to authorise abandonment of any railway agreed to be constructed, without consent

36. Provided always, That nothing in this Act contained shall extend or be construed to extend to authorise the abandonment by any company of any railway or portion of a railway, or other works, which such company has agreed under its corporate seal to make and construct, according to any agreement entered into either with any individual or with any other company, unless such individual or company shall consent in writing to such abandonment.

Commissioners to report to parliament where abandonment authorized by them

37. That in each case in which the said commissioners authorise the abandonment of the whole or a portion of a railway, they shall, within ten days after issuing their warrant for that purpose, if parliament be then sitting, or if not, then as soon thereafter as parliament meets, lay before both houses of parliament a copy of every such warrant, accompanied by such report and observations as shall in the judgment of such commissioners set forth and explain the reasons for their award and warrant in every such case as aforesaid.

Interpretation of terms.

38. That the following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number:

Words importing the masculine gender shall extend to females:

The word "person" shall include body corporate:

The word "lands" shall include messuages, tenements, and hereditaments:

The word "railway" shall include all works, buildings, and undertakings authorised to be constructed or carried on in connexion with the railway or belonging thereto:

The word "shares" shall include stock.

The word "month" shall mean calendar month.

Short title.

39. That in citing this Act in other Acts of parliament, and in legal and other instruments and proceedings, it shall be sufficient to use the expression "The Abandonment of Railways Act, 1850."

Act may be amended, &c.

40. That this Act may be amended or repealed by an Act to be passed in the present session of parliament.

SCHEDULE REFERRED TO BY THE FOREGOING ACT 13 & 14 Vict. c 83

(1) Name of Railway	(1) Name of Shareholder	(1) No and amount of Shares or Stock held by him.	(2) Whether assenting or dissenting

(1) The secretary will insert these particulars
(2) In this column the shareholder will write the word "assenting" or "dissenting," as the case may be, and sign his name thereunder

14 & 15 Vict c 64. An Act to repeal the Act for constituting Commissioners of Railways [7th August, 1851] 14 & 15 Vict c 64.

"Whereas an Act was passed in the session holden in the ninth and tenth years of her majesty (chapter 105), for constituting commissioners of railways And whereas it is expedient that the said Act should be repealed, and provision be made for the exercise and performance of the powers and duties which since the passing of the said Act have been vested in or imposed on the said commissioners BE IT ENACTED, as follows 9 & 10 Vict c 105

1 From and after the 10th of October, 1851, the said Act shall be repealed, and all powers, rights, authorities, and duties vested in or exercised or performed by the commissioners of railways under any Act passed since the passing of the said recited Act, or which may be passed during the present session of parliament, shall be transferred to and vested in and performed by the lords of the committee of her majesty's privy council for trade and foreign plantations as if they had been named in such Acts instead of the said commissioners, and all proceedings pending before the said commissioners on the said tenth of October or carried on under their authority, shall be continued and carried on by and before the lords of the said committee, who shall have, exercise, and perform the same powers, rights, authorities, and duties in respect of all such proceedings as might have been exercised or performed by such commissioners in case this Act had not been passed Recited Act repealed, and powers &c of commissioners of railways under subsequent Acts transferred to board of trade

2 It shall be lawful for the lords of the said committee, with the approval of the commissioners of her majesty's treasury, to continue, for the transaction of the business transferred to the lords of the said committee under this Act, all or any of the officers and servants appointed by the said commissioners of railways, and from time to time, with such approvals, to remove such officers and servants, or any of them Power to continue officers appointed by commissioners of railways.

3 Where by any Act relating to railways or to any railway the commissioners of railways or the lords of the said committee are empowered or required to make or issue any appointment, authority, determination, order, requisition, regulation, certificate, or notice, or to do any other act, the lords of the said committee may, after the said tenth of October, signify such appointment, authority, determination, order, requisition, regulation, certificate, notice, or other act by a written or printed document, signed by one of the joint secretaries of the lords of the said committee, or by some assistant secretary, or other officer appointed by them to sign documents relating to railways, and every appointment, authority, determination, order, requisition regulation certificate, notice, or other act signified by a written or printed document purporting to be so signed as aforesaid, shall be deemed to have been duly made, issued, or done by the lords of the said committee, and every such document shall be received in evidence in all courts and before all justices and others, without proof of the authority or signature of such secretary or other officer, or other proof whatsoever, until it be shown that such document was not signed by the authority of the lords of the said committee Appointments or orders, &c of the board of trade how to be signified

RAILWAY AND CANAL TRAFFIC ACT.

17 & 18 Vict c 31. An Act for the better Regulation of the Traffic on Railways and Canals [10th July, 1854] 17 & 18 Vict. c. 31

"Whereas it is expedient to make better provision for regulating the traffic on railways and canals" BE IT ENACTED as follows

1 In the construction of this Act "the board of trade shall mean the lords of the committee of her majesty's privy council for trade and foreign plantations "Board of trade"

The word "traffic shall include not only passengers, and their luggage, and goods, animals and other things conveyed by any railway company or canal company, or railway and canal company, but also carriages, waggons, trucks, boats, and vehicles "Traffic"

17 & 18 Vict. c. 31.

of every description adapted for running or passing on the railway or canal of any such company:

"Railway:" The word "railway" shall include every station of or belonging to such railway used for the purposes of public traffic; and,

"Canal:" The word "canal" shall include any navigation whereon tolls are levied by authority of parliament, and also the wharves and landing-places of and belonging to such canal or navigation, and used for the purposes of public traffic:

"Company:" The expression "railway company," "canal company," or "railway and canal company," shall include any person being the owner or lessee of or any contractor working any railway or canal or navigation constructed or carried on under the powers of any Act of parliament:

Stations. A station, terminus, or wharf shall be deemed to be near another station, terminus, or wharf when the distance between such stations, termini, or wharves shall not exceed one mile, such stations not being situate within five miles from St. Paul's church in London.

Duty of railway companies to make arrangements for receiving and forwarding traffic, without unreasonable delay, and without partiality (a).

2. Every railway company, canal company, and railway and canal company, shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles, and no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway or canal or railway and canal communication, or which have the terminus, station, or wharf

---

(a) This section was designed to afford a remedy against an undue preference or undue prejudice to a particular individual or class in respect of the traffic on the railway or canal, and was not intended to apply to the case of a breach or neglect by the company of a public duty, which was already susceptible of redress by mandamus or by indictment (*Bennett* v. *Manchester, Sheffield, &c. R. C.*, 6 C. B. N. S. 707).

A carrier of passengers and goods to the station of a railway company cannot maintain an action against the company, either at common law or under this section, for refusing to admit him with his carriage within the precincts of the station, although the company are in the habit of admitting the public generally (*Barker* v. *The Midland R. C.*, 25 L. J. C. P. 184, 18 C. B. 46; see *In re Marriott* v. *The London and South-Western R. C.*, infra).

A railway company having made an arrangement with W. for the conveyance of passengers to and from their station, admitted his omnibus within the gates of the station, but refused such admittance to the omnibus of M.; no special circumstances being shown by the company, the court made absolute a rule enjoining them to admit M.'s omnibus in the same manner and to the same extent as they admitted other vehicles of a similar description (*In re Marriott* v. *The London and South-Western R. C.*, 26 L. J. C. P. 154, 1 C. B. N. S. 499). But where a railway company admitted the cabs of one proprietor only to stand and ply at their station, the court refused to interfere, as it was not shown that the public suffered any inconvenience (*In re Beadell* v. *The Eastern Counties R. C.*, 2 C. B. N. S. 509, 26 L. J. C. P. 250; *Ex parte Painter*, 2 C. B. N. S. 702).

A railway company has no right to close their offices, and refuse to receive goods which are tendered to them with the proper amount for carriage, while at the same time they continue to receive goods, prepared, assorted, and packed in the same manner, from a particular individual (*Garton* v. *The Bristol, &c. R. C.*, 1 B. & S. 112, post; see *Baxendale* v. *The Bristol and Exeter R. C.*, 12 C. B. N. S. 787).

In judging what is reasonable accommodation, the court will consider the general traffic of the railway, and the accommodation which such traffic requires (*Barrett* v. *The Great Northern and the Midland R. Cos.*, 1 C. B. 423, 26 L. J. C. P. 83). So, in determining whether any undue or unreasonable preference, &c., has taken place, it will take into account the fair interests of the railway; and entertain such questions as whether the carrying of larger quantities, or for longer distances, at lower rates, may not produce equal profits (*Ransome* v. *The Eastern Counties R. C.*, 26 L. J. C. P. 90, 1 C. B. N. S. 437; *Oxlade* v. *The North Eastern R. C.*, *ib.* 129, 1 C. B. N. S. 455; *In re Cooper*, 27 L. J. C. P. 324).

The North-Eastern Railway Company, from a desire to introduce the northern coke into Staffordshire, were induced to make special agreements with different merchants for the carriage of coal and coke at a rate lower than their ordinary charge; it was held, that this was not a legitimate ground for making such agreements, and that lowering their rates for that purpose, there being nothing to show that the pecuniary interests of the company were affected, was giving an undue preference to that traffic (*Oxlade* v. *The North-Eastern R. C.*, 1 C. B. N. S. 455; see also *In re Caterham R. C.* v. *The London and*

of the one near the terminus, station, or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such 17 & 18 Vict. c. 31.

Brighton R. C., 26 L. J. C. P. 161, 1 C. B. N. S. 410).

A preference may be undue though it is not partial, as where a company carries at a lower rate for a proprietor who threatens to construct a competing railway (*Harris* v. *The Cockermouth R. C.*, 3 C. B. N. S. 693, 27 L. J. C. P. 162).

A company made a scale of charges for the carriage of coals from Peterborough and Ipswich respectively to various places, the effect of which was to diminish the natural advantages which the Ipswich dealers possessed over those of Peterborough, from their greater proximity to those places, by annihilating (in point of expense of carriage) in favour of the latter a certain portion of the distance between Peterborough and those places: this was held an undue preference of the Peterborough dealers over those of Ipswich (*Ransome* v. *Eastern Counties R. C.*, 4 C. B. N. S. 135, 284, 8 C. B. N. S. 709, 27 L. J. C. P. 166).

It is competent to a railway company to enter into special agreements, whereby advantages may be secured to individuals in the carriage of goods upon the railway where it is made clearly to appear, that in entering into such agreements, the company have only the interests of the proprietors and the legitimate increase of the profits of the railway in view, and the consideration given to the company in return for the advantages afforded by them be adequate, and the company are willing to afford the same facilities to all others upon the same terms (*Nicholson* v. *Great Western R. C.*, 5 C. B. N. S. 366, 28 L. J. C. P. 89).

It is not giving an undue preference by a railway company carrying at a lower rate, in consideration of a guarantee of large quantities and full train loads at regular periods, provided the real object of the company be to obtain thereby a greater remunerative profit by the diminished cost of carriage, although the effect may be to exclude from the lower rate those persons who cannot give such a guarantee (*Ib.*). Where a preference was given by a railway company to a customer who engaged to employ other lines of the company for traffic, distinct from and unconnected with that in respect of which such preference was given: it was held, that this was an undue preference (*Baxendale* v. *Great Western R. C.*, 5 C. B. N. S. 309, 28 L. J. C. P. 69).

A railway company formerly charged a uniform rate of 8*s.* 6*d.* per ton on all goods conveyed on their line between R. and P. The goods were collected and delivered both by the company and B. at a charge of 4*s.* 10*d.* per ton. The company, who had power under their Acts to impose their own rates of charge for carrying, but no power to impose tolls for collecting and delivering, raised the charge for carrying to 8*s.* 4*d.*, being the aggregate of the above two charges, with an intimation to the public that they would collect and deliver goods free from all charge. The real purpose of this arrangement was to compel persons delivering to have their goods conveyed by the railway, to employ the company to collect and deliver such goods, and thus to secure this business and the profits upon it to the company, as well as to exclude B. from competing with them in this department of business: this arrangement was held to be an undue preference to the company in their separate capacity of carriers, other than on the line of railway: and also an undue prejudice to B. (*Baxendale* v. *Great Western R. C.*, 5 C. B. N. S. 336, 28 L. J. C. P. 81).

A railway company had been in the habit of carrying goods between the termini of their line, according to a tariff of rates, from which they made deductions to persons who brought or took away their goods to or from the termini up to a certain day, when they put a stop to these deductions, with a view to exclude other carriers from competing with them as carriers: it was held an undue prejudice to all such customers as did not desire to have their goods collected and delivered for them (*Garton* v. *Great Western R. C.*, 5 C. B. N. S. 669, 28 L. J. C. P. 158).

And if a company charge to A. the same amount for transporting his goods from station to station as they charge to the rest of the public for so transporting their goods, plus the collecting and delivering of such goods; this is an undue prejudice to A. (*Garton* v. *Bristol and Exeter R. C.*, 6 C. B. 639, 28 L. J. C. P. 306).

If a company, at a certain hour previous to the starting of a certain train, shut their station, and refuse afterwards to admit the goods of A., intended for that train, but admit, at a later hour, goods brought by B., an agent of theirs, who keeps a receiving-house for goods going by a railway, and who forwards them by that train, on a higher rate being paid him by consignors; this is an undue preference over A. (*Ib.*). So if a company secretly engage with certain persons in the town of D., on their line, to convey certain descriptions of goods to and from D., for them, at lower rates than they carry for A. the same description of goods, it not being shown that this arrangement was resorted to *bonâ fide* in order to meet competition, or that it obtained for the company such an increase of traffic as fairly compensated for the reduced rate of charge on those persons, this is an undue preference over A. (*Ib.*).

A railway company permitted a carrier (who also acted as superintendent of their goods

17 & 18 Vict c 31

railways or canals by the other, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may, by means of the railways and canals of the several companies, be at all times afforded to the public in that behalf

Parties complaining that reasonable facilities for forwarding traffic &c are withheld may apply by motion or summons to the superior courts (a)

3 It shall be lawful for any company or person complaining against any such companies or company of anything done or of any omission made in violation or contravention of this Act, to apply in a summary way, by motion or summons, in England to her majesty s court of common pleas at Westminster, or in Ireland to any of her majesty s superior courts in Dublin, or in Scotland to the court of session in Scotland as the case may be, or to any judge of any such court, and, upon the certificate to her majesty s attorney general in England or Ireland, or her majesty s lord advocate in Scotland, of the board of trade, alleging any such violation or contravention of this Act by any such companies or company, it shall also be lawful for the said attorney general or lord advocate to apply in like manner to any such court or judge and in either of such cases it shall be lawful for such court or judge to hear and determine the matter of such complaint, and for that purpose, if such court or judge shall think fit to direct and prosecute in such mode and by such engineers, barristers, or other persons as they shall think proper, all such inquiries as may be deemed necessary to enable such court or judge to form a just judgment on the matter of such complaint and if it be made to appear to such court or judge on such hearing, or on the report of any such persons, that anything has been done or omission made in violation or contravention of this Act, by such company or companies, it shall be lawful for such court or judge to issue a writ of injunction or interdict, restraining such company or companies from further continuing such violation or contravention of this Act, and enjoining obedience to the same and in case of disobedience of any such writ of injunction or interdict it shall be lawful for such court or judge to order that a writ or writs of attachment (b), or any other process of such court incident or applicable to writs of injunction or interdict, shall issue against any one or more of the directors of any company, or against any owner, lessee, contractor,

---

traffic) to hold himself out as their agent for the receipt of goods to be carried on their line, and his office as the receiving office of the company, and goods were received by him at that place without requiring the senders to sign conditions which the company required all other carriers who brought goods to their stations to sign this was held an undue preference (*Baxendale, In re, and Bristol and Exeter Railway Company*, 11 C B N S 787)

A railway company, possessed of a line from B to C, advertised to convey goods from A to C (in conjunction with another company) at the rate of 50s per ton, provided they were consigned by and to their own agents at those respective places, but, if consigned to any one else, they charged 2s 6d per ton more it was held ground for an injunction under this Act And the rule was made absolute, with costs, although it prayed a writ enjoining the company to charge an equal rate for the carriage from A to C, and the writ was granted as from B to C only (*Re Baxendale and North Devon R C*, 3 C B N S 324)

Semble, that both companies ought to have been brought before the court by the rule (*Ib*)

The court refused to grant a rule for an injunction against a railway company, under this Act, to compel them to issue season tickets between Colchester and London on the same terms as they issued them between Harwich and London, upon a mere suggestion that the granting the latter (the distance being considerably greater) at a much lower rate than the former, was an undue and unreasonable preference of the inhabitants of Harwich over those of Colchester (*Re Jones and Eastern Counties R C*, 3 C B N S. 718, 27 L J C P 166). See further, *Baxendale v Eastern Counties R C*, 4 C B N S 63, *Cooper v South Western R C*, *ib* 738

To procure the interposition of the court under this section, a case of public inconvenience must be made out An individual grievance on the part of the applicant does not appear to be sufficient (*Barrett v The Great Northern and Midland R Cos*, 1 C B N S 423 26 L J C P 83, *Re Parnter v London, Brighton, and South Coast R C*, 2 C B N S 702, *In re Beadell v The Eastern Counties R C*, *ib* 509)

(a) Previously to an application for an injunction to a railway company, the complainant ought to make a full representation of the grievance of which he seeks redress to the company, and in general it is only on the failure of such application that he is to come to the court (*Cooper v London and South-Western R. C*, 4 Jur N S C P 762)

(b) An attachment against directors of a railway company for non compliance with an injunction, under this section, will not issue where it appears that steps have been taken by the company with a view fairly and honestly to carry into effect the injunction, and where apparent departures from the spirit of the order are explained to the satisfaction of the court (*Ransome v Eastern Counties R C*, 4 C B N S 159)

or other person failing to obey such writ of injunction or interdict; and such court or judge may also, if they or he shall think fit, make an order directing the payment by any one or more of such companies of such sum of money as such court or judge shall determine, not exceeding for each company the sum of two hundred pounds for every day, after a day to be named in the order, that such company or companies shall fail to obey such injunction or interdict; and such moneys shall be payable as the court or judge may direct, either to the party complaining, or into court to abide the ultimate decision of the court, or to her majesty, and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by decree or judgment in any superior court at Westminster or Dublin, in England or Ireland, and in Scotland by such diligence as is competent on an extracted decree of the court of session; and in any such proceeding as aforesaid, such court or judge may order and determine that all or any costs (*a*) thereof or thereon incurred shall and may be paid by or to the one party or the other, as such court or judge shall think fit; and it shall be lawful for any such engineer, barrister, or other person, if directed so to do by such court or judge, to receive evidence on oath relating to the matter of any such inquiry, and to administer such oath. 17 & 18 Vict. c. 31.

4. It shall be lawful for the said court of common pleas at Westminster, or any three of the judges thereof, of whom the chief justice shall be one, and it shall be lawful for the said courts in Dublin or any nine of the judges thereof, of whom the lord chancellor, the master of the rolls, the lords chief justice of the queen's bench and common pleas, and the lord chief baron of the exchequer, shall be five, from time to time to make all such general rules and orders as to the forms of proceedings and process, and all other matters and things touching the practice and otherwise in carrying this Act into execu- Judges may make such regulations as may be necessary for proceedings under this Act (*b*).

(*a*) If costs are not asked by the rule *nisi* they will not be given, unless there are special circumstances (*In re Marriott* v. *London and South-Western R. C.*, 1 C. B. N. S. 512).

(*b*) In pursuance of the power given by this section the following rules were made by the judges on the 31st January, 1855: 1. Every application made under this Act to the court shall be for a rule calling upon the company or companies complained of to show cause why a writ of injunction should not issue against such company or companies, enjoining them to do, or desist from doing, the thing required to be done, or the thing the doing of which is complained of by the company or persons making such application, and every application made under this Act to a judge at chambers shall be by summons calling upon the company or companies complained of to show cause in like manner, which summons shall be granted only upon affidavit, and upon a statement made to the judge in like manner as upon an application to the court for a rule to show cause.

2. If on the hearing of any such rule or summons, the court or judge shall think fit to direct and prosecute inquiries into the matter thereof, under the 3rd section of this Act, the order for that purpose shall be in the following terms, or to the like effect; the rule or summons being enlarged until such further day as the court or judge shall think fit, in order that in the meantime such inquiries may be made and reported on:

In the Common Pleas:

In the matter of the complaint of A. B. (or of the company) against the company. It is ordered that C. D. Esq., engineer (*or as the case may be*), do forthwith make such inquiries into the matter of this complaint as may be necessary to enable the court (or the Honourable Mr. Justice) to determine the same, and do report thereon to the court (or to the said Mr. Justice) on or before the day of next.

Dated this day of 185 .

3. Office copies of all the affidavits filed by either party on the hearing of such rule or summons shall, at the expense of such party, be furnished to the person appointed to make such inquiries within three days after the making of such order as aforesaid.

4. The parties shall be entitled to be again heard by the judge upon the said report; but no fresh affidavits shall be allowed on such hearing unless by leave of the court or a judge.

5. Every writ of injunction issued under this Act shall be in the following form, or to the like effect:—

Victoria, &c. To the company, their agents and servants, and every of them greeting:

Whereas A. B. (or the company) hath lately complained before us in our Court of Common Pleas at Westminster of a violation and contravention by you, the said company, of the Railway and Canal Traffic Act, 1854; that is to say, in (*state the act or omission complained of*): And whereas upon the hearing of such complaints the same hath been found to be true; We do therefore strictly enjoin and command you the said company, and your agents and servants, and every one of you, that you and every one of you do from henceforth altogether absolutely desist from (*state the matter for the injunction where an act done is complained of*) or that you and every one of you forthwith do (*state the matter for the injunction where an omission is complained of*) until our said court shall make order to the contrary.

17 & 18 Vict c 31.

tion before such courts and judges, as they may think fit, in England or Ireland, and in Scotland it shall be lawful for the court of session to make such acts of sederunt for the like purpose as they shall think fit.

Court or judge may order a rehearing.

5. Upon the application of any party aggrieved by the order made upon any such motion or summons as aforesaid, it shall be lawful for the court or judge by whom such order was made to direct, if they think fit so to do, such motion or application on summons to be reheard before such court or judge, and upon such rehearing to rescind or vary such order.

Mode of proceeding under this Act.

6. No proceeding shall be taken for any violation or contravention of the above enactment, except in the manner herein provided; but nothing herein contained shall take away or diminish any rights, remedies, or privileges of any person or company against any railway or canal or railway and canal company under the existing law (*a*).

Company to be liable for neglect or default in the carriage of goods, notwithstanding notice to the contrary.

7. Every such company as aforesaid shall be liable for the loss of or for any injury done to any horses, cattle, or other animals (*b*), or to any articles; goods, or things, in the receiving (*c*), forwarding, or delivering thereof, occasioned by the neglect (*d*) or default of such company or its servants, notwithstanding any notice, condition, or declaration made and given by such company contrary thereto, or in anywise limiting such liability; every such notice, condition, or declaration being hereby declared to be null and void: Provided always, that nothing herein contained shall be construed to prevent the said companies from making such conditions with respect to the receiving, forwarding, and delivering of any of the said animals, articles, goods, or things, as shall be adjudged by the court or judge before whom any question relating thereto shall be tried, to be just and reasonable (*e*): Provided always, that no greater damages shall be recovered for the

Company

Witness, Sir John Jervis, Knight, at Westminster, the day in the year of our Lord .

6. If the court or judge shall think fit also to make an order, directing the payment of a sum of money by the company or companies complained of, such order shall be in the following form, or to the like effect:

In the Common Pleas:

In the matter of the complaint of against the company, it is ordered that the said company do pay to the said (or into court to abide the ultimate decision of the court in the matter of the said complaint, or to the use of her Majesty) the sum of £ for every day after the day of instant, that the said company shall fail to obey a certain writ of injunction dated this day, and issued against the said company at the instance of the said

Dated this day of 185 .

7. If such money be ordered to be paid into court, to abide the ultimate decision of the court, the same shall, upon the ultimate decision of the court being made, be paid out of court either to the party complaining, or to the use of her Majesty, or to the company by which the same was paid into court, as the court or judges shall direct.

JOHN JERVIS.
W. H. MAULE.
C. CRESSWELL.
E. V. WILLIAMS.
R. B. CROWDER.

January 31, 1855.

(*a*) This statute does not take away the jurisdiction of the Court of Chancery, or of the Attorney-General (*Attorney-General* v. *Great Northern R. C.*, 1 Drew. & S. 154).

(*b*) A dog (although not specifically mentioned in the proviso as to the limit of compensation) is within this section (*Harrison* v. *London, Brighton, and South Coast Railway*, 31 L. J. Q. B. 113, 2 Best & S. 122).

(*c*) A deposit at the cloak room of a railway station belonging to the company does not render the company liable as carriers (*Van Toll* v. *South Eastern R. C.*, 31 L. J. C. P. 241).

(*d*) See *Harrison* v. *London, Brighton, &c. R. C.*, supra.

(*e*) This clause was introduced in consequence of the decisions in which it has been held that railway companies might limit their liability as to goods or animals, even in cases of gross negligence (*Carr* v. *Lancashire and Yorkshire R. C.*, 7 Exch. 707; *Austin* v. *Manchester, &c. R. C.*, 16 Q. B. 600; *Chippendale* v. *Lancashire and Yorkshire R. C.*, 21 L. J. Q. B. 22; *Great Northern R. C.* v. *Morville*, 21 L. J. Q. B. 318).

The true construction of this section and the result of its provisions is: that the company may make special contracts with their customers, provided they are just and reasonable, and signed; and whereas the monopoly created by railways compels the public to employ them in the conveyance of their goods, the legislature have thought fit to impose the further security that the courts shall see that the condition or special contract is just and reasonable (per cur. *M'Manus* v. *The Lancashire and Yorkshire R. C.*, 4 Hurl. & N. 349).

A general condition that the goods are carried entirely at the owner's risk is unreasonable and void (*Ib.*, *M'Chance* v. *London and North-Western R. C.*, 31 L. J. Ex. 65, 7 H. & Nor. 477). So where a railway ticket, for the conveyance of live stock, stated it to be "issued subject to the owner's undertaking all risk of conveyance, loading and unloading whatsoever, as the company will not be responsible for any injury or damage (howsoever caused) occurring to live stock, of any description, travelling upon the railway or in

loss of or for any injury done to any of such animals, beyond the sums hereinafter mentioned: (that is to say,) for any horse fifty pounds; for any neat cattle, per head, fifteen pounds; for any sheep or pigs, per head, two pounds; unless the person sending or delivering the same to such company shall, at the time of such delivery, have declared them to be respectively of higher value than as above mentioned; in which case it shall be lawful for such company to demand and receive by way of compensation for the increased risk and care thereby occasioned a reasonable per centage upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge; and such per centage or increased rate of charge shall be notified in the manner prescribed in the statute eleventh George fourth and first William fourth, chapter sixty-eight, and shall be binding upon such company in the manner therein mentioned: Provided also, that the proof of the value

17 & 18 Vict c. 31.

not to be liable beyond a limited amount in certain cases, unless the value declared and extra payment made.

---

their vehicles." This was held, on error reversing the decision below (2 Hurl. & N. 693), an unreasonable condition within this Act (Erle, C.J. dis.), as it professed to protect the defendants from responsibility for all loss, though occasioned by their own negligence or misconduct, and was void (*M'Manus* v. *The Lancashire and Yorkshire R. C.*, 4 Hurl. & N. 327; see *McChance* v. *The London and North-Western R. C.*, 7 H. & N. 477).

A condition that a company shall not be liable for the loss, detention, or damage of any package insufficiently packed has been held to be unreasonable (*Garton* v. *Bristol, &c., R. C.*, 1 E. B. & S. 112; *Simons* v. *The Great Western R. C.*, 26 L. J. C. P. 25, 18 C. B. 805). But a condition that they should not be responsible for loss or damage, from any cause whatsoever, to goods conveyed at a special or mileage rate has been held reasonable (*Ib.* See *Wise* v. *The Great Western R. C.*, 25 L. J. Exch. 258, 1 H. & N. 63; see *McChance* v. *The London and North-Western R. C.*, supra). A condition that the company should be held free from all risk or responsibility in respect of any loss or damage to cattle arising in the loading or unloading, from suffocation, or from being trampled on, bruised, or otherwise injured in transit, from fire, or from any other cause whatsoever, was held to be a reasonable condition protecting the company from responsibility for the loss of cattle by suffocation during the journey occasioned by the negligence of the company's servants (*Pardington* v. *The South Wales R. C.*, 1 Hurl. & N. 392, 26 L. J. Exch. 105, 1 Hurl. & N. 392 See also *White* v. *The Great Western R. C.*, 2 C. B. N. S. 7, 26 L. J. C. P. 158. But see *M'Manus* v. *The Lancashire and Yorkshire R. C.*, supra).

Where the plaintiff delivered to the defendants a dog to be carried, and signed a ticket containing the following terms: "Received the annexed ticket subject to the following conditions. The company will not be liable in any case for loss or damage to any horse or other animal above the value of 40*l.*, or any dog above the value of 5*l.*, unless a declaration of its value, signed by the owner or his agent at the time of booking, shall have been given to them; and by such declaration the owner shall be bound, the company not being in any event liable to any greater amount than the value declared. The company will in no case be liable for injury to any horse or other animal, or dog, of whatever value, where such injury arises wholly or partially from fear or restiveness. If the declared value of any horse or other animal exceed 40*l.*, or any dog 5*l.*, the price of conveyance will, in addition to the regular fare, be after the rate of 2*l.* 10*s.* per cent. upon the declared value above 40*l.*, whatever may be the amount of such value, and for whatever distance the animal is to be carried." The value of the dog was 21*l.*, but the plaintiff made no declaration of its value, and paid only the regular fare, 3*s.* The dog escaped from the train during the journey, without any neglect or default on the part of the company. The plaintiff having sued the company for the loss, it was held, in the Court of Exchequer Chamber (dissentiente Wilde, B.), reversing the judgment below, that the plaintiff was not entitled to recover, Erle, C.J., and Keating, J., being of opinion that this section was confined in its application to cases where the loss or injury was occasioned by the neglect or default of the company, and had no bearing on a case such as this, where the loss arose from pure accident, and that the company were exempt from liability by the terms of their contract. And it was held, further, by Erle, C.J., Williams, J., Channell, B., and Keating, J., that, assuming that the statute applied to this case, the conditions in the ticket were reasonable and just, and that they were not to be construed as meaning to exempt, or as having the effect of exempting the company from liability for loss or injury occasioned by wilful misconduct on their part.—Per Erle, C.J. It is for a jury, not for the judge, to say whether the per centage charged on the extra value declared in respect of any animal is reasonable (*Harrison* v. *The London, Brighton and South Coast R. C.*, 31 L. J. Q. B. 113, 2 Best & S. 122).

A condition that a company will not be liable for damage, unless made within three days of delivery, is unreasonable (*Garton* v. *Bristol, &c. R. C.*, 1 Best & S. 112).

The plaintiff delivered to a railway company eighteen packages, to be carried on their line. He filled up and signed a receiving note, describing the goods as "furniture." On the paper, under the head "conditions," were these words:

17 & 18 Vict c 31. Proof of

of such animals, articles, goods, and things, and the amount of the injury done thereto, shall in all cases lie upon the person claiming compensation for such loss or injury:

"No claim for deficiency, damage, or detention will be allowed, unless made within three days after the delivery of the goods, nor for loss, unless made within seven days of the time they should have been delivered, and that the company will not be answerable for the loss or detention of any goods which may be untruly or incorrectly described in the receiving note." The plaintiff said "he was told to sign the paper, and did so. He might have seen the word 'conditions,' but he did not read them, and did not know and was not told what they were." One of the packages consisted of a sack of clothes, which was not delivered, but no claim was made until more than seven days from the time when the same should have been delivered: it was held, first, that there was nothing to rebut the presumption arising from the signature of the paper by the plaintiff, that he understood that the contract was subject to the conditions; and secondly, that the conditions were just and reasonable, and therefore that the company had a defence to an action on the ground that the claim was not made within seven days, and that the bag of clothes was misdescribed (*Lewis* v. *Great Western R. C.*, 5 H. & N. 867, 29 L. J. Ex. 425).

A condition that fish will only be conveyed by special agreement and by particular trains, and that the sender should sign certain conditions, as follows:—"That the company should not be responsible under any circumstances for loss of market or for other loss or injury arising from delay or detention of trains, exposure to weather, stowage, or from any cause whatever other than gross neglect or fraud;" and "that fish, under special conditions, would be conveyed by the 6·50 a.m. and the 8·55 a.m. trains, subject in all cases to the immediate convenience and arrangements of the company," are just and reasonable conditions (*Beal* v. *South Devon R. C.*, 5 H. & N. 875, 29 L. J. Ex. 441).

Where the plaintiff's agent having delivered some cases of marble to the defendants, a railway company, to be carried, was asked the terms on which they were to be conveyed, and was supplied with a copy of the conditions made by the defendants for the conveyance of goods, &c., by the fifth of which the defendants were not to be responsible for marbles, and certain other delicate articles, unless declared and insured according to their value. The agent then signed an order, "please to forward the marbles, not insured." The marbles were forwarded accordingly, and were damaged, without any wilful negligence of the defendants. In an action for this damage against the defendants, the defendants pleaded under this section:

First, that the marbles were delivered under a special contract, signed by the person delivering them (setting out the terms of the fifth condition);

Secondly, that the marbles were delivered, subject to a reasonable condition (setting out the fifth condition) made by the defendants, and assented to by the plaintiff.

The judge, at the trial, having ruled that the condition was reasonable, it was held, on error, reversing the judgment below, that the letter signed by the plaintiff's agent constituted a special contract sufficiently signed within this statute; and secondly (Williams, J., dis.), that whether the letter was looked at by the light of the Carriers' Act only or in connection with the other facts of the case, as it might be, or simply by itself, the terms of it showed that the defendants were to be free from risk, and consequently that the 4th plea was proved; and also that the defendants were entitled to a verdict on the plea traversing the bailment (*Peek* v. *North Staffordshire R. C.*, E. B. & E. 958, 29 L. J. Q. B. 98, 27 L. J. Q. B. 465).

A railway company acting as a common carrier is bound to carry such goods as are tendered to them for the purpose of being carried, together with the proper charge for such carriage; and the company cannot insist upon the sender signing such conditions as are unreasonable (*Garton* v. *Bristol R. C.*, 1 B & S. 112, 30 L. J. Q. B. 273).

A declaration against a railway company for damage to goods entrusted to them to carry, alleged that the goods were delivered to the company as common carriers, and that the company received them as such common carriers. Plea, that the goods were received by the company to be carried subject to a special contract, whereby the company was not to be answerable for any loss or damage, however caused. In support of the plea the company produced a paper, signed by the plaintiff, acknowledging that the goods were to be carried subject to certain conditions, one of which was, that the company was not to be responsible for any loss or damage, however caused. On the part of the plaintiff, it was proved, that, when asked by the clerk of the company, at the time the goods were delivered at the company's warehouse, to sign the paper, the plaintiff expressed his unwillingness to do so, inasmuch as he could not see to read it, whereupon the clerk said that it was of no consequence, and that the signature was a mere matter of form; and that the plaintiff, relying upon that assurance, signed the paper: it was held, that upon this evidence the jury were warranted in finding that the goods were not delivered to the company to be carried under the special contract (*Simons* v. *Great Western R. C.*, 2 C. B. N. S. 620).

Provided also, that no special contract, between such company and any other parties respecting the receiving, forwarding, or delivering of any animals, articles, goods, or things as aforesaid shall be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals, articles, goods, or things respectively for carriage: Provided also, that nothing herein contained shall alter or affect the rights, privileges, or liabilities of any such company under the said Act of the eleventh George fourth and first William fourth, chapter sixty-eight, with respect to articles of the descriptions mentioned in the said Act. 17 & 18 Vict. c. 31. Value to be on the person claiming compensation. No special contract to be binding unless signed. Saving of Carriers Act, 11 G. 4 & 1 W. 4, c. 68.

8. This Act may be cited for all purposes as "The Railway and Canal Traffic Act, 1854." Short title.

21 & 22 Vict. c. 75. An Act to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies being also Railway Companies. [2nd August, 1858.]

21 & 22 Vict. c. 75.

"Whereas by the Act passed in the session of parliament held in the seventh and eighth years of the reign of her present majesty, chapter eighty-five, section six, it is enacted, amongst other things, with respect to the cheap trains thereby required to be provided in certain cases, that the fare or charge for each third-class passenger by any such train shall not exceed one penny for each mile travelled: and whereas it is expedient to amend the said Act in manner hereinafter mentioned: and whereas it is also expedient to amend the Act passed in the ninth year of the reign of her present majesty, chapter forty-two, intituled 'An Act to enable Canal Companies to become Carriers of Goods upon their Canals,' by restraining as hereinafter mentioned the exercise of certain powers therein contained:" BE IT ENACTED as follows: 7 & 8 Vict. c. 85. 8 & 9 Vict. c. 42 (a)

1. When the distance travelled by any third-class passenger by any train run in compliance with the provisions relating to cheap trains contained in the said Act of the seventh and eighth of Victoria, chapter eighty-five, is a portion of a mile, and does not amount to one mile, the fare for such portion of a mile may be one penny, or when such distance amounts to one mile, or two or more miles, and a portion of another mile, the fare or charge for such portion of a mile, if the same amounts to or exceeds one half mile, may be one half-penny: Provided always, that for children of three years and upwards, but under twelve years of age, the fare or charge shall not exceed half the charge for an adult passenger. For fractions under one mile, one penny may be charged, and for fractions exceeding half a mile, where the distance amounts to one mile or more, one halfpenny may be charged.

2. After the passing of this Act, no fare heretofore charged to or received from any third-class passenger by any such train as aforesaid shall in any proceeding to be hereafter instituted be deemed to have exceeded the rate prescribed in such case by the said Act of the seventh and eighth of Victoria, chapter eighty-five, if the same shall not have exceeded the rate of one farthing for each entire quarter of a mile travelled. Rates heretofore charged not exceeding those allowed by this clause not to be deemed excessive.

3. Notwithstanding anything contained in the said recited Act of the ninth year of her majesty (a), it shall not be lawful for any canal or navigation company, being also a railway company, or entitled to work any railway constructed under the authority of any Act of parliament, hereafter to accept a lease of the whole or any part of the undertaking of any other railway and canal company or of any canal or navigation company, or of the tolls, dues, or charges upon or in respect of the whole or any part of any such undertaking, except under the powers of some Act or Acts heretofore passed or to be hereafter passed in which the parties to any such lease shall be specifically named and authorised to enter into the same. Canal companies, being also railway companies, not to take leases of canals unless specially authorised.

4. This Act shall continue in force for one year next after the passing thereof, and thence to the end of the then next session of parliament. Act to be in force for one year (b).

ARBITRATION.

22 & 23 Vict. c. 59. An Act to enable Railway Companies to settle their Differences with other Companies by Arbitration. [13th August, 1859.]

22 & 23 Vict. c. 59

"For the better providing for the settlement by arbitration of matters in which railway companies in the united kingdom are mutually interested," BE IT ENACTED as follows; (that is to say,)

1. This Act may for all purposes be cited as "Railway Companies Arbitration Act, 1859;" and the expression "railway companies" in this Act extends to and includes all persons being the owners or lessees of, and all contractors working any railway upon which steam power is used. Short title "Railway companies."

(a) See ante, Vol. I., p. 461, tit. "CANALS.

(b) Made perpetual by 23 & 24 Vict. c. 41.

22 & 23 Vict c 59

Power for railway companies to refer matters to arbitration

2 Any two or more railway companies, whether already or hereafter incorporated (in this Act called the companies), from time to time, by writing under their respective common seals, may agree to refer and may refer to arbitration, in accordance with this Act, any then existing or future differences, questions or other matters whatsoever in which they then are or thereafter shall be mutually interested, and which they might lawfully settle or dispose of by agreement between themselves, and may delegate to the person or persons to whom the reference is made any power to determine all or any of the terms of any contract to be made between the companies which the directors of the companies respectively might lawfully delegate to any committees of themselves respectively

Power to alter or revoke agreements for reference

3 The companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the companies, or any of the terms, conditions or stipulations thereof

Agreements to be carried into effect

4 Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the companies, and may and shall be carried into full effect.

Reference to a single arbitrator

5 Where the companies agree, the reference shall be made to a single arbitrator

Reference to two or more arbitrators

6 Except where the companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows , to wit,

Where there are two companies the reference shall be made to two arbitrators

Where there are three or more companies the reference shall be made to so many arbitrators as there are companies

Appointment of arbitrators by companies

7 Where there are to be two or more arbitrators, every company shall by writing under their common seal appoint one of the arbitrators, and shall give notice in writing thereof to the other company or companies

Appointment of arbitrators by board of trade

8 Where there are to be two or more arbitrators, if any of the companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the board of trade, instead of the company so failing to appoint an arbitrator, may appoint an arbitrator , and the arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the company so failing

Appointment of arbitrators by companies to supply vacancies

9 When the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place

Appointment of arbitrators by board of trade to supply vacancies

10 Where the company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit or failing to act, fail to make the appointment within fourteen days after being thereunto requested in writing by the other company, or by the other companies or any of them, then, on the application of the companies or any of them, the board of trade may appoint an arbitrator, and the arbitrator so appointed by the board of trade shall for the purposes of this Act be deemed to be appointed by the company so failing

Appointment of arbitrator not revocable

11 When any appointment of an arbitrator is made, the company making the appointment shall have no power to revoke the appointment without the previous consent in writing of the other company, or every other company in writing under their common seal

Appointment of umpire by arbitrators.

12 Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire

Appointment of umpire by board of trade

13 If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the companies or any of them the board of trade may appoint an umpire , and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators

Appointment of umpire by arbitrators to supply vacancy

14 Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place

Appointment of umpire by board of trade to supply vacancy

15 If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their umpire, then, on the application of the companies, or any of them, the board of trade may appoint an umpire , and the umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing

Succeeding

16 Every arbitrator appointed in the place of a preceding arbitrator, and every umpire

appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor. 22 & 23 Vict c. 59.

arbitrators and umpires to have powers of predecessors

17. Where there are two or more arbitrators, if they do not, within such a time as the companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire. Reference to umpire.

18. The arbitrator and the arbitrators and the umpire respectively may call for the production of any documents or evidence in the possession or power of the companies respectively, or which they respectively can produce, and which the arbitrator or the arbitrators or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the companies respectively on oath, and may administer the requisite oath; and in Scotland may grant diligence for the recovery of the documents or evidence, and for citing witnesses, and on application to the lord ordinary he may issue letters of supplement or other necessary writs in support of the diligence. Power for arbitrators, &c., to call for books, &c., and administer oath.

19. Except where and as the companies otherwise agree, the arbitrator and the arbitrators and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit. Procedure in the arbitration.

20. The arbitrator and the arbitrators and the umpire respectively may proceed in the absence of all or any of the companies in every case in which, after giving notice in that behalf to the companies respectively, the arbitrator or the arbitrators or the umpire shall think fit so to proceed. Arbitration may proceed in absence of companies

21. The arbitrator and the arbitrators and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred; and every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on. Several awards may be made

22 The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands, and ready to be delivered to the companies within such a time as the companies agree on, or, failing such agreement, within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the companies. Awards made in due time to bind all parties

23. Provided always, that (except where and as the companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made; and if it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period. Power for umpire to extend period for making his award.

24. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality. Awards not to be set aside for informality

25. Except only so far as the companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered, shall be done, omitted or suffered accordingly. Awards to be obeyed.

26. Full effect shall be given by all the superior courts of law and equity in the united kingdom, according to their respective jurisdiction, and by the companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and the performance or observance thereof may, where the courts think fit, be compelled by distress infinite on the property of the companies respectively, or by any other process against the companies respectively or their respective property that the courts or any judge thereof shall direct, and where requisite frame for the purpose. Agreements, arbitrations and awards to have effect.

27. Except where and as the companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the arbitrator, and the arbitrators, and the umpire respectively. Costs of arbitration and award.

28. Except where and as the companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the companies in equal shares, and in other respects the companies shall bear their own respective costs. Payment of costs

29. The submission to any arbitration in accordance with this Act may at any time be made a rule of any of her majesty's superior courts of record at Westminster, or, as the case may be, at Dublin, on the application of any party interested; and the court may remit the matter to the arbitrator, or to the arbitrators, or to the umpire, with any directions the court think fit. Submission to arbitration to be made a rule of court.

RAILWAYS CLAUSES ACT, 1863.

26 & 27 Vict c 92

26 & 27 Vict. c. 92. An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to Railways.
[28th July, 1863].

"Whereas 'The Railways Clauses Consolidation Act, 1845,' and 'The Railways Clauses Consolidation (Scotland) Act, 1845,' respectively, were passed in order to comprise in one general Act such provisions relating to railways in England or Ireland, or in Scotland, respectively, as were at the times of the passing of those Acts usually introduced into Acts of parliament authorising the construction of railways:

"And whereas sundry provisions of the like nature, but not comprised in the said general Acts respectively, are now frequently introduced into Acts of Parliament relating to railways, and it is expedient to comprise such last-mentioned provisions also in one general Act, such Act to be applicable to England or Ireland, or to Scotland, as the case may require, and that as well for the purpose of avoiding the necessity of repeating such provisions in special Acts relating to railways, as for insuring greater uniformity in the provisions themselves:" BE IT THEREFORE ENACTED as follows.

Short title

1. This Act may be cited as "The Railways Clauses Act, 1863."

Division of Act into parts.

2. This Act shall be deemed to be divided into five parts, as follows.

Part I. relating to construction of a railway;
Part II. relating to extension of time;
Part III. relating to working agreements;
Part IV. relating to steam vessels;
Part V. relating to amalgamation.

PART I.

CONSTRUCTION OF A RAILWAY.

Application of Part I., and interpretation of terms

3. This part of this Act shall apply to the railway authorised to be constructed by any special Act hereafter passed and incorporating this part of this Act.

In this part of this Act—

All terms used have the same meaning as the same terms have when used in "The Railways Clauses Consolidation Act, 1845," and "The Railways Clauses Consolidation (Scotland) Act, 1845," respectively:

The term "tidal river" means any part of a river within the flow and ebb of the tide at ordinary spring tides:

The term "tidal water" means any part of the sea or any part of a river within the flow and ebb of the tide at ordinary spring tides:

The term "tidal lands" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides.

The provisions respecting the recovery of penalties contained in the said Railways Clauses Consolidation Acts respectively, as the case may require, shall be incorporated with this part of this Act.

Alteration of Engineering Works.

Power to alter engineering works

4. Notwithstanding anything in the said Railways Clauses Consolidation Acts, respectively, contained,—the company, in the construction of the railway, may deviate from the line or level of any arch, tunnel, or viaduct, described on the deposited plans or sections, so as the deviation be made within the limits of deviation shown on those plans, and subject to the limitations contained in sections eleven, twelve, and fifteen of those Acts respectively, and so as the nature of the work described be not altered,—and may also substitute any engineering work not shown on the deposited plans or sections, for an arch, tunnel, or viaduct, as shown thereon; provided that every such substitution be authorised by a certificate of the board of trade: and the board of trade may grant such certificate in case it appears to them, on due inquiry, that the company has acted in the matter with good faith, and that the owners, lessees and occupiers of the lands in which the substitution is intended to be made consent thereto, and also that the safety and convenience of the public will not be diminished thereby.

Provided, that nothing in the present section shall affect any power given to the company or to the board of trade by section eleven, twelve, fourteen, or fifteen of the last-mentioned Acts respectively.

Level Crossings.

Trains not to be shunted over level crossings.

5. Where the company is authorised by the special Act to carry the railway across a turnpike road or public carriage road on a level, it shall not be lawful for the company in shunting trains to pass any train over the level crossing, or at any time to allow any train, engine, carriage or truck to stand across the same.

Company to erect lodge at point of crossing.

6. For the greater convenience and security of the public, the company shall erect and permanently maintain a lodge at the point where the railway crosses on the level the turnpike road or public carriage road; and the company shall be subject to and shall abide by all such regulations with regard to the crossing thereof on the level, or with regard to the speed at which trains may pass the level crossing, as may from time to time be made by the board of trade.

If the company fails to erect, or to maintain, such lodge, or to appoint or keep a proper person to watch or superintend the level crossing, or to observe or abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, and also to a penalty of ten pounds for every day during which the offence continues after the penalty of twenty pounds is incurred.

Board of trade may require bridge in stead of level crossing.

7. The board of trade may, if it appears to them necessary for the public safety, at any time after the passing of the special Act, require the company, within such time as the board of trade directs, and at the expense of the company, to carry the turnpike road or public carriage road either under or over the railway by means of a bridge or arch, instead of crossing the same on the level, or to execute such other works as, under the circumstances of the case, may appear to the board of trade best adapted for removing or diminishing the danger arising from the level crossing.

Where the road is so carried either under or over the railway, it shall not be necessary for the company to erect or maintain a lodge at the point where the road is crossed, or to appoint a person to watch or superintend the crossing thereat, nor shall they be liable to any penalty for failure so to do.

Power to company to take additional land for such work.

8. If the board of trade certifies that the public safety requires that additional lands be taken by the company for the purpose of the work directed by the board of trade to be executed, the company may, subject to the provisions of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation (Scotland) Act, 1845," as the case may require, enter upon, take, and use, all or any part of the lands specified in the certificate of the board of trade as being necessary for the purpose of the work; and the board of trade before issuing the certificate shall cause at least three months' notice to be given to any person who may be entitled to claim under the last-mentioned Acts, or otherwise, compensation in respect of the taking of such lands or in respect of such work.

Junctions.

Communications with other railways to be made under the direction of the engineer of those railways.

9. Where the company is authorized by the special Act to make a junction between the railway and any other railway, then and in every such case all interferences with the works of the other railway, necessary or convenient for effecting the junction, shall be made under the superintendence and to the reasonable satisfaction of the engineer for the time being of the company or person to whom the other railway belongs; and in case of any difference arising as to the mode of effecting the junction, the same shall be determined by a referee to be appointed by the board of trade, on the application of either party, at the cost of the company making the junction.

Company to acquire only easements in land of other railway company.

10. With respect to any lands belonging to the company or person to whom the other railway belongs, which the company are by the special Act authorized to use, enter upon, or interfere with, for the purposes of the junction, the company shall not, except by agreement, or unless otherwise provided in the special Act, purchase and take the same, but the company may purchase and take, and such other railway company or person may and shall sell and grant accordingly, an easement or right of using the same for the purposes of the junction.

Not to take lands or interfere with works of other company further than necessary.

11. Nothing relative to the junction in this Act contained shall be deemed to authorize the company for the purposes of the junction to take or enter upon any lands belonging to the company or person to whom the other railway belongs, or to alter or interfere with any railway or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways, as shown on the deposited plans and sections of the railway to which the special Act relates, without the previous consent in writing in every instance of such other railway company or such person.

As to expense of signals, watchmen, &c.

12. The company or person with whose railway the junction is made may from time to time erect such signals and conveniences incident to the junction, either on their or his own lands or on the lands of the company making the junction, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to, or interference with, the traffic at and near the junction. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the company or person with whose railway the junction is made; and all the expenses of erecting and maintaining those signals and conveniences, and of employing those watchmen, switchmen, and other persons, and all incidental current expenses, shall, at the end of every half year, be

26 & 27 Vict. c. 92.

repaid by the company making the junction, and in default thereof may be recovered from them in any court of competent jurisdiction

Protection of Navigation

Lights on works

13 Where the company is authorized by the special Act to construct, alter, or extend any work on, in, over, through, or across tidal lands or a tidal water, the company shall, on or near the work, during the whole time of the constructing, altering, or extending thereof, exhibit and keep burning at their own expense, every night from sunset to sunrise, such lights (if any) as the board of trade from time to time requires or approves, and (notwithstanding the enactments for the time being in force respecting light houses) shall also on or near the work, when completed, always maintain, exhibit, and keep burning, at their own expense, every night from sunset to sunrise, such lights (if any) for the guidance of ships as the board of trade from time to time requires or approves

If the company fails to comply in any respect with the provisions of the present section, they shall for each night in which they so fail be liable to a penalty not exceeding twenty pounds

Construction of bridges.

14 Where the company is authorized or required by the special Act to construct a bridge over a navigable tidal water, and the special Act does not make express provision respecting the span or spans thereof, then the company shall construct the same with a span or spans of such headway and waterway, and with such opening span or spans (if any), and according to such plan, as the board of trade directs or approves.

User of bridges

15. Where the company constructs a bridge with an opening span, it shall not be lawful for the company to detain any vessel, barge, or boat at the bridge for a longer time than may be necessary for admitting a carriage or engine traversing the railway and approaching the bridge to cross the bridge, and for opening the bridge to admit the vessel, barge, or boat to pass, and the company shall be subject to and shall abide by such regulations with regard to the user of the bridge as may from time to time be made by the board of trade

Penalty

If the company detains a vessel, barge or boat longer than the time aforesaid, or fails in any respect to abide by any such regulation as aforesaid, they shall for every such offence be liable to a penalty not exceeding twenty pounds, without prejudice to any remedy against them for any loss or damage sustained by any person

Access to the shore under or across the railway

16 Where the railway cuts off access between the land and a tidal water or tidal lands, then and in every such case the company shall, during the construction of the railway, and from time to time thereafter, make, and shall permanently maintain, and allow to be used by all persons, at all times, free of toll or other charge, all such footways and carriageways over, under, or across the railway, or on a level therewith as the board of trade from time to time directs or approves provided always, as follows

(1) The company shall not be obliged to make a footway or carriageway over lands for the use of an owner or occupier who has agreed to receive and has been paid compensation for the severance thereof from the tidal water or tidal lands

(2) The company shall not be obliged to make or to allow to be made a footway or carriageway in such manner as would interfere with the working or using of the railway

(3) The expense of the making and maintenance of a footway or carriageway required to be made after the construction of the railway shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required

Where the footway or carriageway is made across the railway on the level, then the manner of the making and watching of the level crossing shall be subject to the approval of the board of trade, and where the level crossing is made after the construction of the railway, then all expenses attending the watching thereof shall be defrayed by the persons or body interested in the tidal water or tidal lands for whose benefit or convenience the same is required

Prohibition of deviation of certain works without consent of board of trade

17. Where the company is authorized by the special Act to construct a railway skirting a public navigable tidal river or channel, the company shall not make any deviation of the railway from the continuous centre line thereof marked on the plan deposited by them at the board of trade, even within the limits of deviation shown on that plan, in such manner as to diminish the navigable space, without the previous consent of the board of trade, or otherwise than in such manner as is expressly authorized by the board of trade

If any deviation is made in contravention of the present section, the board of trade may abate and remove the work in the construction whereof the deviation is made, or any part thereof, and restore the site thereof to its former condition, at the expense of the company, and the amount of such expense shall be a debt due from the company to the crown, and be recoverable accordingly with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company

Abatement of work abandoned or decayed

18 If a work constructed by the company on, in, over, through, or across tidal lands or a tidal water is abandoned, or suffered to fall into decay, the board of trade may abate and remove the work, or any part of it, and restore the site thereof to its former condition, at the expense of the company, and the amount of such expense shall be a debt

due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company. 26 & 27 Vict. c. 92.

19. If at any time the board of trade deems it expedient, for the purposes of the special Act or of this part of this Act, to order a survey and examination of a work constructed by the company on, in, over, through, or across tidal lands or tidal water, or of the intended site of any such work, the company shall defray the expense of the survey and examination; and the amount thereof shall be a debt due from the company to the crown, and be recoverable accordingly, with costs, or the same may be recovered, with costs, as a penalty is recoverable from the company. Survey of works by board of trade.

Part II.

Extension of Time.

20. Where a railway is authorized to be constructed by a special Act passed either before or after the passing of this Act, and the time limited by the special Act for the exercise of powers of compulsory purchase of lands, or of powers for construction of the railway and works, is extended by a special Act hereafter passed and incorporating this part of this Act,—then and in every such case the justices, arbitrators, umpires or juries as the case may be, who award or assess the compensation to be made by the company to the owners or occupiers of, or other persons interested in, lands taken or used for the purposes of the railway and works, or injuriously affected by the construction thereof, shall, in estimating the amount of such compensation, have regard to, and assess compensation for, the additional damage (if any) sustained by those owners, occupiers, or other persons, by reason of the extension of time. Parties aggrieved by extension of time may have compensation for additional damage.

21. The extension of time shall not affect any contract entered into or notice given by the company before the passing of the special Act granting the extension, for purchasing, taking, or using any lands which the company was entitled to purchase, take, or use; but every such contract and notice shall be construed and take effect, and the same proceedings may be had thereunder, and all parties thereto shall be entitled to the same rights and remedies in respect thereof, at law and in equity, as if the extension had not been granted. Existing contracts and notices to take lands not to be affected.

Part III.

Working Agreements.

22. Where two or more companies are authorized by a special Act hereafter passed and incorporating this part of this Act, to agree among themselves with respect to all or any of the following purposes; namely,— Restrictions on agreements between companies.

The maintenance and management of the railways of the companies respectively, or any one or more of them, or any part thereof respectively, and of the works connected therewith respectively, or any of them;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts, and revenues levied, taken, or arising in respect of traffic;—

then and in every such case the authority so to agree, or the agreement when entered into, shall not in any manner affect any of the tolls, rates or charges which the companies parties thereto are from time to time respectively authorized to demand and receive from any person or from any other company; but all such persons and companies shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of the several companies, parties to the agreement, on the same terms and conditions, and on payment of the same tolls, rates and charges, as they would be if such authority had not been given or the agreement had not been entered into.

23. The agreement shall not, save so far as its terms and conditions are authorized by "The Railways Clauses Consolidation Act, 1845," or by "The Railways Clauses Consolidation (Scotland) Act, 1845," as the case may require, or by any other general statute or law from time to time in force with respect to the companies parties to the agreement, have any operation unless and until it is sanctioned by such proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the several companies parties thereto, present (personally or by proxy) at a general meeting of each company specially convened for the purpose (in manner hereinafter mentioned), as is prescribed in the special Act, and if no proportion is prescribed, then by three-fifths of such votes. Sanction of shareholders to agreements.

Every such meeting shall be convened by circular addressed to each such shareholder and stockholder, and served in the manner prescribed by "The Companies Clauses Consolidation Act, 1845," or "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may require, with respect to notices requiring to be served by the company upon the shareholders, and also by advertisement inserted once at least in each of two consecutive weeks in some newspaper published or circulating in the county prescribed in the special Act, and if no county is prescribed, then in the county in which the head office of the company is situate, the last of such advertisements to be published not less than seven days before the meeting.

26 & 27 Vict. c. 92.

Public notice of intention to enter into such agreement.

24. Before the companies enter into the agreement notice of their intention to do so shall be given by them or one of them, in a form to be approved by the board of trade, inserted once at least in each of three successive weeks in some newspaper published or circulating in the county prescribed in the special Act, and if no county is prescribed, then in the county or one of the counties in which each railway to the maintenance, management, use, or working whereof the proposed agreement relates, or some portion of that railway, is situate; and the notice shall set forth within what time and in what manner any company or person aggrieved by the proposed agreement, and desiring to object thereto, may bring the objection before the board of trade.

Approval of board of trade.

25. The agreement shall not have any operation until it is approved by the board of trade; and the board of trade shall not approve the agreement without being satisfied of its having received such sanction of meetings of the respective companies as aforesaid.

Joint committee for purposes of agreements.

26. The companies parties to the agreement may, in accordance therewith and for the purposes thereof, appoint a joint committee, composed of such number of the directors of each company as the companies think proper, and from time to time may vary and renew the joint committee as occasion requires, and may regulate the proceedings of the joint committee, and may delegate to the joint committee all such of the powers of the companies as the companies think necessary for carrying into effect the purposes of the agreement; and the joint committee shall have and may exercise the powers so from time to time delegated to them in like manner as the same powers might be had and exercised by the companies respectively or their respective directors.

Agreements between companies may be modified by board of trade.

27. At the expiration of the first or any subsequent period of ten years after the making of the agreement, the board of trade may, if they are of opinion that the interests of the public are prejudicially affected thereby, cause the same to be revised; and the board of trade may require the companies parties thereto to publish such notices of any intended revision of the agreement as the board of trade may direct; and the board of trade may modify the agreement in such manner as may seem expedient for the protection of the interests of the public, and may declare the modification to be part of the agreement, and the same shall be read and take effect accordingly.

Working agreements between a company and an individual.

28. Where a company is authorised by a special Act hereafter past, and incorporating this part of this Act, to agree with a person being the proprietor of a railway with respect to all or any of the purposes specified in this part of this Act, then and in every such case the provisions of this part of this Act shall apply, mutatis mutandis, to the company in relation to such authority and to the agreement entered into by virtue thereof.

Alteration of agreement.

29. For the purposes of this part of this Act, any alteration of an agreement by the parties thereto shall be deemed an agreement.

Part IV.

Steam Vessels.

Provision for securing equality of treatment.

30. Where a railway company incorporated either before or after the passing of this Act is authorized by a special Act hereafter passed and incorporating this part of this Act, to build, or buy, or hire, and to use, maintain, and work, or to enter into arrangements for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels, —then and in every such case tolls shall be at all times charged to all persons equally, and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof; or in favour of or against any person using the railway in consequence of his having used or being about to use or his not having used or not being about to use the steam vessels; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.

Application of Railway and Canal Traffic Act.

31. The provisions of "The Railway and Canal Traffic Act, 1854" (a), so far as the same are applicable, shall extend to the steam vessels, and to the traffic carried on thereby.

Company empowered to make byelaws for regulating steam vessels.

32. The company may from time to time make byelaws in relation to passengers, animals, and goods conveyed in or upon the steam vessels, and as to the embarkation and disembarkation thereof respectively, and may enforce the observance of the same by penalties, in the same manner as they may with respect to passengers, animals, and goods conveyed upon their railway; such byelaws to be sanctioned and authenticated in the same manner as is required by any special or other Act with respect to byelaws relating to the company's railway, and being published by being painted on boards, or printed

(a) 17 & 18 Vict. c. 31, ante, p. 65, tit. "Railways."

on paper and pasted on boards, and hung up or affixed and continued on some conspicuous part of every steam vessel and landing-place of the company; and such byelaws, and all penalties in respect of the breach thereof, shall be enforced and recovered in the same manner as is provided with respect to byelaws relating to the company's railway, and to penalties in respect of the breach thereof. 26 & 27 Vict. c. 92.

33. All tolls and charges for the steam vessels due and payable to the company on any account whatsoever, and all costs, damages, and expenses by the special Act directed to be paid in respect of the steam vessels, may be levied by distress; and in England or Ireland any justice, and in Scotland the sheriff, may, on application by or on behalf of the company, issue his warrant accordingly. Recovery of money by distress.

The justice or sheriff who issues the warrant of distress may order that the costs of the proceedings for the recovery of the toll or sum shall be paid by the person liable to pay the toll or sum, and the costs shall be ascertained by the justice or sheriff, and shall be included in the warrant of distress for the recovery of the toll or sum.

34. Any number of names and sums may be included in any warrant of distress or notice obtained or given by the company for any of the purposes of this part of this Act, or of the provisions of the special Act with respect to the steam vessels, and may be stated either in the body of the warrant or notice, or in a schedule thereto. Several names in one warrant.

35. In every seventh year after the passing of the special Act, reckoned from the first day of January next after its passing, the board of trade, if they are of opinion that the interests of the public are prejudicially affected by the exercise of the powers of the company relative to steam vessels, may give to the company notice in writing thereof, and of the reasons on which that opinion is founded, and if the company does not before the beginning of the then next session of parliament make provision to the satisfaction of the board of trade for protection of the interests of the public, or if the injury done to the interests of the public is in the opinion of the board of trade incapable of being remedied by the company, then the board of trade, at the beginning of the session of parliament then next following, shall report to both houses of parliament such their opinion, and the reasons on which that opinion is founded, and at the expiration of twelve calendar months after the presentation to the houses of parliament of that report, the powers of the company relative to steam vessels, or such of them as are specified in the report, shall, unless parliament in the meantime otherwise provides, cease to be exercised. Provision for cesser of powers as to steam vessels, on report from board of trade.

Part V.

Amalgamation.

36. This part of this Act shall apply where two or more railway companies, respectively incorporated, either before or after the passing of this Act, are amalgamated by a special Act hereafter passed and incorporating this part of this Act. Application of Part V.

37. For the purposes of this part of this Act, companies shall be deemed amalgamated by a special Act, in either of the following cases: Definition of cases of amalgamation.

(1.) Where by the special Act two or more companies are dissolved, and the members thereof respectively are united into and incorporated as a new company:

(2.) Where by the special Act a company or companies is or are dissolved, and the undertaking or undertakings of the dissolved company or companies is or are transferred to another existing company, with or without a change in the name of that company:

And in this part of this Act, such special Act is referred to as the amalgamating Act; the company incorporated or continued by or under the amalgamating Act is referred to as the amalgamated company; and the time prescribed in the amalgamating Act for the amalgamation taking effect, and if no time is prescribed, then the time of the passing of the amalgamating Act, is referred to as the time of amalgamation.

38. In every case of amalgamation, the undertaking, railways, harbours, navigations, ferries, wharfs, canals, works, real and personal property, powers, authorities, privileges, exemptions, rights of action and suit, and all other the rights and interests of the dissolved company, shall, subject to the contracts, obligations, debts, and liabilities of that company become at the time of amalgamation, and by virtue of the amalgamating Act, vested in the amalgamated company, and may and shall be held, used, exercised, and enjoyed by the amalgamated company in the same manner and to the same extent as the same respectively at the time of amalgamation are, or if the amalgamating Act were not passed might be, held, used, exercised, and enjoyed by the dissolved company. Undertakings of dissolved companies vested in amalgamated company.

39. The special Acts relating to or affecting the dissolved company or their undertaking in force at the passing of the amalgamating Act, shall, except so far as they are thereby expressed to be varied or repealed, remain in full force; and all rights and powers thereby conferred on and vested in the dissolved company in relation to their undertaking may be enjoyed and exercised by the amalgamated company in relation to the dissolved undertaking; and all matters to be done, continued, or completed, or which but for the amalgamation would, might, or could be done, continued, or completed, by the dissolved company, or their directors, officers, or servants, under or by virtue of those Acts, shall or may be done, continued, or completed by the amalgamated company, and their directors, officers, and servants, as the case may be; and every Acts relating to dissolved companies to apply to amalgamated companies.

26 & 27 Vict. c. 92.

special Act, so far as it relates to or affects the dissolved company or their undertaking, shall be read and construed as if the name of the amalgamated company had been used therein in relation to that undertaking, instead of the name of the dissolved company.

Saving debts and claims of dissolved companies.

40. Except as may be otherwise provided in the special Act, all debts and money due from or to the dissolved company, or any persons on their behalf, shall be payable and paid by or to the amalgamated company; and all tolls, rates, duties, and money due or payable by virtue of any Act relating to the dissolved company from or to that company shall be due and payable from or to the amalgamated company, and shall be recoverable from or by the amalgamated company by the same ways and means, and subject to the same conditions, as the same would or might have been recoverable from or by the dissolved company if the amalgamating Act had not been passed.

Saving conveyances, contracts, &c.

41. All deeds, conveyances, grants, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, contracts, and securities which before the amalgamation have been executed, made, or entered into by, with, to or in relation to the dissolved company, or the directors thereof, and which are in force at the time of amalgamation, and all obligations and liabilities which before the amalgamation have been incurred by or to, or which but for the amalgamation might or would have arisen in relation to, the dissolved company or the directors thereof, shall be as valid and of as full force and effect in favour of, against, or in relation to the amalgamated company as if the same had been executed, made, or entered into by, with, or to, or in relation to, or had been incurred by or to or had arisen in relation to, the amalgamated company by name.

Causes and rights of action reserved.

42. All causes and rights of action or suit accrued before the time of amalgamation, and then in any manner enforceable by, for or against the dissolved company shall be and remain as good, valid and effectual for or against the amalgamated company as they would or might have been for or against the dissolved company affected thereby, if the amalgamating Act had not been passed.

Actions not to abate.

43. Nothing in the amalgamating Act or in this part of this Act shall cause the abatement, discontinuance or determination of or in anywise prejudicially affect any action, suit, or other proceeding at law or in equity commenced by or against the dissolved company, either solely or jointly with any other company or with any person, before the time of amalgamation, and then pending; but the same may be continued, prosecuted or enforced by or against the amalgamated company, either solely or, as the case may require, jointly with such other company or with such person; and all persons committing offences against any of the provisions of any special Act relating to the dissolved company before the amalgamation may be prosecuted, and all penalties incurred by reason of such offences may be sued for and recovered, in like manner in all respects as if the amalgamating Act had not been passed,—the amalgamated company being in respect of all such matters considered as identical with the dissolved company.

Saving submissions and awards relating to dissolved companies.

44. No submission to arbitration of any matter in dispute between the dissolved company and any other company or any person, under which any reference is pending, and incomplete at the time of amalgamation, and no award theretofore made and then remaining in force, shall be revoked or prejudicially affected by anything in the amalgamating Act or in this part of this Act contained; but every such submission and award shall be as valid and effectual for or against the amalgamated company as it would have been for or against the dissolved company.

Unexecuted works of dissolved companies may be completed.

45. All works which the dissolved company is at the time of amalgamation authorised or bound to execute and complete, and which are not then executed or completed, may or shall (as the case may require) be executed or completed by the amalgamated company, and for that purpose the amalgamated company shall have and be subject to all the powers, rights and conditions which were conferred or imposed upon the dissolved company, and which but for the passing of the amalgamating Act might have been exercised by or enforced against the dissolved company.

Contracts for land entered into by dissolved companies to be executed.

46. Where the dissolved company has under any special Act entered into any contract for the purchase of or taken or used any lands, which at the time of amalgamation have not been effectually conveyed to the dissolved company, or the purchase money in respect of which has not been duly paid by the dissolved company,—then and in every such case the contract, if in force at the time of amalgamation, shall thereafter be completed by, and such lands shall be conveyed to, the amalgamated company, or as the amalgamated company directs, and the purchase money shall be paid and applied pursuant to the special Acts relating to the dissolved company; and those Acts shall, in relation to the completion of the contract and the purchase and conveyance of the lands and the payment and application of the purchase money in respect thereof, be read and construed as if the amalgamated company were the company named in the Acts and contract.

Application of money paid into bank or to trustees.

47. Where any money has, before the time of amalgamation, been paid by the dissolved company, or is thereafter paid by the amalgamated company under any special Act relating to the dissolved company, into the bank of England, or into one of the incorporated or chartered banks in Scotland, or into the bank of Ireland, or to any trustee or trustees, on account of the purchase of any lands, or any interest therein, or for any compensation or satisfaction, or on any other account, such money, or the stocks, funds or securities in or upon which the same then is or thereafter may be invested by order of any court or otherwise, and the interest, dividends and annual produce thereof, shall be applied and disposed of pursuant to such special Act; and that and every other Act shall in relation to such money, stocks, funds or securities, or the interest, dividends or

annual produce thereof, be read and construed as if the amalgamated company were the company therein named with reference to the same money, stocks, funds, securities, interest, dividends or annual produce. 26 & 27 Vict. c. 92.

48. All officers and persons who, at the time of amalgamation, have in their possession or under their control any books, documents, papers or effects belonging to the dissolved company, or to which the dissolved company would but for such dissolution have been entitled, shall be liable to account for and deliver up the same to the amalgamated company, or to such persons as the amalgamated company may appoint to receive the same, in the same manner, and subject to the same consequences on refusal or neglect, as if such officers and persons had been appointed by and become possessed of such books, documents, papers or effects for the amalgamated company. Officers of dissolved companies to be accountable for books, &c.

49. All clerks, officers and servants who at the time of amalgamation are in the employment of the dissolved company shall thereupon become clerks, officers or servants, as the case may be, of the amalgamated company, with the same rights, and subject to the same obligations and incidents in respect of such employment as they would have had or been subject to as the clerks, officers or servants of the dissolved company, and shall so continue unless and until they respectively are duly removed from such employment by the amalgamated company, or until the terms of their employment are duly altered by the amalgamated company. Officers of dissolved companies to be officers of amalgamated company.

50. All books and documents which would have been evidence in respect of any matter for or against the dissolved company shall be admitted as evidence in respect of the same or the like manner for or against the amalgamated company. Books, &c., to be evidence.

51. All resolutions of any general meeting or board of directors of the dissolved company, or of any duly constituted and authorized committee thereof, so far as the same are applicable and remain in force, shall, notwithstanding the dissolution, continue to be operative, and shall apply to the amalgamated company, and to the directors, officers and servants of the amalgamated company, until duly revoked or altered by the amalgamated company or under their authority. Resolutions of dissolved companies to remain in force.

52. All calls made by the dissolved company, and not paid at the time of amalgamation, shall be payable to and may be enforced by the amalgamated company, as if such calls had been made by the amalgamated company. Payment of calls.

53. All registers of shares, stock, mortgages and bonds of the dissolved company, and all registers of transfers thereof respectively, and all shareholders' and stockholders' address books, and all certificates of shares or stock of and in the dissolved company, which are valid and subsisting at the time of amalgamation, shall continue to be valid and subsisting, and shall have the same operation and effect as before the dissolution, unless and until new or altered registers, books and certificates respectively are substituted in their stead; and all transfers, sales or dispositions of stock or shares made before the dissolution and not then completed shall have the same operation and effect as if made after the dissolution. Registers, books, and certificates relating to dissolved companies to subsist until replaced.

54. All the byelaws, rules and regulations of the dissolved company, relating to the management, use or control of their undertaking shall, notwithstanding the dissolution, continue to be in force and applicable to and in respect of the undertaking, and shall and may be enforced by and available to the amalgamated company in their own name, as well for the recovery of penalties as for all other purposes, as if the same respectively had been originally made by the amalgamated company, until the expiration of twelve months after the time of amalgamation, or until other byelaws, rules and regulations are duly made by the amalgamated company in their stead, whichever first happens. Byelaws to remain in force.

55. Notwithstanding the dissolution of the dissolved company, and the amalgamation, everything before the time of amalgamation done, suffered and confirmed respectively, under or by virtue of any special Act relating to the dissolved company, shall be as valid as if the amalgamating Act had not been passed; and the dissolution and amalgamation, and the amalgamating Act, and this part of this Act, respectively, shall accordingly be subject and without prejudice to everything so done, suffered and confirmed respectively, and to all rights, liabilities, claims and demands, present or future, which if the dissolution and amalgamation had not taken place, and the amalgamating Act had not been passed, would be incident to or consequent on anything so done, suffered and confirmed respectively; and with respect to all things so done, suffered and confirmed respectively, and to all such rights, liabilities, claims and demands, the amalgamated company shall to all intents represent the dissolved company; and the generality of this present provision shall not be deemed to be restricted by any other of the provisions of this part of this Act, or by any provision of the amalgamating Act that does not expressly refer to this present provision, and expressly restrict the operation thereof. General saving of rights and claims.

RAILWAY PASSENGERS.

[See 26 & 27 Vict. c. 33, ss. 13, 14, ante, vol. II., p. 837*b*, tit. "INLAND REVENUE."]

REAL ASSETS.

[See post, p. 947, tit. "WILLS," 17 & 18 Vict. c. 113, ante, tit. "MORTGAGES."]

RECREATION GROUNDS.

[See 22 Vict. 27, ante, Vol. II., p. 514, tit. "HEALTH (PUBLIC)."]

REFRESHMENT HOUSES.

[See 23 & 24 Vict. c 27, ante, vol. I. p. 388, tit. "BEER," and 24 & 25 Vict. c. 91, s. 8, *ib.*, p. 398.]

REGISTRATION (OF DEEDS).

[See 25 & 26 Vict. c. 53, ante, vol. I, p. 838*a*, tit. "CONVEYANCES."]

(MIDDLESEX.)

7 Anne, c. 20

7 Anne, c. 20. An Act for the public Registering of Deeds, Conveyances, and Wills, and other Incumbrances which shall be made of, or that may affect any Honours, Manors, Lands, Tenements, or Hereditaments, within the County of Middlesex, after the 29th September, 1709. [A.D. 1708 (*a*).]

A memorial of conveyances, made after Sept 29, 1709, and of all wills, &c, that may affect any honours, &c, within the county of Middlesex, may be registered, and every conveyance

"Whereas by the different and secret ways of conveying lands, tenements, and hereditaments, such as are ill disposed have it in their power to commit frauds, and frequently do so, by means whereof several persons (who through many years' industry, in their trades and employments, and by great frugality, have been enabled to purchase lands, or to lend moneys on land security) have been undone in their purchases and mortgages, by prior and secret conveyances, and fraudulent incumbrances, and not only themselves, but their whole families thereby utterly ruined:" for remedy whereof, BE IT ENACTED, That a memorial of all deeds (*b*) and conveyances, which from and after the twenty-ninth day of September, in the year of our Lord one thousand seven hundred and nine, shall be made and executed, and of all wills and devises in writing made or to be made and published, where the devisor or testatrix shall die after the said twenty-ninth day of September, of or concerning, and whereby any honours, manors, lands, tenements, or hereditaments in the said county, may be any way affected (*c*) in law or equity, may be

---

(*a*) Amended by 1 Vict. c. 30, s. 28; 5 & 6 Vict. c. 103, s. 34.

See on these Acts the treatises by Mr. Rigge, Mr. Wilson, and Mr. Bibb, Sug. V. & P. 727.

In the case of bankruptcy, the registry of the certificate of appointment of the assignees has the like effect as the registry of a conveyance, 12 & 13 Vict. c. 106, s. 143. So with respect to the registry of the order absolute and the appointment of official manager under the Winding-up Acts, see 11 & 12 Vict. c. 45, s. 29.

As to lands in Middlesex or Yorkshire, grants of rent-charges under the Private Money Drainage Act, 1849, are to be registered as grants by deed by owners of lands, or be liable to be postponed in priority, 12 & 13 Vict. c. 100, s. 14.

As to the registry of deeds of arrangement, and of trust and composition deeds by bankrupts, see 24 & 25 Vict. c. 134, ss. 187, 194, ante, Vol. I, tit. "BANKRUPTCY," &c.

(*b*) An appointment under a power requires registration (*Scrafton* v. *Quincey*, 2 Ves. 413); so does a lease, although an assignment reciting it is registered (*Honeycomb* v. *Waldron*, 2 Str. 1064; *Williams* v. *Sorrell*, 4 Ves. 389). But an assignment of a legacy charged on land does not (*Malcolm* v. *Charlesworth*, 1 Keen, 63); nor does an agreement to assign a leasehold estate as a security for a loan (*Wright* v. *Stanfield*, 27 Beav. 8, 28 L. J. Chanc. 183); for the statute does not apply to the case of an equitable mortgage (*Sumpter* v. *Cooper*, 2 Barn. & Ad. 223); but see *Moore* v. *Culverhouse*, 27 Beav. 639, where a house in Middlesex was mortgaged to R., who subsequently took a memorandum of further charge. The house was then mortgaged to M without notice of R.'s further charge, and he registered his mortgage. It was held by the Master of the Rolls that M had obtained priority over R.'s subsequent charge, which was not registered

The statute applies only to the registration of deeds, and where there is merely a lien, or equitable mortgage created by the deposit of deeds, there is no instrument to be registered.

A memorandum not under seal, accompanying a deposit by way of equitable mortgage of deeds relating to lands, requires registration (*Nerv* v. *Pennell*, and *Hunt* v. *Nerv*, 33 L. J. Ch. 190. According to the memorandum of registration indorsed on two mortgage securities of different dates brought to the registry, they were both registered on the same day and at the same hour; but one was numbered 764, the other 768. It was held, the security numbered 764 must be regarded as having been registered first (*ib.*).

(*c*) It has been held, that if A. grant to B., who does not register, and then to C. who

registered in such manner as is hereinafter directed; and that every such deed or conveyance that shall at any time after the said twenty-ninth day of September, be made and executed, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial thereof be registered as made after such memorial regis-

7 Anne, c. 20.

---

does not register, and then C. grants to D., who does register, B.'s prior deed, though unregistered, shall prevail against the subsequent grant to D., though registered (*Jack* v. *Armstrong*, 1 Hud. & Bro. 727; *Fury* v. *Smith*, *id.* 735; *Mill* v. *Mill*, 3 H. of L. 828); because A. after the grant to B. had nothing left to grant except by a registered deed executed by himself.

Upon the Irish Act, it has been held, that a deed by a woman before her marriage must be registered in order to exclude a registered conveyance by her husband after the marriage of his estate in his marital right (*Warburton* v. *Loveland*, 2 Dow. & Clarke, 480).

The intention of the Act was to secure subsequent purchasers and mortgagees against prior secret conveyances and fraudulent incumbrances: where a person had no notice of a prior conveyance, then the registering his subsequent conveyance shall prevail against the prior, but if he had notice of a prior conveyance, then that was not a secret conveyance by which he could be prejudiced (*Le Neve* v. *Le Neve*, 3 Atk. 651; *Lord Forbes* v. *Deniston*, 4 Bro. P. C. 189; *Jelland* v. *Stainbridge*, 3 Ves. 478; *Blades* v. *Blades*, 1 Eq. C. Ab. 358; *Chevall* v. *Nichols*, 1 Str. 664; *Hine* v. *Dodd*, 2 Atk. 275). It has therefore been holden, that a person having the legal estate as a mortgagee, and advancing more money without notice of a second mortgage duly registered, shall hold against the second mortgagee until he is satisfied all the money (*Bedford* v. *Backhouse*, 2 Eq. Ca. Ab. 615; *Wrightson* v. *Hudson*, *id.* 609).

The registry is not notice, and therefore a purchaser without notice obtaining the legal estate will not be prejudiced by a prior equitable incumbrance registered previously to his purchase (*Bedford* v. *Backhouse*, 2 Eq. Ca. Ab. 615, pl. 12; *Wrightson* v. *Hudson*, *ib.* 696, pl. 7; *Williams* v. *Sorrell*, 4 Ves. 389; *Mobrecock* v. *Dickins*, Amb. 678; *Bushell* v. *Bushell*, 1 Sch. & Lef. 103; *Underwood* v. *Lord Courtoun*, 2 Sch. & Lef. 64).

A purchaser with notice of a prior unregistered incumbrance is bound by it (*Lord Forbes* v. *Deniston*, 4 Bro. P. C. 189; 2 Eq. Ca. Ab. 482, pl. 19, 3 Atk. 653; *Chivall* v. *Nichols*, Str. 664; *Beatniff* v. *Smith*, 1 Eq. Ca. Ab. 357, pl. 11; *Blades* v. *Blades*, *id.* 358, pl. 12; *Hine* v. *Dodd*, 2 Atk. 275; *Le Neve* v. *Le Neve*, 3 Atk. 646; *Sheldon* v. *Cox*, Amb. 624: *Jolland* v. *Stainbridge*, 3 Ves. 478, Cow. 712, 1 Bur. 474, 1 Sch. & Lef. 102; *Bidulph* v. *St. John*, 2 Sch. & Lef. 521; *Eyre* v. *Dolphin*, 2 Bal. & Be. 290).

Property in Middlesex was mortgaged to A., and afterwards to B., and subsequently to C. with notice of B.'s incumbrance. C. registered before B., and afterwards assigned to D., who had no notice of B.'s mortgage. It was held, that the interests being equitable, D. had no priority over B. (*Ford* v. *White*, 16 Beav. 120).

A purchaser may in equity be bound by a judgment or a deed, although not registered, but it must be satisfactorily proved that the person who registers the subsequent deed must have known exactly the situations of the persons having the prior deed; and, knowing that, registered, in order to defraud them of that title he knew at the time was in them (*per* M. R., *Jolland* v. *Stainbridge*, 3 Ves. 485). Apparent fraud, or clear and undoubted notice, would be a proper ground of relief; but suspicion of notices, though a strong suspicion, is not sufficient to justify the Court in breaking in upon an Act of parliament (*Hine* v. *Dodd*, 2 Atk. 276; *Irons* v. *Kidwell*, 1 Ves. 69; *Wyatt* v. *Barwell*, 19 Ves. 435; *Lenehan* v. *M'Cabe*, 2 Ir. E. R. 342; *Ford* v. *White*, 16 Beav. 120; *In re Burmester*, 9 Ir. Ch. Rep. 41; *Clarke* v. *Armstrong*, 10 Ir. Ch. Rep. 263).

But notice of a prior unregistered instrument is unimportant at law (*Doe* v. *Allsopp*, 5 Bar. & Al. 142). The first registered instrument must prevail at law (*Turnstall* v. *Trappes*, 3 Sim. 301; *Benham* v. *Keame*, 1 John. & Hem. 685, in error, 31 L. J. Ch. 129).

A *lis pendens* is not deemed notice for this purpose (*per cur.* *Wyatt* v. *Barwell*, 19 Ves. 439; *Wallace* v. *Marquis of Donegal*, 1 Dru. & Wal. 461).

In a case in Ireland (*Rice* v. *O'Connor*, 11 Ir. Ch. Rep. 510), where a purchaser under a registered deed had not express notice of an alleged parol contract under which the tenant was in possession, the Master of the Rolls treated it as clear that the purchaser was not liable to it unless his conveyance bound him, for there was not that "clear and undoubted notice" which is necessary to affect a party claiming under a registered deed. The conveyance was subject to the existing leases and lettings, made to the under tenants of the seller; but the Court held, that an unsigned or parol contract with part performance was not "an existing lease or letting" within the meaning of the deed.

If a settlement be executed before marriage, but not then registered, and after the marriage the party claiming under it have notice of a prior unregistered incumbrance, yet he may obtain priority by registering the settlement before the prior incumbrance is registered (*Elsey* v. *Lutyens*, 8 Hare, 159). A judgment creditor is bound by notice of a prior unregistered mortgage, for the Act only makes the unregistered deed void as against

7 Anne, c. 20. tered, shall be void, &c., unless such memorial be registered before the registering of the conveyance, under which, &c. The like of a devise by will. 6 Anne, c. 35; Abr. Eq. 357, 358; Cheval v. Nichols in Scacc. Mich.; 12 Geo. 1.

by this Act is directed, before the registering of the memorial of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim; and that every such devise by will shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such will be registered at such times and in such manner as is hereinafter directed.

Registers appointed.

2. And for settling and establishing a certain method, with proper rules and directions for registering such memorials as aforesaid, BE IT FURTHER ENACTED, That one public office for registering such memorials of and concerning any honours, manors, lands, tenements, and hereditaments, that are situate, lying, and being within the said county, shall be erected and established in manner following: that is to say, that for the better and more effectual putting in execution the several matters and things in this Act contained, the sworn clerk to execute the office of inrolment in the high court of chancery, who is appointed to inrol for the county of Middlesex, the chief clerk to inrol pleas in the queen's bench, the clerk of the warrants in the court of common pleas, and the queen's remembrancer, or his deputy (*a*) in the court of exchequer, shall be the registrars or masters of the office for the matters and things in this Act contained, and also shall and may, from time to time, nominate and appoint one or more able and sufficient person or persons, for whom they shall be accountable, to be their deputy or deputies; which said registrars or their deputies shall well and truly do and perform all and every the matters and things intended by this Act to be done and performed, in some convenient office or place to be provided by the said clerks or registrars in or near some of the inns of court or chancery, whereto all persons may have free resort at the times appointed by this Act; and that the said clerks or registrars shall present such deputy or deputies to the lord high chancellor, or lord keeper, or lords commissioners of the great seal of Great Britain, to the chief justice of the queen's bench, to the chief justice of the common pleas, and to the chief baron of the court of exchequer for the time being, to be by them, or any three of them, approved of, before such deputy or deputies shall enter upon the execution of the said office; and that such deputy or deputies shall and may be displaced and removed by the said lord high chancellor, or lord keeper, or lords commissioners of the great seal, the chief justices of the queen's bench and common pleas, and chief baron, or any three of them, by any writing under their hands and seals; and that the said lord chancellor, or lord keeper, or lords commissioners of the great seal, the two chief justices, and chief baron, or any three of them, shall, from time to time, have full power and authority to make such rules and orders for the better management and government of the said office, agreeable to the form and true intention of this Act, as they shall find convenient and necessary.

25 Geo. 2, c. 4.

Who may make a deputy.

Office to be kept in or near the inns of court or chancery.

Deputy to be approved of by the lord chancellor, &c., and may be displaced in like manner.

Lord chancellor, &c., may make rules for the management of the office.

3. [Registrar to be sworn.]

Registrar misdemeaning himself, how punished.

4. That if such person so appointed registrar or master, shall be lawfully convicted of any neglect, misdemeanor, or fraudulent practice in the execution of the said office, he shall be liable to pay treble damages, with full costs of suit, to every person that shall be injured thereby, to be recovered as is hereinafter directed.

Memorials to be in

5. That all and every memorials, so to be entered and registered, shall be put into writing (*b*) in vellum or parchment, and brought to the said office, and in case of deeds

---

subsequent purchasers and mortgagees, and the judgment operated only on what the debtor had, and therefore did not defeat in equity the interest of the unregistered mortgagee (*Lee* v. *Green*, 6 De Gex. M. & G. 155; *Benham* v. *Keane*, 1 John. & Hem. 685, 31 L. J. Ch. 129). And a registered mortgage, where the mortgagee has notice of a prior unregistered judgment, is bound by the judgment, for no person having notice can by contract put himself in a position better than that of the person with whom he contracts; and where a man has created a charge affecting his estate, he is not at liberty to enter into any new contract in derogation of the interest which he has created. But between judgment creditors the rule is otherwise; for the first registered judgment under the Registry Acts prevails over a prior unregistered judgment, although the registered creditor had notice of the prior judgment, for a judgment creditor is not a purchaser in such a sense as to render it impossible for a subsequent judgment creditor to acquire a charge by reason merely of there being nothing left which the debtor would have power to charge, and the Judgment Act has not repealed the Registry Act, but the two statutes are to be read together, and the construction of the two Acts read together is, that a judgment is not a charge upon land in a registry county until it is registered there (*Benham* v. *Keane*, 1 John. & Hem. 685, 31 L. J. Ch. 129).

A subsequent incumbrancer, who, at the time of taking his security, has no notice of the prior incumbrance, may, by properly memorialising his security, though after notice, obtain priority over the prior incumbrancer, if the memorial of the security of the latter be defective (*Essex* v. *Baugh*, 1 Y. & C. Ch. C. 620).

(*a*) Rep. 22 & 23 Vict. c. 21, s. 7.

(*b*) A lithographed memorial is a memorial put into writing, within this section (*Reg.* v. *Middlesex* (*Registrar*), 7 Q. B. 156).

and conveyances shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses (*a*), one whereof to be one of the witnesses to the execution of such deed or conveyance (*b*); which witness shall, upon his oath before one of the said registrars, or masters, or before a master in chancery ordinary or extraordinary, prove the signing (*c*) and sealing of such memorial; and the execution of the deed of conveyance mentioned in such memorial; and in case of wills, the memorial shall be under the hand and seal of some or one of the devisees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof shall, upon his oath before the said registrars or masters, or before such master in chancery, as aforesaid, prove the signing and sealing of such memorial; which respective oaths the said registrars or masters, and masters in chancery, are hereby empowered to administer, and shall indorse a certificate thereof on every such memorial, and sign the same.

7 Anne, c. 20. parchment, &c.

Memorials of deeds, &c., how to be attested, and how memorials of wills.

6. That every memorial of any deed, conveyance, or will, shall contain the day of the month and the year when such deed, conveyance, or will bears date, and the names and additions of all the parties (*d*) to such deed or conveyance, and of the devisor or testatrix of such will, and of all the witnesses to such deed, conveyance, or will, and the places of their abode, and shall express or mention the honours, manors, lands, tenements, and hereditaments contained in such deed, conveyance, or will, and the names of all the parishes, townships, hamlets, precincts, or extraparochial places within the said county where any such honours, manors, lands, tenements, or hereditaments are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such deed, conveyance, or will, in such manner as the same are expressed, or mentioned in such deed, conveyance, or will, or to the same effect (*e*); and that every such deed, conveyance, and will, or probate of the same, of which such memorial is so to be registered as aforesaid, shall be produced to the said registrars or masters at the time of entering such memorial, who shall endorse a certificate on every such deed, conveyance, and will, or probate thereof, and therein mention the certain day, hour, and time on which such memorial is so entered or registered, expressing also in what book, page, and number the same is entered; and that the said registrars or masters shall sign the said certificate when so indorsed; which certificates shall be taken and allowed as evidence of such respective registries in all courts of record whatsoever; and that every page of such register books, and every memorial that shall be entered therein, shall be numbered, and the day of the month, and the year, and hour, or time of the day when every the said memorial is registered, shall be entered in the margents of register books, and in the margents of the said memorial; and that every such registrar or master shall keep an alphabetical calendar of all parishes, extraparochial places and townships within the said county with reference to the number of every memorial that concerns the honours, manors, lands, tenements, or hereditaments in every such parish, extraparochial place or township respectively, and of the names of the parishes mentioned in such memorials; and that such registrar or master shall duly file every such memorial in order of time as the same shall be brought to the said office, and enter or register the said memorials in the same order that they shall respectively come to his hands.

Memorials to contain the day and year of the date, &c.

Every such deed, &c., shall be produced to the registrars, &c., who shall indorse a certificate, which shall be allowed as evidence (*f*).

The page of the register books, and the memorials entered, shall be numbered.

Registrar to keep an alphabet of all parishes, &c., and duly file the memorials in order of time.

(*a*) The 8 & 9 Vict. c. 70, s. 24, enacts, that no conveyance to the Church Building Commissioners shall be valid until their assent shall be testified by their seal being affixed. On application for a mandamus to the registrar to register a memorial of a deed-poll to the commissioners, which was witnessed by the witnesses to the affixing of their seal to the deed by the commissioners, but not by one of the witnesses to the execution by the grantor:—It was held, that the above section did not make the affixing of the seal equivalent to execution, and therefore the registrar was right in refusing to register the memorial of the deed-poll so attested (*Reg.* v. *Middlesex* (*Registrar*), 28 L. J. Q. B. 77).

(*b*) The executor of a mortgagee, a memorial of whose security was registered under the Middlesex Registry Act, conceiving that the memorial was invalid, affected to re-execute the mortgage deed, by signing and sealing it himself in the presence of two witnesses, whose names were indorsed as witnesses attesting his execution of it. Neither of the witnesses had attested the execution of the deed by any of the other parties. After this ceremony, the executor memorialised the deed in due form:—It was held, that the whole course of proceeding (which was said to be in accordance with the practice before the registrar) was nugatory for the purpose of this Act (*Essex* v. *Baugh*, 1 You. & C. C. C. 620; see *Jack* v. *Armstrong*, 1 Hud. & Bro. 727; *Hobhouse* v. *Hamilton*, 1 Sch. & Lef. 207).

(*c*) A sealing by a corporation seems sufficient (*Doe* v. *Hogg*, 1 Bos. & P. N. R. 306).

(*d*) See *Harding* v. *Curry*, 10 Ir. C. L. Rep. 140.

(*e*) See *Delacour* v. *Freeman*, 2 Ir. C. R. N. S. 633.

(*f*) The memorial is only receivable as secondary evidence of the deed against the parties to the deed, and all persons claiming under them; and the fact that A. mortgaged the property to B., and delivered this deed to B. as mortgagee, is not sufficient to make it secondary evidence against A. (*Doe* d. *Loscombe* v. *Clifford*, 2 Car. & K. 448).

7 Anne, c. 20.

If there be more writings than one which affect the same hereditaments, &c., they need be named but once in the memorial, and the dates, &c., of the rest only to be set down (a).

7. Provided always, that where there are more writings than one, for making and perfecting any conveyance or security, which do name, mention, or any ways affect or concern the same honours, manors, lands, tenements, or hereditaments, it shall be a sufficient memorial and register thereof, if all the said honours, manors, lands, tenements, and hereditaments, and the parishes, townships, hamlets, or extraparochial places wherein the same lie, be only once named or mentioned in the memorial or register of any one of the deeds or writings made for the perfecting of such conveyance or security; and that the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties, and witnesses, and the places of their abodes, be only set down in the memorials and registers of the same, with a reference to the deed or writing whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering the same.

Memorials of wills to be registered in six months after testator's death, dying within Great Britain, and three years if beyond sea.

8. Provided also, that all memorials of wills that shall be registered in manner as aforesaid, within the space of six months after the death of every respective devisor or testatrix, dying within the kingdom of Great Britain, or within the space of three years after the death of every respective devisor or testatrix, dying upon the sea, or in any parts beyond the seas, shall be as valid and effectual against subsequent purchasers, as if the same had been registered immediately after the death of such respective devisor or testatrix; any thing herein contained to the contrary thereof in any wise notwithstanding.

If the devisee be disabled, the registry in six months after the disability removed, shall be sufficient.

9. Provided always, that in case the devisee, or person or persons interested in the honours, manors, lands, tenements, or hereditaments, devised by any such will as aforesaid, by reason of the concealment or suppression, or contesting such will, or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled to exhibit a memorial for the registry thereof within the respective times hereinbefore limited, and that a memorial shall be entered in the said office of such contest, or other impediment, within the space of two years after the death of such devisor or testatrix, who shall die within the kingdom of Great Britain, or within the space of four years next after the decease of such person who shall die upon the sea, or beyond the seas, then, and in such case, the registry of the memorial of such will, within the space of six months next after his, her, or their attainment of such will, or a probate thereof, or removal of the impediment whereby he, she, or they are disabled or hindered to exhibit such memorial, shall be a sufficient registry within the meaning of this Act; any thing herein contained to the contrary thereof in any wise notwithstanding.

Will concealed, &c., if not registered in five years after the devisor's death, shall not defeat a purchase.

10. Provided nevertheless, that in case of any concealment, or suppression of any will, or devise, any purchaser or purchasers shall not be disturbed, or defeated in his or their purchase, unless the will be actually registered within five years after the death of the devisor or testatrix.

Fees of the registrar.

11. That every such registrar or master shall be allowed for the entry of every such memorial, as is by this Act directed, the sum of one shilling, and no more, in case the same do not exceed two hundred words; but if such memorial shall exceed two hundred words, then after the rate and proportion of sixpence an hundred for all the words contained in such memorial, over and above the first two hundred words, and the like fees for the like number of words contained in every certificate or copy given out of the said office and no more, and for every search in the said office one shilling, and no more.

Registrar to give due attendance, and make searches when required.

12. That every such registrar or master shall give due attendance at his office every day in the week (except Sundays and holidays) between the hours of nine and twelve in the forenoon, and the hours of two and five in the afternoon, for the dispatch of all business belonging to the said office; and that every such registrar or master, as often as is required, shall make searches concerning all memorials that are registered, as aforesaid, and give certificates concerning the same under his hand (if required by any person) testified by two credible witnesses.

13. [Registrar, &c., to enter into a recognisance for the faithful performance of his office.]

Forfeiture for his neglect, how to be recovered.

14. That the damages before mentioned, to be forfeited by any such registrar or master, for any neglect, misdemeanor, or fraudulent practice in the execution of his office, shall be recovered by action of debt, bill, plaint, or information in any of her majesty's courts of record at Westminster, wherein no essoin, protection, privilege, or wager of law shall be allowed, nor any more than one imparlance.

Persons forging an entry of any

15. That if any person or persons shall at any time forge or counterfeit any entry of the acknowledgment of any such memorial, certificate, or indorsement, as is herein

---

(a) Lord St. Leonards says, V. and P. 731, "This provision has been extended in practice. It is usual, for instance, in a memorial of an assignment of a lease to refer for the parcels to a prior registry of the lease, though a separate and distinct transaction. This, however, is very incorrect." See now a new form, 15 Q. B. 978.

mentioned or directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties as in and by an Act made in the fifth year of queen Elizabeth, intituled, "An Act against forgers of false deeds and writings," are imposed upon persons for forging and publishing of false deeds, charters, or writings, sealed court rolls, or wills, whereby the freehold or inheritance of any person or persons of, in, or to any lands, tenements, or hereditaments shall or may be molested, troubled, or charged; and that if any person or persons shall at any time forswear himself before the said registrars or masters, or before any judge, or master in chancery, in any of the cases herein mentioned, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties as if the same oath had been made in any of the courts of record at Westminster.

7 Anne, c. 20. memorial, liable to the punishments in the Act of 5 Eliz. c. 14 (a).

Perjury before a registrar, how to be punished.

16. That in case of mortgages, whereof memorials shall be entered in the said register office pursuant to this Act, if at any time afterwards a certificate shall be brought to the said registrars or masters, signed by the mortgagee or mortgagees in such mortgage, his, her, or their executors, administrators, or assigns, and attested by two witnesses, whereby it shall appear that all moneys due upon such mortgage have been paid or satisfied in discharge thereof, which witnesses shall upon their oaths before the said registrars or masters, or before a master in chancery, ordinary or extraordinary (who are hereby respectively empowered to administer such oath) prove such moneys to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagee or mortgagees, his, her, or their executors, administrators, or assigns, that then, and in every such case, the said registrars or masters shall make an entry in the margents of the said register books against the registry of the memorial of such mortgage, that such mortgage was satisfied and discharged according to such certificate to which the same entry shall refer, and shall after file such certificate, to remain upon record in the said register office.

Upon certificate and proof made to the registrar, that money due on a mortgage entered in the registry, has been satisfied, the registrar shall make an entry in the margent, against the enrolment, &c.

17. Provided always, That this Act shall not extend to any copyhold estates, or to any leases at a rack-rent, or to any lease not exceeding one and twenty years, where the actual possession (b) and occupation goeth along with the lease, or to any of the chambers in Serjeants Inn, the inns of court, or inns of chancery; anything in this Act contained to the contrary thereof in anywise notwithstanding.

This Act not to extend to copyhold estates, &c.

18. That no judgment, statute, or recognisance (other than such as shall be entered into in the name, and upon the proper account of her majesty, her heirs and successors), which shall be obtained or entered into after the said twenty-ninth day of September, in the said year of our Lord one thousand seven hundred and nine, shall affect or bind any honours, manors, lands, tenements, or hereditaments, situate, lying, and being in the said county of Middlesex, but only from the time that a memorial of such judgment, statute, or recognisance shall be entered at the said register office, expressing and containing, in case of such judgment, the names of the plaintiffs, and the names, additions, and places of abode (if any such be in such judgment) of the defendants, the sums thereby recovered, and the time of the signing thereof; and in case of statutes and recognisances, expressing and containing the date of such statute or recognisance, the names, additions, and places of abode of the cognisors and cognisees therein, and for what sums, and before whom the same were acknowledged; and that in order to the making an entry of such memorials of judgments, statutes, and recognisances, as aforesaid, the party and parties desiring the same shall produce to, and leave with the said registrars or masters, to be filed in the said public or register-office, a memorial of such judgment, statute, or recognisance, signed by the proper officer, or his deputy, who shall sign such judgment in the same office, or by the proper officer, in whose office such statute or recognisance shall be enrolled, together with an affidavit sworn before one of the judges at Westminster, or a master in chancery, that such memorial was duly signed by the officer whose name shall appear to be thereunto set; which memorial such respective officer is hereby required to give such plaintiff or plaintiffs, cognisee or cognisees, or his, her, or their executors, or administrators, or attorney, or any of them, he, she, or they paying for the same the sum of one shilling, and no more.

After 29 Sept., 1709, no judgments, &c. (other than such as are entered into in the name of the queen, &c.), shall bind hereditaments in Middlesex, but from the time a memorial thereof shall be entered, &c. (c).

19. That the said registrar or master shall make an entry and likewise (if required) shall give a certificate in writing under his hand, testified by two credible witnesses, of every such memorial of any judgment, statute, or recognisance brought to him to be so registered as aforesaid, and therein mention the certain day on which such memorial is

The registrar to make an entry, and (if required) to give a

(a) So much of this section as relates to any forging or counterfeiting is repealed by 24 & 25 Vict. c. 95, ante, Vol. II. tit. "CRIMINAL LAW."

(b) Actual occupation seems necessary, and the mere receipt of the rent is insufficient (*Fury* v. *Smith*, 1 Huds. & Bro. 735). *Quære*, whether assignment of leases are within this section.

(c) This statute is not repealed by 1 & 2 Vict. c. 110, but both are to be read together (*Benham* v. *Keane*, 1 John. & Hem. 685, 31 L. J. Ch. 129); and a registered judgment does not bind lands in Middlesex, till a memorial has been registered in Middlesex under this section (*Westbrook* v. *Blyth*, 3 E. & B. 737); and as between several judgments registered in the Common Pleas, that first registered in the registry of Middlesex has priority (*Hughes* v. *Lumley*, 4 E. & B. 274, 24 L. J. Q. B. 57; see *Revell* v. *Revell*, 5 Ir. Ch. R. N. S. 284; in *re Morley*, *ib.* 342; see *Johnson* v. *Holdsworth*, 1 Sim. N. S. 106; *Robinson* v. *Woodward*, 5 Sim. N. S. 562). At law notice is immaterial (*Benham* v. *Keane*, supra; see ante, p. 77, n. (c)).

7 Anne, c. 20. so registered or entered, expressing also in what book, page, and number the same is entered.

Certificate of such memorial, &c.

Public Act

20. That this Act shall be taken and allowed in all courts within this kingdom as a public Act, and all judges, justices, and other persons therein concerned, are hereby required as such to take notice thereof, without special pleading the same.

21. No member of parliament capable to be registrar, &c. Nor any registrar to be a member of parliament.

(YORKSHIRE.)

2 & 3 Anne, c. 4.

2 & 3 Anne, c. 4. An Act for the Public Registering of all Deeds, Conveyances, and Wills, that shall be made of any Honours, Manors, Lands, Tenements, or Hereditaments, within the WEST RIDING of the County of York, after the 29th day of September, 1704. [A.D. 1703.]

Farther provisions relating hereto by 5 Anne, c. 18, and 6 Anne, c. 35, s. 34.

A memorial of all deeds and conveyances made after 29 Sept., 1704, and of all wills, &c., made in the west riding of Yorkshire, may be registered.

"Whereas the west riding of the county of York is the principal place in the north for the cloth manufacture, and most of the traders therein are freeholders, and have frequent occasions to borrow money upon their estates for managing their said trade, but for want of a register find it difficult to give security to the satisfaction of the money lenders (although the security they offer be really good), by means whereof the said trade is very much obstructed, and many families ruined:" for the remedying whereof BE IT ENACTED, That a memorial of all deeds and conveyances, which from and after the nine and twentieth day of September, in the year of our Lord one thousand seven hundred and four, shall be made and executed, and of all wills and devises in writing made or to be made and published, where the devisor or testator shall die after the said nine and twentieth day of September, of or concerning, and whereby any honours, manors, lands, tenements, or hereditaments in the said west riding, may be any way affected in law or equity, may, at the election of the party or parties concerned, be registered in such manner as is hereinafter directed; and that every deed or conveyance that shall, at any time after any memorial is so registered, be made and executed of the honours, manors, lands, tenements, or hereditaments, or any part thereof, comprised or contained in any such memorial, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial thereof shall be registered as by this Act is directed, before the registering of the memorial of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim; and that every devise by will of the honours, manors, lands, tenements, or hereditaments, or any part thereof, mentioned or contained in any memorial so registered, as aforesaid, that shall be made and published after the registering of such memorial, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such will be registered in such manner as is hereinafter directed.

Registrar's office to be kept at Wakefield.

2. And for settling and establishing a certain method, with proper rules and directions for registering such memorials, as aforesaid, BE IT FURTHER ENACTED, That one public office for registering such memorials of and concerning any honours, manors, lands, tenements and hereditaments, that are situate, lying, and being within the said west riding, shall be established and kept at Wakefield, the nearest market town to the centre or middle of the said west riding, to be managed and executed by a fit and able person, to be from time to time elected and appointed in manner hereinafter directed, or his sufficient deputy, and to continue in the said office for so long time as he shall well demean himself therein.

Registrar to be elected by ballotting

Manner of election.

3. That all elections of a registrar to be made or appointed by virtue of this Act, shall be performed by ballotting in manner following (that is to say), all the freeholders that at the time of any such election have an estate of freehold, of or in any lands, tenements, or hereditaments within the said west riding, of the yearly value of one hundred pounds (to be determined by the oath of the elector, before the scrutators hereinafter mentioned, if any doubt arise touching the same, which oath they are hereby empowered to administer) shall be electors of the said registrar; and that the justices of the peace for the said west riding, in that behalf assembled, or the major part of them, or any five of such justices to be appointed by such major part, shall be scrutators of the ballot; who shall meet on the day and place of election, and there, in the presence of the electors, shall place one or more glass vessels to be provided for that purpose, into which each elector present shall put one open paper, containing the name of such person as he approves of to be registrar: which papers shall be taken out again in the presence of the said scrutators, by a person by them in that behalf appointed; and the name or names of every person therein shall be once transcribed in distinct columns, and under each name shall be set down the number of their electors, which shall be deliberately cast up by the said scrutators, and the same shall be read over in the hearing, and fixed up in the view, of the electors then present; and the person upon whom the majority shall fall, shall be declared registrar.

4. [Time of electing the first registrar.] 2 & 3 Anne, c. 4.

5. That when and as often as the said office shall become vacant by the death, forfeiture, or surrender of any such registrar, the justices of the peace for the said west riding, assembled at the general quarter sessions of the peace, next after such vacancy shall happen, or the major part of them, shall in open court declare the said vacancy, and by order of the same sessions shall appoint and prefix a certain day and time, within the space of one calendar month, and above three weeks ensuing the end of such general quarter sessions, for the electors to assemble at Wakefield aforesaid, to choose a fit and able person, in the manner aforesaid, to supply the said vacancy: and to the intent that all persons qualified to be electors, may have due notice of such vacancy, and time of election of a succeeding registrar, the clerk of the peace for the time being for the said west riding shall forthwith cause copies of such order, for the prefixing the time of such election, to be delivered to the respective chief constables of the several wapentakes within the said west riding, who shall and are hereby required to publish the same in full market in every market town within their several wapentakes, on the next market day after the receipt thereof, and to affix the same in the most public place of resort there. Upon death, &c., of registrar a new one to be chosen.

6. That upon the death of any such registrar, and until another election of a person to execute that office shall be made in manner aforesaid, the executors and administrators of the registrar deceased, together with the sureties for the said registrar, or their executors and administrators, shall appoint a proper person to execute the office of registrar, for whose demeanour in the execution of the said office the security given for such registrar deceased shall be answerable. During the vacancy, executors of registrar to appoint a person to execute the office.

7. That all and every memorials, so to be entered or registered, shall be put into writing, in vellum or parchment, and directed to the registrar of the said office; and in case of deeds and conveyances, shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his or their guardians or trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such deed or conveyance; which witness shall, upon his oath before the said registrar, or his deputy, prove the signing and sealing of the said memorial, and the execution of the deed or conveyance mentioned in such memorial; and in case of wills, the memorials shall be under the hand and seal of some or one of the devisees, his or their guardians or trustees, attested by two witnesses, one whereof shall, upon his oath before the said registrar or his deputy, prove the signing and sealing of such memorial; which respective oaths the said registrar or his deputy is hereby empowered to administer. How memorials shall be written and directed, &c. Deeds and conveyances. Wills.

8. That every memorial of any deed, conveyance, or will, shall contain the day of the month, and the year when such deed, conveyance, or will bears date, and the names and additions of all the parties to such deed or conveyance, and of the devisor, or testatrix of such will, and of all the witnesses to such deed, conveyance, or will, and the places of their abode, and shall express or mention the honours, manors, lands, tenements, and hereditaments, contained in such deed, conveyance, or will, and the names of all the parishes, townships, hamlets, precincts, or extraparochial places, within the said west riding, where any such honours, manors, lands, tenements, or hereditaments are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such deed, conveyance, or will, in such manner as the same are expressed or mentioned in such deed, conveyance, or will, or to the same effect; and that every such deed, conveyance, and will, or probate of the same, of which such memorial is so to be registered, as aforesaid, shall be produced to the said registrar or his deputy, at the time of entering such memorial, who shall indorse a certificate on every such deed, conveyance, and will, or probate thereof, and therein mention the certain day, hour, and time on which such memorial is so entered and registered, expressing also in what book, page, and number the same is entered, and that the said registrar, or his deputy, shall sign the said certificate when so indorsed; which certificates shall be taken and allowed as evidence of such respective registries in all courts of record whatsoever; and that every page of such register books, and every memorial that shall be entered therein, shall be numbered, and the day of the month, and the year, and hour, or time of the day, when every memorial is registered, shall be entered in the margins of the said register books, and of the said memorial; and that every such registrar shall keep an alphabetical calendar of all parishes, extraparochial places, and townships within the said west riding, with reference to the number of every memorial that concerns the honours, manors, lands, tenements, or hereditaments, in every such parish, extraparochial place, or township respectively, and of the names of the parties mentioned in such memorial;* and that such registrar shall duly file every such memorial in order of time, as the same shall be brought to the said office, and enter or register the said memorials in the same order that they shall respectively come to his hand. What every memorial of any deed, conveyance, or will shall contain. Registrar to indorse a certificate on every such deed, &c. Memorials to be numbered. Registrar to keep an alphabetical calendar. Memorials to be filed and entered in order.

9. [Registrar's oath.]

10. [Registrar's deputy to take the said oath. Registrar to give 2000*l.* security.]

11. Provided nevertheless, That when any registrar shall die, or surrender his office, and that within the space of three years, from and after such death or surrender, no misbehaviour appear to have been committed by such registrar, in the execution of his said office, then and in such case, at the end of the said three years after his death or surrender, the said recognizance, so entered into by him, shall become void and of no effect, to all intents and purposes whatsoever. If no misbehaviour appear in three years after death, &c., of registrar, such recognizance to be void.

2 & 3 Anne, c 4.

Times of attendance in the office.

12. That every such registrar, or his sufficient deputy, shall give due attendance at his office every day in the week (except Sundays and holidays) between the hours of nine and twelve in the forenoon, and the hours of two and five in the afternoon, for the dispatch of all business belonging to the said office; and that every such registrar or his deputy, as often as required, shall make searches concerning all memorials that are registered, as aforesaid, and give certificates concerning the same under his hand, if required by any person.

Allowances for entering memorials,

and for certificates.

13. That every such registrar shall be allowed for the entry of every such memorial, as is by this Act directed, the sum of one shilling, and no more, in case the same do not exceed two hundred words; but if such memorial shall exceed two hundred words, then after the rate and proportion of sixpence an hundred, for all the words contained in such memorial, over and above the first two hundred words: and the like fees for the like number of words, contained in every certificate or copy given out of the said office, and no more, and for every search in the said office one shilling, and no more.

Penalty on registrar, &c.

Treble damages.

14. That if any such registrar or his deputy shall neglect to perform his or their duty in the execution of the said office, according to the rules and directions in this Act mentioned, or commit, or suffer to be committed, any undue or fraudulent practice in the execution of the said office, and be therefore lawfully convicted, that then such registrar shall forfeit his said office, and pay treble damages with full costs of suit to every such person or persons as shall be injured thereby, to be recovered by action of debt, bill, plaint, or information, in any of her majesty's courts of record at Westminster, wherein no essoin, protection, privilege, or wager of law shall be allowed, nor any more than one imparlance.

Person nominated on death of registrar to execute the office (while vacant) to take the same oath as registrar.

Treble damages.

15. That the person to be nominated, as aforesaid, upon the death of any registrar, to execute the said office, during the time the same shall be vacant, as aforesaid, shall, before he enter upon the execution thereof, take the oath hereinbefore appointed to be taken by such registrar, and his deputy, before two or more justices of the peace for the said riding (who are hereby empowered to administer the same oath), and that if such person, so nominated, shall be lawfully convicted of any neglect, misdemeanour, or fraudulent practice in the execution of the said office, during such vacancy, he shall be liable to pay treble damages, with full costs of suit, to every person that shall be injured thereby, to be recovered as aforesaid.

Act not to extend to copyhold or leasehold estates

16. Provided also, That this Act shall not extend to any copyhold estates, or to any leases at a rack rent, or to any lease not exceeding one and twenty years, where the actual possession and occupation goeth along with the lease; anything in this Act contained to the contrary thereof in anywise notwithstanding.

Manors, lands, &c, to be but once named in the memorial, &c, where there are more writings than one for making the conveyance, &c

17. Provided always, That where there are more writings than one, for making and perfecting any conveyance or security, which do name, mention, or any ways affect or concern the same honours, manors, lands, tenements, or hereditaments, it shall be a sufficient memorial and register thereof if all the said honours, manors, lands, tenements, and hereditaments, and the parishes, townships, hamlets, or extraparochial places, where the same lie, be only once named or mentioned in the memorial, register, and certificate of any one of the deeds or writings, made for the perfecting of such conveyance or security; and that the dates of the rest of the said deeds or writings, relating to the said conveyance or security, with the names and additions of the parties and witnesses, and the places of their abodes, be only set down in the memorials, registers, and certificates of the same, with a reference to the deed or writing whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering the same.

A memorial of deeds, &c, made in London, &c, which concern any lands in the west riding may be registered on affidavit.

Registrar to give certificate thereupon.

18. That a memorial of such deeds, conveyances, and wills, as shall be made and executed or published in London, or in any other place not within forty miles of the said west riding, which do or may concern or affect any honours, manors, lands, tenements, or hereditaments in the said west riding, shall be entered or registered by the aforesaid registrar or his deputy, in case an affidavit sworn before any one of the judges at Westminster, or a master in Chancery, be brought with the said memorial to the said registrar or his deputy, wherein one of the witnesses to the execution of such deeds and conveyances shall swear he or she saw the same executed, and the memorial signed and sealed as abovesaid, or wherein one of the witnesses to the memorial of any will shall swear he or she saw such memorial signed and sealed as abovesaid; and the same shall be a sufficient authority to the said registrar, or his deputy, to give the party that brings such memorial and affidavit, a certificate of the registering such memorial; which certificate, signed by the said registrar or his deputy, shall be taken and allowed as evidence of the registries of the same memorials in all courts of record whatsoever; anything in this Act to the contrary thereof contained in anywise notwithstanding.

Penalty on forging or counterfeiting memorials or certificates (a).

19. That if any person or persons shall at any time forge or counterfeit any such memorial or certificate as are hereinbefore mentioned and directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and

(a) So much of this section as relates to any forging or counterfeiting is repealed by 24 & 25 Vict. c. 95, ante, Vol. II. tit. "CRIMINAL LAW."

penalties as in and by an Act of parliament made in the fifth year of the reign of queen Elizabeth, intituled, "An Act against forgers of false deeds and writings," are imposed upon persons for forging or publishing of false deeds, charters, or writings sealed, court rolls, or wills, whereby the freehold or inheritance of any person or persons of, in, or to any lands, tenements, or hereditaments, shall or may be molested, troubled, or charged; and that if any person or persons shall at any time forswear himself before the said registrar, or his deputy, or before any judge or master in chancery, in any of the cases aforesaid, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties, as if the same oath had been made in any of the courts of record at Westminster.

2 & 3 Anne, c. 4.
5 Eliz. c. 14.
Penalty on person forswearing himself.

20. Provided always, That all memorials of wills that shall be registered in manner as aforesaid, within the space of six months after the death of every respective devisor or testatrix, dying within the kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, or within the space of three years after the death of every respective devisor or testatrix, dying upon or in any parts beyond the seas, shall be as valid and effectual against subsequent purchasers, as if the same had been registered immediately after the death of such respective devisor or testatrix; anything herein contained to the contrary thereof in anywise notwithstanding.

Memorials of wills entered in six months after death of devisor, dying in England, &c., or in three years after death of devisor dying beyond sea, to be valid.

21. Provided always, That in case the devisee, or person or persons interested in the honours, manors, lands, tenements, or hereditaments, devised by any such will as aforesaid, by reason of the contesting such will, or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled to exhibit a memorial for the registry thereof, within the respective times hereinbefore limited, then and in such case the registry of the memorial, within the space of six months next after his, her, or their attainment of such will, or a probate thereof, or removal of the impediment, whereby he, she, or they are disabled or hindered to exhibit such memorial, shall be a sufficient registry within the meaning of this Act; anything herein contained to the contrary thereof in anywise notwithstanding.

Proviso in case of wills contested.

22. [No member of parliament to be chosen registrar, &c.]

23. That this Act shall be taken and allowed in all courts within this kingdom as a public Act; and all judges and justices are hereby required as such to take notice thereof, without special pleading the same.

Public Act.

5 & 6 Anne, c. 18. An Act for Enrolments of Bargains and Sales within the West Riding of the County of York in the Register Office there lately provided, and for making the said Register more effectual. [A.D. 1706.]

5 & 6 Anne, c. 18.

"Whereas by an Act of parliament made in the twenty-seventh year of the reign of king Henry the eighth, intituled, For Inrollments of Bargains and Sales, it is enacted, that no manors, lands, tenements or other hereditaments shall pass, alter or change from one to another, whereby any estate of inheritance or freehold shall be made, or take effect in any person or persons or any use thereof to be made, by reason only of any bargain and sale thereof, except the said bargain and sale be made by writing indented, sealed and enrolled in one of the king's courts of record at Westminster, or else within the same county or counties where the same manors, lands or tenements so bargained and sold lie or be, before the custos rotulorum, and two justices of the peace, and the clerk of the peace of the same county or counties, or two of them at the least, whereof the clerk of the peace to be one; which Act hath been found by experience to be of little or no use within the west riding of the county of York, as to the enrolments of bargains and sales within the said west riding, for that the clerk of the peace thereof for the time being, who hath the keeping of the said enrolments within the said west riding, is not by the said Act enjoined to give any security for the said keeping, nor under any penalty for the negligent keeping of the said enrolments, nor is there by the said Act any certain place appointed for keeping thereof: And whereas by an Act of parliament made in the second year of her present majesty's reign, intituled, An Act for the public registering of all Deeds, Conveyances and Wills that shall be made of any Honours, Manors, Lands, Tenements or Hereditaments within the west riding of the county of York, after the nine and twentieth day of September, one thousand seven hundred and four; a public office hath been erected and established at Wakefield within the said west riding, at the public charge thereof, for registering and safe keeping of memorials of all deeds, conveyances and wills within the said riding, and a public registrar hath been chosen, who hath, according to the direction of the same Act, given sufficient security for the due execution of the said office:" For the rendering thereof the aforesaid Act, made in the twenty seventh year of the reign of king Henry the Eighth, more effectual and beneficial to the inhabitants of the said west riding, as to all enrolments of bargains and sales within the said west riding, BE IT ENACTED, That from and after the four and twentieth day of June in the year of our Lord one thousand seven hundred and seven, all bargains and sales of any manors, lands, tenements and hereditaments, situate, lying and being within the said west riding, which shall be enrolled before the said registrar or his deputy for the time being, in the said public office at Wakefield, shall be as good, effectual and available, to all intents and

27 H. 8, c. 16.
2 & 3 Anne, c. 4.
Register office at Wakefield.
All bargains and sales of lands, &c., in west riding, enrolled at

5 & 6 Anne, c. 18.

Wakefield, to be good in law, as if enrolled at Westminster;

enrolment;

purposes whatsoever, as if the same had been enrolled in one of the queen's courts of record at Westminster, or before the custos rotulorum, and two justices of the peace, and the clerk of the peace of the said west riding, or two of them, according to the aforesaid Act made in the twenty-seventh year of the reign of king Henry the Eighth; and the said registrar or his deputy, for the time being, (together with one or more justice or justices of the peace of the said riding) shall have power to take and enter the acknowledgment of the bargainer, if but one, or of one of the bargainers, if more, in such bargains and sales; and shall well and sufficiently enrol, by engrossing in parchment rolls or parchment books, all such bargains and sales as shall for that purpose be acknowledged before him as aforesaid; and shall endorse a certificate on such bargains and sales, of the times of enrolling thereof, and sign the same; and the rolls or books thereof shall safely keep in the said public office, there to remain upon record amongst the memorials of deeds there registered. [See this section continued in substance, but varying materially as to mode of enrolment, 6 Anne, c. 35, s. 16.]

and allowed in all courts.

2. That all deeds of bargain and sale so enrolled in the said public or register office as aforesaid, which shall appear to be so enrolled by an indorsement or certificate on the said deeds of bargain and sale signed by the said registrar or his deputy, and that all copies of the enrolments thereof remaining on record in the said register office, shall be allowed in all courts where such bargains and sales, or copies shall be produced, to be as good and sufficient evidence as any bargains and sales enrolled in any of the courts at Westminster, and the copies of the enrolments thereof.

Enrolment deemed entering a memorial.

3. That every such enrolment of every such deed in the said register office as aforesaid, shall be deemed and adjudged to be the entering of a memorial thereof, pursuant to the said Act made in the second year of her present majesty's reign, and shall have the same force and effect upon the estate therein mentioned, in relation to all subsequent deeds, conveyances and wills, and to all other intents and purposes, as if a memorial of such enrolled deed had been entered in the said register office pursuant to the said Act.

No judgment, &c. (except the crown) to affect any manors, &c in west riding, but from time of memorial entered.

4. That no judgment, statute or recognisance (other than such as shall be entered into in the name, and upon the proper account of her majesty, her heirs and successors) which shall be obtained or entered into, after the said four and twentieth day of June in the said year of our Lord one thousand seven hundred and seven, shall affect or bind any manors, lands, tenements or hereditaments, situate, lying and being in the said west riding, but only from the time (a) that a memorial of such judgment, statute or recognisance shall be entered at the said register office, expressing and containing, in case of such judgment, the names of the plaintiffs, and the names and additions therein of the defendants, the sums thereby recovered, and the time of the signing thereof; and in case of statutes and recognisances, expressing and containing the date of such statute or recognisance, the names and additions of the cognisors and cognisees therein, and for what sums, and before whom the same were acknowledged; and that in order to the making an entry of such memorials of judgments, statutes and recognisances as aforesaid, the party and parties desiring the same, shall produce to, and leave with the said registrar or his deputy, to be filed in the said public or register office, a memorial of such judgment, statute or recognisance, signed by the proper officer, who shall sign such judgment, or his successor in the same office, or by the proper officer in whose office such statute or recognisance shall be enrolled, together with an affidavit sworn before one of the judges at Westminster, or a master in chancery, that such memorial was duly signed by the officer whose name shall appear to be thereunto set; which memorial such respective officer is hereby required to give such plaintiff or plaintiffs, cognisee or cognisees, or his, her or their executors or administrators, or attorneys, or any of them, he, she, or they paying for the same the sum of one shilling, and no more.

Entry

Fee.

Registrar.

Certificate.

5. That the said registrar, or his deputy, shall make an entry, and likewise, if required, shall give a certificate in writing under his hand, testified by two credible witnesses, of every such memorial of any judgment, statute or recognisance brought to him to be so registered as aforesaid, and therein mention the certain day on which such memorial is so registered or entered, expressing also in what book, page and number the same is entered.

Condition of registrar's recognisance.

6. That the recognisance entered into by the present registrar, and hereafter to be entered into by the registrar for the time being, at the time of his being sworn into the said office of registrar, conditioned for the true and faithful performance of his duty in the execution of his said office, shall be deemed, adjudged and taken to stand and be to all intents and purposes a security, as well for the due enrolment, and safe keeping when enrolled, of the said enrolments of all bargains and sales that shall be enrolled before the said registrar, or his deputy, for the time being, by virtue of this present Act, and for all other duties appointed by him to be done by this Act, as for the true and faithful performance of his duty in the execution of his said office of registrar; and that the said registrar and his deputy for the time being, shall be liable to the like breaches and forfeitures of the said recognisance for and in respect of any neglect or breach of his duty required of him by this present Act, as for any neglect or breach of his duty in the execution of his said office of registrar.

(a) Therefore before registration a judgment creditor has no right against the lands of his debtor, legal or equitable (*Johnson* v. *Holdsworth*, 1 Sim. N. S. 106).

7. That the said registrar for the time being, shall be allowed for enrolling every such bargain and sale and memorial as aforesaid, and for certificates, copies and searches respectively the like respective fees that are, by the aforesaid Act made in the second year of her present majesty's reign, appointed for the entering memorials of deeds, conveyances and wills, and for certificates, copies and searches respectively, and no more. 5 & 6 Anne, c. 18. Fees.

8. That if any person or persons shall at any time forge or counterfeit any entry of the acknowledgment of any bargainer in any such bargain and sale as aforesaid, or any such memorial, certificate or endorsement as are herein mentioned or directed, and be thereof lawfully convicted, such person or persons shall incur, and be liable to such pains and penalties as in and by an Act of parliament made in fifth year of queen Elizabeth, intituled, 'An Act against Forgers of false Deeds and Writings,' are imposed upon persons so forging or publishing of false deeds, charters or writings sealed, court rolls or wills whereby the freehold or inheritance of any person or persons of, in or to any lands, tenements or hereditaments, shall or may be molested, troubled or charged: and that if any person or persons shall at any time forswear himself before the said registrar or his deputy, or before any judge or master in chancery, in any of the cases herein mentioned, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties, as if the same oath had been made in any of the courts of record at Westminster. Forging or counterfeiting entry. Penalties. 5 Eliz. c. 14. Forswearing. Penalties.

9. That all certificates required by this Act, or by the said Act made in the second year of her present majesty's reign to be given by the said registrar or his deputy, in case of searches in the said public or register office, shall be signed by the said registrar or his deputy, in the presence of two credible persons, who shall set their names thereto as witnesses to the signing thereof. Certificates to be signed by registrar.

10. That in case of mortgages that shall be enrolled in the said register office, pursuant to this Act; or whereof memorials have been or shall be entered, pursuant to the said Act made in the second year of her present majesty's reign; and also in case of judgments, statutes and recognisances, whereof memorials shall be entered in the said register office, pursuant to this Act; if at any time afterwards a certificate shall be brought to the said registrar or his deputy, signed by the respective mortgagors and mortgagees in such mortgage, plaintiffs and defendants in such judgment, cognisor and cognisees in such statute or recognisance respectively, their respective executors, administrators or assigns, and attested by two witnesses, whereby it shall appear, that all monies due upon such mortgage, statute or recognisance respectively, have been paid or satisfied in discharge thereof; which witnesses shall upon their oath before the said registrar or his deputy, (who are hereby respectively empowered to administer such oath) prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagors and mortgagees, plaintiffs and defendants, cognisors and cognisees respectively, their respective executors, administrators or assigns; that then and in every such case the said registrar or his deputy shall make an entry in the margents of the said register books, against the enrolment of such mortgage or registry of the memorial thereof, and against the registry of such judgment, statute or recognisance respectively, that such mortgage, judgment, statute or recognisance respectively, was satisfied and discharged according to such certificate, to which the same entry shall refer; and shall after file such certificate, to remain upon record in the said register office. On certificate that mortgage money, &c., paid, registrar to make entry thereof, &c.

11. Provided nevertheless, That if any judgment, statute or recognisance, be registered in the said register office, within thirty days after the acknowledgment or signing thereof, all the lands that the defendant or cognisor had at the time of such acknowledgment or signing, shall be bound thereby. Proviso.

12. That this Act shall be taken and allowed in all courts within this kingdom as a public Act, and all judges, justices and other persons therein concerned, are hereby required, as such, to take notice thereof, without special pleading the same. Public Act.

[See 6 Anne, c. 35, s. 34.]

6 Anne, c. 35. An Act for the public Registering of all Deeds, Conveyances, Wills, and other Incumbrances that shall be made of, or that may affect any Honours, Manors, Lands, Tenements, or Hereditaments within the East Riding of the County of York, or the Town and County of the Town of Kingston-upon-Hull, after the 29th day of September, 1708; and for the rendering the Register in the West Riding more complete. 6 Anne, c. 35.

[A.D. 1707.]

"Whereas the lands in the east riding of the county of York, and in the town and county of the town of Kingston-upon-Hull, are generally freehold, which may be so secretly transferred or conveyed from one person to another, that such as are ill disposed have it in their power to commit frauds, and frequently do so, by means whereof several persons (who through many years industry in their trades and employments and by great frugality have been enabled to purchase lands or to lend monies on land security) have been undone in their purchases and mortgages, by prior and secret conveyances and

6 Anne, c 35

fraudulent incumbrances, and not only themselves but their whole families thereby utterly ruined ' For remedy whereof, may it please your most excellent majesty at the humble request of the justices of the peace, gentlemen and freeholders of the said east riding, and of the said town and county of the town of Kingston upon Hull, that it may be enacted, AND BE IT ENACTED, That a memorial of all deeds and conveyances which from and after the nine and twentieth day of September in the year of our Lord one thousand seven hundred and eight, shall be made and executed, and of all wills and devises in writing made or to be made and published, where the devisor or testatrix shall die after the said nine and twentieth day of September, of or concerning, and whereby any honours, manors, lands, tenements or hereditaments in the said east riding, or in the said town and county of the town of Kingston upon Hull, may be any way affected in law or equity, may be registered in such manner as is hereinafter directed and that every such deed or conveyance that shall, at any time after the said nine and twentieth day of September, be made and executed, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration unless such memorial thereof be registered as by this Act is directed, before the registering of the memorial of the deed of conveyance under which such subsequent purchaser or mortgagee shall claim, and that every such devise by will shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such will be registered in such manner as is hereinafter directed

Convey ances and wills of lands in the east riding or Hull not re gistered, void

Office to be at Beverley

2 And for settling and establishing a certain method, with proper rules and directions for registering such memorials as aforesaid, BE IT FURTHER ENACTED, That one public office for registering such memorials of and concerning any honours, manors, lands, tenements and hereditaments that are situate, lying and being with the said east riding or the said town and county of the town of Kingston upon Hull, shall, at the public charge of the said east riding, to be raised by the justices of the peace thereof at their general quarter sessions of the peace, in such manner as they are empowered to raise money for the repairs of public or county bridges, be erected and established at Beverley, the nearest market town to the centre or middle of the said east riding, to be managed and executed by a fit and able person, to be from time to time elected and appointed in manner hereinafter directed or his sufficient deputy, and to continue in the said office for so long time as he shall well demean himself therein

Registrar to be elected by balloting

3 That all elections of a registrar to be made or appointed by virtue of this Act, shall be performed by balloting, in manner following, that is to say, all the freeholders that at the time of any such election have an estate of freehold of or in any lands, tenements or hereditaments within the said east riding and the said town and county of the town of Kingston upon Hull, or in either of them, of the yearly value of one hundred pounds, to be determined by the oath of the elector, before the scrutators hereinafter mentioned, if any doubt arise touching the same (which oath they are hereby empowered to administer) shall be electors of the said registrar, and that the justices of the peace for the said east riding in that behalf assembled, or the major part of them, or any five of such justices to be appointed by such major part, shall be scrutators of the ballot, who shall meet on the day and place of election, and there in the presence of the electors shall place one or more glass vessels to be provided for that purpose, into which each elector present shall put one open paper, containing the name of such person as he approves of to be registrar, which papers shall be taken out again in the presence of the said scrutators, by a person by them in that behalf appointed, and the name or names of every person therein shall be once transcribed in distinct columns, and under each name shall be set down the number of their electors, which shall be deliberately cast up by the said scrutators, and the same shall be read over in the hearing and fixed up in the view of the electors then present, and the person upon whom the majority shall fall shall be declared registrar

Oath.

4 [Time of election]

On death of registrar a new one to be elected

5. That when and as often as the said office shall become vacant by the death, forfeiture or surrender of any such registrar, the justices of the peace for the said east riding assembled at the general quarter sessions of the peace next after such vacancy shall happen, or the major part of them shall, in open court, declare the said vacancy, and by order of the same sessions shall appoint and prefix a certain day and time within the space of one calendar month, and above three weeks ensuing the end of such general quarter sessions, for the electors to assemble at Beverley aforesaid, to choose a fit and able person in the manner aforesaid, to supply the said vacancy, and to the intent that all persons qualified to be electors may have due notice of such vacancy and time of election of a succeeding registrar, the clerk of the peace for the time being for the said east riding, shall forthwith cause copies of such order, for the prefixing the time of such election, to be delivered to the respective chief constables of the several wapentakes within the said east riding, who shall and are hereby required to publish the same in full market in every market town within their respective wapentakes, on the next market day after the receipt thereof, and to affix the same in the most public place of resort there

6 [Who shall be sworn]

Deputy

7 And that when and as often as the said registrar shall appoint any deputy to execute the said office, such deputy shall, before he enter upon the execution thereof, take the said oath appointed to be taken by the said registrar, before two or more of the justices of the peace for the said riding, who are hereby empowered and required to administer such oath

8. That upon the death of any such registrar, and until another election of a fit person to execute that office shall be made in manner aforesaid, the executors and administrators of the registrar deceased, together with the sureties for the said registrar, or their executors and administrators, shall appoint a proper person to execute the office of registrar, for whose demeanour in the execution of the said office the security given for such registrar deceased shall be answerable. 6 Anne, c. 35. Executors of deceased registrar may appoint.

9. That the person to be appointed as aforesaid, upon the death of any registrar, to execute the said office during the time the same shall be vacant as aforesaid, shall, before he enter upon the execution thereof, take the oath hereinbefore appointed to be taken by such registrar and his deputy, before two or more justices of the peace for the said riding (who are hereby empowered to administer the same oath), and that if such person so appointed shall be lawfully convicted of any neglect, misdemeanour or fraudulent practice in the execution of the said office, during such vacancy, he shall be liable to pay treble damages with full costs of suit to every person that shall be injured thereby, to be recovered as is hereinafter directed. Oath. Neglect. Penalty.

10. That all and every memorials so to be entered and registered shall be put into writing in vellum or parchment, and brought to the said office, and in case of deeds and conveyances shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such deed or conveyance; which witness shall upon his oath, before the said registrar or his deputy, prove the signing and sealing of such memorial, and the execution of the deed or conveyance mentioned in such memorial; and in case of wills, the memorial shall be under the hand and seal of some or one of the devisees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof shall upon his oath, before the said registrar or his deputy, prove the signing and sealing of such memorial, which respective oaths the said registrar or his deputy is hereby empowered to administer. Memorials to be registered in vellum, &c. Oath.

11. That every memorial of any deed, conveyance or will, shall contain the day of the month, and the year when such deed, conveyance or will bears date, and the names and additions of all the parties to such deed or conveyance, and of the devisor or testatrix of such will, and of all the witnesses to such deed, conveyance or will, and the places of their abode, and shall mention or express the honours, manors, lands, tenements and hereditaments contained in such deed, conveyance or will, and the names of all the parishes, townships, hamlets, precincts or extra-parochial places within the said east riding, and the said town and county of the town of Kingston-upon-Hull, or either of them, where any such honours, manors, lands, tenements or hereditaments, are lying or being, that are given, granted, conveyed, devised or any way affected or charged by any such deed, conveyance or will, in such manner as the same are expressed or mentioned in such deed, conveyance and will, or to the same effect; and that every such deed, conveyance, and will or probate of the same, of which such memorial is so to be registered as aforesaid, shall be produced to the said registrar or his deputy at the time of entering such memorial, who shall indorse a certificate on every such deed, conveyance and will or probate thereof, and therein mention the certain day, hour and time on which such memorial is so entered or registered, expressing also in what book, page and number the same is entered, and that the said registrar or his deputy shall sign the said certificate when so indorsed; which certificates shall be taken and allowed as evidence of such respective registries, in all courts of record whatsoever; and that every page of such register books, and every memorial that shall be entered therein, shall be numbered, and the day of the month, and the year and hour or time of the day when every memorial is registered, shall be entered in the margents of the said register books and of the said memorial; and that every such registrar shall keep an alphabetical calendar of all parishes, extraparochial places and townships within the said east riding, and the said town and county of the town of Kingston-upon-Hull, with reference to the number of every memorial that concerns the honours, manors, lands, tenements or hereditaments in every such parish, extraparochial place or township respectively, and of the names of the parties mentioned in such memorial, and that such registrar shall duly file every such memorial, in order of time, as the same shall be brought to the said office, and enter or register the said memorials in the same order that they shall respectively come to his hand. What every memorial shall contain. Registrar to indorse certificate, &c., and keep alphabetical calendar of parishes, &c., and file memorials.

12. That a memorial of such deeds, conveyances and wills as shall be made and executed or published in London, or in any other place not within forty miles of the said east riding, which do or may concern or affect any honours, manors, lands, tenements or hereditaments in the said east riding or the said town and county of the town of Kingston-upon-Hull, shall be entered or registered by the aforesaid registrar or his deputy, in case an affidavit sworn before one of the judges at Westminster or a master in chancery, ordinary or extraordinary, be brought with the said memorial to the said registrar or his deputy, wherein one of the witnesses to the execution of such deeds and conveyances shall swear, he or she saw the same executed and the memorial signed and sealed as aforesaid, or wherein one of the witnesses to the memorial of any will shall swear, he or she saw such memorial signed and sealed as aforesaid; and the same shall be a sufficient authority to the said registrar or his deputy to give the party that brings such memorial and affidavit, a certificate of the registering such memorial; which certificate signed by the said registrar or his deputy shall be taken and allowed as evidence of the registries Memorials, &c., made in London, &c., may be entered on affidavit. Certificate

6 Anne, c. 35. of the same memorials in all courts of record whatsoever; anything in this Act to the contrary thereof contained, in anywise notwithstanding.

In what case if more writings than one, memorial sufficient.

13. Provided always, That where there are more writings than one for making and perfecting any conveyance or security, which do name, mention, or any ways affect or concern the same honours, manors, lands, tenements or hereditaments, it shall be a sufficient memorial and register thereof, if all the said honours, manors, lands, tenements and hereditaments, and the parishes, townships, hamlets or extra-parochial places, wherein the same lie, be only once named or mentioned in the memorial, register and certificate of any one of the deeds or writings made for the perfecting of such conveyance or security, and that the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties and witnesses, and the places of their abodes, be only set down in the memorials, registers and certificates of the same, with a reference to the deed or writing whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering the same.

Memorials of wills registered within what time after death of devisor, &c., valid.

14. Provided also, That all memorials of wills that shall be registered in manner as aforesaid, within the space of six months after the death of every respective devisor or testatrix dying within the kingdom of Great Britain, or within the space of three years after the death of every respective devisor or testatrix dying upon or in any parts beyond the seas, shall be as valid and effectual against subsequent purchases, as if the same had been registered immediately after the death of such respective devisor or testatrix; anything herein contained to the contrary thereof in anywise notwithstanding.

Proviso in case of wills contested.

15. Provided always, That in case the devisee, or person or persons interested in the honours, manors, lands, tenements or hereditaments, devised by any such will, as aforesaid, by reason of the contesting such will, or other inevitable difficulty, without his, her or their wilful neglect or default, shall be disabled to exhibit a memorial for the registry thereof, within the respective times hereinbefore limited, and that a memorial shall be entered in the said office, of such contest or other impediment, within the space of six months after the decease of such devisor or testatrix, who shall die within the kingdom of Great Britain, or within the space of three years next after the decease of such person who shall die upon or beyond the seas, then and in such case the registry of the memorial of such will, within the space of six months next after his, her or their attainment of such will, or a probate thereof, or removal of the impediment whereby he, she or they are disabled or hindered to exhibit such memorial, shall be a sufficient registry within the meaning of this Act; anything herein contained to the contrary thereof in anywise notwithstanding.

27 H. 8, c. 16, s. 1.

16. "And whereas by an Act of parliament made in the twenty-seventh year of the reign of king Henry the eighth, intituled, 'For Enrolments of Bargains and Sales,' it is enacted, That no manors, lands, tenements or other hereditaments, shall pass, alter or change from one to another, whereby any estate of inheritance or freehold shall be made or take effect, in any person or persons, or any use thereof to be made, by reason only of any bargain and sale thereof, except the said bargain and sale be made by writing indented, sealed and enrolled in one of the king's courts of record at Westminster, or else within the same county or counties where the same manors, lands, tenements or hereditaments, so bargained and sold, lie or be, before the custos rotulorum, and two justices of the peace, and the clerk of the peace of the said county or counties, or two of them at the least, whereof the clerk of the peace to be one; which Act hath been found by experience to be of little or no use within the said east riding, or the said town and county of the town of Kingston-upon-Hull, for that the clerks of the peace thereof respectively for the time being, who have the keeping of the said enrolments within the said respective places, are not by the said Act enjoined to give any security for the safe keeping, nor under any penalty for the negligent keeping of the said enrolments, nor is there by the said Act any certain place appointed for keeping thereof; and whereas by this present Act a public office is intended to be erected and established at Beverley aforesaid, at the public charge of the said east riding, for registering and safe keeping memorials of all deeds, conveyances and wills as aforesaid, and a public registrar to be chosen, who, according to the directions hereinafter mentioned, is to give sufficient security for the due execution of the said office:" For rendering therefore the said Act made in the twenty-seventh year of the reign of king Henry the eighth more effectual and beneficial to the inhabitants of the said east riding, and of the town and county of the town of Kingston-upon-Hull, BE IT FURTHER ENACTED, That from and after the said nine and twentieth day of September in the year of our Lord one thousand seven hundred and eight, all bargains and sales of any manors, lands, tenements and hereditaments, situate, lying and being within the said east riding, or the said town and county of the town of Kingston-upon-Hull, which shall be enrolled by the said registrar, or his deputy for the time being, in the said public office at Beverley, shall be as good, effectual and available, to all intents and purposes whatsoever, as if the same had been enrolled in one of the queen's courts of record at Westminster, or before the custos rotulorum and two justices of the peace and the clerk of the peace of the said east riding, or of the said town and county of the town of Kingston-upon-Hull, or two of them, according to the aforesaid Act made in the twenty-seventh year of the reign of king Henry the Eighth, or any other Act now in force: And one or more justice or justices of the peace of the said riding for the time being shall have power to take and enter the acknowledgment of the bargainor, if but one, or of one of the bargainors if more, in such bargains and sales;

27 H. 8, c. 16.

Bargains and sales of lands, &c., enrolled at Beverley, to be as effectual as if enrolled at Westminster, &c.

and the said registrar, or his deputy for the time being, shall well and sufficiently enrol, by engrossing in parchment books, all such bargains and sales as shall for that purpose be acknowledged as aforesaid, and shall endorse a certificate on such bargains and sales of the times of enrolling thereof, and sign the same, and the books thereof shall safely keep in the said public office, there to remain upon record amongst the memorials of deeds there registered. 6 Anne, c. 35.

17. That all deeds of bargain and sale so enrolled in the said public or register office, as aforesaid, which shall appear to be so enrolled by an endorsement or certificate on the said deeds of bargain and sale, signed by the said registrar or his deputy, and that all copies of the enrolments thereof remaining on record in the said register office, shall be allowed in all courts where such bargains and sales or copies shall be produced to be as good and sufficient evidence as any bargains and sales enrolled in any of the courts at Westminster, and the copies of the enrolments thereof. Deeds so enrolled to be sufficient evidence.

18. That every such enrolment of every such deed in the said register office as aforesaid, shall be deemed and adjudged to be the entering a memorial thereof pursuant to this Act, and shall have the same force and effect upon the estate therein mentioned, in relation to all subsequent deeds, conveyances and wills, and to all other intents and purposes, as if a memorial of such enrolled deed had been entered in the said register office as aforesaid, pursuant to this Act. Enrolment to be deemed entering memorial.

19. That no judgment, statute or recognisance (other than such as shall be entered into in the name and upon the proper account of her majesty, her heirs and successors) which shall be obtained or entered into after the said nine and twentieth day of September in the said year of our Lord one thousand seven hundred and eight, shall affect or bind any honours, manors, lands, tenements or hereditaments, situate, lying and being in the said east riding, or in the said town and county of the town of Kingston-upon-Hull, but only from the time that a memorial of such judgment, statute or recognisance shall be entered at the said register office, expressing and containing, in case of such judgment, the names of the plaintiffs, and the names and additions therein of the defendants, the sums thereby recovered, and the time of the signing thereof; and in case of statutes and recognisances, expressing and containing the date of such statute or recognisance, the names and additions of the cognisors and cognisees therein, and for what sums, and before whom the same were acknowledged; and that in order to the making an entry of such memorials of judgments, statutes and recognisances as aforesaid, the party and parties desiring the same, shall produce to and leave with the said registrar or his deputy, to be filed in the said public or register office, a memorial of such judgment, statute or recognisance, signed by the proper officer or his deputy, who shall sign such judgment, or his successor in the same office, or by the proper officer in whose office such statute or recognisance shall be enrolled, together with an affidavit, sworn before one of the judges at Westminster, or a master in chancery, that such memorial was duly signed by the officer, whose name shall appear to be thereunto set, which memorial such respective officer is hereby required to give such plaintiff or plaintiffs, cognisee or cognisees, or his, her or their executors or administrators, or attorney, or any of them; he, she or they paying for the same the sum of one shilling and no more. No judgment, &c. shall affect lands, &c. in east riding or Hull, but from memorial entered, &c. Crown excepted. Fee.

20. That the said registrar or his deputy shall make an entry, and likewise (if required) shall give a certificate in writing, under his hand, testified by two credible witnesses, of every such memorial of any judgment, statute or recognisance brought to him to be so registered as aforesaid, and therein mention the certain day on which such memorial is so registered or entered, expressing also in what book, page and number the same is entered. Registrar to enter memorial, and give certificate, &c.

21. That every such registrar shall be allowed for the entry of every such memorial, as is by this Act directed, the sum of one shilling and no more, in case the same do not exceed two hundred words; but if such memorial shall exceed two hundred words, then after the rate and proportion of sixpence an hundred for all the words contained in such memorial, over and above the first two hundred words; and the like fees for the like number of words contained in every such bargain and sale as aforesaid, and in every certificate or copy given out of the said office, and no more; and for every search in the said office one shilling and no more. Entries of memorials. Fee.

22. That every such registrar, or his sufficient deputy, shall give due attendance at his office every day in the week (except Sundays and holidays) between the hours of nine and twelve in the forenoon, and the hours of two and five in the afternoon, for the dispatch of all business belonging to the said office, and that every such registrar or his deputy, as often as required, shall make searches, concerning all memorials that are registered as aforesaid, and give certificates concerning the same under his hand (if required by any person) testified by two credible witnesses. Times of attendance at the office.

23. That every registrar, at the time of his being sworn into the said office as aforesaid, shall enter into a recognisance, with two or more sufficient sureties (to be approved of by five or more of the justices of the peace of the said riding, that were present at his election, by writing under their hands and seals, to be registered at the next general quarter sessions of the peace for the said riding) of the penalty of two thousand pounds unto her majesty, her heirs and successors, to be taken by the same justices of the peace that approved of his security, conditioned for his true and faithful performance of his duty in the execution of his said office, in all things directed and required by this Act; the same to be transmitted by the same justices of the peace, within one month next after the date thereof, into the office of her majesty's remembrancer of the exchequer, there to remain amongst the records of the said court. Registrar to enter into a recognisance of 2000l.

6 Anne, c. 35.

Neglect of duty.

24. That if any such registrar or his deputy shall neglect to perform his or their duty in the execution of the said office, according to the rules and directions in this Act mentioned, or commit or suffer to be committed any undue or fraudulent practice in the execution of the said office, and be thereof lawfully convicted, then such registrar shall forfeit his said office, and pay treble damages with full costs of suit to every such person or persons as shall be injured thereby, to be recovered by action of debt, bill, plaint or information in any of her majesty's courts of record at Westminster, wherein no essoin, protection, privilege or wager of law, shall be allowed, nor any more than one imparlance.

Penalty.

Proviso for recognisance to be void.

25. Provided nevertheless, That when any registrar shall die or surrender his office, and that within the space of three years from and after such death or surrender no misbehaviour appear to have been committed by such registrar in the execution of his said office, then and in such case, at the end of the said three years after his death or surrender, the said recognisance so entered into by him shall become void and of none effect, to all intents and purposes whatsoever.

Forging or counterfeiting entry (a).

26. That if any person or persons shall at any time forge or counterfeit any entry of the acknowledgment of any bargainor in any such bargain and sale as aforesaid, or any such memorial, certificate or endorsement, as is herein mentioned or directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties, as in and by an Act made in the fifth year of queen Elizabeth, intituled, "An Act against Forgers of false Deeds and Writings," are imposed upon persons for forging and publishing of false deeds, charters or writings sealed, court rolls or wills, whereby the freehold or inheritance of any person or persons of, in or to any lands, tenements or hereditaments, shall or may be molested, troubled or charged; and that if any person or persons shall at any time forswear himself before the said registrar or his deputy, or before any judge or master in chancery, in any of the cases herein mentioned, and be thereof lawfully convicted, such person or persons shall incur, and be liable to the same penalties, as if the same oath had been made in any of the courts of record at Westminster.

Penalties.

5 Eliz. c. 14.

Forswearing.

Penalty.

In what case registrar shall make entry that mortgage, &c. is discharged.

27. That in case of mortgages, judgments, statutes and recognisances, whereof memorials shall be entered in the said register office, pursuant to this Act, if at any time afterwards a certificate shall be brought to the said registrar, or his deputy, signed by the respective mortgagors and mortgagees in such mortgage, plaintiffs and defendants in such judgment, cognisors and cognisees in such statute or recognisance, their respective executors, administrators or assigns, and attested by two witnesses, whereby it shall appear that all monies due upon such mortgage, judgment, statute or recognisance respectively, have been paid or satisfied in discharge thereof, which witnesses shall, upon their oath before the said registrar or his deputy (who are hereby respectively empowered to administer such oath), prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagors and mortgagees, plaintiffs and defendants, cognisors and cognisees respectively, their respective executors, administrators or assigns, that then and in every such case the said registrar or his deputy shall make an entry in the margents of the said register books against the registry of the memorial of such mortgage, judgment, statute or recognisance respectively that such mortgage, judgment, statute or recognisance respectively was satisfied and discharged according to such certificate, to which the same entry shall refer; and shall after file such certificate to remain upon record in the said register office.

Certificate.

Proviso.

28. Provided nevertheless, That if any judgment, statute or recognisance be registered in the said register office, within thirty days after the acknowledgment or signing thereof, all the lands that the defendants or cognisors had at the time of such acknowledgment or signing shall be bound thereby.

Copyhold estates, &c.

29. Provided always, That this Act shall not extend to any copyhold estates, or to any leases at a rack rent, or to any lease not exceeding one and twenty years, where the actual possession and occupation goeth along with the lease; anything in this Act contained to the contrary thereof in anywise notwithstanding.

How deeds of bargain and sale of fee simple estates shall be construed, &c.

30. That in all deeds of bargain and sale hereafter enrolled in pursuance of this Act, whereby any estate of inheritance in fee-simple is limited to the bargainee and his heirs, the words grant, bargain and sell shall amount to, and be construed and adjudged in all courts of judicature, to be express covenants to the bargainee, his heirs and assigns, from the bargainor for himself, his heirs, executors and administrators, that the bargainor, notwithstanding any act done by him, was at the time of the execution of such deed seised of the hereditaments and premises thereby granted, bargained and sold, of an indefeasible estate in fee-simple, free from all incumbrances (rents and services due to the lord of the fee only excepted) and for quiet enjoyment thereof against the bargainor, his heirs and assigns, and all claiming under him, and also for further assurance thereof to be made by the bargainor, his heirs and assigns, and all claiming under him; unless the same shall be restrained and limited by express particular words contained in such deed; and that the bargainee, his heirs, executors, administrators and assigns respectively, shall and may, in any action to be brought, assign a breach or breaches thereupon, as they might do in case such covenants were expressly inserted in such bargain and sale.

(a) So much of this section as relates to any forging or counterfeiting is repealed by 24 & 25 Vict. c. 95, ante, Vol. II. tit. "CRIMINAL LAW."

31. That every leaf of the aforesaid register books and enrolment books shall be signed by two justices of the peace of the said riding (to be from time to time appointed by the justices of the peace thereof, or the major part of them, at their general quarter sessions of the peace assembled), who are hereby required to sign the same accordingly, and that an entry thereof shall be made from time to time by the clerk of the peace of the said riding for the time being, in the order book of the said sessions, and signed by the same justices of the peace that shall from time to time sign the said register books and enrolment books, to remain upon record amongst the records of the said sessions, and that a like entry shall be made upon record, and signed as aforesaid, of the number of the same books, and how called or marked, and how many pages each of them contains, that are at any time, and from time to time, used in the said register office

6 Anne, c 35 Every leaf of register books to be signed by two justices

32 That no member of parliament for the time being shall be capable of being chosen registrar, or of executing by himself or any other person the said office, or have, take or receive any fee or other profit whatsoever for or in respect thereof, nor shall any registrar, or his deputy for the time being, be capable of being chosen a member to serve in parliament

No member of parliament to be registrar

33 That this Act shall be taken and allowed in all courts within this kingdom as a public Act, and all judges, justices and other persons therein concerned, are hereby required as such to take notice thereof, without special pleading the same

Public Act.

34. "And whereas an Act of parliament made in the second year of her present majesty's reign, intituled, 'An Act for the public registering of all Deeds, Conveyances and Wills that shall be made of any Honours, Manors, Lands, Tenements or Hereditaments within the West Riding of the County of York, after the nine and twentieth day of September, one thousand seven hundred and four;' and also one other Act made in the fifth year of her present majesty's reign, intituled, 'An Act for Enrolments of Bargains and Sales within the West Riding of the County of York, in the Register Office there lately provided, and for making the said Register more effectual,' were of very good design, but have been found by experience to be defective in several particulars, for which apt remedy is provided by the method of this Act, in and for the said east riding of the county of York, and the town and county of the town of Kingston upon Hull,"

2 & 3 Anne, c. 4

5 & 6 Anne, c. 18

BE IT THEREFORE ENACTED, That from and after the said nine and twentieth day of September, one thousand seven hundred and eight, all and every the provisions, clauses, articles, matters and things in this present Act contained, concerning the said east riding, and the town and county of the town of Kingston upon Hull, and not provided for or contained in the said recited Acts, or either of them, shall extend unto and affect all honours, manors, lands, tenements and hereditaments, situate, lying and being within the said west riding (the mortgage or purchase whereof shall exceed the sum of fifty pounds), as effectually as if the same and every of them were respectively inserted and contained in the said recited Acts, and that from and after the said nine and twentieth day of September, one thousand seven hundred and eight, all and every person and persons in the execution of the said recited Acts respectively within the said west riding, shall conform unto, and duly observe the alterations, additional provisions, orders, rules and directions of this present Act, as to the honours, manors, lands, tenements and hereditaments, situate, lying and being within the said west riding, and every matter and thing relating thereunto, in like manner as is by this Act required and enjoined to be done within the said east riding, as to the honours, manors, lands, tenements and hereditaments situate, lying and being within the said east riding, and town and county of the town of Kingston upon Hull, or any matter or thing relating thereunto, anything in the said recited Acts, or either of them, to the contrary thereof contained in anywise notwithstanding

All the provisions, &c in this Act not inserted in said Acts, to affect west riding

8 Geo. 2, c. 6. An Act for the public Registering of all Deeds, Conveyances, Wills, and other Incumbrances, that shall be made of, or that may affect any Honours, Manors, Lands, Tenements, or Hereditaments, within the NORTH RIDING of the County of York, after the 29th day of September, 1736. [A.D. 1735].

8 Geo. 2, c 6

Whereas the lands in the north riding of the county of York are generally freehold, which may be so secretly transferred or conveyed from one person to another, and incumbered, that such persons as are ill-disposed have it in their power to commit frauds, and frequently do so, by means whereof several persons, who through many years industry in their trades and employments, and by great frugality, have been enabled to purchase lands, or lend money on land security, have been undone in their purchases and mortgages by poor and secret conveyances and fraudulent incumbrances, and not only themselves, but their whole families thereby utterly ruined for remedy whereof, BE IT ENACTED, That a memorial of all deeds and conveyances, which from and after the twenty-ninth day of September, which shall be in the year of our Lord one thousand seven hundred and thirty-six, shall be made and executed, and of all wills and devises in writing made or to be made, and published, where the devisor or testatrix shall die after the said twenty ninth day of September, one thousand seven hundred and thirty-six, and of all judgments, statutes, and recognisances (other than such as shall be entered in the name and upon the proper account of his majesty, his heirs and succes-

Preamble

After 29th Sept., 1736, a memorial of all deeds, conveyances, wills, &c. affecting lands, to be registered,

8 Geo. 2, c. 6.

or shall be adjudged fraudulent.

sors) which shall be obtained or entered into after the said twenty-ninth day of September, one thousand seven hundred and thirty-six, of or concerning, or whereby any honours, manors, lands, tenements, or hereditaments in the said north riding, may be any way affected in law or equity, may be registered in such manner as is hereinafter directed; and that every such deed or conveyance, judgment, statute, or recognisance, that shall at any time after the said twenty-ninth day of September, one thousand seven hundred and thirty-six, be made and executed; obtained or entered into, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee, plaintiff or cognisee, for or upon valuable consideration, unless such memorial thereof be registered, as by this Act is directed, before the registering of the memorial of the deed or conveyance, judgment, statute or recognisance, under which such subsequent purchaser or mortgagee, plaintiff or cognisee, shall claim; and that every such devise by will shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee, plaintiff or cognisee, for or upon valuable consideration, unless a memorial of such will be registered in such manner as is hereinafter directed.

How and where the place of register office shall be appointed.

2. And for the better settling and establishing a certain method, with proper rules and directions, for registering such memorials as aforesaid, BE IT FURTHER ENACTED, That one public office for registering such memorials of and concerning any honours, manors, lands, tenements, and hereditaments, that are situate, lying, and being within the said north riding, shall be erected and established at such market town as the justices of the peace, or the major part of them, assembled at their general quarter sessions in and for the said north riding, which shall be held at Northallerton, on the seventeenth day of July, one thousand seven hundred and thirty-five, shall agree and adjudge to be the nearest market town to the centre or middle of the said north riding, to be managed and executed by a fit and able person to be, from time to time, elected and appointed in manner hereinafter directed, or his sufficient deputy, and to continue in the said office for so long time as he shall well demean himself therein.

3. [The charges of this Act, and of establishing the said office, how to be paid.]

4. [The form of electing the registrar.]

5. [The time and place of choosing the first registrar.]

6. [The election of future registrars.]

7. [Oath of registrar.]

8. [Registrar's deputy to take the oath.]

9. [How the office of registrar is to be executed during a vacancy.]

10. [Penalty on misdemeanor of the person acting during such vacancy.]

The method of registering.

11. That all and every memorial of deeds, conveyances, and wills, so to be entered and registered, shall be put into writing in vellum or parchment, and brought to the said office, and, in case of deeds and conveyances, shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his, her, or their heirs, executors, or administrators, guardians, or trustees, attested by two witnesses to the execution of such deed or conveyance, which witness shall upon his oath, or being a Quaker on his solemn affirmation, before the said registrar or his deputy, prove the signing and sealing of such memorial, and the execution of the deed or conveyance mentioned in such memorial (or else the person so signing and sealing the same memorial as aforesaid, or one of them, shall, before the said registrar or his deputy, acknowledge his or their signing and sealing of the said memorial, and the execution of the deed or conveyance mentioned in such memorials), and in case of wills the memorial shall be under the hand and seal of some or one of the devisees, his or their heirs, executors, or administrators, guardians or trustees, attested by two witnesses, one whereof shall, upon his oath, or being a Quaker on his solemn affirmation, before the said registrar or his deputy, prove the signing and sealing of such memorial, or the same shall be acknowledged in like manner before the said registrar or his deputy, by the persons so signing and sealing the same memorial as aforesaid, or one of them (which respective oaths and affirmations the said registrar or his deputy is hereby empowered to administer), and the said registrar or his deputy is hereby also empowered to take the said respective acknowledgments as aforesaid, and shall enter a memorandum of the taking the same respectively upon the said respective memorials, with the time when the same was so taken; and the said memorandum shall be signed by the said registrar or his deputy, and also by the party so acknowledging the same respectively.

Sic in recordo.

12. [The contents of the memorials to be registered. The certificate of registering (*a*).]

On what condition such certificate shall be granted.

13. That a memorial of such deeds, conveyances, and wills, as shall be made and executed in any place not within forty miles of the said public register office, which do or may concern or affect any honours, manors, lands, tenements, or hereditaments, in the said north riding, shall be entered or registered by the aforesaid registrar or his deputy, in case an affidavit sworn, or a solemn affirmation of a person of the persuasion of the people called Quakers made in writing, before one of the judges at Westminster, or a master in chancery, ordinary or extraordinary, be brought with the said memorial to the said registrar, or his deputy, wherein one of the witnesses to the execution of such deeds and conveyances shall swear, or being a Quaker shall affirm, that he or she saw the same executed, and the memorial signed and sealed as aforesaid, or wherein one of the

(*a*) This is a re-enactment of 2 & 3 Anne, c. 4, s. 8, down to the asterisk, ante, p. 83.

witnesses to the memorial of any will shall swear, or being a Quaker shall affirm, that he or she saw such memorial signed and sealed as aforesaid; and the same shall be a sufficient authority to the said registrar, or his deputy, to give the party that brings such memorial and affidavit, or affirmation, a certificate of the registering such memorial, which certificate signed by the said registrar, or his deputy, shall be taken and allowed as evidence of the registries of the same memorials, in all courts of record whatsoever; anything in this Act to the contrary thereof contained in anywise notwithstanding. 8 Geo. 2, c. 6.

14. Provided always, That where there are more writings than one for making and perfecting any conveyance or security, which do name, mention, or anyways affect or concern the same honours, manors, lands, tenements, or hereditaments, it shall be a sufficient memorial and register thereof, if all the same manors, lands, tenements, and hereditaments, and the parishes, townships, hamlets or extra-parochial places, wherein the same lie, be only once named or mentioned in the memorial, register, and certificate of any one of the deeds or writings made for the perfecting of such conveyance or security; and the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties and witnesses, and the places of their abodes, be only set down in the memorials, registers, and certificates of the same, with a reference to the deed or writing whereof the memorial is so registered, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering the same. In case of several writings, the particulars may be only mentioned once.

15. Provided also, That all memorials of wills, that shall be registered in manner as aforesaid, within the space of six months after the death of every respective devisor or testatrix dying within the kingdom of Great Britain, or within the space of three years after the death of every respective devisor or testatrix, dying upon or in any parts beyond the seas, shall be as valid and effectual against subsequent purchasers, judgments, statutes, and recognisances, as if the same had been registered immediately after the death of such respective devisor or testatrix, anything herein contained to the contrary thereof in anywise notwithstanding. Memorials of wills.

16. Provided always, That in case the devisee, or person or persons interested in the honours, manors, lands, tenements, or hereditaments, devised by any such will, as aforesaid, by reason of the contesting such will, or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled to exhibit a memorial for the registry thereof within the respective times herein before limited, and that a memorial shall be entered in the said office, of such contest or impediment, within the space of six months after the decease of such devisor or testatrix, who shall die within the kingdom of Great Britain, or within the space of three years next after the decease of such person, who shall die upon or beyond the seas, then, and in such case, the registry of the memorial of such will within the space of six months next after his, her, or their attainment of such will, or a probate thereof, or removal of the impediment whereby he, she, or they are disabled or hindered to exhibit such memorial, shall be a sufficient registry within the meaning of this Act, anything herein contained to the contrary thereof in anywise notwithstanding. Wills contested.

17. Provided nevertheless, That in case of any concealment or suppression of any will or devise, no purchaser or purchasers, for valuable consideration, shall be defeated or disturbed in his or their purchase, nor any plaintiff in any judgment, or cognisee of any statute or recognisance, shall be defeated of his or their debts, by any title made or devised by such will, unless the will be actually registered within three years after the death of the devisor or testatrix. Concealment of wills.

18. That all and every memorials of judgments, statutes, and recognisances, so to be entered and registered at the said register office as aforesaid, shall be in writing, and express and contain, in case of such judgment, the names of the plaintiffs, and the names and additions therein of the defendants, the sums thereby recovered, and the time of the signing thereof; and in case of statutes and recognisances, the date of such statute or recognisance, the names and additions of the cognisors and cognisees therein, and for what sums, and before whom the same were acknowledged; and that in order to the making an entry of such memorials of judgments, statutes, and recognisances, as aforesaid, the party and parties desiring the same shall produce to, and leave with, the said registrar or his deputy, to be filed in the said public or register office, a memorial of such judgment, statute, or recognisance, signed by the proper officer or his deputy, who shall sign such judgment, or his successor in the same office, or by the proper officer in whose office such statute or recognisance shall be inrolled, together with an affidavit sworn, or solemn affirmation in writing of a person of the persuasion of the people called Quakers, made before one of the judges at Westminster, or a master in chancery, that such memorial was duly signed by the officer, whose name shall appear to be thereunto set; which memorial such respective officer is hereby required to give such plaintiff or plaintiffs, cognisee or cognisees, or his, her, or their executors or administrators, or attorney, or any of them, he, she, or they paying for the same one shilling, and no more. Memorials of judgments, statutes, and recognisances. Fee.

19. That the said registrar, or his deputy, shall make an entry, and likewise (if required) shall give a certificate in writing under his hand, testified by two credible witnesses, of every such memorial of any judgment, statute, or recognisance, brought to him to be so registered, as aforesaid; and in such book wherein such memorial shall be entered, and also in such certificate to be so given, shall mention the certain day and hour, or time of that day, on which such memorial is so registered or entered; and in Method of registering,

8 Geo. 2, c. 6.

and filing.

such certificate shall mention in what book, page and number, the same memorial is entered.

20. That such registrar shall duly file every such memorial of deeds, conveyances, wills, judgments, statutes, and recognisances, in order of time, as the same shall be brought to the said register office, and shall enter or register the same memorials in the same order that they shall respectively come to his hands.

Recital of the Act 27 H. 8, c. 16.

21. And whereas by an Act of parliament made in the twenty-seventh year of the reign of king Henry the eighth, intituled, "For inrolments of bargains and sales," it is enacted, That no manors, lands, tenements, or other hereditaments, shall pass, alter, or change from one to another, whereby any estate of inheritance or freehold shall be made, or take effect, in any person or persons, or any use thereof to be made, by reason only of any bargain and sale thereof; except the said bargain and sale be made by writing, indented, sealed, and enrolled in one of the king's courts of record at Westminster, or else within the same county or counties where the same manors, lands, tenements, or hereditaments so bargained and sold lie, or before the custos rotulorum, and two justices of the peace, and the clerk of the peace of the same county or counties, or two of them at the least, whereof the clerk of the peace to be one; which Act hath been found by experience to be of little or no use within the said north riding, for that the clerk of the peace thereof for the time being, who hath the keeping of the said enrolments within the said north riding, is not by the said Act enjoined to give any security for the safe keeping, nor under any penalty for the negligent keeping of the said enrolments, nor is any place by the said Act appointed for keeping thereof: and whereas by this present Act a public office is intended to be erected and established, as aforesaid, at the public charge of the said north riding, for registering and safe keeping memorials of all deeds and conveyances, as aforesaid, and a public registrar to be chosen, who, according to the directions hereinafter mentioned, is to give sufficient security for the due execution of the said office;" for rendering therefore the said Act made in the twenty-seventh year of the reign of king Henry the eighth more effectual and beneficial to the inhabitants of the said north riding, BE IT FURTHER ENACTED, That from and after the twenty-ninth day of September, in the year of our Lord one thousand seven hundred and thirty-six, all bargains and sales of any manors, lands, tenements, and hereditaments, situate, lying, and being within the said north riding, which shall be enrolled by the said registrar or his deputy for the time being, in the said public office, shall be as good, effectual, and available to all intents and purposes whatsoever, as if the same had been enrolled in one of the king's courts of record at Westminster, or before the custos rotulorum, and two justices of the peace and the clerk of the peace for the said north riding, or two of them, according to the aforesaid Act made in the twenty-seventh year of the reign of king Henry the eighth, or any other Act now in force; and one or more justice or justices of the peace of the said riding, for the time being, shall have power to take and enter the acknowledgment of the bargainor, if but one, or of one of the bargainors, if more, in such bargains and sales; and the said registrar or his deputy for the time being, shall well and sufficiently enrol, by ingrossing in parchment books, all such bargains and sales as shall for that purpose be acknowledged as aforesaid, and shall indorse a certificate on such bargains and sales of the times of enrolling thereof and sign the same, and the books thereof shall safely keep in the said public office, there to remain upon record amongst the memorials of deeds there registered. AND BE IT FURTHER ENACTED, That all deeds of bargain and sale so enrolled in the said public or register office, as aforesaid, which shall appear to be so enrolled by an endorsement or certificate on the said deeds of bargain and sale, signed by the said registrar, or his deputy, and all copies of the enrolments thereof remaining on record in the said register office, shall be allowed in all courts, where such bargains and sales, or copies shall be produced, to be as good and sufficient evidence, as any bargains and sales enrolled in any of the courts at Westminster, and the copies of the enrolments thereof.

Bargains and sales of lands enrolled by the said registrar, as effectual as if enrolled according to the said Act.

The copies of deeds so enrolled, good evidence.

The registering of writings at full length.

22. And whereas deeds have been often destroyed by fire and other accidents; BE IT FURTHER ENACTED, That from and after the said twenty-ninth day of September, one thousand seven hundred and thirty-six, any person or persons having or claiming title to any honours, manors, lands, tenements, or hereditaments, in the said north riding, may register, at full length, in the said register office, all and every, or any the deeds, writings, wills, or conveyances, by or under which such title shall be claimed, and which shall be made and executed, or signed and published, and in case of wills where the devisor or testatrix shall die, after the said twenty-ninth day of September, in the year of our Lord one thousand seven hundred and thirty-six; and the said registrar, or his deputy, is hereby authorised to enter and enrol all such deeds, writings, wills, and conveyances, as shall be so brought to be registered, at full length, by engrossing them in parchment books; and the said registrar, or his deputy, shall, in the margin of every such entry and enrolment, mention the time of such entry and enrolment, and shall endorse and sign a certificate on such deed, conveyance, or will, in manner as is by this Act directed, where a memorial is entered, and shall safely keep all and every the books, wherein such entries and enrolments shall be made, in the said public office, there to remain upon record, and all copies of such entries and enrolments of such deeds, writings, wills, and conveyances, so registered at full length, and which copies shall be signed by the said registrar, or his deputy, and attested by two or more witnesses, shall be allowed in all courts of record, to be good and sufficient evidence of such deeds, writings, wills, or conveyances so registered, and destroyed by fire or other accident.

What testi-

23. That at the time any deed, conveyance, or will, made and executed, or signed

and published, after the twenty-ninth day of September, one thousand seven hundred and thirty-six, shall be brought to the said registrar's office to be registered or enrolled at full length, one of the witnesses to the execution of such deed or conveyance, or to the signing and publishing such will, shall make oath, or being one of the people called Quakers take his solemn affirmation, before the said registrar, or his deputy, that such deed or conveyance was duly executed by the grantor or grantors, or that such will was signed and published by the devisor or testatrix, which respective oaths and affirmations the said registrar, or his deputy, is required and empowered to administer. 8 Geo. 2, c. 6. mony necessary before enrolment,

24. Provided always, That such deeds, conveyances, and wills, as shall be made and executed in any place, not within forty miles of the said office, may be entered and registered at full length, by the aforesaid registrar, or his deputy, in case an affidavit sworn, or a solemn affirmation of a person of the persuasion of the people called Quakers, made in writing, before one of the judges at Westminster, or a master in chancery, ordinary or extraordinary, be brought with such deed, conveyance, or will, wherein one of the witnesses to the execution of such deed or conveyance, or to the signing or publishing such will, shall swear or affirm, that he or she saw the said deeds executed, or, in case of wills, such will signed and published by the devisor or testatrix. and what, if 40 miles from the said office.

25. That every such enrolment of every such deed of bargain and sale, and registry at full length, of such deeds, writings, conveyances, and wills in the said register office, as aforesaid, shall be deemed and adjudged to be the entry of a memorial thereof, pursuant to this Act, and shall have the same force and effect upon the estate therein mentioned, in relation to all subsequent deeds, conveyances, and wills, and to all other intents and purposes, as if a memorial of such enrolled deed or deeds, writing, conveyance, or will, so registered at full length, had been entered in the said register office as aforesaid, pursuant to the said Act, and the certificate signed and endorsed on such deeds of bargain and sale so enrolled, or on such deeds, conveyances, or wills registered at full length, shall be taken and allowed as evidence of such enrolments or registries in all courts of record whatsoever. Enrolments at full length to be deemed the entry of a memorial.

26. That every such registrar shall be allowed for the entry of every such memorial, as is by this Act directed, the sum of one shilling, and no more, in case the same do not exceed two hundred words; but if such memorial shall exceed two hundred words, then after the rate and proportion of four pence an hundred for all the words contained in such memorial over and above the first two hundred words; and the like fees for the like number of words contained in every such bargain and sale enrolled, and deeds, writings, conveyances, and wills registered at full length, as aforesaid, and in every certificate or copy given out of the said office, and no more; and for every search in the said office, one shilling, and no more. Registrar's fees,

27. That every such registrar, or his sufficient deputy, shall give due attendance at his office every day in the week except Sundays and holidays, between the hours of nine and twelve in the forenoon, and the hours of two and five in the afternoon, for the dispatch of all business belonging to the said office, and that every such registrar, or his deputy, as often as required, shall make searches concerning all memorials that are registered, deeds of bargain and sale enrolled, and deeds, writings, conveyances, and wills so registered at full length as aforesaid, and give certificates concerning the same under his hand, if required by any person, testified by two credible witnesses. and attendance.

28. [Registrar to give two thousand pounds security.]

29. That if any such registrar, or his deputy, shall neglect to perform his or their duty in the execution of the said office, according to the rules and directions in this Act mentioned, or commit or suffer to be committed any undue or fraudulent practice in execution of the said office, and be thereof lawfully convicted, then such registrar shall forfeit his said office, and pay treble damages with full costs of suit, to every such person or persons as shall be injured thereby, to be recovered by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, wherein no essoin, protection, privilege, or wager of law shall be allowed, nor any more than one imparlance. Penalty on registrar for neglect of duty.

30. Provided nevertheless, That when any registrar shall die, or surrender his office, and there shall, within the space of three years from and after such death or surrender, no misbehaviour appear to have been committed by such registrar in the execution of his said office, then and in such case, at the end of the said three years after his death or surrender, the said recognisance so entered into by him, shall become void and of none effect, to all intents and purposes whatsoever. Registrar's security when to be vacated.

31. That if any person or persons shall at any time forge or counterfeit any entry of the acknowledgment of any bargainor in such bargain and sale as aforesaid, or any such memorial, certificate, or endorsement, as is herein mentioned or directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties as in and by an Act made in the fifth year of queen Elizabeth, intituled "An Act against forgery of false deeds and writings," are imposed upon persons for forging and publishing false deeds, charters, or writings sealed, court rolls or wills, whereby the freehold or inheritance of any person or persons of, in, or to any lands, tenements, and Penalty on forgery (a),

---

(a) So much of this section as relates to any forging or counterfeiting is repealed by 24 & 25 Vict. c. 95, ante, Vol. II., "CRIMINAL LAW."

8 Geo. 2, c. 6.

hereditaments, shall or may be molested, or charged; and that if any person or persons shall at any time forswear himself, or, being a Quaker, shall falsely, maliciously, and corruptly affirm, before the said registrar, or his deputy, or before any judge or master in chancery, in any of the cases herein mentioned, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties, as if the same oath had been made in any of the courts of record at Westminster.

and perjury.

Certificates of mortgages discharged how to be registered.

32. That in case of mortgages, judgments, statutes, and recognisances, whereof memorials shall be entered in the said register office, or in case of mortgages, where the mortgage deed shall be registered at full length, pursuant to this Act, if at any time afterwards a certificate shall be brought to the said registrar, or his deputy, signed by the mortgagees in such mortgage, plaintiffs in such judgment, cognisees in such statute or recognisance, their respective executors, administrators, or assigns, and attested by two witnesses, whereby it shall appear, that all monies due upon such mortgage, judgment, statute, or recognisance respectively, have been paid or satisfied in discharge thereof (which witnesses shall upon their oath, before any one of the judges of his majesty's courts of king's bench, or common pleas, or any one of the barons of the court of exchequer, or before any one of the masters of the court of chancery, or before the said registrar, or his deputy, who are hereby respectively empowered to administer such oath, prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagees, plaintiffs, or cognisees, their respective executors, administrators, or assigns), that then, and in every such case the said registrar, or his deputy, shall make an entry in the margin of the said register books against the registry of the memorial of such mortgage, judgment, statute, or recognisance, or against such deed registered at full length respectively, that such mortgage, judgment, statute, or recognisance respectively, was satisfied and discharged according to such certificate, to which the same entry shall refer, and shall after file such certificate to remain upon record, in the said register office.

Judgments, &c. registered in 20 days after signing good.

33. Provided nevertheless, That if any judgment, statute, or recognisance be registered in the said register office, within twenty days after the acknowledgment or signing thereof, all the lands that the defendants or cognisees had, at the time of such acknowledgment or signing, shall be bound thereby; and the registry of a memorial of such judgment, statute, or recognisance, within the time aforesaid, shall be as available to all intents and purposes, as if such memorial thereof had been entered in the said register office on the day of the signing or acknowledgment of such judgment, statute, or recognisance.

34. [This Act not to extend to copyhold estates, &c. (*a*).]

Deeds of bargain and sale of estates of fee simple shall imply covenants.

35. That in all deeds of bargain and sale hereafter enrolled in pursuance of this Act, whereby an estate of inheritance in fee simple is limited to the bargainee and his heirs, the words grant, bargain, and sell shall amount to, and be construed and adjudged in all courts of judicature to be express covenants to the bargainee, his heirs, and assigns, from the bargainor, for himself, his heirs, executors, and administrators, that the bargainor, notwithstanding any act done by him, was at the time of the execution of such deed seised of the hereditaments and premises thereby granted, bargained, and sold, of an indefeasable estate in fee simple, free from all incumbrances (rents and services due to the lord of the fee only excepted), and for quiet enjoyment thereof against the bargainor, his heirs, and assigns, and all claiming under him, and also for further assurance thereof to be made by the bargainor, his heirs and assigns, and all claiming under him; unless the same shall be restrained and limited by express particular words contained in such deed; and that the bargainee, his heirs, executors, administrators, and assigns respectively, shall and may, in any action to be brought, assign a breach or breaches thereupon, as they might do in case such covenants were expressly inserted in such bargain and sale.

Every leaf of the register to be signed by two justices, and entered by the clerk of the peace.

36. That every leaf of the aforesaid register books, and enrolment books, shall be signed by two justices of the peace of the said riding (to be from time to time appointed by the justices of the peace thereof, or the major part of them, at their general quarter sessions of the peace assembled), who are hereby required to sign the same accordingly; and that an entry thereof shall be made from time to time, by the clerk of the peace of the said riding for the time being, in the order book of the same sessions, and signed by the same justices of the peace that shall from time to time sign the said register books, and enrolment books, to remain upon record amongst the records of the said sessions; and that a like entry shall be made upon record, and signed as aforesaid, of the number of the same books, and how called or marked, and how many pages each of them contains, that are at any time, and from time to time, used in the said register office.

37. [The registrar excluded from being a member of parliament.]

Public Act.

38. That this Act shall be taken and allowed in all courts in this kingdom as a public Act, and all judges, justices, and other persons therein concerned, are hereby required to take notice thereof as such, without specially pleading the same.

(*a*) This is a re-enactment of 2 & 3 Anne, c. 4, s. 16, ante, p. 84.

(Of Births, Deaths, and Marriages (a).)

6 & 7 Will. 4, c. 86. An Act for registering Births, Deaths, and Marriages in England. [17th August, 1836.]

6 & 7 W. 4, c. 86.

"Whereas it is expedient to provide the means for a complete register of the births, deaths, and marriages of his majesty's subjects in England: and whereas an Act passed in the fifty-second year of the reign of his late majesty king George the third, intituled 'An Act for the better regulating Parish and other Registers of Births, Baptisms, Marriages, and Burials in England,' and also an Act passed in the fourth year of the reign of his late majesty king George the fourth, intituled 'An Act for amending the Laws respecting the Solemnization of Marriages in England,' are insufficient for the purpose as aforesaid:" Be it therefore enacted, That after the 1st day of March (b) in the year 1837 so much of the said Acts as relates to the registration of marriages shall be repealed.

52 G. 3, c. 146.

4 G. 4, c. 76.

So much of recited Acts as relates to registration of marriages repealed.

2. That it shall be lawful for his majesty to provide a proper office in London or Westminster (c), to be called "The General Register Office," for keeping a register of all births, deaths, and marriages of his majesty's subjects in England, and to appoint for the said office under the great seal of the united kingdom a registrar general of births, deaths, and marriages in England, and from time to time at pleasure to remove the said registrar general, and appoint some other person in his room.

General registry office to be provided in London or Westminster.

3. That the lord treasurer or lords commissioners of his majesty's treasury, or any three of them, or the registrar general, subject to the approval of the said lords commissioners, shall appoint from time to time such officers, clerks, and servants as they shall deem necessary to carry on the business of the general registry office, and at pleasure remove them or any of them; and the said lord treasurer or lords commissioners shall fix the salary of the registrar general, so that the same shall not at any time exceed the sum of 1000*l.* yearly, and shall fix the salaries of the officers, clerks, and servants in fit proportion according to the duties they may have to perform.

Lord treasurer or lords commissioners of his majesty's treasury to appoint officers and fix salary.

4. That the salaries of the registrar general, and of the said officers, clerks, and servants, and the amount of the sums hereinafter provided to be paid to the superintendent registrars for every entry in the certified copies of the registers, and all expenses of carrying on the business of the general registry office not herein otherwise provided for, shall be paid by the said lord treasurer or lords commissioners of his majesty's treasury out of the consolidated fund of the united kingdom of Great Britain and Ireland.

Salaries to be paid out of the consolidated fund.

5. That one of his majesty's principal secretaries of state, or the registrar general with the approbation of such principal secretary, from time to time may make regulations for the management of the said register office, and for the duties of the registrar general, clerks, officers, and servants of the said office, and of the registrars, deputy registrars, and superintendent registrars hereinafter mentioned, in the execution of this Act, so that they be not contrary to the provisions herein contained; and the regulations so made and approved shall be binding on the said registrar general, clerks, officers, and servants, and on the registrars, deputy registrars, and superintendent registrars.

Regulations for conduct of officers to be framed under direction of secretary of state.

6. That the registrar general shall send once in every year to one of the principal secretaries of state a general abstract of the numbers of births, deaths, and marriages registered during the foregoing year, in such form as the said secretary from time to time shall require; and every such annual general abstract shall be laid before parliament within one month after receipt thereof, or after the meeting of parliament.

Annual abstract of registers to be laid before parliament

7. That the guardians of every union declared under the provisions of an Act passed in the fifth and sixth years of his present majesty, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," and also of every parish or place in which a board of guardians shall have been established under the provisions of the last-named Act, shall, on or before the 1st day of October in this year, if the said board of guardians shall have been established before the passing of this Act, or within three calendar months next after the establishment of the board, if the said board shall not have been established before the passing of this Act, divide the union of the parish or place of which they are the guardians into such and so many districts as they, subject to the approval of the registrar general, shall think fit; and every such division when made shall be published by the guardians within the union, parish, or place of which they are guardians, in such manner as the said registrar general shall direct; and every such district shall be called by a distinct name, and shall be a registrar's district; and the guardians shall appoint a person, with such qualifications as the registrar general may by any general rule declare to be necessary, Appoint-

Districts to be formed, and registrars and superintendent registrars to be appointed.

4 & 5 W. 4, c. 76.

(a) As to the stamps on certificates from registers, see 23 & 24 Vict. c. 15, sch., tit. "Copy," and *Ib.*, c. 111, s. 16, post, tit. "Stamps."

See the Marriage Act, 6 & 7 Will. 4, c. 85, ante, Vol. III., tit. "Marriage."

(b) The operation of these Acts was suspended until the last day of June, A.D. 1837, by the 7 Will. 4, c. 1, post, p. 109.

(c) See 15 Vict. c. 25.

6 & 7 W. 4. c. 86.

ment of registrar.

to be registrar of births and deaths within each district; and in every case of vacancy in the office of registrar shall forthwith fill up the vacancy; and the clerk to the guardians of every such union, parish, or place shall, if he shall think fit to accept such office, and have such qualifications as the registrar general may by any general rule declare to be necessary, be the superintendent registrar thereof; and in the event of his refusal or disqualification to act in that capacity, the guardians shall appoint a person, with such qualifications as the registrar general may by any general rule declare to be necessary, to be the superintendent registrar of each union or of such parish or place, and in every case of vacancy of the office of superintendent registrar shall forthwith fill up the vacancy (*a*), and every registrar and superintendent registrar shall hold his office during the pleasure of the registrar general.

Officers of unions, &c. being dismissed by guardians, &c. to cease to act under this Act.

8. Provided always, that in every case in which the clerk to the guardians of any union, parish, or place, or any other officer of any such union, parish, or place, shall hold any office under this Act, and shall be removed by the poor law commissioners from his office in such union, parish, or place, and in every case in which any registrar or superintendent registrar shall be removed by the registrar general from his office under this Act, notice of such removal shall be forthwith given by advertisement in some newspaper circulating in the county wherein the district for which such officer may act shall be; and every such person shall thenceforth cease to hold his office under this Act, and shall be incapable of being re-appointed thereto: Provided also, that the appointment of any officer of any such union, parish, or place to any office under this Act shall be subject to the approval of the poor law commissioners, except as hereinbefore directed with respect to the clerk to guardians of any such union, parish, or place.

Register offices to be provided in each union.

9. That the guardians shall provide and uphold, out of the moneys coming to their hands or control as such guardians, a register office, according to a plan to be approved by the registrar general, for preserving the registers to be deposited therein, as hereinafter provided; and the care of the said office and the custody of the registers deposited therein shall be given to the superintendent registrar of the union or parish or place having a board of guardians as aforesaid.

Temporary registrars and superintendent registrars to be appointed for parishes not under the poor law Act.

10. That the poor law commissioners for England and Wales shall, as soon as may be after the said 1st day of October, form all the parishes, townships, and places in England, in or for which a board of guardians shall not have been then established under the provisions of the said Act for the amendment of the laws relating to the poor, into temporary districts, having regard in the formation thereof to the boundaries of parishes and townships, and shall appoint a registrar to each of such temporary districts, subject to being displaced as hereinafter provided; and the registrar general shall appoint a sufficient number of fit persons to be superintendent registrars for such temporary districts, subject to being displaced as hereinafter provided, and shall appoint the districts which each shall superintend.

In case of subsequent unions previous appointments to be vacated.

11. That in every case in which a board of guardians shall be established under the provisions of the said Act for the amendment of the laws relating to the poor, in or for any parish, township, or place forming part of any temporary district in or for which a registrar or superintendent registrar shall have been previously appointed as last aforesaid, and as soon as a registrar or registrars shall have been appointed for the districts into which the guardians shall have divided the union or parish or place of which they are guardians as aforesaid, and the clerk of the guardians of such union, parish, or place shall have accepted the office of superintendent registrar, or the said guardians shall have appointed a superintendent registrar for such districts in like manner as in the unions formed before the passing of this Act, every such parish or place shall cease to be a part of the temporary district to which it was so annexed by the poor law commissioners, and every registrar, deputy registrar, and superintendent registrar appointed before the election of such board of guardians as aforesaid in or for such parish, township, or place shall cease to hold their respective offices, so far as relates to such parish, township, or place, unless re-appointed.

Deputy registrars to be appointed.

12. That for every district for which a registrar of births and deaths shall be appointed by the guardians as aforesaid the registrar shall have power, subject to the approval of such guardians, and for every district for which a registrar shall be appointed by the said poor law commissioners, such registrar shall have power, subject to the approval of such commissioners, to appoint by writing under his hand a fit person to act as his deputy in case of the illness or unavoidable absence of such registrar; and every such deputy registrar whilst so acting shall have all the powers and duties and be subject to all the provisions and penalties herein declared concerning registrars, and in case of the death of the registrar shall act as registrar until another registrar is appointed; and every registrar shall be civilly responsible for the acts or omissions of his deputy.

Appointments exempt from stamp duties.

13. That the appointments of registrars, deputy registrars, and superintendent registrars, and the duplicates and certified copies of registers hereinafter mentioned, shall be exempt from all stamp duties.

(*a*) In the case of vacancies of superintendent registrar the guardians are to fill them up. The clerk has no right to appoint after the first appointment (*Reg.* v. *Acason*, 31 L. J. Q. B. 227).

14. That the registrar general shall furnish to every superintendent registrar, for the use of the registrars under his superintendence, a sufficient number of strong iron boxes to hold the register books to be kept by such registrar; and every such box shall be furnished with a lock and two keys, and no more; and one of such keys shall be kept by the registrar, and the other key shall be kept by the superintendent registrar; and the register books of each district, while in the custody of the registrar and not in use, shall be always kept in the register box, and the register box shall always be left locked. 6 & 7 W. 4, c. 86. Register boxes to be provided.

15. That in every case in which any registrar or superintendent registrar shall be removed from or cease to hold the said office, all register boxes, keys, books, documents, and papers in his possession as such registrar or superintendent registrar shall be given as soon as conveniently may be to his successor in office; and if any person shall refuse to give up any such box, key, books, documents, or papers in such case as aforesaid, it shall be lawful for any justice of the peace for the county or other jurisdiction where such person shall be or reside, upon application made for that purpose, to issue a warrant under his hand and seal for bringing such person before any two justices of the peace for the said county or other jurisdiction, and upon such person appearing, or not being found, it shall be lawful for such justices to hear and determine the matter in a summary way; and if it shall appear to the justices that any such box, key, books, documents, or papers, are in the custody or power of any such person, and that he has refused or wilfully neglected to deliver the same, the said justices are hereby required to commit such offender to the common gaol or house of correction for the said county or jurisdiction, there to remain without bail until he shall have delivered up the same, or until satisfaction shall have been given in respect thereof to the person in whose custody the same ought to be; and the said justices may grant a warrant to search for such box, key, book, documents, or papers, as in the case of stolen goods, in any dwelling-house or other premises in which any credible witness shall prove upon oath before them that there is reasonable cause to suspect the same to be; and the same when found shall be delivered to the person in whose custody they ought to be. All books, &c. to be transferred on removal of registrar.

16. That every registrar and deputy registrar shall dwell within the district of which he is registrar or deputy registrar, and shall cause his name, with the addition of registrar or deputy registrar (as the case may be) for the district for which he shall be so appointed to be placed in some conspicuous place on or near the outer door of his own dwelling house; and the superintendent registrar shall cause to be printed and published in the districts which he shall superintend a list of the name and place of abode of every registrar and deputy registrar under his superintendence. Registrar and deputy to dwell in the district, and their names and additions to be put on their dwelling houses.

17. That the registrar general shall cause to be printed on account of the said register office a sufficient number of register books for making entries of all births, deaths, and marriages of his majesty's subjects in England, according to the forms of schedules (A) (B) (C) to this Act annexed; and the said register books shall be of durable materials, and in them shall be printed upon each side of every leaf the heads of information herein required to be known and registered of births, deaths, and marriages respectively; and every page of each of such books shall be numbered progressively from the beginning to the end, beginning with number one; and every place of entry shall be also numbered progressively from the beginning to the end of the book, beginning with number one; and every entry shall be divided from the following entry by a printed line. Register books to be provided.

18. That the registrar general shall furnish to every superintendent registrar, for the use of the registrars under his superintendence, a sufficient number of register books of births and of register books of deaths, and of forms for certified copies thereof, as hereinafter provided, at a reasonable price, to be fixed from time to time by one of his majesty's principal secretaries of state, the cost whereof shall be borne by the union, parish, or place in or for which the superintendent registrar is appointed, and shall be paid by the guardians, or by the churchwardens and overseers (as the case may be), out of the moneys coming to their hands or control as such guardians or churchwardens and overseers, to the registrar, and shall be accounted for by him to the registrar general; and every registrar shall be authorised and is hereby required to inform himself carefully of every birth and every death which shall happen within his district after the said 1st day of March, and to learn and register as soon after the event as conveniently may be done, without fee or reward save as hereinafter mentioned, in one of the said books, the particulars required to be registered according to the forms in the said schedules (A) and (B) respectively touching every such birth or every such death, as the case may be, which shall not have been already registered, every such entry being made in order from the beginning to the end of the book. Registrars to register births and deaths.

19. That the father or mother of any child born, or the occupier of every house or tenement in England in which any birth or death shall happen after the said 1st day of March, may, within forty-two days next after the day of such birth or within five days after the day of such death respectively, give notice of such birth or death to the registrar of the district; and in case any new-born child or any dead body shall be found exposed, the overseers of the poor in the case of the new-born child, and the coroner in the case of the dead body, shall forthwith give notice and information thereof, and of the place where such child or dead body was found, to the registrar; and for the purposes of this Act the master or keeper of every gaol, prison, or house of correction, or workhouse, hospital, or lunatic asylum, or public or charitable institution, shall be deemed the occupier thereof. Parents or occupiers of houses in which births or deaths happen, and overseers and coroners in cases of foundlings or exposed dead bodies, to give notice.

6 & 7 W. 4, c. 86.

Parent or occupier of house required to give particulars of birth so far as known.

20. That the father or mother of every child born in England after the said first day of March, or in case of the death, illness, absence, or inability of the father and mother, the occupier of the house or tenement in which such child shall have been born, shall, within forty-two days next after the day of every such birth, give information, upon being requested so to do, to the said registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child (*a*).

Registry of children born at sea.

21. That if any child of an English parent shall be born at sea on board of a British vessel, the captain or commanding officer of the vessel on board of which the said child shall have been born shall forthwith make a minute of the several particulars hereinbefore required to be inserted in the register touching the birth of such child, so far as the same may be known, and the name of the vessel wherein the birth took place, and shall, on the arrival of such vessel in any port of the united kingdom, or by any other sooner opportunity, send a certificate of the said minute through the post-office to the registrar general, who shall file the same, and enter a copy thereof under his hand in a book to be kept for that purpose in "The General Register Office," to be called the "Marine Register Book," and shall keep the said book with the other registers, according to the provisions of this Act.

As to registry after the expiration of 42 days from the birth of the child.

22. That after the expiration of forty-two days following the day of the birth of any child it shall not be lawful for any registrar to register such birth, save as hereinafter is next mentioned; provided that, in case the birth of any child shall not have been registered according to the provisions hereinbefore contained, it shall be lawful for any person present at the birth of such child, or for the father or guardian thereof, at any time within six calendar months next after the birth, to make a solemn declaration of the particulars required to be known touching the birth of such child, according to the best of his or her knowledge and belief, and it shall thereupon be lawful for the said registrar then and there, in the presence of the superintendent registrar, to register the birth of the said child according to the information of the person making the said declaration; and in every such case the superintendent registrar before whom the said declaration is made shall sign the entry of the birth as well as the registrar, and for every such registry as last aforesaid the superintendent registrar shall be entitled to have a fee of 2*s.* 6*d.* from the person requiring the same to be registered; and the registrar, over and above the fee hereinafter enacted in respect of every birth registered by him, shall be entitled, unless the delay shall have been occasioned by his default, to have a fee of 5*s.* from the person requiring the same to be registered; and no register of births shall be given in evidence to prove the birth of any child wherein it shall appear that forty-two days have intervened between the day of the birth and the day of the registration of the birth of such child, unless the entry shall be signed by the superintendent registrar; and every person who shall knowingly register or cause to be registered the birth of any child, otherwise than hereinbefore is last mentioned, after the expiration of forty-two days following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding 50*l.*

Births not to be registered after six months.

23. That after the expiration of six calendar months following the birth of any child it shall not be lawful for any registrar to register the birth of such child, and no register of births, except in the case of children born at sea, shall be given in evidence to prove the birth of any child wherein it shall appear that six calendar months have intervened between the day of the birth and the day of the registration of the birth of such child; and every person who shall knowingly register or cause to be registered the birth of any child after the expiration of six calendar months following the day of the birth of such child shall forfeit and pay for every such offence a sum not exceeding 50*l.*

Name given in baptism may be registered within six months after registration of birth.

24. That if any child born in England whose birth shall have been registered as aforesaid shall, within six calendar months next after it shall have been so registered, have any name given to it in baptism, the parent or guardian of such child, or other person procuring such name to be given, may, within seven days next after such baptism, procure and deliver to the registrar or superintendent registrar, in whose custody the register of the birth of the child may then happen to be, a certificate, according to the form of schedule (G) to this Act annexed, signed by the minister who shall have performed the rite of baptism, which certificate such minister is hereby required to deliver immediately after the baptism, whenever the same shall be then demanded, on payment of the fee of 1*s.*, which he shall be therefore entitled to receive; and the said registrar or superintendent registrar, upon receipt of such certificate and on payment of the fee of 1*s.*, which he shall be therefore entitled to receive, shall, without any erasure of the original entry, forthwith register therein that the child was baptized by such name, and the registrar shall thereupon certify upon the said certificate the additional entry so made, and shall forthwith send the said certificate through the post-office to the registrar general.

Some person present at death, or occupier of

25. That some person present at the death or in attendance during the last illness of every person dying in England after the said 1st day of March, or in case of the death, illness, inability, or default of all such persons, the occupier of the house or tenement, or

---

(*a*) The father of a child refusing to give to the registrar of his district the information specified in this section, is indictable for a misdemeanour (*Reg.* v. *Price*, 11 Ad. & E. 727).

if the occupier be the person who shall have died, some inmate of the house or tenement in which such death shall have happened, shall, within eight days next after the day of such death, give information, upon being requested so to do, to the said registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person: Provided always, that in every case in which an inquest shall be held on any dead body the jury shall inquire of the particulars herein required to be registered concerning the death, and the coroner shall inform the registrar of the finding of the jury, and the registrar shall make the entry accordingly.

6 & 7 W. 4, c. 86.

house, required to give particulars of death, so far as known.

Registrar to make entry of finding of the jury upon coroners' inquests.

26. That if any of his majesty's English subjects shall die at sea on board of a British vessel, the captain or commanding officer of the vessel on board of which such death shall have happened shall forthwith make a minute of the several particulars hereinbefore required to be inserted in the register touching such death, so far as the same may be known, and the name of the vessel wherein the death took place, and shall, on the arrival of such vessel in any port of the united kingdom, or by any other sooner opportunity, send a certificate of the said minute through the post-office to the registrar general, who shall file the same, and enter a copy thereof under his hand in the marine register book, and keep the same with the other registers, according to the provision of this Act.

Registry of persons dying at sea.

27. That every registrar, immediately upon registering any death, or as soon thereafter as he shall be required so to do, shall, without fee or reward, deliver to the undertaker or other person having charge of the funeral a certificate under his hand, according to the form of schedule (E) to this Act annexed, that such death has been duly registered, and such certificate shall be delivered by such undertaker or other person to the minister or officiating person who shall be required to bury or to perform any religious service for the burial of the dead body, and if any dead body shall be buried for which no such certificate shall have been so delivered, the person who shall bury or perform any funeral or any religious service for the burial shall forthwith give notice thereof to the registrar: Provided always, that the coroner, upon holding any inquest, may order the body to be buried, if he shall think fit, before registry of the death, and shall in such case give a certificate of his order in writing under his hand, according to the form of schedule (F) to this Act annexed, to such undertaker or other person having charge of the funeral, which shall be delivered as aforesaid; and every person who shall bury or perform any funeral or any religious service for the burial of any dead body for which no certificate shall have been duly made and delivered as aforesaid, either by the registrar or coroner, and who shall not within seven days give notice thereof to the registrar, shall forfeit and pay any sum not exceeding 10*l.* for every such offence.

Registrar to give certificate of registry of death to undertaker, who shall deliver the same to the minister or officiating person.

Coroner may order body to be buried, and give certificate thereof.

No dead body to be buried without certificate of registry or of inquest, penalty 10*l.*

28. That every person by whom the information contained in any register of birth or death under this Act shall have been given shall sign his name, description, and place of abode in the register; and no register of birth or death according to this Act shall be given in evidence which shall not be signed by some person professing to be the informant, and to be such party as is herein required to give such information to the registrar.

Register to be signed by the informant.

29. That every registrar shall make out an account four times in every year of the number of births and deaths which he shall have registered since the last quarterly account, and the superintendent registrar shall verify and sign the same; and the guardians or overseers of the parish, township, or place in or for which he shall be registrar, on production of the said account so verified and signed, shall pay to the said registrar, out of the moneys in their hands or power as such guardians or overseers, such sums as he shall be entitled to receive on the said account according to the following scale (that is to say), for the first twenty entries of births and deaths in every year which he shall have registered, whether the same be of births or of deaths indiscriminately, 2*s.* 6*d.* each, and 1*s.* for every subsequent entry of births or deaths in each year; and in the case of an union the said several sums shall be charged to the account of the parishes in which such births or deaths respectively shall have occurred.

Registrars to make out accounts quarterly.

Guardians or overseers to pay registrars.

30. That the registrar general shall furnish or cause to be furnished to the rector, vicar, or curate of every church and chapel in England wherein marriages may lawfully be solemnised, and also to every person whom the recording clerk of the society of friends, commonly called quakers, at their central office in London, shall from time to time certify in writing under his hand to the registrar general to be a registering officer in England of the said society, and also to every person whom the president for the time being of the London committee of deputies of the British Jews shall from time to time certify in writing under his hand to the registrar general to be the secretary of a synagogue in England of persons professing the Jewish religion, a sufficient number in duplicate of marriage register books, and forms for certified copies thereof, as hereinafter provided; and the cost of all such books and forms shall be paid by the churchwardens and overseers of the parish or chapelry out of the moneys in their hands as such churchwardens and overseers, or by the registering officer or secretary respectively to whom the same shall be furnished.

Marriage register books to be provided.

31. That every clergyman (*a*) of the church of England, immediately after every office

(*a*) On an indictment under this statute, for making false statements after marriage to the officiating clergyman, for the purpose of having such false statements inserted in the marriage

6 & 7 W. 4, c. 86

Marriage registers to be kept in duplicate.

of matrimony solemnised by him, shall register in duplicate in two of the marriage register books the several particulars relating to that marriage according to the form of the said schedule (C); and every such registering officer of the quakers, as soon as conveniently may be after the solemnisation of any marriage between two quakers in the district for which he is registering officer, and every such secretary of a synagogue, immediately after every marriage solemnized between any two persons professing the Jewish religion, of whom the husband shall belong to the synagogue whereof he is secretary, shall register or cause to be registered in duplicate in two of the said marriage register books the several particulars relating to that marriage according to the form of the said schedule (C); and every such registering officer or secretary, whether he shall or shall not be present at such marriage, shall satisfy himself that the proceedings in relation thereto have been conformable to the usages of the said society, or of the persons professing the Jewish religion, as the case may be; and every such entry as hereinbefore is mentioned (whether made by such clergyman or by such registering officer or secretary respectively as aforesaid) shall be signed by the clergyman or by the said registering officer or secretary, as the case may be, and by the parties married, and by two witnesses, and shall be made in order from the beginning to the end of each book, and the number of the place of entry in each duplicate marriage register book shall be the same.

Certified copies of registers of births and deaths to be sent quarterly, and the register books when filled, to the superintendent registrar

32. That in the months of April, July, October, and January, on such days as shall from time to time be appointed by the registrar general, every registrar shall make, and deliver to the superintendent registrar of his district, on durable materials, a true copy, certified by him under his hand, according to the form of schedule (D) to this Act annexed, of all the entries of births and deaths in the register book kept by him since the last certificate, the first of such certificates to be given in the month of July (a) in the year 1837, and to contain all the entries made up to that time; and the superintendent registrar shall verify the same, and if found to be correct shall certify the same under his hand to be a true copy; and if there shall have been no birth or death registered since the delivery of the last certificate the registrar shall certify the fact, and such certificate shall be delivered to the superintendent registrar as aforesaid, and countersigned by him; and the registrar shall keep safely each of the said register books until it shall be filled, and shall then deliver it to the superintendent registrar, to be kept by him with the records of his office.

Duplicates and certified copies of registers of marriages to be sent to superintendent registrar

33. That the rector, vicar, or curate of every such church and chapel, and every such registering officer and secretary, shall, in the months of April, July, October, and January respectively, make and deliver to the superintendent registrar of the district in which such church or chapel may be situated, or which may be assigned by the registrar general to such registering officer or secretary, on durable materials, a true copy certified by him under his hand of all the entries of marriages in the register book kept by him since the last certificate, the first of such certificates to be given in the month of July (a), 1837, and to contain all the entries made up to that time, and if there shall have been no marriage entered therein since the last certificate, shall certify the fact under his hand, and shall keep the said marriage register books safely until the same shall be filled; and one copy of every such register book, when filled, shall be delivered to the superintendent registrar of the district in which such church or chapel may be situated, or which shall have been assigned as aforesaid to such registering officer or secretary, and the other copy of every such register book kept by any such rector, vicar, or curate shall remain in the keeping of such rector, vicar, or curate, and shall be kept by him with the registers of baptisms and burials of the parish or chapelry within which the marriages registered therein shall have been solemnised; and the other copy of every such register book of marriages among the people called quakers, and among persons professing the Jewish religion respectively, shall remain under the care of the said people or persons respectively, to be kept with their other registers and records, and shall, for the purposes of this Act, be still deemed to be in the keeping of the registering officer or secretary for the time being respectively.

Superintendent registrars to send certi-

34. That every superintendent registrar shall, four times in every year, on such days as shall be therefor named by the registrar general, send to the registrar general all the certified copies of the registers of births, deaths, and marriages which he shall have so

---

register book, it was held that the indictment was supported by proof of such statements having been made *before* marriage *to the clerk*, in the absence of the officiating clergyman, and then inserted in the register book; and after marriage, having been averred by the prisoner to be correct, in answer to a question put to him by the clergyman; the prisoner's purpose then being to have the said statements which had already been entered by the clerk retained on the register; and that the marriage register book need not be shown to be the identical book directed to be furnished by the registrar general, under sect. 30 (*Reg.* v. *Brown*, 1 Den. C. C. 291, 17 L. J. M. C. 145; see *Reg.* v. *Lord Dunboyne*, post, p. 105, n. (*d*)).

Any act of fraud upon a public officer, with intent to deceive, whereby a matter required by law for the accomplishment of an act of a public nature is illegally obtained, amounts to an indictable misdemeanour (*Reg.* v. *Chapman*, 1 Den. C. C. 432, 18 L. J., M. C. 152).

(a) The 7 Will. 4, c. 1, s. 2 (post, p. 109), substitutes the month of *October* for that of *July*.

received during the three calendar months next preceding such quarterly days of transmission respectively; and if it shall appear, by interruption of the regular progression of numbers or otherwise, that the copy of any part of any book has not been duly delivered to him, he shall procure, as far as possible, consistently with the provisions of this Act, that the same may be remedied and supplied and every such superintendent registrar shall be entitled to receive the sum of 2*d.* for every entry in such certified copies, and every superintendent registrar shall make out an account four times in every year of the number of entries in the certified copies sent to him during the last quarter, and the certified copies so sent to the general registry office shall be thereafter kept in the said office in such order and manner as the registrar general, under the direction of the secretary of state, shall think fit, so that the same may be most readily seen and examined

6 & 7 W 4, c 86

fied copies of registers to the general registry office

35 That every rector, vicar, or curate, and every registrar, registering officer, and secretary, who shall have the keeping for the time being of any register book of births, deaths or marriages, shall at all reasonable times allow searches to be made of any register book in his keeping, and shall give a copy certified under his hand of any entry or entries in the same, on payment of the fee hereinafter mentioned, (that is to say,) for every search extending over a period not more than one year the sum of 1*s*, and 6*d* additional for every additional year, and the sum of 2*s* 6*d* for every single certificate

Searches may be made and certificates given by the persons keeping the registers (*a*)

36 That every superintendent registrar shall cause indexes of the register books in his office to be made, and kept with the other records of his office, and that every person shall be entitled at all reasonable hours to search the said indexes, and to have a certified copy of any entry or entries in the said register books under the hand of the superintendent registrar, on payment of the fees hereinafter mentioned, (that is to say,) for every general search the sum of 5*s*, and for every particular search the sum of 1*s*, and for every such certified copy the sum of 2*s* 6*d*

Indexes to be made at the superintendent registrar's office and persons allowed to search them

37 That the registrar general shall cause indexes of all the said certified copies of the registers to be made and kept in the general register office, and that every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said indexes between the hours of ten in the morning and four in the afternoon of every day, except Sundays, Christmas Day, and Good Friday, and to have a certified copy of any entry in the said certified copies of the registers and for every general search of the said indexes shall be paid the sum of 20*s*, and for every particular search the sum of 1*s*, and for every such certified copy the sum of 2*s* 6*d*, and no more, shall be paid to the registrar general or such other officer as shall be appointed for that purpose on his account.

Indexes to be kept at general register office, searches allowed and certified copies given

38 That the registrar general shall cause to be made a seal of the said register office, and the registrar general shall cause to be sealed or stamped therewith all certified copies of entries given in the said office, and all certified copies of entries purporting to be sealed or stamped with the seal of the said register office shall be received as evidence of the birth, death, or marriage to which the same relates, without any further or other proof of such entry and no certified copy purporting to be given in the said office shall be of any force or effect which is not sealed or stamped as aforesaid

Certified copies given at general registry office to be sealed (*b*).

39 That every sum received under the provisions of this Act by or on account of the registrar general shall be accounted for and paid by the registrar general, at such times as the lords commissioners of the treasury from time to time shall direct, into the bank of England, to the credit of his majesty's exchequer, according to the provisions of an Act passed in the fourth and fifth years of his majesty intituled "An Act to regulate the Office of the Receipt of his Majesty's Exchequer at Westminster"

Fees for searches in the general register of fees to be accounted for to the exchequer

4 & 5 W 4, c. 15

40 That it shall be lawful for every clergyman of the church of England who shall solemnise any marriage (*c*) in England, and for every registering officer of the quakers, and every secretary of a synagogue, after the said 1st day of March to ask of the parties married the several particulars herein required to be registered touching such marriage

Clergymen &c may ask parties married the particulars required

41 That every person who shall wilfully (*d*) make or cause to be made, for the purpose of being inserted in any register of birth, death, or marriage, any false statement touching any of the particulars herein required to be known and registered, shall be subject to the same pains and penalties as if he were guilty of perjury (*e*)

Penalty for wilfully giving false information.

(*a*) This section does not authorise any charge for extracts made by the person searching the register (*Steele* v *Williams*, 22 L J Ex 225, 8 Ex 625) The searcher would not indeed be entitled to remain an unreasonable time looking at the registers, and perhaps he would not be entitled in strictness to have the book in his hand for that purpose (*per* Parke, B, *ib*)

Semble, The fees allowed by this and the following section are still demandable, notwithstanding the provision contained in sect. 14 of 14 & 15 Vict c 99 ante, Vol I, p 1387, tit. "EVIDENCE."

(*b*) See *Reg* v *Hawkes*, 1 Den C C 270

(*c*) See *Brown's case*, 1 Den C C 291, ante, p 104, n

(*d*) To support an indictment under this section it is essential that the false statement should have been made wilfully and intentionally, and not by mistake (*Reg* v *Lord Dunboyne*, 3 Car & K 1)

(*e*) See *Reg* v *Mason* infra

6 & 7 W. 4, c. 86

Penalty for not duly registering births, deaths, and marriages, or for losing or injuring the registers.

42. That every person who shall refuse or without reasonable cause omit to register any marriage solemnised by him, or which he ought to register, and every registrar who shall refuse or without reasonable cause omit to register any birth or death of which he shall have had due notice as aforesaid, and every person having the custody of any register book, or certified copy thereof or of any part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his keeping, shall forfeit a sum not exceeding 50*l.* for every such offence.

Penalty for destroying or falsifying register books (*a*).

43. That every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such register book, or any part or certified copy of any part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such register book or certified copy thereof, or shall wilfully insert or cause to be inserted in any register book or certified copy thereof any false entry of any birth (*b*), death, or marriage, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any register book, knowing the same register to be false in any part thereof, or shall forge or counterfeit the seal of the register office, shall be guilty of felony.

Accidental errors may be corrected.

44. Provided always, that no person charged with the duty of registering any birth, death, or marriage, who shall discover any error to have been committed in the form or substance of any such entry, shall be therefor liable to any of the penalties aforesaid if within one calendar month next after the discovery of such error, in the presence of the parents of the child whose birth may have been so registered, or of the parties married, or of two persons attending upon any person in his or her last illness whose death may have been so registered, or in case of the death or absence of the respective parties aforesaid, then in the presence of the superintendent registrar and of two other credible witnesses who shall respectively attest the same, he shall correct the erroneous entry according to the truth of the case, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made: Provided also, that in the case of a marriage register he shall make the like marginal entry, attested in like manner in the duplicate marriage register book to be made by him as aforesaid, and in every case shall make the like alteration in the certified copy of the register book to be made by him as aforesaid, or in case such certified copy shall have been already made, provided he shall make and deliver in like manner a separate certified copy of the original erroneous entry, and of the marginal correction therein made.

Recovery of penalties

45. That all fines and forfeitures by this Act imposed, unless otherwise directed, shall be recovered before any two justices of the peace for the county, city, or place where the offence shall have happened, upon the information or complaint of any person; and if on the conviction of the offender, either on his or her confession, or by the oath of any one or more credible witness or witnesses (which oath such justices are hereby empowered to administer), such fines or forfeitures, with the costs of the conviction, shall not be forthwith paid, the same shall be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such justices; and for want of distress such justices may commit every such offender to the common gaol or house of correction for the county, city, or place where the offender* shall be committed, without bail or mainprize, for any term not exceeding one calendar month, unless such fine and forfeiture, and all reasonable charges attending the recovery thereof, shall be sooner paid; and one moiety of all such fines and forfeitures shall go to the person who shall inform and sue or prosecute for the same, and the other moiety shall go the registrar general, or to such other persons as the lords commissioners of the treasury shall appoint, for the use of his majesty; and no distress made by virtue of this Act shall be deemed unlawful, nor shall the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, or warrant of distress, or on account of any irregularity which shall be afterwards committed by the party distraining, but the person or persons aggrieved by such irregularity shall recover full satisfaction for the special damages sustained in an action on the case.

Sic.

(*a*) Repealed by 24 & 25 Vict. c. 95, ante, Vol. II., tit. "CRIMINAL LAW."

The 41st section makes it a misdemeanour to make a false statement of *one or more of the particulars* required to be registered, *for the purpose of being inserted* in any register of birth, death, or marriage; and to constitute this offence the purpose need not be effected. But it is a felony under this section to cause the registrar to make an *entire false entry* of a birth, marriage, or death (*Reg.* v. *Mason*, 2 Car. & K. 622; *Reg.* v. *Brown*, *Ib.* 504). See the form of indictment (*Id.*). See also *Reg.* v. *Bowen*, 1 Den. C. C. 22; ante, Vol. II., tit. "CRIMINAL LAW."

(*b*) A woman went to a registrar and asked him to register the birth of a child; she stated the particulars necessary for the entry, and he made the entry accordingly, and she signed it as the person giving the information. Every particular which she stated was false. This was held to amount to the felony of causing a false entry to be made, within this section, and was not merely the misdemeanour of making a false statement under sect. 41 (*Reg.* v. *Dewitt*, 2 Car. & K. 905).

6 & 7 W. 4. c. 86.

Appeal.

46. That in all cases where the sum adjudged to be paid on any such summary conviction shall exceed 5*l*., any person convicted may appeal to the next court of general or quarter sessions which shall be holden not sooner than twelve days after the day of such conviction for the county or other district wherein the cause of complaint shall have arisen; provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognisance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded: and upon such notice being given, and such recognisances being entered into, the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs, to either party, as to the court shall seem meet, and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

No *certiorari*.

47. That no such conviction or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by *certiorari* or otherwise into any of his majesty's superior courts of record, and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a valid conviction to sustain the same.

48. [Correspondence of registrar general relating to this Act to be free of postage.]

Registers of baptisms and burials may be kept as heretofore.

49. Provided always, that nothing herein contained shall affect the registration of baptisms or burials as now by law established, or the right of any officiating minister to receive the fees now usually paid for the performance or registration of any baptism, burial, or marriage.

Registrar general to furnish notices to guardians of unions, &c. specifying acts required to be done by parties registering.

50. That the said registrar general shall, within three calendar months after his appointment to such office, furnish to the respective guardians of every union, parish, or place, printed notices, which the said guardians shall, as soon as conveniently may be after the receipt thereof, cause to be fixed or placed on the outside of the several church and chapel doors, or other public and conspicuous buildings or places, within their respective unions, parishes or places, and which said notices shall specify the several acts required to be done by persons who may be desirous of solemnizing marriage, or of registering the birth of any child or the death of any person under the provisions of this Act.

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A).

1836.—BIRTHS in the *District* of *Marylebone, North*, in the County of *Middlesex*.

No.	When born.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.	Baptismal Name, if added after Registration of Birth.
1	*7th January.*	*James.*	*Boy.*	*William Green.*	*Rebecca Green, formerly Jennings.*	*Carpenter.*	*William Green, Father, Carpenter, 17, North Street, Marylebone.*	*9th January.*	*John Cox, Registrar.*	

The words and figures in *italics* in this Schedule to be filled in as the case may be.

SCHEDULE (B).

1836.—DEATHS in the *District* of *Marylebone, North*, in the County of *Middlesex*.

No.	When died.	Name and Surname.	Sex.	Age.	Rank or Profession.	Cause of Death.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.
17	*4th February.*	*William Green.*	*Male.*	43	*Carpenter.*		*Rebecca Green, Widow, 17 North Street, Marylebone.*	*5th February.*	*John Cox, Registrar.*

The words and figures in *italics* in this Schedule to be filled in according as the case may be.

SCHEDULE (C).

1836.—MARRIAGES solemnized *at the Parish Church* in the *Parish* of *Marylebone* in the County of *Middlesex*.

No.	When married.	Name and Surname.	Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.
1	*17th March, 1836.*	*William Hastings.*	*Of full Age.*	*Bachelor.*	*Carpenter.*	*3, South Street.*	*Peter Hastings.*	*Upholsterer.*
		Sophia Anne Mitchell.	*Minor.*	*Spinster.*		*17, High Street.*	*Geoffry Mitchell.*	*Butcher.*

Married in the *Parish Church*, according to the rites and ceremonies of the *Established Church*, *by licence*, or *after banns*, by me, *James Hollingshead, Vicar.*

This marriage was solemnized between us, { *William Hastings,* *Sophia Anne Mitchell,* } in the presence of us, { *John Hastings.* *Geoffry Mitchell.*

The words and figures in *italics* in this Schedule to be filled in as the case may be.

SCHEDULE (D). 6 & 7 W. 4, c. 86.

I *John Cox*, registrar of births and deaths in the *district* of *Marylebone, North*, in the county of *Middlesex*, do hereby certify, That this is a true copy of the registrar's book of births [*or* deaths] within the said *district*, from the entry of the birth [*or* death] of *James Green*, No. 1, to the entry of the birth [*or* death] of *William Strange*, No. 34. Witness my hand this *seventh* day of *March*, 1838. *John Cox*, Registrar.

SCHEDULE (E).

I *John Cox*, registrar of births and deaths in the *district* of *Marylebone, North*, in the county of *Middlesex*, do hereby certify, That the death of *Henry Hastings* was duly registered by me on the *seventh* day of *March*, 1836. Witness my hand this *eighth* day of *March*, 1836. *John Cox*, Registrar.

SCHEDULE (F).

I *James Smith*, coroner for the county of *Dorset*, do hereby order the burial of the body now shown to the inquest jury as the body of *John Jones*. Witness my hand this *eighth* day of *March*, 1836. *James Smith*, Coroner.

SCHEDULE (G).

I *Gilbert Elliott*, *Vicar* of *Barming*, in the county of *Kent*, do hereby certify, That I have this day baptised by the name of *Thomas* a *male* child, produced to me by *William Green*, as the son of *William Green* and *Rebecca Green*, and declared by the said *William Green* to have been born at *Marylebone* in the county of *Middlesex*, on the *seventh* day of *January*, 1836. Witness my hand this *first* day of *December*, 1838.
Gilbert Elliott, Vicar.

[The words and figures in *italics* in the above Schedules to be filled in as the case may be.]

7 Will. 4, c. 1. An Act to suspend for a limited Time the Operation of two Acts passed in the last Session of Parliament, for registering Births, Deaths, and Marriages in England, and for Marriages in England. [24th February, 1837.] 7 W. 4, c. 1.

1 Vict. c. 22. An Act to explain and amend two Acts passed in the last Session of Parliament, for Marriages, and for registering Births, Deaths, and Marriages in England. [30th June, 1837.] 1 Vict. c. 22.

"Whereas by an Act made in the last session of parliament, intituled 'An Act for Marriages in England,' and by another Act, intituled 'An Act for registering Births, Deaths, and Marriages in England,' sundry provisions were made for the duties of superintendent registrars and also of registrars and deputy registrars of births, deaths, and marriages, which several provisions require to be further explained and amended: and whereas the recited Acts require amendment in other respects:" BE IT THEREFORE ENACTED, That where in the said Act for marriages in England provision is made for giving notice of marriage to any registrar, and where in the last-recited Act, or any schedule thereunto annexed, mention is made of any such notice, or of the registrar's certificate of any such notice, the same shall be construed respectively to mean the notice to be given to the superintendent registrar, and the certificate thereof to be issued by the superintendent registrar, according to the provisions for that purpose contained in the last-recited Act. 6 & 7 W. 4, c. 85. 6 & 7 W. 4, c. 86. Meaning of the words Notice to the registrar and registrar's certificate.

2. "And whereas by the said Act for registering births, deaths, and marriages it is provided, that, in the case of any child to which any name shall be given in baptism after its birth shall have been registered under the provisions of the said Act, a certificate shall be delivered in manner provided by the said Act, signed by the minister who shall have performed the rite of baptism, and that the registrar shall certify upon the said certificate the additional entry in the register book thereupon required by the said Act to be made, and shall forthwith send the said certificate through the post-office to the registrar general:" BE IT ENACTED, That the certificate that such additional entry has been made shall be made and sent as aforesaid by the registrar or superintendent registrar, as the case may be, to whom the minister's certificate shall have been delivered according to the provisions of the said Act. Certificate of baptismal name to be made by registrar or superintendent registrar, as the case may be.

1 Vict. c. 22.

Superintendent registrars unduly issuing licenses, &c. guilty of felony

3. That every superintendent registrar who shall knowingly and wilfully issue any licence for marriage after the expiration of three calendar months after the notice shall have been entered by the superintendent registrar, as provided by the said Act for marriages, or who shall knowingly and wilfully solemnize or permit to be solemnized in his office any marriage in the last-recited Act declared to be null and void, shall be guilty of felony.

Whereunto committal shall be

4. "And whereas in that part of the said Act for registering births, deaths, and marriages in England which provides for the recovery of penalties the word 'offender' has been once inserted by mistake instead of the word "offence;'" BE IT ENACTED, That in all cases in which any justices are by the last-recited Act authorised to imprison any offender against the last-recited Act, the place of imprisonment shall be the common gaol or house of correction for the county, city, or place where the offence shall be committed.

Registrar general's certificate of frivolous caveat to be evidence.

5. That for the purpose of enabling any person to recover costs and damages in any action, as provided by the said Act for marriages, from any person who shall have entered a caveat on frivolous grounds with the superintendent registrar, a copy of the declaration of the registrar general purporting to be sealed with the seal of the general register office shall be evidence that the registrar general has declared such caveat to have been entered on frivolous grounds, and that they ought not to obstruct the grant of the license or issue of the certificate, as the case may be; and such declaration shall have the effect of the declaration required in such case by the said Act for marriages.

Commencement of marine register book.

6. "And whereas it hath been doubted, under the provisions of the said Act for registering births, deaths, and marriages in England, when the registration of the births and deaths of persons born and dying at sea ought to begin:" BE IT ENACTED, That the marine register books shall begin with the births and deaths respectively which shall happen of persons born or dying at sea after the last day of June, 1837, and of which a certificate shall be first sent to the registrar general according to the provisions of the last recited Act, and shall not contain any registry of the birth or death of any person born or dying at sea before the 1st day of July, 1837.

7. [Privilege of franking extended to the united kingdom.]

Place of birth or death may be inserted in the register.

8. That it shall be lawful for the registrar general, if he shall think fit, to direct that the place of birth or death of any person whose birth or death shall be registered under the said Act for registering births, deaths, and marriages, shall be added to the entry in such manner as the registrar general shall direct; and such addition, when so made, shall be taken to all intents to be part of the entry in the register.

Provision for including extra-parochial places in register districts 4 & 5 W 4, c. 76.

9. That it shall be lawful for the registrar general, with the consent of the poor-law commissioners, to direct that any place lying wholly within but not being part of any union, parish, or place for which a board of guardians shall have been established under the provisions of an Act passed in the fourth and fifth years of his late majesty king William the fourth, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," shall be part of any one or more registrars districts within such union, parish, or place, and within the superintendence of the superintendent registrar thereof, or if not lying wholly within any one such union, parish, or place as last aforesaid, then to be for those purposes annexed to such union, parish, or place as last aforesaid, as the registrar general, with the consent of the poor-law commissioners, shall direct.

Registrar general may unite districts.

10. That it shall be lawful for the registrar general, if he shall see fit, with the approval of one of her majesty's principal secretaries of state, to unite any two or more unions, parishes, or places for which a board of guardians shall have been established under the Act last aforesaid, or any two or more superintendent registrars districts into one superintendent-registrar's district; and in every such case of union the registrar general shall declare by which board of guardians the superintendent registrar shall thenceforward be appointed; and the superintendent registrar of the union, parish, or place for which such board is established shall from the time of such union be the sole superintendent registrar of such united district; and every provision of the said Acts for marriages, and for registering births, deaths, and marriages, relating to superintendent registrars, and to the districts under their superintendence, and to boards of guardians within such districts, shall apply to every such superintendent registrar, and to every such district, and to the board of guardians so selected and declared; and all register boxes, keys, books, documents, and papers in the possession of any superintendent registrar who shall cease to be such under the provisions of this Act shall be delivered to the superintendent registrar of the united district, and may be recovered in the manner provided by the last-recited Acts, and shall be removed from the office of the person ceasing to be superintendent registrar to the office of the superintendent registrar of the united district; and the office of every superintendent registrar ceasing to be such under the provisions of this Act shall from the time of such union as last aforesaid cease to be a register office within the meaning of the said last-recited Acts, and it shall be lawful for the commissioners of her majesty's treasury, or any three of them, to cause to be repaid out of the consolidated fund such sum as the board of guardians shall have legally paid, or for which they may have lawfully become liable as such guardians, for the sole purpose of providing a register office; and in every case in which such union as last aforesaid shall be intended to take place the registrar general shall give public notice thereof, and of the time when the same shall take effect by advertisement in the "London Gazette,"

and in some newspaper circulating within the county; and every such union shall take effect from the day named in such advertisement in the "London Gazette." 1 Vict. c. 22.

11. That it shall be lawful for the registrar general, if he shall see fit, with the approval of one of her majesty's principal secretaries of state, to divide any union, parish, or place or any superintendent registrar's district, into two or more superintendent registrars districts, and notice of every such division shall be published in the "London Gazette;" and in every such case the guardians shall appoint a sufficient number of persons, with such qualifications as the registrar general may by any general rule declare to be necessary, to be superintendent registrars of the new districts, and shall also appoint the district for which the clerk to the guardians or other person who may have been theretofore appointed as superintendent registrar of the whole union, parish, or place, shall continue to be superintendent registrar; and every provision of the said recited Acts for marriages, and for registering births, deaths, and marriages, relating to superintendent registrars, and the districts under their superintendence, shall apply to every superintendent registrar so appointed, and to the district for which he shall be so appointed. Registrar general may divide unions or districts.

12. That the superintendent registrar's office shall be taken, for the purposes of the said Act for marriages, and for registering births, deaths, and marriages, and of this Act, to be within the district of which it is the register office, although not locally situated therein. As to locality of superintendent registrar's office.

13. That in case any such board of guardians of any union, parish, or place as aforesaid shall not have divided such union, parish, or place into registrars districts, with the approval of the registrar general, before the 1st day of July now next ensuing in case the said board was established before the 1st day of March now last past, or within three calendar months next after their establishment in case the said board shall have been established on or after the said 1st day of March, the poor-law commissioners for England and Wales shall divide such union, parish, or place into registrars districts, and shall appoint a registrar to each of such districts, qualified according to the provisions of the said Act for registering births, deaths, and marriages; and every registrar so appointed shall hold his office during the pleasure of the registrar general. If guardians neglect to form registrars districts, poor law commissioners shall form them and appoint registrars thereto.

14. That in every case in which the clerk to any such board of guardians shall not think fit or shall be disqualified to accept the office of superintendent registrar, and the guardians shall refuse or neglect during fourteen days after being required so to do by the registrar general to appoint a superintendent registrar properly qualified, and in every case of vacancy of the office of registrar or superintendent registrar in any such union, parish, or place in which the guardians shall refuse or neglect during fourteen days after such vacancy to appoint a registrar or superintendent registrar properly qualified, the appointment shall lapse to the registrar general. If guardians neglect to appoint registrars or superintendent registrars the registrar general to appoint them.

15. That the registrar general shall have power, subject to the approval of the commissioners of the treasury, to appoint by writing under his hand a fit person to act as his assistant in the case of the illness of the registrar general; and every such assistant, while so acting, shall have all the powers and duties and be subject to all the provisions and penalties declared by the said Acts for marriages, and for registering births, deaths, and marriages in England, and by this Act, or any of them; except that such assistant shall not have power to make or declare any general rule, or to rescind or alter any order, regulation, or approval signified and made by the registrar general in writing under his hand, or to dismiss any person from any office holden during the pleasure of the registrar general. Registrar general may appoint an assistant to act for him in certain cases.

16. That every superintendent registrar shall have the power, subject to the approval of the registrar general, to appoint by writing under his hand a fit person to act as his deputy in case of the illness or absence of such superintendent registrar; and every such deputy superintendent registrar, whilst so acting, shall have all the powers and duties and be subject to all the provisions and penalties declared by the said Acts for marriages, and for registering births, deaths, and marriages, in England, and by this Act, concerning superintendent registrars; and in case of the death of the superintendent registrar shall act as superintendent registrar until another be appointed; and every superintendent registrar shall be civilly responsible for the acts and omissions of his deputy. Superintendent registrar may appoint a deputy to act for him in certain cases.

17. That whenever there are two or more clerks to the guardians of any union, parish, or place established under the provisions of the said Act for amending the laws relating to the poor, one only of whom shall possess such qualifications as the registrar general by any general rule hath declared or shall declare, to be necessary, or one only of whom shall think fit to accept the office of superintendent registrar of such union, parish, or place, such one shall be the superintendent registrar of such union, parish, or place; and if two or more of such clerks shall possess such qualifications as aforesaid, and be willing to accept such office, then such guardians shall elect and choose one of such clerks (possessing such qualifications as aforesaid) to be the superintendent registrar of such union, parish, or place; and that no other person shall be or be elected or appointed to be superintendent registrar of any such union, parish, or place, unless all the clerks to the board of guardians (possessing such qualifications as aforesaid) shall not think fit to accept such office. If more than one clerk to a board of guardians which of them to be superintendent registrar

18. That every registrar of births and deaths and every registrar of marriages appointed under the provisions of the said Acts or either of them shall be freed and exempted from being returned and from serving on any jury or inquest, and from every parochial and corporate office whatever. Exemption of registrars from parochial and corporate offices.

1 Vict c. 22.

Guardians may borrow money for providing register offices.

19. That for better enabling fit register offices to be provided it shall be lawful for any such board of guardians to borrow money for that purpose, and to charge the amount of the sum borrowed on the future poor rates of the parish, union, or place of which they are the guardians, in the manner provided by the said Act for amending the laws relating to the poor with respect to moneys borrowed for building workhouses for the relief of the poor; save only that the yearly instalments by which any money borrowed as aforesaid shall be repaid shall not be less than one twentieth of the sum borrowed, with interest on the same, and need not be more in any one year.

If guardians neglect to provide a register office, commissioners of treasury may direct it to be provided.

20. That in any case in which any such board of guardians shall neglect or refuse to provide and uphold a register office according to the provisions of the said Act for registering births, deaths, and marriages, it shall be lawful for the commissioners of the treasury, or any three of them, on the application of the registrar general, to give directions for providing and upholding the same, and to expend a sum not exceeding 300*l.* in providing the same, and also all sums needful for the repair and maintenance thereof from time to time, in case the guardians shall continue to refuse or neglect to repair and uphold the same: and it shall be lawful for the said commissioners, or any three of them, to make an order from time to time on such guardians for the repayment, out of the moneys coming to their hands as such guardians, of all sums so to be from time to time expended, and such order shall be binding upon the said guardians, and the guardians shall also be bound to pay out of the moneys coming to their hands as such guardians all costs and expences incurred by or under the direction of the said commissioners in making and enforcing such order.

Substitute for register office.

21. That until a register office shall be provided in any superintendent registrar's district the superintendent registrar shall appropriate some fit room or rooms, to be approved by the registrar general, as the superintendent registrar's office of that district.

Registrar general to limit the number of registrars

22. That the registrar general shall be authorised to fix from time to time the number of registrars of marriage to be appointed by any superintendent registrar; and no superintendent registrar shall have power to appoint more than the number so fixed for him to appoint.

23. [Provision for marriages in the Welsh tongue (*a*).]

24. [Notices of marriage to be suspended in the superintendent registrar's office, instead of being read at the meetings of guardians, and particulars of the same sent to the registrar (*a*).]

Cost of parochial marriage register books and forms, how to be defrayed.

25. "And whereas by the said Act for registering births, deaths, and marriages it is provided that the cost of all marriage register books and forms for certified copies thereof, furnished to the rector, vicar, or curate of every church and chapel in England wherein marriages may lawfully be solemnized, shall be paid by the churchwardens and overseers of the parish or chapelry out of the moneys in their hands as such churchwardens or overseers, and that the cost of register books of births and of register books of deaths, and of forms for certified copies thereof, shall be paid by the guardians or by the churchwardens and overseers (as the case may be) out of the moneys coming to their hands or control as such guardians or churchwardens and overseers;" BE IT ENACTED, for removing doubt as to the fund chargeable therewith, That the cost of all such books and forms shall be borne by the union, parish or place in and for which the superintendent registrar is appointed who superintends the registrar for whose use such books were provided, or to whom such rector, vicar, or curate is by the said Act directed to deliver one copy of such register; and such cost shall be paid to the said superintendent registrar by the guardians or by the churchwardens and overseers, as the case shall be, out of the moneys coming into their hands as such guardians or such churchwardens and overseers for the relief of the poor.

Certified copies of register books to be made up quarterly 7 W. 4, c. 1.

26. That the certified copies of the entries of births, deaths, and marriages required by the said Acts for marriages, and for registering births, deaths, and marriages, or by an Act passed in this session of parliament, intituled "An Act to suspend for a limited Time the operation of two Acts passed in the last Session of Parliament, for registering Births, Deaths, and Marriages in England, and for Marriages in England," to be made and delivered to the superintendent registrar, and also the certificates to be made and delivered to the superintendent registrar that there has been no birth, death, or marriage registered since the delivery of the last certificate, shall in every case be made up and refer respectively to the last days of March, June, September, and December then next preceding, and not to the time of the making or delivery of such certified copy or certificate when made on any subsequent day.

Clergyman to be paid for making register in duplicate.

27. "And whereas it is required by the said Act for registering births, deaths, and marriages, that every rector, vicar, and curate shall register in duplicate the particulars of every marriage solemnised by him, one of which registers he is also required to deliver when filled to the superintendent registrar of the district in which such church or chapel may be situated, and also four times in every year to deliver to the said superintendent registrar a true copy, certified by him under his hand, of all the entries of marriages in the register book kept by him since the last certificate:" BE IT ENACTED, That the said superintendent registrar shall pay or cause to be paid to the said rector, vicar, or curate

(*a*) See these sections, ante, tit. "MARRIAGE."

the sum of 6*d.* for every entry contained in such certified copy, which sums shall be reimbursed to the said superintendent registrar by the guardians or overseers of the union, parish, or place for which he shall be appointed superintendent registrar as aforesaid, in like manner as by the said Act is provided for the payment of the registrar on production of his accounts to the superintendent registrar. 1 Vict. c. 22.

28. That every person who under the provisions of the said Acts for marriages, and for registering births, deaths, and marriages, or either of them, as amended by this Act, is required to make and deliver to any superintendent registrar a certified copy of the entries of any births, deaths, or marriages registered by him, or the certificate required by the said Acts as amended by this Act that there have been no entries since the last certificate, and who after being duly required to deliver such certified copy or such certificate as aforesaid shall refuse or during one calendar month neglect so to do, shall be liable for every such offence to forfeit a sum not exceeding 10*l.*, to be recovered as other penalties for offences against the said Acts are made recoverable: Provided always, that in such case a moiety of the penalty shall not go to the informer, but the whole shall go to the registrar-general, or such other person as the commissioners of the treasury shall appoint, for the use of her majesty. Penalty for neglecting to send certified copies of register books.

29. That in every case in which any rector, vicar, or curate is required by either of the said Acts for marriages, and for registering births, deaths, and marriages, or by this Act, to give or deliver any notice, certificate, or certified copy to any superintendent registrar, it shall be sufficient for such rector, vicar, or curate to give or deliver the same to some registrar under the superintendence of such superintendent registrar; and every registrar on receiving any such notice, certificate, or certified copy shall give or deliver the same to the superintendent registrar; and each superintendent registrar shall direct the registrars of births and deaths under his superintendence quarterly or oftener if he shall think fit or shall be so ordered to do by the registrar-general to collect the notices, certificates, and certified copies from every rector, vicar, and curate within his district. Certificates, &c. required to be given to any superintendent registrar may be given to any registrar, who is to forward the same, &c.

3 & 4 Vict. c. 92. An Act for enabling Courts of Justice to admit Non-parochial Registers as Evidence of Births or Baptisms, Deaths or Burials, and Marriages. [10th August, 1840.]

3 & 4 Vict. c. 92.

[Ante, Vol. I. p. 1378, tit. "EVIDENCE."]

RELIGIOUS WORSHIP.

18 & 19 Vict. c. 81. An Act to amend the Law concerning the certifying and registering of Places of Religious Worship in England. [30th July, 1855.]

18 & 19 Vict. c. 81.

"Whereas by an Act of the first session of the first year of king William and queen Mary, chapter eighteen, and an Act of the fifty-second year of king George the third, chapter one hundred and fifty-five, places of meeting of congregations or assemblies for religious worship of Protestants (save as therein excepted with respect to places of worship of the established church and otherwise) were required to be certified to the bishop's or archdeacon's court, or to the general or quarter sessions of the peace, and to be registered in such court, and recorded at such sessions: And whereas by an Act of the thirty-first year of king George the third, chapter thirty-two, every place of congregation or assembly for religious worship of persons professing the Roman Catholic religion is required to be certified to and recorded at the general or quarter sessions of the peace: And whereas by the two following Acts respectively, that is to say, an Act of the session holden in the second and third years of king William the fourth, chapter one hundred and fifteen, and an Act of the session holden in the ninth and tenth years of her majesty, chapter fifty-nine, her majesty's subjects professing the Roman Catholic religion, and her majesty's subjects professing the Jewish religion, in respect of their places for religious worship, are made subject to the same laws as Protestant Dissenters: And whereas by an Act passed in the session holden in the fifteenth and sixteenth years of her majesty, chapter thirty-six, places of meeting of congregations or assemblies for religious worship of Protestant Dissenters are required to be certified to the registrar-general of births, deaths, and marriages in England, and to be recorded in the general register office, in lieu of being certified to and registered and recorded in the bishop's or archdeacon's court, and at the general or quarter sessions, as hereinbefore mentioned: And whereas it is expedient that all places of religious worship, not being churches or chapels of the established church, should, if the congregation should desire, but not otherwise, be certified to the said registrar-general: BE IT THEREFORE ENACTED as follows: 1 Will. & M. sess. 1, c. 18. 52 Geo. 3, c. 155. 31 Geo. 3, c. 32. 2 & 3 Will. 4, c. 115. 9 & 10 Vict. c. 59. 15 & 16 Vict. c. 36.

1. The said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, shall be repealed: Provided always, that the certifying thereunder before the passing of this Act of any place of meeting for religious worship shall, subject to the provisions 15 & 16 Vict. c. 36, repealed, but places of

18 & 19 Vict. c. 81.

Worship certified thereunder to have force, &c.

hereinafter contained, have the same force and effect from the time of such certifying as if the same had been duly certified, registered and recorded as before the passing of the said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, was required by law, and such Act and this Act had not been passed.

Places of worship to be certified to registrar-general.

2. Every place of meeting for religious worship of Protestant Dissenters or other Protestants, and of persons professing the Roman Catholic religion, by the said Acts of king William and queen Mary, the thirty-first and fifty-second years of king George the third, and the fifteenth and sixteenth years of her majesty, chapter thirty-six, or any of them, required to be certified and registered or recorded, as therein mentioned, and not heretofore certified and registered or recorded in manner required by law, and every place of meeting for religious worship of persons professing the Jewish religion, not heretofore certified and registered or recorded as aforesaid, and every place of meeting for religious worship of any other body or denomination of persons, may be certified in writing to the registrar-general of births, deaths and marriages in England, through the superintendent registrar of births, deaths and marriages of the district in which such place may be situate; and such certificate shall be in duplicate, and upon forms in accordance with schedule (A) to this Act, or to the like effect, such forms to be provided by the said registrar-general, and to be obtained (without payment) upon application to such superintendent registrar as aforesaid; and the said superintendent registrar shall, upon the receipt of such certificate in duplicate, forthwith transmit the same to the said registrar-general, who after having caused the place of meeting therein mentioned to be recorded as hereinafter directed, shall return one of the said certificates to the said superintendent registrar, to be redelivered by him to the certifying party, and shall keep the other certificate with the records of the general register office.

Places of meeting to be recorded.

3. The said registrar-general shall cause all places of meeting for religious worship certified to him under this Act to be recorded in a book to be kept by him for that purpose at the general register office, and no such place of meeting as aforesaid shall be certified to be registered in any court of any bishop or archdeacon, or be certified to or recorded at any general or quarter sessions; and the certifying to the said registrar-general of any such place of meeting for religious worship of Protestant Dissenters or other Protestants or Roman Catholics, or persons professing the Jewish religion, and of any place of meeting for religious worship of any other body or denomination of persons, shall, subject to the provisions herein contained, have the same force and effect as if such place had been duly certified and recorded, or registered and recorded as before the passing of the said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, was required by law, and such Act and this Act had not been passed.

Places of meeting already certified, save those certified under 15 & 16 Vict c. 36, may be certified to registrar-general, and be recorded by him.

4. Any place of meeting for religious worship heretofore certified and registered or recorded in manner required by law, and which continues to be used for religious worship, save any such place of meeting certified to the said registrar-general under the said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, may, at any time after the passing of this Act, be certified in writing to such registrar-general through the superintendent registrar of the district in which such place may be situate, and shall be recorded by such registrar-general in manner hereinbefore mentioned concerning places of meeting not heretofore certified and registered or recorded.

Fee of 2s. 6d. to be paid with certificate to superintendent registrar.

5. Upon the delivery of every certificate to the superintendent registrar for transmission to the registrar-general for the purpose of being recorded under this Act, the person delivering the same shall pay to such superintendent registrar for his own use the sum of two shillings and sixpence, and it shall not be lawful to demand or take any greater fee or reward for the same respectively.

Notice to be given to registrar-general of every place of meeting becoming disused for the purposes for which it was certified.

6. Whenever any place of meeting for religious worship which may have been certified under the said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, or this Act, shall have wholly ceased to be used as a place of meeting for religious worship, the person or one of the persons who so certified or last certified the same (as the case may be), or the trustee or one of the trustees for the time being of such place of meeting, or the owner or occupier or one of the owners or occupiers thereof, shall, if then resident within the superintendent registrar's district within which such place shall be situate, forthwith give notice to the registrar-general through such superintendent registrar that such place has so ceased to be used as a place of meeting for religious worship, such notice to be in a form in accordance with the schedule (B.) to this Act, or to the like effect, and which form shall be provided by the said registrar-general, and may be obtained (without payment) upon application to the said superintendent registrar; and the person giving such notice shall sign the same in the presence of such superintendent registrar or of his deputy, who shall forthwith transmit the same through the general post to the registrar-general at the general register office.

List of certified places to be printed

7. The said registrar-general shall, in the year one thousand eight hundred and fifty-six, and also at such subsequent periods as one of her majesty's principal secretaries of state shall from time to time in that behalf order or direct, make out and cause to be printed a list of all places of meeting which have been certified to and recorded by him under the said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, or this Act, and the record of which has not been cancelled as hereinafter provided,

and shall state in such list the county and superintendent registrar's district within which each of such places of meeting is situated, and the religious denomination to which the persons for the time being certifying it belong, and shall cause a copy of such list to be sent to every superintendent registrar of births, deaths and marriages in England, and such list shall be open at all reasonable times to all persons desirous of inspecting the same, on payment to such superintendent registrar of a fee of one shilling. 18 & 19 Vict. c. 81.

8. Whenever it shall appear to the satisfaction of the said registrar-general, from any notice which shall have been given to him as aforesaid or otherwise, that any certified place of meeting for religious worship has wholly ceased to be used as such, the said registrar-general shall cause the record of such certification to be cancelled, and shall give public notice of the cancellation thereof by advertisement in some newspaper circulating within the district in which such place of meeting is situated, and in the London Gazette, and shall also expunge the name of such place from the list of certified places so to be printed by him as aforesaid; and after such cancellation and publication thereof as aforesaid such places shall cease to be deemed duly certified as by law required, and shall so remain until it shall have been duly certified afresh under this Act. Direction to the registrar-general to cancel records of certificates of places of worship ceasing to be used as such.

9. Every place of meeting for religious worship certified to the said registrar-general under the said Act of the fifteenth and sixteenth years of her majesty, chapter thirty-six, or this Act, and recorded by him as aforesaid, so long as the same continues to be bonâ fide used as a place of religious worship, and the record of the certification thereof has not been cancelled as hereinbefore is provided, shall be wholly freed and exempted from the operation of an Act passed in the session holden in the sixteenth and seventeenth years of her majesty, chapter one hundred and thirty-seven, intituled "The Charitable Trusts Act, 1853," and shall not be subject or liable to any of the provisions of the same Act, save that the exempted charities may avail themselves of the sixty-third and sixty-fourth sections of the said Act, if they shall think fit. Certified places exempted from the operation of "The Charitable Trusts Act, 1853."

10. Nothing in this Act shall affect or be construed to affect the churches or chapels of the united church of England and Ireland, or the celebration of divine service according to the rites and ceremonies of the said united church by ministers of such church, in any place hitherto used for such purpose, or being now or hereafter duly consecrated or licensed by any archbishop or bishop or other person lawfully authorised to consecrate or license the same. Nothing to affect churches, &c., of established church.

11. The registrar-general, on payment to him of a fee of two shillings and sixpence, shall, with respect to any place certified to him as a place of meeting for religious worship, the record whereof remains uncancelled, give to any person demanding the same a certificate, sealed or stamped with the seal of the general register office, that at the time or respective times in such certificate in that behalf stated the place therein described was duly certified and duly recorded as required by this Act, and that at the date of such sealed or stamped certificate, the record of such certification remained uncancelled; and every such sealed or stamped certificate, if tendered in evidence upon any trial or other judicial proceeding in any civil or criminal court, shall be received as evidence of the said several facts therein mentioned, without any further or other proof of the same. Certificate of place having been certified to be given. Evidence.

12. All sums to be received by or on account of the registrar-general in pursuance of this Act shall be accounted for and paid in manner directed by the said Act of the seventh year of king William the fourth, "for registering births, deaths and marriages in England," with respect to sums received by him or on his account under the provisions of that Act; and all expenses incurred by the said registrar-general, or by any superintendent registrar, or registrar, with his sanction and acting under his direction or authority, in carrying this Act into execution and making known its provisions, shall be deemed to have been incurred in carrying on the business of the general register office, and be defrayed accordingly. Sums received by or on account of registrar-general to be accounted for, and expenses defrayed as other expenses of the general register office.

13. Notwithstanding the provisions of this or any other Act, all marriages which heretofore have been had or solemnised in any building which has been registered for the solemnisation of marriages pursuant to the provisions of an Act passed in the sixth and seventh years of his late majesty king William the fourth, chapter eighty-five, but which may not have been certified as required by the provisions of this or any other Act, shall be as valid in all respects as if such place of worship had been so certified. To remove doubts as to validity of marriage.

14. This Act shall not extend to Scotland or Ireland. Extent of Act.

SCHEDULES REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A).

To the Registrar-General of Births, Deaths and Marriages in England.

I, the undersigned (a) , of , in the county of do hereby, Directions

(a) Here insert the name, residence and county in which it is situate, and the rank or profession, of the party certifying.

18 & 19 Vict. c. 81.

for filling up this schedule.

under and by virtue of an Act passed in the year of her majesty queen Victoria, intituled "An Act to amend the law concerning the Certifying and Registering of Places of Religious Worship in England," certify that a certain building known by the name of , situated at , in the county of , within the superintendent registrar's district of , [was used (*a*) as a place of meeting for religious worship before the 30th day of June, 1852, and] is intended to be used as heretofore (*b*), and will accordingly be forthwith used as a place of meeting for religious worship by a congregation or assembly of persons calling themselves (*c*) , and I request that this certificate may be recorded in the general register office, pursuant to the said Act. Dated this day of , 185 .

(*Signature of the Party certifying.*)

(*d*)

of the place of meeting above described.

SCHEDULE (B.)

To the Registrar-General of Births, Deaths and Marriages in England.

I, the undersigned of , in the county of , being the person or one of the persons who certified or last certified [*or* being "the trustee," *or* "one of the trustees," *or* the "owner," *or* "occupier," *or* "one of the owners or occupiers" (*as the case may be*), of] a certain building known by the name of , [*or* a certain dwelling-house, &c. (*as the case may be*)] situate at , in the county of , within the superintendent registrar's district of , [and being now resident within the same district], do hereby declare and give you notice, in pursuance of an Act passed in the year of her present majesty, chapter , that the aforesaid building [*or* dwelling-house, &c.] which was on the day of , 185 , recorded by you as a place of meeting for religious worship by a congregation or assembly of persons calling themselves [*or* by a congregation or assembly of Roman Catholics, *or* of persons belonging to the Society of Friends, *or* of persons professing the Jewish religion (*as the case may be*)], has wholly ceased to be used as a place for public religious worship. Witness my hand this day of , 185 .

18 & 19 Vict. c. 86.

18 & 19 Vict. c. 86. An Act for securing the Liberty of Religious Worship. [14th August, 1855.]

"Whereas it is expedient that the laws relating assemblies for religious worship should be amended: And whereas by an Act passed in the first year of king William and queen Mary, intituled 'An Act for exempting their Majesties' Protestant Subjects dissenting from the Church of England from the Penalties of certain Laws,' it is enacted that no congregation or assembly for religious worship shall be permitted or allowed until the place of such meeting shall be certified and registered or recorded as described in such Act: And whereas by an Act passed in the fifty-second year of king George the third, chapter one hundred and fifty-five, intituled 'An Act to repeal certain Acts, and to amend other Acts, relating to Religious Worship and Assemblies, and Persons teaching or preaching therein,' it is enacted that no congregation or assembly for religious worship of Protestants (at which there shall be present more than twenty persons, besides the immediate family and servants of the person in whose house or upon whose premises such meeting, congregation or assembly shall be had), shall be permitted or allowed unless the place of such meeting is certified as described in such Act, and that every person who shall knowingly permit or suffer any such congregation or assembly as aforesaid to meet in any place occupied by him, until the same shall have been so certified, shall forfeit for every time any such congregation or assembly shall meet a sum not exceeding twenty pounds nor less than twenty shillings, at the discretion of the justices who shall convict for such offence:" BE IT ENACTED as follows:

1 Will. & M. sess. 1, c. 18.

52 Geo. 3, c. 155.

(*a*) If the place was not so used before 30th June, 1852, expunge this and the following line.

(*b*) If the building have not been previously used as a place of worship, erase the words "as heretofore."

(*c*) Here insert "Protestant Dissenters," "Independents," "Particular Baptists," "Wesleyan Methodists," "Roman Catholics," "Jews," or other religious denomination of, or religious appellation adopted by, the persons on whose behalf the building is certified; but if those persons decline to describe themselves by any distinctive appellation erase the words "calling themselves," and insert "who object to be designated by any distinctive religious appellation."

(*d*) Insert on this line immediately under the signature the word "minister," "proprietor," "a trustee," "occupier," "an attendant," or such other words as will clearly show the connection subsisting between the person certifying and the place of meeting.

1. From and after the passing of this Act, nothing contained in the above-mentioned Acts, or in an Act passed in the fifteenth and sixteenth years of the reign of her majesty, chapter thirty-six, shall apply to the congregations or assemblies hereinafter mentioned, or any of them; (that is to say,) 18 & 19 Vict. c. 86. No prosecution to be maintainable for assembling for religious worship in a place of meeting not certified.

(1.) To any congregation or assembly for religious worship held in any parish or any ecclesiastical district, and conducted by the incumbent, or in case the incumbent is not resident, by the curate of such parish or district, or by any person authorised by them respectively:

(2.) To any congregation or assembly for religious worship meeting in a private dwelling-house or on the premises belonging thereto:

(3.) To any congregation or assembly for religious worship meeting occasionally in any building or buildings not usually appropriated to purposes of religious worship:

And no person permitting any such congregation to meet as herein mentioned in any place occupied by him shall be liable to any penalty for so doing.

2. So much of an Act passed in the second and third years of king William the fourth, chapter one hundred and fifteen, as enacts that her majesty's subjects professing the Roman Catholic religion, in respect to their places for religious worship, shall be subject to the same laws as the Protestant Dissenters are subject to, and so much of an Act passed in the ninth and tenth year of her present majesty, chapter fifty-nine, as enacts that her majesty's subjects professing the Jewish religion, in respect to their places for religious worship, shall be subject to the same laws as Protestant Dissenters are subject to, shall be respectively read as applicable to the laws to which Protestant Dissenters in England are subject for the time being after the passing of this Act. Construction of certain parts of 2 & 3 Will. 4, c. 115, and 9 & 10 Vict. c. 59, as to places of worship of Roman Catholics and Jews.

23 & 24 Vict. c. 32. An Act to abolish the Jurisdiction of the Ecclesiastical Courts in Ireland in Cases of Defamation, and in England and Ireland in certain Cases of Bawling. [3rd July, 1860.] 23 & 24 Vict. c. 32.

[Penalty on persons found guilty of making a disturbance in churches, chapels, churchyards, or burial grounds. See ante, Vol. I., p. 1266, tit. "COURTS ECCLESIASTICAL."]

RENTS, APPORTIONMENT OF.

[See ante, Vol. II. p. 1137, tit. "LANDLORD AND TENANT."]

RIGHT, WRIT OF.

[See 23 & 24 Vict., ante, Vol. I. p. 1333, tit. "CROWN SUITS."]

RIOT.

[See ante, Vol. II. p. 151, tit. "CRIMINAL LAW."]

SATISFIED TERMS.

[See "CONVEYANCES."]

SAVINGS BANKS (a).

9 Geo. 4, c. 92. An Act to consolidate and amend the Laws relating to Savings Banks. [28th July, 1828.] 9 G. 4, c. 92.

"Whereas it is expedient to amend the laws relative to savings banks in England and Ireland, and to consolidate the same in one Act, and to make other provisions respecting savings banks:" BE IT THEREFORE ENACTED, That 57 Geo. 3, c. 105, 57 Geo. 3, c. 130, 58 Geo. 3, c. 48, 1 Geo. 4, c. 83, 5 Geo. 4, c. 62, shall be repealed.

(a) See ante, Vol. II., tit. "FRIENDLY SOCIETIES," and Tidd Pratt on Savings Banks.

9 G. 4, c. 92.

What institutions entitled to the privileges and benefit of this Act

2. "And whereas certain banks for savings have been established in England and Ireland, for the safe custody and increase of small savings belonging to the industrious classes of his majesty's subjects, and it is expedient to give protection to such institutions and the funds thereby established, and to afford encouragement to others to form the like institutions." BE IT ENACTED, That if any number of persons have formed or shall form any society in any part of England or Ireland, for the purpose of establishing and maintaining any institution in the nature of a bank to receive deposits of money for the benefit of the persons depositing the same, to accumulate the produce of so much thereof as shall not be required by the depositors, their executors or administrators, at compound interest, and to return the whole or any part of such deposit and the produce thereof to the depositors, their executors or administrators (deducting out of such produce so much as shall be required for the necessary expenses attending the management of such institution), but deriving no benefit whatsoever from any such deposit or the produce thereof, and shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules and regulations established or to be established for the management of such institution to be entered, deposited, and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to and shall have the benefit of the provisions contained in this Act (*a*): Provided always, that the privilege of paying money into the banks of England or Ireland, and of receiving receipts for the same, shall be and the same is hereby declared to be extended to such institutions as may have formed or may hereafter form their rules and regulations according to the provisions of this Act; and it shall and may be lawful for the trustees of such institutions respectively to invest any funds already accumulated by such institutions, and which shall not have been invested at the time of the passing of this Act, and to receive receipts for the same in manner authorised by this Act (*b*): Provided nevertheless, that no such institution to be hereafter formed shall have or be entitled to the benefits of the provisions in this Act contained, unless the formation of the same shall have been sanctioned and approved of by the justices of the county, riding, division, or place where such institution is intended to be held, at the general quarter sessions, and by the commissioners for the reduction of the national debt, or, on their behalf, by the comptroller general or assistant comptroller acting under the said commissioners (*c*).

Rules and regulations to be entered, &c.

Savings banks not to be formed in future without sanction of justices and commissioners.

Rules of institution to be entered in a book to be kept by institution; and copy deposited with clerk of the peace.

Certificate of enrolment

3. That no such institution as aforesaid shall have the benefit of this Act, unless the rules and regulations for the management thereof shall be entered in a book or books to be kept by an officer of such institution to be appointed for that purpose, and which book or books shall be open at all seasonable times for the inspection of the persons making deposits in the funds of such institution, and unless such rules and regulations shall be fairly transcribed on parchment [and such transcript deposited with the clerk of the peace for the county, riding, division, or place wherein such institution shall be established; which transcript shall be filed by such clerk of the peace with the rolls of the sessions of the peace in his custody, and a certificate of the inrolment thereof shall be signed by such clerk of the peace on a duplicate copy, to be provided by and returned to such institution, on payment of a fee of ten shillings in respect thereof, provided the same be returned to such institution as aforesaid within the space of *ten* days then next following, and not otherwise]; but nevertheless, nothing herein contained shall extend to prevent any alteration in or amendment of any such rules or regulations so entered and deposited and filed as aforesaid, or repealing or annulling the same or any of them, in the whole or in part, or making any new rules or regulations for the management of such institution, in such manner as by the rules and regulations of such institution shall from time to time be provided, but such new rules or regulations, or such alterations in or amendments of former rules or regulations, or any order annulling or repealing any former rule or regulation, in the whole or in part, shall not be in force until the same respectively shall be entered in such book or books as aforesaid, and a transcript or transcripts thereof deposited with such clerk of the peace as aforesaid, who shall file and certify the same as aforesaid, on payment of a fee of five shillings (*d*).

Rules and regulations, as well as alterations &c., before deposited

4. That before a transcript of the rules and regulations, or alterations in or amendments of former rules or regulations, for the management of any institution requiring the benefit of this Act, shall be deposited with the clerk of the peace for the county, riding, division, or place wherein such institution shall be established, pursuant to the directions of this Act, such transcript shall be submitted by the trustees or managers for

---

(*a*) This provision is similar to 57 Geo. 3, c. 105, s. 1, and 57 Geo. 3, c. 130, s. 1.

(*b*) This enactment is taken from 58 Geo. 3, c. 48, s. 15.

(*c*) This provision, as to the formation of savings banks in future, is new.

(*d*) This clause is similar to 57 Geo. 3, c. 105, s. 2, and 57 Geo. 3, c. 130, s. 2. Where, by the rules of a savings bank, deposited with the clerk of the peace pursuant to section 2 of the latter Act, entries of deposits were to be made in a book kept by the bank for that purpose, and in a duplicate account book to be kept by the party making the deposit, which duplicate was to be a voucher for the party producing it, and a receipt for the bank when handed over to them, A. deposited in the name of B., and afterwards, without B.'s authority, received back the amount, and delivered up the duplicate account book: the court held that B. still continued to be a depositor (*Re* v. *Cheadle Savings Bank*, 3 Nev. & M. 418; 1 Ad. & E. 323).

the time being of each respective institution, and at the expense of the said institution, to a barrister at law to be appointed by the commissioners for the reduction of the national debt, for the purpose of ascertaining whether the same are in conformity to law, and with the provisions of this Act; and that the said barrister shall give a certificate thereof, or point out in what part or parts they are repugnant thereto; and the fee to be paid to such barrister for perusing the rules, regulations, alterations, or amendments of each respective institution, and giving such certificate as aforesaid, shall not at any one time exceed the sum of one guinea; and such transcript shall be signed by *two* trustees [and shall, together with the certificate of such barrister as hereinbefore mentioned, be laid before the justices for such county, riding, division, or place, at the general or quarter sessions next after the time when such transcript shall have been so deposited (*a*)]; and it shall be lawful for such justices then and there present, after due examination thereof, to reject and disapprove of any part or parts thereof, or to allow and confirm the said transcript, or such part or parts thereof as shall be conformable to the true intent and meaning of this Act, without requiring the certificate or approval of any other barrister: Provided always, that the said justices shall signify such rejection or disapproval of any one or more of the rules, orders, and regulations contained in such transcript, by the words "Rejected" or "Disapproved" written opposite such rule or rules, order or orders, regulation or regulations, and signed by the chairman of such sessions; and such rule or rules, order or orders, regulation or regulations, as shall be so rejected or disapproved, shall not be in force from the time of such rejection or disapproval, any thing in this Act, or in any such rules, orders, and regulations, to the contrary notwithstanding: Provided always, that the said clerk of the peace do, within the space of ten days next after such rejection or disapproval, give notice thereof in writing to the two trustees of such institution, by whom the transcript of such rules, orders, and regulations shall be signed as aforesaid; and provided always, that nothing herein contained shall be construed to require any rule making any alteration in the hours of attendance at any such institution as aforesaid, to be laid before such barrister as aforesaid, previous to the inrolment thereof (*b*).

9 G. 4, c. 22.

with clerk of peace, to be submitted to a barrister.

Barrister to give certificate.

Mode of proceeding by justices, &c., in case of rejection.

5. That all rules and regulations from time to time made and in force for the management of such institution as aforesaid, and duly entered in such book or books as aforesaid, and deposited with such clerk of the peace as aforesaid, shall be binding on the several members and officers of such institution, and the several depositors therein and their representatives, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit as aforesaid; and the entry of such rules and regulations in such book or books as aforesaid, or the transcript thereof deposited with such clerk of the peace as aforesaid, or a true copy of such transcript examined with the original, and proved to be a true copy, shall be received as evidence of such rules and regulations respectively in all cases; and no *certiorari* shall be brought or allowed to remove any such rules or regulations into any of his majesty's courts of record; and every copy of any such transcript deposited with any clerk of the peace as aforesaid shall be made without fee or reward, except the actual expense of making such copy; and such copy shall not be subject to any stamp duty (*c*).

Rules, when entered, and deposited, to be binding on members and depositors.

6. That no such institution as aforesaid shall have the benefit of this Act, unless it shall be expressly provided by the rules and regulations for the management thereof, that no person or persons, being treasurer, trustee, or manager of such institution, or having any control in the management thereof, shall derive any benefit from any deposit made in such institution, save only and except such salaries and allowances or other necessary expenses as shall according to such rules and regulations be provided for the charges of managing such institution, and for remuneration to officers employed in the management thereof, exclusive of the treasurer or treasurers, trustee or trustees, manager or managers, or other persons having direction in the management of such institution, who shall not directly or indirectly have any salary, allowance, profit, or benefit whatsoever therefrom, beyond their actual expenses for the purposes of such institution (*d*).

Treasurer, trustee, or manager, &c., not to derive any benefit from the institution.

7. That every treasurer, actuary, or cashier, who shall be intrusted with the receipt or custody of any sum of money subscribed or deposited for the purpose of such institution, or any interest or dividend from time to time accruing therefrom, and every officer or other person receiving any salary or allowance for their services from the funds of any savings banks, unless he shall already have given good and sufficient security, shall give good and sufficient security, to be approved of by not less than two trustees and three managers of such savings banks, for the just and faithful execution of such office or trust; and such security shall be given by bond or bonds to the clerk of the peace for the county, county of a city, or county of a town, riding, division, or place, or to the

Treasurer, and other officers intrusted with receipt or custody of money, to give security.

(*a*) So much of this statute as relates to the deposit of rules with the clerk of the peace, &c., is repealed by 7 & 8 Vict. c. 83, s. 18, post.

(*b*) The former part of this clause, as to the rules, &c., being laid before a barrister, is new; the latter part, relating to the justices at sessions, &c., is the same as 58 Geo. 3, c. 48, s. 17.

(*c*) This provision is the same as 57 Geo. 3, c. 105, s. 4, and 57 Geo. 3, c. 130, s. 4.

(*d*) This clause is taken from 57 Geo. 3, c. 105, s. 3, and 57 Geo. 3, c. 130, s. 3. See *Ex parte Haynes*, 1 M., D. & De Gex, 663.

9 G. 4, c. 92.

town clerk of the place where such institution shall be established for the time being, without fee or reward; and in case of forfeiture it shall be lawful for the trustees or managers for the time being of such institution to sue upon such bond or bonds in the name of such clerk of the peace or town clerk for the time being, and to carry on such suit at the costs and charges and for the use of the said institution, fully indemnifying and saving harmless such clerk of the peace or town clerk from all costs and charges in respect of such suit; and no bond to be so given shall be subject to or charged or chargeable with any stamp duty whatever (*a*).

Bond not subject to stamp duty.

Effects of institution vested in trustees for time being, without fresh assignment.

8. That all moneys, goods, chattels and effects whatever, and all securities for money or other obligatory instruments, and evidences or muniments, and all other effects whatever, and all rights or claims belonging to or had by such institution, shall be vested in the trustee or trustees of such institution for the time being, for the use and benefit of such institution and the respective depositors therein, their respective executors or administrators, according to their respective claims and interests; and after the death or removal of any trustee or trustees, shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever; and also shall, for all purposes of action or suit, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and taken to be and shall in every such proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of trustee or trustees of such institution for the time being, in his, her or their proper name or names, without further description; and such person or persons shall and they are hereby respectively authorised to bring or defend, or cause to be brought or defended any action, suit or prosecution, criminal as well as civil, in law or equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by such institution; and such person or persons so appointed shall and may in all cases concerning the property, right or claim aforesaid of such institution, sue and be sued, plead and be impleaded, in his, her, or their proper name or names, as trustee or trustees of such institution, without other description; and no such suit, action or prosecution shall be discontinued or abate by the death of such person or persons, or his or their removal from the office of trustee or trustees as aforesaid, but the same shall and may be proceeded in by the succeeding trustee or trustees in the proper name or names of the person or persons commencing the same, any law, usage or custom to the contrary notwithstanding; and such succeeding trustee or trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names for the benefit of, or to be reimbursed from the funds of such institution (*b*).

Costs.

Liability of trustees or manager.

9. That no trustee or manager shall be personally liable except for his own acts and deeds, nor for any thing done by him in virtue of his office in the execution of this Act, except in cases where he shall be guilty of wilful neglect or default (*c*).

Treasurer and trustees, &c., to account and deliver up effects when required.

10. That all and every person and persons who shall have or receive any part of the moneys, effects, or funds of or belonging to such institution or shall in any manner have been or shall be intrusted with the disposition, management, or custody thereof, or of any securities, books, or papers, or property relating to the same, his, her, or their executors, administrators and assigns, respectively, shall upon demand made in pursuance of any order of not less than two trustees and three managers of such institution, or at any general meeting of the trustees or managers thereof, give in his, her, or their account or accounts to the said trustees or managers, or to such general meeting of such institution, or to such other person or persons who shall be nominated to receive the same, to be examined and allowed or disallowed by the said trustees or managers respectively, and shall on the like demand pay over all the moneys remaining in his or their hands, and assign and transfer or deliver all securities and effects, books, papers, and property, in his or their hands or custody, to such person or persons as the said trustees or managers shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys, or to assign, transfer, or deliver such securities, effects, funds, books, papers, or property in manner aforesaid, it shall be lawful to and for the trustee or trustees of such institution for the time being, to exhibit a petition to the justices of the peace, at their general or quarter sessions of the peace for the county, riding, division or place wherein such institution shall be established, who shall and may proceed thereupon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion shall seem just, which order shall be final and conclusive; and all assignments, sales, and transfers made in pursuance of such order shall be good and effectual in law to all intents and purposes whatsoever (*d*).

(*a*) This clause is taken in part from 57 Geo. 3, c. 105, s. 6, and 57 Geo. 3, c. 130, s. 7; but it is now obligatory on every treasurer, &c., to give security, and not as heretofore, when it was not necessary, unless the rules, &c., required it. These bonds are now to be transmitted to the custody of the commissioners for the reduction of the national debt (7 & 8 Vict. c. 83, s. 16, post).

(*b*) This provision is the same as 57 Geo. 3, c. 105, s. 8, and 57 Geo. 3, c. 130, s. 8.

(*c*) See 7 & 8 Vict. c. 83, s. 6, post, p. 129. See also *Rex* v. *Mildenhall*, 6 Ad. & E. 952.

(*d*) The same as 57 Geo. 3, c. 105, s. 23, and

9 G. 4, c. 92.

Money belonging to savings banks shall be invested in bank of England or Ireland only, and not in any other security.

11. That the several sums of money belonging to any savings bank, which the trustees of such savings bank respectively are authorised to invest under this Act, or under any rules or regulations of any such savings banks, shall be paid into and invested in the bank of England or the bank of Ireland, as the case may require, in the names of the commissioners for the reduction of the national debt, according to the provisions of this Act, enabling such trustees to make investments in the names of the said commissioners, and no such sum or sums shall be paid or laid out by the trustees of such savings bank in any other manner or upon any other security whatever, except such sums of money as from time to time shall necessarily remain in the hands of the treasurer or treasurers, to answer the exigencies thereof: Provided always, that nothing herein contained shall restrain or prevent any depositor, or any trustee or trustees acting on behalf of any depositor or depositors, of any friendly society, or any charitable or provident institution or society, from withdrawing from any such savings bank any sum or sums of money which shall have been deposited by such depositor, friendly society, charitable or provident institution or society, and investing the same in any other securities (*a*): Provided always, that the trustees of any institution already established, or which shall take the benefit of this Act, in manner hereinbefore provided, shall be and they are hereby empowered to pay into the banks of England or Ireland, as the case may be, any sum or sums of money not being less than fifty pounds, to the account of the commissioners for the reduction of the national debt, upon the declaration of the trustees of such institution, or any two or more of them, that such moneys belong exclusively to the institution for which such payment is intended to be made, whether such moneys shall have been deposited therein before the passing of this Act, or thereafter shall be deposited therein, and the cashier, or cashiers of the banks of England and Ireland respectively are hereby required to receive all such moneys, and to place the same into the account raised in the names of the said commissioners in the books of the banks of England and Ireland respectively, denominated "The Fund for the Banks for Savings" (*b*): Provided always, that previous to any payment being made into the banks of England or Ireland as aforesaid, the person or persons applying for that purpose shall in all cases produce to the officer of the said commissioners at their office in London or Dublin, as the case may be, an order under the hands of two of the trustees of such institution, on the account of which such payment is to be made (*c*).

Not to prevent trustees from receiving money to be applied in any other manner.

12. Provided always, that nothing in this Act contained shall extend to prevent the trustees of any savings bank, already established or to be established, receiving any sum or sums of money from any depositor for any purpose except to be paid into the bank to the account of the commissioners for redemption of the national debt; and that it shall be lawful for such trustees to apply any such sum or sums of money in any other manner for the benefit of the several depositors, according to the rules and regulations of such savings banks respectively; any thing in this Act contained to the contrary notwithstanding (*d*).

Central banks may invest the money of branch banks.

Certificate of treasurer of branch bank.

13. That in cases where any banks for savings have been or shall be established in any town or place, and other smaller banks have been or shall be established in the neighbourhood of such town or place as branch banks thereof, and such branch banks, by their treasurers, have paid or shall pay any sums into the bank in any such town or place as a central bank, it shall and may be lawful for the said trustees, or any two of them, of any such central bank, to pay into the banks of England or Ireland, in manner prescribed by this Act, along with the moneys belonging to such central bank, any sum or sums of money belonging to and on account of any such branch bank: Provided always, that the treasurer of such branch bank shall certify to the treasurer of such central bank, that the amount contributed by any one subscriber to any such branch bank in any one year does not exceed the proportions authorised by this Act (*e*).

Penalty on false declaration to obtain receipts.

14. That if any order or declaration, produced to the said officer for the purpose of paying moneys into the banks of England or Ireland, to the account of the said commissioners, as aforesaid, shall contain any matter or thing which be false or untrue, then and in every such case the sum so paid shall be forfeited to the said commissioners (*f*).

Moneys paid in on savings bank account to be invested in bank annuities or exchequer bills.

15. That the said commissioners shall cause all the moneys paid into the banks of England and Ireland respectively, and placed to their account, in pursuance of the provisions of this Act, to be invested from time to time under such regulations as the said commissioners shall direct in the purchase of bank annuities or exchequer bills, or in either of them, in their names, and to be carried to the account hereinbefore provided;

---

57 Geo. 3, c. 130, s. 21; the provisions being, however, extended to books, papers, or property, and authorising not less than two trustees and three managers to make the demand, instead of the committee or general meeting of managers.

(*a*) The same as 57 Geo. 3, c. 105, s. 9; 57 Geo. 3, c. 130, s. 9; and 5 Geo. 4, c. 62, s. 27, with an exception of money remaining in hands of treasurer to answer exigencies.

(*b*) The same as 57 Geo. 3, c. 105, s. 10; 57 Geo. 3, c. 130, s. 10; and 5 Geo. 4, c. 62, s. 15.

(*c*) The same as 57 Geo. 3, c. 105, s. 11, and 57 Geo. 3, c. 130, s. 11.

(*d*) This provision is new.

(*e*) This enactment is the same as 58 Geo. 3, c. 48, s. 16.

(*f*) The same as 57 Geo. 3, c. 105, s. 17; and 57 Geo. 3, c. 130, s. 17.

9 G. 4, c. 92. and the interest which shall arise from time to time and become due thereon, shall in like manner be invested in the purchase of government annuities or of exchequer bills as aforesaid (a).

16. [On payment of money into the bank by trustees of savings banks to account of commissioners for the reduction of the national debt, their officer shall give a receipt for the same, carrying interest at 2½ per cent. *per diem* (b).]

Interest due on money mentioned in receipt, to be calculated half-yearly up to 20 November and 20 May, and carried to account of savings bank as additional principal.

17. That all interest which shall become due and payable upon any sum of money mentioned in any such receipt, upon the twentieth day of November, and the twentieth day of May in every year next after the date of any such receipt, shall be from time to time calculated and computed by the officer of the said commissioners, and shall in each and every year be placed to the credit of the savings bank on whose account any such sum of money was paid within six (c) weeks from the said twentieth day of November and twentieth day of May respectively, and shall be carried to and written on the account of such savings bank, and shall become principal, and shall from thenceforth carry interest as principal money paid into the said banks of England or Ireland respectively, on the account of such savings bank, and a receipt, according to such form as the said commissioners shall approve, shall be signed by the officer of the said commissioners, and shall be issuable by the said officer half-yearly, within six weeks (d) after such twentieth day of November and twentieth day of May respectively (and such receipts shall bear date the twenty-first day of November and twenty-first day of May respectively), for the amount of such interest so credited and made principal as aforesaid, as if the amount thereof had been a payment made by the trustees of such savings bank to the account of the said commissioners. Provided always, that no interest shall be computed or calculated on the fractional part of a pound, or any sum less than a pound, of the half-yearly balance standing in the books of the said commissioners on account of any savings bank on any twentieth day of November or twentieth day of May respectively: Provided also, that it shall be lawful for the managers and trustees of any such savings bank, if they shall so think fit, to direct that all interest which shall become due and payable to each depositor on any sum of money deposited in such savings bank, shall yearly, or twice in each and every year, be calculated and computed by the trustees of such savings bank, or such person or persons as they shall appoint, and shall be carried to the credit of the person or persons depositing the said sum or sums of money, and shall become principal, and shall from thenceforth carry interest in all respects as other principal money deposited in the said banks, or as if the said sum of interest, so calculated, had actually been paid to the said depositors, and by them repaid to the said trustee or trustees; any law, statute or usage to the contrary notwithstanding (e).

18. [Before drawing for money, trustees shall sign appointment of agent to receive the same, which appointment shall be deposited with commissioners (f). New appointment to be produced (g).]

19. [Trustees of savings banks may draw at any time for the whole or any part of any sum placed to their account. Draft or order to be addressed to commissioners.]

20. [Drafts exceeding five thousand pounds and upwards shall be signed by trustees, and attested by separate witnesses. Draft exceeding ten thousand pounds not to be paid until after fourteen days.]

21. [Officer not to issue in any one day orders for more than ten thousand pounds for the same bank.]

22. [Trustees, &c., to ascertain amount of surplus fund and appropriate same (h).]

23. [Surplus to be transferred to commissioners for reduction of national debt.]

24. [Interest payable to depositors not to exceed 2½ per cent. *per diem* (i).]

Savings of minors may be invested.

25. That in case the trustees or managers of any such institution shall receive or shall have received any deposit of money from or for the benefit of any person under the age of twenty-one years, it shall be lawful for the trustees or managers of such institution to pay such person his or her share and interest in the funds of such institution, and the receipt of such person shall be a sufficient discharge, notwithstanding his or her incapacity or disability in law to act for him or herself (k).

Payment to married women of

26. "Whereas deposits in savings banks may have been made and may be made by married women, without notice that they are married women, and deposits may have been made and may be made by women who may have afterwards married;" Be it

---

(a) The only difference between this clause and 57 Geo. 3, c. 105, s. 14, and 57 Geo. 3, c. 130, s. 14, is the power given to the commissioners to lay out the money in purchase of exchequer bills, as well as bank annuities.

(b) See 7 & 8 Vict. c. 83, s. 1, post, p. 129.

(c) The time is now extended to sixty days; 7 & 8 Vict. c. 83, s. 13, post, p. 131.

(d) The time is now extended to sixty days; 7 & 8 Vict. c. 83, s. 13, post, p. 131.

(e) The same as 1 Geo. 4, c. 83, s. 3.

(f) The same as 1 Geo. 4, c. 83, s. 4, and 5 Geo. 4, c. 62, s. 4, the power to make appointment being given to not less than two trustees, instead of not more than four.

(g) The same as 1 Geo. 4, c. 83, s. 5; and 5 Geo. 4, c. 62, s. 5, with the same alteration as mentioned in the last note.

(h) See *Holmes* v. *Henly*, 4 Cl. & Fin. 99.

(i) See 7 & 8 Vict. c. 83, s. 2, post, p. 129).

(k) The same as 57 Geo. 3, c. 105, s. 5, and 57 Geo. 3, c. 130, s. 5.

FURTHER ENACTED, That it shall be lawful for the trustees in any savings bank to pay any sum of money in respect of any such deposit to any such woman, unless the husband of such woman, or his representatives (*a*) shall give to such trustees notice of such marriage, and shall require payment to be made to him or them. 9 G. 4, c. 92. deposits made by them, when declared valid.

27. That from and after the twentieth day of November, 1828, it shall and may be lawful for the trustees or treasurers of any charitable or provident institution or society in England or Ireland, or charitable donation or bequest, for the maintenance, education, or benefit of the poor, from time to time to subscribe any part of the funds of such institution or society into the funds of any savings banks, if the trustees or managers thereof shall be willing to receive the same, to the amount of one hundred pounds per annum, provided the amount of the sum to be invested by such institution or society shall not at any time exceed the sum of three hundred pounds in the whole, exclusive of interest (*b*). Charitable societies may invest sums not exceeding 100*l.* per annum, nor exceeding 300*l.* in the whole.

28. [Friendly societies may subscribe any portion of their funds in savings banks Not exceeding three hundred pounds (*c*)].

29. That the receipt or discharge of the treasurer, trustee or other officer of such friendly society, charitable or provident institution or society, for the time being, for any money paid according to the requisition of such treasurer, trustee, or other officer, apparently authorised to require such payment, shall be a sufficient discharge for the same; and the institution in which such deposit shall be made shall not be responsible for any misapplication of any such money, donation or bequest, by the person or persons to whom the same shall be so paid, or for any want of authority of the person or persons requiring or receiving such payment (*d*). Receipt of treasurer, &c., sufficient discharge for same.

30. That no person who is or shall be a member of any friendly society established or to be established under and by virtue of any Act or Acts relating to friendly societies, or a member of any of the charitable institutions hereinbefore mentioned, shall by reason of such person being or becoming a depositor in any institution taking the benefit of this Act, be considered as subject or liable to any penalty, forfeiture or disability declared or expressed, or intended so to be, by or in the rules, orders or regulations of such friendly society; any rules, orders or regulations of such friendly society made or hereafter to be made to the contrary notwithstanding: Provided also, that no depositor shall be subject or liable to any penalty or forfeiture on account of his belonging to or being interested in the funds of any friendly society or charitable society deposited in any other savings bank (*e*). Members of friendly or charitable societies not liable to forfeiture by subscribing to any institution under this Act.

31. That all regulations and provisions in this Act contained, relative to money paid into the bank of England, and receipts issued on account thereof, and also to the application of all such money by the said commissioners, shall be applicable to payments made and receipts issued under the authority of an Act passed in the fifty-ninth year of the reign of his late majesty king George the third, intituled "An Act for the further Protection and Encouragement of Friendly Societies, and for preventing Frauds and Abuses therein," except with respect to all such friendly societies as may have been formed and inrolled previous to the passing of this Act (*f*). Regulations, &c., of this Act extend to payments, &c., under 59 G 3, c. 128.

32. That no sum shall be paid or subscribed into any savings bank, by any person or persons, by ticket or number or otherwise, without disclosing his or her name, together with his or her profession, business, occupation, calling and residence, to the trustees or managers of such savings bank; and the trustees or managers of every savings bank are hereby required to cause the name of such depositor, together with his or her profession, business, occupation, calling and residence to be entered in the books of the institution (*g*). No anonymous subscriptions permitted.

33. That it shall and may be lawful for the trustees or managers of any savings bank to receive from any person or persons acting as trustee or trustees on behalf of any depositor or depositors, whether such person or persons is or are himself or themselves a depositor or depositors, or not, any sum or sums not exceeding the annual amount hereinafter mentioned: provided that such trustee or trustees shall make such declaration on behalf of such depositor or depositors, and subject to the like conditions as by this Act is required in the case of any person or persons making any deposit on his or Persons allowed to subscribe as trustees on behalf of others. Deposits to

---

(*a*) See 7 & 8 Vict. c. 83, c. 12, post, p. 130, which omits the word "representatives."

(*b*) This clause is new, although there was formerly a provision in 1 Geo. 4, c. 83, s. 12 (afterwards repealed by 5 Geo. 4, c. 62, s. 24), allowing charitable institutions, &c., to deposit to any amount. See 18 & 19 Vict. c. 63, s. 32, ante, Vol. II. p. 224, "FRIENDLY SOCIETIES."

(*c*) This was in effect repealed by 4 & 5 Will. 4, c. 40, s. 9, see 3 & 4 Vict. c. 73, which are repealed by 18 & 19 Vict. c. 63, ante, Vol. II. p. 224, tit. "FRIENDLY SOCIETIES." See s. 32 of that statute.

(*d*) The same as 57 Geo. 3, c. 130, s. 6, extending the provision to charitable or provident institutions or societies.

(*e*) The same as 57 Geo. 3, c. 105, s. 24, and 57 Geo. 3, c. 130, s. 22, extending provision to charitable institutions.

(*f*) The same as 1 Geo. 4, c. 83, s. 17.

(*g*) The same as 5 Geo. 4, c. 62, s. 20, but requiring the party to disclose his name, together with his or her profession, business, occupation, calling, and residence, which is to be entered with the depositor's name in the books of the institution.

9 G. 4, c. 92

be entered in joint names

her own account; and all deposits made by any such trustee or trustees shall be inserted in the books of such savings bank in the joint names of such trustee or trustees, and of the person or persons on whose account such sum shall be so deposited; and the receipt and receipts of such trustee or trustees, or the survivor of them, or the executors or administrators of any sole trustee or surviving trustee, with or without the receipt of the person or persons on whose account such sum may have been deposited, shall be a good and valid discharge to the trustees or managers of the institution (*a*).

Subscribers to one savings bank shall not subscribe to any other

34. That it shall not be lawful for any person or persons who shall have made any deposit in, or any subscription to, or who shall be entitled to any benefit from the funds of any savings bank, to make any deposit in or to subscribe any sum into the funds of any other savings bank, or to open any new account in the said savings bank; and that every person desirous of making any deposit in or any subscription to any savings bank, shall at the time of making the first deposit in any savings bank, and at such other time or times as such depositor shall be required so to do by the trustees or managers of any such savings bank, sign, either by themselves, or in case of infants under the age of seven years, by some person to be approved of by the trustees or managers, or by such other person as they shall appoint, a declaration in such form as shall be directed or approved of by the commissioners or other proper officer, that the person or persons on whose behalf any such first deposit or subscription shall be required to be made, is not or are not entitled to any deposit, or any such subsequent deposit or subscription in, or any benefit from, the funds of any savings bank, other than that into which such deposit or subscription shall be made, or any other funds in the said savings bank; and in case any such declaration shall not be true, or if any person shall at any time have or hold, or be possessed of, any deposit or funds in more than one savings bank within the united kingdom, every such person shall forfeit and lose all right and title to any deposit in or to any funds of any and every such savings bank; and the managers and trustees of such savings bank shall and they are hereby required in such case to close the account of such depositor, and to cause the sum or sums so forfeited to be forthwith paid into the bank of England or bank of Ireland, as the case may be, to the account of the commissioners standing in the books of the governor and company of the said banks respectively, under the title of "The Account of the Commissioners for applying certain Sums of Money annually to the Reduction of the National Debt;" and the cashier or cashiers of the said governor and company is and are hereby required to receive all such sums, and to place the same to the said account, to be applied in like manner as all other money placed to the said account; and every such declaration so made shall be filed and kept and preserved by the trustees of every such savings bank; and a printed notice of such regulation and prohibition shall be affixed in the office or place appointed for the receiving of deposits to any savings bank, in such form as the said commissioners or their proper officer shall from time to time direct, or require, or approve (*b*).

Declaration to be made at the time of subscription

Penalty if false

Notice of such regulation, &c., to be affixed in office.

Deposits of any one depositor shall not exceed 30*l.* in any one year, nor beyond 150*l.* in the whole

When sum amounts to 200*l.* no interest payable.

35. That from and after the twentieth day of November 1828, it shall not be lawful for the trustees of any savings bank to receive from any one present or future depositor, any sum or sums exceeding thirty pounds in the whole, exclusive of compound interest, in any one year ending on the twentieth day of November, nor to receive from any depositor any sum or sums of money whatever, which shall make the sum to which such depositor shall be entitled, exceed the sum of one hundred and fifty pounds in the whole: Provided always, that whenever the sum or sums standing in the name of any depositor shall amount in the whole to two hundred pounds, principal and interest included, that thenceforth no interest shall be payable on any such deposit, so long as it shall continue to amount to the said sum of two hundred pounds (*c*).

Not to affect deposits of or above 200*l.* at the passing of this Act.

36. That nothing in this Act contained shall prevent or be construed to prevent the trustees of any savings bank from paying interest to any depositor whose deposit shall on the day of the passing of this Act, amount to or exceed the sum of two hundred pounds (*d*).

Trustees not to receive fresh deposits from persons whose deposit amounts to 150*l.*

37. Provided always, that the said trustees shall not receive from any such depositor any fresh or additional deposit, so long as the sum or sums to which such depositor shall be entitled, shall amount to or exceed the sum of one hundred and fifty pounds (*e*).

(*a*) This clause is taken fom 5 Geo. 4, c. 62, s. 23, but allows depositor to become a trustee, and authorises payment with or without receipt of the party on whose account deposits may have been made. See 7 & 8 Vict. c. 83, s. 7, post, p. 130.

Where a depositor to the full amount allowed by this Act made further deposits to another account in the name of himself and sister, but nominally as trustee for her: it was held, that on his death the sister was not entitled to the deposit, his object being to evade the Act, and not to create a trust in her favour (*Field* v. *Lonsdale*, 13 Beav. 78).

(*b*) The same as 5 Geo. 4, c. 62, s. 25, with a proviso for declaration in cases of infants under seven years of age.

(*c*) This is taken from 5 Geo. 4, c. 62, s. 21, the sum being limited to 150*l.*; but the provision as to no interest being payable on sums when they amount to 200*l.* is new.

(*d*) This is a new clause.

(*e*) This provision is new.

38. [Depositors may withdraw their deposits, and again subscribe, provided the same does not in any one year exceed thirty pounds (*a*).] 9 G 4, c. 92.

39. Provided always, that at any time after the passing of this Act, it shall and may be lawful for any depositor in any savings bank, to withdraw from such savings bank the whole of his or her deposits and interest thereon at any one time (but not in parts or shares) for the purpose of investing the same in any other savings bank; and in such case it shall be lawful for the trustees or managers of any such savings bank from which such deposit shall be intended to be withdrawn, or any one or more of them, and they are hereby required to grant to any such depositor a certificate, under the hands of such one or more trustee or trustees, manager or managers respectively, attested by the secretary or actuary of such savings bank, and such certificate shall state the whole amount of the deposit and interest due to such depositor in such savings bank, and shall be in such form as shall be directed or approved of by the commissioners for the reduction of the national debt, or their officer, and upon the production of such certificate, signed as hereinbefore directed, to the trustees or managers of the savings bank into which such deposit and interest is intended to be removed, the person applying shall and he or she is hereby required to endorse his or her name on the back of such certificate, in the presence of one or more of the trustees or managers of such savings bank, and such indorsement shall be attested by one of such trustees or managers; and if such trustee or trustees, or manager or managers, shall be satisfied that such certificate is authentic, and that no abuse is intended thereby, it shall and may be lawful for the trustees or managers of such savings bank to receive the sum specified in such certificate, and to place the same to the account of the person therein described in the books of such savings bank, anything in this Act to the contrary thereof notwithstanding: Provided always, that previous to such investment a like declaration shall be made by the person applying to make such deposit, as is required in other cases of making deposits in savings banks according to the provisions contained in this Act, and such person shall be considered in all respects as an original subscriber to such savings bank, and shall be liable to all such rules, regulations and restrictions as an original subscriber to such bank (*b*). Deposits may be withdrawn from one savings bank to be placed in another.

40. That in case any depositor in the funds of any institution taking the benefit of this Act, shall die, leaving any sum or sums of money in the said funds, or any dividends or interest due thereon, belonging to him or her at the time of his or her death, exceeding in the whole the sum of fifty pounds, the same shall not be paid to any person or persons as representative or representatives of such depositor, but upon the probate of the will of the deceased depositor, or letters of administration of his or her estate and effects: Provided always, that where the whole estate or effects of any such deceased depositor, for or in respect of which any probate or letters of administration respectively shall be granted, shall not exceed the value of fifty pounds, no stamp duty shall be chargeable thereon, nor upon any legacy or residue or part thereof bequeathed, nor upon any share or part of the estate or effects to be paid or distributed by or under such probate or letters of administration: Provided also, that in every such case the person or persons claiming such probate or letters of administration free from stamp duty under this Act, shall exhibit to the court or person having authority to grant the probate or letters of administration in such case, a certificate of the amount and value of the share and interest which the deceased depositor had in the funds of the said institution, which certificate shall be granted in such form and manner as shall have been settled by the rules or regulations of the institution respectively, and shall be signed or testified by such person or persons as shall be directed therein: and every such certificate shall be taken and received by the court or person having authority to grant such probate or letters of administration, as evidence of the amount and value of the shares and interests of the deceased depositor in the funds of the said institution (*c*). Depositor dying, leaving sum exceeding 50*l*., probate or administration to be taken out.

41. That in all cases where the whole estate and effects of any deceased depositor, for or in respect of which letters of administration shall be granted, shall not exceed the value of fifty pounds sterling, no stamp duty shall be chargeable upon the bond required to be given by the administrator, for the due administration of the effects of such deceased depositor, nor upon any affidavit or document leading to or connected with such administration, but that every such bond and affidavit shall be exempted from stamp duty, in like manner and under the like regulations as are provided in and by this Act with respect to such letters of administration (*d*): Provided always, that in case any depositor in the funds of any such institution shall die, leaving a sum of money in the said fund, which, with the interest thereon, shall not exceed in the whole fifty pounds, it shall be lawful for the trustees or managers of such institution, and they are hereby authorised and Administration bonds, &c., for effects of depositor not exceeding 50*l*. exempted from stamp duty. Where the effects of a person dying intestate shall

(*a*) Repealed by 3 & 4 Will. 4, c. 14, s. 29, post, p. 128.

(*b*) This clause is taken from 5 Geo. 4, c. 62, s. 26, but it authorises one trustee or manager to grant the certificate, and does not require the signature of the depositor to be made in the presence of one of the trustees, &c., of the bank from which the deposit is to be drawn.

(*c*) The same as 57 Geo. 3, c. 105, s. 24, and 57 Geo. 3, c. 130, s. 23, the amount being altered from 20*l*. to 50*l*. But see now 7 & 8 Vict. c. 83, s. 10, post, p 130.

(*d*) The same as 1 Geo. 4, c. 83, s. 16, and 5 Geo. 4, c. 62, s. 14, the sum being altered to not exceeding, instead of under, 50*l*.

9 G. 4, c. 92.

not exceed 50*l.* the same may be divided according to the rules of the institution, &c.

permitted, in case such trustee or manager shall be satisfied that no will was made and left by such deceased depositor, and that no letters of administration will be taken out of the goods and chattels of such depositor, to pay the same at any time after the decease of such depositor, according to the rules and regulations of the said institution; and in the event of there being no rules and regulations made in that behalf, then the said trustees or managers are hereby authorised and permitted to pay and divide the same to and amongst the person or persons entitled to the effects of the deceased intestate, according to the statute of distributions (*a*).

Payment to persons appearing to be next of kin, declared valid.

42. That whenever any trustees or managers of any savings bank, at any time after the decease of any depositor, have paid and divided any sum of money not exceeding fifty pounds, to or amongst any person or persons who shall at the time of such payment appear to such trustees or managers to be entitled to the effects of any deceased intestate depositor, according to the statute of distributions, or according to the rules and regulations of any such savings banks, the payment of any such sum or sums of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased intestate depositor, or as the lawful representative or representatives of such depositor, against the fund of such savings bank, or against the treasurer or trustees or managers thereof; but nevertheless such next of kin or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same (*b*).

Payments under probates of wills, &c., afterwards repealed shall be valid.

43. That payment of any money by any such institution as aforesaid, to any person or persons having any letters of administration or probate of any such will or testamentary disposition granted by any ecclesiastical court, and appearing to be in force, shall be valid and effectual with respect to any demand of any other person or persons, as the lawful representative or representatives of such depositor against the funds of such institution, or against the treasurer, trustees or managers thereof; but nevertheless such lawful representative or representatives shall have remedy for such money or securities for money so paid or transferred as aforesaid against the person or persons who shall have received the same (*c*).

Powers of attorney, &c., given by trustees or depositors, not liable to stamp duty.

44. That no power, warrant, or letter of attorney, granted or to be granted by any person or persons, or trustee or trustees of any institution established under this Act, nor any power, warrant, or letter of attorney given by any depositor or depositors in the funds of such institution, to any other person or persons, authorising him, her, or them to make any deposit or deposits of any sum or sums of money in the said funds on behalf of the said depositor or depositors, or to sign any document or instrument required by the rules or regulations of such institution, to be signed on making such deposits, or to receive back any sum or sums of money deposited in the said funds, or the dividends or interest arising therefrom, nor any receipt nor any entry in any book of receipt for money deposited in the funds of any such institution, nor for any money received by any depositor, his or her executors or administrators, assigns or attornies, from the funds of such institution (*d*), nor any draft or order, nor any appointment of any agent or agents, nor any certificate or other instrument for the revocation of any such appointment, nor any other instrument or document whatever required or authorised to be given, issued, signed, made, or produced in pursuance of this Act, shall be subject or liable to or charged with any stamp duty or duties whatsoever (*e*).

45. [Where disputes arise, same to be referred to arbitrators; and in case of their not agreeing, to be settled by barrister. Award, &c., to be final. Submission, not liable to stamp duty (*f*).]

Savings banks shall make up annually, accounts of their progress, stating the balance, and in whose hands, and transmit such accounts to the commissioners for the reduction of the national debt.

46. "And for the more effectually ascertaining from time to time the actual and progressive state of the several savings banks respectively," BE IT ENACTED, That the trustees or managers of any savings banks shall annually cause a general statement of the funds of such savings bank, invested in the bank of England or the bank of Ireland in the names of the commissioners for the reduction of the national debt, to be prepared, up to the twentieth day of November in each year, showing the balance or principal sum due to all the depositors collectively in such savings bank, and a statement of the expenses incurred, and stating in whose hands such balance shall then be remaining; and every such annual statement shall be attested by two managers or two trustees, or by one manager and one trustee of such savings bank; and every such annual statement shall be countersigned by the secretary or actuary of such savings bank; and all such annual statements shall be transmitted to the office of the said commissioners for the reduction of the national debt in London or Dublin (as the case may be) within

---

(*a*) The same as 57 Geo. 3, c. 105, s. 26, and 57 Geo. 2, c. 130, s. 24, the sum being altered from 20*l.* to 50*l.*; and leaving it to the discretion of, instead of being compulsory on, the trustees, &c., to distribute the amount due to an intestate depositor; but see now 7 & 8 Vict. c. 83, ss. 10, 11, post, p. 130.

(*b*) The same as 1 Geo. 4, c. 13, s. 17, and 5 Geo. 4, c. 62, s. 19.

(*c*) This provision is taken from 57 Geo. 3, c. 105, s. 27, and 57 Geo. 3, c. 130, s. 25.

(*d*) The same as 57 Geo. 3, c. 105, s. 28, and 57 Geo. 3, c. 130, s. 26.

(*e*) The latter part of this clause is new.

(*f*) See now 7 & 8 Vict. c. 83, ss. 14 & 15, post, p. 131.

six weeks (*a*) next after the twentieth day of November in each year; and in case the trustees of any such savings bank shall neglect or refuse to make out and transmit such account as aforesaid, or in case any such trustees shall at any time neglect or refuse to obey any orders or directions given by the said commissioners, or through their officer, pursuant to the directions of this Act, it shall and may be lawful for the said commissioners to close the account of the trustees of such savings bank, and to discontinue the keeping any further account with the trustees of such savings bank, and to direct that no further sum shall be received at the bank of England or at the bank of Ireland, from the trustees of such savings bank, to the account of the said commissioners, until such time as such commissioners shall think fit: Provided always, that it may be lawful for the said commissioners to re-open such account, and to allow the growing interest of such account during the time of such discontinuance, and to authorise the receipt of money at the banks of England or Ireland, whenever such commissioners shall think fit to do so, upon such trustees complying with the directions of such commissioners or their officer. 9 G. 4, c. 92.

47. That the trustees or managers of every such savings bank shall cause a duplicate of every such annual statement, accompanied by a list of the trustees or managers of such institution for the time being, attested and countersigned as aforesaid, to be publicly affixed and exhibited in some conspicuous part of the office or place where the deposits of such savings bank are usually received, for the information of all persons making deposits therein, and every such duplicate shall from time to time remain so affixed and exhibited until the ensuing annual statement shall in like manner be affixed and exhibited as aforesaid; and every depositor shall be entitled to receive from the said institution a printed copy of such annual statement, on payment of one penny (*b*). A duplicate of such account shall be affixed in the office of savings bank.

48. That from and after the passing of this Act the following accounts shall be prepared by the said commissioners, and shall be annually laid before both houses of parliament on or before the twenty-fifth day of March in every year, if parliament shall be sitting, and if parliament shall not be sitting, then within fourteen days after the commencement of the then next session of parliament; that is to say, accounts made up to the twentieth day of November then next preceding, of the gross amount of all sums received and credited, including interest, and of all sums paid, including interest, from the sixth day of August in the year of our Lord 1817, up to such twentieth day of November, by the said commissioners on account of the trustees of the several savings banks in England and Ireland, and also on account of any friendly societies in England respectively, and of the gross amount of all sums, stock, funds, annuities and exchequer bills standing in the names of such commissioners on the twentieth day of November on account of any such savings banks or friendly societies respectively, and the sums paid for the purchase of such stocks, funds, or exchequer bills, and the gross amount of the interest or dividends received thereon by the said commissioners, and the gross amount of the interest paid by such commissioners up to such twentieth day of November, on all receipts issued to the trustees of any such savings bank or friendly societies in England and Ireland respectively, and also on account of all expenses incurred by the said commissioners for salaries of clerks, or other incidental charges during the preceding year (*c*). Accounts shall be annually laid before parliament by commissioners for the reduction of the national debt.

49. "And for the purpose of rendering the accounts of the several savings banks in England and Ireland uniform and correspondent with the accounts of the commissioners for the reduction of the national debt;" BE IT ENACTED, That from and after the twentieth day of November, 1828, the interest or dividends due to each depositor in each savings bank in England, shall be computed half-yearly to the twentieth day of May and the twentieth day of November, or yearly to the twentieth day of November in each year, or up to such period nearest to such twentieth day of May or twentieth day of November as such interest shall be payable, according to the rules or regulations of such savings banks respectively, and to no other periods (*d*). Savings banks shall compute interest to 20th May and 20th November, half-yearly or yearly.

3 & 4 Will. 4, c. 14. An Act to enable Depositors in Savings Banks, and others, to purchase Government Annuities through the Medium of Savings Banks; and to amend an Act of the Ninth Year of his late Majesty, to consolidate and amend the Laws relating to Savings Banks (*e*). [10th June, 1833.]

3 & 4 W. 4, c. 14.

27. That in any parish or place in the united kingdom where no savings bank is Where no

(*a*) See 3 & 4 Will. 4, c. 14, s. 30. The time is extended to nine weeks; see 7 & 8 Vict. c. 83, s. 13, post, p. 131.

(*b*) This enactment is taken from 5 Geo. 4, c. 62, s. 30. The provision at the end, entitling depositors to receive a printed copy of the annual statement, is new.

(*c*) The same as 5 Geo. 4, c. 62, s. 32; the account to include interest.

(*d*) The same as 5 Geo. 4, c. 62, s. 31. See 3 & 4 Will. 4, c. 14, infra.

(*e*) So much of this Act as relates to the purchase of government annuities is repealed, and fresh provisions substituted by 16 & 17 Vict. c. 45, post, 132.

3 & 4 W. 4, c. 14.

Savings bank is legally established other trustees may establish a society for the purpose of granting annuities.

legally established under the provisions of the said Act hereinbefore mentioned, it shall and may be lawful to and for any persons in such parish or place to establish a society for carrying the provisions of this Act into execution; provided that the rector or vicar or minister of the parish, or elder for the time being, or a resident justice of the peace, shall be one of the trustees of such society; and provided also, that all the provisions of the said last-mentioned Act and of this Act, in as far as the same can or may be applicable, shall apply to the trustees and managers of any such society to be formed for the purposes of this Act, and to the parties purchasing such annuities as herein mentioned, and to the rules and regulations to be made for carrying the same into effect.

Provisions of 9 G. 4, c. 92, applicable to any society formed under this Act.

Executors, &c., of officers of savings banks to pay money due to savings banks before any other debts.

28. That if any person already appointed under the provisions of the said Act made and passed in the ninth year of the reign of his late majesty king George the fourth, or who may hereafter be appointed to any office (a) in a savings bank, or in a society established under this Act and being intrusted with the keeping of the accounts, or having in his hands or possession by virtue of his said office or employment (b), any moneys or effects belonging to such savings bank or society, or any deeds or securities relating to the same, shall die, or become a bankrupt or insolvent, or have any execution or attachment or other process issued against his lands, goods, chattels, or effects, or make any assignment thereof for the benefit of his creditors, his executors, administrators, or assignees, or other persons having legal right, or the sheriff or other officer executing such process, shall, within forty days after demand made by two of the trustees of the said savings bank or society as aforesaid, deliver and pay over all moneys and other things belonging to such savings bank or society to such person as the said trustees shall appoint, and shall pay out of the estates, assets, or effects of such person all sums of money remaining due which such person received by virtue of his said office or employment, before any other of his debts are paid or satisfied (c), or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process; and all such assets, lands, goods, chattels, estates and effects shall be bound to the payment and discharge thereof accordingly.

So much of 9 G. 4, c. 92, as relates to withdrawing deposits and re-depositing repealed.

No money exceeding 30*l.* to be deposited in any one year.

29. That from and after the 20th day of November, in the year of our Lord 1833, so much of the said Act, made and passed in the ninth year of the reign of king George the fourth, as relates to depositors withdrawing their deposits, and re-depositing the same, provided the sum invested does not in any one year exceed thirty pounds additional principal money, shall be and the same is hereby repealed; and that no money, whether such money shall have been previously withdrawn from such savings bank or not, shall at any time be received by the trustees or managers from any depositor which shall in any one year, ending on the 20th day of November, exceed the sum of thirty pounds.

30. [If annual returns are not made pursuant to 9 Geo. 4, c. 92, s. 46, name of savings bank to be published in Gazette.]

Statement of expenses may be required from trustees or managers.

31. That it shall and may be lawful for the commissioners for the reduction of the national debt, or the comptroller-general or assistant comptroller acting under the said commissioners, if they or he shall think fit, to require from time to time of and from the trustees or managers of any savings bank a detailed statement of all the expenses whatever incurred by the said trustees or managers in the management or otherwise of the said savings bank.

32. That whenever it shall appear in any annual statement that any sum of money of or belonging to a savings bank is in the hands of any treasurer or other person, the said annual statement shall be accompanied with a certificate, signed by such treasurer or other person, that the sum of money therein mentioned is in his possession.

Re-inrolment of rules not necessary.

33. Provided always, that nothing contained in this Act respecting savings banks shall render it necessary to have the rules and regulations of savings banks again inrolled, if the same have been before inrolled according to law.

(a) The interpretation of this clause should be the same as if the words "or who may hereafter be appointed" had immediately followed the words "already appointed" (*Ex parte Haynes*, 1 M. D. & De Gex, 670). Bankers are not officers within this section (*Ex parte Harris*, 1 De Gex, 162; *Ex parte Oxford*, 1 De Gex, M. & G. 483, 21 L. J. Bk. 31).

(b) Where A., being appointed actuary and cashier of a savings bank, by one of the rules of which it was declared that the bank should be opened for receiving deposits every Saturday, from eleven till two o'clock, at his house, when the committee, or some of them, would attend to receive deposits and pay money out; and none of the committee ever attended, and A. received the deposits without control, and at the time of his bankruptcy was a defaulter in respect thereof to a considerable amount: it was held, that he did not receive the deposits by virtue of his office, and that the amount due from him was not payable out of his estate in priority to his other debts (*Ex parte Fleet, re Jardine*, 4 De Gex & S. 52, 19 L. J. Bk. 10; *Ex parte Trustees of Dartford Savings Bank*, 1 Fonb. 137).

(c) Under this section the court will, on petition, order payment before any report made in a suit for the administration of the officer's estate, but no order will be made for the payment of the costs of the petition (*Hatch* v. *Lee*, 10 L. J. Ch. 223).

34. That the provisions of the said Act made and passed in the ninth year of his late majesty king George the fourth, and of this Act, shall extend to all savings banks established or hereafter to be established in the islands of Guernsey and Jersey and Isle of Man. 3 & 4 W. 4, c. 14. 9 G. 4, c. 92, and this Act, extended to Guernsey, &c.

35. That this Act shall extend to Great Britain and Ireland and Berwick-upon-Tweed, and the islands of Guernsey and Jersey and Isle of Man.

7 & 8 Vict. c. 83. An Act to amend the Laws relating to Savings Banks, and to the Purchase of Government Annuities through the Medium of Savings Banks (*a*). [9th August, 1844.]

7 & 8 Vict. c. 83.

"Whereas it is expedient to amend the laws relating to savings banks, and to make other provisions respecting savings banks, and the purchase of government annuities through the medium of savings banks: and whereas an Act was passed in the ninth year of the reign of his late majesty king George the fourth, intituled, &c., and another Act was passed in the third year of the reign of his late majesty king William the fourth, intituled," &c., BE IT THEREFORE ENACTED, That on the 20th day of November, 1844, the interest payable on the receipts issued to the trustees of savings banks by the commissioners for the reduction of the national debt shall cease, and that from and after the said 20th day of November all receipts issued prior to that day shall carry interest at the rate of three pounds five shillings per centum per annum, and that from and after the said 20th day of November, upon the payment of any sum or sums of money into the banks of England or Ireland, to the account of the said commissioners, by the trustees of any savings bank, it shall be lawful for the officer or officers of the said commissioners in that behalf, and he and they is and are hereby authorized and empowered, to issue, upon every such payment being made, a receipt, signed by one of the cashiers of the governor and company of the banks of England or Ireland respectively, for the amount of such payment, carrying interest at the rate of three pounds five shillings per centum per annum from the day of such payment inclusive, payable, with the principal, at the banks of England or Ireland respectively, whenever the same shall be required or drawn for in manner directed by the said recited Act; and such receipt shall be dated on the day on which the payment of any such sum or sums of money shall be made respectively; and every such receipt shall be in such form as shall be from time to time directed by the said commissioners; and the principal and interest of all sums mentioned in any receipt shall be charged and chargeable upon, and the same are hereby charged and made payable out of, all or any moneys standing in any account in the names of the said commissioners, or out of any moneys produced by the sale of any stock or annuities, funds, or exchequer bills standing in their names in the books of the banks of England or Ireland respectively, as the said commissioners shall from time to time direct: Provided always, that no fractional part less than one penny shall be allowed or paid as interest upon the principal sum contained in any receipt issued under the provisions of this Act.

9 G. 4, c. 92 (*b*). 3 & 4 W. 4, c. 14. From and after 20th November, 1844, the interest payable to trustees of savings banks shall be at the rate of 3*l.* 5*s.* per cent.

2. That from and after the 20th day of November, 1844, the interest payable to the depositors by the trustees or managers of any savings banks shall not exceed the rate of three pounds and ten-pence per centum per annum. Interest to depositors not to exceed 3*l.* 0*s* 10*d.* per cent.

3. That from and after the 20th day of November, 1844, it shall not be lawful to receive from any depositor his or her first deposit in any savings bank without requiring him or her to sign the declaration required by the said recited Act, and in the manner therein mentioned, a copy of which declaration, with the penalty attached thereto if false, shall also be annexed to or printed at the beginning of the deposit book. Depositors, on making first deposit, to sign a declaration, &c.

4. That if any actuary, cashier, secretary, officer, or other person holding any situation or appointment in any savings bank shall receive any sum or sums of money from or on account of any depositor or person desirous of becoming such, or on account of such institution, and shall not, at the next day on which the said institution is opened for the receipt of deposits, or in the case of local receivers acting on behalf of any savings bank shall not within the time specified in the rules of the said institution, account for and pay over the same to the trustees or managers thereof, or to such person as may be directed by the rules of the institution, such actuary, cashier, secretary, officer or local receiver, or other person as aforesaid, on being convicted thereof, shall be guilty of a misdemeanour. Punishment of actuary, &c receiving deposits, and not paying over same to managers, &c.

5. That provision shall be made in the rules of every savings bank that every depositor therein shall, once in every year at least, cause his deposit book to be produced at the office of the said institution for the purpose of being examined. Depositor to produce his book at institution.

6. That no trustee or manager of any savings bank shall be liable to make good any deficiency which may hereafter arise in the funds of any savings bank, unless such person Limiting responsibility of trustees

(*a*) So much of this Act as relates to the purchase of government annuities is repealed, and fresh provisions substituted by 16 & 17 Vict. c. 45, post, p. 132.

(*b*) Ante, p. 117.

7 & 8 Vict. c. 83.

and managers (a).

shall have respectively declared, by writing under their hands, and deposited with the commissioners for the reduction of the national debt, that they are willing so to be answerable; and it shall be lawful for each of such persons, or for such persons collectively, to limit his or their responsibility to such sum as shall be specified in any such instrument: Provided always, that the trustee and manager of any such institution shall be and is hereby declared to be personally responsible and liable for all moneys actually received by him on account of or to and for the use of such institution, and not paid over or disposed of in the manner directed by the rules of the said institution; and an abstract of the above provisions shall be enrolled as one of the rules of the institution.

Trust accounts (b).

Repayment of trust deposits.

7. That from and after the 20th day of November, 1844, when deposits shall be made by a trustee on behalf of another, the sum shall be invested in the name of such trustee and the name of the person on whose account such sum shall be so deposited; and repayment of the same or any part thereof shall not be made by the trustees or managers of any savings bank without the receipt and receipts of the said trustee and the person on whose account such deposit may have been made, or the survivor or survivors, or the executors or administrators of such survivor, whose receipt and receipts, either in person or by agent appointed by power of attorney, which power of attorney shall be valid if executed by an infant of or exceeding the age of fourteen years, shall alone be a good and valid discharge to the said trustees and managers, except in case of the insanity or imbecility of the party on whose behalf the deposit has been made, upon proof of which to the satisfaction of the said trustees or managers repayment may be made to the said trustee; and an abstract of the above provisions shall be enrolled as one of the rules of the institution: Provided always, that nothing herein contained shall extend or be construed to extend to interfere with any trust accounts opened before the passing of this Act.

8. [Annuities not to exceed 30*l.*, 3 & 4 W. 4, c. 14. Annuity may be granted to husband and to wife.]

Amount payable on purchase of annuity.

9. That instead of the sums allowed to be charged at the time of purchasing an annuity under this or the said recited Act, and the yearly sum payable during the continuance of the said annuity, the said trustees or managers may at the time of purchasing such annuity charge any sum not exceeding the following; (that is to say,) for every annuity under five pounds the sum of five shillings; five pounds and under ten pounds, the sum of ten shillings; ten pounds and under fifteen pounds, the sum of fifteen shillings; fifteen pounds and under twenty pounds, the sum of one pound; twenty pounds and under twenty-five pounds, the sum of one pound five shillings; twenty-five pounds and not exceeding thirty pounds, the sum of one pound ten shillings.

Where deposits and interest do not exceed 50*l* exclusive of interest, if will, &c not proved within a month, money may be paid to widow or to party entitled to effects of deceased.

10. That in case any depositor in any savings bank shall die, leaving any sum of money in the said institution belonging to him or her at the time of his or her death, not exceeding in the whole the sum of fifty pounds, exclusive of interest, and probate of the will of the deceased depositor, or letters of administration of his or her estate and effects, is not produced to the trustees or managers of the said institution, or if notice in writing of the existence of a will and intention to prove the same or to take out letters of administration is not given to the said trustees or managers within the period of one month from the death of the said depositor, and in the latter case unless such will is proved or letters of administration taken out within the period of two months from the death of the said depositor, it shall be lawful for the said trustees or managers to pay and divide the same to or amongst any person or persons who shall appear to such trustees or managers to be the widow, or entitled to the effects of such deceased depositor, according to the statute of distribution, or according to the rules of the institution, and the payment of any such sum of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased depositor, or as the lawful representative of such depositor, against the funds of such savings bank, or against the trustees and managers thereof; but nevertheless such next of kin or representative shall have remedy for recovery of such money so paid as aforesaid against the person or persons who shall have received the same.

Payment on death of depositor, being illegitimate, and dying intestate

11. That if any depositor, being illegitimate, shall die intestate, leaving any person or persons who but for the illegitimacy of such depositor and of such person or persons would be entitled to the money due to such deceased depositor, it shall be lawful for the trustees or managers, with the authority in writing of the barrister appointed to certify the rules of savings banks, to pay the money due to such deceased depositor to any one or more of the persons as in their opinion would have been entitled to the same, according to the statute of distributions, if the said depositor and such person or persons had been legitimate.

Payment to married women of deposits made by them, when declared to be valid.

12. And whereas deposits in savings banks may have been made and may be made by married women, and deposits may have been made and may be made by women who may have afterwards married: BE IT ENACTED, That it shall be lawful for the trustees or managers of any savings bank to pay any sum of money in respect of any such deposit to any such woman, unless the husband of such woman shall give to such trustees or managers notice in writing of such marriage, and shall require payment to be made to him (c).

(a) Repealed as to Ireland, 11 & 12 Vict. c. 133, s. 1.

(b) See 9 Geo. 4, c. 92, s. 33, ante, p. 123, and note (a), p. 124.

(c) See 9 Geo. 4, c. 92, s. 26, ante, p. 122.

7 & 8 Vict. c. 83.

Time for making out half-yearly receipts and annual statement.

13. That the time for making out and issuing the half-yearly receipts for interest to the several savings banks and friendly societies shall be extended to sixty days from and after the 20th of May and 20th November respectively in each year, and the time for transmitting the annual statement mentioned in the said recited Act shall be extended to nine weeks next after the 20th day of November in each year.

Settlement of disputes (a).

14. That if any dispute shall arise between the trustees and managers of any savings bank and any individual depositor therein, or any executor, administrator, next of kin, or creditor, or assignee of depositor, who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor, or assignee, or to be entitled to any money deposited in such savings bank, then and in every such case the matter in dispute shall be referred in writing to the barrister-at-law appointed under the said recited Acts, who shall have power to proceed *ex parte* on notice in writing to the said trustees or managers left or sent by the said barrister to the office of the said institution (b), and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal; and no submission to, or award, order, or determination of the said barrister shall be subject or liable to or charged with any stamp duty whatever.

On reference, barrister may inspect books and administer oath to witnesses.

15. That on any such reference it shall be lawful for the said barrister and he is hereby authorised to inspect any book or books belonging to the said institution relating to the matter in dispute, and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Bonds given under 9 G. 4, c. 92, and 3 & 4 W. 4, c. 14, to be sent to commissioners for reduction of national debt.

16. That within one month from the passing of this Act the clerk of the peace or town clerk with whom any bond given as security, pursuant to the provisions of either of the said recited Acts, shall have been deposited, shall transmit the same to the commissioners for the reduction of the national debt, to be and remain in their custody; and it shall be lawful for the said commissioners, on any application and receipt signed by not less than two trustees and three managers, in such form as the said commissioners shall direct, to deliver up to the trustees of the institution any bond or bonds which may have been or shall hereafter be given by way of security on behalf of such institution, for the purpose of being cancelled.

When bonds may be delivered up to be cancelled.

Treasurer and other officers intrusted with receipt or custody of money, &c. to give security.

Security to be given by bond to comptroller general.

Trustees may sue upon bond.

Bond not liable to stamp duty.

17. That every treasurer, actuary, or cashier who shall be intrusted with the receipt or custody of any sum of money subscribed or deposited for the purpose of such institution, or any interest or dividend from time to time accruing therefrom, and every officer or other person receiving any salary or allowance for their services from the funds of any savings bank or government annuity society (unless he shall have already given good and sufficient security), shall give good and sufficient security, to be approved of by not less than two trustees and three managers of such savings bank or government annuity society, for the just and faithful execution of such office or trust; and such security, when given by an actuary or cashier, or officer or person receiving any salary or allowance for his services as aforesaid, shall be given by bond or bonds with one or more sureties to the comptroller-general of the national debt office for the time being, without fee or reward; and in case of forfeiture it shall be lawful for the trustees or managers for the time being of such institution to sue upon such bond or bonds in the name of such comptroller-general for the time being, and to carry on such suit at the costs and charges and for the use of the said institution, fully indemnifying and saving harmless such comptroller-general from all costs and charges in respect of such suit; and no bond to be so given shall be subject to or charged or chargeable with any stamp duty whatever; and such bond shall, when executed, be deposited with the commissioners for the reduction of the national debt.

(a) Under 9 Geo. 4, c. 92, s. 45, an action was not maintainable by a depositor against the trustees of a savings bank; the only mode of adjusting disputes being by reference, under that Act (*Crisp* v. *Bunbury*, 8 Bing. 394; *Rex* v. *Mildenhall*, 6 Ad. & E. 952; *Rex* v. *Cheadle*, 3 Nev. & M. 418, 1 Ad. & E. 323; *Marshall* v. *Nicholls*, 21 L. J. Q. B. 343; *Reeves* v. *White*, 21 L. J. Q. B. 169; and ante, Vol. II. p. 203, n. (d)). Where by a rule of a savings bank, no claim for any sum of money could be made more than seven years from the death of a depositor, the court discharged a rule for a mandamus to the trustees of such a bank to appoint an arbitrator, under 9 Geo. 4, c. 92, s. 45, to decide a dispute as to money, the depositor having been dead more than seven years (*Reg.* v. *Northwich Savings Bank*, 9 Ad. & E. 729).

The directors of a savings bank were not compellable to appoint an arbitrator for the purpose of deciding upon the claim of persons professing to apply on behalf of a body of depositors, if it were a matter of dispute whether the applicants were entitled to represent the body (*Rex* v. *Witham Savings Bank*, 1 Ad. & E. 321).

(b) The previous service of notice is an essential preliminary to entitle the barrister to proceed *ex parte* (*Lynch* v. *Fitzgerald*, 15 Law T. 372).

7 & 8 Vict c 83.

Repeal of part of 9 G. 4, c 92, as to deposit of rules with clerk of the peace.

18. That so much of the said recited Act as requires that the transcript of the rules of a savings bank or government annuity society shall be deposited with or filed by the clerk of the peace, and a certificate thereof returned to the institution, and that such transcript shall be laid before the justices at sessions, shall be and the same is hereby repealed.

Two written or printed copies of rules, &c to be submitted to barrister for his certificate.

19. That two written or printed copies of all rules or alterations of rules made in pursuance of the said recited Acts or this Act, signed by two trustees, with all convenient speed after the same shall be made, altered, or amended, and so from time to time after every making, altering, or amending thereof, shall be submitted to the barrister-at-law appointed under the provisions of the said recited Act, for the purpose of ascertaining whether the said rules or alterations, or amendments thereof, are in conformity to law and with the provisions of the said Acts relating to savings banks or government annuity society; and that the said barrister shall give a certificate on each of the said written or printed copies that the same are in conformity to law and the provisions of the said last-mentioned Acts, or point out in what part or parts the said rules, alterations, or amendments are repugnant thereto; and that the barrister for perusing the rules or alterations or amendments of the rules of such respective savings bank or government annuity society, and giving such certificate as aforesaid, shall demand no further fee than specified in the said recited Act; and one of such written or printed copies, when certified by the said barrister, shall be returned to the trustees of the said institution, and the other of such transcripts or printed copies shall be transmitted by such barrister to the commissioners for the reduction of the national debt; and that all rules, alterations, and amendments thereof, from the time when the same shall have been certified by the said barrister, shall be binding on the trustees, managers, and officers of the said institution, and the depositors therein, and their representatives; and the copy of such rules deposited with the said commissioners, or a true copy thereof, examined with the original, and proved to be a true copy, shall be received as evidence of such rules respectively in all cases, and no *certiorari* shall be brought or allowed to remove any such rules into any of her majesty's courts of record.

Barrister to return one copy to institution, and transmit the other copy to commissioners.

Adaptation of provisions of this Act to the law of Scotland

20. That where this Act provides for payments made or to be made to any of the relations of any deceased intestate depositor according to the statute of distribution, the provisions thereof shall be held to apply to payments made or to be made to persons appearing to be next of kin according to the law of Scotland; and that where this Act refers to probate of the will of the deceased, or letters of administration of his or her estate and effects, the said provisions shall be held to apply to confirmation by the law of Scotland.

Provisions of this Act to apply to purchasers of annuities.

21. That all the provisions of this Act, in as far as the same can or may be applicable, shall apply to the trustees and managers of any government annuity society, and to the parties purchasing annuities, and to the rules and regulations to be made for carrying the same into effect.

22. That this Act shall extend to Great Britain and Ireland, Berwick-upon-Tweed, and the islands of Guernsey, Jersey, and Isle of Man.

16 & 17 Vict. c. 45.

16 & 17 Vict. c. 45. An Act to consolidate and amend the Laws, and to grant additional Facilities in relation to the Purchase of Government Annuities through the medium of Savings Banks, and to make other Provisions in respect thereof.

[4th August, 1853.]

"Whereas it is expedient that the existing Acts of parliament relating to the purchase of government annuities through the medium of savings banks should be repealed, in order that the same may be consolidated and amended;" BE IT THEREFORE ENACTED as follows:

So much of 3 Will 4, c 14, and 7 & 8 Vict c. 83, as relates to purchase of government annuities through the medium of savings banks, &c., repealed

1. So much of the Act passed in the third year of the reign of king William the fourth, chapter fourteen, as relates to the enabling depositors in savings banks and others to purchase government annuities through the medium of savings banks and parochial societies, and so much of another Act passed in the seventh and eighth years of her present majesty, chapter eighty-three, as relates to the purchase of government annuities through the medium of savings banks, shall be repealed, except as to anything heretofore done, or which shall hereafter be required to be done, in respect to any annuities granted under the said Acts or either of them, and except also so far as may be necessary for the purpose of any proceedings to be taken under or by virtue of the same Acts or either of them, such repeal to commence and take effect on and after the 10th day of October, 1853.

Commissioners for reduction of national debt may receive money from

2. From and after the said 10th day of October, 1853, it shall and may be lawful for the commissioners for the reduction of the national debt to grant to or for the benefit of any depositor in a savings bank, or other person whom the said commissioners shall think entitled to be or to become a depositor in a savings bank, any immediate or deferred life annuities depending on single lives, or immediate annuities depending on joint lives with benefit of survivorship or on the joint continuance of two lives, to any amount not

less than four pounds nor more than thirty pounds in the whole, to or for the benefit of any one person, and to receive payment for such immediate life annuities in one sum, and for such deferred life annuities either in one sum or in annual sums payable for fixed periods Provided always, that no such annuities shall be granted to or for the benefit of any person under the age of ten years

16 & 17 Vict c 45

depositors, &c, for purchase of annuities.

3 Such annuity may be granted to or possessed by any married man or woman, although an annuity to the same or a less amount may have been granted to or possessed by the wife or husband of such party

Annuity may be granted to husband and to wife

4 The said commissioners may grant such deferred life annuities on condition that the purchase money shall be returnable, but without interest, in which case such purchase money without interest shall be returnable at any time on the application of the person beneficially interested in such annuity, or after his death on the application of his executors or administrators, provided always, that in no case whatever shall such purchase money or any part thereof be returned after the first payment of the said annuity shall have actually become due, and the moneys so returnable shall be charged, paid, and defrayed out of the moneys standing in the names of the said commissioners at the bank of England under the provisions of this Act

Deferred annuities may be granted with a condition that purchase money shall be returnable

5 The said commissioners may grant in like manner and to the like persons deferred life annuities, of not less than one pound, or some multiple thereof not exceeding thirty pounds in the whole, to any one person, and receive payment for such annuity in one sum on condition that the purchase money shall not be returnable

Annuities may be granted with a condition that purchase money shall not be returnable

6 Where a party who has contracted under the Acts hereby repealed or shall contract under this Act for the purchase of a deferred life annuity by annual payments shall, after having made one or more of such payments, be unable to pay the residue thereof, the said commissioners may at the option of the party beneficially interested in such annuity grant to such party a life annuity, immediate or deferred, equivalent to the amount of the several payments so made by him, instead of returning the amount of such payments in money

Parties unable to keep up annual payments may have an annuity granted in lieu of having money returned.

7 Where a party has already contracted under the Acts hereby repealed, or shall hereafter contract under this Act, by payment in one sum for a deferred life annuity, the said commissioners may, at the option of the party, grant an immediate life annuity in place and instead of the deferred life annuity, which shall forthwith be cancelled.

Power to convert deferred into immediate annuity

8 No annuity shall be granted under the authority of this Act unless the name of the party on whose life and for whose benefit the purchase is proposed to be effected shall be inserted in the grant as a joint proprietor of the said annuity

Name of party to be always inserted in grant.

9 No such annuity shall be granted otherwise than in the sole name of the person on whose life and for whose benefit the said annuity is granted, except in the case of females, infants under the age of twenty one years, idiots, persons of unsound mind or incapacitated by bodily or mental infirmity from taking care of themselves, of which proof shall be afforded at the time of making the contract to the satisfaction of the said commissioners, or comptroller general or assistant comptroller acting under them, in which cases it shall be lawful to grant such annuities as are authorized by this Act upon the life of any such person to such person and to any two or more persons not interested therein as trustees for such person, under such regulations as shall be prescribed by the said commissioners or comptroller general

Cases in which grants of annuities may be to trustees.

10 The said commissioners may contract with any such person or persons for the payment of a sum of money on his or her death, provided that the party contracting for such payment on death shall at the same time purchase a deferred annuity depending upon his or her own life, as the case may be, and that the money payable on death do not exceed the amount of the sum paid down for the said payment on death and annuity taken together, and shall in no case exceed one hundred pounds in the whole

Power to grant payment of money on death of persons purchasing deferred annuities.

11 The said commissioners may make such contracts with such parties for the grant of any annuities under the authority of this Act, either directly at their own office or through the medium of savings banks or parochial or other societies, or agents duly authorized by the said commissioners for such purpose, and under such regulations as the said commissioners shall prescribe, and in such last mentioned cases may authorize the said savings banks and societies and agents to take and demand the like fees as are sanctioned in respect to such annuities by the Act of the seventh and eighth Victoria above referred to

Contracts may be made at national debt office or through the medium of savings banks, &c

12 The said annuities and payments on death herein referred to are hereby made chargeable upon the consolidated fund of the united kingdom, and all sums of money from time to time paid on account of such contracts under this Act, or under the Acts hereby repealed, shall be paid into the bank of England or into the bank of Ireland to the account of the commissioners for the reduction of the national debt, under such regulations as the said commissioners shall from time to time prescribe in that respect and the cashiers of the bank of England or bank of Ireland are hereby required to receive all such moneys, and to place the same to the accounts of the said commissioners to be entitled "The Fund for purchasing Life Annuities or for Payments on Death, on the Account of Depositors in Savings Banks (as the case may be)" and the said commissioners shall in like manner keep distinct and separate accounts of all moneys so placed to the said accounts, pursuant to the provisions of this Act

Money paid on account of purchase of annuity to be kept distinct and paid to account of commissioners

16 & 17 Vict. c. 45.

Commissioners to make rules, regulations, &c.

13. The said commissioners, or the comptroller general or assistant comptroller acting under the said commissioners, may require such proofs of age and of identity, and such certificates, and make such rules and regulations in respect to the grant of all annuities, and for securing payments on death, under the authority of this Act, and to the payment thereof, and also to the payment of all annuities granted under the Acts hereby repealed, as may appear to them to be necessary and proper for carrying out the purposes of this Act; and may decline or refuse to contract for any annuity or for any payment on death, under the provisions of this Act, in any case where there shall be in the opinion of the said commissioners, or of the said comptroller general or assistant comptroller, sufficient grounds for refusing or declining so to do.

Commissioners, &c., may decline to contract for annuities or payments on death.

Penalty on persons making false declaration, &c.

14. If any one individual shall by his own direct act have or hold or be possessed of or entitled to any annuity or annuities granted under the provisions of this Act or of the Acts hereby repealed, exceeding in the whole the sum of thirty pounds *per annum*, or shall make a false declaration in relation to any matter or thing required by the regulations of the said commissioners, all the said annuity or annuities and payments on death shall be forfeited.

Persons contracting for payments of sums of money at death may commute the same into an annuity payable after death to nominees

15. If any person having contracted for the payment of a sum of money on death in the manner hereinbefore provided shall at any time, in writing, in a form approved of by the said commissioners, and deposited with them during his life, direct that the sum payable at his or her death be commuted for an annuity for life, to commence at his or her death, and to be paid to any person nominated in the said writing, such commutation shall take effect, when approved of by the said commissioners, or by the comptroller general or assistant comptroller acting under the said commissioners, and the person so nominated shall be entitled to such life annuity as shall be the equivalent to such sum of money so payable after death as aforesaid, such annuity to commence and take effect on and from the 6th day of January, 6th day of April, 6th day of July, and 11th day of October, as the case may be, next immediately following the death of the party nominating, and be payable and paid at the next following half-yearly period.

Treasury shall direct use of tables of the value of annuities as approved by them.

16. For the better carrying this Act into execution it shall and may be lawful for the commissioners of her majesty's treasury, from time to time as they shall think fit, to direct the commissioners for the reduction of the national debt to use and adopt such tables as shall from time to time be authorised and approved of by the said commissioners of the treasury for determining the values of all annuities, of whatsoever kind, which may be granted according to the provisions of this Act, as well as tables for payment of sums of money at death, and such respective tables shall be valid and effectual for the purposes of this Act; and all annuities for lives, of whatsoever kind, to be purchased under the provisions of this Act shall be purchased, and all payments for sums to be secured at death shall be contracted for, according to the values stated in such tables respectively, so long as the same shall remain in force; and the said commissioners of the treasury may alter, revoke, and recall all or any of the said tables from time to time, and direct the use and adoption of such other tables in lieu thereof as shall be approved of by the said commissioners of the treasury, and also discontinue, by any warrant under their hands addressed to the said commissioners for the reduction of the national debt, the granting of any annuities for lives, or of sums payable at death, under the provisions of this Act, if they shall think it fit and expedient so to do: Provided always, that the said commissioners for the reduction of the national debt shall, previous to the adoption and using of any such tables, and discontinuance of the granting of such annuities and payments at death as aforesaid, give notice thereof from time to time in the London, Edinburgh, and Dublin Gazettes, in such form and manner as to the said commissioners for the reduction of the national debt shall seem fit and proper: Provided also, that the tables now in force in respect to annuities grantable under the authority of the Acts hereby repealed shall be valid and effective for the purchase and grant of, any annuities under this Act, so far as they are applicable thereto, until altered, revoked, and recalled by the said commissioners of the treasury.

Purchasers of annuities for lives shall be entitled to such amount of annuity as shall be specified in the tables

17. In every case when any sum of money shall be paid as the consideration for the purchase of any annuity for lives of whatsoever kind, under the provisions of this Act, or for securing a payment on death, the person or persons purchasing any such annuity for lives or for securing such payment on death, shall be entitled to receive from the period at which the said annuity is to commence and take effect an annuity for a life, or for joint lives with benefit of survivorship, or on the joint continuance of two lives, as the case may be, of such annual amount as shall be specified in any such table or tables respectively as the commissioners of her majesty's treasury shall from time to time authorise and approve in manner hereinbefore directed, to be calculated and ascertained according to the age of the party; and every payment to be made on death shall in like manner be ascertained and settled according to the said tables so to be approved and adopted from time to time as aforesaid.

Life annuities granted under this Act and payments at death shall be carried to a separate account.

18. All life annuities, of whatsoever kind, which shall be purchased and granted under the provisions of this Act (whether such life annuities shall commence immediately or not), and all payments at death, shall, in their due course as the same shall fall due and become payable, be carried to a new and separate account in the books of the said commissioners for the reduction of the national debt.

16 & 17 Vict. c. 45.

Life annuitants may make further purchases without fresh certificates.

19. Whenever proof of the age of any person shall have been once produced to the said commissioners under the provisions of any Act for the purchase of any annuity or annuities on the life of such person, the original proof of the age of such person, produced at the time of the purchase of the first annuity upon the life of such person, shall be deemed sufficient in the case of any proposed purchase of a further annuity on such life under the provisions of this Act, or of any other Act or Acts now in force authorising the grant of annuities, without the production of any further proof of age.

Amount of annuities from time to time, and sums payable on death, shall be certified to the treasury, who shall issue their warrant to the exchequer for payment thereof out of the consolidated fund.

20. The said comptroller general or assistant comptroller acting under the said commissioners shall, within fourteen days preceding the 5th day of January, the 5th day of April, the 5th day of July, and the 10th day of October in each and every year, certify to the commissioners of her majesty's treasury the amount of annuities for lives, and sums payable at death, which will become payable under this Act out of the said consolidated fund on each of such days respectively, and the said commissioners of the treasury shall thereupon order and direct the comptroller general of the exchequer to issue out of the said consolidated fund from time to time to the account of the said commissioners for the reduction of the national debt the sums specified in such certificates, to be applied in paying such annuities and sums payable at death respectively.

Time of payment of annuities granted under this Act.

21. All annuities for lives, of whatsoever kind, which shall be purchased under the provisions of this Act, shall be payable by two equal half-yearly payments, to become due respectively on the 5th day of January and on the 5th day of July, or on the 5th day of April and the 10th day of October, in each and every year, according to the respective periods as hereinafter mentioned, within which any money shall be paid for the purchase of any such annuities for life, of whatsoever kind respectively; and the first half-yearly payment of every such annuity so purchased shall be made at the times following (that is to say); on the 5th day of January in respect of all such purchases completed by the actual payment of money into the bank of England or into the bank of Ireland to the account of the said commissioners hereinafter mentioned at any time during the quarter ending on the 10th day of October preceding such 5th day of January; on the 5th day of April in respect of all such purchases so completed at any time during the quarter ending on the 5th day of January preceding the 5th day of April; on the 5th day of July in respect of all such purchases so completed at any time during the quarter ending the 5th day of April preceding such 5th day of July; and on the 10th day of October in respect of all such purchases so completed at any time during the quarter ending on the 5th day of July preceding such 10th day of October; and all future half-yearly payments of every such annuity shall be made with reference to the time of such first half-yearly payment; and upon the death of any annuitant in respect of any life annuity a sum equal to one fourth part of the annuity depending upon the life of such annuitant (over and above all half-yearly arrears thereof respectively) shall be payable to the person or persons entitled to such annuity, or his or her or their executors or administrators (as the case may be), on the half-yearly days of payment next succeeding the production of proof to the said commissioners certifying the death of such annuitant, if such proof shall be produced to the said commissioners not less than thirty days next preceding the 5th day of January, 5th day of April, 5th day of July, and 10th day of October respectively in every year, and that such last-mentioned payment shall be claimed within two years after the death of such annuitant, but not otherwise; but the fourth part of any expired life annuity payable under the provisions of this Act shall not be payable or be paid upon or in respect of any deferred life annuity unless one half-yearly payment of such deferred life annuity shall have been actually paid or become due at the time of the decease of such annuitant; and all sums payable at death shall become due and payable on the 5th day of January, 5th day of April, 5th day of July, and 10th day of October next immediately following the day on which such death shall be proved to the satisfaction of the said commissioners, or the comptroller general or assistant comptroller: Provided always, that proof of such death shall have been given thirty days previously to such 5th day of January, 5th day of April, 5th day of July, and 10th day of October, as the case may be, and if not, then and in such case such payment shall not be made until the next succeeding quarter day.

On death of annuitant a quarter's payment to be made in addition to half yearly arrears.

Proviso as to deferred annuities.

Annuities, &c., to be paid at national debt office, or at savings banks, &c.

22. All moneys becoming due as aforesaid on account of such annuities already granted or to be granted hereafter, and all payments on death, shall be paid to the several parties respectively entitled thereto by the said commissioners, at the office of the said commissioners, or by savings banks, or parochial societies, or other agents specially authorised by the said commissioners to make such payment, under such regulations as shall from time to time be issued by the said commissioners, or the said comptroller general or assistant comptroller acting under them.

Contracts for annuities not to be made for fourteen days after the quarterly day of payment.

23. For the space of fourteen days next after any of the said quarterly days for payment of the said annuities respectively no contract shall be made by or on behalf of the said commissioners for the reduction of the national debt for the grant or purchase of any annuity or sum payable at death under this Act, anything hereinbefore contained to the contrary in anywise notwithstanding.

Moneys paid to commissioners on account of this Act to be

24. The said commissioners for the reduction of the national debt shall cause all moneys placed to their said accounts for the purchase of annuities or for securing payments on death, in pursuance of the provisions of this Act or of the Acts hereby repealed, to be invested from time to time, under such regulations as the said commissioners shall

16 & 17 Vict. c. 45.

Invested in bank annuities, annuities for terms of years, or exchequer bills, which shall be cancelled. Commissioners may reserve a part of such sums to repay money claimed in case of death, &c., of party purchasing annuity.

direct, in the purchase of any bank annuities, or annuities for terms of years, or exchequer bills, or in either of them, and to be carried to the accounts hereinbefore provided; which said bank annuities, annuities for terms of years, and exchequer bills (as the case may be) shall be forthwith cancelled, and all interest or dividends on such bank annuities, annuities for terms of years, or exchequer bills shall cease to be charged upon or to be issued out of the consolidated fund from and after the day upon which any such bank annuities, annuities for terms of years, or exchequer bills shall have been purchased by the said commissioners: Provided nevertheless, that the said commissioners for the reduction of the national debt may retain and reserve from time to time so much of such moneys as shall be necessary for the purpose of enabling the said commissioners to return and pay back any sum of money, as hereinbefore directed, to such person as shall have contracted for the purchase of any annuity under the provisions of this Act, or of the Acts hereby repealed, by annual or other payments, but who may not make good and keep up the same, and who is entitled to receive back the same, or to his, her, or their executors or administrators, as well as to the executors or administrators of such person who may die before the annuity which he, she, or they may have contracted for becomes payable, or for re-purchase of any annuity or annuities in manner hereinafter provided.

Annuities granted under this Act not assignable, except in case of bankruptcy or insolvency.

25. The right, title, interest, and benefit in and to any annuity, of whatsoever kind, which has been purchased under any Act now in force for the grant of annuities through savings banks or parochial societies, or which may be purchased under the provisions of this Act, shall not be assignable by the original proprietor thereof so as to enable the assignee to receive the same during the lifetime of the said proprietor; except in case of the insolvency or bankruptcy of an individual proprietor, when the same shall become the property of his or her assignee or assignees, for the benefit of his or her creditors; and in case of any such bankruptcy or insolvency the said commissioners for the reduction of the national debt shall re-purchase the said annuity according to the value thereof, the same being computed upon the same tables upon which the said annuity was originally purchased; and the receipt of the assignee or assignees shall be a sufficient discharge to the said commissioners, who shall forthwith cancel the said annuity.

Transfer may be made by trustees to secure interest of party beneficially interested.

26. When any annuity for life, immediate or deferred, shall have been purchased under the Acts hereby repealed or this Act, in the names of more parties than one, the said commissioners may permit the party or parties not beneficially interested therein, jointly with the party who is beneficially interested, whether such party be of the age of twenty-one years or not, to transfer the said annuity or annuities to other parties, of whom the party beneficially interested shall always be one, under such regulations as the said commissioners shall prescribe in that respect, for the purpose of securing that no assignment shall thereby be made of the interest of the said party to any other person or persons whatsoever: Provided always, that where the party beneficially interested is incapable, from any of the causes set forth in section nine of this Act, from joining in such transfer, the said commissioners may permit such transfer notwithstanding, under such regulations as shall appear to them to be necessary to secure the interest of the party beneficially interested in such annuity.

Life annuities to be free from taxes, and to be personal estate.

27. Life annuities purchased under the provisions of this Act shall be free from all taxes, charges, or impositions whatever; and all such annuities shall be deemed personal estate.

Yearly account to be made up of unclaimed annuities, &c.

Arrears, &c., of three years' standing to cease to be charged on consolidated fund, but not to prejudice rights of parties.

28. An account shall be made up on the 5th day of January in every year, by the commissioners for the reduction of the national debt, of all annuities of whatsoever kind granted in pursuance of any of the Acts hereby repealed or under this Act which shall have remained unclaimed for the space of three years then next preceding, and all such annuities so remaining unclaimed, together with the unclaimed half-yearly arrears thereof, and also all such annuities of whatsoever kind which shall have expired; and all half-yearly arrears thereof shall cease to be charged upon and shall not be issued or issuable out of the said consolidated fund from and after the day upon which such annuities shall have remained so unclaimed or shall have expired; but nothing in this Act contained shall extend to defeat or prejudice the rights of any persons entitled to such unclaimed annuities who shall at any subsequent period give proof of their title to such annuities to the satisfaction of the said commissioners, or the said comptroller general.

Receipts, &c., exempt from stamp duty.

29. No stamp duty whatever shall be paid or payable upon or in respect of any copy of any register of birth or baptism or marriage or burial, or upon or in respect of any certificate or declaration to be made or taken in pursuance of this Act, or any certificate or other instrument whatsoever respecting the payment of money for the purchase of any annuity or sum payable at death under this Act, or any power of attorney authorising the receipt or any receipt for the payment of any such annuity or any part thereof, or for the payment of any sum of money payable at death.

If certificate or declaration contain any untrue statement of

30. If any certificate or declaration shall be produced to the officer of the commissioners for the reduction of the national debt, which shall contain any untrue statement of the age of any person to whom an annuity has been granted under this Act, or of any person who has contracted for a sum payable at death, with intent to obtain an annuity

on the continuance of the life of any person under the age of ten years, or to obtain any higher rate or amount of annuity or any payment on death greater than would or might be allowed under the provisions of this Act according to the true age of such person then and in every such case all money which may have been paid for or on account of the purchase of such annuity or payment on death shall be forfeited to the said commissioners and all right and title to any annuity or to any payment on death which would or might otherwise have been payable in respect thereof shall cease and determine

16 & 17 Vict c 45

age &c the money paid to be forfeited, and right to annuity to cease

31 If any person or persons shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging, counterfeiting or altering, any register or registers of birth or baptism or death or burial required under the provisions of this Act, or any copy or certificate of any such register or the name or names of any witness or witnesses to any such certificate or any declaration required to be taken for any of the purposes of this Act, or any certificate, of any justice of the peace or magistrate, or of any officer acting under the said commissioners for the reduction of the national debt, of any such declaration having been taken before him, or any certificate of any governor or person acting as such, or minister, or consul, or chief magistrate of any province, town, or place, or other person authorised by this Act to grant any certificate of the life or death of any annuitant, or shall forge, counterfeit, or alter, or shall cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully act or assist in the forging counterfeiting or altering any certificate or certificates of any officer of the commissioners for the reduction of the national debt, or of any cashier or clerk of the bank of England or bank of Ireland or the name or names of any person or persons in or to any certificate or other instrument for the payment of money for the purchase of any annuity, or sum payable at death, under the provisions of this Act, or in or to any receipt or discharge for any such annuity, or in or to any receipt or discharge for any payment or payments due or to become due thereon, or for any sum payable at death, under the provisions of this Act, or authorising or purporting to authorise the receipt of any life annuity, or any annuity for years, of whatsoever kind, or sum payable at death, granted under this Act, or under either of the Acts hereby repealed, or any payment or payments due or to become due thereon or if any person or persons shall wilfully, falsely, and deceitfully personate any true and real annuitant, or shall wilfully utter, or deliver or produce to any person or persons acting under the authority of this Act, any such forged register or copy of register, or any such forged certificate or declaration, knowing the same to be forged, counterfeited, or altered, with intent to defraud her majesty, her heirs and successors, or with intent to defraud any person or persons whomsoever then and in every such case all and every persons and person so offending, and being duly convicted thereof, shall be and is hereby declared to be subject and liable to such pains and penalties as by any laws in force, any persons convicted of forgery are subject and liable to

Persons forging register certificate transfers &c. to be liable to punishment for forgery

32 If any person in any declaration to be made before any justice of the peace or magistrate or before any officer acting under the said commissioners, under the provisions of this Act, shall wilfully or corruptly declare to any matter or thing which shall be false or untrue, every such person so offending and being duly convicted thereof, shall be and is hereby declared to be subject and liable to such pains and penalties as by any laws in force any persons convicted of wilful and corrupt perjury are subject and liable to

Penalty on persons guilty of perjury

33 If any person or persons shall for his, her or their own use, or for the use of any other person or persons, receive any one or more payment or payments (otherwise than as authorised by this Act) upon or in respect of any annuity granted under the provisions of this Act or of the Acts hereby repealed, after the death of any annuitant on the continuance of whose life such annuity was payable, or after the death of either annuitant, in case the annuity shall have been granted upon the joint continuance of the lives of two joint annuitants, and after and beyond the time on which such annuity ought wholly to cease in consequence of the death of such annuitant, by virtue of this Act or the Acts hereby repealed knowing such annuitant to be dead, and contrary to the true intent and meaning of this Act, every person so offending shall forfeit to her majesty, her heirs and successors, treble the amount of all money so received

Penalty on receiving annuity after death of nominee treble the amount received.

34 All pecuniary penalties and forfeitures imposed by this Act shall be recoverable (if incurred in England) in the name of her majesty's attorney general, on the part of her majesty, by information in the court of exchequer at Westminster, or (if incurred in Ireland) in the name of her majesty's attorney general in the court of exchequer at Dublin, or (if incurred in Scotland) in the name of her majesty's advocate general in the court of exchequer in Edinburgh, and such penalty and forfeiture shall be payable and paid to the said commissioners, and shall go and belong to and shall become part of the consolidated fund, and it shall be lawful for the commissioners for the reduction of the national debt to cause such reward as they shall think fit, not exceeding one moiety of any such penalty or forfeiture so recovered, after deducting all charges and expenses incurred in recovering the same, to be paid to any person or persons who shall appear to them to be entitled thereto as informer or informers in respect of such penalty or forfeiture so recovered

Recovery and application of penalties.

Power to cause reward to be paid to informers

35 The lord high treasurer or the commissioners of her majesty's treasury may order and direct to be issued and paid out of the fund upon which the establishment of the commissioners for the reduction of the national debt is chargeable, any sum or sums of money for the payment of salaries to officers and clerks, and for any incidental expenses

Provision for defraying expenses attending the exe

16 & 17 Vict. c. 45.

cution of this Act.

incurred by the said commissioners for the reduction of the national debt in carrying into execution this Act, in such manner as the said lord high treasurer or commissioners of the treasury shall from time to time think fit and reasonable.

Account to be laid annually before parliament of annuities granted, and of money paid for annuities.

36. There shall be prepared and annually laid before both houses of parliament on or before the 25th day of April in every year, if parliament shall be then sitting, and if parliament shall not then be sitting, then within fourteen days after the commencement of the then next session of parliament, an account, made up by the commissioners for the reduction of the national debt to the 5th day of January preceding, of the gross amount of all sums of money paid to the said commissioners, and the gross amount of annuities for lives which shall have been granted for the same, and contracts for payment at death which may have been made, under the provisions of this Act, within the year ending on the 5th day of January as aforesaid.

Powers of attorney granted under recited Acts to be available under this Act.

37. All powers of attorney which shall have been granted for the purpose of receiving any annuity purchased under the said recited Acts or either of them, and which shall be in force on the 10th day of October, 1853, shall continue of like validity with respect to any payment on account of such annuities to be thereafter made by the said commissioners under the authority of this Act so long as such powers of attorney shall continue in force.

19 & 20 Vict. c. 41.

19 & 20 Vict. c. 41. An Act to make further Provision for the Establishment of Savings Banks for Seamen. [7th July, 1856.]

"Whereas by the Merchant Shipping Act, 1854, certain powers were given to the commissioners for the reduction of the national debt for the purpose of establishing savings banks for seamen: and whereas it has since been found to be expedient that the immediate management and control of such savings banks should be placed in the hands of the board of trade;" BE IT ENACTED as follows:

Power to board of trade to establish savings banks for seamen.

1. The board of trade may establish in London a central savings bank for seamen, together with branch savings banks at such ports and places in the united kingdom as they may think expedient, and they may receive at such banks deposits from or on account of seamen, or the wives, widows and children of seamen, so, however, that the aggregate amount of deposit standing at any one time in the name of any one depositor shall not exceed two hundred pounds.

Power to constitute shipping offices branch savings banks.

2. The board of trade may constitute any shipping office established under the Merchant Shipping Act, 1854, a branch savings bank for the purposes of this Act, and may require any shipping master belonging to such office to act as agent of the said board in carrying this Act into effect, and his duties as such agent shall thereupon be deemed to be part of his duties within the meaning of the Merchant Shipping Act, 1854.

Commissioners for reduction of national debt to receive deposits and pay interest.

3. The commissioners for the reduction of the national debt may from time to time, on the request of the board of trade signified by writing by one of the secretaries or assistant secretaries of such board, receive from her majesty's paymaster-general the monies received by the said board as deposits in savings banks established under this Act; and may also from time to time, on the like request signified in like manner, repay to her majesty's paymaster-general to the account of the said board the monies so received by them as aforesaid; and the said commissioners shall invest all monies so received by them as aforesaid in the same manner in which monies received from trustees of savings banks are invested by them, and shall pay to her majesty's paymaster-general, to the account of the board of trade, interest upon the monies so received by them as aforesaid so long as the same continue in their hands, at the same rate at which they pay interest for the time being upon the monies received by them from the trustees of savings banks.

Board of trade to make regulations for conduct of savings banks.

4. The board of trade may make and from time to time alter such regulations as they may think fit with respect to the persons entitled to become depositors, to the making and withdrawal of deposits, the amount of deposits, the rate and payment of interest, the rights, claims and obligations of depositors, and with respect to all other matters incidental to carrying this Act into execution; and all regulations so made shall be binding on the parties interested in the subject matter thereof to the same extent as if such regulations formed part of this Act; and no legal proceeding shall be instituted against the board of trade, or against any shipping master or other public officer employed on or about such savings banks on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect or omission to pay any deposit or interest thereon, unless such refusal, neglect or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Application of deposits of deceased depositor.

5. All sums of money due from the board of trade to the estate of any deceased person entitled to any deposit in any savings bank established under this Act shall be paid and applied by such board to the same persons to whom and in the same manner and subject to the same conditions on and subject to which the money and effects of a deceased seaman are payable and applicable under the provisions of the Merchant Shipping Act, 1854.

6. Every person who, for the purpose of obtaining, either for himself or for another, any money deposited in any savings bank established under this Act, or any interest thereon, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document purporting to show or assist in showing a right to any such money or interest, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes, or procures to be given or made, or assists in giving or making or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall on conviction be punishable with penal servitude for a term not exceeding four years, or with imprisonment, with or without hard labour, for any period not exceeding two years, or if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months. 19 & 20 Vict. c. 41. Punishment for forgery or for making false representations in order to obtain deposits or interest

7. The board of trade may, out of the interest paid by the commissioners for the reduction of the national debt on the monies paid to them under this Act, pay any expenses incurred in carrying this Act into effect. Expenses of Act how to be defrayed.

8. An annual account of all deposits received and repaid by the board of trade under the authority of this Act, and of the interest thereon, shall be laid before both houses of parliament: and a copy of all regulations made by this board under the authority of this Act shall likewise be laid before both houses of parliament. Accounts and copy of regulations to be laid before parliament.

9. All criminal proceedings under this Act shall be carried on in the same manner as similar proceedings under the Merchant Shipping Act, 1854, and all rules of law, practice, and evidence which are applicable to such last-mentioned proceedings shall be applicable to criminal proceedings under this Act. Mode of criminal proceeding.

22 & 23 Vict. c. 20. An Act to amend and consolidate the Laws relating to Military Savings Banks. [13th August, 1859.]

22 & 23 Vict. c. 20.

"Whereas an Act was passed in the session holden in the fifth and sixth years of her majesty, 'to establish Military Savings Banks,' and an Act was passed in the session holden in the eighth and ninth years of her majesty, to amend the first-mentioned Act, and an Act was passed in the session holden in the twelfth and thirteenth years of her majesty, 'to dissolve Regimental Benefit Societies, and to provide for the Application of the Funds of such Societies and of Regimental Charitable Funds' and whereas it is expedient to amend and consolidate the said Acts, and to confirm or render valid all acts that may have been done under the authority of the secretary-at-war, or her majesty's principal secretary of state for the war department, in relation to the military or regimental savings banks already established, and the deposits therein, and the payments of principal and interest in respect of such deposits:" BE IT THEREFORE ENACTED as follows: 5 & 6 Vict. c. 71. 8 & 9 Vict. c. 27 12 & 13 Vict. c. 71.

1. The said Acts shall be repealed, save as herein otherwise provided. Provided always, that such repeal shall not affect any deposit made or other act done under the authority of the said Acts or any of them before such repeal takes effect; and all acts done under the authority of any rules made in manner provided by section three of the firstly hereinbefore mentioned Act, or under the authority of the secretary-at-war, before such repeal takes effect, in relation to the deposits made in military or regimental savings banks theretofore established, and all payments of principal and interest made in respect of such deposits, shall be and be deemed to have been legal and valid. Recited Acts repealed. Acts done confirmed.

2. It shall be lawful for her majesty, in manner hereinafter mentioned, to establish or continue military or regimental savings banks, for the purpose of receiving sums of money from such of the non-commissioned officers and soldiers employed in her majesty's service, either in the united kingdom or upon foreign stations (India alone excepted), as may be desirous of depositing the same, and for receiving deposits of any moneys or funds whatsoever raised or paid for objects or purposes connected with non-commissioned officers and soldiers which her majesty may from time to time think fit to authorise to be deposited in the said savings banks. Military savings banks may be established.

3. Regulations for the savings banks so to be established or continued shall from time to time be made by the secretary-at-war, with the concurrence of the general commanding in chief and of the commissioners of her majesty's treasury; and such regulations, when sanctioned by her majesty, shall be signed by the secretary-at-war, and laid before both houses of parliament; and a copy of such regulations shall be deposited in the orderly room of every regiment to which they apply; and such regulations shall be binding upon all officers concerned, and upon the several depositors in the said savings banks and upon their representatives. Regulations for savings banks, how to be made.

4. Such regulations shall or may (as the case may require) make provision in relation to the following matters; (that is to say,) What to be provided for by the regulations.

Shall regulate and determine the rate of interest to be paid to depositors, not exceeding the yearly rate of three pounds fifteen shillings for every one hundred pounds, and what (if any) fractional parts of a pound or sums less than a pound shall bear interest, and what length of time deposits must remain in order to bear interest, and at what times interest shall be added to principal so as to become

22 & 23 Vict. c. 20.

principal, in like manner as if the same had been paid to the depositor and been again deposited, and what deposits may be received upon which interest shall not be payable;

May determine in what cases or under what circumstances deposits and the interest (if any) thereon shall be forfeited to the public;

May make provision for and concerning the retention or deposit in the military or regimental savings banks of the effects of deceased non-commissioned officers or soldiers, or the money arising therefrom, at interest or without interest, and for the payment or application thereof and of the interest thereon to or for the benefit of the orphans of such non-commissioned officers or soldiers or other persons entitled to the same;

May make provision for and concerning the deposit of funds created for charitable regimental purposes by subscriptions of officers, unexpended balances of canteen funds or otherwise, and of any funds or moneys created, raised or paid in any manner whatsoever for objects or purposes connected with non-commissioned officers or soldiers, and concerning the manner in which such funds or moneys, and the interest thereon, shall be paid, applied or distributed;

May make it obligatory on commanding officers of regiments and others to deposit such funds or moneys in the said savings banks, and to account to the secretary-at-war or otherwise for the same, and the due application thereof;

May make provision for the withdrawal from the said savings banks for the purpose of transfer to India of any money whatsoever deposited in the said savings banks, and the accumulations of interest thereon, upon the occasion of regiments proceeding to India;

And shall provide for the keeping of proper accounts, and generally for all such matters in relation to the said savings banks and deposits therein as may be thought proper:

And such regulations shall be made as well with reference to deposits already made in the savings banks established under the firstly hereinbefore mentioned Act and charitable regimental funds already paid into the bank of England under the thirdly hereinbefore mentioned Act as to deposits to be made under this Act:

Provided always, that deposits by any individual depositor in any one year (ending on such day as may be in the regulations mentioned) exceeding thirty pounds in the whole (exclusive of interest added), shall not bear interest until after the end of such year, except only in the case of deposits of gratuities awarded for good conduct or otherwise, and that while the sums standing in the name of any individual depositor (inclusive of interest, if any) amount to or exceed two hundred pounds no interest shall accrue on any sum in excess of that amount standing in his name; but this proviso shall not apply to or in the case of money retained or deposited in a military or regimental savings bank after the death of a non-commissioned officer or soldier, for the benefit of his orphans or other persons entitled to his effects, or to or in the case of funds or moneys created, raised or paid for charitable regimental purposes, or for such objects or purposes as hereinbefore mentioned.

Receipts of infants and married women.

5. The receipt of any infant for any money deposited in any such savings bank, or for any interest thereon, shall be a sufficient discharge, notwithstanding his incapacity or disability in law to act for himself; and any payment in respect of any deposit or interest thereon which may be made to any married woman, under any regulations made under this Act, shall be deemed a valid payment, and her receipt shall be a sufficient discharge.

Deposits to be applied to public expenditure, and payments made out of grants for ordinary services.

6. The moneys deposited in military or regimental savings banks shall be applied under the said regulations by the officers or persons authorised to receive the same to the payment of such ordinary army services as it may be their duty to defray, and all sums from time to time payable to depositors or otherwise under the said regulations for principal and interest in respect of moneys so deposited under the said Acts or any of them, or this Act, or paid into the bank of England under the thirdly hereinbefore mentioned Acts, shall be paid out of the grants by parliament for ordinary army services.

Secretary-at-war to direct certain moneys to be paid to the account of the commissioners for the reduction of the national debt, and carried to the account of the military savings banks

7. It shall be lawful for the secretary at war from time to time to authorise, by his warrant, payment out of the moneys granted for army services, and placed to the account of the paymaster general at the bank of England, of the amount of the money received and applied for the public service under this Act, together with the interest allowed thereon, to the separate account raised under the secondly hereinbefore mentioned Act in the names of the commissioners for the reduction of the national debt in the books of the governor and company of the bank of England, and denominated "The Fund for the Military Savings Banks," and to authorise in like manner payment as aforesaid to such last-mentioned account of the amount of the money so received, and applied under the Acts hereby repealed or any of them, with interest, as aforesaid, so far as such payment may not have been already authorised under such Acts or any of them; and in ascertaining the amount of which payment is to be so authorised deduction or allowance shall be made in respect of payments previously made to depositors or otherwise in respect of deposits; and the cashier of the bank of England is hereby required to pay or transfer the amount mentioned in every such warrant from the account of the paymaster general to such separate account accordingly: Provided always, that previous to any payment or transfer being made as aforesaid to such separate account, the

person applying for that purpose shall in all cases produce to the officer of the last mentioned commissioners, at their office in London, a warrant from the secretary at war stating that the money mentioned therein is part of the funds of the military savings banks 22 & 23 Vict c 20

8 The commissioners for the reduction of the national debt shall cause all the moneys placed to their account, in pursuance of this Act or which may have been placed to their account under the Acts hereby repealed or any of them, and may not have been invested before the repeal of such Acts takes effect, to be invested from time to time, under such regulations as such commissioners may direct, in the purchase of any bank annuities in their names, and to be carried to the account raised in their names under the secondly hereinbefore mentioned Act and the interest or dividends to arise from time to time and become due on any bank annuities purchased under this Act or the Acts hereby repealed, or any of them, shall in like manner be invested in the purchase of bank annuities, and such interest or dividends shall not be subject or liable to any taxes, charges or impositions whatever Investment of such moneys

9 It shall and may be lawful for the secretary at war, by his warrant, to require that, within fourteen days from the day on which the same is lodged at the office of the commissioners for the reduction of the national debt, the whole or any part of the bank annuities standing in the books of the bank of England in the names of such commissioners and to the account aforesaid shall be sold, and the produce thereof paid to the account of the paymaster general at the bank of England Secretary at war may direct moneys invested in annuities to be transferred to account of paymaster general

10 It shall and may be lawful for such commissioners, on the requisition aforesaid of the secretary at war, to sell from time to time any part of the said bank annuities which may be standing in their names in the books of the bank of England in pursuance of the Acts hereby repealed or any of them or this Act, and the certificate of the cashier of the bank of England of the money having been placed to the account of the paymaster general shall be a full and sufficient discharge to such commissioners Commissioners for reduction of national debt empowered to sell.

11 And whereas by the said Act of the twelfth and thirteenth years of her majesty, provision was made for an equitable distribution of the funds of certain regimental benefit societies thereby determined, and for placing the sum to which each existing subscriber might be declared entitled in the savings bank, established under the firstly hereinbefore mentioned Act in the regiment to which he belonged, to accumulate for him until his discharge, and it was by the Act now in recital enacted, that upon its being proved to the satisfaction of the secretary at war, upon the recommendation of the commanding officer of the regiment, that it would be of advantage to a soldier to withdraw his portion of the said fund, including any accumulations thereon, from the regimental savings bank before his discharge, it should be lawful for the secretary at war to sanction such withdrawal, and such portion might be withdrawn accordingly Provisions as to money arising from a dissolved benefit society

The repeal of the said Act of the twelfth and thirteenth years of her majesty shall not affect the said provisions concerning the sums so placed as aforesaid in any savings bank

12 No person having any control in the management of any savings bank established or continued under this Act shall be personally liable, except for his own acts, nor shall any such person be personally liable for anything done by him in virtue of his office in the execution of this Act, except in cases where he is guilty of wilful neglect or default Officers of savings banks not personally liable, except for their own acts

13 An account of the amount of all sums deposited under the Acts hereby repealed, or any of them, or this Act, within the year ending on the thirty first day of March preceding, and of the amount of all sums withdrawn during the same period, and of the interest allowed upon such deposits, and also of the number of accounts open on the said thirty first day of March, with such other particulars as her majesty may be pleased from time to time to order, shall be annually prepared by the secretary at war, and rendered to the commissioners of her majesty s treasury, and shall be laid before both houses of parliament before the first day of April in every year, if parliament be then sitting, or if parliament be not sitting, then within fourteen days after the next meeting of parliament and the gross amount of all moneys received and paid by the commissioners for the reduction of the national debt, under the authority of the said Acts hereby repealed, or any of them or this Act, prepared up to the fifth day of January in every year, shall also be annually laid before both houses of parliament on or before the said first day of April, or within such period as aforesaid Accounts to be laid before parliament

14 The savings banks established under the firstly hereinbefore recited Act, and to be established or continued under this Act, shall not, nor shall any moneys which have been placed to the account or have come to the hands of the commissioners for the reduction of the national debt, under the Acts hereby repealed or any of them, or which may be placed to the account or come to the hands of such commissioners under this Act, be taken to be within the provisions of an Act passed in the ninth year of the reign of king George the fourth, intituled "An Act to consolidate and amend the Laws relating to Savings Banks," or of any other Act heretofore passed relating to savings banks Military savings banks not to be within the provisions of 9 Geo 4 c 92 or other Acts

15 In the construction of this Act "India shall have the same meaning as under section one of the Act of the session holden in the twenty first and twenty second years of her majesty, chapter one hundred and six As to the word India

16 This Act shall, as regards the making of regulations for savings banks thereunder, take effect immediately after the passing hereof, and in all other respects shall take effect Commencement of Act.

22 & 23 Vict c 20 from the time at which the regulations first made shall be therein appointed to come into operation

2 & 23 Vict c 53 **22 & 23 Vict c 53 An Act to enable Charitable and Provident Societies and Penny Savings Banks to invest all their Proceeds in Savings Banks [13th August, 1859]**

"Whereas by the Acts now in force friendly societies legally established are entitled to invest their funds to any amount in a savings bank and whereas charitable societies and provident institutions can only invest to the amount of one hundred pounds per annum, and the amount of the sum to be invested by such institution or society cannot exceed the sum of three hundred pounds in the whole, exclusive of interest and whereas it is expedient to place such societies and institutions, and also penny savings banks, upon the same footing in that respect as friendly societies legally established BE IT THEREFORE ENACTED

Funds of penny savings banks &c may be invested in savings banks to any amount.

1 That it shall be lawful for the trustees or treasurer of any penny savings bank, charitable or provident institution or society, or charitable donation or bequest for the maintenance education or benefit of the poor in Great Britain or Ireland, to invest, with the approval of the commissioners for the reduction of the national debt, or the comptroller general acting under them, and under such regulations as shall be prescribed by them in that respect, the funds of such penny savings bank, institution or society without restrictions as to amount, into the funds of any savings bank duly established

If savings banks rules are already certified they need not be again certified

2 Provided always, that nothing contained in this Act respecting savings banks shall render it necessary to have the rules and regulations again certified if the same have been before certified according to law

23 & 24 Vict c 137 **23 & 24 Vict c 137 An Act to make further Provision with respect to Monies received from Savings Banks and Friendly Societies [28th August, 1860.]**

1 [Powers now vested in commissioners to extend to all parliamentary securities.]
2 [Annual report to be laid before parliament.]

SAVINGS BANKS (POST OFFICE)

24 Vict. c 14 **24 Vict c. 14 An Act to grant additional Facilities for depositing small Savings at Interest, with the Security of the Government for due Repayment thereof [17th May, 1861.]**

"Whereas it is expedient to enlarge the facilities now available for the deposit of small savings, and to make the general post office available for that purpose and to give the direct security of the state to every such depositor for repayment of all monies so deposited by him, together with the interest due thereon BE IT THEREFORE ENACTED

Postmaster general may direct officers in post office to receive deposits

1 It shall be lawful for the postmaster general, with the consent of the commissioners of her majesty's treasury, to authorise and direct such of his officers as he shall think fit to receive deposits for remittance to the principal office, and to repay the same, under such regulations as he, with the concurrence of the commissioners of her majesty's treasury, may prescribe in that respect

Legal title of depositor to repayment.

2 Every deposit received by any officer of the postmaster general appointed for that purpose shall be entered by him at the time in the depositor's book, and the entry shall be attested by him and by the dated stamp of his office, and the amount of such deposit shall upon the day of such receipt be reported by such officer to the postmaster general, and the acknowledgment of the postmaster general, signified by the officer whom he shall appoint for the purpose, shall be forthwith transmitted to the depositor, and the said acknowledgment shall be conclusive evidence of his claim to the repayment thereof, with the interest thereon, upon demand made by him on the postmaster general, and, in order to allow a reasonable time for the receipt of the said acknowledgment, the entry by the proper officer in the depositor's book shall also be conclusive evidence of title for ten days from the lodgment of the deposit, and if the said acknowledgment shall not have been received by the depositor through the post within ten days, and he shall, before or upon the expiry thereof, demand the said acknowledgment from the postmaster general then the entry in his book shall be conclusive evidence of title during another term of ten days, and toties quoties Provided always, that such deposits shall not be of less amount than one shilling, nor of any sum not a multiple thereof

Depositors entitled to repayments not later than ten days after demand made.

3. On demand of the depositor or party legally authorised to claim on account of a depositor, made in such form as shall be prescribed in that behalf, for repayment of any deposit, or any part thereof, the authority of the postmaster-general for such repayment shall be transmitted to the depositor forthwith, and the depositor shall be absolutely entitled to repayment of any sum or sums that may be due to him within ten days at farthest after his demand shall be made at any post-office where deposits are received or paid.

Names of depositors, &c., not to be disclosed.

4. The officers of the postmaster-general engaged in the receipt or payment of deposits shall not disclose the name of any depositor, nor the amount deposited or withdrawn, except to the postmaster-general, or to such of his officers as may be appointed to assist in carrying this Act into operation.

Money to be paid to commissioners for the reduction of the national debt, and repaid to depositors through post office.

5. All monies so deposited with the postmaster-general shall forthwith be paid over to the commissioners for the reduction of the national debt; and all sums withdrawn by depositors, or by parties legally authorised to claim on account of depositors, shall be repaid to them out of the said monies, through the office of her majesty's postmaster-general.

Additional security to depositor.

6. If at any time the fund to be created under the authority of this Act by the investment of the deposits shall be insufficient to meet the lawful claims of all depositors, it shall be lawful for the commissioners of her majesty's treasury, upon being duly informed thereof by the commissioners for the reduction of the national debt, to issue the amount of such deficiency out of the consolidated fund of the united kingdom, or out of the growing produce thereof; and the said commissioners of her majesty's treasury shall certify such deficiency to parliament.

Rate of interest payable to depositors.

7. The interest payable to the parties making such deposits shall be at the rate of two pounds ten shillings per centum per annum, but such interest shall not be calculated on any amount less than one pound or some multiple thereof, and not commence until the first day of the calendar month next following the day of deposit, and shall cease on the first day of the calendar month in which such deposit is withdrawn.

Interest how calculated.

8. Interest on deposits shall be calculated to the thirty-first day of December in every year, and shall be added to and become part of the principal money.

Investment of funds received under this Act.

9. The monies remitted to the commissioners for the reduction of the national debt under the authority of this Act shall be invested in some or in all of the securities in which the funds of savings banks established under the existing laws may be invested: and a separate and distinct account shall be kept by the said commissioners of all receipts, investments, sales, and repayments; and a balance sheet of such account from the first of January to the thirty-first of December in every year shall be laid before both houses of parliament not later than the thirty-first of March in every year.

Depositors desiring to transfer their deposits

10. If any depositor making deposit under this Act shall desire to transfer the amount of such deposit to a savings bank established under the Acts relating to savings banks, he shall, upon application to the chief office of the postmaster-general, be furnished with a certificate stating the whole amount which may be due to him, with interest, and thereupon his account under this Act shall be closed; and, upon delivery of such certificate to the trustees or managers of the savings bank to which it is proposed by the depositor to transfer such deposit, they shall, if they think fit, open an account for the amount stated in such certificate for such depositor, who shall thereupon be subject to the rules of such savings bank; and the amount so transferred shall, upon such certificate being forwarded to the commissioners for the reduction of the national debt, be written off in the books of the said commissioners from the amount of monies received under the authority of this Act, and shall be carried to the account of the savings bank to which such transfer shall have been made; and, in like manner, if any depositor in a savings bank established under the savings bank Acts shall desire to transfer the amount due to him, with interest, from such savings bank to the postmaster-general, for deposit under the provisions of this Act, the trustees or managers of such savings bank shall, upon his request, furnish such depositor with a certificate, in a form to be approved by the commissioners for the reduction of the national debt, signed by two trustees of such savings bank, and thereupon his account with such savings bank shall be closed, which certificate the depositor may deliver to any officer of the postmaster-general authorised to receive deposits under this Act, and such certificate shall for the amount therein set forth be considered to be a deposit made under the authority of this Act, and being forwarded to the said commissioners, the said amount shall then be transferred in the books of the said commissioners from the account of the said savings bank to the credit of the account of monies deposited under the authority of this Act: Provided always, that nothing contained in this Act respecting savings banks shall render it necessary to have the rules and regulations of any savings bank again certified if the same have been before certified according to law.

Not necessary to have rules, &c., of savings banks again certified.

Postmaster-general, with consent of treasury, to make regulations

11. The postmaster-general, with the consent of the commissioners of her majesty's treasury, may make, and from time to time, as he shall see occasion, alter regulations for superintending, inspecting, and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits and to the withdrawal of deposits and interest, and all other matters incidental to the carrying this Act into execution, in his department, and all other regulations so made shall be binding on the parties interested in the subject matter thereof to the same extent as if such regulations formed part of this Act; and copies of all regulations issued under the authority of this Act shall be laid before both houses of parliament within fourteen days from the date

Copies of regulations

24 Vict. c. 14.

to be laid before parliament

thereof, if parliament shall be then sitting, and if not, then within fourteen days from the next reassembling of parliament.

Accounts to be laid before parliament.

12. An annual account of all deposits received and paid under the authority of this Act, and of the expenses incurred during the year ended the thirty-first of December, together with a statement of the total amount due at the close of the year to all depositors, shall be laid by the postmaster-general before both houses of parliament not later than the thirty-first of March in every year.

Accounts to be examined by commissioners of audit.

13. The annual accounts of the postmaster-general, and of the commissioners for the reduction of the national debt, to the thirty-first of December in each year, in respect to all monies deposited or invested under the authority of this Act, shall annually, prior to the thirty-first of March in each year, be submitted for examination and audit to the commissioners for auditing public accounts.

Provisions of Savings Bank Acts applicable to this Act.

14. All the provisions of the Acts now in force relating to savings banks as to matters for which no other provision is made by this Act shall be deemed applicable to this Act, so far as the same are not repugnant thereto.

Expenses of Act

15. All expenses incurred in the execution of this Act shall be paid out of the monies received under the authority of this Act.

26 Vict. c. 14.

26 Vict. c. 14. An Act to amend the Law relating to Post Office Savings Banks. [4th May, 1863.]

"Whereas it is expedient to amend the law relating to post office savings banks; to provide for the relief of the trustees where savings banks have been or shall be closed; and to make further provision in respect to the investment of the monies of post office savings banks:" BE IT THEREFORE ENACTED as follows:

As to transfer of accounts of minors

1. In the case of the accounts of minors, or of accounts standing in the names of a minor and any other party, either in a post office savings bank or in a savings bank established under the laws relating to savings banks, the postmaster-general in the one case, and the trustees of the savings bank in the other, on the application in writing of the parent or other relative of the minor if under seven years of age, and of the minor himself if above that age, and also of the other party, if any, in whose name the account may stand, shall issue a certificate for the transfer of such account, and of all money standing to the credit of such account, according to the provisions of the Act twenty-four Victoria, chapter fourteen, section ten (a), anything in the rules of any savings bank notwithstanding, and such account so transferred shall be opened in the post office savings bank or other savings bank to which the transfer is made in the name of such party, if any, and of the minor, or in the name of the minor alone, as the case may be; and the receipt of the party or parties making such application and receiving such transfer certificate shall be a sufficient discharge to the postmaster general and to such trustees; but the money so transferred shall not be withdrawn, except with the consent of the postmaster-general, or of any two trustees or managers of the savings bank to which the transfer is made, until the minor shall have attained the age at which it might have been withdrawn under the rules of the savings bank from which it was transferred, a note whereof shall be made on the said certificate.

On closing of savings banks, funds, &c., to be paid over to commissioners for reduction of national debt.

2. Upon the final closing of any savings bank, or where any savings bank has already closed, the trustees or trustee for the time being thereof, or any two or more of them, shall forthwith notify the same in writing to the commissioners for the reduction of the national debt, and shall, with the consent of the said commissioners, convert into money any property, not being money, held by the said trustees of the savings bank, or by any person as trustee for the savings bank, and after paying the expenses of such conversion, and any claims thereon, shall account for and pay over the residue to the said commissioners, to be by them carried to the separate surplus fund standing in the books of the said commissioners, and the monies carried on account of each savings bank to the said separate surplus fund under this and the following section of this Act shall be subject to any claim that may thereafter be substantiated on account of any depositor in the savings bank so closed; and the receipt in writing of the said trustees or trustee for the time being, or any two or more of them, for any money paid to them by any purchaser or lessee, shall be an effectual discharge for the same, and the purchaser or lessee shall not be obliged to see to the application of such money or be accountable or answerable for the loss, misapplication, or non-application thereof, or be bound to inquire whether the assent of the said commissioners has been obtained to such sale or lease, or to the regularity thereof; and all purchases of any freehold or copyhold or leasehold estates which have already been made or may hereafter be made, with the consent of the commissioners for the reduction of the national debt or the comptroller-general acting under them, by the trustees of any savings bank, with the monies thereof, shall be and shall be deemed to have been as good, valid, and effectual in the law to all intents and purposes whatsoever

Receipt of trustees on sale of property to be a discharge to purchaser

Security to purchasers.

(a) Ante, p. 143.

as if the same had been or were expressly authorised or sanctioned by any statute relating to savings banks; and such purchases shall not be liable to any objection or their validity affected by reason of any defect in the right or power of such trustees to make such purchases; and a certificate under the hand of the said comptroller-general of any such purchase having been made, with such consent and with such monies as aforesaid, shall for all purposes whatsoever be conclusive evidence thereof: provided always, that trustees of savings banks which are desirous of closing shall have power to compensate their officers out of any separate surplus fund that may belong to any such savings bank, with the consent of the commissioners for the reduction of the national debt. 28 Vict. c. 14.

Provision when trustees have determined on closing savings banks

3. When the trustees of any savings bank shall have determined to close the savings bank for the receipt of deposits, and shall have given public notice of such intention by letter through the post office, prepaid, to each depositor at his residence when known, by advertisement in some one newspaper circulating in the district in which the savings bank is situate, and by affixing such notice on the outer door of the building in which the business of the savings bank is carried on, and shall have paid off three-fourths of their depositors amount, either in money or by transfer to a post office savings bank, such trustees may, if they think fit, transmit, under the hands of two trustees and three managers, to the commissioners for the reduction of the national debt a certified list of such depositors as have not applied to them to receive their deposits or for transfer certificates, and of the amount due to them respectively, and the said commissioners may thereupon receive from the said trustees all money remaining in the hands of the said trustees or of their treasurer, and if such money, with the money belonging to the said savings bank in the hands of the said commissioners, together with the proceeds of the sale of other property, as referred to in section two of this Act, shall be sufficient to discharge the whole of the liabilities of such trustees to the depositors, as set forth in the said list, then the certificate of the said commissioners shall be a sufficient discharge to the said trustees in respect of all such money so paid over, or in the hands of the said commissioners; and all such monies shall be held by the said commissioners, subject to the rights and claims of the depositors named in such list, who shall thenceforth be considered to be depositors in a post office savings bank; and such depositors, on presenting their deposit books at any post office savings bank, shall be entitled to claim payment of the sums due to them respectively, with the interest due to them thereon, and on establishing their claim shall be paid out of the monies so paid over by the trustees under this and the foregoing section of this Act and in the hands of the commissioners as above referred to, and the surplus of such monies, if any, after providing for the sums due to such depositors, shall be carried to the separate surplus fund in the books of the said commissioners.

As to conversion of annuities

4. The commissioners of her majesty's treasury, by warrant under the hands of any two or more of them, addressed to the governor and company of the bank of England, may from time to time direct that out of the total amount of the capital stock of any perpetual government annuities, bearing interest at or exceeding the rate of three per centum per annum, standing in the names of the commissioners for the reduction of the national debt on account of post office savings banks in the books of the bank of England, the amount of stock mentioned in such warrant shall be cancelled, and that in place thereof there shall be created and inscribed in the said books, in the names of the said commissioners, a like amount of capital stock bearing interest at the rate of two pounds ten shillings per centum per annum; and the said commissioners of her majesty's treasury shall by the said warrant authorise and direct the said governor and company to create and inscribe in the books of the bank, in addition to the said capital stock, bearing an interest of two pounds ten shillings per centum per annum, such an amount of annuity for a term of years ending on the fifth April, one thousand eight hundred and eighty-five, as shall be equivalent in value to the difference between the rate of two pounds ten shillings per centum and the rate of interest on the capital stock so cancelled, and the amount of such terminable annuity shall be ascertained and determined by the tables in force under the Act of the tenth George the fourth, chapter twenty-four, under the authority of which annuities for terms of years are granted by the said commissioners for the reduction of the national debt; and such stock and annuities so created in lieu of the annuities cancelled shall be held by the said commissioners for post office savings banks; and all such two pounds ten shillings perpetual annuities shall be consolidated with and be deemed part of the two and a half per centum annuities created under the Act of the sixteenth Victoria, chapter twenty-three, section two, and such terminable annuities shall be consolidated with and form part of the terminable annuities created under the Act of the twenty-third and twenty-fourth Victoria, chapter one hundred and nine, section three, and the interest thereon shall be charged on the consolidated fund, and be paid and payable to the bank of England, and such warrant shall be a sufficient authority to the said governor and company for the creation and inscription of the said stock and annuities respectively.

Power to appoint managers to sign transfer certificates

5. The trustees of any savings bank, at a meeting called for that purpose, may appoint any number of managers to sign transfer certificates; and the signatures of any two of such managers to a transfer certificate shall be a sufficient authority to the commissioners for the reduction of the national debt to transfer the amount set forth in such certificate; provided that a list of such managers, with their signatures certified by two trustees, shall have been previously deposited with the commissioners for the reduction of the national debt; and provided also, that the said trustees may from time to time revoke such appointment and appoint other managers, notifying such revocation and appointment to the said commissioners.

26 Vict. c. 14.

Warrants to be laid before parliament.

6. Whenever the commissioners of her majesty's treasury shall exercise the powers vested in them by the fourth section of this Act, copy of the warrant issued in respect thereof by the said commissioners shall be laid before both houses of parliament within ten days from the date thereof, if parliament shall then be sitting, and if not then sitting then in the ten days after the then next assembling of parliament.

26 Vict. c. 25.

26 Vict. c. 25. An Act to make further Provision for the Investment of the Monies received by the Commissioners for the Reduction of the National Debt from the Trustees of Savings Banks established under the Enactments of the Act Ninth George the Fourth, Chapter Ninety-two. [8th June, 1863.]

26 & 27 Vict. c. 87.

26 & 27 Vict. c. 87. An Act to consolidate and amend the Laws relating to Savings Banks. [28th July, 1863.]

"Whereas numerous banks for savings have been established under the authority of the Acts now in force for the safe custody and increase of small savings: And whereas it is expedient to amend such laws and to consolidate the same in one Act:" BE IT THEREFORE ENACTED as follows:

After 20th Nov. 1863, the Acts and parts of Acts specified in schedule to this Act, marked A., repealed.

Not to invalidate appointments, &c., under former Acts.

Proviso as to certain savings banks in Scotland established under 59 Geo. 3, c. 62.

1. That the Acts and parts of Acts set forth in the schedule to this Act marked A., to the extent to which they are herein expressed (a), and all other Acts and parts of Acts which are inconsistent with this Act, relating to savings banks established under such Acts, are repealed from and after the twentieth day of November, one thousand eight hundred and sixty-three, except in so far as is provided by the last section of this Act: provided nevertheless, that nothing herein contained shall invalidate or annul any payments, receipts, or appointments made, or proceedings had, or bonds or securities taken or entered into, or drafts, powers of attorney, certificates, orders, or other instruments whatsoever executed, under the authority of any of the said Acts or parts of Acts hereby repealed: provided also, that the provisions of an Act passed in the fifty-ninth year of the reign of king George the third, intituled "An Act for the Protection of Banks for Savings in Scotland," shall continue in force as to all savings banks established under it before the passing of this Act, unless and until they shall conform to and be established under the provisions of this Act.

What institutions shall be entitled to the privileges and benefits of this Act.

2. And whereas it is expedient to give protection to such savings banks already established as aforesaid and the funds thereof, and to afford encouragement to the formation and establishment of like institutions: BE IT THEREFORE ENACTED, That if any number of persons have formed or shall form any society in any part of the united kingdom of Great Britain and Ireland for the purpose of establishing and maintaining any institution in the nature of a bank to receive deposits of money for the benefit of the persons depositing the same, to accumulate the produce of so much thereof as shall not be required by the depositors, their executors or administrators, at compound interest, and to return the whole or any part of such deposit and the produce thereof to the depositors, their executors or administrators (deducting out of such produce so much as shall be required for the necessary expenses attending the management of such institution), but deriving no benefit whatsoever from any such deposit or the produce thereof, and shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules and regulations established or to be established for the management of such institution to be entered, deposited, and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to and shall have the benefit of the provisions contained in this Act: provided always, that the privilege of paying money into the banks of England or Ireland, and of receiving receipts for the same, shall be and the same is hereby declared to be extended to all such savings banks as may have formed or may hereafter form their rules and regulations according to the provisions of this Act; and it shall and may be lawful for the trustees of such savings banks respectively to invest any funds already accumulated by such savings banks, and which shall not have been invested at the time of the passing of this Act, and to receive receipts for the same in manner authorized by this Act: provided nevertheless, that no such savings bank to be hereafter formed shall have or be entitled to the benefits of the provisions in this Act contained, unless the formation of the same shall have been sanctioned and approved of by the commissioners for the reduction of the national debt, or on their behalf, by the comptroller-general or assistant comptroller acting under the said commissioners.

No new banks to be formed unless approved by commissioners of national debt.

(a) The statutes repealed by this schedule are Geo. 4, c. 92, the whole; 3 Will. 4, c. 14, sections 21, 22, 25, 28, 29, 30, 31, 32, 33, 34, and 35; 5 & 6 Will. 4, c. 57, the whole; 7 & 8 Vict. c. 83, the whole; 11 & 12 Vict. c. 133, the whole; 17 & 18 Vict. c. 50, section 2; 22 & 23 Vict. c. 53, the whole; 23 & 24 Vict. c. 137, the whole.

26 & 27 Vict. c. 87.

Rules of savings bank to be entered in a book and be open to the inspection of depositors.

Not to prevent alterations of rules.

Alterations to be entered in like manner.

3. No such savings bank as aforesaid shall have the benefit of this Act unless the rules and regulations for the management thereof shall be entered in a book or books to be kept by an officer of such savings bank to be appointed for that purpose, and which book or books shall be open at all seasonable times for the inspection of the persons making deposits in the funds of such savings bank. But, nevertheless, nothing herein contained shall extend to prevent any alteration in or amendment of any such rules or regulations, or repealing or annulling the same or any of them in the whole or in part, or making any new rules or regulations for the management of such savings bank in such manner as by the rules and regulations of such savings bank shall from time to time be provided; but such new rules or regulations, or such alterations in or amendments of former rules or regulations, or any order annulling or repealing any former rule or regulation in the whole or in part, shall not be in force until the same respectively shall be entered in such book or books as aforesaid.

Two written or printed copies of rules, &c., to be submitted to barrister for his certificate.

Fee payable to barrister.

Barrister to return one copy to savings bank and transmit the other copy to commissioners.

4. Two written or printed copies of all rules or alterations of rules made for the management of any savings bank requiring the benefits of this Act, signed by two trustees, shall with all convenient speed after the same shall be made, altered, or amended, and so from time to time after every making, altering, or amending thereof, be submitted by the trustees and managers for the time being of such savings bank to the barrister-at-law appointed by the commissioners for the reduction of the national debt, for the purpose of ascertaining whether the said rules, or alterations or amendments thereof, are in conformity to law and with the provisions of this Act; and the said barrister shall give a certificate on each of the said written or printed copies that the same are in conformity to law, or point out in what part or parts the said rules, alterations, or amendments are repugnant thereto; and the fee to be paid to such barrister for perusing the rules, alterations, or amendments of the rules of such savings bank, and giving such certificate as aforesaid, shall not at any one time exceed the sum of one guinea; and one of such written or printed copies, when certified by the said barrister, shall be returned to the trustees of the said savings bank, and the other of such written or printed copies shall be transmitted by such barrister to the commissioners for the reduction of the national debt; and all rules, alterations, and amendments thereof from the time when the same shall have been certified by the said barrister shall be binding on the trustees, managers, and officers of the said savings bank and the depositors therein, and their representatives, and the copy of such rules deposited with the said commissioners, or a true copy thereof examined with the original and proved to be a true copy shall be received as evidence of such rules respectively in all cases, and no certiorari shall be brought or allowed to remove any such rules into any of her majesty's courts of record: provided that nothing herein contained shall be construed to require any rule making any alteration in the days or hours of attendance at any such savings bank as aforesaid to be laid before such barrister.

As to title of savings banks certified under this Act.

Penalty on using or adopting titles of other banks.

5. Every savings bank established or to be established under the provisions of the said hereby repealed Acts or this Act shall be certified under the provisions of this Act by the title of "Savings Bank certified under the Act of 1863;" and if any other bank, association or company, or any other person, shall use or adopt such title as their or his designation, or in carrying on business, the members of every such association or company, or any of them, or any such person respectively, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable accordingly.

No savings bank, subject to proviso hereinafter contained with respect to branch offices, &c., shall have the benefit of this Act unless in rules, &c., it shall be expressly provided as herein specified.

6. No savings bank, subject to the proviso hereinafter contained with respect to the branch offices or local receivers of any savings bank, shall have the benefit of this Act unless in the rules and regulations for the management thereof it shall be expressly provided,—

1. That no person or persons being treasurer, trustee, or manager of such savings bank, or having any control in the management thereof, shall derive any benefit from any deposit made in such savings bank, save only and except such salaries and allowances or other necessary expenses as shall according to such rules and regulations be provided for the charges of managing such savings bank, and for remuneration to officers employed in the mangement thereof, exclusive of the treasurer or treasurers, trustee or trustees, manager or managers, or other persons having direction in the management of such savings bank, who shall not directly or indirectly have any salary, allowance, profit or benefit whatsoever therefrom beyond their actual expenses for the purposes of such savings bank:
2. That not less than two persons, being either trustees, managers, or paid officers appointed for that specific purpose, and where two only, except in the case of savings banks which are open for more than six hours in every week, one such person to be a trustee or manager, be present on all occasions of public business, and be parties to every transaction of deposit and repayment, so as to form at lease a double check on every such transaction with depositors:
3. That the depositor's pass book shall be compared with the ledger on every transaction of repayment, and on its first production at the bank after each twentieth day of November:
4. That every depositor in a savings bank established under this Act shall once at least in every year cause his deposit book to be produced at the office of the said savings bank for the purpose of being examined:
5. That no money be received from or paid to depositors except at the office or branch

26 & 27 Vict. c. 87.

offices where the business of the savings bank is carried on under the authority of the board of managers, and during the usual hours for public business :

6. That a public accountant or one or more auditors be appointed by the trustees and managers, but not out of their own body, to examine the books of the bank, and to report in writing to the board or committee of management the result of such audit, not less than once in every half year, also to examine an extracted list of the depositors' balances made up every year to the twentieth day of November, and to certify as to the correct amount of the liabilities and assets of the bank :

7. That a book containing such extracted list of every depositor's balance, omitting the name, but giving the distinctive number and separate amount of each, and showing the aggregate number and amount of the whole, checked and certified by such public accountant or auditors, be open at any time during the hours of public business for the inspection of every depositor as respects his own account, to examine his own deposit book therewith, and the general results of the same :

8. That the trustees and managers or committee of management shall hold meetings once at least in every half year, and shall keep minutes of their proceedings in a separate book provided for that purpose :

Proviso with respect to branch offices and local receivers of banks.

9. Provided that where savings banks are established with agents or local receivers elsewhere than at the head office, the rules shall provide for the due receipt of and accounting for all monies by such agents or local receivers on account of such savings banks respectively, and also for the presence of a second party in every transaction when money is paid or received, and also for the periodical examination of the depositors' books with the ledger once at least in every year.

Weekly returns to be made by savings banks to the commissioners

7. The trustees and managers of every savings bank shall transmit weekly returns to the commissioners for the reduction of the national debt, in such form and giving such particulars as the said commissioners may direct, showing the amounts of the week's transactions of such savings bank, and the amount of the cash balances remaining in the hands of the treasurer, or any other person on account of such savings bank.

Treasurer and other officers intrusted with receipt or custody of money to give security

8. Every treasurer, actuary, or cashier who shall be intrusted with the receipt or custody of any sum of money subscribed or deposited for the purpose of such savings bank, or any interest or dividend from time to time accruing therefrom, and every officer or other person receiving any salary or allowance for his services from the funds of any savings bank (except in the cases of supernumerary assistants employed at the periods of balancing the accounts), unless he shall already have given good and sufficient security, shall give good and sufficient security, to be approved of by not less than two trustees and three managers of such savings bank, for the just and faithful execution of such office or trust ; and such security, when given by an actuary or cashier, or officer or other person receiving any salary or allowance for his services as aforesaid, shall be given by bond or bonds, with one or more sureties, to the comptroller-general of the national debt office for the time being without fee or reward, and in case of forfeiture it shall be lawful for the trustees or managers for the time being of such savings bank to sue upon such bond or bonds in the name of such comptroller-general for the time being, and to carry on such suit at the costs and charges and for the use of the said savings bank, fully indemnifying and saving harmless such comptroller-general from all costs and charges in respect of such suit, and such bond shall, when executed, be deposited with the commissioners for the reduction of the national debt, and the said commissioners may, upon application, signed by not less than two trustees and three managers, in such form as the said commissioners shall direct, deliver up to the trustees of the savings bank any such bond or bonds which may have been or shall hereafter be deposited with them for the purpose of being cancelled.

Punishment of actuary, &c., receiving deposits and not paying over same to managers, &c.

9. If any actuary, cashier, secretary, officer, or other person holding any situation or appointment in any savings bank shall receive any sum or sums of money from or on account of any depositor or person desirous of becoming such, or on account of such savings bank, and shall not forthwith, or in the case of local receivers acting on behalf of any savings bank within the time specified in the rules of the said savings bank, duly account for and pay over the same to the trustees or managers thereof, or to such person as may be directed by the rules of the said savings bank, such actuary, cashier, secretary, officer, or local receiver, or other person as aforesaid, on being convicted thereof shall be guilty of a misdemeanor.

Effects of savings bank vested in trustees for the time being

10. All monies, goods, chattels, and effects whatever, and all securities for money, or other obligatory instruments and evidences or muniments and all other effects whatever, and all rights or claims belonging to or had by such savings bank, shall be vested in the trustee or trustees of such savings bank for the time being, for the use and benefit of such savings bank and the respective depositors therein, their respective executors or administrators, according to their respective claims and interests, and after the death or removal of any trustee or trustees shall vest in the succeeding trustee or trustees for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, and also shall for all purposes of action or suit, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (where necessary) be stated to be, the property of the person or persons appointed to the office of trustee or trustees of such savings bank for the time being in his, her or their proper name or names, without further description, and such person or persons shall and they are hereby respectively authorised to bring or defend, or cause to be brought or defended, any action, suit or prosecution, criminal as well as civil, in law or equity, touching

or concerning the property, right or claim aforesaid, of or belonging to or had by such savings bank; and such person or persons so appointed shall and may in all cases concerning the property, right or claim aforesaid of such savings bank sue and be sued, plead and be impleaded, in his or their proper name or names as trustee or trustees of such savings bank, without other description; and no such suit, action or prosecution shall be discontinued or abate by the death of such person or persons, or his or their removal from the office of trustee or trustees as aforesaid, but the same shall and may be proceeded in by the succeeding trustee or trustees in the proper name or names of the person or persons commencing the same, any law, usage or custom to the contrary notwithstanding, and such succeeding trustee or trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names for the benefit of or to be reimbursed from the funds of such savings bank. 26 & 27 Vict. c. 87.

11. No trustee or manager of any savings bank (subject to the provision hereinafter contained in respect to savings banks in Ireland) shall be personally liable, except— Liability of trustees, &c.

1. For monies actually received by him on account of or for the use of such savings bank, and not paid over and disposed of in the manner directed by the rules of the savings bank:
2. For neglect or omission in complying with the rules and regulations required by this Act to be adopted as hereinbefore is provided in the maintenance of checks, the audit and examination of accounts, the holding of meetings and keeping minutes of proceedings thereat:
3. And also for neglect or omission in taking security from officers as is hereinbefore provided.

12. Any trustee or manager of a savings bank in Ireland who has declared or shall declare in writing under his hand deposited with the commissioners for the reduction of the national debt, that he is willing to be answerable for a specific amount only, such amount being in no case less than one hundred pounds, shall not be liable to make good any deficiency which may thereafter arise in the funds of such savings bank beyond the amount specified in such writing: provided always, that the trustee and manager of every savings bank in Ireland shall be personally liable for all monies actually received by him on account of or to and for the use of such savings bank and not paid over and disposed of in the manner directed by the rules of the said savings bank; and an extract of this provision shall be enrolled as one of the rules of every such savings bank in Ireland and printed and affixed in every office or place where deposits are received, with the names and places of residence of the trustees and managers for the time being, and the amount (if any) to which they have collectively or individually limited their responsibility. Power to trustees and managers of savings banks in Ireland to limit such responsibility.

13. Every person who shall have or receive any part of the monies, effects or funds of or belonging to any savings bank availing itself of the provisions of this Act, or who shall in any manner have been or shall be entrusted with the disposition, management or custody thereof, or of any securities, books or papers, or property relating to the same, his executors, administrators and assigns, shall, upon demand made in pursuance of any order of not less than two trustees and three managers of such savings bank, or at any general meeting of the trustees or managers thereof, give in his or their account or accounts to the said trustees or managers, or to such general meeting of such savings bank, or to such other person or persons as shall be nominated to receive the same, to be examined and allowed or disallowed by the said trustees or managers respectively, and shall on the like demand pay over all the monies remaining in his or their hands, and assign and transfer or deliver all securities and effects, books, papers and property in his or their hands or custody to such person or persons as the said trustees or managers shall appoint, and in case of any neglect or refusal to deliver such account, or to pay over such monies, or to assign, transfer or deliver such securities, effects, funds, books, papers or property in manner aforesaid, it shall be lawful to and for the trustee or trustees of such savings bank for the time being to exhibit a petition to the justices of the peace at their general or quarter sessions of the peace, or at any adjournment thereof, for the county, riding, division or place wherein such savings bank shall be established, who shall and may proceed thereupon in a summary way, and make such order therein, upon hearing all parties concerned, as to such court in their discretion shall seem just, which order shall be final and conclusive, and all assignments, sales and transfers made in pursuance of such order shall be good and effectual in law to all intents and purposes whatsoever. Treasurer and trustees, &c., to account and deliver up effects when required.

14. If any person already appointed or who may hereafter be appointed to any office in a savings bank, and being entrusted with the keeping of the accounts, or having in his hands or possession by virtue of his said office or employment any monies or effects belonging to such savings bank, or any deeds or securities relating to the same, shall die, or become a bankrupt or insolvent, or have any execution or attachment or other process issued against his lands, goods, chattels, or effects, or make any assignment thereof for the benefit of his creditors, his executors, administrators or assignees, or other persons having legal right, or the sheriff or other officer executing such process, shall, within forty days after demand made by two of the trustees of the said savings bank as aforesaid, deliver and pay over all monies and other things belonging to such savings bank to such person as the said trustees shall appoint, and shall pay out of the estates, assets or effects of such person all sums of money remaining due, which such person received by virtue of his said office or employment, before any other of his debts are paid or satisfied, or before the money directed to be levied by such process as aforesaid is paid over to the party issuing such process, and all such assets, lands, goods, chattels, estates and effects shall be bound to the payment and discharge thereof accordingly. Executors, &c., of officers of savings banks to pay money due to savings banks before any other debts.

26 & 27 Vict. c. 87.

Trustees of savings banks shall invest all money in the banks of England or Ireland and not in any other security.

15. The several sums of money belonging to any savings bank which the trustees of such savings bank respectively are authorized to invest under this Act or under any rules or regulations of any such savings banks shall, except as hereinafter is excepted, be paid into and invested in the bank of England or the bank of Ireland, as the case may require, in the names of the commissioners for the reduction of the national debt, according to the provisions of this Act enabling such trustees to make investments in the names of the said commissioners, and no such sum or sums shall be paid or laid out by the trustees of such savings bank in any other manner or upon any other security whatever, except as aforesaid, and except such sums of money as from time to time shall necessarily remain in the hands of the treasurer or treasurers of such savings bank to answer the exigencies thereof: provided always, that nothing herein contained shall restrain or prevent any depositor, or any trustee or trustees acting on behalf of any depositor or depositors of any friendly society, or any charitable or provident institution or society, or penny savings bank, from withdrawing from any such savings bank any sum or sums of money which shall have been deposited by such depositor, friendly society, charitable or provident institution or society, or penny savings bank, and investing the same in any other securities: provided always, that the trustees of any savings bank already established, or which shall take the benefit of this Act in manner hereinbefore provided, shall be and they are hereby empowered to pay into the bank of England or Ireland (as the case may be) any sum or sums of money, not being less than fifty pounds, to the account of the commissioners for the reduction of the national debt, upon the declaration of the trustees of such savings bank, or any two or more of them, that such monies belong exclusively to the savings bank for which such payment is intended to be made, whether such monies shall have been deposited therein before the passing of this Act or thereafter shall be deposited therein, and the cashier or cashiers of the banks of England and Ireland respectively are hereby required to receive all such monies, and to place the same into the account raised in the names of the said commissioners in the books of the banks of England and Ireland respectively, denominated "The Fund for the Banks for Savings:" provided nevertheless, that previous to any payment being made into the banks of England or Ireland as aforesaid, the person or persons applying for that purpose shall in all cases produce to the officer of the said commissioners, at their office in London or Dublin (as the case may be) an order under the hands of two of the trustees of such savings bank on the account of which such payment is to be made.

Not to prevent depositors withdrawing their money from savings banks for investment in other securities.

Trustees empowered to pay into the banks of England or Ireland any sum not less than 50*l.* to the account of the commissioners for the reduction of the national debt.

Previous to payments an order of two trustees to be produced.

Not to prevent trustees from receiving money to be applied in any other manner.

16. Nothing in this Act contained shall extend to prevent the trustees of any savings bank already established or to be established receiving any sum or sums of money from any depositor for any purpose except to be paid into the bank to the account of the commissioners for reduction of the national debt, and it shall be lawful for such trustees to apply any such sum or sums of money in any other manner for the benefit of the several depositors according to the rules and regulations of such savings banks respectively, anything in the said hereby repealed Acts or in this Act contained to the contrary notwithstanding.

Central banks may invest the money of branch banks.

17. In cases where any savings banks have been or shall be established in any town or place, and other smaller banks have been or shall be established in the neighbourhood of such town or place as branch banks thereof, and such branch banks by their treasurers have paid or shall pay any sums into the bank in any such town or place as a central bank, it shall and may be lawful for the said trustees of any such central bank, or any two of them, to pay into the bank of England or Ireland in manner prescribed by this Act, along with the monies belonging to such central bank, any sum or sums of money belonging to and on account of any such branch bank: provided always, that the treasurer of such branch banks shall certify to the treasurer of such central bank that the amount contributed by any one depositor in any such branch bank in any one year does not exceed the limit of deposits authorized by this Act.

Penalties on false declaration to obtain receipts.

18. If any order or declaration produced to the said officer for the purpose of paying monies into the banks of England or Ireland to the account of the said commissioners as aforesaid shall contain any matter or thing which be false or untrue, then and in every such case the sum so paid shall be forfeited to the said commissioners.

How monies paid in on savings banks account are to be invested by commissioners.

19. The said commissioners shall cause all the monies paid into the banks of England and Ireland respectively, and placed to their account in pursuance of the provisions of this Act, to be invested from time to time in their names and to be carried to the account hereinbefore provided, under such regulations that the said commissioners shall direct in the purchase of bank annuities or exchequer bills or parliamentary securities of whatsoever kind created or issued or which may hereafter be created or issued under the authority of any Act or Acts of parliament for the interest on which provision is made by parliament, or any stock or debenture or other securities expressly guaranteed by authority of parliament, and the interest which shall from time arise and become due thereon shall in like manner be invested in the purchase of such government annuities or exchequer bills or securities aforesaid.

Quorum of commissioners.

20. It shall be lawful for any three or more of the commissioners for the reduction of the national debt for the time being to execute and do all matters and things which the said commissioners are required or empowered to do in the execution of this Act.

On payment of money

21. From and after the twentieth day of November, one thousand eight hundred and sixty-three, all receipts issued prior to that day to the trustees of savings banks estab-

lished under the said hereby repealed Acts by the commissioners for the reduction of the national debt shall carry interest at the rate of three pounds five shillings per centum per annum; and from and after the said twentieth day of November, one thousand eight hundred and sixty-three, upon the payment of any sum or sums of money into the banks of England or Ireland to the account of the said commissioners by the trustees of any savings bank established under the said hereby repealed Acts or this Act, it shall be lawful for the officer or officers of the said commissioners in that behalf, and he and they is and are hereby authorized and empowered, to issue, upon every such payment being made, a receipt signed by one of the cashiers of the governor and company of the bank of England or Ireland, as the case may be, for the amount of such payment, carrying interest at the like rate of three pounds five shillings per centum per annum from the day of such payment inclusive, payable with the principal at the banks of England and Ireland respectively whenever the same shall be required or drawn for in manner directed by this Act, and such receipt shall be dated on the day on which the payment of any such sum or sums of money shall be made respectively, and every such receipt shall be in such form as shall be from time to time directed by the said commissioners, and the principal and interest of all sums mentioned in any receipt shall be charged and chargeable upon, and the same are hereby charged and made payable out of, all or any monies standing in any account in the names of the said commissioners, or out of any monies produced by the sale of any stock or annuities, funds or exchequer bills or other securities standing in their names in the books of the banks of England and Ireland respectively, as the said commissioners shall from time to time direct: provided always, that no fractional part less than one penny shall be allowed or paid as interest upon the principal sum contained in any receipt issued under the provisions of this Act.

26 & 27 Vict. c. 87.

Into the bank to the account of national debt commissioners, their officer shall give a receipt for the same, carrying interest at 3*l.* 5*s.* per cent. per annum.

22. All interest which shall become due and payable upon any sum of money mentioned in any such receipt upon the twentieth day of November and the twentieth day of May in every year next after the date of any such receipt shall be from time to time calculated and computed by the officer of the said commissioners, and shall in each and every year be placed to the credit of the savings bank on whose account any such sum of money was paid within six weeks from such twentieth day of November and twentieth day of May respectively, and shall be carried to and written on the account of such savings bank, and shall become principal, and shall from thenceforth carry interest as principal money paid into the said bank of England or Ireland, as the case may be, on the account of such savings bank; and a receipt according to such form as the said commissioners shall approve shall be signed by the officer of the said commissioners, and shall be issuable by the said officer half-yearly within sixty days from and after such twentieth day of November and twentieth day of May respectively (and such receipts shall bear date the twenty-first day of November and twenty-first day of May respectively) for the amount of such interest so credited and made principal as aforesaid as if the amount thereof had been a payment made by the trustees of such savings bank to the account of the said commissioners: provided always, that no interest shall be computed or calculated on any fractional part of a pound of the half-yearly balance standing in the books of the said commissioners on account of any savings bank on any twentieth day of November or twentieth day of May respectively.

Interest due on money mentioned in receipt to be calculated half-yearly up to 20th November and 20th May, and carried to account of savings bank as additional principal.

No interest to be allowed on any fractional part of a pound.

23. It shall be lawful for the trustees and managers of any such savings bank, if they shall so think fit, to direct that all interest which shall be payable to the depositors in such savings bank shall yearly, or twice in each and every year, be calculated and computed by the trustees of such savings bank, or such person or persons as they shall appoint, and shall be carried to the credit of such depositors respectively, and shall become principal, and shall from thenceforth carry interest in all respects as other principal money deposited in the same banks, or as if the said sum of interest so credited to the said depositors respectively had actually been paid to the said depositors, and by them repaid to the said trustees and managers, any law, statute, or usage to the contrary notwithstanding: provided always, that from and after the twentieth day of November, one thousand eight hundred and sixty-three, the interest payable to depositors by the trustees and managers of any savings banks shall not exceed the rate of three pounds and tenpence per centum per annum.

Interest arising to depositors may be calculated yearly or twice a year, and carried to their credit as principal.

Interest to depositors not to exceed 3*l.* 0*s.* 10*d.* per cent. per annum

24. Before trustees of any savings bank shall make any order or draft for payment by the said commissioners of any sum or sums of money under this Act, the trustees of such savings bank shall make, give, sign, and execute an appointment under the hands and seals of not less than two of such trustees, and the execution of which shall be attested by two managers of the same savings bank, empowering and authorizing some person or persons named in such appointment to be agent or agents for receiving all and every such sum and sums of money as such trustees shall from time to time require to be paid by such commissioners, and every such appointment shall be produced by or on behalf of the person or persons named therein to the officer of the said commissioners fourteen days at least before the payment of any sum or sums of money on account of such savings bank; and such appointment shall remain deposited in the office of the said commissioners; and every such appointment shall be made in such form and under such regulations as shall from time to time be directed or required or approved of by the said commissioners or their officer: provided always, that it shall be lawful for the trustees of any savings bank by whom any such appointment shall be made, given, signed, and executed, or for the survivors or survivor of such trustees, to revoke such appointment by any certificate or other instrument under the hands and seals or hand and seal of such trustees or

Before drafting for money trustees shall sign appointment of agent to receive the same, which appointment shall be deposited with commissioners.

Appointments may be revoked and others granted

26 & 27 Vict. c. 87.

from time to time.

trustee attested by two managers of such savings bank, and in such form and under such regulations as shall be directed or required or approved of by the said commissioners or their officer; and in case of the decease of every such trustee except one it shall be lawful for the surviving trustee, together with any other trustee or trustees, being not less than two, of the said savings bank, and in case of the decease of all such trustees, or in case all such trustees shall decline or refuse to act, it shall be lawful for not less than two other trustees of the said savings bank from time to time to make, give, and execute an appointment in manner aforesaid, reappointing the person or persons named in such appointment, or any other person or persons in his or their room or stead, to be the agent or agents of such trustees, and every such certificate or instrument of revocation and every such new appointment shall be produced to the officer of the said commissioners by the person or persons named in such new appointment fourteen days at least before the payment of any sum or sums of money to the person or persons named in such new appointment, and shall remain deposited in the office of such officer.

Trustees may draw for the whole or any part of any sum placed to their account by drafts on commissioners, which shall be indorsed by their officer and paid with the interest added thereto by cashiers of the bank.

25. It shall be lawful for the trustees of any such savings bank from time to time (by any draft or order in writing under the hands of any two trustees of such savings bank, attested by two other trustees or managers or by any two credible witnesses, according to such form as the said commissioners for the reduction of the national debt shall from time to time direct), to require that the whole or any part of the principal sum or sums of money standing in the books of the said commissioners to the credit of the trustees of such savings bank shall be paid to such person or persons as such trustees shall from time to time require, being the agent or agents named in some appointment executed under this Act or the said hereby repealed Acts, and lodged with the officers of the said commissioners as hereinbefore mentioned and then remaining in force, and every such draft or order shall be addressed to the said commissioners, and upon the same being produced to the officer of the said commissioners the said officer shall, within five days after the production thereof, upon the back of such draft or order indorse and sign an order in such form as shall from time to time be directed and required by the said commissioners for the payment of the sum mentioned in the draft or order of such trustees, together with the amount of all interest due on such sum up to the day immediately preceding the day of the date of the order of such officer, and which order of such officer previously to the issuing thereof shall be entered and countersigned by the clerk or other proper officer making such entry, and shall be addressed to the cashiers of the governor and company of the bank of England or Ireland, as the case may be, and such cashiers or one of them shall, upon the production of such order, pay the sum mentioned therein to the person or persons mentioned in the draft or order of the said trustees, and the signature of such person or persons, jointly or severally, shall be a sufficient discharge to the said commissioners and to the said governors and company respectively, and all payments made in pursuance of such draft or order respectively shall be deemed and taken to be payments made by the said commissioners to the trustees of such savings banks respectively according to the numerical order and priority of date in which the original receipts of money deposited on account of such savings banks respectively shall have been issued to the trustees thereof respectively in manner hereinbefore mentioned.

Draft exceeding 500*l.* to be signed by four trustees and attested by separate witnesses.

Draft for 10,000*l.* not to be paid until after fourteen days.

26. Whenever the sum to be drawn for by the trustees of any savings bank shall exceed five thousand pounds, the draft or order for that purpose shall be signed by not less than four such trustees, and the signature of each and every of the said four trustees shall be separately attested by at least one manager of such savings bank, or some one other credible person; and any manager or other person attesting the signature of any one of the said four trustees shall not be an attesting witness to the signature of any other of such four trustees: provided also, that whenever the sum or sums drawn for by one or more drafts by the trustees of any savings bank, or by the trustees of any friendly society, shall exceed the sum of ten thousand pounds, the amount of such draft or drafts (if more than one) shall not be payable by the officer of the said commissioners until the expiration of fourteen days next after the day when the draft or drafts for such sum or sums shall be produced to the said officer.

Officer not to issue in any one day orders for more than 10,000*l.* for the same bank.

27. Such officer shall be and he is hereby restrained from issuing any order or orders for payment as aforesaid, bearing the same date, upon any one day, on account of the same savings bank, exceeding in amount the principal sum of ten thousand pounds, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

Trustees appearing in person may receive payments of drafts, instead of their agents.

Such receipt of money by trustees in

28. In case any one or more trustee or trustees of any savings bank, who shall have made, given, signed, and executed any such appointment, shall at any time appear in person at the office of the said commissioners in England or Ireland respectively, and require payment of any sum or sums of money which might be required by the person or persons authorised to receive the same by such appointments, or if any trustee or trustees of any savings bank shall appear in person where no appointment shall have been made, and if such trustee or trustees so appearing shall produce a draft or order signed by any two or more trustees of such savings bank for any sum under five thousand pounds, or by any four or more trustees for sums exceeding five thousand pounds, no such trustee or trustees being himself or themselves a party or parties who signed such draft or order, and if the identity of the person of the trustee or trustees so appearing shall be ascertained to the satisfaction of the said commissioners or their officer, it shall be lawful for the said officer to direct payment to be made to such trustee or trustees so appearing

of any sum or sums required to be paid by such order or draft, in like manner as if the person or persons authorised by such appointment to receive the same had required such payment, anything hereinbefore contained to the contrary in anywise notwithstanding: provided nevertheless, that notwithstanding the payment made to such trustees or trustee appearing in person on the appointment of such person or persons as aforesaid, the appointment shall remain in full force and virtue until revoked by the trustees, as hereinbefore mentioned.

26 & 27 Vict. c. 87.

Person not to affect any previous appointment of agents.

29. In all cases where the joint-stock or property of any savings bank arising from deposits made under the said hereby repealed Acts or this Act shall, from and after the twentieth day of November one thousand eight hundred and sixty-three, be increased by the interest received beyond the rate of interest payable to the depositors by the rules and regulations of such savings bank, or by any other means, the said trustees or managers of such savings bank, after deducting all such expenses as they may deem proper, shall, within six months after the twentieth day of November in each year, ascertain, certify, and pay over to the said commissioners the amount of such increased stock and property, reserving such portion as may appear necessary to meet current expenses, and the amount of such surplus which shall be ascertained, certified, and paid over (after such deduction as aforesaid) shall be discharged from the account of such savings bank standing in the books of the said commissioners; and the said commissioners shall keep a separate and distinct account of such surplus so discharged from the account of the said savings banks respectively as aforesaid, and apply the same in such manner and under such regulations from time to time as any other monies under the provisions of this Act: provided nevertheless, that it shall be lawful for the trustees or managers of the said respective savings banks, for the purposes of such savings banks respectively, to claim and receive of and from the said commissioners (who are hereby required to pay the same upon such certificate as they may appoint) all or any part of the principal monies which may have been already or may be hereafter so discharged from the account of such savings banks respectively as aforesaid under the provisions of the said hereby repealed Acts or of this Act.

From 20th Nov. 1863, surplus to be paid over to commissioners for reduction of national debt.

Trustees of savings banks may upon a certificate draw on such surplus fund for the purposes of the savings banks.

30. In case the trustees or managers of any savings bank shall receive or shall have received any deposit of money from or for the benefit of any person under the age of twenty-one years, it shall be lawful for the trustees or managers of such savings bank to pay such person his or her share and interest in the funds of such savings bank, and the receipt of such person shall be a sufficient discharge, notwithstanding his or her incapacity or disability in law to act for himself or herself.

How deposits of minors may be made and paid.

31. It shall be lawful for the trustees and managers of any savings bank to pay any sum of money in respect of any deposit already made or to be made by married women, or by women who may marry after such deposit, to any such woman, unless the husband of such woman shall give to such trustees or managers notice in writing of his marriage with such woman, and shall require payment to be made to him.

How deposits by married women may be made and paid.

32. It shall be lawful for the trustees or treasurers of any charitable or provident institution or society, or charitable donation or bequest for the maintenance, education, or benefit of the poor, or of any penny savings bank within the united kingdom of Great Britain and Ireland, to invest, with the approval of the commissioners for the reduction of the national debt or the comptroller-general acting under them, and under such regulations as shall be prescribed by them in that respect, the funds of such institution or society, without restriction as to amount, into the funds of any savings bank established under the provisions of the said hereby repealed Acts or of this Act, and also without such approval of the said commissioners to invest from time to time, if the trustees and managers of such savings bank shall be willing to receive the same, any part of the funds of such institution or society or penny savings bank to the amount of one hundred pounds per annum: provided in such last cases the amount of the sum to be invested by any such institution or society or penny savings bank shall not at any time exceed the sum of three hundred pounds in the whole, exclusive of interest.

How funds of charitable societies, &c., and penny savings banks may be invested.

33. It shall be lawful for the trustees or treasurers of any friendly society legally enrolled or certified in the manner required by the Acts in force relating to friendly societies to invest any sum of money the property of such society, without restriction as to amount, into the funds of any savings bank established under the provisions of the said hereby repealed Acts or of this Act, and which shall be willing to receive the same, under such terms and conditions as shall be specially provided for that purpose by the rules, orders, and regulations of such savings bank.

How friendly societies duly enrolled, &c., may invest.

34. The receipt of the treasurer, trustee, or other officer for the time being of any such charitable or provident institution or society, penny savings bank, or friendly society, for any money paid according to the requisition of such treasurer, trustee, or other officer apparently authorised to require such payment, shall be a sufficient discharge for the same, and the savings bank paying such money, and the trustees, managers, and officers thereof, shall not be responsible for any misapplication or for any want of authority of the person or persons requiring or receiving payment of such money.

Receipt of trustee, &c., of any charitable society, penny savings bank, or friendly society deemed sufficient discharge.

35. No person who is or shall be a member of any friendly society established or to be established under and by virtue of any Act or Acts relating to friendly societies, or a member of any of the charitable institutions or penny savings banks hereinbefore mentioned, shall, by reason of such person being or becoming a depositor in any savings bank taking the benefit of this Act, be considered as subject or liable to any penalty,

Members of friendly or charitable societies or penny savings banks

26 & 27 Vict. c. 87.

not liable to disability in those societies by subscribing to any savings bank under this Act.

Proviso for depositors belonging to societies, &c.

forfeiture, or disability declared, or expressed or intended so to be, by or in the rules, orders, or regulations of such friendly society, charitable institution, or penny savings banks respectively, any rules, orders, or regulations of such friendly society, charitable institution, or penny savings bank made or hereafter to be made to the contrary notwithstanding: provided also, that no depositor shall be subject or liable to any penalty or forfeiture on account of his belonging to or being interested in the funds of any friendly society or charitable institution or penny savings bank deposited in the same or any other savings bank.

No sum to be subscribed without the name and profession, &c., of the depositor.

36. No sum shall be paid into any savings bank by any person or persons by ticket or number or otherwise, without disclosing to the trustees and managers of such savings bank his or her name, together with his or her profession, business, occupation, calling, and residence, and the trustees and managers of every savings bank are hereby required to cause the name of such depositor, together with his or her profession, business, occupation, calling and residence, to be entered in the books of the savings bank.

Persons allowed to deposit as trustees on behalf of others.

37. It shall be lawful for the trustees and managers of any savings bank to receive from any person or persons acting as trustee or trustees on behalf of any depositor or depositors, whether such person or persons is or are himself or themselves a depositor or depositors in the same or any other savings bank or not, any sum or sums not exceeding the annual amount hereinafter mentioned: provided that such trustee or trustee shall make such declaration on behalf of such depositor or depositors, and subject to the like conditions as by this Act is required in the case of any person or persons making any deposit on his or her own account; and all deposits made by any such trustee or trustees shall be inserted in the books of such savings bank in the joint names of such trustees or trustee and of the person or persons in whose account such sum shall be so deposited, and the receipt and receipts of such trustee or trustees, or the survivor of them, or the executors or administrators of any sole trustee or surviving trustee, with or without the receipt of the person or person on whose account such sum may have been deposited, shall, provided such account shall have been opened before the ninth day of August, one thousand eight hundred and forty-four, be a good and valid discharge to the trustees and managers of the savings bank: provided always, that in respect to all such deposits made after the said ninth day of August, one thousand eight hundred and forty-four, repayment of the same or any part thereof shall not be made by the trustees and managers of any savings bank without the receipt and receipts of the said trustee and the person on whose account such deposit may have been made, or the survivor or survivors, or the executors or administrators of such survivor, whose receipt and receipts, either in person or by agent appointed by power of attorney, which power of attorney shall be valid if executed by an infant of or exceeding the age of fourteen years, shall alone be a good and valid discharge to the said trustees and managers, except in case of the insanity or imbecility of the party on whose behalf the deposit has been made, upon proof of which, to the satisfaction of the said trustees and managers, repayment may be made to the said trustee, and an abstract of the above provisions shall be enrolled as one of the rules of all savings banks.

How repayment on trust accounts is to be made.

Depositors in one savings bank shall not deposit in any other savings bank.

Declaration to be made at the time of deposit.

38. It shall not be lawful for any person or persons who shall have made any deposit in or who shall be entitled to any benefit from the funds of any savings bank (unless such benefit shall be derived solely as executor, administrator, or other personal representative of any deceased depositor in the same or any other savings bank) to make any deposit in any other account at the same or any other savings bank; and that every person desirous of making any deposit in any savings bank shall at the time of the making the first deposit in any savings bank, and at such other time or times as such depositor shall be required so to do by the trustees and managers of any such savings bank, make a declaration signed either by themselves, or in case of infants under the age of seven years by some person to be approved by the trustees and managers, or by such other person as they shall appoint, in such form as shall be directed or approved of by the commissioners or other proper officer, that the person or persons on whose behalf any such first deposit shall be required to be made is not or are not entitled to any deposit or any such subsequent deposit in, or any benefit from the funds of any savings bank other than that into which such deposit shall be made, or any other funds in the said savings bank; and in case any such declaration shall not be true, or if any person shall at any time have or hold or be possessed of any deposit or funds in more than one savings bank within the united kingdom, except as aforesaid, every such person shall, if in the opinion of the barrister-at-law such deposit was made with a fraudulent intention, forfeit and lose all right and title to any deposit in or to any funds of any and every such savings bank, and the trustees and managers of such savings bank shall and they are hereby required in such case to close the account of such depositor, and to cause the sum or sums so forfeited to be forthwith paid into the bank of England or bank of Ireland, as the case may be, to the account of the commissioners standing in the books of the governors and company of the said bank respectively under the title of "The Account of the Commissioners for applying certain Sums of Money annually to the Reduction of the National Debt," and the cashier or cashiers of the said governors and company respectively is and are hereby required to receive all such sums, and to place the same to the said account, to be applied in like manner as all other money placed to the said account; and every such declaration so made shall be filed and kept and preserved by the trustees of every such savings bank, and a printed notice of such regulation and prohibition shall be affixed in the

Penalty on false declaration, forfeiture of deposit to the sinking fund.

Declarations shall be filed, and notice thereof and

office or place appointed for the receiving of deposits of any savings bank in such form as the said commissioners or their proper officer shall from time to time direct or require or approve; and a copy of such declaration, with notice of the penalty attached thereto (if false), shall also be annexed to or printed at the beginning of the deposit book.

26 & 27 Vict. c. 87.

of the penalty attached thereto to be placed in deposit book.

39. It shall not be lawful for the trustees of any savings bank to receive from any one present or future depositor, within any one year ending on the twentieth day of November (whether any sum or sums of money had been previously withdrawn or not), any sum or sums exceeding in the whole thirty pounds, exclusive of compound interest, nor to receive from any depositor any sum or sums of money whatever which shall make the sum to which such depositor shall be entitled exceed the sum of one hundred and fifty pounds in the whole, exclusive of interest as aforesaid: provided always, that, except in the cases hereinafter provided, whenever the sum or sums standing in the name of any depositor shall amount in the whole to two hundred pounds, principal and interest included, thenceforth no interest shall be payable on any such deposit so long as it shall continue to amount to the said sum of two hundred pounds: provided also, that nothing in this Act contained shall prevent or be construed to prevent the trustees of any savings bank from paying interest to any depositor whose deposit on the twenty-eighth day of July, one thousand eight hundred and twenty-eight, amounted to and has since continued to amount to or exceed the sum of two hundred pounds; nor to prevent any depositor, having closed his or her account in any savings bank, from making a deposit in the same or any other savings bank, not exceeding the limit allowed to be received in any one year from any new depositor.

Trustees not to receive from any one depositor more than 30*l.* in any one year, nor more than 150*l.* in the whole.

When deposit and interest amount to 200*l.* interest to cease.

Not to affect deposits of 200*l.* on the 28th July, 1828.

Depositors not prevented from becoming new depositors.

40. If any depositor in any savings bank shall desire to transfer the amount of his deposit to any other savings bank, he shall, upon application at the savings bank in which his account shall be open, be furnished with a certificate stating the whole amount which may be due to him, with interest, and thereupon his account at such savings bank shall be closed, and upon delivery of such certificate to the trustees or managers of the savings bank to which it is proposed by the depositor to transfer such deposit, they shall forthwith, upon such depositor's signing such declaration as is required in the case of a new depositor, open an account for the amount stated in such certificate for such depositor, and the amount stated in such certificate shall, upon such certificate being forwarded to the commissioners for the reduction of the national debt, be transferred in the books of the said commissioners from their account with the trustees of the savings bank issuing such certificate to the credit of the said commissioners' account with the trustees of the savings bank receiving such certificate; and every such certificate for transfer for the purpose aforesaid shall be in such form as is set forth in the schedule hereunto annexed marked B.

How depositors may transfer their deposits to any other savings bank.

41. In case any depositor in the funds of any savings bank taking the benefit of this Act shall die leaving any sum or sums of money in the said funds, or any dividends or interest due thereon, belonging to him or her at the time of his or her death exceeding in the whole the sum of fifty pounds, the same shall not be paid to any person or persons as representative or representatives of such depositor but upon the probate of the will of the deceased depositor, or letters of administration of his or her estate and effects: provided always, that where the whole estate or effects of any such deceased depositor, for or in respect of which any probate or letters of administration respectively shall be granted, shall not exceed the value of fifty pounds, no stamp duty shall be chargeable thereon, nor upon any legacy or residue or part thereof bequeathed, nor upon any share or part of the estate or effects to be paid or distributed by or under such probate or letters of administration: provided also, that in every such case the person or persons claiming such probate or letters of administration free from stamp duty under this Act shall, in such case, exhibit to the court or person having authority to grant the probate or letters of administration a certificate of the amount of the principal money and interest which the deceased depositor had in the funds of the said savings bank, which certificate shall be granted in such form and manner as shall have been settled by the rules or regulations of the savings banks respectively, and shall be signed or testified by such person or persons as shall be directed therein, and every such certificate shall be taken and received by the court or person having authority to grant such probate or letters of administration as evidence of the amount of the deposit and interest of the deceased depositor in the funds of the said savings bank.

Depositor dying leaving any sum exceeding 50*l.*, the same not to be paid until after administration.

No duty to be paid on probate when the estate is under 50*l.*

Certificate of amount and value of depositor's interest to be produced on claiming probate, &c.

42. In all cases where the whole estate and effects of any deceased depositor, for or in respect of which letters of administration shall be granted, shall not exceed the value of fifty pounds sterling, no stamp duty shall be chargeable upon the bond required to be given by the administrator for the due administration of the effects of such deceased depositor, nor upon any affidavit or document leading to or connected with such administration, but every such bond and affidavit shall be exempted from stamp duty in like manner and under the like regulations as are provided in and by this Act with respect to such letters of administration.

Administration bonds, &c., for effects under 50*l.* exempted from stamp duty.

43. In case any depositor in any such savings bank shall die leaving any sum of money in the said savings bank belonging to him or her at the time of his or her death, not exceeding in the whole the sum of fifty pounds, exclusive of interest, and probate of the will of the deceased depositor, or letters of administration of his or her estate and effects, is not produced to the trustees and managers of the said savings bank, or if notice in writing of the existence of a will and intention to prove the same or to take out letters

When deposits and interest do not exceed 50*l.*, exclusive of interest, if

26 & 27 Vict. c. 87.

will, &c., not proved within a month, money may be paid to widow or to party entitled to effects of deceased.

of administration is not given to the said trustees and managers within the period of one month from the death of the said depositor, and in the latter case unless such will is proved or letters of administration taken out within the period of two months from the death of the said depositor, it shall be lawful for the said trustees and managers of any savings bank to pay and divide the same to or amongst any person or persons who shall appear to such trustees and managers to be the widow or entitled to the effects of such deceased depositor, according to the statute of distribution, or according to the rules of the said savings bank.

Payment to persons appearing to be the next of kin declared valid. Remedy for next of kin.

44. The payment of any such sum of money shall be valid and effectual with respect to any demand of any other person or persons as next of kin of such deceased depositor, or as the lawful representative or representatives of such depositor, against the funds of such savings bank, or against the trustees and managers thereof; but, nevertheless, such next of kin or representatives shall have remedy for recovery of such money so paid as aforesaid against the person or persons who shall have received the same.

Payments under probates of will, &c., appearing to be in force shall be valid.

45. Payment of any money by any such savings bank as aforesaid to any person or persons having had granted to him any letters of administration to the effects of a depositor, or probate of his will, or testamentary disposition granted by any ecclesiastical court, and appearing to be in force, shall be valid and effectual with respect to any demand of any other person or persons as the lawful representative or representatives of such depositor against the funds of such savings bank, or against the trustees and managers thereof; but, nevertheless, such lawful representative or representatives shall have remedy for such money so paid as aforesaid against the person or persons who shall have received the same.

Payment on death of depositor being illegitimate and intestate.

46. If any depositor in any such savings bank, being illegitimate, shall die intestate, leaving any person or persons who but for the illegitimacy of such depositor would be entitled to the money due to such deceased depositor, it shall be lawful for the trustees and managers of such savings bank, with the authority in writing of the barrister appointed to certify the rules of savings banks, to pay the money due to such deceased depositor to any one or more of such persons as in their opinion would have been entitled to the same according to the statute of distributions if the said depositor had been legitimate; or if there be no such persons, then that it shall be lawful for the said trustees or managers, with the authority in writing of the said barrister, to pay the amount due to such deceased depositor to such person or persons as shall be approved by the commissioners of her majesty's treasury, such approval to be signified to the trustees and managers of the savings bank by the commissioners for the reduction of the national debt.

Adaptation of the provisions of this Act to the law of Scotland.

47. Where this Act provides for payments made or to be made to any of the relations of any deceased intestate depositor according to the statute of distribution, the provisions thereof shall be held in Scotland to apply to payments made or to be made to persons appearing to be next of kin according to the law of Scotland; and where this Act refers to probate of the will of the deceased or letters of administration of his or her estate and effects, the said provisions shall in Scotland be held to apply to confirmation by the law of Scotland.

Settlement of disputes.

48. If any dispute shall arise between the trustees and managers of any savings bank, and any individual depositor therein, or any executor, administrator, next of kin, or creditor or assignee of any depositor who may become bankrupt or insolvent, or any person claiming to be such executor, administrator, next of kin, creditor or assignee, or to be entitled to any money deposited in such savings bank, then and in every such case the matter in dispute shall be referred in writing to the barrister-at-law appointed under the said hereby repealed Acts or this Act, who shall have power to proceed *ex parte* on notice in writing to the said trustees or managers left or sent through the post office by the said barrister to the office of the said savings bank, and whatever award, order, or determination shall be made by the said barrister shall be binding and conclusive on all parties, and shall be final to all intents and purposes without any appeal.

On reference, barrister may inspect books and administer oath to witnesses.

49. On any such reference it shall be lawful for the said barrister and he is hereby authorised to inspect any book or books belonging to the said savings bank relating to the matter in dispute, and to administer an oath to any witness appearing before him, or to take the affirmation in cases where affirmation is allowed by law instead of oath; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Powers of attorney given by trustees or depositors and other documents not liable to stamp duty.

50. No power, warrant, or letter of attorney granted to or to be granted by any person or persons, or trustee or trustees of any savings bank as aforesaid, nor any power, warrant or letter of attorney given by any depositor or depositors in the funds of any such savings bank to any other person or persons authorising him, her, or them to make any deposit or deposits of any sum or sums of money in the said funds on behalf of the said depositor or depositors, or to sign any document or instrument required by the rules or regulations of such savings bank to be signed on making such deposits, or to receive back any sum or sums of money deposited in the said funds, on the dividends or interest arising therefrom, nor any receipt nor any entry in any book of receipt for money deposited in the funds of any such savings bank, nor for any money received by any depositor, his or her executors or administrators, assigns, or attornies, from the funds of such savings bank, nor any draft or order, nor any appointment of any agent or agents, nor

any certificate or other instrument for the revocation of any such appointment, nor any surety bond, nor any submission to or award, order or determination of the said barrister, nor any other instrument or document whatever required or authorised to be given issued, signed, made or produced in pursuance of this Act, shall be subject or liable to or charged with any stamp duty or duties whatsoever 26 & 27 Vict c 87

51 The trustees of each savings bank in Ireland shall, as soon as conveniently may be after the passing of this Act, and from time to time in case of a vacancy, appoint an auditor or auditors to audit the accounts of the said savings bank, as well as to examine and inspect the books of the several depositors, and the said trustees shall, immediately after such appointment, transmit the signature, name, and address of the said auditor or auditors to the commissioners for the reduction of the national debt, and the trustees of every such savings bank in Ireland shall cause the annual and other statements required to be transmitted under this Act to be certified and verified by the auditor or auditors appointed by the said trustees, in addition to the attestation by trustees and managers as also required by this Act, and shall also cause a certificate from the said auditor or auditors, as to the result of his or their examination of such of the depositors' books as may have been produced to him or them for examination to be transmitted with the said annual statement to the said commissioners provided always, that it shall be lawful for the trustees of any such savings bank in Ireland to agree with the trustees of any other such savings bank or banks in Ireland as to the appointment of a common auditor or auditors, and the auditor or auditors so appointed for all the said banks shall be deemed and taken, as soon as the signature, name, and address shall have been transmitted by each such bank to the said commissioners, to be the auditor or auditors of each such bank Appointment of auditors in Ireland

52 Every depositor in every savings bank in Ireland on his first deposit shall be furnished with a deposit book, in which shall be printed at length a copy of the certified rules of the savings bank in which he shall make such deposit, and a duplicate copy of the certified rules, and of every alteration and amendment thereof, and a duplicate copy of every annual statement or account required by and furnished to the said commissioners, signed by two trustees or managers of any such savings bank, shall be from time to time exhibited in the office of such savings bank, and shall be open to the inspection of every depositor or person intending to be such Depositors book in Ireland to contain copy of rules Duplicate copy to be exhibited in the office.

53 The rules of every savings bank in Ireland shall specify a number of days, not less than two in every year ending on the twentieth of November, in which the book of each depositor shall be produced at the office of the said savings bank for the purpose of being inspected, examined, and verified with the books of the savings bank by the auditor or auditors Rules in Ireland to provide for production and inspection of books.

54 If it shall appear to the satisfaction of the said commissioners that the clauses of this Act, or the orders, directions, and regulations of the said commissioners signified by the comptroller general to the trustees of any savings banks in Ireland, have not been complied with by the trustees or managers of any savings bank in Ireland, it shall and may be lawful for the said commissioners, if they shall so think fit, to close the account of the said savings bank and to discontinue the keeping any further account with the trustees thereof, and to direct that no further sum shall be received at the bank of Ireland from the trustees of such savings bank to the account of the commissioners until such time as such commissioners shall think proper provided always, that the said commissioners may reopen and allow the growing interest of such accounts during the time of such discontinuance, and authorise the receipt of money at the bank of Ireland, whenever the said commissioners shall think fit so to do upon such trustees complying with the directions of such commissioners, and the said commissioners shall forthwith publish a notification of such account being closed, or of the same being reopened, in the Dublin Gazette, and also in some newspaper published in the county in which the said savings bank shall be established. Commissioners may close accounts with savings banks in Ireland in certain cases and re-open them if they think fit

55 For the more effectually ascertaining from time to time the actual and progressive state of the several savings banks enrolled under the provisions of this Act, the trustees and managers of every such savings bank shall annually cause a general statement of the funds of such savings bank invested in the bank of England or the bank of Ireland in the names of the commissioners for the reduction of the national debt to be prepared up to the twentieth day of November in each year, showing the balance or principal sum due to all the depositors collectively in such savings bank and a statement of the expenses incurred, and stating in whose hands such balance shall then be remaining and every such annual statement shall be attested by two managers or two trustees, or by one manager and one trustee, of such savings bank, and every such annual statement shall be countersigned by the secretary or actuary of such savings bank, and all such annual statements shall be transmitted to the office of the said commissioners for the reduction of the national debt in London or Dublin (as the case may be) within nine weeks after the twentieth day of November in each year, and in case the trustees of any such savings bank shall neglect or refuse to make out and transmit such accounts as aforesaid, or in case any such trustees shall at any time neglect or refuse to obey any orders or directions given by the said commissioners or through their officer, pursuant to the directions of this Act, it shall be lawful for the said commissioners to close the account of the trustees of such savings bank, and to discontinue the keeping any further account with the trustees of such savings bank, and to direct that no further sum shall be received at the bank of England or at the bank of Ireland from the trustees of such Trustees of savings banks shall make up annually accounts of their progress &c and transmit the same to the commissioners for reduction of the national debt. If trustees neglect to transmit such accounts or to obey any orders given pursuant to this Act, commission

26 & 27 Vict. c. 87.

ers may close their accounts, &c.

savings bank to the account of the said commissioners until such time as such commissioners shall think fit: provided always, that it may be lawful for the said commissioners to reopen such account, and to allow the growing interest of such account during the time of such discontinuance, and to authorise the receipt of money at the bank of England or Ireland, whenever such commissioners shall fit to do so, upon such trustees complying with the directions of such commissioners or their officer.

If annual returns are not made, name of savings banks neglecting to be published in Gazette, &c

56. If the annual statements directed by this Act to be prepared and transmitted by the trustees of a savings bank shall not be prepared and transmitted to the commissioners for the reduction of the national debt within the time limited by this Act, it shall be lawful for the said commissioners, or for the comptroller-general or assistant comptroller acting under the said commissioners, and they and he are and is hereby severally required forthwith to publish in the London Gazette and also in any newspapers published in the county in which the savings bank is established, the name of every such savings bank so neglecting or making default in transmitting such annual statement as aforesaid, in such form and words for the information of the depositors, and under such regulations, as the said commissioners or the said comptroller-general, or assistant comptroller shall from time to time think fit.

Statement of expenses may be required from trustees or managers.

57. It shall be lawful for the commissioners for the reduction of the national debt, or the comptroller-general or assistant comptroller acting under the said commissioners, if they or he shall think fit, to require from time to time of and from the trustees and managers of any savings bank a detailed statement of all the expenses whatever incurred by the said trustees and managers in the management or otherwise of the said savings bank.

When money is in the hands of a treasurer, &c., his certificate to accompany the statement

58. Whenever it shall appear in any annual statement that any sum of money of or belonging to a savings bank is in the hands of any treasurer or other person, the said annual statement shall be accompanied with a certificate, signed by such treasurer or other person, that the sum of money therein mentioned is in his possession.

A duplicate of such account shall be affixed in the office of the savings bank

59. The trustees and managers of every such savings bank shall cause a duplicate of every such annual statement, accompanied by a list of the trustees and managers of such institutions for the time being, attested and countersigned as aforesaid, to be publicly affixed and exhibited in some conspicuous part of the office or place where the deposits of such savings bank are usually received, for the information of all parties making deposits therein; and every such duplicate shall from time to time remain so affixed and exhibited as aforesaid: and every depositor shall be entitled to receive from the said savings bank a printed copy of such annual statement on payment of one penny.

What accounts shall be made by the national debt commissioners to the commissioners of her majesty's treasury, and laid before parliament

60. From and after the passing of this Act the commissioners for the reduction of the national debt shall, at the close of every year ending on the twentieth day of November, make to the commissioners of her majesty's treasury the following accounts; first, of the gross amount of all sums received and credited, including interest, and of all sums paid, including interest, from the sixth day of August, in the year of our Lord one thousand eight hundred and seventeen up to such twentieth day of November, by the said commissioners on account of the trustees of the several savings banks in Great Britain and Ireland, and also on account of any friendly societies in Great Britain respectively, and of the gross amount of all sums, stocks, funds, annuities, and exchequer bills, and other securities standing in the names of such commissioners on the twentieth day of November on account of any such savings banks or friendly societies respectively, and the sums paid for the purchase of such stocks, funds, exchequer bills, or other securities, and the gross amount of the interest or dividends received thereon by the said commissioners, and the gross amount of the interest paid by such commissioners up to such twentieth day of November on all receipts issued to the trustees of such savings banks or friendly societies in Great Britain and Ireland respectively, and also an account of all expenses incurred by the said commissioners for salaries of clerks or other incidental charges during the preceding year; secondly, an account of the whole of the several transactions set forth in detail which shall have taken place during the course of the previous year in the investment of all monies coming into their hands for savings banks and friendly societies, and of the variations, if any, which have taken place during such year in the securities held by the said commissioners for those institutions; and, thirdly, an account, showing the aggregate amount of the liabilities of the government to the trustees of savings banks and friendly societies respectively, and the nature, amount, and value of the securities (taken at the price of the day) held by the said commissioners to meet the same, stating the amount of surplus or deficiency (as the case may be) thereon; distinguishing in each of such accounts hereby required to be rendered as aforesaid the funds of savings banks from the funds of friendly societies; and copies of all such accounts shall be laid before both houses of parliament not later than the fifteenth day of February, if parliament shall be then sitting, and if not then sitting then within ten days after the next re-assembling of parliament.

A distinct account to be shown in parliamentary returns of separate surplus funds of savings banks in hands of commissioners.

61. In every such account so to be made to the commissioners of her majesty's treasury as hereinbefore is provided a distinct account shall be shown of the aggregate amount of the separate surplus funds of all savings banks made up to such twentieth day of November, and of the gross amount of all sums transferred to or paid out of such surplus fund in the course of the previous year, and of the balance of such account then remaining in the hands of the said commissioners.

62 For the purpose of rendering the accounts of the several savings banks in Great Britain and Ireland uniform and correspondent with the accounts of the commissioners for the reduction of the national debt the interest payable to the depositors in such savings banks in Great Britain and Ireland shall, from and after the twentieth day of November, one thousand eight hundred and sixty three, be computed half yearly to the twentieth day of May and the twentieth day of November, or yearly to the twentieth day of November in each year, as the case may be, and to no other periods

6 & 27 Vict c 87

Savings banks shall compute interest on 20th May and 20th November, half yearly or yearly

63 It shall be lawful for the said commissioners for the reduction of the national debt, if they shall so think fit, and they are hereby authorized and empowered, to pay into the bank of England from time to time any sum or sums of money to be placed to their credit in account with the governor and company of the bank of Ireland on account of the fund for the banks for savings, under such regulations as shall be agreed upon from time to time between the said commissioners and the said governor and company of the bank of Ireland, and all sums of money so placed to the said commissioners credit as aforesaid shall be carried to the account of the said commissioners by the cashiers of the said governor and company of the bank of Ireland, standing in the books of the said bank under the title of "The Funds for the Banks for Savings," and shall be subject and shall be applied to the several purposes hereinbefore mentioned, as if every such sum and sums of money had been originally paid into the bank of Ireland to the said account under the provisions of this Act

Commissioners for the reduction of the national debt may keep a balance in the bank of Ireland for drafts which may be drawn on account of savings banks there

64 All receipts, orders, certificates, indorsements, accounts, returns, or instruments, or other matters or things whatsoever which shall be required for carrying into execution this Act, shall be made in such form and manner, and containing such particulars, and under such regulations as shall from time to time be directed or required or approved of by the said commissioners or their officer or officers

Receipts &c shall be in the form approved by commissioners

65 [Indemnity to commissioners and banks of England and Ireland]

66 It shall be lawful for the said commissioners for the reduction of the national debt and they are hereby authorized and empowered to appoint a barrister at law, and employ such, and so many of the clerks and other officers as shall be necessary for carrying into execution the purposes of this Act, and it shall be lawful for the lord high treasurer or the commissioners of her majesty s treasury of the united kingdom of Great Britain and Ireland for the time being and he or they is or are hereby authorized and empowered, to settle and appoint such allowances as shall be proper for the services, pains, and labour of such clerks of other persons to be appointed and employed by the said commissioners in manner and for the purposes aforesaid, and out of the fund upon which the establishment of the said commissioners is chargeable by any Act now in force to pay and discharge all such allowances and all other incidental charges which shall necessarily attend the execution of this Act in such manner as to them shall seem just and reasonable

Power to commissioners to appoint and employ barristers, clerks &c

Power to treasury to pay them and discharge incidental expenses

67 This Act shall, except as hereinafter is excepted, extend to all savings banks established or hereafter to be established in England, Scotland, or Ireland, and Berwick upon Tweed, and the islands of Guernsey, Jersey, and Isle of Man

Act to extend to all savings banks in Great Britain and Ireland

68 This Act shall not be held to repeal any of the now existing statutes relating to savings banks in so far as relates to post office savings banks established or to be established under the twenty fourth Victoria, chapter fourteen (a), nor to repeal any of the powers and authorities now vested by those Acts in the commissioners for the reduction of the national debt in regard to the control, management, investment, conversion, and regulation of the funds remitted by the trustees of savings banks or by the trustees of friendly societies to the said commissioners

Act not to affect post office savings banks or powers of commissioners for reduction of national debt

---

SCHEDULE (A).

Acts and Parts of Acts repealed

[See ante, p 1432, n (a)]

SCHEDULE (B).

Form of Certificate for Transfer to another Savings Bank

To be issued to any Depositor desiring to transfer his [*or* her] Deposits from one Savings Bank to another

Savings bank at in the county of .

Whereas of a depositor in the above named savings bank, is

(a) Ante, p 142

26 & 27 Vict. c. 87.

desirous of closing his [*or* her] account with the said bank for the purpose of transferring his [*or* her] deposits to the savings bank at in the county of and to enable him [*or* her] so to do the said depositor has applied for a certificate of the whole amount due to him [*or* her] pursuant to the Act [*referring to this Act*]; we hereby certify that the sum due to the said depositor for money deposited by him [*or* her] in this savings bank, inclusive of all interest due to him [*or* her] to this date, amounts to the sum of [*state the amount in words*], of which the sum of [*state the amount, if any, in words*] has been deposited since the twentieth of November last; and we further certify that his [*or* her] account with this savings bank has been closed by the issue of this certificate.

Witness our hands this day of 18 .

_____ } Two of the trustees or managers (appointed for this object by the trustees) of the above-named savings bank.

Examined _____

Actuary or secretary of the above-named savings bank.

SCIENTIFIC AND LITERARY SOCIETIES.

17 & 18 Vict. c. 112.

17 & 18 Vict. c. 112. An Act to afford greater Facilities for the Establishment of Institutions for the Promotion of Literature and Science and the Fine Arts, and to provide for their better Regulation. [11th August, 1854.]

Whereas it is expedient that greater facilities should be afforded for procuring and settling sites and buildings in trust for institutions established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, and that other provisions should be made for improving the legal condition of such institutions: BE IT THEREFORE ENACTED, as follows:

Lands to be used as sites for institutions, &c.

1. Any person in England, Wales, or Ireland, being seised in fee simple, fee tail, or for life of and in any manor or lands of freehold, copyhold, or customary tenure, and having the present beneficial interest therein, may grant, convey, or enfranchise, by way of gift, sale, or exchange, in fee simple or for a term of years, any quantity not exceeding one acre of such land, whether built upon or not, as a site for any such institution as hereinafter described; provided, that no such grant made by any person seised only for life of and in any such manor or lands shall be valid, unless if there be any person next entitled to the same in remainder in fee simple or fee tail, and if such person be legally competent, he shall be a party to and join in such grant; provided also, that where any portion of waste or commonable land shall be gratuitously conveyed by any lord of a manor for any such purpose as aforesaid, the rights of all commoners and others having interest of a like nature in the said land shall be barred and divested by such conveyance.

Chancellor and council of the duchy of Lancaster empowered to grant lands for the site of an institution.

2. The chancellor and council of her majesty's duchy of Lancaster for the time being, by any deed or writing under the hand and seal of the chancellor of the said duchy for the time being, attested by the clerk of the council of the said duchy for the time being, for and in the name of her majesty, her heirs and successors, may, if they see fit, grant, convey, or enfranchise, to or in favour of such institution, any land forming part of the possessions of the said duchy, not exceeding in the whole one acre in any one parish, upon such terms and conditions as to the said chancellor and council shall seem meet; and where any sum or sums of money shall be paid for the purchase or consideration for such land so to be granted, conveyed, or enfranchised as aforesaid, the same shall be paid into the hands of the receiver-general for the time being of the said duchy, or his deputy, and shall be by him paid, applied, and disposed of according to the provisions and regulations contained in an Act of the forty-eighth year of the reign of his late majesty king George the third, chapter seventy-three, or any other Act or Acts now in force for that purpose.

Officers of the duchy of Cornwall empowered, upon sufficient authority to grant land for the

3. Any three or more of the principal officers of the duchy of Cornwall, under the authority of a warrant issued for that purpose under the hands of any three or more of the special commissioners for the time being for managing the affairs of the duchy of Cornwall, or under the hands of any three or more of the persons who may hereafter for the time being have the immediate management of the said duchy, if the said duchy shall be then vested in the crown, or if the said duchy shall be then vested in a duke of Cornwall, then under the hands of any three or more of the principal officers of the said

duchy, or under the hands of any three or more of the persons for the time being having the immediate management of the said duchy, may, if they think fit, and are so authorised, by deed grant, convey, or enfranchise to or in favour of any existing or intended institution any land forming part of the possessions of the said duchy of Cornwall not exceeding in the whole one acre in any one parish, upon such terms and conditions as to the said special commissioners or principal officers, or such other person as aforesaid, shall seem meet

17 & 18 Vict. c. 112.

site of an institution

4 Provided, that upon any land so granted by way of gift as aforesaid, or any part thereof, ceasing to be used for the purposes of the institution, the same shall thereupon immediately revert to and become again a portion of the estate or manor or possessions of the duchy as the case may be, to all intents and purposes as fully as if this Act or any such grant as aforesaid had not been passed or made, except that where the institution shall be removed to another site the land not originally part of the possessions of either of the duchies aforesaid may be exchanged or sold for the benefit of the said institution, and the money received for equality of exchange or on the sale may be applied towards the erection or establishment of the institution upon the new site

If lands cease to be used for the purposes of the Act they shall revert.

5 Where any person shall be equitably entitled to any manor or land, but the legal estate therein shall be vested in some trustee or trustees, it shall be sufficient for such person to convey the land proposed to be granted for the purpose of this Act, without the trustee or trustees being party to the conveyance thereof, and where it is deemed expedient to purchase for the purpose aforesaid any land belonging to or vested in any infant or lunatic, such land may be conveyed by the guardian or curator of such infant or the committee of such lunatic respectively, who may receive the purchase money for the same, and give valid and sufficient discharges to the party paying such purchase money, who shall not be required to see to the application thereof

Persons not having legal estates empowered to convey lands for the purposes of this Act without the concurrence of their trustees

6 Any corporation, ecclesiastical or lay, whether sole or aggregate, and any officers, justices of the peace, trustees, or commissioners, holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, may, subject to the provisions hereinafter mentioned, grant convey, or enfranchise for the purpose of this Act such quantity of land as aforesaid, in any manner vested in such corporation, officers, justices, trustees, or commissioners, provided, that no ecclesiastical corporation sole, being below the dignity of a bishop shall be authorised to make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction the said ecclesiastical corporation shall be subject, provided also, that no parochial property shall be granted for such purpose without the consent of a majority of the ratepayers and owners of property in the parish to which the same belongs, assembled at a meeting to be convened according to the mode pointed out in the Act passed in the sixth year of the reign of his late majesty, intituled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in England and Wales, and without the consent of the poor law board, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians testified by the guardians of such union or parish being the parties to convey the same and that no property held upon trust for charitable purposes shall be granted without the consent of the charity commissioners

Corporation justices trustees, &c to convey lands for the purposes of this Act

5 & 6 W 4, c. 69

7 Where any officers, trustees, or commissioners, other than parochial trustees, shall make any such grant, it shall be sufficient if a majority or quorum authorised to act of such officers, trustees, or commissioners, assembled at a meeting duly convened, shall assent to such grant, and shall execute the deed of conveyance, although they shall not constitute a majority of the actual body of such officers, trustees, or commissioners, and the justices of the peace may give their consent to the making any grant of land or premises belonging to any county, riding or division by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols by an Act passed in the seventh year of the reign of his late majesty George the fourth, intituled 'An Act to authorise the Disposal of unnecessary Prisons in England

How such parties may convey

7 G 4, c 18

8 If part only of any land held in fee subject to a perpetual rent, or comprised in a lease for a term of years unexpired, shall be conveyed or agreed to be conveyed for the purpose of this Act, the rent payable in respect of the lands subject thereto, and any fine certain or fixed sum of money to be paid upon any renewals of the lease, or either of such payments, may be apportioned between the part of the said land so conveyed or agreed to be conveyed and the residue thereof, and such apportionment may be settled by agreement between the parties following, that is to say, the person for the time being entitled to the rent where the land is held in fee or the lessor or other the owner subject to such lease of the lands comprised therein, the person entitled to the fee subject to the rent, or the lessee or other party entitled to the land by virtue of such lease or any assignment thereof for the residue of the term thereby created, and the party to whom such conveyance as aforesaid for the purpose of this Act is made or agreed to be made, and when such apportionment shall so be made it shall be binding on all under lessees and other persons and corporations whatsoever, whether parties to the said agreement or not

Where part only of lands subject to a rent under lease is conveyed the rent and fine upon renewal of lease may be apportioned.

9 In case of any such apportionment as aforesaid, and after the lands so conveyed or agreed to be conveyed as aforesaid shall have been conveyed, the person entitled to the

Liabilities of tenants, and

17 & 18 Vict. c. 112.

Remedies of landlords as to lands not conveyed.

fee or other estate in the lands subject to the rent, the lessee, and all parties entitled under him to the lands not included in such conveyance, shall, as to all future accruing rent, and all future fines certain or fixed sums of money to be paid upon renewals, be liable only to so much of the rent or of such fines or sums of money as shall be apportioned in respect of such last-mentioned lands; and the party entitled to the rent charged or reserved shall have all the same rights and remedies for the recovery of such portion of the rent as last aforesaid as previously to such apportionment he had for the recovery of the whole rent charged or reserved; and all the covenants, conditions, and agreements, except as to the amount of rent to be paid, and of the fines or sums of money to be paid upon renewals, in case of any apportionment of the same respectively, shall remain in force with regard to that part of the land which shall not be so conveyed as aforesaid, in the same manner as they would have done in case such part only of the land had been subject to the rent or included in the lease.

Any number of sites may be granted for separate institutions.

10. Any person or corporation may grant any number of sites for distinct and separate institutions, although the aggregate quantity of land thereby granted by such person or corporation shall exceed the extent of one acre, provided that the site of each institution do not exceed that extent.

Grants of site may be made of corporations or trustees to be held for the purposes of the institution.

11. Where the institution shall not be incorporated, the grant of any land for the purpose of such institution, whether taking effect under the authority of this Act or any other authority, may be made to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held by such corporation or corporations or trustees for the purpose of such institution.

Incorporation of 13 & 14 Vict. c. 28

12. The provisions of the Act of the fourteenth Victoria, chapter twenty-eight, shall be applicable to the conveyances of lands in England, Wales, and Ireland made or to be made to trustees, not being corporations, for the purposes of such institutions.

Form of grants, &c.

13. All grants, conveyances, and assurances of any site for an institution under the provisions of this Act may be made according to the form following, or as near thereto as the circumstances of the case will admit; (that is to say,)

"I, *or* we, [*or the corporate title of a corporation,*] under the authority of an Act passed in the year of the reign of her majesty queen Victoria, intituled do hereby freely and voluntarily, and without any valuable consideration [*or* do in consideration of the sum of to me, *or* us, *or* the said paid], grant and convey [*add, if necessary,* enfranchise] to all [*description of the premises*] and all [my, *or* our, *or* the] right, title, and interest of the to and in the same and every part thereof, to hold unto and to the use of the said corporation and their successors, *or* of the said and his *or* their [heirs *or* executors *or* administrators *or* successors], for the purposes of the said Act, and to be applied as a site for and for no other purpose whatever; such to be under the management and control of [*set forth the mode in which and the persons by whom the institution is to be managed and directed; in cases where the land is purchased, exchanged or demised, usual covenants or obligations for title may be added*]. In witness whereof the conveying and other parties have hereunto set their hands and seals, [*or seals only, as the case may be,*] this day of . Signed, sealed, and delivered by the said in the presence of of

And no bargain and sale or livery of seisin shall be requisite in any conveyance intended to take effect under the provisions of this Act, nor more than one witness to the execution by the conveying party.

Death of donor within twelve months not to invalidate grant

14. Any deed executed for the purposes of any institution to which this Act applies, without any valuable consideration, shall continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof.

Mode of conveying the lord's interest and that of the copyholder in copyhold land.

15. Where land of copyhold or customary tenure shall have been or shall be granted for the purpose of such institution, the conveyance of the same by any deed wherein the copyholder shall grant and convey his interest, and the lord shall also grant and convey his interest, shall be deemed to be valid and sufficient to vest the freehold interest in the grantee or grantees thereof without any surrender or admittance or enrolment in the lord's court, but the fees (if any) payable by the custom of the manor upon enfranchisement shall be paid to the steward.

Application of purchase money for land sold by any ecclesiastical or corporation sole.

16. Where any land shall be sold by any ecclesiastical corporation sole for the purpose of this Act, and the purchase money to be paid shall not exceed the sum of twenty pounds, the same may be retained by the party conveying for his own benefit, but when it shall exceed the sum of twenty pounds it shall be applied for the benefit of the said corporation in such manner as the bishop in whose diocese such land shall be situated shall, by writing under his hand, to be registered in the registry of his diocese, direct and appoint; but no person purchasing such land for the purpose aforesaid shall be required to see to the due application of any such purchase money.

Certain clauses of the 8 & 9 Vict. c. 18,

17. In cases not otherwise provided for in this Act, the clauses sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, and seventy-eight of the Lands Clauses Consolidation Act, one thousand eight hundred and forty-five, being the eighth

and ninth Victoria, chapter eighteen, shall apply in respect of the application of the purchase money of all sites purchased from incapacitated persons, corporations, and trustees, hereby empowered to sell, other than the chancellor and council of the duchy of Lancaster and the officers of the duchy of Cornwall. 17 & 18 Vict. c. 112. rendered applicable to this Act.

18. If it shall be deemed advisable to sell any land or building not previously part of the possessions of the duchy of Lancaster or Cornwall held in trust for any institution, or to exchange the same for any other site, the trustees in whom the legal estate in the said land or building shall be vested may, by the direction or with the consent of the governing body of the said institution, if any such there be, sell the said land or building, or part thereof, or exchange the same for other land or building suitable to the purposes of their trust, and receive on any exchange any sum of money by way of effecting an equality, and apply the money arising from such sale or given on such exchange in the purchase of another site, or in the improvement of other premises used or to be used for the purposes of such trust; and such trustees may, with like direction or consent, let portions of the premises belonging to the institution not required for the purposes thereof, for such term, and under such covenants or agreements, as shall be deemed by such governing body to be expedient, and apply the rents thereof to the benefit of the institution. Trustees may sell or exchange lands or buildings; or may let.

19. The trustees of such institution who, by reason of their being the legal owner of the building or premises, shall become liable to the payment of any rate, tax, charge, costs, or expenses, shall be indemnified and kept harmless by the governing body thereof from the same, and in default of such indemnity shall be entitled to hold the said building or premises and other property vested in them as a security for their reimbursement and indemnification, and, if necessity shall arise, may mortgage or sell the same, or part thereof, free from the trusts of the institution, and apply the amount obtained by such mortgage or sale to their reimbursement, and the balance (if any) to the benefit of the institution, subject to the restrictions hereinbefore contained with regard to lands given and lands belonging to the duchies aforesaid. Trustees to be indemnified from charges; in default thereof empowered to mortgage or sell the premises.

20. Where any institution shall be incorporated, and have no provision applicable to the personal property of such institution, and in all cases where the institution shall not be incorporated, the money, securities for money, goods, chattels, and personal effects belonging to the said institution, and not vested in trustees, shall be deemed to be vested for the time being in the governing body of such institution, and in all proceedings, civil and criminal, may be described as the moneys, securities, goods, chattels, and effects of the governing body of such institution by their proper title. Property of institution, how to be vested.

21. Any institution incorporated which shall not be entitled to sue and be sued by any corporate name, and every institution not incorporated, may sue or be sued in the name of the president, chairman, principal secretary, or clerk, as shall be determined by the rules and regulations of the institution, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; provided, that it shall be competent for any person having a claim or demand against the institution to sue the president or chairman thereof, if on application to the governing body, some other officer or person be not nominated to be the defendant. How suits by and against institutions to be brought.

22. No suit or proceeding in any civil court shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person. Suits not to abate or discontinue.

23. If a judgment shall be recovered against the person or officer named on behalf of the institution, such judgment shall not be put in force against the goods, chattels, or lands, or against the body of such person or officer, but against the property of the institution, and a writ of revivor shall be issued setting forth the judgment recovered, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the institution only, and requiring to have the judgment enforced against the property of the institution. How judgment to be enforced against.

24. In any institution the governing body, if not otherwise legally empowered to do so, may, at any meeting specially convened according to its regulations, make any byelaw for the better governance of the institution, its members or officers, and for the furtherance of its purpose and object, and may impose a reasonable pecuniary penalty for the breach thereof, which penalty, when accrued, may be recovered in any local court of the district wherein the defendant shall inhabit or the institution shall be situated, as the governing body thereof shall deem expedient: Provided always, that no pecuniary penalty imposed by any byelaw for the breach thereof shall be recoverable unless the byelaw shall have been confirmed by the votes of three-fifths of the members present at a meeting specially convened for the purpose. Institution may make byelaw to be enforced.

25. Any member who may be in arrear of his subscription according to the rules of the institution, or may be or shall possess himself of or detain any property of the institution in a manner or for a time contrary to such rules, or shall injure or destroy the property of the institution, may be sued in the manner hereinbefore provided; but if the defendant shall be successful in any action or other proceeding at the instance of the institution, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the institution, and in the latter case shall have process against the property of the said institution in the manner above described. Members liable to be sued as strangers.

17 & 18 Vict. c. 112.

Members guilty of offences punishable as strangers.

26. Any member of the institution who shall steal, purloin, or embezzle the money, securities for money, goods, and chattels of the institution, or wilfully and maliciously, or wilfully and unlawfully, destroy or injure the property of such institution, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the institution may be exposed to loss, shall be subject to the same prosecution, and if convicted shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence.

Institutions enabled to alter, extend, or abridge their purposes.

27. Whenever it shall appear to the governing body of any institution (not having a royal charter, nor established by nor acting under any Act of parliament,) which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose, or to amalgamate such institution, either wholly or partially, with any other institution or institutions, such governing body may submit the proposition to their members in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the institution; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members present at such meeting, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

Power to board of trade to suspend such alteration, if applied to by two-fifths dissentients.

28. If any members of the institution, being not less than two-fifths in number, consider that the proposition so carried is calculated to prove injurious to the institution, they may, within three months after the confirmation thereof, make application in writing to the lords of the committee of her majesty's privy council for trade and foreign plantations, who, at their discretion, shall entertain the application, and if, after due inquiry, they shall decide that the proposition is then calculated to prove injurious to the institution, the same shall not be then carried into effect; but such decision shall not prevent the members of such institution from reconsidering the same proposition on a future occasion.

Provision for the dissolution of institutions and adjustment of their affairs

29. Any number not less than three-fifths of the members of any institution may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the institution, its claims and liabilities, according to the rules of the said institution applicable thereto, if any, and if not, then as the governing body shall find expedient; provided, that in the event of any dispute arising among the said governing body or the members of the institution the adjustment of its affairs shall be referred to the judge of the county court of the district in which the principal building of the institution shall be situated, and he shall make such order or orders in the matter as he shall deem requisite, or, if he find it necessary, shall direct that proceedings shall be taken in the court of chancery for the adjustment of the affairs of the institution.

Upon a dissolution, no member to receive profit.

Proviso for joint-stock companies.

30. If upon the dissolution of any institution there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said institution or any of them, but shall be given to some other institution, to be determined by the members at the time of the dissolution, or in default thereof by the judge of the county court aforesaid; provided, however, that this clause shall not apply to any institution which shall have been founded or established by the contributions of shareholders in the nature of a joint-stock company.

Who is a member.

31. For the purposes of this Act, a member of an institution shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof; but in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose current subscription shall be in arrear at the time.

The governing body defined.

32. The governing body of the institution shall be the council, directors, committee, or other body to whom by Act of parliament, charter, or the rules and regulations of the institution, the management of its affairs is entrusted; and if no such body shall have been constituted on the establishment of the institution, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the institution thenceforth.

To what institutions the Act shall apply

33. The Act shall apply to every institution for the time being established for the promotion of science, literature, the fine arts, for adult instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, of public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs; provided, that the royal institution, and the London institution for the advancement of literature and the diffusion of useful knowledge, shall be exempt from the operation of this Act.

Parish defined

34. The term "parish" shall signify herein any place separately maintaining its own poor.

Short title of the Act.

35. In all deeds, documents, proceedings, suits, and prosecutions this Act may be cited and described by the name of "The Literary and Scientific Institutions Act, 1854."

SERVANTS

[See "MASTER AND SERVANT," ante, Vol III]

SESSIONS OF THE PEACE (a).

57 Geo 3, c 91 An Act to enable Justices of the Peace to settle the Fees to be taken by the Clerks of the Peace of the respective Counties and other Divisions of England and Wales (b) [10th July, 1817.]

57 G 3, c. 91

"Whereas doubts have arisen touching the fees and allowances due and to be made to the clerks of the peace of the several counties and other divisions in England and Wales, for the removing of such doubts, BE IT ENACTED, That from and after the 1st day of July next it shall and may be lawful to and for the justices of the peace for the county of Kent, and for the county palatine of Lancaster, at their annual general sessions of the peace and for the justices of the peace in every other county, riding, division, city, town, liberty or precinct, within England and Wales, at their respective general quarter sessions of the peace, to ascertain, make and settle a table of fees and allowances to be taken by the clerk of the peace for such county of Kent and such county palatine, and such other counties, ridings, divisions, cities, towns, liberties and precincts respectively, and such table of fees and allowances, when so made, shall be subject to the approbation of the justices of the peace at the then next succeeding general annual session of the peace for the county palatine of Lancaster, and for the county of Kent, and at the then next succeeding (c) general quarter session of the peace for every other such county, riding division, city town, liberty or precinct as aforesaid, or at some adjournment of such sessions respectively, and such table of fees respectively, when so approved respectively, shall be laid before the judges of assize at the next assizes for such counties and places respectively, except the several places being counties in which assizes are not constantly or regularly holden in every year, and in those cases before the justices at the next assizes for the adjoining county where assizes are constantly and regularly holden, and to which prisoners are generally removed for trial from such places respectively, and also except the counties in Wales and the county palatine of Chester, and before the justices at the next great sessions for the several counties in Wales, and for the county palatine of Chester, and the said judges and justices respectively are hereby authorised to ratify and confirm such tables respectively, either as

Justices of peace for Kent and Lancashire, at their annual general and for every other county &c at their general quarter sessions, to settle a table of fees to be taken by the clerks of the peace for the said counties Such table to be laid before judges of assize

---

(a) See tit "JUSTICES OF THE PEACE," and tit. "POOR" Beere and Chitty's Burn's J, tit "Sessions of the Peace," Dickinson's Quarter Sessions Practice

The sessions of the peace is a court of record, holden before two or more justices, whereof one is of the quorum, for the execution of the authority given them by the commission of the peace, and certain statutes and Acts of parliament (Dalt c 185, Cro Circ Comp 13) They cannot be held without the presence of two justices (1 Bla Com 354) And if there are not justices enough to *hold* sessions, there are not enough to *adjourn* them (*R* v *Westerington*, 2 Bott 739, 2 Nol P L 437, 3rd edit, Doyly and Wms Burn's J, vol 3, p 800)

The justices do not sit at quarter sessions under a commission of oyer and terminer, but under a permanent commission of the peace, with an *assignavimus*, enabling them to hear and determine felonies (*Smith* v *Reg* 13 Q B 739 18 L J M C 207), and their power of trying prisoners is not affected by the fact of the judges sitting under the usual commissions for the same county (*Ib*).

The sessions are a continuing court, and their judgments can be respited from one sessions to another without an adjournment (*Keen* v *Rex*, 10 Q B 928, 16 L J M C 180) And an order at one sessions, that a defendant do enter into recognisances to appear and receive judgment at the next sessions, is not a judgment upon the indictment, so as to make the judgment at the subsequent sessions erroneous (*Ib*, see *Reg* v *Belton*, 11 Q B 379) But the court has no power of its own authority to erase an entry from the records of a past sessions, though the Court of Queen's Bench will grant a mandamus directing it to do so where an entry, false and made without jurisdiction, has been made (*Reg* v *Yorkshire W R*, 3 Gal & Dav 170, see *Reg* v *Hampshire J* 32 L J M C 46)

The court has power to quash an indictment before plea pleaded, and the propriety of this course can only be questioned by a writ of error (*R* v *Wilson*, 6 Q B 620, 14 L J M C 3)

A *venire de novo*, after judgment upon an indictment for felony, may issue to the quarter sessions (*Campbell* v *Reg*, 11 Q B 799, 17 L J M C 89)

(b) See 14 & 15 Vict c 55, ante, Vol II tit. "CRIMINAL LAW."

(c) See *Bowman* v *Blyth*, ante, Vol. II p 955, n (a).

57 G 3, c 91

settled and approved as aforesaid, or with such alterations, additions, and improvements as to such judges and justices last mentioned shall appear to be just and reasonable, and it shall be lawful for the said justices of the peace, at their respective quarter or general sessions of the peace, from time to time in like manner to make other tables of fees and allowances, instead of or in addition to the table of fees and allowances before made, which shall and may be approved and afterwards ratified and confirmed in like manner which fees and allowances contained in such tables respectively, when so made and approved, and afterwards ratified and confirmed as aforesaid, shall be the only fees and allowances which shall be taken by the clerks of the peace of the several counties and places for which such tables respectively shall be so made, approved, ratified and confirmed, from and after such ratification and confirmation thereof respectively any thing in any Act or Acts of parliament, or any law, usage or custom to the contrary in anywise notwithstanding

Fees in such tables when approved by judges to be the only fees

Clerks of the peace taking greater fees than allowed (a), penalty 5l.

2 That if at any time after any such table of fees and allowances shall have been so ratified and confirmed as aforesaid, any clerk of the peace, or any person or persons acting as such, shall, under pretence of any matter or thing done, transacted or performed, demand or receive any other or greater fee or allowance, than the fee or allowance, fees or allowances, ascertained, ratified and confirmed as aforesaid, such clerk of the peace or other person shall for every such offence forfeit and pay the sum of five pounds to any person who shall sue for the same by action of debt, bill, plaint or information in any of his majesty's courts of record at Westminster, wherein no essoign, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed

Printed or written copies of such table of fees to be hung up in some conspicuous place where the general or quarter sessions shall be held Clerks of the peace neglecting penalty 5l.

3. That every table of fees and allowances which shall be made, approved, ratified and confirmed from time to time as aforesaid, shall be deposited with the clerk of the peace for the county or place for which such table of fees shall have been so made, approved, ratified and confirmed as aforesaid, and a true and exact written or printed copy or copies thereof shall be placed and constantly kept in a conspicuous part of every room or place wherein any general or quarter sessions of the peace for such county or place shall be held, and if any clerk of the peace, or person acting as such, shall at any time neglect to cause every such copy to be so placed and constantly kept according to the provisions of this Act, he shall forfeit and pay to any person who shall sue for the same, for every such offence, the sum of five pounds, to be recovered by action of debt, bill, plaint or information in any of his majesty's courts of record at Westminster, wherein no essoign, privilege, protection, wager of law, nor more than one imparlance shall be granted or allowed

Limitation of actions

4 That all suits and actions which shall be brought or commenced by virtue of this Act, shall be brought before the end of three callendar months after the offence committed, and not otherwise

59 G 3, c 28

59 Geo. 3, c 28 An Act to empower Magistrates to divide the Court of Quarter Sessions (b) [19th May, 1819.]

3 G 4, c 46

3 Geo. 4, c 46. An Act for the more speedy Return and Levying of Fines, Penalties, and Forfeitures, and Recognisances estreated [24th June, 1822.]

[See this statute, post, tit "SHERIFF"]

9 G 4, c 43

9 Geo 4, c. 43 An Act for the better Regulation of Divisions in the several Counties of England and Wales (c). [15th July, 1828.]

"Whereas by divers Acts now in force it is enacted, that certain matters and things, in the same respectively mentioned, shall be transacted and determined within the divisions or limits within which the same shall arise, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling within or near to, or usually acting within, such divisions or limits respectively And whereas the boundaries of such divisions or limits are in some instances uncertain, and in many have become inconvenient to the inhabitants within the same, from the change or increase of trade or population, or from other causes and whereas doubts have arisen as to the authority by which such divisions or limits may from time to time be constituted, defined, or altered, and it is expedient that such doubts should be removed, and due provision made for the constituting, defining, and regulating from time to time

---

(a) See *Rex* v *Coles*, 8 Q B 75.

(b) This statute is repealed by 21 & 22 Vict. c 73, s 8, post, p 166.

(c) See 10 Geo 4, c 46, post, p 153, and 6 & 7 Will 4, c 12, post, p 155

such divisions or limits, as the convenience of the inhabitants within the same may require;" BE IT THEREFORE ENACTED, That at any time or times after the Michaelmas quarter sessions next following the passing of this Act, it shall be lawful for any two or more justices of the peace for any county (*a*), riding, or division in England or Wales, having a separate commission of the peace, to transmit to the clerk of the peace a statement in writing, signed by such justices, of the parishes, tithings, townships, and places within the same, which, in the opinion of such justices, would form together a convenient and a proper division within and for which special sessions should thenceforward be held: or of any parishes, tithings, townships, or places, which, in the opinion of such justices, ought to be annexed for the same purposes to any other division in the said county than those or that of which at the time of making such statement they form part: and that every such statement shall, among other things, set forth within what existing divisions or division, limits or limit, the several parishes, tithings, townships, and places enumerated in the same, are situated or deemed to be; and also whether one or more and what existing divisions or limits will be altered by such proposed new divisions, or by the change of any place or places from one division to another; and also the names of such justices of the peace as at the date of such statement are usually resident or acting as such within the boundaries of such proposed new division.

9 G. 4, c. 43. Justices to forward to the clerk of the peace a statement of the townships, places, &c., that would form a proper division for which special sessions should be held.

2. That at the quarter sessions next following the receipt of every such statement, setting forth such particulars as are above enumerated, and not otherwise, the clerk of the peace shall and he is required to lay the same before such justices of the peace in such sessions assembled; and the justices of the peace for such county, riding, or division, having such separate commission of the peace, shall and they are hereby required (except in the cases hereinafter provided for) to proceed, at the quarter sessions next following the laying of such statement before them as aforesaid, to the consideration thereof, and at their discretion to adopt the same wholly or in part, or to reject the same altogether, or to adjourn their determination thereupon to the next or any succeeding quarter sessions (*b*).

Statement to be laid before the justices at the next quarter sessions, who are to adopt or reject the same.

3. That immediately after the quarter sessions at which such statement shall have been first laid before the justices of the peace, the clerk of the peace shall cause to be published a copy of such statement in three successive numbers of one or more weekly newspapers usually published or circulated within the same county, riding, or division, and in which the advertisements of county business are usually inserted; and at the foot of such copy shall also cause notice to be given that such statement has been laid before such justices in pursuance of the directions of this Act, and that the same will be taken into consideration by the court at the then next ensuing quarter sessions.

Clerk of the peace to advertise statement and other particulars in the newspapers.

4. That when and so often as the justices of the peace of any such county, riding, or division, having a separate commission of the peace, shall adopt wholly or in part any such statement so laid before them, and shall determine to change any parish, tithing, township, or place, from one division to another, or to constitute any new division, within which special sessions shall thenceforward be holden, the said justices of the peace shall thereupon make an order for such alteration, or for the constituting and defining such new division, and in such last-mentioned order shall particularly enumerate the several parishes, tithings, townships, and places to be comprised within such new division, and shall also specify the division or divisions within which respectively any parishes, tithings, townships, and places, disannexed by such order from any former division, and not forming part of such new division, shall thenceforward be taken to be, and also shall affix to such new division the name of some principal and convenient parish, township, or place within the same, and also shall, in either of such orders, as the case may be, particularly set down the day from which such order shall take effect; and the clerk of the peace for such county, riding, or division, shall forthwith publish a copy of such order in three successive numbers of one or more such weekly newspapers as aforesaid, and shall transmit a copy of such order to every high constable within the limits of such new or altered division or divisions.

If justices approve, an order to be made for constituting a new division, and the clerk of the peace to publish the same

5. Provided always, That nothing in this Act shall be taken to authorise, and that it shall not be lawful for any justices in any court of quarter sessions to make any order constituting such new division, unless upon due proof before them made in open court upon oath, that for two years next before the making of such proof there have been, and at the time of making the same there are, at the least, five justices of the peace residing in or usually acting within the boundary line proposed to be the limits of any such new division.

No new division to be constituted, unless five justices at least shall be proved to be resident therein.

6. That from and after the day so specified in such order, for the term of [twenty-one years (*c*),] and until further order of sessions after the expiration of that time, and subject to no alteration or revision during such term, except as hereinafter provided, all matters and things which by law are now or hereafter may be required to be, or which now are, usually transacted or determined within the division within which the same shall have

New divisions to be deemed lawful divisions for holding special or

(*a*) As to the holding petty sessions in boroughs, see 12 & 13 Vict. c. 18, ante, Vol. I., p. 1083, tit. "CORPORATIONS."

(*b*) See 6 & 7 Will. 4, c. 12, s. 2, post, p. 155.

(*c*) See 6 & 7 Will. 4, c. 12, s. 1, post, p. 155.

9 G 4, c 43

petty sessions or other meetings of justices

arisen, or the parties therein concerned inhabit or exercise their trade or calling, and by or before one, two, or more justices of the peace dwelling or usually acting within the same, shall be transacted and determined, so far as the same matters and things arise within or concern the inhabitants of such new or altered division, or any of them, or the persons exercising their trade or calling therein, within the boundaries of such new or altered division, and such new or altered division shall thenceforward be, and be reputed and taken to be, for all purposes, and in the construction of all statutes now in force or hereafter to be made, and containing no special provision to the contrary, a lawful division for the holding of special sessions, and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee houses, and victualling houses, and other persons, shall and they are hereby thence forward required to give their attendance to and upon such justices of the peace at any time assembled in such special sessions, within the same division, as fully and effectually as by law they had been bound to do within any division reputed or taken before the passing of this Act to be a lawful and accustomed division of justices for the purposes aforesaid

Justices at sessions to cause inquiry into the extent of divisions, and alter the same and affix names thereto

7. Provided always, That at the quarter sessions next after the laying of any such statement before the justices in such sessions assembled, it shall and may be lawful for such justices, if they shall deem it expedient and proper, not to proceed to the single consideration of such statement, but instead thereof to cause to be made an inquiry and examination into the boundary lines, extent, and other local circumstances of all the existing and accustomed divisions for the holding of special sessions within the commission of such justices, and at such or any succeeding quarter sessions, to which the conclusion of such inquiry and examination may from time to time be adjourned, by order of sessions, to regulate, alter, new model, and subdivide all or any of such divisions, in such manner as shall appear to them proper and convenient, particularly specifying in such order the names of all such divisions, whether newly constituted, altered, or unaltered, the several parishes, tithings, townships, and places to be comprised in each, and affixing or continuing to each the name of some principal and convenient parish, township, or place within the same

Clerk of the peace to publish a copy of such order

8 That the clerk of the peace for any county, riding, or division in which such order shall have been made as last aforesaid, shall forthwith publish a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also forthwith transmit, by the post, a copy of the same to the churchwardens and overseers of the poor of each parish within the said county, riding, or division, to be by them affixed on the principal door of the church of such parish, and at the foot of every such copy so published or transmitted shall add a notice specifying at what time such order will be enrolled as hereinafter provided, and at what time and in what manner any person or persons, or body corporate, aggrieved by such order, may petition against the same, or any part thereof, as hereinafter provided

Order to specify a time when it shall be enrolled

Parties allowed to petition against such order

9 That in every such order, some time, not earlier than the fourth quarter sessions next after the making thereof, shall be provisionally specified, on which the same shall be enrolled as hereinafter provided, subject to such alteration as may thereafter be made either in the particulars of the said order, or in the time of its enrolment, and that at any court of quarter sessions preceding such time, it shall and may be lawful for any one or more person or persons, or body corporate, jointly or severally, to present a petition in writing to such court, against all or any part of such order, and to produce witnesses in support of such petition, and the justices at such court assembled shall and they are hereby required to hear and determine, in a summary way, the merits of such petition, and to amend such order so far as may, upon such hearing, appear proper and convenient Provided always, that no such petition shall be received or examined into, unless after due proof that a notice in writing, specifying the grounds thereof, which upon the hearing shall alone be inquired into, hath been served, ten clear days before the commencement of such sessions, upon one of the overseers of the poor, or the tithingman or constable, or two substantial housekeepers of the parish, tithing, township, or place respectively, as the case may be, wherein such petitioner or petitioners shall be resident at the time of presenting such petition, and also lodged, twenty clear days before such commencement, at the office of the clerk of the peace, who shall and he is hereby required forthwith to transmit a copy thereof to each of the justices usually acting within or for the district or places or place named in such notice

Order to be enrolled as soon as petitions against the same have been determined and shall not be subject to alteration for ten years

10 That so soon as all such petitions against such order shall have been determined, and such amendments made therein as shall have appeared necessary or proper, the justices at such quarter sessions shall cause to be inserted therein some day not earlier than one month after such sessions from which the same shall take effect, and shall cause the same order to be enrolled, and the same shall remain an order of sessions, controlling any order or orders of sessions heretofore made for the separate constitution of any new divisions, or the partial alteration of any accustomed divisions, under the former provisions of this Act, and not subject itself to revocation or alteration of any kind for the space of ten years thence next ensuing, and during such ten years no such statement shall be received or proceedings had thereon as above mentioned, but during all that time, and until further order of sessions after the expiration of that time, the several divisions, as limited, modelled, or constituted in and by such order, shall be, and be taken to be, for all the purposes in this Act mentioned, the lawful divisions of such county, riding, or division, having such separate commission of the peace, for the meetings of justices in special sessions, under any statute now in force, or hereafter to be made, and con-

taining no special provision to the contrary; and all bailiffs, constables, tithingmen, surveyors, overseers of the poor, and other officers, publicans, keepers of taverns, coffee houses, and victualling houses, and other persons, shall and they are hereby required thenceforward, during the time last above limited, to give their attendance to and upon the justices of the peace at any time assembled in such special sessions, within the same divisions respectively, as fully and effectually as by law they have been bound to do within any division reputed and taken before the passing of this Act to be a lawful and accustomed division for the meetings of justices for any of the purposes aforesaid. 9 G. 4, c. 43.

11. That immediately after the enrolment of such order, the clerk of the peace shall and he is hereby required to cause to be published a copy of the same in three successive numbers of one or more such weekly newspapers as aforesaid, and shall also transmit one copy thereof to each justice of the peace dwelling within or usually acting within and for such county, riding, or division, having such separate commission of the peace. Clerk of peace to publish copy of enrolment.

12. That no order to be made, nor any proceeding to be had or taken, in pursuance of this Act, shall be quashed or vacated for want of form, or removed by *certiorari*, or any other writ or process whatever, into any of his majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding. Proceedings not to be quashed for want of form.

13. That nothing in this Act contained shall extend or be construed or taken to extend to the county of Middlesex in England, or to Scotland or Ireland.

10 Geo. 4, c. 46. An Act for more effectually executing an Act of the last Session of Parliament, for the better Regulation of Divisions in the several Counties of England and Wales. [19th June, 1829.]

10 G. 4, c. 46.

"Whereas by an Act passed in the last session of parliament, intituled 'An Act for the better Regulation of Divisions in the several Counties of England and Wales,' the court of quarter sessions is empowered in certain cases to make orders for altering existing divisions, and for constituting new divisions for holding petty sessions, whereby in many cases parts of a hundred, wapentake, ward, or other district in the nature of a hundred, will be severed, for the purposes aforesaid, from the main body thereof, and such hundred or other like district will thereafter be situate in two or more divisions: And whereas by divers Acts it is required of high constables to give notice to, or to serve precepts on, petty constables, churchwardens, overseers of the poor, surveyors of the highways, and others, similar duties may be cast upon high constables by future Acts, and the labour of executing such duties will be increased by the severance of the hundred or other like district under the provisions of the said recited Act, and difficulties may arise in the due execution of process in such cases:" for remedy thereof, BE IT ENACTED, That whensoever the court of quarter sessions shall, under the said provisions, make an order for changing any parish, tithing, township, or place from one division to another, or an order for constituting any new division, and it shall appear to the court that any inconvenience will arise from such change if the high constable or high constables shall continue liable to perform the duties aforesaid in respect to the whole of his or their hundred or other like district, the same court of quarter sessions shall make an order for remedying such inconvenience, either by directing that where there are more than one high constable such duties shall be divided between them, in such manner as to the court shall seem fit, or, if circumstances shall so require, that the high constable or high constables shall be entirely exempted from the performance of a certain portion of those duties, and that the same portion shall be performed by the high constable of any other hundred, or by some petty constable, tithingman, or other peace officer, or by some other person or persons to be specified in the order; and every such order shall be binding on all justices, officers, and persons whomsoever. 9 G. 4, c. 43. Court of quarter sessions, on making order for division of any district, may at the same time make order respecting the duties of the high constables.

2. Provided always, that neither this Act, nor any order to be made by virtue thereof, shall perjudice or affect the rights of any lord of any hundred, manor, or other franchise, nor any person claiming under him, otherwise than as to the service of process in the cases hereinbefore mentioned or referred to. Act not to affect the rights of lords of manors.

11 Geo. 4 & 1 Will. 4, c. 70. An Act for the more Effectual Administration of Justice in England and Wales. [23rd July, 1830.]

11 G. 4 & 1 W. 4, c. 70.

35. "And whereas the general quarter sessions of the peace are now directed to be held in each year in the first week after the 11th day of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after When quarter sessions are to be held (a)

(a) See 12 Rich. 2, c. 10, ante, Vol. II. tit. "JUSTICES OF THE PEACE;" 54 Geo. 3, c. 84. The sessions are considered in law as one day (*Reg.* v. *Surrey*, 1 M. & Sel. 479), and are

11 G. 4 & 1 W. 4, c. 70.

the translation of St. Thomas the Martyr: And whereas it will be expedient that the times of holding the general quarter sessions of the peace should be altered in part;" BE IT THEREFORE ENACTED, That in the year of our Lord 1831, and afterwards, the justices of the peace in every county, riding, or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the 11th day of October, in the first week after the 28th day of December, in the first week after the 31st day of March, and in the first week after the 24th day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this Act for the holding of the general quarter sessions of the peace shall be as valid and binding to all intents and purposes as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this Act.

4 & 5 W. 4, c. 27.

4 & 5 Will. 4, c. 27. An Act for the better Administration of Justice in certain Boroughs and Franchises (a). [25th July, 1834.]

"Whereas the justices of the peace acting in and for certain boroughs and franchises in that part of the united kingdom called England, not being empowered by charter or otherwise to hear and determine felonies at the general sessions of the peace held in and for such boroughs and franchises, are by law required to send for trial at the general assizes for the county wherein such borough or franchise may be situated every person charged with felony, whereby the administration of justice is injuriously delayed, and the expenses to which the county in such cases is liable are grievously increased;" BE IT THEREFORE ENACTED, That from and after the passing of this Act the justices of the peace, and any such justice acting in and for any borough or franchise in that part of the united kingdom called England, not being empowered by charter or otherwise to hear and determine felonies, shall and may commit every person charged with any such felony as the court of quarter sessions may have jurisdiction to try, to be tried at the general quarter sessions of the peace for the county, riding, or division wherein such borough or franchise shall be situate, or at any adjournment thereof; and the justices of the peace acting in and for such county, riding, or division are hereby empowered to try persons so committed at the general quarter sessions of the peace held for such county, riding, or division, or at any adjournment thereof.

Justices of the peace acting for boroughs may commit persons for felonies triable at sessions.

2. [Justices in boroughs, &c., having jurisdiction at sessions over certain felonies may commit to the gaol of the county persons charged with a felony the trial of which may legally take place at the quarter sessions, but to which the jurisdiction of the borough justices does not extend (b).]

3. [In places having a recorder and a fit prison, the magistrates shall commit to such; and the quarter sessions there shall have authority to hear, &c. (b).]

4 & 5 W. 4, c. 47

4 & 5 Will. 4, c. 47. An Act for preventing the Interference of the Spring Assizes with the April Quarter Sessions. [13th August, 1834.]

1 W. 4, c. 70.

"Whereas by an Act passed in the first year of the reign of his present majesty, intituled 'An Act for the more effectual Administration of Justice in England and Wales,' it is directed, that the justices of the peace in every county, riding, or division for which quarter sessions of the peace ought by law to be held shall hold their general quarter sessions of the peace (among other times) in the first week after the 28th day of December and in the first week after the 31st day of March: And whereas in some counties of England and Wales the time usually fixed for holding the spring assizes interferes (c) with the due holding of the last-mentioned quarter sessions; and although

---

reckoned as of the first day (*Reg.* v. *Suffolk*, 4 Dowl. & L. 628; 16 L. J. M. C. 36). The 54 Geo. 3, c. 84, was holden to be merely directory, and sessions might legally be held at other times than at those thereby directed (*Reg.* v. *Leicester*, 7 B. & C. 6); and there can be no doubt that the same construction will be put upon this statute (Dick. Q. S. 65), and that the justices have power to originate as many sessions as they please, unless restricted by some Act of parliament (*Reg.* v. *Mullaney*, 6 Car. & P. 96).

(a) See 6 & 7 Will. 4, c. 105, and 5 & 6 Will. 4, c. 76, ss. 110 *et seq.*, ante, Vol. I. tit. "CORPORATIONS."

(b) Those sections seem to be repealed by 5 & 6 Will. 4, c. 76, s. 107, ante, Vol. I., tit. "CORPORATIONS;" Dick. Q. Sess. 1007.

(c) From the fact of the sessions not being held during the assizes, for reasons of convenience, a common notion has prevailed that they cannot by law be so held, but for which there is no sufficient authority. It is true that the commission of gaol delivery commands the judges to deliver the gaol of the prisoners therein being, and it therefore gives them an

the justices of the peace have authority to hold general sessions of the peace at other times of the year besides those specified in the said recited Act, such sessions are not quarter sessions within the intent of various Acts of parliament which give jurisdiction to justices of the peace in their quarter sessions or in their general quarter sessions; and for the purpose of preventing the inconvenience arising from such interference as aforesaid it is expedient to allow to the justices of the peace a discretion as to the time of holding their general quarter sessions, which they are now required to hold in the week next after the 31st day of March:" BE IT THEREFORE DECLARED AND ENACTED, That in every county, riding, or division for which general quarter sessions ought to be held it shall be lawful for the justices assembled in their general quarter sessions in the week next after the 28th day of December in every year to name (if they shall see occasion so to do) two justices of the peace who shall be empowered, as soon as may be after the time for holding the spring assizes shall be appointed, to fix the day for holding the next general quarter sessions of the peace for such county, riding, or division, so as such time shall not be earlier than the 7th day of March nor later than the 22nd day of April, and to give notice of the day so fixed by advertisement in such newspapers as shall be directed by the justices so assembled; and in every such case the general quarter sessions held on the day so fixed and notified shall be valid, and it shall not be necessary to hold any sessions of the peace for such county, riding or division in the week next after the 31st day of March, anything in the said recited Act to the contrary notwithstanding: Provided always, that in every county, riding, and division where no other day shall be fixed in the manner hereinbefore mentioned, the justices of the peace shall hold their general quarter sessions of the peace in the week next after the 31st day of March, as by the said recited Act they are required.

4 & 5 W. 4. c. 47.

Justices at epiphany sessions may name two of their body to fix the day for holding the next general quarter sessions.

Proviso.

6 & 7 Will. 4, c. 12. An Act for amending an Act of the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled *An Act for the better Regulation of Divisions in the several Counties of England and Wales.* [20th May, 1836.]

6 & 7 W. 4, c. 12.

"Whereas by an Act passed in the ninth year of his late majesty king George the fourth, intituled 'An Act for the better Regulation of Divisions in the several Counties of England and Wales,' it is amongst other things enacted, that such divisions when severally constituted in the manner directed by the said Act, shall be subject to no alteration or revision for the several terms of twenty-one and ten years respectively, and until further order of sessions after the expiration of such terms of twenty-one years and ten years respectively: And whereas it may be expedient that such divisions should have the same limits as unions of parishes formed under the Act of the fourth and fifth years of his present majesty, intituled 'An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales;' and for this and other reasons it may be expedient to alter divisions within shorter periods of time than are now fixed by the herein recited Act:" BE IT THEREFORE ENACTED, That it shall be lawful for the justices of the peace for any county, riding, or division having a separate commission of the peace, in any court of quarter sessions, to alter and revise such divisions in the manner and according to the forms required by the said herein recited Act, on the expiration of three years from the constituting thereof, anything in such Act contained to the contrary notwithstanding.

9 G. 4, c. 43.

4 & 5 W. 4, c. 76.

Justices at quarter sessions may alter divisions after three years from the constituting thereof (a).

2. That it shall be lawful for the justices as aforesaid at such quarter sessions to make any order constituting any new division, upon due proof before them made in open court on oath, that at the time of making the same there are at the least five justices of the peace residing or usually acting within the boundary line proposed to be the limit of any such new division, but not otherwise.

New divisions may be constituted if five justices are resident or acting therein.

3. That all matters and things by the said herein recited Act required to be done by and with regard to the clerk of the peace shall be done by and with regard to that officer with respect to the new divisions to be formed by virtue of this Act.

Forms, &c., to be similar to those in 9 G. 4, c. 43.

4. Provided always, that every such order shall be made subject to such power of petitioning against the same as is given by the said herein recited Act with respect to any order made by virtue thereof.

Reservation of right of appeal.

---

authority which might in fact conflict with the justices in sessions trying the prisoners in the gaol under their commission of the peace. It does not, however, appear that there is any law or rule of law which in such case ousts them of their jurisdiction, yet it would be highly inconvenient and improper, generally speaking, for the magistrates of a county to hold their sessions conjointly with the assizes (per Coleridge, J., *Smith* v. *Reg.*, 13 Q. B. 739, 18 L. J. M. C. 212).

(a) See 2 & 3 Vict. c. 82, and 7 & 8 Vict. c. 61, ante, Vol. II., tit. "JUSTICES OF THE PEACE."

6 & 7 W. 4, c. 12.

Proceedings not to be quashed for want of form.

5. That no order to be made nor any proceedings to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by *certiorari*, or any other writ or process whatever, into any of his majesty's courts of record at Westminster; any law or statute to the contrary notwithstanding.

Not to extend to Middlesex, Scotland, or Ireland.

6. That nothing in this Act contained shall extend or be construed or taken to extend to the county of Middlesex in England, or to Scotland or Ireland.

1 Vict. c. 19.

1 Vict. c. 19. An Act to empower the Recorder or other Person presiding in Quarter Sessions in corporate Cities and Towns, and Justices of the Peace for Counties, Ridings, or Divisions, to divide their respective Courts in certain Cases. [30th June, 1837.]

59 G. 3, c. 28.

"Whereas in large corporate cities and towns the quarter sessions of the peace may sometimes last beyond three days, and where such is the case considerable inconvenience and increased expense will result from the detention of jurors and witnesses and the unavoidable attendance of a large portion of the municipal police: And whereas for the remedying thereof it is expedient that a similar power of forming a second court to that which is vested in the justices at the general quarter sessions for counties by virtue of an Act passed in the fifty-ninth year of his late majesty king George the third, intituled 'An Act to empower Magistrates to divide the Court of Quarter Sessions,' should be given to the recorder or other person presiding in the court of quarter sessions of corporate cities or towns:" BE IT THEREFORE ENACTED, That whenever it shall appear to such recorder or other person presiding as aforesaid that the said quarter sessions are likely to last more than three days, including the day of assembling, it shall and may be lawful for such recorder or other person so presiding, at his discretion, but subject to the provisions hereinafter contained, to order a second court to be formed, and to appoint by writing under his hand and seal a barrister at law, of not less than five years' standing, to preside and try such felonies and misdemeanours as shall be referred to him therein, whilst the said recorder or other person is sitting in such quarter sessions; and for the effectual execution of the powers of this Act, such recorder or other person so presiding shall be empowered in such case to call upon the clerk of the peace, and such clerk of the peace is in such case hereby authorised and required to appoint an assistant, and such recorder or other person shall himself appoint an additional crier for such second court; and such barrister shall be styled "assistant barrister," and shall exercise, for the time being, whilst the said recorder or other person is so sitting as aforesaid, the same powers as are exercised by the said recorder or other person presiding as aforesaid, and subject to the same rules and regulations; and the proceedings so had by and before such assistant barrister shall be as good and effectual in the case to all intents and purposes as if the same were had before the said recorder or other person so presiding as aforesaid, and shall be enrolled and recorded accordingly: Provided always, that if at any time during the sitting of such second court the recorder or other person shall be of opinion that it is no longer required, he may direct the assistant barrister, at a proper opportunity, to adjourn the same: Provided also, that no such recorder or other person so presiding as aforesaid shall at any time exercise the powers and discretion given by this Act unless it shall have been theretofore and before each such quarter sessions certified to him under the hand or hands of the mayor or of two of the aldermen of such corporate city or town, that the council of such corporate city or town have resolved that it will be expedient and for the benefit of the inhabitants thereof that the same should be exercised, nor unless the name of the barrister proposed to be appointed, in case such recorder or other person shall in the exercise of such discretion deem such appointment necessary, shall have at some previous time been transmitted to and approved of by one of his majesty's principal secretaries of state as a fit and proper person to be from time to time so appointed.

Power to the recorder or other person presiding to form a second court and appoint a barrister to preside therein.

Clerk of the peace in such cases to appoint an assistant.

Recorder may direct such court to be adjourned.

Proceeding preliminary to the exercise of the powers hereby given.

Remuneration to officers of said second court.

2. That such assistant barrister shall be entitled to a remuneration of ten guineas per diem for each day that he shall so preside as aforesaid; and such assistant clerk of the peace shall be entitled to a remuneration of two guineas per diem; and such additional crier shall be entitled to a remuneration of half a guinea per diem, for such time as they shall execute their respective offices in such second court; and such remuneration shall be paid by the treasurer of the borough out of the borough fund; and the recorder or other person so presiding shall grant a certificate to such assistant barrister, such assistant clerk of the peace, and such additional crier respectively, stating the number of days that each shall have executed his several office, and the amount that he is entitled to claim; and such certificate shall be a sufficient authority to the treasurer of the borough to pay the same, and shall be retained by him as a voucher for such payment: Provided always, that such assistant barrister, assistant clerk of the peace, or additional crier, shall not in any case be entitled to claim remuneration for more than two days.

Stamp duty.

3. That the appointments and certificates authorised and directed by this Act shall not be subject to any stamp duty or other tax whatsoever.

4. [Two or more justices at adjourned quarter sessions may sit apart for despatch of business (*a*).] 1 Vict. c. 19.

1 & 2 Vict. c. 4. An Act to remove Doubts as to summoning Juries at adjourned Quarter Sessions of the Peace. [23rd December, 1837.]

1 & 2 Vict. c. 4.

[See this Statute, ante, Vol. II. p. 930, tit. "JURIES."]

5 & 6 Vict. c. 38. An Act to define the Jurisdiction of Justices in General and Quarter Sessions of the Peace. [30th June, 1842 (*b*).]

5 & 6 Vict. c. 38.

"Whereas it is expedient that the powers of justices in general and quarter sessions of the peace with respect to the trial of offences be better defined:" BE IT ENACTED, That after the passing of this Act, neither the justices of the peace acting in and for any county, riding, division, or liberty, nor the recorder of any borough, shall, at any session of the peace, or at any adjournment thereof, try any person or persons for any treason, murder, or capital felony, or for any felony which, when committed by a person not previously convicted of felony, is punishable by transportation beyond the seas for life, or for any of the following offences; (that is to say,)

Justices in sessions restrained from trying certain offences.

1. Misprision of treason:
2. Offences against the queen's title, prerogative, person, or government, or against either house of parliament:
3. Offences subject to the penalties of *præmunire*:
4. Blasphemy and offences against religion:
5. Administering or taking unlawful oaths:
6. Perjury and subornation of perjury (*c*):
7. Making or suborning any other person to make a false oath, affirmation, or declaration, punishable as perjury or as a misdemeanour:
8. Forgery (*d*):
9. Unlawfully and maliciously setting fire to crops of corn, grain, or pulse, or to any part of a wood, coppice, or plantation of trees, or to any heath, gorse, furze, or fern:
10. Bigamy, and offences against the laws relating to marriage:
11. Abduction of women and girls:
12. Endeavouring to conceal the birth of a child:
13. Offences against any provision of the laws relating to bankrupts and insolvents:
14. Composing, printing, or publishing blasphemous, seditious, or defamatory libels:
15. Bribery:
16. Unlawful combinations and conspiracies (*e*), except conspiracies or combinations to commit any offence which such justices or recorder respectively have or has jurisdiction to try when committed by one person:
17. Stealing or fraudulently taking, or injuring or destroying, records or documents belonging to any court of law or equity, or relating to any proceeding therein:
18. Stealing or fraudulently destroying or concealing wills or testamentary papers, or any document or written instrument being or containing evidence of the title to any real estate, or any interest, in lands, tenements, or hereditaments (*f*):

(*a*) Repealed by 21 & 22 Vict. c. 73, s. 8, post, p. 166.

(*b*) This Act does not affect proceedings previous to the 15th July, 1842 (5 & 6 Vict. c. 43).

(*c*) See *Rex* v. *Higgins*, 2 East, 18.

(*d*) See *Reg.* v. *Higgins*, supra; 2 Hawk. P. C. c. 8, s. 38.

(*e*) See *Reg.* v. *Wrigley*, 2 Q. B. 732, n.

(*f*) Subject to the above restrictions, it seems to be clear, that where an offence is created, and declared a misdemeanour by a statute passed since the institution of the office of a justice of the peace, it may be tried by a court of quarter sessions, unless there is some special direction that it shall be heard and determined by another court. Thus, where a statute declared lighting fires on the coast at particular times to be "a misdemeanour," it was held indictable at quarter sessions, though the Act directed that the offender should be committed to the "next court of oyer and terminer, great essoin, or gaol delivery," and in case of indictment found, should forthwith plead and be tried without traverse (*Rex* v. *Cock*, 4 M. & Sel. 71). Mr. Justice Blackstone (4 Bla. Com. 271) has laid it down, that the sessions cannot try any new-created offence without express power given them by the statute which creates it. He cites, as authorities for his position, *Reg.* v. *Yarrington*, 1 Salk. 406, a case of forgery indicted at the quarter sessions, and *Reg.* v. *Smith*, 2 Salk.

5 & 6 Vict c 38

Proviso as to justices acting in London and the environs

4 & 5 W 4 c 36

Provided always, that nothing herein contained shall be construed to give authority to the justices of the peace acting in and for the cities of London and Westminster, the liberty of the Tower of London, the borough of Southwark, and the counties of Middlesex, Essex, Kent, and Surrey to try any person or persons for any offence committed or alleged to be committed within the jurisdiction of the Central Criminal Court, which such justices are restrained from trying under the provisions of an Act passed in the fifth year of the reign of his late majesty, intituled "An Act for establishing a new Court for the Trial of Offences committed in the Metropolis and Parts adjoining"

Indictment found at the sessions of the peace may be removed,

2 That it shall be lawful for any judge of one of her majesty's superior courts at Westminster, acting under any commission of oyer and terminer and gaol delivery for any county to issue, if he shall think fit, any writ or writs of *certiorari* or other process, directed to the justices of the peace acting in and for such county, riding, division, or liberty, or to the recorder of any borough situated within the said county, commanding the said justices and recorder severally to certify and return, into the court holden under the authority of such commission of oyer and terminer and gaol delivery, all indictments or presentments found or taken before any of the said justices of the peace or recorder of any offences which, after the passing of this Act, such justices or recorder will not have jurisdiction to try, and the several recognizances, examinations, and depositions relative to such indictments and presentments, and also, if necessary, by writ or writs of *habeas corpus*, to cause any person or persons who may be in the custody of any gaol or prison, charged with any such offence, to be removed into the custody of the keeper of the common gaol of the county, so that the same offences may be dealt with, tried, and determined according to law, under the authority of the said commission

and prisoners may be removed by *habeas corpus*

Recognizances to be obligatory to appear at assizes

3 That every recognizance which shall have been entered into for the prosecution of any person at any court of sessions of the peace, for any offence which after the passing of this Act such court will not have jurisdiction to try, and every recognizance for the appearance, as well of any witness to give evidence upon any bill of indictment or presentment for any such offence, as of any person to answer our lady the queen for or concerning any such offence, or to answer generally before such court, shall, in case any writ of *certiorari* or *habeas corpus* be issued for the purpose of removing such indictment or presentment, or such person so in custody as aforesaid, be obligatory on the parties bound by such recognizance to prosecute and appear, and give evidence, and do all other things therein mentioned with reference to the indictment or presentment or person so removed as aforesaid, before the justices of oyer and terminer and gaol delivery acting in and for that county, in like manner as if such recognizance had been originally entered into for prosecuting such offence, appearing, or give evidence, or doing such other things before the said justices of oyer and terminer and gaol delivery Provided always, that one week's notice shall have been given, either personally or by leaving the same at the place of residence as of which the parties bound by such recognizance are therein described, to appear before the court of oyer and terminer and gaol delivery, instead of the said court of sessions of the peace Provided also, that the judge who shall grant such writ of *certiorari* or *habeas corpus* shall cause the party applying for such writ or

---

680, 2 Ld. Raym 1144, a case of usury similarly indicted In *Reg* v *Alsop*, 4 Mod 49, it was held, that the justices, by the general words of their commission, have power to punish offences against any statute made concerning the peace of the nation, but not offences that are not against the peace (see *Rex* v *Buggs*, 4 Mod 379, *R.* v *Clonyh*, 5 Mod. 149, 18 Edw 3, st 2, c 2, 24 Edw 3, c 1, ante, Vol II, tit "JUSTICES OF THE PEACE," and see *Haylock* v *Sparke*, 22 L J M C 67, 1 E. & B 471) In *Rex* v *James*, 2 Strn 1256, an indictment found at quarter sessions for fastening nets across a river, contrary to 2 Hen 6, c 15, was quashed, because that Act gave a penalty of 100*s*, but no jurisdiction to the sessions (see Com Dig, Justices of the Peace, B 2, 3, Bac Abr, Justices of the Peace, B 3, Hawk P C bk 2, c 1, s. 38, 2 Hale, 44, *Agard* v *Candish*, Savile, 134, *R* v *Bristow*, Sayer, 138) In *R* v *James*, the setting nets in the way charged was by the statute "wholly prohibited for ever," it would therefore seem that the indictment would have lain on that prohibitory clause (2 Hale, 171). As to *Rex* v *Yarrington*, the exceptions of forgery (and perjury, at common law), from the general jurisdiction of the quarter sessions over all inferior offences, as well those properly and directly against the peace, as those which are only so by construction, as breaches of the law were said to be, were declared by Lord Kenyon to rest more on authority than principle (see *R* v *Higgins*, 2 East, 15) Again, the principle of the modern cases is clearly at variance with *R.* v. *Smith* In *R* v *Rispal*, 1 W B 368, on an indictment at quarter sessions for conspiracy, Lord Mansfield said, "The cases of perjury, forgery, and usury, stand on their own special ground (2 Hawk C P c. 8, s. 38), and it has been determined that the justices have no jurisdiction there The offence of conspiracy is a trespass, and trespasses are indictable at sessions, though not committed *vi et armis* They tend to a breach of the peace as much as cheats and libels, which are established to be within the jurisdiction of sessions" (see Dick Q S 159)

writs, whether he be the prosecutor or party charged with such offence, to enter into a recognizance, in such sum, and with or without sureties, as the judge may direct, conditioned to give such notice as aforesaid to the parties bound by such recognizance to appear before the said court of oyer and terminer and gaol delivery, instead of before the said court of sessions of the peace respectively, and to do such other things with reference to the indictment, presentment, or person removed as such court or judge shall direct. 5 & 6 Vict. c. 38.

4. [Power to divide courts of sessions of the peace (a).]

5 & 6 Vict. c. 53. An Act to encourage the Establishment of District Courts and Prisons. [30th July, 1842.]

5 & 6 Vict. c. 53.

[See Section 38 et seq. ante, Vol. III. tit. "PRISONS."]

7 & 8 Vict. c. 33. An Act for facilitating the Collection of County Rates, and for relieving High Constables from Attendance at Quarter Sessions in certain Cases, and from certain other Duties. [19th July, 1844.]

7 & 8 Vict. c. 33.

7. (b) "And whereas it is expedient to relieve high constables from the duty of serving notices of the holding of special sessions on the justices of the peace of the division of special sessions personally:" BE IT ENACTED, That from and after the passing of this Act, in all cases in which special sessions are required to be holden for any division of any county or place, if notice of the intended holding of such special sessions be signed by any one justice of the peace usually acting within such division, and if a copy of such notice be sent by post a reasonable time before the day on which such sessions are to be holden, addressed to each justice of the peace resident and usually acting within such division at his residence in such division, such notice shall be deemed to have been duly given to or served on each such justice of the peace, any law or custom to the contrary notwithstanding.

Where special sessions are required to be holden notice of the same to be sent to each justice.

7 & 8 Vict. c. 61. An Act to annex detached Parts of Counties to the Counties in which they are situated. [6th August, 1844.]

7 & 8 Vict. c. 61.

"Whereas there exist in England and Wales parts of counties detached from the main body of the county, and delay and hindrance to the administration of justice ensue, and inconvenience in other respects; and it is desirable to remedy the said evil:" BE IT THEREFORE ENACTED, That from and after the 20th day of October next every part of any county in England or Wales which is detached from the main body of such county shall be considered, for all purposes as forming part of that county of which it is considered a part for the purposes of the election of members to serve in parliament as knights of the shire, under the provisions of an Act passed in the third year of the reign of his late majesty, intituled "An Act to settle and to describe the Divisions of Counties and the Limits of Cities and Boroughs in England and Wales, in so far as respects the Election of Members to serve in Parliament:" Provided always, that nothing herein contained shall be construed to alter the county, riding, or division to which any such detached part shall be deemed to belong for the purpose of holding inquests, under the provisions of an Act passed in the sixth year of the reign of her majesty, intituled "An Act for the more convenient holding of Coroners' Inquests."

Detached portions of counties to be part of the county by which they are surrounded.

2 & 3 W. 4, c. 12.

6 & 7 Vict. c. 64.

2. That every such detached portion which under the provisions of this Act shall be annexed for purposes other than that of voting for members of parliament to any county to which it did not belong for such purposes before the passing of this Act shall thenceforth be taken to be part of the hundred, wapentake, ward, rape, lathe, or other like division by which it is wholly or for the most part surrounded, or to which it is next adjoining, in the county to which it will thenceforth belong, unless the justices of the county, riding, parts, or division, in general or quarter session assembled, shall declare it to be a new or separate hundred or other like division, which they shall be empowered to do; and it shall be lawful for justices of such county, riding, parts, or division, in general or quarter sessions assembled, in every case in which there shall appear to them to be any doubt to which of such divisions any such detached part shall belong under this Act, to declare the division to which it shall be taken to belong; and

Detached parts to belong to adjoining hundred, &c., or to form a separate hundred (c).

(a) Repealed by 21 & 22 Vict. c. 73, s. 8 post, p. 166.

(b) This statute is repealed as to county rates, by 24 & 25 Vict. c. 101. See the previous sections of this statute, ante, tit. "POLICE."

(c) See *Reg.* v. *Brecknockshire*, 15 Q. B. 813, 19 L. J. M. C. 203.

7 & 8 Vict. c. 61.

such determination shall be final and conclusive, and shall be published in the "London Gazette," the production of which paper shall be evidence thereof.

Provision as to special and petty sessions.

3. That in all cases where any such detached part of a county shall have formed before the passing of this Act a separate division in which special and petty sessions of the peace for such county shall have been usually holden, such detached part shall remain a separate division for special and petty sessions of the county to which it shall be annexed after the passing of this Act, until the justices of the county, riding, parts, or division to which it shall be annexed after the passing of this Act shall have re-constituted such division for special and petty sessions of the peace under the provisions of an Act passed in the ninth year of the reign of king George the fourth, intituled "An Act for the better Regulation of Divisions in the several Counties of England and Wales," and also of an Act passed in the sixth and seventh years of the reign of king William the fourth, intituled "An Act for amending an Act of the Ninth Year of the Reign of his late Majesty King George the Fourth, intituled 'An Act for the better Regulation of Divisions in the several Counties of England and Wales.'"

9 G. 4, c. 43.

6 & 7 W. 4, c. 12.

Error in stating name of county not to invalidate legal documents.

4. Provided always, That no judicial proceeding, or deed or other instrument in writing, shall be invalidated by reason of any error in stating the name of the county to which such detached portion originally belonged, instead of the county to which it will belong under this Act, or the converse; and that every proceeding at law, whether civil or criminal, already commenced, or to be commenced before the 20th day of October next, shall and may be prosecuted and heard and determined exactly as if this Act had not been passed, save and except in so far as it shall be otherwise ordered by any of her majesty's superior courts of common law having jurisdiction in any case in which such order shall be made.

Saving of ecclesiastical rights.

5. Provided always, That nothing herein contained shall alter or interfere with any ecclesiastical jurisdiction or right of patronage.

Saving the rights of certain coroners.

6. "And whereas as to some such detached parts there are coroners appointed expressly for and having jurisdiction in such detached parts only:" BE IT THEREFORE ENACTED, That as to every detached part for which at the time of the passing of this Act there is a coroner appointed for and acting in such detached part, such coroner shall during his life, or until he shall resign or be removed from his office, continue to hold and exercise his office and jurisdiction within such detached part in as ample a manner as if this Act had not been passed.

Act not to extend to alter or affect the land tax or assessed taxes in detached portions of counties.

7. Provided always, That nothing herein contained shall be construed to affect or alter the assessments of the land tax or assessed taxes in or for any such detached portion of a county, or to extend or diminish the jurisdiction of any commissioners acting therein in the execution of the Acts relating to the said taxes respectively, but that all such detached portions shall be subject in that behalf to the jurisdiction of the commissioners acting for the same county or district as they would have been subject to if this Act had not been passed; and all parishes and parts of parishes and places, and all manors, lands, tenements, and hereditaments within any such detached portion, shall continue chargeable towards raising the land tax charged upon the same county or other district to or in aid of which they have heretofore contributed a quota or portion of such land tax.

7 & 8 Vict. c. 71.

7 & 8 Vict. c. 71. An Act for the better Administration of Criminal Justice in Middlesex. [6th August, 1844.]

"Whereas it is desirable, for the better administration of criminal justice in the county of Middlesex, that sessions of the peace for the trial of felonies and misdemeanours committed within the said county should be holden more frequently, and that an assistant judge, of competent legal knowledge, should be appointed to preside at such sessions:" BE IT ENACTED, That after the passing of this Act there shall be holden in and for the county of Middlesex two sessions or adjourned sessions of the peace at least in every calendar month; and the first sessions holden in the months of January, April, July, and October respectively shall be the general quarter sessions of the said county.

Two sessions to be held in every month.

Quarter sessions.

General sessions.

2. That the second sessions, or the adjourned sessions, holden in the months of February, May, August, and November respectively, and such other sessions as the justices for the county in the first sessions holden in the month of December assembled shall from time to time appoint, shall be general sessions of the peace; and such general sessions shall have power (a) to try and determine all appeals, and all other powers which now or shall hereafter belong to the general quarter sessions.

Validity of proceedings at general sessions.

3. That all orders heretofore made and all things heretofore done at any general session of the peace for the county of Middlesex shall be as good in law as if made and done at the general quarter sessions of the peace for the said county.

Adjournments.

4. That the second sessions holden in the months of January, April, July, and October shall be adjournments of the general quarter sessions.

(a) See *Reg.* v. *Middlesex*, Dav. & M. 289, 17 L. J. M. C. 171.

7 & 8 Vict. c. 71.

5. That after the passing of this Act it shall be lawful to begin and continue, or to continue when begun, any session of the peace for the said county so to be holden as aforesaid, until the business thereof shall be ended, notwithstanding that her majesty's court of queen's bench may sit at Westminster or elsewhere in the said county before or at the beginning or during the continuance of any such session.

Sessions may be held notwithstanding the sitting of the court of queen's bench.

6. That no person against whom any bill of indictment shall be found for misdemeanour at the central criminal court, or at any session of the peace for the county of Middlesex, shall be entitled to traverse the same to any subsequent sitting of the court, but the court shall forthwith proceed to try the same, unless upon good cause to be shown by the person against whom the same is found, or the prosecutor, and to be allowed by the court, for the postponement of the trial (a).

Indictments for misdemeanour not to be traversed without cause shown.

7. That the justices of the said county shall cause an account to be taken of the fees received by the sheriff or his deputy for summoning traverse juries during the last three years, and shall be authorised to allow and cause to be paid yearly, for such time as to them shall seem fit, to the said sheriff or his deputy, out of the county rates of the said county, in addition to the other emoluments of his office, any sum not exceeding the average yearly amount of the fees received by him for summoning traverse juries during the said three years.

Allowance out of county rates to be made to sheriff, &c., in addition to other emoluments.

8. That it shall be lawful for her majesty, her heirs and successors, by sign manual, to appoint a person, being a serjeant or barrister at law of not less than ten years' standing, and in the commission of the peace for the said county, and qualified by law to act as a justice of the peace, to be the assistant judge of the said court of the sessions of the peace, which said assistant judge shall preside at the hearing of all appeals, and at the trial of all felonies and misdemeanours in the said court, and all matters connected therewith, and shall hold his office during good behaviour; and in case of sickness or unavoidable absence, and on such other occasions as shall be allowed by one of her majesty's principal secretaries of state, such assistant judge shall be empowered from time to time to appoint a deputy, qualified to be appointed assistant judge, who shall have power to act for him for such time as shall be in each case allowed by the secretary of state, not being in any case later than the end of the business at the session of the peace then next but one following: Provided always, that nothing in this Act contained shall interfere with the appointment of the chairman of the said court for all purposes except the trials of appeals and of felonies and misdemeanours, and other matters connected therewith, but such appointment shall remain in the said justices as before the passing of this Act; provided also, that the said assistant judge, so long as he shall hold the said office, shall not be eligible to sit in parliament.

An assistant judge to be appointed to preside at the sessions, in certain cases.

Deputy.

Nothing herein to interfere with the appointment of the chairman of the court.

9. That the presence of another justice of the peace shall not be essential to the formation of the court in those cases in which it is directed by this Act that the assistant judge or his deputy for the time being shall preside: but nothing in this Act contained shall lessen the jurisdiction of the justices at the said sessions.

Formation of the court. Jurisdiction of justices to continue.

12 & 13 Vict. c. 18. An Act for the Holding of Petty Sessions of the Peace in Boroughs, and for providing Places for the holding of such Petty Sessions in Counties and Boroughs. [11th May, 1849.]

12 & 13 Vict. c. 18.

[See this Statute, ante, Vol. I., p. 1088, tit. "Corporations."]

12 & 13 Vict. c. 45. An Act to amend the Procedure in Courts of General and Quarter Sessions of the Peace in England and Wales, and for the better Advancement of Justice in Cases within the Jurisdiction of those Courts. [28th July, 1849.]

12 & 13 Vict. c. 45.

"Whereas, in cases of appeal to courts of general or quarter sessions of the peace, it is expedient that the law should be more uniform:" Be it therefore enacted, That in every case of appeal (except as hereinafter mentioned) to any court of general or quarter sessions of the peace fourteen clear days' notice of appeal at least shall be given, and such shall be sufficient notice, any Act or Acts, or any rule or practice of any court or courts, to the contrary notwithstanding; and such notice of appeal shall be in writing, signed by the person or persons giving the same, or by his, her, or their attorney, on his, her, or their behalf, and the grounds of appeal shall be specified in every such notice:

Uniformity of time for notice of appeal.

Notice of appeal to be in writing and signed.

Grounds of

(a) The traversing of indictments for misdemeanour is abolished in all cases by 14 & 15 Vict. c. 100, s. 27, ante, Vol. II., tit. "Criminal Law."

12 & 13 Vict. c. 45.

appeal to be stated.

Provided always, that it shall not be lawful for the appellant or appellants, on the trial of any such appeal, to go into or give evidence of any other ground of appeal besides those set forth in such notice.

Act not to affect notices of appeal against orders of removal, orders of bastardy, &c.

2. That none of the provisions hereinbefore contained relating to notices of appeal shall be construed to affect or alter the law as to notice of appeal against a summary conviction, or against an order of removal, or against an order under any statute relating to pauper lunatics, or against an order in bastardy, or against any proceeding under or by virtue of any of the statutes relating to her majesty's revenue of excise or customs, stamps, taxes, or post office, but the law with regard to notices of all such appeals shall be deemed and taken to be the same as if the provisions hereinbefore contained had not been enacted.

Defects in statement of grounds of appeal.

3. "And whereas a statement of the grounds of appeal, when required by this or any other statute, is for the purpose of enabling the party receiving it to inquire into the subject of such statement, and, if need be, to prepare for trial:" BE IT THEREFORE ENACTED, that upon the hearing of any appeal to any court of general or quarter sessions of the peace no objection on account of any defect in the form of setting forth any ground of appeal shall be allowed, and no objection to the reception of legal evidence offered in support of any ground of appeal shall prevail, unless the court shall be of opinion that such ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial; Provided always, that in all cases where the court shall be of opinion that any objection to any ground of appeal, or to the reception of evidence in support thereof, ought to prevail, it shall be lawful for such court, if it shall so think fit, to cause any such ground of appeal to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions or to the next subsequent sessions, or both payment of costs and postponement, as to such court shall appear just and reasonable.

Amendment of grounds of appeal.

Frivolous grounds of appeal.

4. That if in any notice of appeal the appellant or appellants shall have included any ground or grounds of appeal which shall in the opinion of the court determining the appeal be frivolous or vexatious, such appellant or appellants shall be liable, if the court shall so think fit, to pay the whole or any part of the costs incurred by the respondent or respondents in disputing any such ground or grounds of appeal, such costs to be recoverable in the manner hereinafter directed as to the other costs incurred by reason of such appeal.

Sessions to have a general power to give costs in all cases of appeal. 11 & 12 Vict. c. 43.

5. That upon any appeal to any court of general or quarter sessions of the peace the court before whom the same shall be brought may, if it think fit, order and direct the party or parties against whom the same shall be decided to pay to the other party or parties such costs and charges as may to such court appear just and reasonable, such costs to be recoverable in the manner provided for the recovery of costs upon an appeal against an order or conviction by an Act passed in the twelfth year of her majesty's reign, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders." (*a*).

(*a*) This section includes appeals in which the appellant has entered into recognisances to pay costs (*Freeman* v. *Read*, 30 L. J. M. C. 123). This power to give costs is a cumulative one, and therefore an order for payment of costs upon an appeal against a poor rate under 17 Geo. 2, c. 38, s. 4, is valid, though it directs the costs to be paid directly to the appellants, and not to the clerk of the peace, as required by this section. And such an order may be enforced in the manner pointed out by section 18 (*Reg.* v. *Huntley*, 23 L. J. M. C. 106, 2 E. & B. 172).

Semble, that an order made under the power given by this section, need not direct the costs to be paid to the clerk of the peace (*Ib.*).

The order may direct payment to the clerk of the peace to be handed over by him to the other party (*Gay* v. *Mathews*, 32 L. J. M. C. 58).

This section does not enable the quarter sessions to give costs against an officer who represents the crown (*Reg.* v. *Beadle*, 7 E. & B. 492, 26 L. J. M. C. 111; see *Reg.* v. *Budden*, Q. B., Jan. 1858, 6 W. R. 213; see *Moor* v. *Smith*, 28 L. J. M. C. 126).

On an appeal against the allowance of surveyor's accounts, the sessions dismissed the appeal. It was held, that the sessions had, under this section, jurisdiction to order the payment of costs (*Reg.* v. *Padwick*, 8 El. & Bl. 704, 27 L. J. M. C. 113).

On appeal, the quarter sessions made an order confirming an order of justices, subject to a case; the order of sessions was silent as to costs. The appellants abandoned the case; the respondents applied to a subsequent session, who made an order, stating that the original order was confirmed, and giving the respondents costs: It was held, that the subsequent sessions had no jurisdiction to deal with the order (*Reg.* v. *Staffordshire* (*Justices*), 7 El. & Bl. 935, 26 L. J. M. C. 175; *Reg.* v. *Hampshire* J. 32 L. J. M. C. 46).

Replevin lies in the case of goods taken under a warrant of distress issued by a justice to enforce payment of costs ordered under this section and 11 & 12 Vict. c. 43, s. 27 (*Gay* v. *Mathews*, 32 L. J. M. C. 58). The 24 Geo. 2, c. 44, s. 6, as to previous demand of the warrant, and 2 & 3 Vict. c. 93, s. 8, and 1 & 2 Will. 4, c. 41, s. 19,

6. And for the more effectual prevention of frivolous appeals, BE IT ENACTED, That any court of general or quarter sessions of the peace, upon proof of notice of any appeal to the same court having been given to the party or parties entitled to receive the same, though such appeal was not afterwards prosecuted or entered, may, if it so think fit, at the same sessions for which such notice was given, order to the party or parties receiving the same such costs and charges as by the said court shall be thought reasonable and just to be paid by the party or parties giving such notice, such costs to be recoverable in the manner last aforesaid. 12 & 13 Vict. c. 45. Frivolous appeals.

7. "And whereas in many cases, where justices of the peace are by law empowered to make orders or to give judgments, great expense and frequent failures of justice have been occasioned by reason that such orders or judgments have, on appeal to the general or quarter sessions of the peace, or on removal by *certiorari* into the court of queen's bench, been quashed or set aside upon exceptions or objections to the form of the order or judgment, irrespective of the truth and merits of the matters in question:" for remedy thereof, BE IT ENACTED, that if upon the trial of any appeal to any court of general or quarter sessions of the peace against any order or judgment made or given by any justice or justices of the peace, or if upon the return to any writ of *certiorari* any objection shall be made on account of any omission or mistake in the drawing up of such order or judgment, and it shall be shown to the satisfaction of the court that sufficient grounds were in proof before the justice or justices making such order or giving such judgment to have authorised the drawing up thereof free from the said omission or mistake, it shall be lawful for the court, upon such terms as to payment of costs as it shall think fit, to amend such order or judgment (*a*), and to adjudicate thereupon as if no such omission or mistake had existed: Provided always that no objection (*b*) on account of any omission or mistake in any such order or judgment brought up upon a return to a writ of *certiorari* shall be allowed, unless such omission or mistake shall have been specified in the rule for issuing such *certiorari* (*c*). Amendment of orders or judgments of justices on appeal or return to *certiorari*. Rule for *certiorari* to state objections.

8. "And whereas the statutes giving a right of appeal against orders or summary convictions frequently require a recognisance or recognisances to be entered into as a condition of such appeal, and appellants are liable to be prevented from trying their appeals upon the merits, in consequence of imperfections in the taking of such recognisances:" BE IT ENACTED, That where any recognisance or recognisances which shall have been entered into within the time by law required before any justice or justices for the purpose of complying with any such condition of appeal shall appear to the court before which such appeal is brought to have been insufficiently entered into, or to be otherwise defective or invalid, it shall be lawful for such court, if it shall so think fit, to permit the substitution of a new and sufficient recognisance or new and sufficient recognisances to be entered into before such court in the place of such insufficient, defective, or invalid recognisance or recognisances, and for that purpose to allow such time, and make such examination, and impose such terms as to payment of costs to the respondent Amendment of recognisances.

---

as to notice of action, do not apply to such action (*Ib.*).

This section is not limited to cases where there are appellants and respondents, but authorises justices on appeal against a conviction under the 5 Geo. 4, c. 83, the Vagrant Act, to find that the original complainant was the real respondent in the appeal, and to direct him to pay the costs (*Reg.* v. *Smith*, 29 L. J. M. C. 216).

(*a*) An order of affiliation omitted to state that the mother's residence was within the petty sessional division; but the summons, a copy of which was in evidence before the justices, alleged this fact, which was not otherwise proved: It was held, that the justices had sufficient grounds before them to have drawn up the order without the omission, and that on a *certiorari* to quash the order, the court might therefore amend it under this section (*Reg.* v. *Higham*, 26 L. J. M. C. 116, 7 E. & B. 557).

So an order for payment of the expenses of relieving a pauper during the suspension of an order for his removal, recited, "whereas it is now made appear to us, A. B. and J. A., two of her majesty's justices of the peace for the borough of B." The order having been removed by *certiorari*, was amended under this section, by inserting the words "in and" before the words "for the borough" (*Reg.* v. *Hellingley*, 28 L. J. M. C. 167).

A conviction under the 1 & 2 Will. 4, c. 32, s. 30, included four persons, and adjudged each of them to forfeit and pay the sum of 2*l.* each, &c., and if the said sums be not paid, that each of them, C., B., W., and S., so making default, should be imprisoned for one month, unless the said several sums, and the costs and charges of conveying each of them, C., B., W. and S., so making default, to the said gaol, shall be sooner paid: It was held, that the conviction made each defendant liable to be imprisoned until he had paid the penalty, and the expense of conveying, not only himself, but the other persons convicted, and was therefore bad, and was not a case for amendment under this section (*Reg.* v. *Cridland*, 7 El. & Bl. 853, 27 L. J. M. C. 28).

(*b*) As to whether substantial objections may be taken without being specified, see *Reg.* v. *Crowan*, infra.

(*c*) This proviso is not retrospective, and does not apply to rules pending at the time the Act passed (*Reg.* v. *Crowan*, 19 L. J. M. C. 20, 14 Q. B. 221).

12 & 13 Vict. c. 45.

or respondents, as to such court shall appear just and reasonable; and such substituted recognisance or recognisances shall be as valid and effectual to all intents and purposes as if the same had been duly entered into at any earlier time or times as required by any statute or statutes for that purpose.

Decisions of sessions when final.

9. That the decisions of the court of general or quarter sessions of the peace upon the hearing of any appeal, as to the sufficiency of the statement of any ground or grounds of appeal, and as to the amending or refusing to amend any order or judgment of a justice or justices appealed against, or the statement of any ground or grounds of appeal, and as to the substitution of any new recognisance or recognisances as aforesaid, shall be final, and shall not be liable to be reviewed in any court, by means of a writ of *certiorari* or *mandamus*, or otherwise.

Amendment of indictment.

10. That every court of general or quarter sessions of the peace, on the trial of any offence within its jurisdiction, whenever any variance or variances shall appear between any matter in writing or in print produced in evidence and the recital or setting forth thereof in the indictment, shall have the same power in all respects to cause the indictment to be amended which is given to courts of oyer and terminer and general gaol delivery with regard to offences tried before such last-mentioned courts by virtue of an Act of the twelfth year of her majesty's reign, intituled "An Act for the Removal of Defects in the Administration of Criminal Justice;" and after such amendment the trial shall proceed in the same manner in all respects, both with regard to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance or variances had appeared.

11 & 12 Vict. c. 46.

Power to state a special case without going to the sessions previously.

11. That at any time after notice given of appeal to any court of general or quarter sessions of the peace against any judgment, order, rate, or other matter (except an order in bastardy, or a proceeding under or by virtue of any of the statutes relating to her majesty's revenue of excise or customs, stamps, taxes, or post-office), for which the remedy is by such appeal, it shall be lawful for the parties, by consent, and by order of any judge of one of the superior courts of common law at Westminster, to state the facts of the case in the form of a special case for the opinion of such superior court, and to agree that a judgment in conformity with the decision of such court, and for such costs as such court shall adjudge, may be entered on motion by either party at the sessions next or next but one after such decision shall have been given; and such judgment shall and may be entered accordingly, and shall be of the same effect in all respects as if the same had been given by the court of general or quarter sessions upon an appeal duly entered and continued (*a*).

References to arbitration.

9 & 10 Wi. 3, c. 15.

12. "And whereas by a statute passed in the tenth year of king William the third, intituled 'An Act for determining Differences by Arbitration,' provision was made for rendering more effectual the awards of arbitrators in the case of controversies and disputes for which there is no other remedy but by personal action or by suit in equity: And whereas it is expedient in like manner to facilitate and render more effectual references to arbitration of controversies and disputes for which the remedy is by appeal to a court of general or quarter sessions of the peace:" BE IT ENACTED, That at any time after notice given of appeal to any court of general or quarter sessions of the peace against any order, rate, or other matter (except a summary conviction, or an order in bastardy, or any proceeding under or by virtue of any of the statutes relating to her majesty's revenue of excise or customs, stamps, taxes, or post-office), for which the remedy is by such appeal, it shall be lawful for the parties, by themselves or their attornies, and by order of a judge of her majesty's court of queen's bench, to submit the matter or matters of such appeal to the award or umpirage of any person or persons, and to agree that such submission should be made a rule of the said court of queen's bench, and to insert such agreement in their submission or the condition of the bond or promise whereby they oblige themselves respectively to submit to the award or umpirage of such person or persons; and thereupon such and the like proceedings in all respects shall and may be taken with regard to submissions under this Act, and to enforcing awards or umpirages thereupon, and to setting aside the same, as are authorised by the said Act of king William the third with regard to the cases therein provided for; and every award or umpirage duly made under this Act shall be as binding and effectual to all intents as if the same had been a regular judgment of the said court of general or quarter sessions, and shall and may, on the application of either party, be enrolled among the records of the said court of sessions.

References by order of court of sessions (*b*).

13. That it shall be lawful for any court of general or quarter sessions of the peace before which any appeal (except against a summary conviction, or an order in bastardy, or any proceeding under or by virtue of any of the statutes relating to her majesty's

---

(*a*) If, upon appeal to the quarter sessions, a case is stated for the opinion of a superior court, under this section, the practice is to give costs as between party and party (*Earl of Clarendon* v. *St. James's, Westminster*, 10 C. B. 806, 20 L. J. M. C. 213).

Where the case is argued on a *concilium*, the counsel supporting the order is entitled to begin (*Reg.* v. *Holbeck*, 16 Q. B. 404; *Justices of Beds.* v. *St. Paul, Beds.*, 7 Exch. 650; *Hansom* v. *Epsom Board*, 2 Jur. N. S. 38); but it seems, not to reply (*Wigton* v. *Snaith*, 16 Q. B. 496; see ante, Vol. II., p. 996, n. (*d*)).

(*b*) See *Reg.* v. *Holbeck*, 16 Q. B. 404; *Clerk* v. *Binbrook*, 20 Law T. 115.

revenue of excise or customs, stamps, taxes, or post-office), shall be brought, to order, with consent of the parties or their attornies, that the matter or matters of such appeal be referred to arbitration to such person or persons and in such manner and on such terms as the said court shall think reasonable and proper; and such order may be made a rule of the court of queen's bench, on the application of either party; and the award of the arbitrator or arbitrators, or umpirage of the umpire, may, on motion by either party at the sessions next or next but one after such award or umpirage shall have been finally made and published, or after the decision of the court of queen's bench on any motion for setting aside the same, be entered as the judgment of the court of general or quarter sessions in the appeal, and shall be as binding and effectual to all intents as if given by the said court; Provided always, that the court of queen's bench may, if it think fit, on application within the term next after the making and publication of such award or umpirage, either refer the case back again to the same arbitrator, arbitrators, or umpire, or wholly set aside the award or umpirage already made, and may in the latter event order the court of general or quarter sessions to enter continuances and hear the appeal. 12 & 13 Vict. c. 45.

14. That if upon any reference to arbitration under this Act it shall be made to appear to the court of queen's bench that, either from the death of the arbitrator, or arbitrators, or umpire, or from any other cause, it has become impossible that an award or umpirage can be made, it shall be lawful for the said court to order the court of general or quarter sessions of the peace to enter continuances and hear the appeal. Where reference abortive, queen's bench may order sessions to hear the appeal.

15. That the several provisions relating to arbitrations contained in an Act of the fourth year of king William the fourth, intituled "An Act for the further Amendment of the Law and the better Advancement of Justice," shall be deemed and taken to be applicable to arbitrations under this Act; and in every such arbitration the arbitrator, or arbitrators, or umpire shall have the same powers of amendment which the court of general or quarter sessions of the peace would have had on the trial of the appeal. 3 & 4 W. 4, c. 42, to be applicable to references under this Act. Arbitrators to have power of amendment.

16. That no recognisance entered into pursuant to any statute or statutes for the prosecution and trial of any appeal shall be deemed to be forfeited by such agreement as aforesaid for the statement of a special case without previously going to the court of general or quarter sessions, or by any submission to arbitration under the provisions of this Act. Recognisances for prosecution and trial of appeal.

17. "And whereas by an Act passed in the third year of the reign of king George the fourth, intituled 'An Act for the more speedy Return and Levying of Fines, Penalties, and Forfeitures and Recognisances estreated,' provision is made for authorising the levying and recovery of fines, issues, amerciaments, and forfeited recognisances set, imposed, lost, or forfeited by or before any justice or justices of the peace in England: and whereas it is expedient that the subsequent proceedings in such cases should be uniform:" BE IT ENACTED, That the proceedings subsequent to such authority given for so levying and recovering as aforesaid shall and may be the same in all respects in the case of such fines, issues, and amerciaments as are by the said Act provided, permitted, and required in the case of such forfeited recognisances. 3 G. 4, c. 46. Levying and recovery of fines, issues, and amerciaments.

18. That in all cases where any order shall be made by any court of general or quarter sessions of the peace it shall be lawful for the court of queen's bench, or for any judge of that court at chambers, either in term or vacation, upon the application of any person entitled to enforce such order, and upon the production of a copy of such order under the hand of the clerk of the peace or his deputy, and upon proof of refusal or neglect to obey such order, to order and direct such order of the court of general or quarter sessions to be removed into the said court of queen's bench, and thereupon such order shall be of the same force and effect, and may be enforced in the same manner, as a rule made by the said court of queen's bench (*b*); and all the reasonable costs and charges attendant upon such application and removal shall be recoverable in like manner as if the same were part of such order (*c*). Enforcing orders of sessions (*a*).

(*a*) This section does not apply to an order of quarter sessions to abate a nuisance, made after the trial of an indictment for the nuisance (*Reg.* v. *Bateman*, 27 L. J. M. C. 95).

(*b*) See 1 & 2 Vict. c. 110, s. 18, ante, tit. "PLEADING, PRACTICE, &c., AT LAW."

Where proceedings are taken under this section, objections may then be taken to them; and though the party affected by the order cannot remove it by *certiorari*, that remedy being taken away, yet if the other party has brought it up and seeks to enforce it, the party affected is at liberty to object to the order as bad on the face of it, and to apply to have the proceedings taken to enforce it set aside (*Reg.* v. *Hellier*, 21 L. J. M. C. 3; *Reg.* v. *Hyde*, 21 L. J. Q. B. 94). It is not necessary that any *certiorari* should issue to remove the order (*Hawker* v. *Field*, 20 L. J. M. C. 41; 1 L. M. & P. 606; see *Reg.* v. *Devonshire*, 1 L. M. & P. 520). As to the practice in bringing up the order, see 1 L. M. & P. 607, note (*b*). If the order be for the payment of a sum certain, a *fi. fa.* or *ca. sa.* may issue at once, unless it be payable out of a specific fund not under the control of the party sought to be charged, as out of the highway rate, under 4 & 5 Will. 4, c. 50, s. 95 (*Reg.* v. *Tryddyn, cor.* Erle, J., Dec. 14, 1852).

(*c*) Upon appeal against an order refusing an alehouse licence, under the 9 Geo. 4, c. 31,

12 & 13 Vict. c. 45.

19. That nothing in this Act contained shall extend to Scotland or Ireland.

Commencement of Act.

20. That this Act shall come into operation on the 1st day of November, 1849.

14 & 15 Vict. c. 55.

14 & 15 Vict. c. 55. An Act to amend the Law relating to the Expenses of Prosecutions, and to make further Provision for the Apprehension and Trial of Offenders in certain Cases. [1st August, 1851.]

[See this statute, ante, Vol. II., tit. "CRIMINAL LAW."]

21 & 22 Vict. c. 73.

21 & 22 Vict. c. 73. An Act to amend the Law concerning the Powers of Stipendiary Magistrates and Justices of the Peace in certain Cases. [2nd August, 1858.]

Repeal of certain Acts and parts of Acts herein named (a).

8. "And whereas an Act was passed in the fifty-ninth year of king George the third, chapter twenty-eight, 'to empower magistrates to divide the court of quarter sessions,' which Act has been amended by section four of an Act of the session holden in the seventh year of king William the fourth and the first year of her majesty, chapter nineteen, and by section four of an Act of the session holden in the fifth and sixth years of her majesty, chapter thirty-eight; and it is expedient to make further provision in relation to the division of courts of quarter sessions:"

The said Act of the fifty-ninth year of king George the third and the said sections shall be repealed, but not so as to affect any orders, rules, and regulations made before the passing of this Act.

Power to divide courts of quarter sessions, general sessions, and adjourned sessions.

9. Whenever and so often as any court of quarter sessions or general sessions or adjourned quarter sessions of the peace is assembled for the despatch of business, the justices then present may, if and when in their discretion they see fit so to do, appoint two or more justices, one of whom shall be of the quorum, to form a second court for the purpose of hearing and determining such business as may be referred to them, and the proceedings by and before such second court shall be as good and effectual in the law, to all intents and purposes, as if the same were had before the court assembled and sitting as usual in its ordinary place of sitting, and shall be enrolled and recorded accordingly.

Regulations made for the apportionment of business need not be renewed at each session.

10. When a second court is formed as aforesaid, and orders, rules, and regulations have been made for the apportionment of business, such orders, rules, and regulations shall continue in force as long as may be thought expedient, without the necessity of renewing such orders, rules, and regulations at each succeeding session.

Clerk of the peace to appoint a person to record the proceedings of such separate court (b).

11. The clerk of the peace or his deputy, whenever a second court is formed as aforesaid, shall appoint a fit and sufficient person to record the proceedings so had before the justices at such second court, and such proceedings shall be delivered over to the clerk of the peace or his deputy, and shall be deemed to be a part of the records of the session, as if the same proceedings had been recorded by the clerk of the peace himself; and it shall be lawful for the justices assembled at the sessions to make an order upon the treasurer of the county to pay to the clerk of the peace such sum as they shall deem a fit and reasonable remuneration to the clerk of the peace for such purpose as aforesaid; and it shall be lawful for such justices to appoint an additional crier, and to grant him such remuneration (to be paid by the treasurer of the county) as they deem reasonable.

Time from which sentences of certain courts shall take effect.

12. Every sentence pronounced by any court of general or quarter sessions or adjourned sessions of the peace shall take effect from the time of the same being pronounced, unless the court otherwise directs.

---

the quarter sessions in October dismissed the appeal, and ordered the appellant forthwith to pay to the respondents, or to whom they should appoint, 22*l.* 16*s.* for costs:—It was held, that this section did not take away the jurisdiction given by the 9 Geo. 4, c. 61, s. 27, to order costs on appeal from a refusal to grant an alehouse licence, but gave an additional remedy for enforcing such order (*Reg.* v. *Ely* (*Justices*), 5 E. & B. 489, 1 Jur. N. S. 1017).

(a) See the other sections of this statute, ante, Vol. II., p. 998, tit. "JUSTICES OF THE PEACE."

(b) As to whether the deputy clerk of the peace is liable for acts of negligence of the assistant whom he appoints, pursuant to this statute, to record the proceedings of the justices in the second court, see *Wildes* v. *Morris*, 22 L. J. M. C. 4.

22 & 23 Vict. c. 65. An Act for amending the Acts for the better Regulation of Divisions in the several Counties of England and Wales. [13th August, 1859.]

22 & 23 Vict. c. 65.

"Whereas by an Act passed in the ninth year of his late majesty king George the fourth, intituled 'An Act for the better Regulation of Divisions in the several Counties of England and Wales,' the court of quarter sessions is empowered, in certain cases, to make orders for altering existing divisions and for constituting new divisions for holding petty and special sessions: and whereas an Act for more effectually executing the said recited Act was passed in the tenth year of his said late majesty, and another Act for amending the said recited Act was passed in the sixth year of his late majesty William the fourth: and whereas doubts have arisen whether under the said first herein recited Act the justices therein mentioned are empowered to divide any parish, tything, township or place for the purpose of including any part or parts thereof respectively in any division constituted under the said Acts or any or either of them:" BE IT THEREFORE ENACTED as follows:

9 G. 4, c. 43. 10 G. 4, c. 46. 6 & 7 W. 4, c. 12.

Justices may divide parishes, &c., for constituting divisions of counties.

1. It shall be lawful for the said justices, if they shall think fit, to divide any parish, tything, township or place for the purpose of altering or constituting such divisions, and after any order of the said justices for altering or constituting any division under the said Acts shall have taken effect, the part or parts of any parish, tything, township or place included in any division altered or constituted by such order shall be deemed and taken to be part of such division for all the purposes of the said Acts, but not further or otherwise.

Court to make order in respect of the appointments and duties of officers.

2. Whensoever the court of quarter sessions shall, under the provisions herein or in the said recited Acts contained, make an order for dividing any parish, tything, township or place for the purpose of altering or constituting such divisions as aforesaid, and it shall appear to the court that any inconvenience may arise therefrom in or respecting the appointment or duties of any bailiffs, constables or tything men, surveyors, overseers of the poor, or other officers or persons, the court of quarter sessions shall or may, at the same or at any future sessions, make such order in respect of the said appointments and duties as the court shall deem necessary or expedient.

SET-OFF (a).

2 Geo. 2, c. 22. An Act for the Relief of Debtors with respect to the Imprisonment of their Persons. [A.D. 1729.]

2 G. 2, c. 22.

(a) As to the law of Set-off in general, see Chit. Prac.; Tidd, Pr. 9th edit.; Chitty on Contr.; Addison on Contr.; Stark. Ev.; Smith, Mercantile Law, Set-off; Selw. N. P.

Before the *statutes of set-off*, where there were cross demands unconnected with each other, a defendant could not in a court of law defeat the action by establishing that the plaintiff was indebted to him even in a larger sum than that sought to be recovered; in such case relief could only be obtained in a court of equity (*Collins* v. *Collins*, 2 Burr. 820; *Baskerville* v. *Brown*, 2 Burr. 1230; 2 Keny. 530; *per* Ld. Mansfield, *Green* v. *Farmer*, 4 Burr. 2220). To remedy this inconvenience the above statute was passed, and made perpetual by 8 Geo. 2, c. 24, s. 4; and it having been doubted whether mutual debts of a *different nature* could be set off against each other (*Hutchinson* v. *Sturges*, Willes, 262; Selw. N. P. 154), that doubt was set at rest by the fifth section of the last-mentioned Act.

These statutes were passed for the benefit of defendants: they are not imperative, so that a defendant may waive his right to set-off; and if his claim be larger than the plaintiff's, or when he has paid the plaintiff, he may bring a cross action for the debt due to him from the plaintiff; but the plaintiff may prevent such cross action by allowing the set-off, and having it indorsed on the postea (see *Laing* v. *Chatham*, 1 Camp. 252). And where the defendant is not prepared, at the time the plaintiff sues him, to prove his cross demand, it is not advisable to plead the set-off, for in case he should go into evidence upon the trial in support of his cross demand, and fail in the attempt, he cannot afterwards proceed in a cross action for the amount, for a party cannot bring an action for what he has succeeded in setting off in a former suit against him; though, if the set-off were more than sufficient to cover the plaintiff's demand in the former action, the defendant may maintain an action for the surplus (*Hennell* v. *Fairlamb*, 3 Esp. 104). And even if there be a plea of set-off, so that the defendant might, though he do not, avail himself of the matter of set-off, he will afterwards be estopped from bringing any cross action for it (*Eastmure* v. *Laws*, 5 Bing. N. C. 444; see *Mondel* v. *Steel*, 8 M. & W. 858); unless, before or at the trial, the plea be withdrawn (*per* Tindal, C.J., *Eastmure* v. *Laws*, supra; *Gould* v. *Oliver*, 6 Scott, 648).

2 G. 2, c. 22. Mutual debts to be set one against the other.

13. That where there are mutual debts (*a*) between the plaintiff and defendant, or if either party sue or be sued as executor or administrator, where there are mutual debts

---

At common law, and independently of the statutes of set-off, a defendant is in general entitled to retain or claim, by way of deduction, all just allowances or demands accruing to him, or payments made by him, in respect of the *same* transaction or account which forms the ground of action. But this cannot be termed a set-off in the strict legal sense of the word, because it is not in the nature of a *cross* demand or mutual debt, but rather constitutes a *deduction*, rendering the sum to be recovered by the plaintiff so much the less (*Green* v. *Farmer*, 1 W. B. 651; 4 Burr. 2221). And where demands, originally cross, and not arising out of the same transaction, have by subsequent *express agreement* been stipulated to be deducted, or set-off against each other, only the balance is the debt, and sum recoverable, without any special plea, though it is advisable in most cases, and necessary when the action is on a specialty, to plead it (*Dobson* v. *Lockhart*, 5 T. R. 133; *Sturdy* v. *Arnaud*, 3 T. R. 599; *Roper* v. *Bumford*, 3 Taunt. 76; *Kinnerley* v. *Hossack*, 2 Taunt. 170; *Green* v. *Farmer*, 1 W. B. 651; *Dale* v. *Sollet*, 4 Burr. 2133; *Cleworth* v. *Pickford*, 7 M. & W. 314; *Smith* v. *Winter*, 12 C. B. 487, 21 L. J. C. P. 158). So, if an account has been settled, and a balance struck between the parties, it may be given in evidence on the general issue; though a defendant cannot reduce a plaintiff's demands for goods sold, by producing a debtor and creditor account in the handwriting of the plaintiff's clerk, showing goods to have been sold by the defendant to the plaintiff, unless he has pleaded it (*Fothergill* v. *Jones*, 1 Car. & P. 133; see *Thomas* v. *Cross*, 7 Exch. 728).

In an action for work and labour or goods sold, though the contract was at a certain price, the plaintiff may show, under the general issue, in reduction of the claim, that the work was improperly done (*Basten* v. *Butler*, 7 East, 479; *Farnsworth* v. *Garrard*, 1 Camp. 38; *Kist* v. *Atkinson*, 2 Camp. 63; *Duncan* v. *Blundell*, 3 Stark. 6); or that the goods were not so good as warranted (*Fisher* v. *Samuda*, 1 Camp. 190; *Germaine* v. *Burton*, 3 Stark. Rep. 32; *Mondel* v. *Steel*, 8 M. & W. 858); or that he supplied the plaintiff's men with beer to reduce the rate of wages for the work (*Granger* v. *Raybould*, 9 Car. & P. 229); or that the defendant supplied part of the materials (*Newton* v. *Forster*, 12 M. & W. 772); or that he did the work himself for the plaintiff (*Turner* v. *Diaper*, 2 M. & Gr. 241; *Cousins* v. *Paddon*, 2 C. M. & R. 547). Negligence in the conduct of a cause cannot be set up as a defence to an action on an attorney's bill, unless it was such negligence as to deprive the defendant of all possible benefit from the cause (*Templer* v. *M'Lachlan*, 2 N. R. 136; *Bracey* v. *Carter*, 12 Ad. & E. 373; *Hill* v. *Allen*, 2 M. & W. 288; see *Denew* v. *Daverell*, 3 Camp. 451; *Kist* v. *Atkinson*, 2 Camp. 63). So, if the consignee of goods accept any benefit from the carriage, he cannot defend himself from the payment of freight on the ground that the goods have been damaged by the master in carrying them, although the damage exceed the amount of the freight (*Shields* v. *Davies*, 6 Taunt. 65); nor can the bad stowage be given in evidence in mitigation of damages (*Shields* v. *Davies*, 4 Camp. 119).

In an action by a servant against his master for wages, the latter cannot generally set off or deduct the value of goods lost or damaged by the negligence of the former, unless it can be proved to have been part of the original agreement between them, that the servant should pay, out of his wages, for all his master's goods lost through his negligence, in which case the value of the goods lost may be deducted from the amount of the wages (*Le Loir* v. *Bristow*, 4 Camp. 134; *Cleworth* v. *Pickford*, 7 M. & W. 314). But where, by the custom of the hat trade, the amount of the injury sustained by the hats in the process of dyeing was to be deducted from the charge of dyeing, the defendant was held entitled to such deduction in an action brought by the dyer, although there had not been any previous adjustment of the amount of damage (*Bamford* v. *Harris*, 1 Stark. 343; see *Beckwith* v. *Bullen*, 27 L. J. Q. B. 162).

(*a*) The statute only speaks of *mutual debts*, and therefore the only actions in which a set-off is allowed are assumpsit, debt, and covenant for non-payment of *money*; and on the other hand the subject-matter of set-off must be a debt (*Howlet* v. *Strickland*, Cowp. 56; *Hutchinson* v. *Sturges*, Willes, 261). A bond in a penalty conditioned for payment of an annuity (*Collins* v. *Collins*, 2 Burr. 820), or for payment of stipulated damages (*Fletcher* v. *Dyke*, 2 T. R. 32), may be set-off, the defendant showing what is really due on the bond (*Symons* v. *Knox*, 3 T. R. 65). So, a sum certain agreed to be paid on the breach of a contract may be set off (*East Anglian R. C.* v. *Lythgoe*, 2 L. M. & P. 221; *Duckworth* v. *Alison*, 1 M. & W. 412); and where there has been a sale of goods under an entire contract, and the defendant has delivered a part, which the plaintiff accepted and has had the benefit of, the value of the part delivered may, it seems, be set off, although he is liable to an action for the neglect to deliver the entire quantity (*Shipton* v. *Casson*, 5 B. & C. 378; 8 D. & R. 130).

between the testator or intestate and either party, one debt may be set against the other, 2 G. 2, c. 22.

The debt sued for, and that intended to be set off, must be *mutual*, and *due in the same right*, and there can be no set-off either at law or in equity where either of the debts is due *in auter droit* (*Gale* v. *Luttrell*, 1 Y. & J. 180); therefore a joint debt cannot be set off against a separate demand, nor a separate debt against a joint one (*Grant* v. *Royal Exchange*, 5 M. & Sel. 439; *France* v. *White*, 6 Bing. N. C. 33; *Morley* v. *Inglis*, 4 Bing. N. C. 55); but liquidated damages, due on a joint and several bond executed by the plaintiff, may be set off to an action brought by him (*Fletcher* v. *Dyke*, 2 T. R. 32). So, in an action by A. against B., a joint and several promissory note, made to B. by A., C., D., and E., may be set off (*Owen* v. *Wilkinson*, 5 C. B. N. S. 526, 28 L. J. C. P. 3). And if a firm be carried on in the name of only one person, with the assent of the other partners (*Gordon* v. *Ellis*, 2 C. B. 821), a separate debt due from that person may be set off to an action, at the suit of all the partners (*Stacey* v. *Decy*, 7 T. R. 361, n. (*c*); 2 Esp. 469; and see 23 & 24 Vict. c. 126, s. 20, post, p. 175). And if one sues on a cause of action arising to two, a set-off due from these two may be set off (*Stackwood* v. *Dunn*, 3 Q. B. 822). So, if a person give a note to his bankers as a *security* for money due to them, and the bankers indorse the note to another firm, consisting of some of the partners in the banking house, the maker of the note may set off any debt due to him from his bankers, to an action commenced against him on the note by the firm who hold it (*Puller* v. *Roe*, 1 Peake, 197; *Jacaud* v. *French*, 12 East, 317; see *Gordon* v. *Ellis*, 7 M. & Gr. 607). A debt due to a defendant as surviving partner may be set off against a demand on him in his own right (*Slipper* v. *Stidstone*, 5 T. R. 493); and *vice versâ* (*French* v. *Andrade*, 6 T. R. 582). But a debt due by two partners cannot be set off in an action by one of them in his own right, unless the other were a dormant partner (*Stacey* v. *Decy*, 7 T. R. 361, n.). So, also, the assignee of a bond debt cannot set it off in an action against him by the obligor (*Wake* v. *Tinkler*, 16 East, 36).

There cannot be a set-off against a claim merely sounding in damages, and which is not capable of being liquidated at the time of pleading (*Hardcastle* v. *Netherwood*, 5 B. & Ald. 93; *Bell* v. *Carey*, 8 C. B. 887; *Morley* v. *Inglis*, 4 Bing. N. S. 58; *Crampton* v. *Walker*, 30 L. J. Q. B. 19; *Howlet* v. *Strickland*, Cowp. 56; *Crawford* v. *Stirling*, 4 Esp. 207); although secured by a penalty (*Nedriffe* v. *Hogan*, 2 Burr. 1024; *Hutchinson* v. *Sturges*, B. N. P. 179; Willes, 261; *Gillingham* v. *Waskett*, M'Clel. 198, 13 Price, 434); as for not delivering goods according to contract (*Freeman* v. *Hyett*, 1 Bla. 394); for injuring goods delivered to the plaintiff to be carried (*Dowsland* v. *Thompson*, 2 Bla. 910); for not repairing, whereby the defendant was obliged to pay money (*Weigall* v. *Waters*, 6 T. R. 488); for not insuring (*Gillet* v. *Mumman*, 1 Taunt. 137); for not indemnifying (*Hardcastle* v. *Netherwood*, 5 B. & Ald. 93; *Crampton* v. *Walker*, 30 L. J. Q. B. 19); for not accounting (*Birch* v. *Depeyster*, 4 Camp. 385); for not replacing stock (*Gillingham* v. *Waskett*, M'Clel. 198); for not giving a bill of exchange in payment for goods sold, the time of credit not having expired (*Hutchinson* v. *Reid*, 3 Camp. 329); or for not applying money paid to meet an acceptance (*Bell* v. *Carey*, 8 C. B. 887; *Colson* v. *Welsh*, 1 Esp. 371). For the conversion of the defendant's goods (*Cuffe* v. *Lawson*, 10 Ir. Com. Law Rep. xliii; see *Lythgoe* v. *Vernon*, 29 L. J. Exch. 164). And though it has been considered that a demand for goods bargained and sold, which the defendant refused to receive, may be set-off, it seems questionable whether, when they have been resold by the vendor, such a demand can be set off (*Dunmore* v. *Taylor*, Peake, 56; *Mertens* v. *Adcock*, 4 Esp. 251; *Hagedorn* v. *Laing*, 6 Taunt. 162, 1 Marsh. 514). So in debt on a policy for an average loss adjusted (*Luckie* v. *Bushby*, 13 C. B. 864), premiums of insurance cannot be set off (*Grant* v. *Royal Exchange Company*, 5 M. & Sel. 539; *Castelli* v. *Boddington*, 20 L. T. 65; *Thomson* v. *Redman*, 11 M. & W. 487; *Adams* v. *Saunders*, 4 Car. & P. 25). And it has been considered that a guarantee of a debt, or against contingent damages, cannot be set off (*Crawford* v. *Stirling*, 4 Esp. 207; *Sampson* v. *Burton*, 2 Bro. & B. 89; *Morley* v. *Inglis*, 4 Bing. N. C. 58.)

When the claim consists of liquidated and unliquidated damages, they may be severed, and a set-off pleaded to the one, but not to the other, as in an action by an accommodation acceptor of a bill of exchange, for not indemnifying, whereby he was obliged to pay the amount and interest, and also the costs of an action on it, and incurred costs in his defence; a set-off may be pleaded to the amount of the bill and interest and costs of the action paid, but not to the costs *incurred* in the defence (*Crampton* v. *Walker*, 30 L. J. Q. B. 19; *Hamilton* v. *Gould*, 1 Ir. L. R. 171); and where the defendant had become a shareholder and director of a company at the request of the plaintiff, who had given him a guarantee "against all losses, costs, charges, damages and expenses," which he might incur "by reason thereof or on account of acting as such director," it was held that the defendant was entitled to set-off his expenses incurred in travelling, to attend the meetings of the company (*Hutchinson* v. *Sydney*, 24 L. J. Ex. 25, 10 Exch. 438).

2 G. 2, c. 22. and such matter may be given in evidence upon the general issue, or pleaded in bar, as

---

Where the plaintiff and defendant were partners, and dissolved the partnership, the plaintiff agreeing to take all the debts of the firm upon himself, and to release the defendant from liability, and the defendant giving him a bond for a certain sum, payable by instalments; the plaintiff failed to pay a debt due from the firm, whereupon the creditor sued the defendant, and obtained judgment, and issued a *fi. fa.*, upon which the sheriff seized and sold the defendant's goods, and paid the debt: it was intimated by the court, in an action on the bond, that the defendant was entitled to set off, as money paid, the sum so paid to the sheriff (*Rodgers* v. *Maw*, 15 M. & W. 444; see *Dails* v. *Lloyd*, 12 Q. B. 531).

So with respect to bonds or penalties, not for the payment of sums certain, but for performance of covenants, or some other act, they cannot be set off. Therefore, to debt on bond conditioned to replace stock (*Gillingham* v. *Wasket*, M'Clel. 198, 13 Price, 434), or conditioned to indemnify generally (*Attwool* v. *Attwool*, 2 E. & B. 23; see *Morley* v. *Inglis*, 4 Bing. N. C. 58), a set off cannot be pleaded. And when an action upon a bail bond is brought in the name of the sheriff, the defendant cannot plead a set-off; though it has been supposed that it may be otherwise when the action is brought in the name of the assignee (*Hutchinson* v. *Sturges*, Willes, 261, B. N. P. 179; Selw. N. P. 11th edit. 592). *Sed quære.*

A fortiori, a set-off is not allowed in actions for *torts*, as case, trover, detinue, trespass, or replevin (B. N. P. 181; *Freeman* v. *Hyett*, 1 Bla. 394; *Sapsford* v. *Fletcher*, 4 T. R. 512; *Laycock* v. *Tuffnell*, 2 Chit. Rep. 531; *Gillingham* v. *Wasket*, M'Clel. 168, 13 Price, 434). In replevin, however, though a set-off cannot in general be pleaded to an avowry for rent, yet the plaintiff may plead in bar to an avowry or cognisance, the payment of ground rent (*Sapsford* v. *Fletcher*, 4 T. R. 511; *Graham* v. *Allsop*, 3 Exch. 186); or of an annuity charged upon the premises (*Taylor* v. *Zamira*, 6 Taunt. 524; 2 Marsh. 220; see *Boodle* v. *Campbell*, 7 M. & Gr. 386); or of land tax, &c., paid for the same, after the rent distrained for had become due, or whilst it was accruing (*Andrew* v. *Hancock*, 3 Moore, 278; 1 Bro. & B. 37; *Stubbs* v. *Parsons*, 3 B. & Ald. 516; *Spragg* v. *Hammond*, 4 Moore, 431; 2 Bro. & B. 59; *Laycock* v. *Tuffnell*, 2 Chit. Rep. 531; *Smith* v. *Alsop*, M'Clel. 622; *Bramston* v. *Robins*, 4 Bing. 11; *Denby* v. *Moore*, 1 B. & Ald. 123); or of property tax (ante, Vol. III., tit. "PROPERTY TAX;" for such payments may be treated as part satisfaction of the rent (*per* Rolfe, B., *Graham* v. *Allsop*, 3 Exch. 198).

Where the plaintiff has declared in *indebitatus assumpsit* for goods sold, the defendant may plead a set-off, although the defendant agreed to pay ready money for the goods (*Cornforth* v. *Rivett*, 2 M. & Sel. 510; *Eland* v. *Karr*, 1 East, 375; *Taylor* v. *Okey*, 13 Ves. jun. 180; *Mayer* v. *Nias*, 8 Moore, 275; 1 Bing. 311; *M'Gillivray* v. *Simson*, 9 D. & R. 35; *Lechmere* v. *Hawkins*, 2 Esp. 626; *Groom* v. *West*, 8 Ad. & E. 770).

Where the first count was for not accounting, and the other counts for money had and received, &c., and the defendant pleaded a set-off to the money counts, it was held by Gibbs, C. J., that the plaintiff could not, by declaring specially for not accounting, deprive the defendant of a set-off, of which he might have availed himself in case the declaration had been generally for money had and received (*Birch* v. *Depeyster*, 4 Camp. 385; *Crampton* v. *Walker*, 30 L. J. Q. B. 19; but see *Thorpe* v. *Thorpe*, 3 B. & Ad. 580; *Burrough* v. *Moss*, 10 B. & C. 558).

The amount of a verdict cannot be set off before judgment (*Garrick* v. *Jones*, 2 Dowl. 157); it may afterwards (*Stanton* v. *Styles*, 5 Exch. 578), if recovered in the same right (*Bristowe* v. *Needham*, 7 M. & Gr. 648), though a writ of error be pending (*Reynolds* v. *Beerling*, 3 T. R. 186, n. 188; *Sullivan* v. *Montague*, Doug. 102; see *Curling* v. *Innes*, 2 H. Bl. 372). But a defendant cannot set off a judgment on which he has the plaintiff in execution (*Taylor* v. *Waters*, 5 M. & Sel. 103; see *Peacock* v. *Jeffery*, 1 Taunt. 426; *Simpson* v. *Hanley*, 1 M. & Sel. 696).

The meaning of the plea of set-off is that the plaintiff was and *still is* indebted to the defendant in an amount equal to or larger than the plaintiff's demand against the defendant; and in order to make that defence available, it should be equally true at the time of trial as at the time of pleading (*Briscoe* v. *Hill*, 10 M. & W. 735; *Eyton* v. *Littledale*, 4 Exch. 159); and the plea must so allege it (*Dendy* v. *Powell*, 3 M. & W. 442; *Murray* v. *Mann*, 2 Exch. 540; *Evans* v. *Prosser*, 3 T. R. 1846).

The debt to be set off must have been *completely due* at the time the plaintiff's action was commenced (*Braithwaite* v. *Coleman*, 4 Nev. & M. 654; *Leman* v. *Gordon*, 8 Car. & P. 39; *Richards* v. *James*, 2 Exch. 471; and see *Young* v. *Gye*, 10 Moore, 198; *Spradbery* v. *Gillam*, 6 Exch. 422); and it has therefore been determined that a plea of set-off, stating that the plaintiff was indebted at the time of pleading, is bad (*Evans* v. *Prosser*, 3 T. R. 186; *Rogerson* v. *Ladbroke*, 1 Bing. 93; 7 Moore, 412). And a promissory note not completely due cannot be set off (*Ib.*). And where a set-off proved was

the nature of the case shall require, so as at the time of his pleading the general issue, 2 G. 2, c. 22.

---

less than the plaintiff's claim at the *commencement* of the action, but greater than it after payment of a sum after action, it was held that the plaintiff was entitled to a verdict on the plea of set-off (*Spradbery* v. *Gillam*, 2 L. M. & P. 366). An attorney may set off his bill, though it had not been delivered a month before the commencement of the action; but it ought to be delivered time enough to be taxed, or at least so as not to take the plaintiff by surprise at the trial (*Martin* v. *Winder*, Doug. 199, n.; *Bulman* v. *Birkett*, 1 Esp. 449; *Lester* v. *Lazarus*, 2 C. M. & R. 609; *Brown* v. *Tibbetts*, 11 C. B. N. S. 855, 31 L. J. C. P. 206).

So it must continue due at the time of pleading; therefore a debt due from the plaintiff before his bankruptcy, being barred by the certificate, cannot be set off (*Hayllar* v. *Sherwood*, 2 Nev. & M. 401). And although a discharge under the Insolvent Debtors Act did not operate as a complete extinguishment of a debt scheduled, the creditor was not entitled to plead such debt by way of set-off to an action brought against him by the insolvent, for a demand accruing subsequently to his discharge (*Francis* v. *Dodsworth*, 4 C. B. 202). So a debt barred by the Statute of Limitations cannot be set off; and if it be pleaded, the plaintiff may reply the statute (*Remington* v. *Stevens*, 2 Stra. 1271, B. N. P. 180; *Mead* v. *Bashford*, 5 Exch. 336); if the six years have expired *at the commencement of the suit* (*Walker* v. *Clements*, 15 Q. B. 1046). So it is a good replication to a plea of set-off, that after it was pleaded the plaintiff paid the debt (*Eyton* v. *Littledale*, 4 Exch. 159).

The defendant's bringing an action or obtaining a verdict for a debt, is no waiver of his right of set-off (*Baskerville* v. *Brown*, 2 Burr. 1229; *Knibbs* v. *Hall*, Peake, 276; *Evans* v. *Prosser*, 3 T. R. 186, B. N. P. 180); but the taking the plaintiff in execution on a judgment does, for this purpose, satisfy the debt (*Taylor* v. *Waters*, 5 M. & Sel. 103; see *Peacock* v. *Jeffery*, 1 Taunt. 426; *Drake* v. *Mitchell*, 3 East, 251). And a judgment recovered by the defendant after the commencement of the plaintiff's action cannot in that action be set off as a judgment debt, but the defendant must plead the original debt as the subject matter of his set-off (*Sullivan* v. *Montague*, Doug. 112; *Evans* v. *Prosser*, 3 T. R. 186).

As to *principal and agent*, it has been laid down by Lord Mansfield, in *Rabone* v. *Williams*, 7 T. R. 360, n. (*a*); see also *George* v. *Clagett*, 7 T. R. 359; *Morris* v. *Cleasby*, 1 M. & Sel. 576; *Coppin* v. *Craig*, 2 Marsh. 501; Holt, C. N. P. 124, in note), and since repeatedly recognised as law, that "where a *factor*, dealing for a principal, but concealing that principal, delivers goods in his own name, the person contracting with him has a right to consider him to all intents and purposes as the principal: and though the real principal may appear and bring an action upon that contract against the purchaser of the goods, yet that purchaser may set off any claim he may have against the factor in answer to the principal" (Paley on Principal and Agent, 3rd edit., 329). It was once attempted to extend this doctrine so as to allow a set-off against a trustee of money due from the *cestuis que trust* (*Bottimley* v. *Brook*, 1 T. R. 621, n. (*a*); *Rudge* v. *Birch*, *Ib.* 622 n. (*a*)). But these cases have been disapproved of (*Tucker* v. *Tucker*, 4 B. & Ad. 745; *Wake* v. *Tinkler*, 16 East, 36; 2 Smith, L. C. 227 *b*; *Baillie* v. *Edwards*, 2 Cl. & Fin. 74); and must now be considered as overruled (*Isberg* v. *Bowden*, 8 Ex. 852).

A commission *del credere* has been held a presumptive proof of an agent dealing as principal (*George* v. *Clagett*, 7 T. R. 359); and where a factor was authorised to sell goods in his own name, and he made the buyer debtor to himself, though the goods when sold were marked with the name of his employer, and the factor sold as such in the usual course of his business, and that fact was known to the buyer, this was held to be a dealing as a principal (*Drinkwater* v. *Goodwin*, Cowp. 251; *Morris* v. *Cleasby*, 1 M. & Sel. 576; *Purchell* v. *Salter*, 12 Q. B. 197). So if an agent contracts as such, and afterwards sues upon the contract, a debt due from the principal for whom he has contracted, cannot be set off (*Isberg* v. *Bowden*, 8 Ex. 852; *Ferrand* v. *Bischoffsheim*, 27 L. J. C. P. 302; *Drinkwater* v. *Goodwin*, Cowp. 251; *Morris* v. *Cleasby*, 1 M. & Sel. 576; *Atkyns* v. *Amber*, 2 Esp. 493; *Fish* v. *Kempton*, 7 C. B. 687). A debt due from a *broker* cannot be set off in an action by the principal against the purchaser to recover the price of goods sold by the broker, for the character of broker is materially different from that of factor (*Baring* v. *Corrie*, 2 B. & Ald. 137). And if an agent sell goods as his own, or has a lien upon them, and does not part with the goods unless the purchaser expressly agrees to pay him, the purchaser, in an action brought against him by such agent for the price of the goods, cannot set off a debt due to him from the owner (*Jarvis* v. *Chapple*, 2 Chit. Rep. 387). But if an agent deliver goods without payment, and thereby part with his lien, the purchaser may, in an action by the agent, set off a debt due from the principal (*Coppin* v. *Craig*, 7 Taunt. 243; 2 Marsh. 501). And where an auctioneer had sold to the defendant the goods of A. as the goods of B., it was held that the defendant might set off a debt due

2 G. 2, c. 22. where any such debt of the plaintiff, his testator or intestate, is intended to be insisted

---

to him from B. against the price of the goods of A. (*Ibid.*; *Peel* v. *Northcote*, 1 B. Moore, 178). Where the defendant purchased as broker for B. the goods of A., for whom he sold them under a *del credere* commission, and did not disclose at the time the name of A., but disclosed it soon after, and paid A. the price of the goods without any direction from B.: the court held that in an action by the assignees of B., to recover the balance due upon a resale of the goods made by the defendant on account of B., the defendant was not entitled to set off the money paid to A. (*Morris* v. *Cleasby*, 4 M. & Sel. 566; *Isberg* v. *Bowden*, 8 Ex. 852).

A *policy broker*, who makes an insurance in his own name for the benefit of his principal, and has a *del credere* commission, may, it seems, set off the amount of losses and returns of premium, in an action brought against him by an underwriter for premiums. But where the insurance is made by the broker in the name of his principal (*Cumming* v. *Forester*, 1 M. & Sel. 494; *Koster* v. *Eason*, 2 M. & Sel. 112; and see *Gurney* v. *Sharp*, 4 Taunt. 242; *Morris* v. *Cleasby*, 4 M. & Sel. 566; *Peele* v. *Northcote*, 7 Taunt. 478), or he has not a commission *del credere* (Marsh Ins. 296; *Parker* v. *Smith*, 16 East, 382; Pal. P. & A. 114), the losses and returns of premium, not being mutual debts, cannot be made the subject of a set-off. So, if an action be brought against a policy broker by the assignees or executors of an underwriter, for premiums, where the insurance was made by the broker in his own name, on a *del credere* commission, or where he had a lien thereon to a greater amount than his set-off, the defendant may set off the amount of losses happening and adjusted, or returns of premium becoming due, before the bankruptcy, or in the life-time of the testator (*Davies* v. *Wilkinson*, 4 Bing. 573; *Grove* v. *Dubois*, 1 T. R. 115; *Hize* v. *Dickason*, *Ib.* 285; *Vienholt* v. *Roberts*, 2 Camp. 586). But a loss happening before the bankruptcy cannot be set off in an action brought by the assignees of an underwriter against a broker, for premiums due to the bankrupt, where the insurance was made in the name of the assured, and the broker was not intrusted with the policy, though he had a *del credere* commission, and paid the loss to the assured before the bankruptcy (*Peel* v. *Northcote*, 7 Taunt. 478, 1 Moore, 177). Nor where the insurance was made by the broker as agent, without a *del credere* commission, and there had been no adjustment, though the loss took place before the bankruptcy, and though the policy had always remained in the hands of the broker, and he had actually paid the amount of the loss to his principal (*Baker* v. *Langhorn*, 4 Camp. 396, 6 Taunt. 519, 2 Marsh. 215). And a broker who is indebted to the assignees of a bankrupt for premiums due to them upon policies subscribed by the bankrupt before his bankruptcy, is not entitled to set-off returns of premium due upon the arrival of ships after the bankruptcy (*Goldschmidt* v. *Lyon*, 4 Taunt. 534). So, in an action by the executors of an underwriter against a broker, for premiums due on policies subscribed by the testator, the defendant cannot set off returns of premium which became due after the testator's death (*Houston* v. *Robertson*, 6 Taunt. 448, Holt, N. P. 88). And it makes no difference in this respect that the policies were effected under a *del credere* commission (*Houston* v. *Bordenave*, 6 Taunt. 451, 2 Marsh. 141, Holt, N. P. 89, n.). A broker, having adjusted a loss with an underwriter, and struck his name out of the policy and adjustment, became bankrupt within the usual time of credit: it was holden that the underwriter could not set off against the assured the balance due to him from the broker at the time of adjusting the loss on the policy (*Todd* v. *Reed*, 3 Stark. 16).

In an action against a man on his own bond, he is not allowed to set off a debt due to him *in right of his wife* (*Paynter* v. *Walker*, B. N. P. 179). And a debt owing from a wife *dum sola* cannot be set off in an action brought by the husband alone, unless he has so promised to pay the debt after marriage, as to make the debt his own (*Burrough* v. *Moss*, 10 B. & C. 558; *Wood* v. *Akers*, 2 Esp. 594; and see *Mitchinson* v. *Hewson*, 7 T. R. 348; *O'Halloran* v. *Studdart*, 1 Ir. L. R. N. S. 245). Where a promissory note is given to a married woman, the husband may sue alone on it, and then a debt due to the maker from the wife *dum sola* cannot be set off (*Burrough* v. *Moss*, 10 B. & C. 558).

Neither can a defendant, sued as *executor or administrator*, set off a debt due to himself personally, nor, if sued for his own debt, can he set off what is due to him as executor or administrator. And where an executor sues, whether as executor or in his individual capacity (*Shipman* v. *Thompson*, infra), for a cause of action arising after the testator's death, the defendant cannot set off a debt due to him from the testator (*Bishop* v. *Church*, 3 Atk. 691; *Shipman* v. *Thompson*, Willes, 103, 106, B. N. P. 180; *Kilvington* v. *Stevenson*, cit. Willes, 264); for, as it is said, this would be altering the due course of distribution of assets (*Hutchinson* v. *Sturges*, Willes, 264, n.; *Gale* v. *Suttrell*, 1 Y. & J. 180; *Underwood* v. *Robertson*, 4 Camp. 342; *Lamberde* v. *Older*, 17 Beav. 542). So, to assumpsit for money received to the use of plaintiff as administrator, and on an account stated with him as administrator, with promises to him as administrator, the defendant cannot plead a set-off

on in evidence, notice shall be given of the particular sum or debt so intended to be 2 G. 2, c. 22. insisted on (*a*), and upon what account it became due, or otherwise such matter shall not be allowed in evidence upon such general issue.

---

for the money due from the intestate in his lifetime (*Schofield* v. *Corbett*, 11 Q. B. 779); so a debt due to the defendant as executor, for money had and received after the death of the testator, cannot be set-off against a debt due from the defendant as executor, having become due from the testator before his death (*Mardall* v. *Thellusson*, 18 Q. B.; in error, 6 E. & B. 976). To an action by an administrator, who sues in his representative character, for a debt due after the death of the intestate, the defendant cannot set off a debt due to him from the intestate in his lifetime (*Watts* v. *Rees*, 9 Exch. 696; affirmed in Cam. Scacc., 11 Ex. 410). To an action against an executor, on an account stated by him as executor, it was held, that debts due from the plaintiff to the testator in his lifetime might be set off (*Blakesley* v. *Smallwood*, 8 Q. B. 538). See the remarks upon this case of Coleridge, J., delivering the judgment of the Court of Exchequer Chamber in *Rees* v. *Watts*, supra.

The defendant cannot plead, by way of set-off, a bond debt of the plaintiff, assigned to the defendant by another, to whom and for whose use it was originally given; for, *per* Bayley, J., a court of law cannot notice any other than legal rights (*Wake* v. *Tinkler*, 16 East, 36; *Tucker* v. *Tucker*, 4 B. & Ad. 745; *Charlton* v. *Hill*, 5 Car. & P. 147).

Although where one of the parties in two cross actions has assigned his interest to a third party, there may be no right to set off the judgments, yet where the assignee being the real plaintiff in one action is also the real defendant in the other, there is such right of set-off (*Standeven* v. *Murgatroyd*, 27 L. J. Exch. 425).

One partner cannot set off a debt due to him from another, on the partnership account, unless a final balance has been struck and agreed to between the parties (*Fromont* v. *Coapland*, 2 Bing. 170, 9 Moo. 319).

Formerly, if the debt for which the action was brought was reduced by a set-off below the amount recoverable and for which the plaintiff ought to have sued in a court of requests, the defendant was not therefore entitled to costs; for as a defendant may waive his right of set-off, and resort to his cross action, the plaintiff could not know until the plea was pleaded whether he would avail himself of it or not (*M'Collam* v. *Carr*, 1 Bos. & P. 223; *Gobed* v. *Birt*, 2 Chit. Rep. 394; *Jenkinson* v. *Morton*, 1 M. & W. 300, 5 Dowl. 74; see 13 & 14 Vict. c. 61, s. 11, ante, Vol. 1., p. 1224, tit. "COURTS COUNTY," and the cases there cited).

The equitable right of set-off is not derived from or dependent upon any statutory right, but is founded on the Roman law (*Freeman* v. *Lomas*, 9 Hare, 113); and it is only under special circumstances that a court of equity will set off cross demands existing in separate rights one against the other (*Ib.*).

Where to an action for freight the defendant pleaded, by way of defence on equitable grounds, that the plaintiff undertook to carry coals of the defendant, and by his negligence and unskilfulness the coal was lost, and that the cost price of the coal was equal to the plaintiff's demand, and claimed equitably to set off the one against the other: It was held that the plea was bad (*Stimson* v. *Hall*, 26 L. J. Ex. 212).

To an action against an executor for a debt due by his testator, he pleaded that at the time of the death of the testator, the plaintiff was indebted to him in an equal amount, which being still due, the defendant was willing to set-off against the plaintiff's claim. The plaintiff replied on equitable grounds, that the testator devised and bequeathed to him a freehold estate and a sum of money, and devised and bequeathed other property, real and personal, to his other children, and declared that the money and other effects already advanced and delivered by him to his children should be deemed advancements, and that they should not be required to account for the same; averring that the matters of set-off were money and effects so advanced, &c.: It was held, a bad replication (*Gulliver* v. *Gulliver*, 1 H. & N. 174).

By 1 & 2 Vict. c. 96, s. 4 (ante, Vol. I. p. 212, tit. "BANKERS"), the share of individual members in the capital stock of the banking companies cannot be set off against demands of the copartnership against such members.

(*a*) A set-off must be pleaded in all cases, and notice of set-off cannot be given (R. Hill, 1853, pl. 8, ante, Vol. III., tit. "PLEADING, PRACTICE, &c. AT LAW;" *Graham* v. *Partridge*, 1 M. & W. 395). Unless it be credited in the particulars of demand (*Ib.* pl. 13). It is to be taken distributively, 15 & 16 Vict. c. 76, s. 76 (*Ib.*). It may be pleaded in terms to a part of the plaintiff's claim (*Noel* v. *Davis*, 4 M. & W. 137); but if it be pleaded to the whole, and the defendant prove under it only an amount less than the plaintiff's demand, he will not be entitled to have the verdict on that issue entered for him for the amount so proved, unless this plea and the other pleas on the record together amount to an answer to the whole of the plaintiff's demand (*Moore* v. *Butlin*, 7 Ad. & E. 595, 2 Nev. & P. 436; *Tuck* v. *Tuck*, 5 M. & W. 109; *Cousins* v. *Paddon*, 2 C. M. & R. 547; *Roche* v. *Chapain*, 1 Exch. 10; *Ford* v. *Beech*, infra). But in such case the amount of the set-off may go in reduction of damages (*Rodgers* v. *Maw*, 15 M. & W. 445);

8 G. 2, c. 24. 8 Geo. 2, c. 24. An Act to explain and amend an Act passed in the Second Year of the Reign of his present Majesty, intituled *An Act for the Relief of Debtors with respect to the Imprisonment of their Persons.* [A.D. 1735.]

Exception, that where the debt sued for or to be set off is a penalty, the matter must be pleaded, and the debt due on either side stated.

5. That by virtue of the said clause in the said first-recited Act contained, and hereby made perpetual, mutual debts may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, in the manner therein mentioned, notwithstanding that such debts are deemed in law to be of a different nature; unless in cases where either of the said debts shall accrue by reason of a penalty contained in any bond or specialty; and in all cases where either the debt for which the action hath been or shall be brought, or the debt intended to be set against the same hath accrued, or shall accrue, by reason of any such penalty, the debt intended to be set off shall be pleaded in bar, in which plea shall be shown how much is truly and justly due on either side (*a*); and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly and justly due to the plaintiff, after one debt being set against the other as aforesaid (*b*).

---

and the plaintiff may take his verdict for the balance, with a special indorsement on the *postea*, as a foundation for the court to order a stay of proceedings in a subsequent action brought for the amount of the set-off (Jerv. N. R. 405; see *Stanton* v. *Styles*, 5 Exch. 578; *Milvain* v. *Mather*, 5 Exch. 55). And where the first two counts were on promissory notes, and the third on a bill on which it was averred that 15*l.* remained unpaid, with counts for money lent; and the defendant pleaded special pleas to the counts on the promissory notes and the money counts, which on the trial were found for him, and a plea of set-off to the whole declaration, to which the plaintiff replied, not indebted; the plaintiff by his particulars claimed in respect of the bill of exchange 15*l.* only; and the defendant, under his plea of set-off, proved that plaintiff was indebted to him in more than 15*l.*, but not to an amount which would cover that sum together with the amount of the promissory notes in the first and second counts: It was held, that the defendant was entitled to the verdict on the issue joined on the plea of set-off, but that it ought to be entered specially, "that the plaintiff before and at the time of the commencement of the suit was indebted to the defendant in a larger sum than the sum of 15*l.*;" and that upon such verdict the defendant was entitled to judgment on the whole record (*Ford* v. *Beech*, 11 Q. B. 842).

Where there was a plea of tender as to 55*l.*, parcel, &c., and a replication alleging a demand of payment of a larger sum; a rejoinder, that the defendant had a set-off to the extent of such larger sum, except 55*l.*, wherefore he refused to pay the whole of such larger sum, was considered to be bad, as the set-off ought to have been pleaded in the first instance (*Searles* v. *Sadgrove*, 25 L. J. Q. B. 15, 5 E. & B. 639).

The gist of the plea of set-off is, that the plaintiff is indebted to the defendant in a sum equal at least to that to which he is seeking to recover in the action (*Mead* v. *Bashford*, 5 Exch. 336); and therefore where, to a plea of set-off in debt on simple contract, the plaintiff replied, as to 49*l.* 16*s.* 10*d.*, parcel of the debt, that the causes of set-off, so far as the same related to 49*l.* 16*s.* 10*d.*, did not accrue within six years, concluding with a verification; and as to the residue of the causes of set-off, the plaintiff says that he was not nor is indebted *modo et formâ*, concluding to the country: it was held, that the replication was bad, and that the plaintiff should have replied, that part of the subject-matter of the set-off was barred by the statute, and that he was not indebted to the defendant in any sum which (excluding the part so barred) equalled the amount of the plaintiff's demand (*Ib.*; see *Turnbull* v. *Pell*, 2 Exch. 793).

A replication to the usual plea of set-off, that the plaintiff "*was not* indebted to the defendant, in manner and form," &c., is sufficient (*Morrison* v. *Chadwick*, 7 C. B. 266).

As to the delivery of particulars of set-off, &c., R. H. 1853, Pr. 19, ante, Vol. II., tit. "PLEADING, PRACTICE, &c."

(*a*) When either of the debts accrues by reason of a *penalty*, the debt intended to be set off must be pleaded in bar; and the defendant in his plea must aver what is really due, which averment has been holden to be traversable (*Symms* v. *Knox*, 3 T. R. 65), though laid under a *videlicet* (*Grimwood* v. *Barret*, 6 T. R. 460; *Attwool* v. *Attwool*, 2 E. & B. 23).

(*b*) A set-off may be pleaded to a bond conditioned for the payment of an annuity or growing sum (*Collins* v. *Collins*, 2 Burr. 820; see *Hutchinson* v. *Sturges*, Willes, 261). To an action of debt on a bond conditioned for the payment of the interest half-yearly, and the principal sum six months after notice (which notice had not been given), the defendant pleaded a set-off exceeding the interest due, which set-off accrued before the commencement of the action, but *after* the interest became payable: it was held, that

9 Geo. 4, c. 14. An Act for rendering a written Memorandum necessary to the Validity of certain Promises and Engagements. [9th May, 1828.]

9 G. 4, c. 14.

4. That the said recited Acts and this Act shall be deemed and taken to apply to the case of any debt or simple contract alleged by way of set-off on the part of any defendant, either by plea, notice, or otherwise.

Simple contract debts alleged by way of set off (a).

23 & 24 Vict. c. 126. An Act for the further Amendment of the Process, Practice, and Mode of Pleading in, and Enlarging the Jurisdiction of, the Superior Courts of Common Law at Westminster. [28th August, 1860.]

23 & 24 Vict. c. 126.

[See this Act in full, ante, Vol. III., tit. "PLEADING, PRACTICE, &c. (AT LAW)."]

20. Upon the trial of such cause a defendant who has therein pleaded a set-off, may obtain the benefit of his set-off by proving either that all the parties named as plaintiffs are indebted to him, notwithstanding that one or more of such plaintiffs was or were improperly joined, or on proving that the plaintiff or plaintiffs who establish their right to maintain the cause is or are indebted to him.

Defendant to have benefit of set-off, though some plaintiffs improperly joined.

21. No other action shall be brought against the defendant by any person so joined as plaintiff in respect of the same cause of action.

No other action for same claim to be brought.

SETTLED ESTATES.

[See "LEASES," "TRUSTEES."]

SEWERS (b).

23 Hen. 8, c. 5. A Generall Acte concernynge Commissions of Sewers to be directed in all Parts within this Realme. [A.D. 1531.]

23 Hen. 8, c. 5.

"Our sovereign lord the king, like a virtuous and most gracious prince, nothing earthly so highly weighing as the advancing of the common profit, wealth, and commodity of this his realm, considering the daily great damages and losses which have happened in many and divers parts of this his said realm, as well by the reason of the outrageous flowing, surges, and course of the sea in and upon marsh grounds, and other low places heretofore through politick wisdom won and made profitable for the great commonwealth of this realm, as also by occasion of land waters, and other outrageous springs, in and upon meadows, pastures, and other low grounds adjoining to rivers, floods, and other watercourses; and over that, by and through mills, mill dams, wears, fishgartha, kedels, gores, gotes, floodgates, locks, and other impediments in and upon the same rivers and other watercourses (c), to the inestimable damages of the commonwealth of this realm, which daily is likely more and more to increase, unless speedy redress and remedy be in this behalf shortly provided; wherein albeit that divers and many provisions have been before this time made and ordained, yet none of them are sufficient remedy for reformation of the premises:" HATH THEREFORE ENACTED, That commissions of sewers, and other the premises, shall be directed in all parts within this realm from time to time, where and when need shall require, according to the manner, form, tenor, and effect hereafter ensuing, to such substantial and indifferent persons as shall be named by the lord chancellor and lord treasurer of England, and the two chief justices for the time being, or by three of them, whereof the lord chancellor to be one.

How far commission of sewers shall extend.

2. "Henry the eighth, &c. Know ye, That forasmuch as the walls, ditches, banks, gutters, sewers, gotes, calcies, bridges, streams, and other defences, by the coasts of the sea, and marsh ground, lying and being within the limits of A. B., or C., in the

Form of commission.

---

the plea was a good answer to the action under this statute (*Lee* v. *Lester*, 7 C. B. 1008).

(a) See this statute, ante, Vol. III., p. 13, tit. "LIMITATION OF ACTIONS;" and ante, Vol. II. p. 177, tit. "FRAUDS, STATUTE OF."

(b) See Callis on Sewers; Woolrych on Sewers; Com. Dig. Sewers; Bac. Ab. tit. Courts of Commissioners of Sewers. The general law upon this subject remains as it was established by the above "Bill of Sewers."

(c) The Act extends to all waters, though not navigable (*per* Bayley, J., 16th June, 1827, referring to *Rex* v. *Hide*, Styles, 60; see *Reg.* v. *Parkinson*, 16 J. P. 729).

23 Hen. 8. c. 5.

The several causes of awarding the commission.

county or counties of or in the borders or confines of the same, by rage of the sea, flowing and reflowing, and by mean of the trenches of fresh waters descending, and having course by divers ways to the sea, be so dirupt, lacerate, and broken, and also the common passages for ships, balangers, and boats, in the rivers, streams, and other floods, within the limits of A., B., or C. in the county or counties of or in the borders or confines of the same, by mean of setting up, erecting, and making of streams, mills, bridges, ponds, fishgarths, milldams, locks, hebbing wears, hecks, and floodgates, or other like lets, impediments, or annoyances, be letted and interrupted, so that great and inestimable damage, for default of reparation of the said walls, ditches, banks, fences, sewers, gotes, gutters, calcies, bridges and streams, and also by mean of setting up, erecting, making and enlarging of the said fishgarths, milldams, locks, hebbing wears, hecks, floodgates and other like annoyances, in times past hath happened, and yet is to be feared, that far greater hurt, loss and damage is like to ensue, unless that speedy remedy be provided in that behalf.

What things the commissioners are authorised to do.

3. "We therefore, for that by reason of our dignity, and prerogative royal, we be bound to provide for the safety and preservation of our realm of England, willing that speedy remedy be had in the premises, have assigned you, and six of you, of the which we will that A., B., and C. shall be three, to be our justices to survey the said walls (*a*), streams, ditches, banks, gutters, sewers, gotes, calcies, bridges, trenches, mills, milldams, floodgates, ponds, locks, hebbing wears, and other impediments, lets and annoyances aforesaid, and the same cause to be made (*b*), corrected, repaired, amended, put down, or reformed, as case shall require, after your wisdoms and discretions; and therein as well to ordain and do after the form, tenor and effect of all and singular the statutes and ordinances made before the 1st March, in the three-and-twentieth year of our reign, touching the premises, or any of them; as also to inquire by the oaths of the honest and lawful men of the said shire or shires, place or places (*c*) where such defaults or

---

(*a*) It has been held that a commission of sewers extends only to navigable streams, unless within two miles of London (*Yeaw* v. *Holland*, 2 W. B. 717). But the court upon that occasion does not seem to have been apprised of the case in which it had been long before decided, that the commission extends to all common passages for water, though they may not be navigable (*Rex* v. *Hide*, Sty. 60; and see the preamble of the Act, and ante, p. 175, n. (*c.*)).

And the commissioners have jurisdiction over a sewer communicating with a navigable stream, or with the sea above the point where the tide ebbs and flows, if the place over which the jurisdiction is exercised is, or is likely to be, benefited by it (*Dore* v. *Gray*, 2 T. R. 358; see *Reg.* v. *Parkinson*, 16 J. P. 729).

(*b*) If a sea-bank or wall, which the owners of particular lands are bound to repair, be destroyed by tempest, without any default in such owners, the commissioners may order a new one (even in a different form, if necessary) to be erected at the expense of the whole level (*Rex* v. *Somerset Commissioners of Sewers*, 8 T. R. 312). But where the owner of marsh lands was bound by the custom of a sewage-level to repair the sea-walls abutting on his own land, and by an extraordinary flood-tide the wall was damaged, the court refused to grant a mandamus to the commissioners to reimburse him the expense of the repairs, it appearing by affidavit that the wall had been previously presented for being in bad repair, and was out of repair at the time the accident happened; nor can the other landowners in the level be called upon to contribute to the repairs of such wall (*Rex* v. *Essex Commissioners*, 2 D. & R. 700; 1 B. & C. 477).

(*c*) The jury ought to be summoned from the body of the county, and not from a particular district (*Birkett* v. *Crozier*, 1 M. & Malk. 119, 3 Car. & P. 63; *Taylor* v. *Loft*, 20 L. T. 248). And a presentment made by a standing jury, constituted according to ancient usage, originally returned by the sheriff, at the commencement of every new commission of sewers, from certain parishes or districts, composed of landowners there, interested in disclaiming the general charges of the level, which jurymen acted for life, unless removed for cause, and only the foreman of whom was summoned by the sheriff, on the particular occasion, which foreman thereupon convened the other jurymen, is illegal and void; and the want of jurisdiction of such presenting jury cannot be waived by traversing their presentment, and going to trial upon another jury, properly returned from the body of the county, by whom such presentment was confirmed. The presenting jury, after being sworn and charged, must also prosecute their inquiry upon hearing evidence on oath before the commissioners *in curia*, and make their presentment thereon, and not upon information collected *in pais* without oath (*Rex* v. *Somerset*, 7 East, 71; 3 Smith, 105).

In *Rex* v. *Lewis* (Will. W. & Dav. 60) a *certiorari* was granted to remove a presentment from before the commissioners of sewers in a case where the chairman confessed he was ignorant of the law applicable to the case. An objection to the jury is matter of plea in abatement, but no ground for quashing the presentment after verdict (*Reg.* v. *Participants of Hatfield*, 14 L. T. 181).

The foundation of the jurisdiction of the commissioners to make a rate is the presentment of

annoyances be, as well within the liberties as without (by whom the truth may the rather be known) through whose default the said hurts and damages have happened, and who hath or holdeth any lands or tenements, or common of pasture, or profit of fishing, or hath or may have any hurt, loss, or disadvantage by any manner of means in the said places, as well near to the said dangers, lets and impediments as inhabiting or dwelling thereabouts, by the said walls, ditches, banks, gutters, gotes, sewers, trenches and other the said impediments and annoyances; and all those persons (*a*), and every of them, to tax, assess, charge, distrain and punish, as well within the metes, limits and bounds of old time accustomed, or otherwise, or elsewhere within our realm of England, after the quantity of their lands, tenements and rents, by the number of acres and perches, after the rate of every person's portion (*b*), tenure or profit, or after the quantity of their

23 Hen. 8, c. 5.

Inquiry by whose defaults annoyances come.

Assessing the person to be contributory to the charge.

---

the jury, without which the rate is void (*Wingate* v. *Waite*, 6 M. & W. 739).

(*a*) All persons whose property derives any advantage from the works of the commissioners of sewers may be assessed to the sewers rate in respect of that property (*Soady* v. *Wilson*, 3 Ad. & E. 248; see *Netherton* v. *Ward*, 3 B. & Ald. 21; *Reg.* v. *Essex Commissioners*, 1 B. & C. 477), as well when the crown is the owner, as when it belongs to a subject (*Tracey* v. *Taylor*, 3 Q. B. 966, 3 Tr. 611; *Delaney* v. *Cannon*, 10 East, 328). The benefit is not required to be immediate, nor do the cases or the commission itself, or the statutes, say anything of the nature or amount of the benefit (*Soady* v. *Wilson*, 3 Ad. & E. 248; see *St. Katherine Dock Company* v. *Higgs*, 10 Q. B. 641, post, 188).

The commissioners of sewers cannot assess a person in respect of drains which communicate with other drains that fall into the great sewer, if the level of his drains is so much above the sewer that the stopping of the sewer could not possibly throw back the water so as to injure his premises, and if he be not, nor appears likely to be, benefited by the works done upon the sewers (*Masters* v. *Scroggs*, 3 M. & Sel. 447).

A decree by the commissioners is not conclusive against the party assessed residing within the district over which they have jurisdiction, but such party may prove in an action of trespass brought by him against a collector, for taking the goods to satisfy such rate, that he derived no profit from the sewer in respect of which the assessment was made (*Stafford* v. *Hampston*, 5 Moore, 608, 2 Bro. & B. 691). Trespass lies wherever the commissioners exceed their authority (*Rooke's case*, 5 Rep. 100 a; *Hetley* v. *Boyer*, Cro. Jac. 336; see *Wingate* v. *Waite*, 6 M. & W. 739).

(*b*) It is not, however, alone sufficient that the property should derive benefit from the works; it is also necessary that there should be an occupier (*Tracey* v. *Taylor*, 3 Q. B. 966; *Neave* v. *Weather*, *ib.* 984, infra).

Commissioners have power to amerce a township for neglecting to repair works which they by custom are bound to repair (*Ramsey* v. *Nornabell*, 11 Ad. & E. 383). But in general a rate assessed in gross on a township is bad (*Emmerson* v. *Saltmarshe*, 7 Ad. & E. 266; *Wingate* v. *Waite*, 6 M. & W. 739); *à fortiori*, a rate on lands generally, without taxing township or occupier, is bad also (*per* Ld. Denman, *Tracey* v. *Taylor*, 3 Q. B. 982).

Commissioners of sewers may make a rate to defray the expenses of works already done. And, in order to justify such a rate, it is not necessary that there should have been a previous presentment by a jury of those works. It is no valid objection to such a rate, that it is made to defray previous law expenses of the commission, *bonâ fide* incurred by the commissioners in the discharge of their duty; nor that the rate is, in the alternative, to defray the expenses of works done or to be done; for the word "or" must be read "and" (*Rex* v. *The Commissioners of Sewers for the Tower Hamlets*, 1 B. & Ad. 232).

On a presentment in a court of sewers, that S. received benefit in respect of his lands from a certain drainage, S. appeared, and put in a traverse to the presentment, defective in form, but, as he alleged, raising a substantial defence. The clerk to the commissioners demurred specially. S. was heard in support of his traverse; and the commissioners, on September 17, 1841, decided against him. He thereupon (at the same court) prayed leave to amend, and tendered a fresh traverse; but the commissioners refused to receive it. A rate was then made, comprehending the land of S. He refused to pay, was summoned for non-payment, and showed cause: a view of the land was had, and, after a final hearing, the commissioners, on July 25, 1842, distrained. S., on May 10, 1843, moved for a *certiorari* to bring up the proceedings, on the grounds that the commissioners ought not to have decided as judges on a demurrer virtually put in by themselves, and, that, even if this was rightly done, the amendment should have been allowed. It was held, that the application came too late; but that the court of sewers ought to have permitted the amendment. *Quære*, *per* Ld. Denman, C. J., whether the objections, if made in time, would not have been valid (*Reg.* v. *Commissioners of Sewers for the Tower Hamlets*, 5 Q. B. 357; see *Rex* v. *Leigh*, 7 Car. & P. 813).

Chelsea Hospital and the lands attached to it are the property partly of the crown and partly of trustees for the benefit of the pensioners. Part of the buildings of the hospital are occupied by officers concerned in the government and super-

23 Hen. 8, c. 5.

common of pasture, or profit of fishing, or other commodities there, by such ways and means, and in such manner and form as to you, or six of you, whereof the said A., B., and C. to be three, shall seem most convenient to be ordained and done for redress and reformation to be had in the premises and also to reform, repair and amend the said walls, ditches, banks, gutters, sewers, gotes, calcies, bridges, streams, and other the premises, in all places needful; and the same, as often, and where need shall be, to make new, and to cleanse and purge the trenches, sewers and ditches, in all places necessary; and further to reform, amend, prostrate and overthrow all such mills, streams, ponds, locks, fishgarths, hebbing wears, and other impediments and annoyances aforesaid, as shall be found by inquisition, or by your surveying and discretions, to be excessive or hurtful; and also to depute and assign diligent, faithful and true keepers, bailiffs, surveyors, collectors, expenditors, and other ministers and officers for the safety, conservation, reparation, reformation and making of the premises, and every of them, and to hear the account of the collectors and others ministers of and for the receipt and laying out of the money that shall be levied and paid in, and about the making, reforming, repairing and amending of the said walls, ditches, banks, gutters, gotes, sewers, calcies, bridges, streams, trenches, mills, ponds, locks, fishgarths, floodgates, and other impediments and annoyances aforesaid; and to distrain for the arrearages of every such collection, tax, and assess as often as shall be expedient, or otherwise to punish the debtors and detainers of the same, by fines, amerciaments, pains, or other like means after your good discretions (*a*); and also to arrest and take as many carts, horses, oxen, beasts, and other instruments necessary, and as many workmen and labourers as for the said works and reparations shall suffice, paying for the same competent wages, salary, and stipend in that behalf (*b*); and also take such and as many trees, woods, underwoods and timber, and other necessaries, as for the same works and reparations shall be sufficient, at a reasonable price, by you, or six of you, of the which we will that A., B., and C. shall be three, to be assessed or limited, as well within the limits and bounds aforesaid, as in any other place within the said county or counties near unto the said places; and to make and ordain statutes, ordinances, and provisions from time to time, as the case shall require, for the safeguard, conservation, redress, correction and reformation of the premises, and of every of them, and the parts lying to the same, necessary and behooful, after the laws and customs of Rumney Marsh in the county of Kent, or otherwise by any ways or means after your own wisdoms and discretions; and to hear and determine all and singular the premises, as well at our suit as at the suit of any other whatsoever complaining before you, or six of you, whereof A., B., and C. shall be three, after the laws and customs aforesaid, or otherwise by any other ways or means after your discretions; and also to make and direct all writs, precepts, warrants or other commandments by virtue of these presents, to all sheriffs, bailiffs, and all other ministers, officers, and other persons, as well within liberties as without, before you, or six of you, whereof the said A., B., and C. to be three, at certain days, terms and places to be prefixed, to be returned and received; and further to continue the process of the same, and finally to do all and every thing and things as shall be requisite for the due execution of the premises, by all ways and means after your discretions: And therefore we command you, that at certain days and places, when and where ye, or six of you, whereof the said A., B., and C. to be three, shall think expedient, ye do survey the said walls, fences, ditches, banks, gutters, gotes, sewers, calcies, ponds, bridges, rivers, streams, watercourses, mills, locks, trenches, fishgarths, floodgates, and other the lets, impediments and annoyances aforesaid, and accomplish, fulfil, hear and determine all and singular the premises in due form, and to the effect aforesaid, after your good discretions; and all such as ye shall find negligent, gainsaying, or rebelling in the said works, reparations or reformations of the premises, or negligent in the due execution of this our commission, that ye do compel them by distress, fines, and amerciaments, or by other

Appointing of bailiffs, collectors, &c.

---

intendence of the hospital; the residue is occupied only by the pensioners. It was held, that no sewers rate could be imposed in respect of such residue, there being no rateable occupier.

A sewers rate was laid upon one of the officers, in respect both of a part occupied by him (for which he was admitted to be rateable) and also of the said residue; and a warrant of distress issued for the whole, under which goods of the commissioners of the hospital (acting under 7 Geo. 4, c. 16), being upon the residue, were seized: It was held, that the commissioners might maintain trespass for the seizure, although the officer was liable to be rated in respect of a part, and although a sewers jury had presented that the residue was liable to be assessed, and, on traverse of the presentment, such presentment had been affirmed by the verdict (*Neave* v. *Weather*, 3 Q. B. 984).

A sewers rate is not a "parliamentary tax" (*Palmer* v. *Earith*, 14 M. & W. 428).

(*a*) See last note.

(*b*) Where bricklayers, in repairing a public sewer, occasioned a damage to a neighbouring house, it was held, that they were liable to an action, although they were employed by the commissioners of sewers (*Jones* v. *Bird*, 1 D. & R. 497, 5 B. & Ald. 837). As to the liability of commissioners of sewers for damage (see *Grocers' Company* v. *Donne*, 3 Bing. N. C. 34; *Bailey* v. *Constables of Charlton-upon-Medlock*, 3 Beav 499).

punishments, ways, or means, which to you, or six of you, whereof the said A., B., and C. shall be three, shall seem most expedient for the speedy remedy, redress, and reformation of the premises, and due execution of the same; and all such things as by you shall be made and ordained in this behalf, as well within liberties as without, ye do cause the same firmly to be observed, doing therein as to our justice appertaineth after the laws and statutes of this our realm, and according to your wisdoms and discretions. 23 Hen. 8, c. 5.

4. "Saved always to us such fines and amerciaments as to us thereof shall belong (a); and we also command our sheriff or sheriffs of our said county or counties of that they shall cause to come before you, or six of you, of the which A., B., and C. to be three, at such days and places as ye shall appoint to them, such and as many honest men of his or their bailiwick, as well within the liberties as without, by whom the truth may best be known, to inquire of the premises (b) commanding also all other ministers and officers, as well within liberties as without, that they, and every of them, shall be attendant to you in and about the due execution of this our commission. In witness whereof we have caused these our letters patents to be made. Witness ourself at Westminster, the day of in the year of our reign."

5. That every such person as shall be named commissioner in the said commission, after he hath knowledge thereof, shall effectually put his diligence and attendance in and about the execution of the said commission. And before he shall take upon him the execution of the said commission, he shall take a corporal oath before the lord chancellor, or before such to whom the said lord chancellor shall direct the king's writ of *dedimus potestatem* to take the same, or before the justices of the peace in the quarter sessions holden in the shire where such commissions shall be directed; the tenor of which oath hereafter ensueth (d): The commissioners shall take an oath (c).

"Ye shall swear, That you, to your cunning, wit, and power, shall truly and indifferently execute the authority to you given by this commission of sewers, without any favour, affection, corruption, dread, or malice to be borne to any manner of person or persons; and, as the case shall require; ye shall consent, and endeavour yourself for your part, to the best of your knowledge and power, to the making of such wholesome, just, equal and indifferent laws and ordinances, as shall be made and devised by the most discreet, and indifferent number of your fellows, being in commission with you, for the due redress, reformation and amendment of all and every such things as are contained and specified in the said commission, and the same laws and ordinances to your cunning, wit, and power, cause to be put in due execution, without favour, meed, dread, malice or affection: as God you help, and all saints." Form of oath.

6. That all and every statute, Act, and ordinance heretofore made concerning the premises, or any of them, as well in the time of our sovereign lord the king that now is, as in the time of any of his progenitors kings of this realm of England, not being contrary to this present Act, nor heretofore repealed, from henceforth shall stand and be good and effectual for ever, and to be put in due execution according to the true meaning and purport of the same. Confirmation of other statutes (d).

7. And over that BE IT ENACTED, That the commissioners hereafter to be named in any of the said commissions, according to the purport and effect of the same commissions, have full power and authority to make, constitute and ordain laws, ordinances and decrees, and further to do all and every thing mentioned in the said commission, according to the purport, effect, words, and true meaning of the same: and the same The authority of the commissioners.

(a) The clerks appointed for such commissioners shall yearly estreat all the issues, fines, penalties, and amerciaments due to his majesty into the exchequer, at such times as justices of peace ought to do, on pain to forfeit to his majesty for every default 5*l*. (13 Eliz. c. 9, s. 6).

See 22 & 23 Vict. c. 21, s. 28, as to the transmission of sheriffs' accounts, post, tit. "SHERIFF."

(b) A local Act of parliament, enacting that, for the better execution of the Act, all the lands, &c., within a certain district (previously within the jurisdiction of the general commissioners of sewers), and the sewers, &c., thereof should be subject only to the control, &c., and jurisdiction of local commissioners thereby appointed, and not to the control, direction, survey, or order of any commissioners of sewers, does not discharge the inhabitants of the district from their liability to serve on juries at the sessions of sewers, without an express provision; nor will the Court of Exchequer discharge the estreats of fines imposed by the sessions, and levied on such inhabitants for refusing to attend when summoned (*Ex parte Ouvat*, 9 Price, 117).

(c) See 3 & 4 W. 4, c. 22, s. 3, post, p. 184.

(d) No person shall be compelled to be sworn or to sit in execution of any commission of sewers, unless he be dwelling within the county whereof he shall be assigned commissioner (25 Hen. 8, c. 10, s. 1). Any person refusing to take the oath, and that refusal returned into Chancery, shall forfeit five marks for the contempt, and so from time to time, unless he show in Chancery, in the term wherein such return shall be made against him, sufficient cause to be allowed by the chancellor for his excuse (*Id.* s. 2).

23 Hen 8, c. 5.

laws and ordinances so made, to reform, repeal, and amend, and make new, from time to time, as the cases necessary shall require in that behalf (*a*).

The ordinances of commissioners upon those which refuse.

8. Provided always, That if any person or persons, being assessed or taxed to any lot or charge for any lands, tenements or hereditaments, within the limits of any commission hereafter to be directed, do not pay the said lot and charge according to the ordinance and assignment of the commissioners, having power of the execution of the said commission, by reason whereof it shall happen, the said commissioners having power of the execution of such commission, for lack of payment of such lot and charge, to decree and ordain the same lands, tenements, and hereditaments from the owner or owners thereof, and their heirs, and the heirs of every of them, to any person or persons for term of years, term of life, in fee simple or in tail, for payment of the same lot and charge, that then every such decree and ordinance so by them made and ingrossed in parchment, and certified under their seals into the king's court of chancery, with the king's royal assent had to the same, shall bind all and every person and persons, that at the making of the same decree had any interest in such lands, tenements, or hereditaments, in use, possession, reversion or remainder, their heirs and feoffees, and every of them, and not to be in anywise reformed, unless it be by authority of parliament hereafter to be summoned and holden within this realm.

The commissioners' decree shall bind the land.

9. That the same laws, ordinances, and decrees to be made and ordained by the said commissioners, or six of them, by authority of the said commission, shall bind as well the lands, tenements, and hereditaments of the king our sovereign lord, as all and every other person and persons, and their heirs, for such their interest as they shall fortune to have, or may have, in any lands, tenements or hereditaments, or other casual profit, advantage or commodity whatsoever they be, whereunto the said laws, ordinances and decrees shall in anywise extend, according to the true purport, meaning and intent of the same laws (*b*).

No man may sit being unsworn (*c*).

10. And, That if any manner of person or persons, of what estate or degree soever he or they be of, that from henceforth do take upon him or them to sit by virtue of any of the said commissions, not being before sworn in form as is aforesaid, and according to the tenor of the oath before specified, or if any person so named and sworn do sit as is aforesaid, not having lands and tenements, or other hereditaments in fee simple, fee tail, or for term of life, to the clear yearly value of xl. marks above all charges to his own use, except he be resiant and free of any city, borough, or town corporate, and have moveable substance of the clear value of one hundred pounds, or else be learned in the laws of this realm in and concerning the same, that is to say, admitted in one of the four principal inns of court for an utter barrister, shall forfeit xl. *l.* for every time that he shall attempt so to do; the one half thereof to be to our sovereign lord the king, and the other half thereof to the use of him or them that will sue therefor by action of debt, bill, plaint, or information in any of the king's courts; in which action or suit no wager of law shall be admitted, nor any essoin or protection shall be allowed (*b*).

What land each commissioner shall have.

Avowry or justification of a distress taken by reason of the commission of sewers.

11. And if any action of trespass, or other suit, shall happen to be attempted against any person or persons for taking any distress, or any other act doing, by authority of the said commission, or by authority of any laws or ordinances made by virtue of the said commission, the defendant or defendants in any such action shall and may make avowry, conusance, or justification for the taking of the same distress, or other act doing touching the premises, or of any of them, alleging in such avowry, conusance or justification, that the said distress, trespass or other act whereof the plaintiff complaineth, was done by the authority of the commission of sewers for lot or tax assessed by the said commission, or for such other act or cause as the said defendant did by authority of the same commission, and according to the tenor, purport, and effect of this present Act made the three-and-twentieth year of the reign of our sovereign lord king Henry the eighth, without

---

(*a*) The commissioners of sewers cannot maintain an action of trespass against the commissioners of a harbour, for breaking down a wall or dam erected by the former across a navigable river; as the authority to be exercised by them does not vest in them such a property or possessory interest as will enable them to maintain such action (*Duke of Newcastle* v. *Clark*, 2 Moore, 666).

(*b*) All scots, lots, and sums of money to be rated on any of the lands of his majesty shall be levied by distress or otherwise, in like manner as in the lands of any other person, and all bills of acquittances of the collector thereof shall be a sufficient discharge to the tenants; as also a sufficient warrant to all receivers, auditors, and other officers of his majesty, for the allowance to such tenants for the same (3 & 4 Ed. 6, c. 8, s. 2; see 3 & 4 W. 4, c. 22, s. 23, post, p. 190).

(*c*) No farmer for years of lands which may be made chargeable by any laws to be made by virtue of the commission wherein he shall be named commissioner, not having estate of freehold within England of lands or tenements of the yearly value of 40*l.*, shall sit or intermeddle with the execution of such commission during the time he continues farmer of any such lands (13 Eliz. c. 9, s. 4); but he may sit and have his voice concerning all lands within precinct of such commission other than lands held by him as farmer, as he might have done before (*Id.* s. 7).

any expressing or rehearsal of any other matter or circumstance contained in this present Act, or any commission, laws, statutes or ordinances thereupon to be made; whereupon the plaintiff shall be admitted to reply, that the defendant did take the said distress, or did any other act or trespass supposed in his declaration of his own wrong, without any such cause alleged by the said defendant; whereupon the issue in every such action shall be joined, to be tried by verdict of twelve men, and not otherwise, as is accustomed in other personal actions: and upon the trial of that issue, the whole matter to be given on both parties in evidence according to the very truth of the same. 23 Hen. 8, c. 5.

12. And after such issue tried for the defendant, or nonsuit of the plaintiff after appearance, the same defendant to recover treble damages by reason of his wrongful vexation in that behalf, with his costs also in that part sustained, and that to be assessed by the same jury, or writ to inquire of damages, as the cause shall require. Damages with costs.

13. That every of the said commissioners shall have and perceive* four shillings for every day that they shall take pain in the execution of this commission of sewers, and one clerk, by them to be assigned, two shillings for every day, of the rates, taxes, lots and wains that shall be assessed or lost by the authority of the said commission, and to be levied and paid by their discretions: and that the said commissioners, or six of them, shall have power and authority to limit and assign of the same rates, taxes, lots and wains, by their discretions, such reasonable sums of money to the said clerk, for writing of books and process, concerning the premises, and to the collectors, expenditors, and such other as shall take pain in the due execution of the said commission, as by the discretions of the said commissioners, or six of them, shall be thought reasonable. Fees, &c. * *Sic.*

14. Provided alway, That whensoever and as often as such commission as is afore limited, shall be made and directed to any person or persons, for the reformation and amendment of or in any of the premises specified in the said commission, within the fees, liberties or possessions of the duchy of Lancaster, that then such commissioners as shall execute any such commission shall be always named and appointed by the discretion of the lord chancellor and lord treasurer of England, and the said two chief justices of either bench, and the chancellor of the said duchy for the time being, or three of them, whereof the said lord chancellor and the chancellor of the duchy to be two; and that in every such case two commissions shall be awarded and made according to the tenor of the commission above expressed, one thereof under the great seal of England, and the other under the seal of the same duchy, as beforetime hath been accustomed; anything afore rehearsed in this Act to the contrary hereof notwithstanding. Commissions within the liberty of the duchy.

15. And, that the said commissions from time to time, as the case shall require, shall be had and obtained without any money, or other charge to be paid for the seals or writing of the same, unless it be to the king, two shillings sixpence for the seal of every commission, as hath been accustomed, and for the writing and enrolling of any one commission, five shillings, and not above. The charge of the commissions.

16. And, that every commission to be made by authority of this Act shall endure and continue for the term of three years next after the *teste* of the commission; nevertheless, after any commission made and delivered out of the king's court of chancery, the king's highness shall always at his pleasure, by his writ of *supersedeas* out of his said court of chancery, at any time discharge as well every such commission as every commissioner that shall be made or named by authority of this Act; after which discharge the said commissioners shall have no power or authority to proceed in the execution of their commission, nor in anything, by authority of this Act. A commission shall endure three years (a). A commission or commissioner discharged by *supersedeas*

17. Provided always, that such laws, acts, decrees, and ordinances as shall happen to be made by the said commissioners, according to the tenor of their commission, or by authority of this Act, shall stand good and effectual, and be put in due execution so long time as their commission endureth, and no longer (b); except the said How long the commissioners' decree shall endure.

(a) Extended to ten years, unless repealed by any new commission, &c. (13 Eliz. c. 9, s. 1).

(b) But the 13 Eliz. c. 9, provides that "all laws written in parchment indented, and under the seals of the commissioners, or six of them (whereof the one part shall remain with the clerk, and the other part in such place as the commissioners shall appoint), shall, without any certificate made into Chancery, and without the royal assent required, continue in force, notwithstanding any determination of such commission by *supersedeas*, until such time as the same laws shall be altered or repealed, by the commissioners" (s. 1). And after the expiration of ten years next ensuing the test of any commission, all such laws as were by virtue thereof and written in parchment, &c., shall continue in force for one year then next ensuing, and the justices of the peace, or six of them, whereof two being of the *quorum*, shall have power to execute the same (*Id.* s. 2). But if any new commission be made within the said year, the above power of the justices shall cease (*Id.* s. 3).

Upon this provision so amended, it has been held, first, that the laws, acts, decrees, and ordinances mentioned in this statute mean the same as the laws, ordinances, and constitutions mentioned in that of Elizabeth; and second, that a decree made by commissioners under a former commission, which had expired by lapse of ten years, directing a sea-wall to be refounded, which had been destroyed by a violent tempest

23 Hen. 8, c. 5.

laws and ordinances be made and ingrossed in parchment, and certified under the seals of the said commissioners into the king's court of chancery, and then the king's royal assent be had to the same; any thing contained in this present Act to the contrary hereof notwithstanding.

Commissioners in a county palatine

18. Provided also, that whensoever, and as often as such commission as is afore limited, shall be made and directed to any person or persons for the reformation and amendment of or in any of the premises specified in the said commission, within the fees, liberties, and possessions of the principality of Wales, the county palatine of Chester, or within the fees, liberties, and possessions of any other place where there is liberty and jurisdiction of county palatine, that in every such case two commissions shall be awarded and made according to the tenor of the commission above expressed, one thereof under the great seal of England, and the other under the usual seal of the county palatine, in manner and form as is above provided for the duchy of Lancaster; anything afore rehearsed in this present Act to the contrary notwithstanding.

The king's royal assent shall be certified into the chancery (a).

19. And it is provided, that the royal assent limited to be had unto the laws and ordinances to be made by the said commissioners, as is above said, shall be certified into the said court of chancery under the king's privy seal (a), and that there shall not any sum of money be paid for the same privy seal; but for the writing of the same certificate under the said privy seal shall be paid to the writer thereof two shillings, and not above, nor no other nor greater sum for anything touching or concerning the same certificate under the same privy seal.

Commissions in Wales and counties palatine.

20. Provided alway, that the chancellors, and such other as shall have the custody of the seals of the said principality of Wales, or the county palatine of Chester, or within the fees, liberties, and possessions of any other place where there is liberty and jurisdiction of county palatine, upon reasonable request, and upon the sight of the commission under the king's great seal of his chancery, shall without delay make out another commission under the seal of the said county palatine, according to the tenor of the king's commission to them showed under his great seal; and to those commissioners as shall be named by the lord chancellor, lord treasurer, and the two chief justices, or by three of them, whereof the lord chancellor to be one, except it be within the fees and liberties of the duchy of Lancaster, within which fees and liberties the commissioners shall be named, and commissions made, as is afore ordained by this Act; anything contained in the said Act, or in any proviso thereunto added and annexed, to the contrary thereof notwithstanding. This Act to endure for twenty years.

[Made perpetual by 3 & 4 Edw. 6, c. 8, and explained by 3 J. 1, c. 14.]

7 Anne, c. 9.

7 Anne, c. 9. An Act for giving the Commissioners of Sewers for the City of London the same Powers as the Commissioners of Sewers for Counties have; and to oblige Collectors for the Sewers to account. [A.D. 1708.]

7 Anne, c. 10.

7 Anne, c. 10. An Act for rendering more effectual the Laws concerning Commissions of Sewers. [A.D. 1708.]

"Whereas by the laws now in force concerning commissions of sewers, it is provided, that if any person or persons being assessed or taxed to any lot or charge for any lands, tenements, or hereditaments within the limits of any such commission, do not pay the said lot and charge, according to the order and assignment of the commissioners, having power of the execution of the said commission, that then the said commissioners, for lack of payment of such lot and charge, may decree and ordain the said lands and tenements from the owner or owners thereof, and their heirs, and the heirs of every of them, to any person or persons, for term of years, term of life, fee simple, or fee tail,

---

and inundation, and the sums necessary for its construction to be advanced by those who were before bound to sustain it *ratione tenuræ* (and who did advance the money accordingly), and that a rate should be made on the level for their reimbursement (although such decree had been written in parchment, indented and sealed, which this was not), could not be enforced by commissioners under a new commission, issued more than a year after the expiration of the former commission, as to so much of it as remained unexecuted, though good to the extent to which it had been executed; and therefore the Court of King's Bench refused a *mandamus* to the new commissioners, to direct a rate to be levied on the level for the reimbursement directed by the decree (*Rex* v. *Somerset Commissioners of Sewers*, 9 East, 109; 3 Smith, 105).

(a) See the last note. The commissioners shall not be compelled to make any certificate or return of the said commissions or of any their laws or doings by authority thereof; nor shall have any fine or amerciament set upon them, or be molested for that cause (13 Eliz. c. 9, s. 5).

for payment of the same lot and charge, the said decrees and ordinances to be executed in such manner, as by the said laws now in force is directed and appointed and it is thereby provided, that the same decrees and ordinances shall bind all and every person and persons, that at the making of the same decree had any interest in such lands tenements, and hereditaments in use, possession, reversion, or remainder, their heirs and feoffees, and every of them, and shall also bind as well the lands, tenements, and hereditaments of the king of England, as all and every other person and persons and their heirs, and such their interest, as they shall fortune to have in any lands, tenements, and hereditaments, or other casual profit, advantage, or commodity whatsoever they be, whereunto the said laws, ordinances, and decrees shall in anywise extend, according to the true purport, meaning, and intent of the said laws, but the said laws of sewers now in force have been found defective, in that sufficient power and authority is not thereby given to commissioners of sewers to make sale of copyhold or customary lands within the limits of their commission for the causes aforesaid ' for remedy whereof BE IT ENACTED, That from and after the 25th day of March, in the year of our Lord 1709, it shall and may be lawful to and for the commissioners authorised by commission from her majesty, her heirs and successors, or any six or more of them, to put in execution the laws now in force concerning sewers, for non payment of any lot or charge assessed or charged upon any copyhold or customary lands within the limits of their commission, and by the power and authority of the said commission of sewers, to decree and ordain the said copyhold or customary lands so charged from the owner or owners, and their heirs, and the heirs of every of them, to any person or persons, for such estate and interest therein, as the said owner or owners thereof, or any claiming in remainder under them, at the time of such decree made, had in the same copyhold lands, tenements, and hereditaments, the said decrees to be made and executed, as decrees concerning freehold lands are, by the said laws now in force to be made and executed

7 Anne, c 10

Decrees of commissioners as to sale, &c to bind every person, &c.

Commissioners may, for nonpayment of any lot assessed on copyhold lands, decree the same from the owners

The said decrees to be executed as decrees concerning freeholds.

2 Provided always, that all and every person or persons to whom any such sale of copyhold or customary lands or tenements shall be made, shall before such time as they or any of them shall enter, or take any profit of the same lands or tenements, agree and compound with the lords of the manors, of whom the same shall be holden, for such fines or incomes, as heretofore hath been most usual and accustomed to be yielded or paid therefor, and that upon every such agreement or composition the said lords for the time being at the next court to be holden at or for the said manors, shall not only grant to such vendee or vendees upon request, the same copyhold or customary lands or tenements by copy of court roll of the said manors, for such estate or interest as to them shall be so decreed or sold, and reserving the ancient rents, customs, and services, but also shall in the same court admit them tenants of the same copyhold or customary lands, as other copyholders of the same manors have been wont to be admitted, and to receive their fealty accordingly

The buyers of such copyhold lands to agree with the lords of whom hold on for the accustomed fines, and the lords to admit them tenants

3 That it shall and may be lawful to and for the commissioners of sewers, or any six or more of them, by warrant under their hands and seals, to give authority to any person or persons to levy the sums of money by them from time to time to be assessed or taxed upon the lands, meadows marshes, or grounds, liable or chargeable with any sesses, taxes, impositions, or charges, by authority of their said commission, by distress and sale of the goods of such person or persons that shall not pay, or refuse to pay the same, and the overplus of the money arising upon such sale, after deduction of the reasonable charges of making such distress and sale, shall be restored to the owner or owners of the goods so distrained

Six commissioners may by warrant empower any person to levy the assessments by distress and sale

3 & 4 Will 4, c 22 An Act to amend the Laws relating to Sewers. [28th June, 1833]

3 & 4 W 4, c. 22.

"Whereas an Act was passed in the 23rd year of the reign of his majesty king Henry the eighth, concerning commission of sewers to be directed into all parts within the then realm of England, including the principality of Wales, in the manner and according to the form, tenor, and effect in the said Act set forth, and which said Act was made perpetual by an Act passed in the third and fourth years of the reign of his majesty king Edward the sixth, intituled 'An Act for the Continuance of the Statute of Sewers,' and was amended and altered by an Act passed in the thirteenth year of the reign of her majesty queen Elizabeth, intituled 'An Act for the Commission of Sewers' and whereas great difficulty, inconvenience, and expense are found to arise by reason that the laws relating to sewers are in many respects defective and whereas doubts have arisen as to the extent of the powers given to the commissioners of sewers by the said recited Acts, and the commissions issued in pursuance thereof, and particularly as to the legal mode of conducting inquiries by means of juries impannelled and returned by sheriffs, bailiffs, and other returning officers under the authority of the said recited Acts, and also as to the legal power of courts of sewers to decree and order new works to be made and executed for the better defending, draining, sewing, and securing the lands within the limits of their respective commissions, and to grant, impose, and levy rates, taxes, scots, or assessments for or in respect of such new works, and to decree and order the taking up and borrowing of money at interest to repay the costs and charges of such new or any extraordinary or other works, so as to charge and recover of and from the owners and

23 H 8 c. 5

3 & 4 Ed. 6, c 8

13 Eliz. c 9

3 & 4 W 4, c 42.

occupiers for the time being of lands, tenements, and hereditaments the amount of money so borrowed or any part thereof, and thereby to distribute such costs and charges fairly and equitably among the parties who shall or may from time to time receive benefit or avoid damage by or from the same and whereas it is expedient to increase the amount of qualification of commissioners of sewers, and that other provisions should be made for the better execution of the powers by law vested or to be vested in commissioners of sewers

Qualification of commissioners

BE IT ENACTED, That no person who has not already acted as a commissioner under any commission of sewers already issued shall be qualified or capable of becoming or acting as a commissioner in the execution of any commission of sewers unless such person shall be, in his own right or in right of his wife, in the actual possession or receipt for life or for a larger estate of the rents and profits of lands, tenements, or hereditaments, situated in the county in which he shall act as a commissioner, or in any adjoining county, of freehold or copyhold tenure, or held for a term of not less than sixty years absolute, or determinable with a life or lives, of the clear yearly value of one hundred pounds above reprizes or held for a term of years originally granted for not less than twenty one years, and of which ten years at the least shall then be unexpired, of the clear yearly value of two hundred pounds above reprizes, or shall be heir apparent of a person possessed of freehold or copyhold lands, tenements, or hereditaments, situated in such county as aforesaid, or in any adjoining county, of the clear yearly value of two hundred pounds above reprizes, or unless such person shall be the agent duly appointed by writing under the seal of any body politic or corporate, or under the hand of any person not being himself present, and acting as a commissioner in the execution of the commission of sewers under or by virtue of which such agent shall act, and which body politic or corporate shall for the time being be in the receipt of the rents and profits of freehold or copyhold lands, tenements, or hereditaments situated in such county as aforesaid, or in any adjoining county, and which person making such appointment shall for the time being be, in his own right or in right of his wife, in the actual possession or receipt of the rents and profits of freehold or copyhold lands, tenements, or hereditaments, situated in such county as aforesaid, or any adjoining county, and which lands, tenements, or hereditaments, whether so belonging to such body politic or corporate, or to such other person, shall be actually taxed under or by virtue of the commission of sewers in respect whereof such agent shall act, and shall be of the clear yearly value of three hundred pounds above reprizes, or unless such agent shall, before he acts, deliver his written appointment to the clerk to such commission of sewers, or his deputy, to be filed by such clerk among the records or proceedings of the commissioners acting in the execution of such commission Provided always, that in cases where commissioners of sewers run into more than one county, the qualification hereinbefore provided may be situated either partly in each of the counties into which such commission shall run, or wholly in any one of such counties Provided that nothing in this Act contained shall extend to give a qualification to any person as agent after he shall have ceased to be such agent

Quakers may act as commissioners, upon making an affirmation

2 That if any person being a quaker shall have been or shall hereafter be appointed a commissioner of sewers, and shall be in other respects qualified according to the provisions of the said recited Acts and of this Act, it shall be lawful for such person, on making his solemn affirmation to the effect of the oath prescribed by the said recited Act of the twenty third year of the reign of king Henry the eighth, before the person or persons who for the time being shall be empowered by law to administer such oath, and also upon his making and subscribing the affirmation directed by this Act, to act as a commissioner of sewers, without being subject or liable to any penalty or forfeiture imposed by the said last recited Act for acting without having taken the oath therein contained

Oath to be taken by other commissioners before acting

3 That every such commissioner before he shall act in the execution of his office shall, in addition to the oath prescribed by the said recited Act of the twenty third year of the reign of king Henry the eighth (or the affirmation in lieu thereof substituted by this Act in respect of any commissioner who shall be a quaker), take and subscribe before the person or persons who for the time being shall be authorised to administer the oath prescribed by the said last mentioned Act the following oath, or, being a quaker, the following affirmation, *videlicet*,

"I do swear, [*or being one of the people called quakers*, do solemnly affirm,] that I truly and *bond fide* am in my own right [*or* in the right of my wife] in the actual possession and enjoyment of [*or* in the receipt for life, *or for a larger estate*, of the rents and profits issuing out of] lands, tenements, or hereditaments, situate in the county of of freehold or copyhold tenure, *or* held for a term of not less than sixty years absolute or determinable with a life or lives, of the clear yearly value of one hundred pounds above reprizes, *or* held for the unexpired term of years, originally granted for years, of the clear yearly value of two hundred pounds above reprizes, [*or* am heir apparent of who, to the best of my knowledge, is seised of freehold or copyhold lands, tenements, or hereditaments, situate in the county of of the clear yearly value of two hundred pounds above reprizes,] [*or* am agent of who, [*or* which,] to the best of my knowledge, is seised or possessed in his *or* their own right] [*or* in the right of his wife] of freehold or copyhold lands, tenements, or hereditaments, situate in the county of of the clear yearly value of three hundred pounds above reprizes So help me GOD"

[*Or, being a quaker, omit the words* "So help me GOD"]

4. That if any person who has not already acted as a commissioner of sewers shall presume to act as a commissioner of sewers, not being qualified as aforesaid, or who shall have ceased to be qualified as aforesaid, or not having taken the oath, or, being a quaker, made the solemn affirmation prescribed by this Act, every person wilfully so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person or persons who shall sue for the same, to be recovered, with full costs of suit, in any of his majesty's courts of record at Westminster, by action of debt or on the case, or by bill, plaint, suit, or information, wherein no essoign, protection, wager of law, or more than one imparlance shall be allowed; and the person so sued or prosecuted shall prove that he is qualified, or otherwise shall pay the said penalty, without any other proof or evidence on the part of the prosecutor than that such person had acted as a commissioner in the execution of any commission of sewers: Provided nevertheless, that no act or proceeding touching the execution of any commission of sewers which shall be done or performed by any unqualified person previously to his being convicted of the offence of acting without being qualified as herein provided shall be thereby impeached or rendered nugatory, but all such acts and proceedings shall be as valid and effectual as if such person had been duly qualified.

8 & 4 W. 4, c. 22.

Penalty on persons acting not being qualified.

Proceedings not to be impeached on account of disqualification.

5. Provided always, That any mayor, bailiff, or other officer appointed or authorised to act as a commissioner under any commission of sewers by virtue of his office shall and may, so long as he shall hold such office, act as a commissioner in the execution of such commission of sewers by virtue of such office, without being qualified as hereinbefore directed with regard to commissioners of sewers in general, and without being required to take and subscribe the oath or affirmation hereinbefore prescribed to be taken by commissioners of sewers in general with regard to their qualification, and without being liable to the forfeiture or penalty hereinbefore imposed upon commissioners of sewers in general for acting without being qualified as aforesaid, or without having taken such oath or affirmation, any thing hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided also, that such mayor, bailiff, or other officer shall, before he acts, deliver a certificate, under the hand of the town clerk or other legal officer of the corporation in respect of which such mayor, bailiff, or other officer shall or may act, to the clerk to the commission under which he shall so act as aforesaid, certifying that he is the mayor, bailiff, or other officer authorised to act as a commissioner under such commission.

Ex officio commissioners not required to qualify.

6. That from and after the passing of this Act all and every commission and commissions of sewers then being in force, or that hereafter shall be granted and made, shall stand and continue in force for the term of ten years next ensuing the date of every such commission, notwithstanding any demise of the crown of these realms during the existence of any such commission or commissions, unless the same commission or commissions be or thereafter shall be repealed or determined by reason of any new commission in that behalf made, or by writ of *supersedeas* delivered out of the king's court of chancery, discharging any such commission or commissions.

Commission to continue for ten years, unless renewed or repealed by writ of *supersedeas*.

7. That all laws, acts, decrees, constitutions, and ordinances made or to be made by any court of sewers, and duly registered in the rolls or books of such court by the clerk to the commission, shall continue in full force and effect, notwithstanding the expiration, repeal, or other determination of the commission under which such laws, acts, decrees, constitutions, and ordinances shall have been respectively made, and notwithstanding the same respectively shall not have been ingrossed or written in parchment, and under the seals of the commissioners or any six of them, and notwithstanding the one part thereof shall not remain with the clerk to the commission, and the other part in such place as the said commissioners or six of them shall order or appoint, and notwithstanding the same shall not be certified into the king's court of chancery, and the king's royal assent had thereto respectively, until the same laws, acts, decrees, constitutions, and ordinances shall be altered, repealed, or made void by any subsequent court or courts of sewers in those parts or limits where the same laws, decrees, and ordinances were or shall be made and ordained, or by any six of them.

Laws, decrees, and ordinances to continue in force notwithstanding expiration of commission, and although not ingrossed in parchment, or not certified into the court of chancery.

8. That it shall be lawful for the said commissioners or any three or more of them, or for their clerk upon the direction in writing of any three or more of the said commissioners (and which he is hereby required to do on such direction), to appoint the first meeting of the said commissioners after the passing of this Act at such time and place as to them shall seem meet, and of which meeting ten clear days' previous notice shall be given, by advertisement in some newspaper of the county, and generally circulated in that district thereof, and it shall be lawful for the said commissioners from time to time to meet at such time and place, and to adjourn to meet at any place or places and at such time or times as the said commissioners or the major part of them present at any meeting shall appoint; and no order or determination shall be made unless the major part of the commissioners present shall concur therein; and all acts, orders, and proceedings which are directed or authorised to be made, done, or exercised by or before the said commissioners, and all the powers and authorities vested in them, shall and may be made, done, and exercised by the major part of the commissioners who shall be present at the said respective meetings, the whole number present not being less than six; and all acts, orders, or proceedings made, done, or executed by or before such six commissioners, shall have the same force and effect and be as binding and conclusive on all persons, to all intents and purposes whatsoever, as fully and effectually as if the same were made, done, or executed by or before the whole of the said commissioners; and a chairman shall and may in the first place be appointed at every meeting by a majority of the votes of

Regulations as to meetings of commissioners.

3 & 4 W. 4, c. 22.

the persons present, who in case of an equal number of votes (including the chairman's vote) shall have the casting or decisive vote.

Special meetings on emergencies may be called on ten days' notice.

9. That if after any adjournment of any meeting of the said commissioners it shall on any emergency be considered necessary or advisable that a special meeting should be appointed for an earlier day than the day for which any meeting shall stand by adjournment as aforesaid, then and in such case it shall be lawful for the said commissioners or any three or more of them, or for their clerk upon the direction in writing of any three or more of the said commissioners (and which he is hereby required to do on such direction), to appoint a special meeting for an earlier day, and of which meeting, and of the time and purpose thereof, ten clear days' previous notice shall be given by advertisement in some newspaper of the county, and generally circulated in that district thereof; and no other business shall be transacted on any such special meeting but that which shall have been specified in such notice as aforesaid: Provided nevertheless, that in the event of any imminent danger being apprehended from unusually high tides or any other cause, and that in the judgment of two or more of the said commissioners the exigency of the case will not admit of the delay of ten clear days' previous notice of a special meeting, it shall and may be lawful for any two or more of the said commissioners, or for their clerk upon the direction in writing of any two or more of the said commissioners (and which he is hereby required to do on such direction), to convene, by circular letter sent to each acting commissioner, a special meeting for as early a day as the said two or more commissioners shall think fit in their discretion to appoint, such letters to specify the particular object for which such meeting is convened; and no business shall be transacted thereat but that which strictly relates to such object.

On certain occasions special meetings may be called by order of two commissioners on a shorter notice.

Description of sewers and other works under the jurisdiction of commissioners of sewers.

10. "And whereas doubts have arisen as to the extent of the jurisdiction of commissioners of sewers." BE IT THEREFORE FURTHER ENACTED AND DECLARED, That all walls, banks, culverts, and other defences whatsoever, whether natural or artificial, situate or being by the coasts of the sea, and all rivers, streams, sewers, and watercourses which now are or hereafter shall or may be navigable, or in which the tide now does or hereafter shall or may ebb and flow, or which now do or hereafter shall or may directly or indirectly communicate with any such navigable or tide river, stream, or sewer, and all walls, banks, culverts, bridges, dams, floodgates, and other works erected or to be erected in, upon, over, or adjoining to any such rivers, streams, sewers, or watercourses, shall be from henceforth, to all intents, constructions, and purposes, within and subject to the jurisdiction of commissioners of sewers: Provided always, that nothing herein contained shall authorise or empower any commissioners of sewers to exercise authority or jurisdiction upon or over any dams, floodgates, or other works erected for the purpose of ornament, previous to the passing of this Act, in, upon, or over any rivers, streams, ditches, gutters, sewers, or watercourses near or contiguous to any house or building, or in any garden, yard, paddock, park, planted walk, or avenue to a house, without the consent in writing of the owner or proprietor thereof respectively first had and obtained.

Inquiry and presentment by jury (a).

11. That in all cases in which any court of sewers shall inquire by jury of or concerning all or any of the matters and things authorised and directed to be inquired into and presented under and by virtue of the said recited Acts, and the laws of sewers of old time accustomed, or of this Act, it shall and may be lawful for commissioners of sewers, or any six or more of them, to issue a warrant or precept under their hands and seals to the sheriff, bailiff, or other returning officer or officers of every county at large, cinque port, city, town, liberty, precinct, or place within the limits of such commission, commanding such sheriff, bailiff, or other returning officer or officers to impannel, summon, and return, and he and they is and are hereby required, on receiving such warrant or precept, to impannel, summon, and return, at such time and place as in such warrant or precept shall be expressed, a jury of not exceeding forty-eight nor less than eighteen substantial and indifferent persons within his or their respective jurisdiction, qualified and usually summoned to serve on grand juries in courts of sessions of the peace; and the persons so to be impannelled, summoned, and returned as aforesaid, are hereby required to appear before the said commissioners at such court of sewers to be holden within and for the limits of any and every such commission of sewers, or at some adjournment thereof, as in such warrant or precept shall be directed, and to attend such court, and at any and every adjournment thereof, until discharged by the said court; and the said jury shall be sworn in open court before the commissioners; and shall be charged by them to take their inquisition, and to make and return their presentments of and concerning all matters and things authorised and directed to be inquired into and presented under and by virtue of the said recited Acts, and the law of sewers of old time accustomed, and of this Act; and the said jury, being so impannelled, sworn, and charged as aforesaid, shall proceed in their inquiry before and in the presence of the court, upon the evidence of one or more credible witness or witnesses, delivered upon oath or affirmation, in the same manner and form, and subject to the like rules of taking and receiving evidence, as is usual in his majesty's courts of common law; and the said commissioners may cause to be summoned to appear before them at the time and place of holding their respective courts of sewers aforesaid, and at every adjournment of any court, all clerks, keepers, bailiffs, engineers, surveyors, collectors, expenditors, and other their ministers and officers of sewers, and such other persons as in the judgment of such commissioners shall be competent to give proper evidence and information to the court

(a) See *Reg.* v. *Participants of Hatfield*, 4 New M. C. 938, 15 Law T. 181; see ante, p. 176, n. (c).

and jury in the premises; and notice of the time and place of taking such inquisition shall be given by affixing to the principal door of each and every of the churches and chapels in the several parishes, townships, or places in which the rivers, streams, ditches, sewers, watercourses, walls, banks, culverts, and other works, lands, tenements, and hereditaments, common of pasture and profit of fishing, and other matters and things to be inquired into or that may be affected thereby, shall lie, be, or arise, or if there be no church, then to some conspicuous place within such parish, township, or place, a printed or written paper specifying such time and place of meeting, and signed by the clerk to the court before whom such inquisition is to be taken, at least seven days before the taking of such inquisition, and also by inserting, at least seven days before the taking thereof, such notice once at the least in one or more of the newspapers published or circulated in or near to the limits of the commission of sewers under authority whereof such inquisition shall be taken. 3 & 4 W. 4, c. 22.

12. "And forasmuch as there are in many counties at large cities and towns being counties of themselves, cinque ports, hundreds, liberties, and precincts, having jurisdiction exclusive of the sheriffs, bailiffs, or other returning officers of such counties at large; and it may happen that in the inquiries and presentments of and concerning any matters and things affecting or relating to lands or tenements lying partly in such county at large, and partly in such minor jurisdiction, authorised and directed to be inquired into and presented under or by virtue of the said recited Acts, and the law of sewers of old time accustomed, and of this Act, the jury returned by the sheriff or other returning officer of such county at large, and the jury returned by the sheriff or other returning officer of such minor jurisdiction, may come to opposite or different conclusions, or make opposite or different presentments of or concerning such matters and things as aforesaid, and in such case the powers of the court of sewers may thereby become ineffectual or difficult to be carried into effect:" BE IT THEREFORE ENACTED, That in any case in which a jury returned by the sheriff or other returning officer of a county at large, and the jury returned by the sheriff or other returning officer of any such minor jurisdiction, shall, in the judgment of the said court, come to opposite or different conclusions, or make opposite or different presentments of or concerning any matters or things affecting or relating to any lands or tenements lying partly in such county at large and partly in any such city or town and county of the same, cinque port, hundred, liberty, or precinct within such county at large, it shall and may be lawful for such court of sewers thereupon, or at any time thereafter, to issue a warrant or precept, as well to the sheriff, bailiff, or other returning officer of such county at large, as to the sheriff, bailiff, or other returning officer of such city or town and county of the same, cinque port, hundred, liberty, or precinct, commanding them respectively to impannel, summon, and return, and he and they is and are hereby required, on receiving such respective warrant or precept, to impannel, summon, and return, at such time and place (although out of the jurisdiction of such respective sheriff, bailiff, or other returning officer,) as in such warrant or precept shall be expressed, a sufficient number, not exceeding eighteen nor less than nine substantial and indifferent persons within his jurisdiction, and not having composed part of the juries respectively which shall have previously differed in respect of the matters or things aforesaid, and out of each panel so to be returned the names of nine persons shall be drawn by the clerk of such court of sewers or his deputy in such manner as juries for trials or issues joined in his majesty's courts of record at Westminster are by law directed to be drawn; and the said eighteen jurymen shall thereupon be sworn and charged to take their inquisition and to make and return their presentment of and concerning the aforesaid matters and things, and which presentment so taken and made shall be as conclusive in all respects as if the same matters and things had been inquired of as to lands or tenements lying within such county at large by a separate jury of such county at large, and as to lands or tenements lying within such city or town and county of the same, cinque port, hundred, liberty, or precinct, by a separate jury thereof. In certain cases of difference a jury to be impannelled which shall be composed, half from the county at large and half from the minor jurisdiction.

13. "And whereas doubts have arisen whether a presentment of a jury is not necessary on each and every occasion to repair defences and works within the jurisdiction of commissioners of sewers:" BE IT THEREFORE ENACTED, That whenever, under any commission now in force or which shall hereafter issue, a jury shall have found and presented that any person, body politic or corporate, is or are liable to and ought to maintain and repair or contribute to the maintenance and repair of any defence, wall, bank, sewer, or other work within the jurisdiction of the commission of sewers acting under or by virtue of such commission, in respect of any lands, tenements, or hereditaments, or common of pasture, or profit of fishing, it shall not afterwards, during the continuance of such commission, be necessary to inquire by jury and obtain a presentment upon any subsequent wants of amendment and reparation of the said defences, walls, banks, sewers, or works, or any of them, but such person, body politic or corporate, so presented as aforesaid, and the owners and occupiers for the time being of such lands, tenements, or hereditaments, or common of pasture, or profit of fishing, shall be liable from time to time to maintain and repair or contribute to the maintenance and repair of such defences, walls, banks, sewers, and other works, according to such A presentment of a jury not to be necessary upon each occasion to repair (a).

(a) This section does not authorise the commissioners, during the continuance of the same commission, to make an order for repairs upon a person who has become owner since the presentment (*R.* v. *Wharton*, 31 L. J. Q. B. 265).

3 & 4 W. 4, c. 22.

presentment; and it shall and may be lawful for the commissioners of sewers to decree, order, and direct the same to be maintained and repaired by such person, body politic or corporate, from time to time during the continuance of such commission accordingly.

Rates to be made for every distinct level or district (a).

14. That it shall be lawful for the said commissioners to make separate and distinct rates, as occasion shall require, for every separate and distinct level, valley, or district, or any part of such level, valley, or district within their respective commissions, and to fix and specify the limits of every such level, valley, or district, or of any such part of a level, valley, or district, and to appoint surveyors, collectors, treasurers, expenditors, and other officers for every such level, valley, or district, or any part thereof respectively, whenever the said commissioners shall think fit so to do, and to cause separate and distinct accounts to be kept of all moneys collected and received by virtue of any rate or rates which shall be made, under the authority of the said recited Acts relating to sewers, or of this Act, upon any lands or hereditaments within any such level, valley, or district, or any part thereof respectively, and of all payments and disbursements in respect thereof; and the said commissioners are hereby also authorised to apply the moneys to be collected and received from each distinct level, valley, or district, or any part thereof respectively, by virtue of any such rate or rates as aforesaid, to and for the several purposes to which the same may be lawfully applied under the authority of the said recited Acts or of this Act, but so nevertheless that each level, valley, or district, and every part of such level, valley, or district, shall bear its own costs, charges, and expenses; and in case any such costs, charges, and expenses shall apply to or be incurred in respect of two or more levels, valleys, or districts, or parts thereof respectively, the same shall be apportioned and divided between such levels, valleys, and districts, or such parts thereof respectively, in such manner as the said commissioners shall adjudge to be fair and equitable.

Nothing herein to discharge persons from liability by tenure, &c.

15. Provided always, That nothing in this Act contained shall extend or be construed to extend to release or discharge any person, body politic or corporate, from any liability to which such person, body politic or corporate, was or were before the passing of this Act subject by reason of tenure, frontage, prescription, custom, covenant, or grant; but in case any such person, body politic or corporate, shall not keep in good and proper repair any walls, banks, sewers, guts, gotes, calcies, tunnels, culverts, sluices, floodgates, tumbling bays, cuts, and other works, aids, and defences to which he, she, or they may be liable by reason of any such tenure, frontage, prescription, covenant, or grant, and shall not, after having had seven days' notice from the surveyor, dikereeve, or other officer to be appointed by the court of sewers for that purpose, proceed to put the same into good and proper repair with all reasonable and proper despatch, then and in that case it shall be lawful for such surveyor, dikereeve, or officer to put the same into good and sufficient repair; and the expenses to be incurred thereby shall be paid by the person, body politic or corporate, liable to such repair as aforesaid.

Certain persons to be paid for expenses and loss of time in executing commissions of sewers.

16. That any court shall and may, at its discretion, by and out of the taxes, rates, and scots to be raised under and by virtue of the said recited Acts and this Act, or any or either of them, decree, order, and appoint, pay and allow, to clerks and other persons employed by the court, and also to witnesses attending to give evidence before the said court, either in support of any presentment or order of the court, or in opposition to such presentment or order, such recompense, sum and sums of money, from time to time, for their several expenses and loss of time, as to the said court shall seem just, and also all such costs, charges, and expenses as shall be incurred in surveying, measuring, planning, and valuing the lands and hereditaments, or otherwise preparatory to or in or

---

(a) See ante, p. 177, n. (a).

The commissioners of sewers have power at their discretion to unite the levels included in one common rate, and persons deriving benefit from the sewerage of the level formed by such union are liable to be assessed to the joint rate for the whole (*St. Katherine Dock Co.* v. *Higgs*, 10 Q. B. 641). Within a district under the jurisdiction of commissioners of sewers were three (among other) levels, S., W., & N. Each was separately assessed for its own drainage. Afterwards the S. & W. levels were united by certain works into one level; and, some years after, the level formed by such union was united by new works with the N. level. The inhabitants of the N. level then derived benefit, in common with the rest of the inhabitants of the last united level, from the sewers of the whole last united level, but they were not benefited, and were prejudiced, by the union, their own sewers, which previously were sufficient to drain the N. level, being now, for the purposes of the whole last united level, more used than before. By a jury at a court of sewers for the district under the jurisdiction of the commissioners, the plaintiffs, who were occupiers of land in the N. level, were presented as owners and occupiers of taxable property within the district. The commissioners of sewers confirmed this presentment, and laid a single rate on the united S., W., & N. level. It was held that they had power at their discretion, to unite the levels, and that the plaintiffs were liable to be assessed to the joint rate for the whole (*Ib.*).

Where a district within one commission of sewers is divided into separate levels, each drained by a separate line of sewers, and deriving no benefit from the sewers of the others, each level must be separately rated (*Rex* v. *Tower Hamlets Commissioners of Sewers*, 9. B. & C. 517).

about the making, collecting, and expending such taxes, rates, or scots as aforesaid, or the hearing of objections to such taxes, rates, or scots, or in or about the carrying on of any litigation (*a*), or controversy arising out of the duties imposed on the courts of sewers by virtue of the recited Acts or of this Act, and for the payment of all other necessary allowances, charges, and expenses of putting the recited Acts and this Act into execution, and the contingent expenses of working the said commissions of sewers respectively.

8 & 4 W. 4, c. 22.

17. Provided always, that nothing herein contained shall prevent any court of sewers, from time to time and at any time during the continuance of the commission of sewers, from causing inquiry and presentments to be made by jury of and concerning the aforesaid matter and things, or any other matter, cause, or thing to be inquired into and presented upon, by the ways and means hereinbefore provided, or by such other ways and means as they were authorised by ancient custom and usage or otherwise to do before the passing of this Act, or to abridge or invalidate any powers or authorities usually heretofore exercised by any commissioners of sewers in their respective limits not herein expressly abrogated or altered.

Nothing in this Act to preclude courts of sewers from causing inquiry and presentment by jury as before.

18. "And whereas persons frequently remove from and give up the possession of lands, tenements, and hereditaments, before deriving the full benefit of the outlay of the last scot or rate assessed or imposed upon them in respect thereof under or by virtue of the law of sewers, and it is just and reasonable that the persons who succeed them in the possession thereof should be subject to a proportion of such rate :" BE IT THEREFORE ENACTED, That where any person shall come into or occupy any lands, tenements, or hereditaments, out of or from which any other person assessed as aforesaid shall be removed, and also when any lands, tenements, or hereditaments shall at the time of making such scot or rate be empty or unoccupied, then every person so rated or assessed and removing from, and every person so coming into or occupying the same, shall be liable to pay such scot or rate in proportion to the time that such persons respectively occupied the same lands, tenements, or hereditaments, in the same manner, and under the like penalty of distress, as if such person so removing had not removed, or such person so coming in or occupying had been originally rated and assessed in such scot or rate ; and which said proportion, in case of dispute between the parties, shall be ascertained and settled by any court of sewers : Provided always, that no outgoing tenant shall be entitled to have or claim any larger amount of rate than shall have been actually paid by him, and not repaid by his landlord.

Rates to be apportioned between outgoing and incoming tenants.

19. That it shall and may be lawful for any court of sewers to decree and ordain any new walls, banks, sewers, guts, gotes, calcies, bridges, tunnels, culverts, sluices, floodgates, tumbling bays, cuts, or other works, aids, and defences, or any alteration in the gauge, dimension, course, direction, or situation of any old or existing walls, banks, rivers, sewers, guts, gotes, calcies, bridges, tunnels, culverts, sluices, floodgates, tumbling bays, cuts and other works, aids, and defences to be constructed, made and done for the more effectually defending and securing any lands, tenements, hereditaments, and premises within the jurisdiction of such court against the irruption or overflowing of the sea, or for draining and carrying off the superfluous fresh waters, according to the wisdom and discretion of such court, and also, in like manner and at their discretion, to decree and ordain any former walls or defences against the sea, or against any rivers, streams, sewers or watercourses within their commission, to be abandoned and given up, and new defences and walls, banks, sluices, floodgates, tumbling bays, cuts, and other works to be made and continued in lieu thereof ; and in every such case to direct by inquiry and presentment of a jury in what manner and proportions the same shall thereafter be repaired and maintained by the person, body politic or corporate, deriving advantage or avoiding damage thereby or therefrom, having regard to previous liabilities in respect of the walls and defences so to be abandoned and given up.

Commissioners authorised to make and maintain new works.

20. Provided always, That nothing hereinbefore contained shall be construed to authorise and empower the commissioners acting under any commission of sewers for the county of Kent, or any limits or district within the same, to decree or ordain any wall, bank, sewer, gut, cut, gote, calcey, sluice, floodgate, tumbling bay, or other work, aid, or defence to be constructed, made, or done for conveying the waters of the river Stour, above Sandwich bridge in the county of Kent, into the part of Sandwich haven below the bridge, or into the sea at Pegwell bay, not authorised by an Act passed in the sixteenth year of the reign of his late majesty king George the third, intituled "An Act to enable the Commissioners of Sewers for the several Limits in the Eastern Parts of the County of Kent more effectually to drain and improve the Lands and Grounds within the general Valleys," or so as in any manner to affect, alter, or interfere with the provisions of the said Act for the preventing of prejudice to Sandwich haven.

Not to interfere with provisions of 16 G. 3, c. 62, for preventing of prejudice to Sandwich haven in Kent.

(*a*) The commissioners may levy a rate for costs legally incurred in opposing a bill likely to injure a level, it being, if prudently and *bonâ fide* undertaken, a "litigation" arising out of the duties imposed on them within this section ; and may levy a gross rate under 4 & 5 Vict. c. 45, s. 1 (post, p. 201), for expenses of a past opposition (*Rex* v. *Commissioners of Norfolk Sewers*, 15 Q. B. 549).

3 & 4 W. 4, c. 22.

No new works to be made without the consent of the owners and occupiers of three fourth parts in value of the lands to be charged.

21. Provided always, That nothing in this Act contained shall extend, or be construed to extend to authorise or empower any court of sewers to make any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, tumbling bays, cuts, or other works, aids, and defences, where none have or hath or shall have theretofore been, without the consent in writing, certified to such court of sewers, of the owners and occupiers respectively, or their respective husbands, guardians, trustees, or feoffees, committees, executors, or administrators, of three fourth parts at the least in value of the lands and hereditaments, lying within the valley, level, or district proposed to be charged with the costs and expenses of making and executing such new works respectively.

Occupiers of land adjoining sewers may take away soil and weeds from banks for their own use.

22. That it shall and may be lawful for the occupier for the time being of land lying next and adjoining to any river, sewer, or watercourse within and subject to the jurisdiction of commissioners of sewers, at any time within six calendar months from and after any gravel, soil, mud, or earth shall have been cast or deposited upon the banks of such river, sewer, or watercourse, by the order of any surveyor, bailiff, expenditor, or other officer of sewers, and at any time within six weeks from and after any rushes, flags, or other weeds shall have been cast or deposited upon such banks as aforesaid, to take and remove for his own use such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively: Provided always, that such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, shall be removed at least ten feet from the land side of the banks of such river, sewer, or watercourse.

Upon neglect of occupiers to remove soil, surveyors may remove it.

23. That if any such occupier shall neglect to remove such gravel, soil, mud, or earth as aforesaid within such six calendar months as aforesaid, or such rushes, flags, or other weeds as aforesaid within such six weeks as aforesaid, for his own use, then and from thenceforth respectively it shall be lawful for any such surveyor, bailiff, expenditor, or other officer of sewers, with workmen, horses, carts, carriages, barrows, and other necessary tools, and implements, at any time or times in the day-time to enter upon the land of such occupier, and to take away and remove therefrom such gravel, soil, mud, and earth, and such rushes, flags, and reeds respectively, and also for such purposes to pass and repass, at any time or times in the day-time, through and over any other lands lying between the nearest highway and the banks of such river, sewer, or watercourse: Provided always, that if the owner or occupier of the land upon which any such gravel, soil, mud, earth, rushes, flags, or weeds shall have been deposited shall require the commissioners of sewers to remove the same, such commissioners shall, within six weeks after such requisition as aforesaid, cause the same to be removed from and off the said land.

Commissioners authorised to contract for the purchase of lands, &c.

24. That it shall be lawful for any court of commissioners of sewers to treat, contract, and agree with the owners of and persons interested in any messuages, lands, tenements, hereditaments, and premises, with their appurtenances, for the purchase thereof or of any part thereof, for the purpose of widening, deepening, strengthening, maintaining, repairing, and amending any rivers, streams, watercourses, walls, banks, and other works, aids, and defences within the jurisdiction of commissioners of sewers, and for the loss or damage which such owners or persons may sustain thereby respectively; and it shall be lawful for all bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees in trust, executors, administrators, and all other persons whomsoever, not only for or on behalf of themselves, their heirs and successors, but also for or on behalf of the person entitled in reversion, remainder, or expectancy after them, and for or on behalf of their cestuique trusts, whether femes covert, infants, or issue unborn, lunatics, idiots, or other person whomsoever, and to and for all femes covert who are or shall be seised of or interested in their own right, and to and for every person whomsoever, who is or shall be possessed of or interested in any such lands, tenements, hereditaments, or premises, or who shall sustain any damage as aforesaid, to contract with the said commissioners for the sale thereof respectively, or for the satisfaction to be made for the same, or for such damage as aforesaid, and by conveyance to convey unto the said commissioners all or any of such messuages, lands, tenements, hereditaments, or premises, or any part thereof, for the purposes aforesaid, in manner hereinafter mentioned; and all contracts, sales, and conveyances which shall be so made shall be good, valid, and effectual, to all intents and purposes, without fine or recovery, and shall be a complete bar to all estates tail, and other estates, rights, titles, trusts, and interests whatsoever, any law, statute, usage, custom, or other matter to the contrary notwithstanding; and all such bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, feoffees, committees, executors, administrators, and all other persons shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this Act:

Form of conveyance to commissioners.

25. That all such conveyances of any lands, tenements, or hereditaments to be purchased by the said commissioners of sewers shall be expressed in the following or some similar form of words, as the circumstances of the case may require:

"I of in consideration of the sum of to be paid by six or more of the commissioners of sewers acting in and for several limits [*here describe the limits as set forth in the commission of sewers*] do hereby grant and release to the commissioners of sewers acting in and for the said limits all [*describing the premises to be conveyed*], and all my right, title, and interest in and to the same and every part thereof, to hold to the said commissioners, their successors and assigns for ever, by virtue of the several Acts and laws now in force concerning sewers. In witness whereof I have hereto set my hand and seal this day of in the year of our Lord

3 & 4 W. 4, c. 22.

Where persons shall neglect or refuse to treat, &c., commissioners to issue their warrants to the sheriff to impannel a jury.

26. That if any such body politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees, or feoffees, committees, executors, administrators, or any other persons interested in any such lands, tenements, hereditaments, or premises, or sustaining any damage as aforesaid, upon notice to him or them given, or left in writing at the dwelling-house or place of abode of such person, or of the principal officer of any such bodies politic, corporate, or collegiate, corporations aggregate or sole, tenants for life or in tail, or at the house of the tenant in possession of any such lands, tenements, hereditaments, or premises, shall, for the space of thirty days next after such notice given or left as aforesaid, neglect or refuse to treat, or shall not agree in the premises, or by reason of absence shall be prevented from treating, then and in every such case the said commissioners of sewers, or any six or more of them, are hereby empowered from time to time to issue out their warrant or warrants under their hands and seals to the sheriff, bailiff, or other returning officer of the county or place wherein the matter in question shall lie, or if such sheriff, bailiff, or other returning officer shall be immediately interested in such matter, then to one of the coroners of such county or place, commanding such sheriff, bailiff, or other returning officer, or coroner, to impannel, summon, and return a jury; and the said sheriff, bailiff, or other returning officer, or coroner, is hereby required accordingly to impannel, summon, and return twenty-four men, qualified according to the laws of this realm to be returned for trials of issues joined in his majesty's courts at Westminster; and the persons so to be impannelled, summoned, and returned are hereby required to come and appear before the justices of the peace for the county or place in which such lands, tenements, hereditaments, or premises shall lie, or the matter in question or dispute shall arise, at some court of general or quarter sessions of the peace to be holden in and for the same county or place, or at some adjournment thereof, as in such warrant or warrants shall be appointed, in order that out of them a jury of twelve may be sworn, to inquire touching the matters in question; and in case a sufficient number of jurymen shall not appear at such time and place, the said sheriff, bailiff, or other returning officer, or coroner, shall return other honest and indifferent men that can speedily be procured to attend that service, to make up the said jury to the number of twelve; and all parties concerned may have their lawful challenges against any of the said jurymen; and the clerk of the peace for the said county or place, or his deputy, is hereby empowered and required to summon before the said justices all such persons as shall be thought necessary to be examined as witnesses touching the matters in question, and may order and authorise the said jury, or any six or more of them, to view the place or places or matters in controversy; which jury (upon their oaths, to be administered by the said justices, which oaths, as also the oath to such person as shall be called upon to give evidence, the said justices are hereby empowered to administer) shall inquire of, assess, and ascertain the sum or sums of money to be paid for the purchase of such lands, tenements, or hereditaments, or the recompense to be made for damages that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum or sums of money so assessed shall be paid to the several persons interested in the premises; and the said justices shall give judgment for such purchase moneys or recompense so to be assessed by such juries; which said verdict, and the judgment thereupon pronounced as aforesaid, shall be binding and conclusive to all intents and purposes against all parties, bodies politic, corporate, and collegiate, and all persons whomsoever.

Jury may be challenged.

Witnesses to be summoned, and examined upon oath.

Jury to assess damages.

Verdict of the jury to be binding

Commissioners may impose a fine on sheriff, witnesses, &c., making default.

27. Provided always, That if any such sheriff, bailiff, or other returning officer, or coroner, or his deputy or agent, shall make default in the premises, every such person shall for every offence forfeit the sum of twenty pounds; and if any person so summoned and returned as aforesaid on such jury shall not appear, or appearing refuse to be sworn, or being sworn refuse to give his verdict, or in any other manner wilfully neglect his duty, contrary to the true intent of this Act, or if any person so summoned to give evidence shall not appear, or appearing refuse to be sworn or examined or to give evidence, every person so offending, having no reasonable excuse, to be allowed by the said justices, shall for every such offence forfeit and pay such sum as the said justices shall appoint, not exceeding the sum of five pounds for any one offence.

Agreement to be filed with the clerk of the sewers.

28. That all the agreements, contracts, sales, and conveyances, and also all verdicts and judgments, which shall be made and given in relation to any such lands, tenements, and hereditaments as aforesaid (such verdicts and judgments being certified by the clerk of the peace of the county or place in which such verdict and judgment shall have been given), shall be delivered to and deposited with the clerk of the sewers for the county, limits, or district wherein such lands, tenements, or hereditaments are situate, and shall be filed with the rolls of the court or commissioners of sewers of such county, limits, or district; and the same, or a true copy thereof, shall be admitted as evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, and take copies thereof, upon paying for every such inspection the sum of one shilling, and for every such copy not exceeding seventy-two words the sum of fourpence, and so in proportion for any greater number of words.

By whom costs of jury and witnesses to be paid.

29. That in case any such jury or juries shall deliver a verdict for more money as a satisfaction for such lands, tenements, or property, or for any such loss or damage, than what shall have been offered by such commissioners for the same before the summoning or returning the said jury or juries, then and in such case the costs and expenses of summoning and returning the said jury and witnesses, and all other expenses attending the hearing and determining of such difference, shall be borne and paid by the said commissioners out of the same fund as the said purchase or compensation money is hereby

3 & 4 W. 4, c. 22.

directed to be paid; and such costs and expenses shall be ascertained and settled by an officer of one of his majesty's superior courts of record at Westminster, to be nominated, in case of dispute, in the county of Middlesex by the lord chief justice of the court of king's bench, and in every other county by the senior judge of the gaol delivery for the time being; but if any such jury or juries shall deliver a verdict for no more or for less money than shall have been offered by the said commissioners before the summoning such jury or juries, then such costs and expenses (to be ascertained and settled in like manner) shall be borne and paid by the person with whom such commissioners shall have such controversy or dispute, and shall and may be levied by distress and sale of the goods and chattels of the person liable to pay the same, by warrant under the hands and seals of two justices of the peace for the county or place within which such verdict and judgment shall have been given; and the overplus (if any), after such costs and expenses, and the charges of such distress and sale, are deducted, shall be returned, upon demand, unto the owner of such goods and chattels.

From what fund purchase and compensation moneys are to be paid.

30. That every sum of money and recompense to be agreed for or assessed as aforesaid shall be paid for out of any moneys in the hands of the said commissioners which may be levied on the messuages, tenements, lands, and hereditaments which shall receive benefit or avoid damage by or from such widening, straightening, deepening, repairing, and amending as aforesaid, or by or from making and maintaining any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences; and upon payment to such parties or persons, or their agents, or left at their respective usual places of abode, or with the tenant in possession of such lands, tenements, hereditaments, and premises, or into the bank of England in manner directed by this Act (as the case may be), then such lands, tenements, hereditaments, and premises respectively shall be vested in such commissioners, and shall and may be taken and used for straightening, widening, deepening, repairing, and amending such rivers, streams, ditches, gutters, sewers, and watercourses, or for making and maintaining any new walls, banks, sewers, guts, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences; and all parties and persons whomsoever shall be divested of all right and title to such lands, tenements, and hereditaments.

Application of compensation money exceeding 200*l.*

31. That if any money shall be agreed or assessed to be paid for the purchase of any lands, tenements, or hereditaments purchased, taken, or used, by virtue of the powers of this Act, by any commissioners of sewers, which shall belong to any body politic, corporate, or collegiate, or to any feoffee in trust, executor, administrator, husband, guardian, committee, or other trustee, or for or on behalf of any infant, lunatic, idiot, feme covert, cestuique trust, or to any other person whose lands, tenements, or hereditaments are or may be limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, such money shall, in case the same shall amount to or exceed the sum of two hundred pounds, with all convenient speed be paid into the bank of England in the name and with the privity of the accountant general of the court of exchequer, to be placed to his account there *ex parte* the commissioners of sewers for whom such lands, tenements, or hereditaments shall be taken, pursuant to the method prescribed by an Act passed in the first year of the reign of his late majesty king George the fourth, intituled "An Act for the better securing Moneys and Effects paid into the Court of Exchequer at Westminster on Account of the Suitors of the said Court, and for the Appointment of an Accountant General and two Masters of the said Court, and for other Purposes," and the general orders of the said court, and without fee or reward; to the intent that such money shall be applied, under the direction and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands, tenements, and other hereditaments, in the purchase or redemption of the land tax, or in the discharge of any debt or debts, or such other incumbrances, or part thereof, as the said court shall authorise to be paid, affecting the same lands, tenements or hereditaments, or affecting other lands, tenements, or hereditaments standing settled therewith to the same or the like uses, trusts, intents, or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said court, in the purchase of other lands, tenements, or hereditaments, which shall be conveyed and settled to, for, and upon such and the like uses, trusts, intents, and purposes, and in the same manner, as the lands, tenements, or hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made the said money shall, by order of the said court, upon application thereto, be invested by the said accountant general in his name in the purchase of three pounds per centum consolidated or three pounds per centum reduced bank annuities; and in the meantime and until the said bank annuities shall be ordered by the said court to be sold for the purposes aforesaid the dividends and annual produce of the said consolidated or reduced bank annuities shall from time to time be paid, by the order of the said court, to the person who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments to be purchased as aforesaid, in case such settlement or purchase were made.

1 G. 4, c 35.

Application of compensation money when less than

32. Provided always, That if any money so agreed or assessed to be paid for any lands, tenements, or hereditaments purchased, taken, or used for the purposes aforesaid, belonging to any corporation, or to any person under any disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or

exceed the sum of twenty pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used, or of his guardian or committee in cases of infancy, idiotcy, or lunacy, to be signified in writing under their respective hands, be paid into the bank of England in the name and with the privity of the said accountant general, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed; or otherwise the same shall be paid, at the like option, to two or more trustees to be nominated by the person making such option, and approved by six or more of the commissioners taking such lands, tenements, or hereditaments, such nomination and approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money and the dividends and interest arising therefrom may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said court of exchequer.

3 & 4 W. 4, c. 22.

200*l.* and not less than 20*l.*

33. Provided also, That when such money so agreed or assessed to be paid as before mentioned shall be less than the sum of twenty pounds, then and in every such case the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the lands, tenements, or hereditaments so purchased, taken, or used as aforesaid, in such manner as the said commissioners, or any six or more of them, shall think fit; or in case of lunacy, idiotcy, or infancy, then to his guardian or committee, to and for the use and benefit of such person so entitled.

Application of compensation money when less than 20*l.*

34. That where any question shall arise touching the title of any person to any money to be paid into the bank of England in the name and with the privity of the accountant general of the said court of exchequer, in pursuance of this Act, for the purchase of any lands, tenements, or hereditaments to be purchased in pursuance of this Act, or to any bank annuities to be purchased with any such money, or to the dividends or interest of any such bank annuities, the person who shall have been in possession of such lands, tenements, or hereditaments at the time of such purchase, and all persons claiming under such person, or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such land, tenements, or hereditaments, according to such possession, until the contrary shall be shown to the satisfaction of the said court of exchequer; and the dividends or interest of the bank annuities to be purchased with such money, and also the capital of such bank annuities, shall be applied and disposed of accordingly, unless it shall be made to appear to the said court that such possession was a wrongful possession, and that some other person was lawfully entitled to such lands, tenements, or hereditaments, or to some estate or interest therein.

Persons in possession to be deemed lawfully entitled to the premises until the contrary shall be shown to the court of exchequer.

35. That in case the person to whom any sum or sums of money shall be assessed or agreed for the purchase of any lands, tenements, or hereditaments to be purchased by virtue of this Act, shall refuse to accept the same, or shall not be able to make a good title to the premises to the satisfaction of the said commissioners or any six or more of them, or in case such person to whom such sum or sums of money shall be so assessed or agreed to be paid as aforesaid cannot be found, or if the person entitled to such lands, tenements, or hereditaments be not known or discovered, then and in every such case it shall and may be lawful to and for the said commissioners, or any six or more of them, to order the said sum or sums of money so assessed or agreed to be paid as aforesaid to be paid into the bank of England in the name and with the privity of the accountant general of the court of exchequer, to be placed to his account, to the credit of the parties interested in the said lands, tenements, or hereditaments (describing them), subject to the order, control, and disposition of the said court of exchequer; which said court of exchequer, on the application of any person making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding, or otherwise, as to the said court shall seem meet, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the estate, title, or interest of the person making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the cashier of the bank of England who shall receive such sum or sums of money is hereby required to give a receipt for the same (mentioning and specifying for what and for whose use the same is received) to such person as shall pay any sum or sums of money into the bank of England as aforesaid.

If compensation money is refused, or titles not made, or if persons to whom money assessed cannot be found, money to be paid into the bank, subject to order of court of exchequer.

36. Provided always, That where, by reason of any disability or incapacity of the person or corporation entitled to any lands, tenements, or hereditaments to be purchased under the authority of this Act, the purchase money for the same shall be required to be paid into the court of exchequer, and to be applied in the purchase of other lands, tenements, or hereditaments, to be settled to the like uses, in pursuance of this Act, it shall and may be lawful to and for the said court of exchequer to order the expenses of all purchases from time to time to be made in pursuance of this Act, or so much of the expenses as the said court shall deem reasonable, together with the necessary costs and expenses of obtaining such order, to be paid by the said commissioners, or any six or more of them, who shall from time to time pay such sum or sums of money for such purposes as the said court shall direct; and the said commissioners shall and may reimburse themselves all such payments as shall be so made by them as aforesaid in the manner directed, and out of the rates to be raised, levied, and collected for such purposes respectively, under the powers and provisions of the said recited Acts and of this Act.

Court of exchequer may direct payment of expenses in cases where purchases of other lands are made.

37. That it shall not be lawful for any court of sewers, in making any new walls, banks, sewers, cuts, gotes, calcies, sluices, floodgates, tumbling bays, and other works,

Houses and buildings,

3 & 4 W 4 c 22

&c, not to be taken without consent

reparations, amendments, aids, and defences authorised to be made and executed by the said recited Acts and this Act, or any or either of them, to take down, remove, or make use of any house or building, or any garden, yard, or paddock, or any park, planted walk, or avenue to a house, or any inclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the consent in writing of the owner or proprietor thereof respectively, or of the person, body politic or corporate, hereby authorised to sell and convey as aforesaid, first had and obtained

Vesting land in commissioners of sewers on payment of purchase money

38 That upon payment or legal tender of such sum or sums of money as shall have been constructed or agreed for between the parties, or assessed by such juries in manner aforesaid, for the purchase of any such messuages lands, tenements, hereditaments, and premises, or as a compensation for losses or damages, as herein mentioned, to the proprietor or proprietors of such messuages, lands, tenements, hereditaments, and premises, or to such other person or persons, bodies politic or corporate or collegiate, as shall be interested therein or entitled to receive such money or compensation respectively, within thirty days next after the same shall be so agreed for or assessed, or upon payment of such sum or sums of money, within the said thirty days, into the bank of England, in manner herein directed and required, for the use of the persons entitled thereto, it shall be lawful for the said commissioners, and their agents, servants, and workmen, to enter upon such messuages, lands, tenements, hereditaments, and premises respectively, and thenceforth such messuages, lands, tenements, hereditaments, and premises, together with the yearly profit thereof, and all the estate, use, trust, and interest of any person, bodies politic, corporate, or collegiate, therein, shall become and be vested in the said commissioners for ever, and such payment or tender shall not only bar all right, title, claim, interest, and demand of the person, bodies politic, corporate, or collegiate, to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of every such person, and all estates tail, and all other estates in reversion and remainder of his or their issue, and of every other person, bodies politic, corporate, or collegiate whomsoever therein

Enabling commissioners to sell lands &c not wanted.

39 That it shall and may be lawful for commissioners of sewers, or any six of them, in whom any lands and hereditaments shall be vested by virtue of this Act, to sell and dispose of the same or any part thereof, either together or in parcels, as they shall find most convenient and advantageous, to such person as shall be willing to contract for and purchase the same, and the money to arise and be produced by the sale or sales which may be made by the said commissioners of sewers of any land or hereditaments as aforesaid shall be applied to the purposes of making and maintaining sewers works in the limits, valley, level, or district in which such land or hereditaments so sold as aforesaid shall lie or be, but the purchaser thereof shall not be answerable or accountable for any misapplication or non application of such money Provided always, that the said commissioners of sewers, before they shall sell and dispose of any such land or hereditaments, shall first offer to sell the same to the owner of the adjoining land or ground, and an affidavit made and sworn before a master or master extraordinary in the high court of chancery, or before one of his majesty's justices of the peace for the county, riding, or division in which such land and hereditaments shall lie, by some person not interested in the premises, stating that such offer was made by or on behalf of the said commissioners, and that such offer was not then and thereupon agreed to or was refused by the person to whom the same was so offered, shall in all courts whatever be sufficient evidence and proof that such offer was made, and was not agreed or was refused by the person to whom such offer was made (as the case may be), and in case such person shall be desirous of purchasing the same, and he and the said commissioners shall differ and not agree with respect to the price thereof, in such case the price thereof shall be ascertained by a jury in manner hereinbefore directed with respect to the disputed value of premises to be purchased by commissioners of sewers in pursuance of this Act, and the expense of hearing and determining such difference shall be borne and paid in like manner as hereinbefore directed with respect to purchases made by the said commissioners of sewers, *mutatis mutandis*

First offer to be given to owners of adjoining ground.

Form of conveyance from commissioners

40 That all such conveyances of any lands, tenements, or hereditaments to be sold and disposed of by the said commissioners of sewers shall be expressed in the following or some similar form of words, as the circumstances of the case may require

"We, six of the commissioners of sewers acting in and for several [*here describe the limits as set forth in the commission of sewers*], in consideration of the sum of to us paid by of do hereby grant and release to the said all [*describing the premises to be conveyed*], and all right, title, and interest of the commissioners of sewers in and to the same and every part thereof, to hold unto the said his heirs, executors, administrators, and assigns for ever In witness whereof we have hereto set our hands and seals this day of in the year of our Lord

Power to borrow and take up money at interest for making and

41 That it shall and may be lawful for courts of sewers, from time to time as occasion shall require, to borrow and take up at interest any sum or sums of money for the purchase of messuages, lands, tenements, or hereditaments, or for defraying the costs, charges, and expenses of any work or works required to be done within the respective limits of their commission, for making, repairing, and maintaining any sea bank, wall, or other defence or defences, against any violent irruption or encroachment or appro

hended encroachment of the sea or rivers, or for the making and maintaining any new cut, or for the more effectual and better draining and carrying off the floods and superfluous fresh waters, or for the building, constructing, repairing, amending, renewing, and maintaining any floodgates, sluices, bridges, dams, or other necessary works, or for any other construction, work, matter, or thing which the said court shall judge necessary or expedient for the more effectual defence, security, and improvement of the lands, grounds, tenements, and hereditaments within the jurisdiction of such court of sewers, and the repayment of such sum and sums of money, with interest, shall and may from time to time be secured to the party lending the same upon or by virtue of a decree or ordinance under the hands and seals of the commissioners, or any six of them (which decree and ordinance they are hereby authorised to make), charging the lands, tenements, and hereditaments receiving benefit or avoiding damage from the said several works, and the owners or occupiers, or owners and occupiers for the time being thereof, with the payment of such sum and sums of money, with interest, according to the proportions and in the manner returned in and by any presentment touching or concerning the costs and charges of such last mentioned works, or the lands, grounds, tenements, and hereditaments receiving benefit or avoiding damage thereby Provided always nevertheless, that no such money shall be borrowed or taken up at interest as aforesaid without the consent in writing, certified to the said commissioners or any six of them, of the owners and occupiers respectively, or their respective husbands, guardians, trustees, or feoffees, committees, executors, or administrators, of three fourth parts at the least in value of the lands and hereditaments lying within the valley, level, or district proposed to be charged with the repayment thereof Provided also, that no person being the owner for the time being of any lands, tenements, or hereditaments shall be chargeable or liable, in respect of such lands, tenements, or hereditaments, for or towards any principal money borrowed or taken up as aforesaid, with or to the payment of any greater sum of money than one fifth part of the value of such lands, tenements, or hereditaments at the time of borrowing or taking up the same Provided also, that it shall be provided, expressed, and declared in and by the said decree and ordinance, that the sum or sums of money so borrowed and taken up thereon shall be repaid within a time to be named in such decree and ordinance, not being for a longer period than fourteen years from the making thereof, by equal annual or shorter instalments, together with interest on the sum or sums so borrowed or taken up, or on such part thereof as shall from time to time remain due and unpaid, and the said last mentioned decree and ordinance shall be and remain in full force and effect until such sum and sums of money, and all interest thereon, shall have been fully paid and satisfied, anything in the said recited Act or this Act contained, or any custom or usage, to the contrary notwithstanding

3 & 4 W 4, c 22

maintaining works

42 And for facilitating the raising, securing, and paying off from time to time of the moneys which it may be necessary so to raise and borrow as aforesaid BE IT FURTHER ENACTED, That it shall and may be lawful for any court of sewers from time to time to grant securities, in the form of a certificate, under the hands and seals of six of the said commissioners, to each person who shall so advance any sum of money as aforesaid, setting forth the amount of the sum borrowed, the rate of interest payable for the same, the periods at which the said principal money shall be decreed to be paid off by instalments, and a general description of the particular lands, or, if by assessment, the district, limit, or level in which the lands are situate, which are to be charged with the repayment thereof and that every such security or certificate shall be made in the following words, or by any other words to the same purport and effect

Courts of sewers may grant securities to persons advancing money

"By virtue of an Act passed in the third year of the reign of his majesty king William the fourth, intituled [*here insert the title of this Act*], we, the undersigned, being six of the commissioners [*here insert the general description of the commission under which they act*], in consideration of the sum of of lawful money of Great Britain to [*here insert the name of the receiver of the district*] lent and paid by do hereby certify, that [*here describe the particular lands, or, if by assessment, the valley, level, or limit in which the lands are situate, which are to be charged*], are become charged with the repayment of the said sum, in instalments of one part on the day of in every year, together with interest on such part of the said principal money as shall remain unpaid from time to time at and after the rate of pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said is part of a capital sum of , which at a court of sewers holden at on the day of last was decreed and ordered to be taken up and borrowed for the purpose of [*here briefly state the general cause or object of borrowing the money*] In witness whereof we have hereunto set our hands and seals the day of

Form of security

43 That every person, body politic, corporate, collegiate, aggregate, or sole, who shall be entitled to the money thereby secured, and his, her, or their executors, administrators, and successors, may from time to time personally, or by attorney thereunto lawfully authorised, assign or transfer his or their right, title, interest, or benefit to the said principal and interest money thereby secured to any person whatsoever, by indorsing on the back of such security, in the presence of one credible witness, who shall subscribe his name thereto, the following words, or words to the like effect

Securities may be transferred

"I [*or* We] [A B of, &c], in consideration of the sum of to me this

3 & 4 W 4, c 22

Form of transfer

day paid by [C D of, &c], do hereby transfer the within certificate of charge, with all my right and title to the principal money thereby secured and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto his [her, *or* their] executors, administrators, successors, and assigns [*as the case may be*] Given under my hand and seal this day of

"Witness,

Transfers to be produced to clerk to commissioners and to be registered by him

Which transfer shall be produced and notified to the clerk for the time being of the said commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid and every such clerk shall make an entry amongst the records of the said commissioners of the particulars of every such transfer, and indorse a minute of such entry upon the back of every such transfer signed by such clerk, and for which entry and minute he shall be entitled to a fee of five shillings, and no more

Courts of sewers may be held out of the limits of the commission

44 "And whereas it has been found in some instances difficult or inconvenient to hold courts of sewers within the limits or districts of the commission under or by virtue whereof such courts have been held, by reason that no house or other sufficient building could be procured within such limits or districts " BE IT THEREFORE FURTHER ENACTED, That it shall and may be lawful for commissioners acting under any commission of sewers to hold courts of sewers at any place not being at a greater distance than five miles from the limits or districts of such commission

All acts of commissioners done without the district of the commission but within five miles thereof to be valid

45 That all laws, acts, decrees constitutions, and ordinances heretofore made, done, decreed, and ordained at or by any court of sewers holden without the limits or district of the commission under or by virtue whereof such court has been holden, but within five miles of the limits or district of such commission, shall be and they are hereby declared to be as valid and legal, and shall henceforth be and remain in as full force and virtue, as if the same laws, Acts, decrees, constitutions, and ordinances had been made, done, decreed, and ordained at a court of sewers holden within the limits or district of the commission under or by virtue whereof such court was holden, any statute, law, usage, or custom to the contrary notwithstanding

Several defaults may be included in one presentment and separately traversed

46 "And whereas in many cases the burthen of supporting, repairing, and maintaining a common sea wall, bank, sewer, or other work may be divided among divers persons, each of whom may be liable to the repair of a certain portion thereof, and in order to avoid the necessity of presenting each such person separately in the respect of the non repair of such common sea wall, bank, sewer, or other work, BE IT FURTHER ENACTED, That it shall be lawful for any sewers jury, bailiff, surveyor expenditor, or other person to present the whole of such sea wall, bank, sewer, or other work respectively, or such part thereof respectively as shall at any time be out of repair or require cleansing, and to allege in such presentment what persons or bodies politic or corporate are liable to the repair thereof, and also to specify what part or portion of such sea wall, bank, sewer, or other work each such person, body politic or corporate, is bound or liable to repair, without making a separate and distinct presentment against each such person or body politic or corporate and upon twenty eight days notice of such presentment to be left with, or at the last or usual place of abode or office of such person, body politic or corporate, each such person, body politic or corporate, shall be at liberty to traverse the allegation contained in such presentment as to his liability to the repair of such part of such sea wall, bank, sewer, or other work as in such presentment is alleged against him and trial of such traverse shall be thereupon had as if such presentment had been solely and exclusively made against such person, body politic or corporate, traversing the same as aforesaid

Property in lands buildings, goods, &c, vested in commissioners (*d*).

47 That the property of and in all lands, tenements, hereditaments (*a*), buildings, erections, works, and other things which (*b*) shall have been or shall hereafter be purchased, obtained, erected, constructed, and made by or by the order of, or which are or shall be within or under the view, cognisance, or management (*c*) of any commissioners of sewers, with the several conveniences and appurtenances thereunto respectively belong

---

(*a*) After these words should be interposed "which shall have been or which shall hereafter be purchased (*per* Ld Abinger, *Stracey* v *Nelson*, 12 M & W 542)

(*b*) The word "which" relates to the last antecedent, viz "all buildings, erections, or works" (*per* Ld Abinger, *Stracey* v *Nelson*, 12 M & W 542)

(*c*) The commissioners are a fluctuating body, and having no corporate property existing, and no regular succession in law to the lands they might purchase, or the buildings they might have erected, for the purpose of their commission, this property, as soon as their commission should expire, would belong to nobody, and would not even belong to themselves during the time, so as to entitle them to exercise any right of action in respect of it The object of this statute was to remedy that inconvenience, and to enable the commissioners for the time being to exercise such control and proprietary right over such of the lands as they might purchase by virtue of the provisions of the Act, and also to give them a property in such works, erections and buildings, and other things over which they had exercised a control before, or over which they might thereafter be entitled to exercise a control (*per* Lord Abinger, *Stracey* v *Nelson*, 12 M & W 541)

(*d*) This section embraces every species and

ing, and also all and singular the goods, tools, utensils, materials, and things whatsoever had and to be had, bought, procured, or provided by or by the order of, or (a) which are or shall be within or under the view, cognisance, or management of such commissioners, shall be and the same are hereby vested in the commissioners of sewers within or under whose view, cognisance, or management such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things shall respectively be, who are hereby empowered to bring or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment, against any person who shall dig up, break or pull down, damage, destroy, injure, spoil, steal, take or carry away, or wilfully and wrongfully buy or receive, any such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things whatsoever as aforesaid, or any part thereof; and in every such action and indictment the said lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, and things shall be laid or described to be the property of the said commissioners, without stating or specifying the name or names of all or any of such commissioners. 3 & 4 W 4, c. 22.

Officers to account when required.

48. That every clerk, treasurer, collector, receiver, and other officer appointed and to be appointed by any court of sewers shall, as often as required by such court, render and give to the said court, or to such person as it shall for that purpose appoint, a true, exact, and perfect account in writing under their respective hands, and produce and deliver unto the said court, or to such person as aforesaid, proper vouchers of and for all moneys which they shall respectively before the time of rendering such accounts have received, paid, and disbursed for or on account or by reason of their respective offices, and in case any money so received by any such officer shall remain in his hands, the same shall be paid by him to such person as the said court shall authorise and empower to receive the same; and if any such officer shall refuse or wilfully neglect to render and give such account, or to produce and deliver up such vouchers, or shall, for the space of fourteen days after being thereunto required by the said court, refuse or neglect to render, give, produce, and deliver up to them, or to such person as they shall direct or appoint, such true and perfect account, and all or any such vouchers as aforesaid, and all or any books, papers, writings, matters, and things in his hands, custody, or power, it shall and may be lawful for the said court, in a summary way, to cause such money as shall appear to be due and unpaid from such officer to be levied by distress and sale of the goods and chattels of such officer, rendering to such officer the overplus (if any), on demand after payment of the money remaining due, and deducting the charges and expenses of making such distress and sale; and if sufficient distress cannot be found, or if any such officer shall refuse or wilfully neglect to render such account, or to deliver up all or any vouchers, books, papers, writings, matters, or things in his custody or power relating to the execution of his office, the said court shall or may commit him to any house of correction or common gaol of the county, city, or liberty in which such court of sewers shall have jurisdiction, there to remain without bail or mainprise until he shall have made and given a true and perfect account, and shall have delivered up the vouchers relating thereto, and shall have paid the money (if any) remaining in his hands as aforesaid, according to the directions of the said court, or shall have compounded with the said court for such money, and paid such composition according to their direction (which composition the said court is hereby empowered to make and receive), or until he shall have delivered up all such books, papers, and writings, matters and things as aforesaid, or have given satisfaction to the said court concerning the same; but no such officer who shall be committed on account of his not having sufficient goods and chattels as aforesaid shall be detained in prison by virtue of this Act for any longer time than six calendar months.

Removing officer from the possession of the property of courts of sewers.

49. That if any officer or servant of any court of sewers who shall be by such court discharged from his office shall be in possession of any houses, buildings, lands, floodgates, sluices, dams, works, materials, tools, or implements so belonging to or vested in any such commissioners of sewers as aforesaid, and shall refuse to deliver up the possession thereof within two days after notice of his being discharged and of his being required to deliver up the same shall be given to him, or left at his last or most usual place of abode, or if the wife, widow, family, or representatives of any such officer or servant who shall happen to die, shall, after like notice given to her, them, any or either of them, refuse to deliver up possession of the same within the like time after she, they, or either of them shall be required so to do, then and in either of the said cases it shall and may be lawful for any such court of sewers for the county, limits, or district wherein the same property, matter, or thing refused to be delivered up may be, by warrant under the hands and seals of six commissioners of sewers for the county, limits, or district, to order a constable or other peace officer, with such assistance as shall be deemed necessary, to enter any such houses, buildings, lands, floodgates, sluices, dams, or other works so refused to be delivered up, in the day-time, and to remove the persons who shall be found therein, together with their goods, out of such premises, and also to take

---

description of buildings, erections, or machinery whatever that the commissioners could make, or could obtain to apply to the use of their commission; and it vests the property thereof in them for the time being (*Stracey* v. *Nelson*, 12 M. & W. 535).

(a) See *Stracey* v. *Nelson*, supra.

3 & 4 W. 4, c. 22.

possession of the same, and of all such other property, matters, and things belonging to or vested in the said commissioners of sewers as shall be so refused to be delivered up as aforesaid, and to put the said commissioners, or their officer or servant, in possession thereof.

Courts of sewers may take security from officers and sue for forfeitures.

50. That it shall be lawful for any court of sewers to take such security from every treasurer, receiver, collector, expenditor, and other ministers and officers, as to such court shall seem meet, for the just and faithful execution of such office or trust, and such security shall be given by bond or bonds to the clerk for the time being to the said commissioners of sewers; and in case of forfeiture it shall be lawful for the said court of sewers to sue upon such bond or bonds in the name of the clerk to the said commissioners of sewers for the time being, and to carry on such suit at the costs and charges and for the use and benefit of the fund for the security of which such bond or bonds shall have been taken, fully indemnifying and saving harmless such clerk from all costs and charges in respect of such suit from and out of such fund; and no action or suit to be brought or commenced in the name of the clerk in the manner aforesaid shall abate or be discontinued by the death, resignation, or removal of such clerk, or by the expiration of any commission of sewers or other authority under which the said clerk may act as aforesaid.

Treasurer and clerk not to be the same person.

51. That it shall not be lawful for any court of sewers to continue or appoint the person who hath been or who may be appointed their clerk in the execution of any commission of sewers, or the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk, or the clerk or other person in the service or employ of the partner of such clerk, the treasurer for the purposes of the said recited Acts or of this Act, or to continue or appoint any person who hath been or who may be appointed treasurer, or the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer, or the clerk or other person in the service or employ of the partner of such treasurer, the clerk of the said commissioners; and if any person shall continue in or accept both the offices of clerk and treasurer in the execution of any commission of sewers, or if any person being the partner of any such clerk, or the clerk or other person in the service or employ of any such clerk or of his partner, shall continue in or accept the office of treasurer, or shall act as deputy of such treasurer, or shall in any manner officiate for such treasurer, or being the partner of any such treasurer, or the clerk or other person in the service or employ of any such treasurer or of his partner, shall continue in or accept the office of clerk in the execution of any commission of sewers, or shall act as deputy of such clerk, or shall in any manner officiate for such clerk, or if any such treasurer shall hold any place of profit or trust under such court of sewers other than that of treasurer, every such person so offending shall for every such offence forfeit and pay the sum of one hundred pounds to any person who shall sue for the same, to be recovered, together with full costs of suit, in any of his majesty's courts of record at Westminster, by action of debt or on the case, or by bill, suit, or information, wherein no essoign, protection, or wager of law, nor more than one imparlance, shall be allowed.

Constables to obey orders of commissioners.

52. And for the better carrying into execution the powers and authorities of the said commissioners of sewers, BE IT FURTHER ENACTED, That all and every chief and petty constables, headboroughs, and tithing men, or by whatsoever other name or names such chief or petty constables may be called or known, and other peace officers, of or within the respective hundreds, parishes, townships, liberties, districts, or places within the jurisdiction of the said respective courts, shall and they are hereby authorised and required to obey and execute all and every the orders, warrants, precepts, or other process which may be to them directed by the said commissioners; which said commissioners respectively are hereby authorised to direct such their orders, warrants, precepts, or other process to such chief or petty constables, headboroughs, tithingmen, and other peace officers accordingly.

Fines, &c., may be levied by warrant of commissioners of sewers.

53. That no fine, amerciament, penalty, or forfeiture which from and after the passing of this Act shall be set or imposed by any commissioners of sewers upon any person, body politic or corporate, for not cleansing, scouring, repairing, or maintaining, or for obstructing or injuring, any of the walls, ditches, banks, gutters, sewers, gotes, bridges, and streams, or for any other cause, matter, or thing, within the jurisdiction of the said commissioners respectively, shall hereafter be returned or estreated into the court of exchequer: but that the same fines, amerciaments, penalties, and forfeitures, and all penalties and forfeitures imposed by this Act, except as herein otherwise provided, shall and may be demanded and received by the treasurer, clerk, expenditor, or other person appointed by the said commissioners to receive the same, and if not paid upon demand shall and may be levied by distress and sale of the goods and chattels of the person, body politic or corporate, upon whom such fines, amerciaments, penalties, or forfeitures shall or may be so set or imposed, by warrant under the hands and seals of the said commissioners, or any six or more of them, together with the costs and charges of such distress and sale, rendering the overplus (if any) to the party or parties entitled thereto; which warrant the said commissioners are hereby authorised to issue; and the said fines, amerciaments, penalties, and forfeitures, when so received or levied, shall and may be applied by the said commissioners to such and the same uses and purposes as the moneys raised, levied, or set apart by the said commissioners for defraying and reimbursing the general expenses of executing the commission of sewers under which they shall or may act or may be applicable.

54. That the warrant authorising the levying of any such fine, amerciament, penalty, or forfeiture payable by virtue of this Act may be in the words or to the effect following: 3 & 4 W. 4, c. 22.

Form of warrant for levying fines, &c.

"To our bailiff of sewers, and to and our collectors; and to each and every of them, and to all constables and other peace officers.
Whereas at the court [*or* session] of sewers holden for the limits [*here state the name of the commission*] on the day of last, A. B. of in the county of carpenter, was fined [amerced, *or otherwise, as the case may be,*] in the sum of which sum it hath this day been proved to us the undersigned, being six or more of the justices and commissioners of sewers for the aforesaid limits, by the oath of duly appointed to receive the same fine, [amerciament, penalty, *or* forfeiture, *as the case may be,*] that the said hath neglected or omitted to pay when demanded of him: These are therefore to authorise and command you, any or either of you, to levy the sum of by distress and sale of the goods and chattels of the said together with the costs and charges of such distress and sale, rendering the overplus (if any) to the said . Given under our hands and seals the day of in the year of our Lord 18 ."

55. That in all and singular the orders, decrees, or proceedings hereafter to be made touching or concerning any matter or thing within the jurisdiction of any court of sewers, it shall and may be lawful to and for any such court of sewers to order and decree that the costs, charges, and expenses of and incidental to the making and putting in force such order or decree, orders or decrees, shall be paid and borne by the person, body politic or corporate, upon or against whom, or by reason of whose default, or for whose benefit, such order or decree, orders or decrees, shall respectively be made, which costs, charges, and expenses shall and may be ascertained and settled by or by the authority of any such court of sewers; and when any such costs, charges, and expenses shall be ordered and decreed to be paid as aforesaid, and such order or decree, orders or decrees, shall not be previously altered, reversed, or quashed by or at any subsequent court of sewers, or by any other court or courts, upon removal of the same by *certiorari* or otherwise, the same costs, charges, and expenses shall and may, at any time after the court of sewers immediately following the granting or passing of such orders or decrees respectively, such court being at the distance of twenty-one days at the least from the service of such orders or decrees respectively, be levied and raised, together with the costs and charges of raising and levying the same, by distress and sale of the goods and chattels of the person, body politic or corporate, by whom the same shall or may respectively be ordered or decreed to be paid as aforesaid, by the bailiff, expenditor, surveyor, or other known officers of the said commissioners of sewers for the time being, or by any constable or peace officer or any other person to be named in and by such orders or decrees respectively, without any further order or decree of the said court of sewers: Provided always, That if no such distress or distresses as aforesaid can be found, the same costs, charges, and expenses, together with the costs and charges of raising and levying the same, shall and may be raised and levied upon and out of the lands, tenements, and hereditaments, within the limits of the commission under and by virtue of which the same orders and decrees shall respectively be made, of or belonging to the person, body politic or corporate, upon or against whom such orders and decrees shall respectively be made, in such and the same manner as the same would have been leviable if the same lands, tenements, or hereditaments had been lawfully assessed in the amount or respective amounts of the same costs, charges, and expenses to or for a lawful scot, rate, or assessment for the purposes of the same commission, and the same lands, tenements, and hereditaments shall be subject to all such and the same orders and decrees as the same would have been subject to, and such orders and decrees shall be of the same force and authority as if the same costs, charges, and expenses were a lawful scot, rate, or assessment as aforesaid, and unpaid.

Commissioners may decree and assess costs;

and in default of distress may raise the same upon the lands of the defaulters.

56. Provided also, That all and every sum and sums of money which shall or may be raised or levied by or for the costs, charges, and expenses of any officer of sewers as aforesaid shall be paid into the hands of the treasurer or expenditor of the said commissioners acting for the district in or for which the orders or decrees shall respectively be made, and shall be paid, applied, and disposed of, so far as the same will extend, in defraying and reimbursing the costs, charges, and expenses which shall have been so incurred as aforesaid, subject to such order and disposition of the said commissioners, as they or any six or more of them shall deem to be just and reasonable.

Appropriation of costs when levied.

57. That commissioners of sewers may sue and be sued at law or in equity for or concerning any matter or thing whatever, or for or relating to the lands and hereditaments or other property vested or to become so vested in them as aforesaid, or to any river, stream, sewer, wall, bank, or other work or matter within or under the view, cognisance, management, or jurisdiction of such commissioners, in the name of any one commissioner, or in the name of their clerk for the time being; and in any action or actions of ejectment which shall or may be brought or prosecuted by the said commissioners for recovering the possession of such houses, buildings, or other property so vested in them as aforesaid, it shall be sufficient to lay the demise in such action or actions in the names of six commissioners, or in the name of such clerk; and no action or suit to be brought or commenced by or against the said commissioners or the said clerk in manner aforesaid shall abate or be discontinued by the death, resignation, or removal of such commissioners or of such clerk, or by the expiration of any commission of sewers or other

Commissioners of sewers may sue and be sued in the name of their clerk.

3 & 4 W 4, c 22

authority under which the said commissioners or clerk may act as aforesaid, provided that no execution shall issue or be had in such action or suit against such commissioners or clerk until six months shall have elapsed after final judgment in such action or suit shall have been obtained

Clerks and commissioners to be reimbursed

58. Provided always, That every such clerk in whose name any such action or suit shall be brought, commenced, or sued, and every such commissioner of sewers whose name shall be used in any bill, information, prosecution, or indictment, in pursuance of this Act, and that every such commissioner of sewers in whose name the said commissioners shall so sue or be sued as aforesaid, shall be fully reimbursed and paid all such costs, charges, damages, and expenses as by the event or in consequence of any such action, suit, bill, information, indictment, or prosecution he shall pay, sustain, or be put unto, or become chargeable with or liable to, by reason of his being plaintiff or defendant as aforesaid, by and out of the moneys that shall be in or come to the hands of the said clerk or of the treasurer or expenditor for the time being as such clerk, treasurer, expenditor, or by and out of the moneys to arise and be collected by a scot, rate, or tax to be granted, raised and levied, under the authority and direction of the said commissioners of sewers having authority to raise and levy such scot, rate, or tax, or such of them as shall be authorised to act on behalf of themselves and the others, as the case may be, on the scotable, rateable, or taxable lands, tenements, and hereditaments, the district for which he or they so acts or act, or hath or have acted as clerk as aforesaid, or for which he is so authorised to act as aforesaid, and which said scot, rate, or tax may be levied and raised under and by virtue of this Act for the purposes aforesaid

Clerk, being plaintiff may be a witness

59. Provided always, That the clerk being the plaintiff, prosecutor, or defendant in any such actions, suits, proceedings, prosecutions, or indictments as aforesaid shall not affect the competency of such clerk to be a witness in any such actions, suits, prosecutions, and indictments, in the same manner as he might have been if his name had not been made use of as the plaintiff, prosecutor, or defendant in any such actions, suits, prosecutions, or indictments

Rule for the interpretation of certain words and terms of this Act

60 That the words "court" and "court of sewers" in this Act shall respectively be deemed to mean every court, sessions, assemblage, or meeting of any six or more commissioners of sewers (three whereof being of the quorum) named in any commission of sewers, and acting in the execution thereof, and wherever in this Act any word or words is or are used or employed importing the singular number or the masculine gender only, such word or words shall extend to and shall be construed to include several persons as well as one person, and females as well as males, and a body or bodies politic, corporate, or collegiate corporation or corporations aggregate or sole, as well as individuals, unless it be otherwise specially directed or provided for

This Act not to prejudice any local Act

61. That nothing in this Act contained shall extend or be construed to extend to affect, alter, abridge, or interfere with any local or private Act of parliament for sewers concerning any county, city, town, district, lands, or limits, or any commission of sewers in the county of Middlesex, within the distance of ten miles from the royal exchange in the city of London, except such parts of the said county as may lie within any commission of sewers of the county of Essex, or to affect, alter, abridge, or interfere with any navigable river, canal, port, or harbour under the management or power of any commissioners, trustees, or proprietors by virtue of any local or private Act of parliament or to affect, alter, abridge, or interfere with any charter, law, usage, or custom in or concerning Romney Marsh in Kent, or the great level of the fens called Bedford Level

Saving rights of the city of London

62. That nothing in this Act contained shall extend or be construed to extend to repeal, or in anywise affect, alter, abridge, or interfere with the commissioners of sewers of the city of London and liberties thereof, or the rights, powers, or privileges of the mayor and commonalty and citizens of the city of London, in relation to the sewers, drains, vaults, and bridges within the said city or liberties, or any Act or Acts of parliament heretofore made for making, amending, defending, widening, altering, or cleansing the said sewers, drains, vaults, and bridges within the said city and liberties.

4 & 5 Vict. c 45

4 & 5 Vict. c. 45. An Act to amend an Act passed in the Third and Fourth Years of the Reign of his late Majesty King William the Fourth, intituled *An Act to amend the Laws relating to Sewers.* [21st June, 1841.]

8 H 8, c 5

"Whereas an Act was passed in the twenty-third year of the reign of his majesty king Henry the eighth, concerning commissions of sewers to be directed into all parts within the then realm of England, including the principality of Wales, in the manner, and according to the form, tenor, and effect in the said Act set forth, and which said Act was made perpetual by an Act passed in the third and fourth years of the reign of his majesty king Edward the sixth, intituled 'An Act for the Continuance of the Statute of Sewers,' and was amended and altered by an Act passed in the thirteenth year of the reign of her majesty queen Elizabeth, intituled 'An Act for the Commission of Sewers,' and was also amended by an Act passed in the third and fourth years of his late majesty king William the fourth, intituled 'An Act to amend the Laws relating to Sewers' and whereas by the last-recited Act certain payments and recompences to clerks and other persons employed by the court, and also to witnesses, and also certain costs,

3 & 4 Ed 6, c 8

13 Eliz c 9

3 & 4 W 4, c 22

BENGAL SECRETARIAT

charges, and expenses to be incurred in surveying, measuring, planning, and valuing any lands and hereditaments, or otherwise preparatory to or in or about the making, collecting, and expending certain taxes, rates and scots to be raised under or by virtue of the said recited Acts, or any or either of them, or the hearing of objections to such taxes, rates, or scots, or in or about the carrying on of any litigation or controversy arising out of the duties imposed on the courts of sewers by virtue of the said recited Acts, and for the payment of all other necessary allowances, charges, and expenses of putting the said several recited Acts into execution, and the contingent expenses of working the commission of sewers, are authorised and directed to be paid and allowed out of the said taxes, rates, and scots, but the powers in some cases are not found sufficient to make, assess, or levy any taxes, rates, or scots which could or might be applied to the several purposes aforesaid, or any of them; and it is expedient that sufficient power should be given to the courts of sewers for that purpose:" BE IT ENACTED, That it shall be lawful for any court of sewers, for all or any of the purposes aforesaid, but for no other purpose whatsoever, from time to time, as often as occasion shall require, to tax in the gross, in each parish, township, or place, such lands and hereditaments which heretofore have been or hereafter shall be within or partly within the jurisdiction of such court, but so that such lands and hereditaments shall contribute thereto in proportion to the benefit and advantage received, or capable to be received, from the said court, as compared with the lands and hereditaments of the other parishes, townships, or places within such jurisdiction, which said tax shall be denominated the general sewer tax, and shall be recovered and recoverable by distress and sale in like manner and by all such ways and means as any fine or amerciament imposed on a parish or township by a court of sewers is now by law recoverable; but no distress for such general sewers tax shall be replevied by any sheriff, under sheriff, judge, or court of law or equity whatsoever.

4 & 5 Vict. c. 45.

Courts of sewers empowered to raise money by tax (a).

2. That it shall and may be lawful for any court of sewers to direct and authorise any surveyor or other person to apportion such general tax among the occupiers of the lands and hereditaments in each such parish, township, or place which heretofore have been or hereafter shall be within or partly within the jurisdiction of such court of sewers, in such proportions and upon such individuals as of right ought to pay the same; and such tax, when so apportioned, shall be collected by some person as shall be appointed by the court for that purpose, and shall be by such person paid over to the treasurer of or other officer appointed by the commissioners of sewers at such time as the court of sewers shall direct: Provided that every occupier upon whom such general sewers rate shall be apportioned shall have notice in writing of such apportionment ten days at the least before the next court of sewers to be held within the limits in which the lands and hereditaments to be taxed shall be.

Courts of sewers may order the apportionment and collection of the tax.

3. That in case no complaint shall be made against such general or apportioned sewers tax at the court of sewers held next after the expiration of ten days after such notice of apportionment shall be made as aforesaid, such general sewers rate, and such apportionment thereof, shall respectively be final and conclusive on all parties whomsoever; but in case of any complaint of inequality or non-liability to pay the said general sewers rate, or such apportionment thereof respectively, the commissioners shall at such court or at some adjournment thereof, or at some subsequent court, proceed to investigate the same, by the examination of such witnesses as the parties interested therein shall produce, or by the examination of such other witnesses as to the said court shall seem right; and the decision of such court as regards such general sewers rate and such apportionment thereof respectively shall be final; and such apportioned rate shall be recoverable by distress and sale of the effects of the persons respectively rated, by warrant under the hands and seals of six of the commissioners of sewers, but no distress for such apportioned rate shall be replevied by any sheriff, under sheriff, judge, or court of law or equity whatever; nevertheless the court of sewers shall be empowered to direct any feigned issue, appeal, or action at law, to try any dispute which may arise as to the inequality, or non-liability of any persons to pay the said general sewers tax, or the said apportionment thereof, the person so objecting to the payment thereof having first given security to the said court for the payment of all costs and charges attendant thereon.

General sewers tax and apportionment to be final, if not complained against at the next court.

4. "And whereas certain payments, allowances, and expenses authorised by the said recited Act of his said late majesty king William the fourth may have been and may be made and incurred before any general sewers rate can be recovered:" BE IT THEREFORE ENACTED, That it shall and may be lawful for courts of sewers from time to time to borrow and take up at interest any sum or sums of money for the several purposes aforesaid, or any of them; and the repayment of such sum and sums of money, with interest, shall from time to time be secured to the parties or party lending the same, their, his, or her executors, administrators, and assigns, upon or by virtue of a decree or ordinance under the hands and seals of the commissioners of sewers, or any six of them, (which decree and ordinance the said court is hereby required to make,) charging the general sewers rates, or any of them, to be raised under and by virtue of this Act, with the payment of such sum and sums of money, with interest: Provided always, that it shall be provided, expressed, and declared in and by the said decree and ordinance that the sum or sums of money so borrowed and taken up as aforesaid shall be repaid within a time to be named in such decree or ordinance, not being a longer period than seven

Power to borrow and take up money at interest for general purposes.

Provision for repayment.

a) See ante, p. 189. n. (a).

4 & 5 Vict. c 45

years from the making thereof, by equal annual or shorter instalments, together with the interest on the sum or sums so borrowed or taken up, or on such part thereof as shall from time to time remain due and unpaid, and the said last mentioned decree or ordinance shall be and remain in full force and effect until such sum and sums of money, and all interest thereon, shall have been fully paid and satisfied, anything in the said recited Acts or this Act contained, or any custom or usage, to the contrary notwithstanding

Courts of sewers may grant securities to persons advancing money

5 And for facilitating the raising, securing, and paying off from time to time of the moneys which it may be necessary so to raise and borrow as aforesaid, BE IT ENACTED, That it shall and may be lawful for any court of sewers from time to time to grant securities, in the form of a certificate, under the hands and seals of six of the commissioners, to each person who shall so advance any sum of money as aforesaid, setting forth the amount of the sum borrowed, the rate of interest payable for the same, the periods at which the said principal money shall be decreed to be paid off by instalments, and the particular general sewers rate which is to be charged with the repayment thereof, and that every such security or certificate shall be made in the following words, or by any other words to the same purport and effect

Form of security

"By virtue of an Act passed in the year of the reign of her majesty queen Victoria, intituled [*here insert the title of this Act*] we, the undersigned, being six of the commissioners [*here insert the general description of the commission under which they act*], in consideration of the sum of of lawful money of Great Britain to [*here insert the name of the treasurer*] lent and paid by do hereby certify, that the several general sewers rates to be made and levied within [*here insert the name of the district or level*] under and by virtue of the said Act are become charged with the repayment of the said sum, in instalments of one part on the day of in every year, together with interest on such part of the said principal money as shall remain unpaid from time to time, at and after the rate of pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said is part of a capital sum of which, at a court of sewers holden at on the day of last, was decreed and ordered to be taken up and borrowed In witness whereof we have hereunto set our hands and seals the day of "

Securities may be transferred

6 That every person, body politic, corporate, collegiate, aggregate, or sole, who shall be entitled to the money thereby secured, and his, her, or their executors, administrators, and successors, may from time to time, personally, or by attorney thereunto lawfully authorised, assign or transfer his her, or their right, title, interest or benefit to the said principal and interest money thereby secured to any person whatsoever by endorsing on the back of such security, in the presence of one credible witness, who shall subscribe his name thereto, the following words, or words to the like effect

Form of transfer

"I [*or* We] A B of, &c, in consideration of the sum of to me this day paid by C D of &c, do hereby transfer the within certificate of charge, with all my right and title to the principal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto [his, her, *or* their] executors, administrators, successors, and assigns [*as the case may be*] Given under my hand and seal this day of .

"Witness,

Transfers to be produced to the clerk to commissioners and to be registered by him.

Which transfer shall be produced and notified to the clerk for the time being of the said commissioners, before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid, and every such clerk shall make an entry amongst the records of the said commissioners of the particulars of every such transfer, and endorse a minute of such entry upon the back of every such transfer, signed by such clerk, and for which entry and minute he shall be entitled to a fee of five shillings, and no more

Courts of sewers may recompense jurymen

7 That it shall be lawful for any court of sewers, by and out of the rates and scots raised and to be raised under or by virtue of any commission of sewers, to decree, order, appoint, allow, and pay to any juryman summoned to attend and attending any court of sewers, such allowance and recompence for his expenses and loss of time as to such court shall seem just

Courts of sewers may amend or quash rate on appeal.

8 That on all appeals from any rate made under the authority of any commission of sewers it shall be lawful for the court before which such appeal shall be made to amend such rate, either by inserting therein or striking out therefrom the name of any person, or by altering the sum therein charged on any person, or in any other manner which the said court shall think just, without quashing such rate Provided nevertheless, that if the court shall be of opinion that the rate should be quashed, then the said court may quash the same

Rated persons not incompetent witnesses.

9 That no person rated or liable to be rated to any tax, rate, or scot under or by virtue of any commission of sewers, or any commissioner of sewers, shall be deemed an incompetent witness before any court of sewers

How chairman shall be chosen

10 That if any difference shall arise upon the choice of a chairman at any court or meeting of commissioners of sewers, such chairman shall be chosen by the majority of commissioners present thereat, and in case there shall be an equal number of votes upon such choice, then such one of the persons proposed whose name shall stand first in the commission under which such court or meeting is holden shall be the chairman thereof,

and the chairman of every such court or meeting, in all cases of an equal number of votes upon any question or matter (including his own vote), shall have a casting or decisive vote

4 & 5 Vict c 45

11 That it shall be lawful for the commissioners acting under any commission of sewers to hold courts and meetings of commissioners of sewers at any place not being a greater distance than ten miles from any part of the limits or district within their jurisdiction under such commission

Commissioners of sewers to hold meetings

12 That in all cases when it hath happened or may hereafter happen that a sufficient number of commissioners of sewers to constitute a court or meeting shall not have met or shall not meet on the day appointed for holding any such court or meeting, and in all cases where any such court or meeting shall not have been or shall not be duly adjourned by the majority of commissioners present thereat, it shall be lawful for any one or more of the commissioners named in such commission, by some writing under his or their hands, to appoint a court or meeting of such commissioners to be holden at such time and place as he or they may think fit, of which court or meeting ten clear days notice shall be given by advertisement inserted in some newspaper circulated in the county into which such commission shall run, and when the same shall run into more than one county, then in some newspaper circulated in each of such counties, and that the majority of commissioners present at any court or meeting (notwithstanding the whole number present be less than six) may adjourn and are hereby authorised and empowered to adjourn the same respectively to any future day and to such place as to them may seem fit, and that the commissioners present at any court or meeting so appointed as aforesaid, or at any such adjourned court or meeting as aforesaid (the whole number present not being less than six), or the majority of them, shall and may exercise and perform all the powers, authorities, and duties vested in such commissioners under or by virtue of any commission of sewers

Regulating meetings of commissioners of sewers

13 That nothing in this Act contained shall prevent any court of sewers from exercising all or any of the powers and provisions usually heretofore exercised under or by virtue of the said recited Acts, or any or either of them, or the law of sewers of old time accustomed

Saving powers of courts of sewers

14 That all indemnities immunities, and liabilities given to or imposed upon commissioners of sewers and other persons in and by the said recited Act passed in the third and fourth years of his said late majesty king William the fourth shall be deemed and construed to extend to all persons acting in the execution of this Act

Indemnities &c of 3 & 4 W 4, c 22 extended to this Act

15 That nothing in this Act contained shall extend or be construed to extend to affect, alter, abridge, or interfere with any local or private Act of parliament for sewers concerning any county, city, town, district, lands, or limits, or any commission of sewers in the county of Middlesex, within the distance of ten miles from the royal exchange in the city of London, except such parts of the said county as may lie within any commission of sewers for the county of Essex, or to affect, alter, abridge, or interfere with any navigable river, canal, port, or harbour under the management or power of any commissioners, trustees, or proprietors by virtue of any local or private Act of parliament, or to affect, alter, abridge, or interfere with any charter, law, usage, or custom in or concerning Romney Marsh in Kent, or the great level of the fens called Bedford Level, or any lands, banks, waters, watercourses, sluices, bridges, drains, or works belonging to or under the jurisdiction, power, or control of the commissioners of the north level and Portsand, in the counties of Cambridge, Northampton, and Lincoln, or of the commissioners of the Nene outfall, in the counties of Cambridge, Lincoln, and Norfolk, or of their committees respectively

This Act not to prejudice any local Act

16 That nothing in this Act contained shall extend or be construed to extend to repeal or in anywise affect, alter, abridge, or interfere with the commissioners of sewers of the city of London and liberties thereof, or the rights, powers, or privileges of the mayor and commonalty and citizens of the city of London, in relation to the sewers, drains, vaults, and bridges within the said city or liberties, or any Act or Acts heretofore passed for making, amending defending, widening, altering, or cleansing the said sewers, drains, vaults, and bridges within the said city and liberties

Saving the rights of the city of London.

17 Provided always, That nothing in this Act contained shall prejudice, diminish, alter, limit, interfere with, take away, control or suspend, or be held or construed to prejudice, diminish, alter limit interfere with, take away, control or suspend, any of the rights, privileges, jurisdictions, powers, and authorities vested in or belonging to the commissioners of sewers for the city and liberty of Westminster and part of the county of Middlesex, but that all such rights, privileges, jurisdictions, powers, and authorities shall be as good, valid, and effectual as if this Act had not been passed

Guarding the powers of the commissioners of sewers for Westminster &c

18 Provided always, That nothing in this Act contained shall extend or be construed to extend to abridge, invalidate, lessen or diminish, alter or take away, any of the rights powers, privileges, and authorities vested in the governor, bailiffs, and commonality of the company of conservators of the great level of the fens called Bedford Level, or in the governor, bailiffs and conservators of the Bedford Level corporation, by virtue of an Act passed in the fifteenth year of the reign of king Charles the second, intituled "An Act for settling the Drainage of the Great Level of the Fens called Bedford Level or by any other Act, statute, or charter, law of sewers, or otherwise howsoever, but that all rights, powers, and authorities which are now vested in the said governor, bailiffs, and commonality or in the said governor, bailiffs, and conservators, and in every or any of them, shall for ever hereafter remain, continue, and be in the

Saving rights of Bedford Level corporation

4 & 5 Vict c. 45.

said governor, bailiffs, and commonalty, and in the said governor, bailiffs, and conservators, and every of them, as fully and amply to all intents and purposes as if this Act had not been passed.

12 & 13 Vict c 50

12 & 13 Vict. c. 50. An Act for further amending the Laws relating to Sewers. [28th July, 1849.]

"Whereas considerable inconvenience and expense are found to arise from the inefficient state of the laws relating to sewers, and it is expedient that the same should be amended, and that further provision should be made for the execution of the powers vested in commissioners of sewers: and whereas it is expedient that certain duties with respect to the superintendence, maintenance, and repairs of the sewers within the respective commissions of sewers in England should be discharged by the occupiers of sewable lands within each commission respectively, without fee or reward: and whereas it is also expedient that further provision should be made for the making and enforcing the due payment of sewers rates duly assessed:" BE IT THEREFORE ENACTED, That it shall be lawful for the commissioners acting in the execution of any commission of sewers in England, at a court specially to be holden for such purpose, and whereof notice shall be given in the manner prescribed by the ninth section of an Act passed in the third and fourth years of the reign of his late majesty king William the fourth, intituled "An Act to amend the Laws relating to Sewers," from time to time to partition the several districts within their respective commissions into such sub-districts as may appear to them most convenient for the purposes of this Act, and to fix and specify the boundaries of such subdivisions respectively, and also to unite any separate districts or sub-districts within their respective commissions into one or more districts, and also, from time to time as to them shall seem expedient, to re-arrange, adjust, and partition such districts and sub-districts respectively.

Power to commissioners of sewers to partition districts into sub-districts.

3 & 4 W. 4, c. 22.

Power to commissioners to make a separate rate for each district.

2. That it shall be lawful for the said commissioners, after every such partition, union, or re-arrangement of districts or sub-districts as aforesaid, from time to time, as to the said commissioners shall seem most expedient, to make a separate and distinct rate for each and every district or sub-district now existing or which shall be hereafter constituted under the provisions of this present rate, such rate, when collected, to be applied within each such district or sub-district to and for the several purposes to which the same may be lawfully applied under the authority of any of the Acts relating to sewers or of this Act.

Power to commissioners to appoint dyke-reeves for districts and sub-districts.

3. That it shall be lawful for the said commissioners from time to time to appoint one or more competent person or persons, being an occupier of sewable lands within their respective commissions, and qualified as hereinafter mentioned, to act as dyke-reeve within each of such sub-districts as aforesaid, and also within each of such districts as are now existing or shall be hereafter constituted under the provisions of this present Act or the hereinbefore mentioned Act, and which shall not be partitioned in manner aforesaid, and to assign and prescribe the duties and authorities of such dyke-reeve, and the time, not exceeding five years, during which he shall perform and exercise the same respectively.

Qualification of dyke-reeves

4. That every occupier of not less than ten acres of sewable lands, and being of full age and sound mind, shall be qualified and liable to be appointed a dyke-reeve for the district or sub-dictrict in which such lands shall be situate; and the said commissioners shall from time to time cause a full and true list to be prepared and kept of all the persons so qualified and liable to serve the office of dyke-reeve for the several districts and sub-districts within their respective commissions.

Dyke-reeves to serve without fee or reward

Penalty on dyke-reeves refusing to serve.

5. That it shall be compulsory upon every such person who shall be appointed by the commissioners to serve the office of dyke-reeve for any such district or sub-district as aforesaid, either personally or by a deputy (approved by the commissioners), to accept such office, and to perform and discharge the duties thereof, without fee or reward; and if any person who shall be appointed by the commissioners to serve the office of dyke-reeve shall, after due notice thereof in writing, refuse or neglect to take upon himself the office of dyke-reeve, or to provide a deputy to be approved as aforesaid, he shall on conviction before the said commissioners forfeit any sum not exceeding twenty pounds, unless he can show good and sufficient cause to the said commissioners why he should not be called upon to serve the said office: Provided always, That every deputy so approved of and appointed shall have the same powers and authorities, and be subject to the discharge of the same duty, as any dyke-reeve appointed under the authority of this Act.

Power to commissioners to impose fines not exceeding 40s.

6. That it shall be lawful for the said commissioners to impose any fine not exceeding forty shillings, upon the presentment on oath of any dyke-reeve acting within any such district or sub-district as aforesaid, for any breach of the law, acts, decrees, orders, constitutions, and ordinances of the commissioners within such district or sub-district in the same manner as they have now the power to impose any such fine upon the presentment of any sewers jury, bailiff, surveyor, expenditor, or other person, which presentment shall be heard and determined by the said commissioners, and to proceed for the recovery of every such fine, either in the manner specified in the hereinbefore mentioned Act, or in the manner specified in the section next hereinafter contained, as to

the said commissioners shall seem most expedient; and no such fine shall be liable to be traversed, any law or custom to the contrary notwithstanding. 12 & 13 Vict. c. 50.

7. That for the purpose of better collecting and recovering the fines, amerciaments, penalties, or forfeitures imposed by any commissioners of sewers, and also the sewers rates duly assessed on any sewable lands lying within the limits of any commission of sewers, it shall and may be lawful for any one commissioner acting within and for such limits, upon complaint of any expenditor, dyke-reeve, collector, or other officer of sewers, that any person liable to the payment of any such fine, amerciament, penalty, or forfeiture hath not paid the same, but hath refused so to do, or that any person duly rated and assessed in one or more such sewers rates hath not paid the sum or sums thereby charged on such person, but hath refused so to do, to issue his summons to such person to appear, at a time and place to be therein specified, before any two commissioners acting within and for such limits, to show cause why such person refuses to pay the said sum or sums; and upon the appearance of such person at the time and place appointed as aforesaid, or otherwise upon proof on oath or affirmation to the said commissioners that such summons was served on the person to whom it was so directed, by delivery to the party personally or by leaving the same with some person for him at his last place of abode, and also upon like proof of the imposition of such fine, amerciament, penalty, or forfeiture, or of the making of the said rate, and of the refusal of such person to pay the same respectively, it shall be lawful for the said two or other commissioners to issue their warrant to levy the said sum or sums, and also the costs and expenses incurred in obtaining such warrant (to be specified therein) and in executing the same, by distress and sale of the goods and chattels of such person; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and costs, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained: Provided always, That if no such distress or distresses as aforesaid can be found, the same rates or fines, costs, charges, and expenses, together with the costs and charges of raising and levying the same, shall and may be raised and levied upon and out of the lands, tenements, and hereditaments, within the limits of the commission under and by virtue of which the distress warrant shall be issued, of or belonging to the person, body politic or corporate, upon or against whom the distress warrant shall be issued, in such and the same manner as the same would have been leviable if the same lands, tenements, or hereditaments had been lawfully assessed in the amount or respective amounts of the same rates or fines, costs, charges, and expenses, to or for a lawful scot, rate, or assessment for the purposes of the same commission; and the same lands, tenements, and hereditaments shall be subject to all such and the same orders and decrees as the same would have been subject to, and such orders and decrees shall be of the same force and authority, as if the same rates or fines, costs, charges, and expenses, were a lawful scot, rate, or assessment as aforesaid and unpaid. For recovery of sewers rates and fines.

8. That for the saving of expense in the levying of any sum or sums as aforesaid it shall be lawful to make and issue one summons and one warrant of distress against any number of persons refusing to pay the same. One warrant for any number of ratepayers.

9. That the warrant aforesaid may be directed to the bailiff, expenditor, dyke-reeve, collector, or other sewers officer within such limits, and to any other person or persons, or to any one or more of them, as by the two commissioners of sewers granting the same shall be deemed fit. To whom warrants to be directed.

10. That for the purposes of this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there shall be something in the subject matter or context repugnant to such construction; (that is to say), words importing the singular number shall extend to the plural, and words importing the plural only shall include the singular; the word "person" shall extend to bodies politic, corporate, or collegiate; the word "lands" shall include lands and hereditaments of any tenure whatsoever; the word "oath" shall include affirmation in case of a quaker, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath; the expression "district" shall extend to any level, valley, district, or limit within the commission of any court of commissioners, and the expression "sub-district" to any partition or subdivision of any such level, valley, district, or limit. Interpretation of certain terms.

16 & 17 Vict. c. 125. An Act to continue and amend the Metropolitan Sewers Act (a). [20th August, 1853.] 16 & 17 Vict. c. 125.

"Whereas an Act was passed in the session holden in the eleventh and twelfth years of her majesty, to 'consolidate and continue in force for Two Years, and to the End of the then next Session of Parliament, the Metropolitan Commissions of Sewers,' and such Act has been amended by an Act passed in the session holden in the twelfth and thirteenth years of her majesty, chapter ninety-three, and has been further amended and has been continued by an Act passed in the session holden in the fourteenth and fifteenth years of her majesty, chapter seventy-five, and an Act of the last session, 11 & 12 Vict. c. 112. 12 & 13 Vict. c. 93. 14 & 15 Vict. c. 75. 15 & 16 Vict. c. 64.

(a) See post, p. 207, n. (a), and 18 & 19 Vict. c. 120, ss. 135-137, 145-148, ante, Vol. III., tit. "METROPOLITAN MANAGEMENT."

16 & 17 Vict. c. 125.

chapter sixty-four, and now stands continued until the 7th day of August, 1853: And whereas it is expedient to continue the said Acts for such period as herein-mentioned;" BE IT THEREFORE ENACTED, as follows:

Metropolitan Sewers Acts continued till 7th August, 1854.

1. The said first-mentioned Act as amended by the other Acts hereinbefore mentioned shall continue in force until the 7th day of August, 1854, in like manner as if the time so limited had been the time originally limited by the said firstly-mentioned Act for the continuance thereof.

Power to borrow.

2. "And whereas by the said first-recited Act it is enacted, that it shall be lawful for the commissioners, for the purpose of defraying any expenses incurred or to be incurred by them in the execution of the said Act, to borrow and take up at interest, on the credit of all or any of the rates authorised to be made or collected under the said Act, any sums of money necessary for defraying such expenses, and for the purpose of securing the repayment of any sums so borrowed, together with such interest as thereinbefore mentioned, the commissioners may mortgage and assign over to the persons by or on behalf of whom such sums shall be advanced, the respective rates upon the credit of which such sums shall be borrowed; and by the said secondly-recited Act the said commissioners may, for raising money for the purposes of the said Acts, grant annuities for lives or years, to be paid out of the said rates: And whereas the commissioners have, in pursuance of the powers vested in them by and under the said hereinbefore recited Acts, borrowed, on the security of the said rates, sums amounting in the whole to the sum of thirty-eight thousand eight hundred pounds, which sums have been appropriated for the purposes of the said Acts, and are still due and owing; and there is now due and owing by the said commissioners, in respect of certain securities made and entered into before the issuing of the first commission under the said first-recited Act, the sum of sixty thousand eight hundred and thirteen pounds one shilling and fourpence, making together the sum of ninety-nine thousand six hundred and thirteen pounds one shilling and fourpence: And whereas it is expedient that the amount of the money borrowed, raised, and taken up, and to be borrowed, raised, and taken up on the security of the rates by the said recited Acts and this Act authorised to be made, and of the money so due and owing in respect of the said securities, should be limited;" BE IT THEREFORE ENACTED, That the sum of three hundred thousand pounds (a), including therein the said sum of ninety-nine thousand six hundred and thirteen pounds one shilling and fourpence so due and owing by the said commissioners as aforesaid, shall be the limit and extent of the debt due and owing on the security of the said rates at any one and the same period of time: Provided always, that in case the whole or any part of the said debt shall at any time be called in or required to be paid off and discharged, it shall be lawful for the said commissioners from time to time to borrow and take up, on the security of the said rates, any sum or sums in lieu of so much of the said debt as shall have been so called in or required to be paid off and discharged; but so that, after payment or satisfaction of the money so called in or required to be paid off and discharged, the said limit of three hundred thousand pounds shall not be exceeded; and in estimating the amount of money at any time due and owing upon the security of the said rates, the amount due in respect of every annuity granted by the said commissioners, and then subsisting, shall be reckoned at the just value of such annuity, according to the number of years then remaining unexpired of the term for which, or (as the case may be) the increased age of the person upon whose life the same shall have been granted.

Persons lending money.

3. No person lending money to the commissioners shall be bound to see or obliged to inquire whether the money so lent is required for the purposes of the said recited Acts or this Act, nor to see to the application of the money so lent, but the order of the commissioners for borrowing such money, and the entry upon the register of the mortgage or annuity which shall or may have been granted for securing the payment thereof, shall be binding and conclusive upon all parties.

Securities to continue valid.

4. Notwithstanding any Act shall not pass for the renewal or continuance of the said Acts and this Act, or in case a commission or commissions of sewers for the limits aforesaid shall not be issued, all mortgages and annuities which shall or may have been granted under the authority of the said Acts or this Act, and which shall for the time being be existing and unredeemed, shall be and continue valid and in full force, and shall be and continue charged on the districts upon which the same were originally charged; and the justices of the peace for the several counties of Middlesex, Surrey, Kent, and Essex, in quarter sessions assembled, shall, as to the parts within the limits of the commission or commissions aforesaid subject to their respective jurisdictions, make, collect, demand, and levy, and exercise all and every the powers and authorities for and with reference to the making, demanding, collecting, and levying all and every such rate and rates, for the payment of the principal money borrowed under the authority of the said Acts and this Act, and interest thereof, and the borrowing of money to pay off mortgages and annuities, as the said commissioners might or could do or have done in case such commission were then in existence and the said recited Acts had been renewed or continued.

Saving as to certain provisions of 12 & 13 Vict. c. 93.

5. Provided always, That this Act shall not be taken to abridge the continuance of so much of the said Act of the twelfth and thirteenth years of her majesty as will not expire on or before the said 7th day of August, 1853.

(a) £600,000—17 & 18 Vict. c. 111, s. 3.

17 & 18 Vict. c. 111. An Act to continue and amend the Metropolitan Sewers Acts (a). [11th August, 1854.] 17 & 18 Vict. c. 111.

18 Vict. c. 30. An Act to empower the Commissioners of Sewers to expend on House Drainage a certain Sum out of the Monies borrowed by them on the Security of the Rates, and also to give to the said Commissioners certain other Powers for the same Purpose. [15th June, 1855.] 18 Vict. c. 30

"Whereas it is of urgent importance to the health of the metropolis that powers of house cleansing, drainage and improvement should be forthwith actively exercised by the metropolitan commissioners of sewers, for the purpose of executing in houses which may appear exposed to the ravages of zymotic diseases such palliative and preventive works, either temporary or permanent, as the time admits of, to obviate the outbreak and spread of such epidemic disorders:" BE IT THEREFORE ENACTED as follows:—

1. That the metropolitan commissioners of sewers be and they are hereby empowered to carry on forthwith such works as aforesaid, and they are hereby authorised to employ on such works a sum not exceeding twenty-five thousand pounds out of the monies in their hands borrowed on the security of the rates, charging the cost of such works in each case upon the owner or occupier, as hereinafter provided. Power to metropolitan commissioners of sewers to carry on certain works at expense of owners, &c.

2. To facilitate the execution of such works in cases where it shall appear to the commissioners, on the presentment of one of their engineers, that it is requisite or proper to execute such works or any of them in several messuages, tenements or premises situate in the same road, street or place, or in contiguous or neighbouring streets, roads or places, as combined works, or works of improvement common to several messuages, tenements or premises, and for that pupose to construct, perform or execute any sewers, drains, water-closets, apparatus or other works of improvement, whether temporary or permanent, simultaneously or in combination or conjunction, and that such works can be executed for such a sum as the commissioners shall deem reasonable and proper in that behalf, it shall be lawful in all such cases for the commissioners to give notice to the owners or occupiers of such messuages, tenements and premises of their intention to execute such works, and to charge them or some of them with the expenses thereof; and the commissioners shall appoint a time and place for receiving objections in writing, which any party interested in such messuages, tenements or premises, or any of them, may desire to offer, and at the appointed time and place the commissioners shall receive and consider such objections, if any, and may execute, abandon or alter such intended works, and if they shall execute such works shall ascertain the expenses incurred thereby, and shall divide such expenses among the owners or occupiers of such premises respectively, in such proportions as they may deem equitable and reasonable; and the amount imposed upon any such owner or occupier shall be paid by an improvement rate upon such premises, or as charges for default, as the commissioners shall in that behalf direct and decree. Commissioners may simultaneously execute works of improvement common to several messuages, and divide the expense among the owners or occupiers.

3. This Act shall be deemed to be incorporated with "The Metropolitan Sewers Act, 1848," and shall be construed and taken as if this Act and "The Metropolitan Sewers Act, 1848," were one Act. This Act and 11 & 12 Vict. c. 112, to be construed as one

SHEEP (DISEASE IN, PREVENTION).

[See "MARKETS," ante, Vol. III.]

SHERIFF (b).

3 Edw. 1, c. 26. None of the King's Officers shall commit Extortion. [A.D. 1275.] 3 Ed. 1, c. 26.

"And that no sheriff nor other the king's officers take any reward to do his office, but

---

(a) The powers, &c. of the Metropolitan Commissioners of Sewers are terminated by 18 & 19 Vict. c. 120, s. 145, ante, Vol. III., tit. "METROPOLITAN MANAGEMENT."

And the metropolitan sewers are now vested in the metropolitan board, and district boards and vestries, constituted by that Act (*Ib.*).

(b) See in general Bac. Abr., Fees; Com. Dig.

3 Edw 1, c. 26. shall be paid of that which they take of the king; and he that so doth, shall yield twice as much, and shall be punished at the king's pleasure."

1 Rich 2, c. 12 **1 Rich. 2, c. 12. A Prisoner by Judgment shall not be let at large. Confession of a Debt to the King to delay another's Execution (a).** [A.D. 1377.]

"Item, whereas divers people, at the suit of the party commanded to the prison of the fleet, by judgment given in courts of our lord the king, be oftentimes suffered to go

---

Officer, and tit. Viscount; Watson on Sheriff; Chit. Arch. Pr.; Impey on Sheriff; ante, tit. "ARREST," "INTERPLEADER," "PLEADING AND PRACTICE (AT LAW)."

(a) If a person taken in execution be at large for ever so short a time, as well before as after the return of the writ, it is an escape, for which the sheriff is liable. But first there must be an arrest; that is, there must be an actual seizure or touch with an intention to arrest, and bare words are not sufficient (*Genner* v. *Sparks*, 1 Salk. 79; *Horner* v. *Battyn*, B. N. P. 62; *George* v. *Radford*, 3 Car. & P. 464; *Nicholl* v. *Darley*, 2 Y. & J. 399); or the defendant must be under some restraint of the officer, as where he is in a room with the officer, who locks the door, telling him that he arrests him (*Williams* v. *Jones*, Rep. temp. Hard. 301; *Arrowsmith* v. *Le Mesurier*, 2 N. R. 211), or where the officer puts his hand through an aperture in a broken pane of glass, and touches the debtor, saying to him, "You are my prisoner" (*Sandon* v. *Jervis*, 28 L. J., Exch. 156, Exch. Cham.; see *Moore* v. *Moore*, 25 Beav. 8, L. J. Chanc. 385); or there must be a submission to the authority of the officer, he being in a position to arrest (*Horner* v. *Battyn*, B. N. P. 62). And if, a defendant being in custody of the sheriff, other writs are delivered to him, or the sheriff arrests under one writ, several being in his possession at that time (*Barratt* v. *Price*, 9 Bing. 570; *Collins* v. *Yewens*, 10 Ad. & E. 570; *Ford* v. *Leche*, 6 Ad. & E. 707), the defendant is in custody under all (*Frost's case*, 5 Rep. 89), though at the time of the lodging the detainer, he was ordered to be discharged from the writ by which he was arrested (*Ex parte Cogys*, 6 Dowl. 461; *Barruck* v. *Newton*, 1 Q. B. 525): but if the arrest be made on a void writ (*Burlow* v. *Hall*, 2 Anst. 461; *Birch* v. *Prodger*, 1 N. R. 135; *Hall* v. *Hawkins*, 4 M. & W. 590; *Hooper* v. *Lane*, 10 Q. B. 546), or by the trickery of the plaintiff, his attorney, or the sheriff (*Barratt* v. *Price*, 9 Bing. 566; *Goodwin* v. *Lordon*, 1 Ad. & E. 378), or the officer (*Collins* v. *Yewens*, 10 Ad. & E. 570), the defendant is suffering a false imprisonment, and such false imprisonment, being no arrest in the original action, cannot operate as an arrest under the other writs lodged with the sheriff (*Barratt* v. *Price*, 9 Bing. 570; *Hooper* v. *Lane*, 6 H. L. C. 443, 27 L. J. Q. B. 75). But if in such case a bailiff having a warrant arrests the defendant already illegally in custody, without collusion with those who so have him in custody, such arrest is legal, inasmuch as the defendant is not by such illegal custody privileged from arrest (*Collins* v. *Yewens*, 10 Ad. & E. 570; *Howson* v. *Walker*, 2 Bl. 823; see *Hooper* v. *Lane*, supra). Where a plaintiff having issued a ca. sa. on a judgment against the defendant, directed the sheriff not to execute the writ until further notice, the defendant having been arrested at the suit of another creditor and paid the debt, was detained by the sheriff's officer until instructions were obtained from the plaintiff, who thereupon directed the officer to let him go: it was held, that there was no lawful arrest or discharge under the plaintiff's writ, and consequently that the debt was not satisfied (*Semple* v. *Keen*, 3 H. & N. 753, 28 L. J. Exch. 151).

Allowing a prisoner legally in custody (*Contant* v. *Chapman*, 2 Q. B. 771), to go about his affairs, though in the custody of the sheriff's officer (*Benton* v. *Sutton*, 1 Bos. & P. 24), is an escape; as where the defendant was taken from the county gaol in custody of the gaoler to another place in the same county in order to give evidence before a revising barrister, and was returned into gaol on the same evening, this was holden to be an escape (*Williams* v. *Mostyn*, 4 M. & W. 145; *Nias* v. *Davis*, 4 C. B. 444). And though the defendant pay the sheriff the amount of the debt and costs, he will be liable if he discharge the defendant (*Slackford* v. *Austen*, 14 East, 468; *Woods* v. *Finnis*, 7 Exch. 363; *Stringar* v. *Stanlack*, Cro. Eliz. 404), unless the amount be paid to the plaintiff or his attorney on the record (*Savory* v. *Chapman*, 11 Ad. & E. 829; *Woods* v. *Finnis*, supra). The authority of the attorney for the release of the defendant would not of itself authorise his discharge (*Savory* v. *Chapman*, *Connop* v. *Challis*, infra; but see 15 & 16 Vict. c. 76, s. 126, ante, Vol. III., tit. "PLEADING, PRACTICE, &c. (AT LAW)." If the escape be by the fraud or contrivance of the plaintiff or person really interested the sheriff will not be liable (*Hiscocks* v. *Jones*, M. & Malk. 269; *Merry* v. *Chapman*, 10 Ad. & E. 516).

If the sheriff discharge a defendant by order of a court not having jurisdiction, this will be an escape (Roll. Abr., Escape, D. 8; *Colston* v. *Ross*, Cro. Eliz. 893; *Brown* v. *Compton*, 8 T. R.

at large by the warden of the prison, sometimes by mainprize or by bail, and sometimes without any mainprize with a baston (*a*) of the fleet, and to go from thence into the country about their merchandises and other their business, and be there long out of prison nights and days, without their assent at whose suit they be judged, and without their gree thereof made, whereby a man cannot come to his right, and recovery against such prisoners, to the great mischief and undoing of many people:" 'IT IS ORDAINED AND ASSENTED, That from henceforth no warden of the fleet (*b*) shall suffer any prisoner there being by judgment at the suit of the party, to go out of prison by mainprize, bail, nor by baston (*a*), without making gree to the said parties of that whereof they were judged, unless it be by writ or other commandment of the king, upon pain to lose his office, and the keeping of the said prison. And moreover, if any such warden from henceforth be attainted by due process, that he hath suffered or let such prisoner to go at large against this ordinance, then the plaintiffs shall have their recovery against the same warden by writ of debt (*c*). And also it is ordained, That if any at the suit of the party judged to another prison for debt, trespass, or other quarrel, will confess himself voluntarily, and by a feigned cause, debtor to the king, and by that means to be judged to the said prison of the fleet, there to have greater sweet of prison than elsewhere, and so to delay the party of his recovery; the same recognisance shall be there received, and if he be not debtor to the king of record, his body shall incontinently be remanded to the prison where he was before, there to remain till he hath made gree to the said party, and the same gree made, he shall be immediately sent again to the fleet, there to abide, till he hath made gree to the king of his recognisance aforesaid.'

1 Rich. 2, c. 12.

The penalty of the warden of the fleet, if he suffer a prisoner being there by judgment to go at large.

The penalty of him who confesseth a debt due to the king to delay another's execution.

28 [Vulgo 29] (*d*) Eliz. c. 4. An Act to prevent Extortion in

28 Eliz. c. 4.

424; *Anon.*, 1 Salk. 273); but the sheriff would be justified in obeying an order of a court of competent jurisdiction, if good on its face (*Saffery* v. *Jones*, 2 B. & Ad. 598; *Marsh* v. *Woolley*, 1 Dowl. & L. 84; *Spence* v. *Jones*, 5 B. & Ald. 705; *Thomas* v. *Hudson*, 14 M. & W. 353). The sheriff is liable for an escape, though the judgment on which the *ca. sa.* issued or the *ca. sa.* itself be erroneous (*Gold* v. *Strode*, Carth. 148; 3 Mod. 324; see *Dr. Drury's case*, 8 Rep. 281; *Burton* v. *Eyre*, Cro. Jac. 288; *Weaver* v. *Clifford*, *Ib.* 3; *Shirley* v. *Wright*, 2 Ld. Raym. 775; *Lane* v. *Chapman*, 11 Ad. & E. 966); but if the process be *void* (*Nector* v. *Gennett*, Cro. Eliz. 466; *Marshalsea case*, 10 Rep. 76 a), as if the court out of which the execution issued had no jurisdiction over the cause (*Carrat* v. *Morley*, 1 Q. B. 18; *Shirley* v. *Wright*, 2 Salk. 700; *Parsons* v. *Loyd*, 3 Wils. 345), he will not be liable for an escape in discharging a prisoner arrested under such process.

Where a party was taken in execution on a *ca. sa.*, and the creditor's attorney, *bonâ fide*, but without his authority, entered into an arrangement with the debtor for his release, upon his paying a portion of the debt, and giving a warrant of attorney for the residue, and the sheriff, in obedience to an order from the attorney, discharged him: it was held, in an action against the sheriff, that he was liable for the escape (*Connop* v. *Challis*, 2 Exch. 484; see now 15 & 16 Vict. c. 76, s. 126, ante, Vol. III. tit. "PLEADING, PRACTICE, &c. (AT LAW)."

If the plaintiff appoints a special bailiff to make the arrest, and the defendant escapes from his custody, the sheriff will not be liable (*Pascoe* v. *Vivian*, 1 Dowl. N. S. 939; *Alderson* v. *Davenport*, 13 M. & W. 42; *Brown* v. *Copley*, 7 M. & Gr. 558; *Rotten* v. *Tomlinson*, 16 L. J. C. P. 138; *Ford* v. *Leche*, 6 Ad. & E. 699).

In an action against a sheriff for an escape on final process, the measure of damages is the value of the custody of the debtor at the moment of the escape, and no deduction ought to be made on account of anything which the plaintiff might have obtained by diligence after the escape (*Arden* v. *Goodacre*, 2 L. M. & P. 383; see *Hemming* v. *Hale*, 7 C. B. N. S. 487, 29 L. J. C. P. 137).

As to the plaintiff's remedy by action against the sheriff for an escape, see 5 & 6 Vict. c. 98, post, p. 234.

(*a*) This means in company of a bailiff or tipstaff (Jac. L. Dict., Baston).

(*b*) It is said, in *Jones* v. *Pope*, 1 Saund. 38, that though the statute names only the warden of the Fleet, it extends to all other gaolers and sheriffs.

(*c*) It seems to have been considered that this Act, and 13 Ed. 1, c. 11, gave the action of debt for an escape out of execution in general against all sheriffs and the marshal of the queen's bench, and was not confined to the escape of an accountant, or from the custody of the warden (2 Inst. 382; *Whitacres* v. *Onsley*, Dyer, 322, b; 1 Saund. 218, n. 5). However, the action of debt in such cases is now abolished by 5 & 6 Vict. c. 98, s. 31, post, p. 234.

(*d*) This statute, which is not repealed by 1 Vict. c. 55 (*Pilkington* v. *Cooke*, 16 M. & W. 615; *Wrightup* v. *Greenacre*, 10 Q. B. 1), is sometimes misdescribed as passed in a parliament of the 29 Eliz.; whereas, by relation to the first day of the sessions, it was passed in a session commencing in the 28 Eliz. (*King* v. *Marsack*, 6 T. R. 771, n. (*a*); *Brockwell* v. *Lock*, 1 Salk. 331). A mis-statement in a declaration in this respect seems to be ground for arresting

28 Eliz c. 4

Sheriffs, Under-Sheriffs, and Bailiffs of Franchises or Liberties, in Cases of Execution (a) [A D 1586]

How much the sheriff may take for the serving an execution

That it shall not be lawful, from the 1st day of May now next ensuing, to or for any sheriff, under sheriff, bailiff of franchises or liberties (b), nor for any of them or either of their officers ministers, servants, bailiffs or deputies, nor for any of them, by reason or colour of their or either of their office or offices, to have, receive, or take of any person or persons whatsoever, directly or indirectly, for the serving and executing of any extent or execution upon the body (c), lands (d), goods or (e) chattels of any person or persons whatsoever, more or other consideration or recompence than in this present Act is and shall be limited and appointed, which shall be lawful to be had, received and taken, that is to say, twelve pence of and for every twenty shillings, where the sum exceedeth not one hundred pounds, and sixpence of and for every twenty shillings, being over and above the said sum of one hundred pounds (f), that he or they shall so levy or extend, and deliver in execution, or take the body in execution for, by virtue and force of any such extent or execution whatsoever *, upon pain and penalty that all and every sheriff, under sheriff, bailiff of franchises and liberties, their and every of their ministers, servants, officers, bailiffs or deputies (g), which at any time after the said 1st

---

judgment (*Rumsey* v *Trefnell*, 2 Bing 255, *Savage* v *Smith*, 2 W Bla 1101, *Rex* v *Biers*, 1 Ad & E 327, but see *Holmes* v *Sparks*, 21 L J C P 194) Where a statute is passed in a session of parliament which commenced in one year of a reign, but is continued into another, it is incorrect to describe the statute as passed in both years, but it may be described as passed in a session of parliament holden in both years (*Gibbs* v *Pike*, 8 M & W 223, see 13 Vict. c. 21, post, tit "STATUTES")

(a) As to this Act in general, see Bac Ab, Fees, B Watson on Sheriff, 2nd ed 101 This statute does not apply to writs of attachment (*Rex* v *Palmer*, 2 East, 411, *Rex* v *Devon*, 3 Dowl 10), or, it seems, to writs of *capias utlagatum* (*Graham* v *Grill*, 2 M & Sel 294), or *habere facias possessionem*, or *seisinam* (*Peacock* v *Harris*, 1 Salk 331), or *elegits* (Watson on Sheriff, 101, citing *Nash* v *Allen*, 4 Q B 784, *Fleetwood's case*, 8 Rep 171, *Carter* v *Hughes*, 2 H & N 714, 27 L J Exch 225, *per* Martin, B), or *levari facias* for a crown debt (*Stephens* v *Rothwell*, 3 Bro & B 143), or to where money is taken on a bailable process and paid into court by the sheriff, under 43 Geo 3, c 46, s. 2 (ante, Vol I p 100, tit "ARREST), or 7 & 8 Geo 4, c. 71 (ante, Vol I p 102, tit "ARREST), (*Stewart* v *Bracebridge*, 2 B & Ald 770, *Haines* v *Nairn* 2 Dowl 43), or to an execution upon a judgment of *non pros* (*Anon*, 2 Chit R 353) The crown is not bound by this Act (*Lake* v *Turner*, 4 Burr 1981)

(b) Where a writ is executed within a liberty, the bailiff of that liberty is entitled to the fees (*Brockwell* v *Lock*, 1 Salk 331)

(c) See now 5 & 6 Vict c 98, s 31, post, p. 234

(d) See 3 Geo 1, c 15, post, and *Nash* v *Allen*, 4 Q B 784

(e) See *King* v *Marsack*, 6 T R 771

(f) The sheriff was entitled under this statute to one shilling in the pound on the first one hundred pounds, and sixpence in the pound for every pound above one hundred pounds (*Lyster* v *Bromley*, Cro Car 286) But in order to entitle him to poundage under this statute, there must have been a levy, and if the money was paid without that levy he was not entitled (*Graham* v *Grill*, 2 M. & Sel 294), therefore, if a defendant tendered to the sheriff the amount and expenses, without poundage, he could not proceed to levy (*Colls* v *Coates*, 11 Ad & E 826, *Brun* v *Hutchins*, 2 Dowl & L. 43) Poundage was payable only on the sum received (*Rex* v *Robinson*, 2 C M & R. 334), and he was not entitled if there was no sale (*Miles* v *Harris*, 12 C B N S 550, 31 L. J C P 361) He was, though the execution was irregular and the money levied ordered to be returned (*Earle* v *Plummer*, 1 Salk 332, *Bullen* v *Ansley*, 6 Esp 111, *Rawstorne* v *Wilkinson*, 4 M & Sel 256) He might levy the poundage expenses, though not indorsed (*Curtis* v *Mayne*, 2 Dowl N S 37) But see now 5 & 6 Vict. c 98, s 31, post, p 234)

As to the sheriff's remedy for his fees, and against whom he is to proceed, see Watson on Sheriff, 2nd ed 114, and *Maybery* v *Mansfield*, 9 Q B 754, *Newton* v *Chambers*, 1 Dowl & L 689, *Walbank* v *Quarterman*, 3 C B 94, *Maule* v *Mann*, 2 Exch 608, *Seal* v *Hudson*, 4 Dowl & L. 760

(g) The sheriff is liable to an action for the extortion of his bailiff, though not to an indictment (Watson on Sheriff, 2nd ed. 115, *Woodgate* v *Knatchbull*, 2 Tr 148, *Woods* v *Finnis*, 7 Exch 363) But in order to charge the sheriff, it is not sufficient to produce a copy of the precept with the bailiff's name indorsed upon it, although the sheriff has returned *cepi corpus*, the plaintiff in such case must either produce the warrant, or prove some recognition of the act of the bailiff by the sheriff (*Martin* v *Bell*, 1 Stark 413) It is not, however, essential in such case to produce the warrant, the privity between the sheriff and the bailiff may be proved by showing that upon the arrest a bail bond was executed and delivered

day of May now next ensuing shall directly or indirectly do the contrary (*a*), shall lose and forfeit to the party grieved his treble damages (*b*), and shall forfeit the sum of forty pounds (*c*) of good and lawful English money for every time that he, they, or any of them shall do the contrary; the one moiety thereof to be to our sovereign lady the queen, her heirs and successors, and the other moiety thereof to the party or parties that will sue for the same, by any plaint, action, suit, bill or information, wherein no essoin, wager of law or protection shall be allowed.

28 Eliz. c. 4.

The forfeiture of the offenders, and how it shall be recovered.

---

to the bailiff, who returned it to the sheriff, upon which the latter made his return of *cepi corpus* (*Ib.*; *Drake* v. *Sykes*, 7 T. R. 113). So, the fact of the bailiff's name appearing on the writ is some evidence of connection for the jury, it being the course in the sheriff's office to indorse upon the writ the name of the bailiff by whom it is to be executed (*Bowden* v. *Waithman*, 5 B. Moore, 183; *Tealby* v. *Gascoigne*, 2 Stark. 202; *Scott* v. *Marshall*, 2 C. & J. 238): so is an order from the sheriff's office to the bailiff to make the return to the writ, and his answer (*Jones* v. *Wood*, 3 Camp. 229).

Where more than the sum allowed was taken by an officer of the sheriff, who kept a lock-up house, but who was not the officer to whom the warrant was directed, but to whose house the defendant was brought after the arrest, it was held that no action would lie against the sheriff (*George* v. *Perring*, 4 Esp. 63).

(*a*) Where the sheriff retained, out of the proceeds of a sale under an execution, the expenses occasioned by keeping possession of the goods under an injunction out of Chancery, it was held that this being an indirect way of taking more than the poundage allowed by this statute, he thereby incurred the penalty of this statute (*Buckle* v. *Bewes*, 3 B. & C. 688; 5 D. & R. 495).

(*b*) Before the 5 & 6 Vict. c. 97, s. 2, which see (ante, Vol. I. p. 1107, tit. "COSTS"), the plaintiff was also entitled to treble costs (*Deacon* v. *Morris*, 2 B. & Ald. 393; 1 Chit. 137).

The damages are not to be calculated in the manner treble costs are: viz., 1st, the common costs; 2ndly, half of those; and thirdly, half the latter (see Tidd, 9th ed. 987), but are to be actually trebled; and therefore, where the jury, in an action for a forcible entry, gave twenty pounds damages, the court awarded forty pounds more (Bro. Ab., Dam. pl. 70; *Buckle* v. *Bewes*, 4 B. & C. 154; 6 D. & R. 1; 1 Chit. 137, 141). The jury who try an action where treble damages are recoverable, may assess the treble damages. However, in general, if they omit to do so, the court may award the treble damages, or a writ of inquiry may be awarded for the assessing of them (*Ib.*; Sayer on Damages, 244).

If it appear by the sheriff's return of a writ of execution that greater fees have been taken for the levy than are allowed, the sheriff is liable to an action on the statute for treble damages at the suit of the party grieved (*Woodgate* v. *Knatchbull*, 2 T. R. 148). Under this statute the sheriff cannot take any other charge but for poundage (*Ib.*).

(*c*) See further as to the remedy against sheriffs, &c., 1 Vict. c. 55, s. 3, post, p. 232.

Debt lies for the penalty of forty pounds, in which case, if the original judgment be unnecessarily set out and materially varies, it is fatal (*Savage* v. *Smith*, 2 W. Bla. 1101; *King* v. *Marsack*, supra). So, case lies (see a form, 8 Went. 451; 2 Ch. Pl., 7th ed. 352; *Berton* v. *Lawrence*, infra; *Wrightup* v. *Greenacre*, 10 Q. B. 1; *Usher* v. *Walters*, 4 Q. B. 553; *King* v. *Marsack*, 6 T. R. 771; *Woodgate* v. *Knatchbull*, 2 T R. 148). In debt on the statute against the sheriff, for extortion on executing several writs of *fi. fa.*, it is not sufficient to allege that the defendant took for the said executions a certain sum, being a larger recompense than is by the statute limited, that is to say, £—— more; but the declaration should state what he ought to have taken, and what was the excess on each writ (*Berton* v. *Lawrence*, 5 Exch. 816; see *Ashby* v. *Harris*, 2 M. & W. 673).

An action for money had and received may be maintained against the sheriff, to recover the surplus of excessive fees taken (*Longdill* v. *Jones*, 1 Stark. 345). So it may also, if the sheriff's officer takes money *colore officii* for anything done in the course of his duty, and to which he is not entitled by law, though there is no evidence that the money came into the sheriff's hands (*Jones* v. *Perchard*, 2 Esp. 507; *Blake* v. *Newburn*, 5 Dowl. & L. 601; see *Woods* v. *Finnis*, 7 Exch. 363; *Stevens* v. *Rothwell*, 3 Bro. & B. 143). In that case, Dallas, C. J., observed, that "generally speaking, extortion is the taking by colour of office more than the officer is entitled to, or the party bound to pay; in other words, taking more than ought to be charged for the performance of the official duty." "The statute of Eliz., on which this action is framed, applies only to cases between party and party. Before and after that statute passed, orders were issued from the Exchequer, from time to time, which regulated what the sheriff should be permitted to claim, clearly showing that he was not entitled to claim anything under the statute of Eliz.; for if he had been so entitled, there would have been no necessity for issuing the orders in question. Then came the statute of 3 Geo. 1, which is applicable to cases where the debt is due to the crown, and gives the sheriff poundage in those cases in which he was not before entitled to, or at least very doubtfully" (*Ib.*).

28 Eliz c 4.

Fees for executions within cities or towns corporate

2 Provided always, That this Act or any thing therein contained shall not extend to any fees to be taken or had for any execution within any city or town corporate (a), any thing above mentioned to the contrary thereof notwithstanding

8 & 9 W 3, c 27

8 & 9 Will 3, c 27 An Act for the more effectual Relief of Creditors in Cases of Escapes, and for preventing Abuses in Prisons and pretended privileged Places [A D 1696-7]

Upon judgment in action of escape marshal or warden s fees to be sequestered

2 That from and after the said 1st day of May, every person or persons obtaining judgment in any action of escape against the said marshal or warden, or their respective lawful deputy or deputies, shall and may have, not only the several remedies already by law allowed for obtaining satisfaction thereon, but the judges of the respective courts where such judgment shall be obtained (upon oath before them made by the person or persons obtaining such judgment, that the same was obtained without fraud or covin, and that the debt of the prisoner making such escape was a true and real debt and unsatisfied) shall, upon motion made to them in open court for that purpose, sequester the fees and profits of the office of marshal or warden, or so much, or such part or proportion thereof, as the said court wherein such motion shall be made shall think fit and reasonable, with respect to the debt or debts due from such prisoner or prisoners so escaping, and in the first place apply the same towards satisfaction of the debt or debts due from the prisoner or prisoners who escaped, together with all costs and damages recovered in such action of escape

Marshal &c suing a writ of error to reverse judgment, to put in special bail

3 And to the end that such satisfaction may not be deferred by any writ of error brought for delay only, BE IT ENACTED, That if the said marshal or warden, or their respective deputy or deputies, shall at any time after the said 1st day of May sue forth any writ or writs of error to reverse any judgment given in any action of escape, such marshal or warden, or their respective deputy or deputies, shall be obliged to put in special bail, or in default thereof no execution shall be stayed, nor any sequestration of the profits delayed

Penalty 500l and loss of office in the marshal or other gaoler taking any reward to connive at prisoner s escape

4 "And whereas it is notorious that divers great sums of money and other rewards have been given to, and actually received by, the several persons executing the respective offices of marshal and warden and other keepers of the several prisons within this kingdom, to assist or permit prisoners in their custody to escape, in open defiance and contempt of the laws of this realm ' for preventing the like evil practice for the time to come, BE IT FURTHER ENACTED, That if any marshal or warden, or their respective deputy or deputies, or any keeper of any other prison within this kingdom, shall take any sum of money, reward, or gratuity whatsoever, or security for the same, to procure, assist, connive at, or permit any such escape, and shall be thereof lawfully convicted, the said marshal or warden, or their respective deputy or deputies, or such other keeper of any prisons as aforesaid, shall for every such offence forfeit the sum of five hundred pounds and his said office, and be for ever after incapable of executing any such office

5 [This Act not to void securities given for lodging within the rules of the said prisons]

No retaking on fresh pursuit to be given in evidence on action of escape, unless specially pleaded &c

6 That from and after the said 1st day of May, no retaking on fresh pursuit shall be given in evidence on the trial of any issue in any action of escape against the said marshal or warden, or their respective deputy or deputies, or against any other keeper or keepers of any other prison or prisons as aforesaid, unless the same be specially pleaded, nor shall any special plea be taken, received, or allowed, unless oath be first made in writing by the marshal or warden, or their respective deputy or deputies, or by such other keeper or keepers of any other prison or prisons as aforesaid, against whom such action shall be brought, and filed in the proper office of the respective courts (b),

---

(a) That is, [illegible] executions on judgments obtained in the courts of cities or towns corporate It would seem that this section does not apply to sheriffs of cities or corporations executing judgments of the superior courts (*Lyster* v *Bromley*, Cro Car 286 Watson on Sheriff, 2nd ed 101, *Brockwell* v *Lock*, 1 Salk 331)

(b) By 5 & 6 Vict c 22, s 8, the Queen's Bench, Fleet, and Marshalsea Prisons were consolidated under the name of the Queen's Prison, and sect 7 enacts, that where, by any Act now in force, anything is provided to be done with respect to the Fleet or Marshalsea Prison, or the prisoners therein, or the warden or keeper of either of the said prisons, the said Act, unless so far as any such provision is repealed or altered by this Act, shall continue in force, and shall be taken to apply to the Queen s Prison and to the prisoners therein, and to the marshal or keeper of the Queen's Prison respectively (see ante, Vol III tit "PRISONS").

It is now necessary, as well in a plea of recaption as of a voluntary return, to allege that such recaption or return was before action brought (*Stonehouse* v *Mullins* 2 Strn 873), and that the prisoner was detained in custody thence to the commencement of the suit (*Chambers* v *Jones*, 11 East, 406, *Merston* v *Briggs*, 1 Ld

that the prisoner for whose escape such action is brought did without his consent, privity, or knowledge make such escape; and if such affidavit shall at any time afterwards appear to be false, and the marshal or warden, or other keeper or keepers of any other prison or prisons, shall be convicted thereof by due course of law, such marshal or warden, or other keeper or keepers of any other prison or prisons, shall forfeit the sum of five hundred pounds. 8 & 9 W. 3, c. 27.

7. That if at any time after the said 1st day of May any prisoner who is or shall be committed in execution to either or any of the said respective prisons, shall escape from thence by any ways or means howsoever, the creditor or creditors at whose suit such prisoner was charged in execution at the time of his escape, shall or may retake such prisoner by any new *capias*, or *capias ad satisfaciendum*, or sue forth any other kind of execution on the judgment, as if the body of such prisoner had never been taken in execution. Prisoner in execution escaping may be retaken by any new *capias* (*a*).

8. That if the said marshal or warden for the time being, or their respective deputy or deputies, or other keeper or keepers of any other prison or prisons, shall, after one day's notice in writing given for that purpose, refuse to show any prisoner committed in execution to the creditor at whose suit such prisoner was committed or charged, or to his attorney, every such refusal shall be adjudged to be an escape in law. Keeper refusing to show prisoner, it shall be an escape (*b*).

9. That if any person or persons whatsoever, desiring to charge any person with any action or execution, shall desire to be informed by the said marshal or warden, or their respective deputy or deputies, or by any other keeper or keepers of any other prison or prisons, whether such person be a prisoner in his custody, or not, the said marshal or warden, or such other keeper or keepers of any other prison or prisons, shall give a true note in writing thereof to the person so requesting the same, or to his lawful attorney, upon demand at his office for that purpose, or in default thereof shall forfeit Penalty on marshal, &c., refusing to give a note whether a person be prisoner or not (*c*).

Raym. 30; *Lane* v. *Chapman*, 11 Ad. & E. 966; *Davis* v. *Chapman*, 2 M. & Gr. 921), or until his legal discharge (*Willis* v. *Gambier*, Prac. Reg. 199; *Chambers* v. *Jones*, supra); and also that the defendant did not know where he was during any period of his absence (*Davis* v. *Chapman*, 5 Bing. N. C. 453). It is a good defence that the escape was by the fraud of the party really interested in the judgment (*Hiscock* v. *Jones*, M. & Malk. 269; *Merry* v. *Chapman*, 10 Ad. & E. 516; see the plea, 3 Chit. on Pl. 7th ed. 262).

(*a*) If the escape be voluntary by the sheriff, he cannot retake the defendant on the same process, and he is subject to an action for a false imprisonment if he does (*Jones* v. *Pope*, 1 Saund. 35, n. 1; *Atkinson* v. *Jameson*, 5 T. R. 25; *Contant* v. *Chapman*, 2 Q. B. 771; *Featherstonehaugh* v. *Atkinson*, Barnes, 269), even though the escape be by mistake (*Filewood* v. *Clements*, 6 Dowl. 508). In such case, however, the defendant may be retaken under this section upon a fresh *ca. sa.* (*Anon.*, 1 Vent. 4; *Buxton* v. *Home*, 1 Show. 174; *Allen* v. *Vinter*, Sir T. Jones, 21): but if the plaintiff, previously to the release, consent to the defendant's discharge, he cannot afterwards be retaken on a fresh *ca. sa.*, as the judgment is considered to be satisfied (*Vigers* v. *Aldrich*, 4 Bur. 2482; *Taylor* v. *Waters*, 5 M. & Sel. 103; *Jaques* v. *Withy*, 1 T. R. 557; *Gillett* v. *Aston*, 12 L. J. Q. B. 5; *Towers* v. *Newton*, 1 Q. B. 319), even though it be agreed that he should be at liberty to do so (*Blackburn* v. *Stupart*, 2 East, 243): but a consent subsequent to the escape does not prevent a re-arrest (*Scott* v. *Peacock*, 1 Salk. 271). And if the plaintiff consent to the discharge of one of several defendants taken on a joint *ca. sa.*, he cannot afterwards retake him or take any of the others (*Clark* v. *Clement*, 6 T. R. 525); or sue out a *fi. fa.* on the same judgment (*Tanner* v. *Hague*, 7 T. R. 420). The plaintiff's attorney has no general authority to direct a discharge (*Connop* v. *Challis*, 2 Exch. 484; see *Levy* v. *Abbott*, 7 Dowl. & L. 185); but by 15 & 16 Vict. c. 76, s. 126 (ante, Vol. III. tit. "PLEADING, PRACTICE, &c. (AT LAW)"), the sheriff or gaoler may now discharge a prisoner upon a written order of the attorney, unless the party for whom the attorney professes to act, has given a written notice to the contrary. If the execution debtor escapes by the negligence of the gaoler, he may be retaken (F. N. B. 130; *Allanson* v. *Butler*, 1 Sid. 330), without warrant (*Anon.*, Willes, 460, note (*a*); *Anderson* v. *Hampton*, 1 B. & Ald. 307, *per* Lord Ellenborough). And although the prisoner flieth into other counties where the sheriff hath no power, and where it may be objected the sheriff cannot have the custody of him; yet, forasmuch as the escape was of his own wrong (whereof he shall not take advantage), the sheriff might on fresh suit take him in any other county, and he should be said in execution (*Rigeway's case*, 3 Rep. 52). But if the defendant be discharged by the act of law, as on the ground of the defendant's privilege at the time (*Phillips* v. *Price*, 12 L. J. Q. B. 348; *Towers* v. *Newton*, 1 Q. B. 319), or on the ground of irregularity (*Collins* v. *Beaumont*, 10 Ad. & E. 225), the judgment is not satisfied, and the defendant may be retaken.

(*b*) If a defendant escape from the custody of the marshal, the latter, if served with the common side bar rule "to bring the defendant into court," must give notice of the escape to the plaintiff's attorney within the time limited by the rule (*White* v. *Stratton*, 1 Dowl. 550).

(*c*) In practice, where a prisoner in custody of the marshal is to be charged with a Queen's Bench execution, a rule is obtained from the

8 & 9 W. 3, c. 27.

the sum of fifty pounds; and if such marshal or warden, or their respective deputy or deputies exercising the said office, or other keeper, or keepers of any other prison or prisons, shall give a note in writing that such person is an actual prisoner in his or their custody, every such note shall be accepted and taken as a sufficient evidence that such person was at that time a prisoner in actual custody.

1 Anne, st. 2, c. 6.

1 Anne, st. 2, c. 6. An Act for the better preventing Escapes out of the Queen's Bench and Fleet Prisons. [A.D. 1701.]

"Whereas divers persons heretofore legally committed by her majesty's several courts of record at Westminster, to the custody of the marshal of the queen's bench, and to the prison of the fleet, upon actions for the recovery of debt, or damages, or for contempts in not performing orders or decrees made in courts of equity, and in executions, have by bribes and illegal practices, to and with such marshal of the queen's bench, or to and with the warden of the said prison of the fleet, or some of their officers or servants, or other persons in trust for them, and for their respective uses and benefit, frequently procured from such marshal or warden liberty to escape, and go at large, without satisfaction made to the respective plaintiffs or creditors, and without discharging such debts, or satisfying such damages, or performing such orders or decrees, as well to the great damage of honest creditors, the decrease of personal credit, and discouragement of trade, as in open defiance to all good and wholesome laws heretofore made to restrain such abuses:" for remedy whereof, and for preventing the like evil practices for the future,

Prisoner in the queen's bench or fleet prison,

BE IT ENACTED, That if any person or persons already committed, rendered, or charged, or who shall hereafter be committed, or rendered to, or charged in the custody of the marshal of the queen's bench for the time being, or to or in the prison of the fleet, either in execution, or upon mesne process, or upon any contempt in not performing such order or decree (a) by any of her majesty's courts at Westminster, and such person or persons shall, at any time after such commitment, render, charge, or being in execution, and before he, she, or they shall have made payment or satisfaction to the respective plaintiff or plaintiffs, creditor or creditors, or shall have cleared him, her, or themselves of such contempts as he, she, or they were, or shall be charged with at the time of such their commitment, render, charge, or being in execution as aforesaid,

making escape, &c.

make any escape from the custody of the marshal of the queen's bench for the time being, or from the prison of the said queen's bench, or from the prison of the fleet, or either of them, or shall go at large, at any time after the 23rd day of January, 1702, it shall and may be lawful upon oath

On oath thereof,

thereof in writing, to be made by one or more credible person or persons, before any one of the judges (b) of that court where such action was entered, or judgment and execution were obtained, or where the party was so committed or charged as aforesaid (c), to and for such judge, before whom such oath shall be made as abovesaid, and such judge is

judge may grant warrant for retaking such prisoner,

hereby authorised and required, from time to time to grant unto any person whatsoever, who shall demand the same, one or more warrant or warrants under his hand and seal, therein reciting the action or actions, execution or executions, contempt or contempts, with which such person or persons so escaping, or going at large, stood charged, or were committed at the suit of any person or persons, on whose behalf such warrant or warrants shall be demanded at the time of such escape, or going at large (which said warrant or warrants shall be in force in all places whatsoever, within the kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed), directed to all sheriffs, mayors, bailiffs, constables, headboroughs, and tythingmen, therein and thereby commanding them, and every of them, in their respective counties, cities, towns, and precincts, to seize and retake such person or persons so escaped, or going at large; and

who shall be committed to the county gaol where taken, there to remain, &c. (d).

such person or persons so retaken upon such warrant forthwith to convey and commit to the common gaol of such county where such person or persons so escaped, or going at large, shall be retaken, there to remain without bail or mainprize (e), or being thence upon any account whatsoever delivered or removed, until he, she, or they shall have made full payment or satisfaction to the respective plaintiff or plaintiffs, creditor or creditors, in such action or actions, execution or executions named, or until the judgment or judgments, on which such execution or executions was or were sued out against such person or persons, shall be reversed or discharged by due course of law, or until judgment in such action or actions be given for such person or persons so committed as aforesaid, or until the said contempt or contempts, for which such person or persons were

---

marshal to acknowledge him to be in his custody (Watson on Sheriff, 216, n.).

(a) On an attachment against A., B. opposes the execution, and is committed for contempt; this is not a contempt within the Act (*Hinchcliffe* v. *Payne*, 1 Str. 99).

(b) The oath may be taken before a commissioner in the country (6 Anne, c. 12, s. 2, post, p. 216).

(c) If, before the 5 & 6 Vict. c. 22, a defendant had been turned over from the Queen's Bench to the Fleet by the Common Pleas, a judge of either court might have granted the warrant (*Rex* v. *Dunbar*, 8 Mod. 240).

(d) See 6 Anne, c. 12, s. 1, post, p. 216.

(e) He cannot be discharged on bringing the money into court (*Hothershell* v. *Bowes*, 6 Mod. 21).

or shall be committed, be cleared, and discharged; except such person or persons be charged with treason or felony, or any other crime, matter, or cause, for and on the behalf of the queen's majesty, her heirs and successors; and if he or she, for any such cause, on the behalf of the queen, her heirs and successors, be removed to any other gaol or prison, he or she shall be, in the custody of such gaol, charged with all the causes with which he or she is or shall be charged in the gaol from whence he or she shall be removed: and every mayor, and other officer as aforesaid, after delivery of such prisoner so retaken together with such warrant to the sheriff, shall take a note in writing from such sheriff, testifying the receipt of such prisoner, which said sheriff is hereby required to receive such prisoner, and give such note; and every such sheriff as aforesaid, after the execution of such warrant, shall forthwith make a return thereof to the court where the action shall be depending, or judgment, order, or decree had or obtained; which shall be entered and filed upon record.

1 Anne, st. 2, c. 6.

Exception.

Mayor, &c., after delivery of prisoner shall take a receipt from sheriff.

Sheriff to make a return of warrant, &c

2. That if any such person or persons so retaken by warrant as aforesaid, shall at any time make any escape out of the gaol to which he, she, or they shall be so conveyed and committed as aforesaid, the sheriff, in whose custody he, she, or they was or were, shall be liable to answer for such escape, as in the case of any other escape; any law, usage, or custom to the contrary in anywise notwithstanding.

And answer for prisoner escaping after retaken.

3. Provided always, That it shall and may be lawful to and for any person or persons, that are or shall be bail in any suit or action in any of her majesty's courts of record at Westminster for any such person or persons that shall be retaken and conveyed to such gaol as aforesaid, by virtue of such warrant as aforesaid, to have and prosecute, out of such of her majesty's courts where he or they are or shall be bail, a writ directed to the sheriff of the county, to the gaol whereof such prisoner so retaken shall be committed and detained, commanding such sheriff to detain and keep such prisoner in custody in discharge of his bail; which writ, with an account whether he hath the said prisoner in his custody, shall be returned by the said sheriff into court, at a day therein to be mentioned, and the delivery of every such writ to the sheriff, or his deputy, shall be deemed and taken to be an effectual render of such prisoner, to all intents and purposes whatsoever, in discharge of the said bail; and that in case such sheriff, his deputy, or other his inferior officer, shall thereafter suffer the person or persons so rendered, in discharge of his, her, or their bail, to escape, they and every of them so offending shall be liable to such action and actions as the marshal of the queen's bench, or warden of the fleet prison, is or are liable to, for permitting any person to escape out of his or their custody or prison, who was committed to such custody or prison upon render, in discharge of his, her, or their bail.

Prisoner's bail may have a writ to sheriff to detain prisoner, &c.

Writ to be returned into court, &c.

Sheriff, &c, afterward suffering prisoner to escape, liable to such action, &c, as marshal or warden, &c

4. That all and every such sheriffs, upon request of such person or persons, being bail as aforesaid, who shall deliver such writ for keeping and detaining such prisoner as aforesaid, and for the usual fees of returns of actions, shall make, return, and certify under his hand, the receipt of such writ, and the time thereof, and whether the said person so retaken was then in his custody, and in default thereof, shall for every such default, neglect, or refusal, forfeit the sum of fifty pounds, to be recovered in any of her majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoin, protection, wager of law, or any more than one imparlance shall be allowed; and that upon producing such return or certificate to the court where such bail shall be taken, such court shall direct and cause a *reddidit se* to be entered upon the bail piece, which shall be as effectual to all intents and purposes, as if the said bail had then actually rendered the person of the said defendant to such court, or before any judge or judges of the same.

Penalty on sheriff, &c, neglecting to make return of writ.

Reddidit se.

5. And for the prevention of disputes touching this Act, BE IT ENACTED, That the same, and every clause and thing therein contained, shall be adjudged and taken to be a general law, and that it shall not be needful to set forth the same in pleading, or any part thereof; and that the same and every clause therein, shall be construed most beneficially for the preventing of all the mischiefs, abuses, escapes, and other inconveniences herein provided against: and further, that if any person or persons shall at any time be sued for putting in execution any power or authority given by this Act, such person or persons shall and may plead the general issue, and give in evidence the special matter; and if the plaintiff or plaintiffs in such action or actions shall be nonsuit, or discontinue his, her, or their action or actions, or a verdict shall be given for the defendant or defendants, or that judgment upon demurrer shall be given for the defendant or defendants, every such defendant or defendants shall have his or their treble costs (*a*) of suit.

This Act to be a general law.

General issue

Treble costs.

6 Anne, c. 12 (*b*). An Act for rendering more effectual an Act passed in the First Year of her Majesty's Reign, intituled *An Act for*

6 Anne, c 12.

(*a*) See 5 & 6 Vict. c. 97, s. 4, ante, Vol. I. p. 1107, tit. "Costs."

(*b*) In the common printed editions this is given as 5 & 6 Anne, c. 9; but see the Statutes of the Realm, Vol. VIII.

6 Anne, c. 12.

the better preventing Escapes out of the Queen's Bench and Fleet Prisons. [A.D. 1706.]

1 Anne, st. 2, c. 6.

"Whereas the inheritance and custody of several county gaols are in private persons, by means whereof the good intent of a certain Act made in the first year of her majesty's reign, intituled 'An Act for the better preventing Escapes out of the Queen's Bench and Fleet Prisons,' may be in some counties defeated and eluded:" to the end therefore that the said Act may be rendered more effectual, BE IT ENACTED, That all and every persons who, from and after the 25th day of March, 1707, shall be seized or taken by virtue or authority of the said Act, shall, instead of being committed to the common gaol of the county wherein such person or persons shall be taken, be conveyed and committed to the prison or place where the sheriff of such county detains or keeps the debtors or prisoners for debt or damage, there to remain in the custody of the sheriff of such county, subject to the same rules and directions, and under the same restrictions, regulations, and penalties, and in such manner and form in all and every respect as if the said person or persons had been committed to the common gaol of the county; and if any person so taken and committed as aforesaid shall at any time make any escape out of the said prison or place to which he, she, or they be so committed as aforesaid, the sheriff in whose custody he, she, or they was or were, shall be answerable for such escape to the party grieved, in like manner as in the case of any other escape.

Persons taken by virtue of 1 Anne, c. 6, to be committed to prison where sheriff keeps prisoners for debt, and remain in sheriff's custody.

Sheriff answerable for escape.

Escape warrant may be granted upon affidavit made in the country.

2. And to the intent that the benefit of the said former Act may the more easily be had, in case the person or persons escaping shall be seen in places distant from the city of London, BE IT FURTHER ENACTED, That it shall and may be lawful to and for any one of the judges of the respective courts in the said former Act mentioned, to grant like warrant and warrants, upon oath in writing to be made before any person commissionated under the seal of the same court, to take affidavits in the country, (the same oath being first duly filed,) as by the said former Act he is empowered to do upon like oath made before himself.

Persons may be apprehended on a Sunday.

3. That it is and shall be lawful to apprehend and take, upon the Lord's day, any person or persons, by virtue of any warrant or warrants granted in pursuance of this or of the said former Act.

Person in custody of sheriff on a decree and making his escape, sheriff liable to pay, &c.

4. That if any person or persons is, are, or shall be in custody of any sheriff or other officer, either by virtue of the said Act or of this present Act, or otherwise, for not performing any decree of the high court of chancery or court of exchequer, whereby any sum or sums of money is ordered or decreed to be paid, and shall afterwards make any escape from the said sheriff or other officer, that then and in such case the person and persons, their executors or administrators, to whom the money was to be paid by the said decree, shall have the same remedy against the said sheriff as if such person or persons so escaping had been in custody upon an execution at law, and shall and may recover the several sum and sums of money decreed to be paid to him, her, or them, in and by such decree against such sheriff or other officer, together with his, her, or their costs of suit in any action or actions of debt (a), or upon the case, to be brought or commenced against such sheriff or other officer, in any of her majesty's courts of record at Westminster, wherein no protection or wager of law shall be admitted, or any more than one imparlance; any law, usage, or custom to the contrary in anywise notwithstanding.

Act to be a general law.

5. And for the prevention of disputes touching this present Act, BE IT ENACTED, That the same, and every clause and thing therein contained, shall be adjudged and taken to be a general law, and that it shall not be needful to set forth the same in pleading, or any part thereof.

3 G. 1, c. 15.

3 Geo. 1, c. 15. An Act for the better regulating the Office of Sheriffs, and for ascertaining their Fees, and the Fees for suing out their Patents and passing their Accounts (a). [A.D. 1716.]

Sheriffs levying debts, &c., (except post fines) to have 1s. per pound for the first 100l. and 6d. for every 20s.

3. That from and after the 9th day of July, in the year of our Lord 1717, all sheriffs who shall levy any debts, duties, or sums of money whatsoever, except post fines, due or hereafter to become due to the king's majesty, his heirs or successors, by process to them directed upon the summons of the pipe or green wax, or by *levari facias*, out of the court of exchequer, shall from time to time, for their care, pains and charges, and for their encouragement therein, have an allowance upon their accounts of twelve pence out of every twenty shillings for any sum not exceeding one hundred pounds so by them levied or collected (b); and the sum of sixpence only for every twenty shillings ever and

---

(a) So much of this statute as entitles officers to receive the fees named in the schedule, and also the schedule, is repealed (3 & 4 Will. 4, c. 99, s. 1, post, p. 227; see Bac. Ab., Fees). This statute is not affected by the 1 Vict. c. 55, the crown not being expressed therein (Watson on Sheriff, 373).

(b) Under this statute the sheriff is entitled to

above the first one hundred pounds; and for all debts, duties, and sums of money, except post fines due or to become due to his majesty, his heirs and successors, by process on *fieri facias*, and extent, issuing out of any of the offices of the court of exchequer, the sum of one shilling and sixpence out of every twenty shillings, for any sum not exceeding one hundred pounds so by them levied or collected; and the sum of twelve pence only for every twenty shillings over and above the first one hundred pounds: Provided always, such sheriff shall duly answer the same upon this account, by the general sealing day of such term in which he ought to be dismissed the court, or in such time to which he shall have a day granted to finish his said accounts, by warrant signed by the lord chief baron, or one of the barons of the coif of the said court for the time being, and not otherwise.

3 G 1, c. 15. above; and on process by *fi fa.* and extent, 1s. 6d per pound for the first 100l. and 1s. per pound above; provided, &c.

9. "And whereas it frequently happens that the process issuing out of the court of exchequer, for levying debts and duties due to the crown, may be in part executed by a sheriff before he be superseded, and afterwards in part by the subsequent sheriff, and no provision hath hitherto been made for settling and adjusting the distribution of the fees and poundage claimed and demanded by them in such cases:" BE IT THEREFORE ENACTED, That when and so often as any sheriff shall, by process out of the court of exchequer, seize or extend any goods, chattels or personal estate, into the hands of his majesty, his heirs or successors, for any debts or duties due to the crown, and shall die, or be superseded, before a writ of *venditioni exponas* be awarded to him for sale of the same, or before such sheriff hath made actual sale thereof, and a writ shall afterwards be awarded to a subsequent sheriff who by virtue thereof shall make sale or disposition of such goods, chattels and personal estate so seised or extended by such preceding sheriff, as aforesaid, in such case the barons of the court of exchequer, if then sitting, and if not sitting, the said barons or any one of them, being of the degree of the coif, shall order, settle, and apportion the fees or poundage due for such seizure and sale betwixt such preceding and subsequent sheriffs, in such manner and proportion as to him or them shall seem meet, with regard to the expense and trouble each respective sheriff hath had or shall have in the execution of the said process.

When a sheriff seizes goods, &c, for the king's debts, and dies, or is superseded before sale; and the subsequent sheriff makes sale, &c.

The exchequer may apportion the fees, &c, between the precedent and the subsequent sheriff.

13. "And for preventing of oppressions and injuries which may happen to his majesty's subjects, by the abuse of sheriffs, bailiffs, and others, employed in levying and collecting any debts, duties, or sums of money due or hereafter to become due to his majesty, his heirs or successors, by process of the court of exchequer:" BE IT ENACTED, That no sheriff, under-sheriff, bailiff, or other person employed in levying or collecting any of the said debts, duties, or sums of money, shall take, ask, or receive any fee, gratuity, or reward whatsoever, of the person or persons liable to pay the said debts, duties, or sums of money, or of any other person, for or upon pretence of such levying or collecting, except the sum of fourpence only for an acquittance for such sum as shall be so levied or collected; which acquittance such officer is hereby required to give and deliver to the person upon or from whom such debt shall be levied, collected, or received; and the bailiff or other person receiving such debt or sum of money shall from time to time answer and account for the same to the sheriff or his deputy, and may require an acquittance also from such sheriff or his deputy for such sum, who are hereby required to give the same without any fee or reward; and of and from such debts or sums of money so levied, collected, or received as aforesaid, the said sheriffs and every of them shall effectually discharge the said debtors and persons respectively by totting and answering the same to his majesty, his heirs and successors, upon their respective accounts in the exchequer; and in case any sheriff, under-sheriff, or deputy-sheriff, shall nichil or not duly answer to the crown any debt or sum of money so levied, collected, or received, such sheriff, under-sheriff, or deputy-sheriff, for every such offence shall forfeit treble damages to the party aggrieved, and double the sum so nichilled or not duly answered as aforesaid; which said damages and penalty shall be ordered, decreed, and given to the person aggrieved, by the court of exchequer, upon complaint and proof of such abuse as aforesaid made and exhibited before the barons of the said court, in such short and summary way

No sheriff or other employed in levying, &c, debts to the crown, shall take any fee for levying, &c., except 4d only for an acquittance.

If a sheriff, &c, shall nichil, &c, such debts collected, &c, he forfeits treble damages to the party.

---

his poundage from the crown or prosecutor, but not from the defendant (West on Ext. 236); and therefore generally he cannot levy it (*Ib.*; *Rex* v. *Tidmarsh*, 5 Price, 189); but it would seem that where the debt is secured by a penalty, then it may be levied, if the levy do not exceed the penalty (*Rex* v. *Dean*, 2 Anst. 369); so it may where the crown is entitled to its costs and charges (West, 237). The sheriff is entitled to his poundage under this statute on a seizure under an *extent in aid*, and if in that case before a *venditioni exponas* the debt be paid by compulsion, he is entitled to his poundage (*Rex* v. *Jetherell*, Parker, 180; *Rex* v. *Fry*, 3 Anst. 718); for he is entitled to poundage on all the amount obtained under the compulsion of the process (*Rex* v. *Robinson*, 2 C. M. & R. 334); but where lands are seized, and the crown proceeds to a sale, not by *levari facias*, but under 25 Geo. 3, c. 35, the sheriff is not entitled to poundage (West, 237). The sheriff may deduct his poundage out of the levy (*Rex* v. *Jetherell*, Parker, 177), or if paid over he may move the court for it (*Ib.* 180). For any extra costs, the sheriff must apply to the court (*Rex* v. *Fereday*, 1 Price, 206), who will refer the matter to one of the Masters (*Rex* v. *Fereday*, 4 Price, 131).

3 G. 1, c. 15. and double the sum so nichilled.

and method as to them shall seem meet: and in case any sheriff, under-sheriff, deputy-sheriff, bailiff, or other person shall presume to demand, take, or receive any sum or sums of money whatsoever, be the same more or less, of any person whatsoever, from whom any debt or sum of money is or shall be due and payable to the crown by process out of the court of exchequer, for or in respect or upon pretence of executing the said process, or for or in respect or upon pretence of fees due to them or any of them for collecting or receiving the same, contrary to the true intent and meaning of this Act; or if any of the officers or persons aforesaid shall demand, take, and receive any sum or sums of money whatsoever for not levying or forbearing to levy any debts, duties, or sums of money which are or shall be due to his majesty, his heirs and successors, and written out to them or any of them by the process aforesaid: in all and every such case every person so offending, and being thereof lawfully convicted, shall be adjudged, deemed, and taken, and is and are hereby adjudged, deemed, and taken to be guilty of extortion, injustice, and oppression; and all and every such person and persons being thereof lawfully convicted, shall forfeit for every such offence treble damages and costs to the party aggrieved, and double the sum so extorted: all which damages and penalties shall be ordered, decreed, and given by the barons of the court of exchequer, upon complaint and proof of such extortion made and exhibited before them, in such short and summary way and method as to them shall seem meet as aforesaid; provided such conviction be had and made within two years after such offence committed, and not otherwise.

And if a sheriff, &c., demands or takes any money for executing such process, &c., he is guilty of extortion, and forfeits treble damages, &c. Conviction within two years after offence.

But the sheriff may take such poundage, &c., for extraordinary service to the crown (a).

14. Provided, That nothing in this Act contained shall be construed to deprive any sheriff of such poundage or allowance as is allowed and given to them by virtue of this Act, or of such poundage, allowance, or reward as may hereafter be made, allowed, and given to them or any of them by warrant or order from the lord high treasurer or commissioners of the treasury, chancellor of the exchequer, or barons of the court of exchequer for the time being, for or in respect of any extraordinary service to the crown that may happen to be performed by them or any of them; but that the said sheriffs shall and may enjoy the full benefit and advantage of such poundage, allowance, and reward, without any impeachment or molestation whatsoever; anything in this Act contained to the contrary thereof in anywise notwithstanding.

No sheriff, &c., shall take above 1s. per pound of the yearly value of any manor, &c., where the whole exceeds not 100l. per annum, and 6d. for every 20s. above (b).

16. And for ascertaining the fees for executing of writs of elegit, so far as the same relate to the extending of real estates, and for ascertaining the fees for executing of writs of *habere facias possessionem* aut *seininam*, BE IT ENACTED, That from and after the last day of michaelmas term, in the year of our Lord 1717, it shall not be lawful for any sheriff, under-sheriff, deputy-sheriff, or their bailiffs, or for the bailiff of any franchise or liberty, or any of them, by reason or colour of their office or offices, or by reason or colour of their executing of any writ or writs of *habere facias possessionem* aut *seininam*, to demand, ask, or receive any other or greater consideration, fee, gratuity, or reward than is hereafter mentioned (which shall be lawful to be demanded and taken), that is to say, the sum of twelve pence for every twenty shillings of the yearly value of any manor, messuage, lands, tenements, and hereditaments, whereof possession or seisin shall be by them or any of them given, where the whole exceedeth not the yearly value of one hundred pounds, and the sum of sixpence only for every twenty shillings per annum over and above the said yearly value of one hundred pounds.

Poundage shall not be taken for executing *ca sa.*, &c., (of which part is paid) for any greater sum than what remains due to the plaintiff, who is to mark the same on the back of the writ (c).

17. "And whereas it often happens that small sums only are remaining due upon judgments, statutes, and recognisances given, acknowledged, and entered into for great sums and penalties, and nevertheless in these cases upon executing of writs of *capias ad satisfaciendum*, the sheriff demands and takes for his fees poundage for the whole money for which such judgments, statutes, or recognisances are entered or acknowledged, which poundage often far exceeds the debts due to the plaintiffs in such writs:" for remedying of which grievance and inconvenience, BE IT ENACTED, That from and after the said last day of michaelmas term, 1717, poundage shall in no case be demanded or taken upon executing of any writ of *capias ad satisfaciendum*, or upon charging any person in execution by virtue of such writ (d), for any greater sum than the real debt *bonâ fide* due and claimed by the plaintiff amounteth unto, which sum the plaintiff shall be and is hereby obliged to mark and specify on the back of such writ, before the same be delivered to the sheriff to be executed; and in case any sheriff, under-sheriff, deputy-sheriff, bailiff, or

---

(a) He cannot retain, against the crown, money deposited by an agent of the crown to cover the expenses of a sale under the *venditioni exponas*. As to the apportionment of poundage between the sheriffs of two counties into which two extents have been issued, see *Rex* v. *Caldwell*, 1 Anst. 279; *Rex* v. *Fry*, 3 Anst. 718; *Rex* v. *Burcher*, *Ib.* 717.

(b) By 8 Geo. 1, c. 25, no more is to be taken on an extent and *liberate*.

(c) See 5 & 6 Vict. c. 98, post; s. 31, post, p. 234.

(d) The writ of elegit, though inserted in the preamble, is omitted from this clause (*Price* v. *Hollis*, 1 M. & Sel. 105); but still this Act extends to that writ, and the sheriff is only entitled to poundage on the value of the lands extended (*Nash* v. *Allen*, 4 Q. B. 784).

A sheriff is not entitled to poundage upon a

other person, shall offend against the true meaning hereof, by taking any greater fees, gratuity or reward, than is hereinbefore allowed, every such person so offending as aforesaid, and being thereof lawfully convicted, shall be adjudged, deemed and taken, and is and are hereby adjudged, deemed and taken to be guilty of extortion, injustice, and oppression; and all and every such person and persons being thereof lawfully convicted as aforesaid, shall for every such offence forfeit to the party aggrieved treble damages, and double the sum so extorted, which said damages and penalties shall be ordered, decreed and given to the said aggrieved party by the court out of which such writ or writs issued, upon complaint and proof of such extortion made and exhibited before the judges of such court, in such short and summary way and method as to them shall seem meet; and over and above the said damages and penalties every such person so offending and convicted as aforesaid shall forfeit the sum of two hundred pounds; one moiety whereof shall be to the king's majesty, his heirs and successors, and the other moiety thereof to such person or persons as shall sue for the same, to be recovered by action of debt, bill, plaint or information in any of the courts of record at Westminster, in which no essoin, protection or wager of law shall be allowed, nor any more than one imparlance: Provided such suit be commenced within two years after such offence committed, and not otherwise; and provided likewise, that no person be sued or prosecuted by virtue of this Act for any offence of this kind committed before the said last day of michaelmas term, 1717.

3 G. 1, c. 15.

And any sheriff, &c., offending is guilty of extortion, &c., and shall forfeit treble damages and double the sum so extorted, and also 200*l.*

20 Geo. 2, c. 37. An Act for the Ease of Sheriffs with regard to the Return of Process. [A.D. 1747.]

20 G. 2, c. 37.

For the ease of sheriffs with regard to the return of process: BE IT ENACTED, That from and after the 29th of September, 1747, all sheriffs of any county, city, liberty, division, town corporate or place, shall at the expiration of their office turn over to the succeeding sheriff, by indenture and schedule, all such writs and process as shall remain in their hands unexecuted, who shall duly execute and return the same; and in case any such sheriff shall refuse or neglect to turn over such process in manner aforesaid, every such sheriff so neglecting or refusing shall be liable to make such satisfaction by damages and costs to the party aggrieved as he, she, or they shall sustain by such neglect or refusal.

Process unexecuted to be turned over.

2. That no sheriff shall be liable to be called upon to make a return of any writ or process, unless he be required (*a*) so to do within six months (*b*) after the expiration of his said office.

Sheriff not liable to make return after six months.

24 Geo. 2, c. 48. An Act for the Abbreviation of Michaelmas Term. [A.D. 1751.]

24 G. 2, c. 48.

12. "And whereas by the abbreviation of michaelmas term pursuant to this Act, the morrow of All Souls will not be in full term, and thereby will prove inconvenient for the purpose of ordaining sheriffs pursuant to an Act of parliament made in the fourteenth year of the reign of king Edward the third, intituled 'How long a Sheriff shall continue in his Office:'" BE IT THEREFORE ENACTED, That from and after the commencement of this Act, the same officers and persons, who by virtue of the said last-mentioned Act, or any other law or statute, ought to assemble at the exchequer yearly on the morrow of All Souls, for the ordaining or nominating of sheriffs, shall not assemble on that day, but instead thereof shall assemble yearly on the morrow of Saint Martin at the exchequer, in the like manner, and for the same intent and purpose (*c*).

14 Ed. 3, c. 7.

The day of assembling at the exchequer.

---

writ of elegit, unless he has extended the land under the writ. Therefore, where a judgment creditor issued three writs of elegit on successive judgments, and the sheriff delivered to him possession of the land under the first writ: it was held, that the sheriff had no power to extend the land under the second and third writs, and consequently was not entitled to poundage on those writs (*Carter* v. *Hughes*, 2 H. & N. 714).

(*a*) That is, ruled (*Rex* v. *Jones*, 2 T. R. 1; *Yarath* v. *Hopkins*, 3 Dowl. 711).

(*b*) Upon this statute, it has been holden in the case of sheriffs, that the months are lunar months (*Rex* v. *Adderley*, 2 Dougl. 463; 2 Saund. 47 (*ee*); but see *Webb* v. *Fairmaner*, 3 M. & W. 473); and that the day of the sheriff's quitting his office is to be reckoned as one (*Ib.*). The sheriff cannot be ruled to return the writ after the expiration of six months, though requested before (*Rex* v. *Jones*, 2 T. R. 1). In *Wilton* v. *Chambers*, 3 Dowl. 338, a return was directed after the sheriff had been out of office three years, but this statute was not referred to. However, the sheriff is liable to be sued for an escape or for money levied, &c., at any time within six years, whether or not he has returned the writ.

(*c*) 3 & 4 Will. 4, c. 99, s. 3, post, p. 227.

26 G. 2, c. 14. 26 Geo. 2, c. 14. An Act for the settling and ascertaining the Fees to be taken by Clerks to Justices of the Peace. [A.D. 1753.]

Penalty of 20*l.* on clerk's taking other fees.

2. That if at any time after the space of three calendar months from the time that such table of fees shall be made and ratified as aforesaid, any clerk or clerks to any justice or justices of the peace, or any person or persons acting as such, shall, under pretence of any matter or thing done, transacted or performed by such justice or justices in the execution of his or their office or offices, or done, transacted or performed by such person or persons as clerk or clerks to such justice or justices, demand or receive any other or greater fee than shall have been ascertained, ratified and confirmed in manner as aforesaid, such person shall for every such offence forfeit and pay twenty pounds to any person who shall sue for the same by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, wherein no essoin, privilege, protection, wager of law, or more than one imparlance shall be granted or allowed.

32 G. 2, c. 28. 32 Geo. 2, c. 28. An Act for Relief of Debtors with respect to the Imprisonment of their Persons; and to oblige Debtors, who shall continue in Execution in Prison beyond a certain Time, and for Sums not exceeding what are mentioned in the Act, to make Discovery of, and deliver upon Oath, their Estates for their Creditors' Benefit (*a*). [A.D. 1758.]

When gaolers, &c., shall be guilty of extortion, the court, upon petition of the prisoners, is to examine into the same in a summary way, &c. (*b*).

11. And, for the more speedy punishing gaolers, bailiffs and others employed in the execution of process, for extortion, or other abuses in their respective offices and places, BE IT FURTHER ENACTED, That upon the petition, in term time, of any prisoner or person being or having been under arrest, or in custody, complaining of any exaction or extortion by any gaoler, bailiff or other officer or person, in or employed in the keeping or taking care of any gaol or prison or other place, where any such prisoner or person under or having been under arrest or in custody, by any process or action, is or shall have been carried, or in respect of the arresting or apprehending any person or persons, by virtue of any process, action or warrant, or of any other abuse whatsoever committed or done in their respective offices or places, unto any of his majesty's courts of record at Westminster, from whence the process issued, by which any person who shall so petition was arrested, or under whose power or jurisdiction any such gaol, prison or place is; or in vacation time, to any judge of any such courts at Westminster, from whence any such process so issued; or to the judges of assize or justices of great sessions, in their respective circuits; or to the judge or judges of any other court of record, where any prisoner or person being or having been under arrest or in custody, was arrested or in custody by process issued out of or action entered in any such other court of record within that part of Great Britain called England; and if within the principality of Wales or county palatine of Chester, then to the justices at some great sessions to be holden for the county in the principality of Wales, or for the county palatine of Chester, where any such prisoner or person being or having been under arrest or in custody, was arrested or in custody, in the said principality of Wales or county palatine of Chester; every such court, judges of assize and justices of great sessions, and judge and judges of all inferior courts of record, are hereby authorised and required respectively, within their several jurisdictions, to hear and determine the same in a summary way (*c*), and to make such

---

(*a*) See the prior sections, as to charges for lodging, &c., ante, Vol. I. p. 98, tit. "ARREST." The 5th, 6th, 7th, 8th, 9th, and 10th sections relate to the authority of the courts of Westminster to fix the rate of fees, which cannot be done by justices at sessions (*Boldero* v. *Mosse*, 3 T. R. 417).

(*b*) See the first four sections of this statute, ante, Vol. I. p. 98, tit. "ARREST."

If, by abuse of process of one of the courts at Westminster, the sheriff's officer extort a promissory note from a suitor, and then declare in another of the courts upon the note, the latter court cannot interfere summarily to punish the officer under this section (*Ex parte Evans*, 2 Bos. & P. 88). In order to recover a penalty on this statute, the plaintiff must prove what sum is allowed by law, either by a table of fees or some regulation respecting it, by the officers of the court out of which the process issued (*Jaques* v. *Whitcomb*, 1 Esp. Rep. 361; *Martin* v. *Slade*, 2 New Rep. 59; *Hannam* v. *Ormerod*, 1 Esp. 361, n.).

In an action of debt to recover damages against a sheriff's officer for extortion on this statute, the court refused to allow the declaration to be amended by adding new counts on the statute 23 Hen. 6, c. 9 (*Wright* v. *Ager*, 5 B. Moore, 330; see *Evans* v. *Atkins*, 4 T. R. 555).

(*c*) The summary power of interference is given to the court whence the process issues (*Ex parte Evans*, 2 Bos. & P. 88).

order thereupon for redressing the abuses which shall by any such petition be complained of, and for punishing such officer or person complained against, and for making reparation to the party or parties injured, as they shall think just, together with the full costs of every such complaint; and all orders and determinations which shall be thereupon made by any of the said courts or any of the said judges, justices of assize, justices of great sessions, judge or judges of any such inferior court as aforesaid respectively, in such summary way as is herein prescribed, shall have the same effect, force and virtue, and obedience thereunto may be enforced by the respective courts, judges, justices of assize, justices of great sessions, judge or judges of any such inferior court, by attachment, or in any other manner, as other orders of the said respective courts, judges, justices of assize and great sessions, judge or judges of inferior courts of record, may be enforced (*a*). 32 G. 2, c. 28.

12. That no gaoler or keeper of any gaol or prison, or other person thereto belonging, shall demand, take or receive, directly or indirectly, of any prisoner or prisoners, for debt, damages, costs or contempt, any other or greater fee or fees whatsoever for his, her, or their commitment, or coming into gaol, chamber rent there, release or discharge, than what shall be mentioned or allowed in the list or table of fees which is or shall be settled, inrolled and registered as aforesaid; and that every sheriff, under-sheriff, bailiff of any liberty, bailiff, serjeant-at-mace, gaoler and other officer and person as aforesaid, who shall in anywise offend against this Act, shall for every such offence against this present Act (over and above such penalties or punishments as he or they shall be liable unto by the laws now in force) forfeit and pay to the party thereby aggrieved the sum of fifty pounds, to be recovered with treble costs of suit, by action of debt, bill, plaint or information, in any of his majesty's courts of record at Westminster; wherein no essoin, protection or wager of law, or more than one imparlance shall be allowed. Gaoler to take no other fees than what shall be allowed in the authenticated table of fees (*b*).

7 Geo. 3, c. 29. An Act for explaining an Act made in the Twenty-ninth Year of the Reign of Queen Elizabeth, to prevent Extortion in Sheriffs, Under-Sheriffs, and Bailiffs of Franchises or Liberties, in Cases of Execution. [A.D. 1767.] 7 G. 3, c. 29.

"Whereas by an Act made in the twenty-ninth year of the reign of queen Elizabeth, it is amongst other things enacted [reciting section 1, down to the asterisk, ante, p. 210]: and whereas, as the law now stands, sheriffs are, by virtue of the said recited Act, entitled to the poundage therein mentioned, for taking the body of any person in execution, upon judgments obtained upon bail bonds, entered into for the appearance of persons prosecuted for offences against the laws relating to his majesty's revenues of customs or excise, such bail bonds being prosecuted in the name and at the suit of the sheriffs to whom such bail bonds are given, though the sheriffs prosecuting such bonds are merely trustees in the suits, for the benefit of the crown, and the sheriffs executing such process would not in those cases be entitled to any poundage, if the proceedings were carried on in the name of the crown, by means whereof the intent of the laws relating to the revenues of the customs and excise will in such cases be so far defeated:" to remedy which inconvenience for the future, BE IT ENACTED, That the said recited Act shall not extend or be construed to extend to allow any sheriff, under-sheriff, or other person whatsoever employed in the execution of process, any poundage for taking the body of any person in execution upon any process at the suit of any sheriff, or other 29 Eliz. c. 4. Recited Act not to allow any sheriff poundage for caption

---

(*a*) Where a prisoner complains of an undue exercise of authority by the gaoler, his proper course is to apply for relief under this statute, and not by *habeas corpus* (*Stead* v. *Anderson*, 9 C. B. 262).

The remedy under this section is cumulative with that of action (*Yorke* v. *Chapman*, 10 A. & E. 207).

(*b*) So much of this statute as relates to the settling, signing, reviewing, enrolling, and hanging up of tables of fees, &c., is repealed (4 Geo. 4, c. 64, s. 1).

At common law the sheriff has no right to take fees for the execution of process (*per* Abbott, L. C. J., *Dew* v. *Parsons*, 2 B. & Ald. 566). And by the statute 23 Hen. 8, c. 9, he is only entitled to the fee of fourpence for issuing his warrant on mesne process to arrest the defendant; although when the plaintiff has paid the sum of one guinea to the bailiff for an arrest, he has been allowed it by the master or prothonotary in the taxation of costs (*per* Holroyd, J., 1 Chit. Rep. 302; and see *Savage* v. *Smith*, 2 W. B. 1101; *Boldero* v. *Mosse*, 3 T. R. 417; *Martin* v. *Slade*, 2 New Rep. 59).

Where a sheriff's officer, who arrests a defendant, demands and receives from him a larger sum than he is liable to pay as a caption fee, and for the expense of the bail bond, &c., the court will on motion order it to be referred to the Master, to ascertain what the officer is entitled to on that account, and order him to restore the surplus to the defendant, and to pay the costs of the application (*Watson* v. *Edmonds*, 4 Price, 309).

7 G. 3, c. 29. at suit of any sheriff on bail bond.

officer or minister of the crown, upon any bail bond entered into for the appearance of any person prosecuted, either for any duties due or payable to his majesty, his heirs or successors, or for any penalty inflicted by any Act of parliament made or to be made for the preventing the clandestine running or receiving any customable or prohibited goods; or in any case whatsoever where the sheriff or officer executing such process would not be entitled to poundage, if the proceedings were or had been carried on directly in the name of the crown; anything in the said recited Act or any other Act to the contrary notwithstanding.

43 G. 3, c. 46. 43 Geo. 3, c. 46. An Act for the more effectual Prevention of frivolous and vexatious Arrests and Suits; and to authorise the levying of Poundage upon Executions in certain Cases. [27th May, 1803.]

Plaintiff may levy poundage and expense of execution beyond the judgment.

5. (a) That, from and after the said 1st day of June, in the said year of our Lord 1803, in every action in which the plaintiff or plaintiffs shall be entitled to levy under an execution against the goods (b) of any defendant (c), such plaintiff or plaintiffs may also levy the poundage fees and expenses of the execution (d) over and above the sum recovered by the judgment.

59 G. 3, c. 64. 59 Geo. 3, c. 64. An Act to facilitate Proceedings against the Warden of the Fleet in Vacation (e). [2nd July, 1819.]

3 G. 4, c. 46. 3 Geo. 4, c. 46. An Act for the more speedy Return and Levying of Fines, Penalties and Forfeitures, and Recognisances estreated. [24th June, 1822.]

Statements of fines, &c., to be forwarded to the clerk of the peace by the justice by whom such fine, &c., is imposed.

2. That from and after the 29th day of September, 1822, all fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them (save and except the same, shall, by virtue of any Act or Acts of parliament made or to be made, be otherwise directed to be levied, recovered, appropriated, or disposed of), which already are or hereafter shall be set, imposed, lost, or forfeited by or before any justice or justices of the peace in that part of the united kingdom called England, shall be and are hereby required to be certified by the justice or justices of the peace by or before whom any such fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them, shall be set, imposed, lost, or forfeited to the clerk of the peace of the county, or town clerk of the city (f), borough, or place, in writing, containing the names and residences, trade, profession, or calling of the parties, the amount of the sum forfeited by each respectively; and the cause of each forfeiture, signed by

---

(a) See the first two sections of this Act, ante, Vol. I. p. 100, tit. "ARREST;" the 3rd and 4th, ante, Vol. II. p. 888, tit. "JUDGMENTS;" and the 6th, ante, Vol. I. p. 193, tit. "BAIL."

(b) This statute does not apply to process against the person (*Hayley* v. *Racket*, 5 M. & W. 620).

(c) This Act extends only to executions against defendants (*Baker* v. *Sydee*, 7 Taunt. 179); and does not apply to crown process (Watson on Sheriff, 113; West, 238).

(d) "Expenses of the execution" do not mean only the costs of the suit (*Rumsey* v. *Tufnell*, 2 Bing. 256). They are the costs incident to the execution, but do not include the costs of an interpleader rule (*Hammond* v. *Nairn*, 9 M. & W. 221). The sheriff may levy his fees, though not indorsed on the writ (*Curtis* v. *Mayne*, 2 Dowl. N. S. 37).

This statute does not take away the sheriff's remedy by action against the plaintiff for his poundage (*Rawstorne* v. *Wilkinson*, 4 M. & Sel. 256). The plaintiff, having signed judgment for 23*l.* debt and costs, took out a *fi. fa.* for 24*l.*, the 1*l.* being claimed for the costs of execution under this statute. An attempt was made to levy, which failed, the defendant having no goods. The defendant then tendered 23*l.*, which the plaintiff refused, and issued an *elegit* for the 24*l.*: it was held, that the tender was insufficient, the plaintiff being entitled, under the statute, to the costs claimed above 23*l.*; and the court refused to set aside the *elegit* (*Bayley* v. *Potts*, 8 Ad. & E. 272).

(e) Before this Act a bill could not be filed against the warden in vacation (*Bolton* v. *Eyles*, 2 Bro. & B. 51; *Crook* v. *Eyles*, 2 Marsh. 49; 6 Taunt. 347; *Stock* v. *Eyles*, *Ib.* 54; 6 Taunt. 352).

(f) All duties imposed upon town clerks by this statute, are to be performed by the clerks of the peace, 20 & 21 Vict. c. 50, s. 5, ante, Vol. I. p. 1093, tit. "CORPORATIONS."

such justice or justices of the peace, on or before the ensuing general or quarter sessions of such county, city, borough, or place respectively; and such clerk of the peace or town clerk shall copy on a roll such fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them, together with all fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them imposed or forfeited at such court of general or quarter sessions (*a*), and shall, within such time as shall be fixed and determined by such court, not exceeding twenty-one days after the adjournment of such court, send a copy of such roll, with a writ of *distringas* and *capias*, or *fieri facias* and *capias*, according to the form and effect in the schedule marked (A) annexed to this Act, to the sheriff of such county (*b*), or the sheriff, bailiff, or officer of such city, borough, or place having execution of process therein respectively, as the case may be, which shall be the authority to such sheriff of such county, or the sheriff, bailiff, or officer, as the case may be, for proceeding to the immediate levying and recovering of such fines, issues, amerciaments, forfeited recognisances, sum or sums of money to be paid in lieu or satisfaction of them or any of them, on the goods and chattels of such several persons, or for taking into custody the bodies of such persons, in case sufficient goods and chattels shall not be found whereon distress can be made for recovery thereof; and every person so taken shall be lodged in the common gaol until the next general or quarter sessions of the peace, there to abide the judgment of the said court.

3 G. 4, c. 46.

Clerk of the peace to copy on a roll such fines, &c., at quarter sessions, and send a copy of such roll, with writ of *distringas*, &c., to the sheriff, &c.

3. That the clerk of the peace or town clerk shall, before he shall deliver the roll to such sheriff, bailiff, or officer, containing the fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them, and is hereby required to make oath before any justice of the peace for the county, riding, city, borough, or place for which such clerk of the peace or town clerk shall act; which oath shall be indorsed on the back of the writ, or of the said roll attached thereto, such clerk of the peace or town clerk stating therein all such fines, issues, amerciaments, forfeited recognisances, sum or sums of money, which shall have been paid or otherwise accounted for; and such oath shall be made in the form following:

Clerk of the peace or town clerk to make oath as to all fines, &c., which shall be paid.

"I make oath, that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, recognisances, and forfeitures, which were set, lost, imposed or forfeited, and in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll, and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful or fraudulent discharge, omission, misnomer, or defect whatever. So help me GOD."

Form of oath.

4. That each and every justice of the peace before whom any recognisance shall be entered into or taken, shall and is hereby required to give, or cause to be given, at the time of entering into such recognisance, to the person or persons, surety or sureties, so entering into the same, and to each of them, a written or printed paper or notice, in the form or to the effect stated in the schedule marked (B) to this Act annexed, adapting the same to the particular circumstance of the case; and each and every such justice shall in such recognisance state and particularly specify not only the profession, art, mystery, or trade of every person so entering into such recognisance, together with their christian name and names and surnames, but also the parish, township, or place of his or her residence; and in case such residence shall be in any city, town, or borough, shall also state and particularly specify the name of the street and number of the house (if any) in which such persons shall reside, and also whether owner or tenant thereof, or lodger therein.

Notice to be given to the sureties.

5. Provided always, That if any person on whose goods and chattels such sheriff, bailiff, or officer, shall be authorised to levy any such forfeited recognisance, or sum of money to be paid in lieu or satisfaction thereof, shall give security to the said sheriff, bailiff, or officer, for his appearance at the next general or quarter sessions, then and there to abide the decision of the court, and also to pay such forfeited recognisance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as shall be ordered and adjudged by the court, it shall be lawful for such sheriff, bailiff, or officer, and he is hereby authorised and required, to discharge such person so giving such security out of custody: Provided also, that in case such party so giving secu-

Persons may appeal to quarter sessions against fines, &c., upon giving security (*c*).

(*a*) See *Reg.* v. *The Justices of Ely*, 25 L. J. M. C. 1; 5 E. & B. 489, as to the time when recognisances are to be estreated in default of payment of costs ordered by a court of quarter sessions.

(*b*) The duty of the sheriff, with respect to the roll of fines sent to him by the clerk of the peace, pursuant to this statute, is not purely ministerial; and he is not justified in levying a fine stated in the roll to be unpaid, but which had been previously paid to himself (*Wildes* v. *Morris*, 22 L. J. M. C. 4).

The deputy clerk of the peace has authority to receive fines imposed at quarter sessions, and is liable if damage arises from his omission to notify the receipt of fines on the roll (*Ib.*).

(*c*) This seems the only remedy for relief (*Rex* v. *Hawkins*, M'Cle. & Y. 28, *per* Hullock, B.).

3 G. 4, c. 46.

rity shall not appear in pursuance of his undertaking, it shall be lawful for the court forthwith to issue a writ of *distringas* and *capias*, or *fieri facias* and *capias*, against the surety or sureties of the person so bound as aforesaid.

Justices at quarter sessions to hear and determine such appeals.

6. That the court of general or quarter sessions before whom any person so committed to gaol or bound to appear shall be brought, is hereby authorised and required to inquire into the circumstances of the case, and shall, at its discretion, be empowered to order the discharge of the whole of the forfeited recognisance, or sum of money paid or to be paid in lieu or satisfaction thereof, or any part thereof; and such order shall be made in the form or to the effect of the schedule marked (C) to this Act annexed, and shall be signed by the clerk of the peace, which said order shall be a discharge to such sheriff, bailiff, or officer, on the passing of his accounts at the exchequer, or before any auditor or other proper officer duly authorised to pass the same; and in all cases where the party shall have been lodged in the common gaol by such sheriff, bailiff, or other officer, the justices of the peace so assembled are hereby empowered either to remand such party to the custody of the sheriff, bailiff, or other officer, or upon the release of such party from the whole of such forfeited recognisance, to order such party to be discharged from custody, and such order shall be a full and sufficient discharge to the said sheriff, bailiff, or officer, on the passing of his accounts at the exchequer, or before any auditor or other proper officer duly authorised to pass the same; and it shall and may be lawful to and for the said court of general or quarter sessions to award such costs, charges, and expenses to be paid by either party to the other, as to the said court shall seem just and reasonable.

7. [Sheriff may recover fines, &c., out of the county where imposed, upon getting his warrant backed by a justice of the peace of the county where the offender is (*a*).]

Sheriff to return writ to quarter sessions, and indorse on the roll what has been done in the execution of the process, which return, &c., shall be forwarded by clerk of the peace to the treasury.

8. That the said sheriff, bailiff, or officer shall, at the opening of the court, on the first day of the ensuing general or quarter sessions, return the said writ, and shall state on the back of the said roll what shall have been done in the execution of such process; which return, together with a duplicate of the roll of fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them at the preceding quarter sessions, and the certificate of the court on the back of the roll, stating that due diligence has been exercised on the part of the sheriff, shall be transmitted by the clerk of the peace to the lords commissioners of his majesty's treasury of the united kingdom of Great Britain and Ireland.

Proceedings not liable to stamp duty.

9. Provided always, That none of the proceedings under this Act shall be liable to or charged with any stamp duty.

Allowance to sheriff and clerk of the peace on sums levied.

Penalty on sheriff, &c., for neglect, 50*l*.

10. That the clerk of the peace and other officers shall be entitled to their usual and legal fees on the discharge of any forfeited recognisance, and the said clerk of the peace to an allowance of sixpence for every one hundred words, for all copies of the roll sent to the said lords commissioners of the treasury; and in case any such sheriff, bailiff, officer, or clerk of the peace shall refuse or neglect to do and perform any duty, act, or thing imposed or required upon or from such sheriff or clerk, bailiff or officer, in manner by this Act directed, then and in every such case, such sheriff, bailiff, or officer, or clerk so refusing or neglecting, shall forfeit and pay the sum of fifty pounds, to be recovered by any person or persons who will sue for the same, together with full costs of suit, by action of debt or on the case, in any of his majesty's courts of record at Westminster, wherein no essoign, protection, wager of law, or any more than one imparlance shall be allowed.

Not to alter the usual mode of appropriating fines.

11. Provided always, That nothing in this Act contained shall extend or be construed to extend so as to prevent or interfere with the appropriation of any such fines, issues, amerciaments, forfeited recognisances, sum or sums of money, when so paid or accounted for into the said court of exchequer by any such sheriff, bailiff, or officer, but the same shall and may be applied, disposed of, and appropriated in such and the like manner as such fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid in lieu or satisfaction of them or any of them, paid into the exchequer, were applied, disposed of, and appropriated before the passing of this Act.

Compensations to officers.

12. Provided also, That it shall be lawful for the lords commissioners of his majesty's treasury to make such compensation as they may think fit, for the loss of any legal fees occasioned to the officers thereof, or to the officers of the court of the duchy of Lancaster, by this Act.

Act not to prejudice the rights, &c., of his majesty in the duchy of Lancaster.

13. Provided always, That nothing in this Act contained shall extend or be in any ways prejudicial to the rights, liberties, or privileges of the king's most excellent majesty, his heirs and successors, in right of his duchy or county palatine of Lancaster; but that the same rights and privileges shall be enjoyed and used in all respects, and to all intents and purposes whatsoever, in the same manner and form as they were before the passing of this Act; anything herein contained to the contrary notwithstanding.

14. [Clerks of the peace, &c. to deliver into the court of exchequer yearly a certificate

---

(*a*) Repealed 4 Geo. 4, c. 37, post, p. 225.

of all fines, &c., paid, that the sheriffs may be charged in their accounts, and that parties entitled to fines, &c., may claim the same (a)]. 3 G. 4, c. 46.

4 Geo. 4, c. 37. An Act to amend an Act for the more speedy Return and Levying of Fines, Penalties and Forfeitures, and Recognisances estreated. [27th June, 1823.]

4 G. 4, c. 37

"Whereas an Act passed in the third year of the reign of his present majesty, intitled 'An Act for the more speedy Return and Levying of Fines, Penalties and Forfeitures, and Recognisances estreated:' and whereas it is expedient that some of the provisions of the said Act should be amended:" BE IT ENACTED, That it shall be lawful for the justices assembled at any general or quarter sessions of the peace, and they are hereby authorised and required, at the following or any subsequent general or quarter sessions held after the return of the writ and roll issued from any preceding general or quarter sessions, at the opening of the court, to insert or cause to be inserted in any following roll, all such fines, amerciaments, forfeited recognisances, sum or sums of money to be paid in lieu or satisfaction of them or any of them, which have not been duly levied or recovered or properly accounted for by the sheriff, bailiff or other officer, or have not been discharged on appeal before the general or quarter sessions, or by sign manual, warrant or authority of any three or more of the commissioners of his majesty's treasury of the united kingdom of Great Britain and Ireland, and so to continue such process from sessions to sessions, till it shall be duly ascertained, to the satisfaction of the said commissioners of his majesty's treasury, that the party in default has not any goods or chattels, lands or tenements, in the county, division, riding, city, town, or place, on which a levy can be made, nor in any other county, division, riding, city, town, or place in Great Britain, and that he is not to be found, or that his body cannot be lodged in any of his majesty's gaols: Provided always, That the said sheriff, bailiff or other officer to whom the writ of *distringas* and *capias* or *fieri facias*, or other writ deemed necessary by the justices at any such general or quarter sessions to meet the exigency of the case, shall be sent by order of the said court, shall keep and detain in his possession the writ or writs so directed to him, and the roll or rolls attached to such writ or writs, delivering to the said court of general or quarter sessions a copy of such roll or rolls, on the first day of the sitting of the said court, and also a copy of any former roll or rolls, where the fines, issues, amerciaments, forfeited recognisances,* sum or sums of money paid or to be paid in lieu or satisfaction of them, or any of them, shall not have been delivered; and such original writ and roll, or writs and rolls, shall continue in force and effect, and shall be sufficient authority, without any further writ or roll; and such sheriff, bailiff or other officer is hereby authorised and required, on quitting his office, to deliver over to his successors all rolls and writs in his possession, particularising any fines, issues, amerciaments, forfeited recognisances, sum or sums of money paid or to be paid in lieu or satisfaction of them, or any of them, in order that the sheriff, bailiff or other officer coming into office may use every means in his power for recovering the sums so unpaid, and not charged to his predecessor on the passing of his accounts at the exchequer, or before any auditor or auditors, or other person duly authorised to pass the same, the officer or officers entrusted with the execution of the process in any county, division, riding, city, town or place, being first duly and diligently examined on oath by the court, at the delivery of the roll, on the first day of each general or quarter sessions, and in case such examination should not then take place, then on the subsequent day; and every such examination shall be duly recorded by the clerk of the peace or town clerk, or other proper officer, in order that such sheriff, bailiff or other officer may be chargeable with all sums not satisfactorily accounted for on the final passing of his accounts.

3 G. 4, c. 46

Justices in sessions may insert in following rolls all such fines, &c., as have not been levied or accounted for by the sheriff, &c., or that have not been discharged.

Sheriff to detain original writs, which shall continue in force, and be authority to act upon.

* *Sic.*

Sheriff on quitting office to deliver over to his successor all rolls and writs, particularizing fines, &c.;

to be examined, and examination recorded.

2. [Repeals sect. 7 of 3 Geo. 4, c. 46.]

3. That in all cases where the party incurring or subject to any fine, issue, amerciament, forfeited recognisance*, sum or sums of money to be paid in lieu or satisfaction of them or any of them, shall reside, or shall have fled or removed from or out of the jurisdiction of the sheriff, bailiff or other officer, in which any such fine, issue, amerciament, forfeited recognisance, sum or sums of money to be paid in lieu or satisfaction of them or any of them, shall have been incurred, imposed or forfeited, or become due, it shall be lawful for such sheriff, bailiff or other officer, and he is hereby authorised and required to issue his warrant, together with a copy of the writ, directed to the sheriff, bailiff or other officer acting for the county, riding, city, borough or place in which such person shall then reside or be, or in which any goods or chattels or other property shall be found, requiring such sheriff, bailiff or other officer to execute such writ; and every such last-mentioned sheriff, bailiff or other officer, is hereby authorised and required to act in all respects under such warrant, in the same manner as if the original writ had been delivered to him by order of the court of the general or quarter sessions of the county, riding, city, borough or place for which such sheriff, bailiff or other officer shall act; and

* *Sic.*

Where party subject to fines, &c., resides in another county, or has removed, sheriff may issue his warrant to sheriff acting for place where defaulter resides or where his goods are found, re-

(a) Repealed, 22 & 23 Vict. c. 21, s. 30, post, p. 235; see *Rex* v. *Hawkins*, M'Cle. & Yo. 22.

4 G 4, c 37

quiring him to execute the writ

Returns thereon

the said sheriff, bailiff or other officer is hereby required, within thirty days after the receipt of such warrant, to return to the sheriff, bailiff or other officer, from whom he shall have received the same, what he shall have done in the execution of such process, and whether the party shall have given good and sufficient security to appeal at the ensuing general or quarter sessions to be held for the county, riding, city, borough or place from which the writ issued, and in case a levy shall have been made, to pay over all monies received in pursuance of the warrant to the sheriff, bailiff or other officer from whom he shall have received the same

Sheriff, &c., to render an account yearly of all persons incurring fines, &c.

* See

Causes of non payment to be stated

Account to be transmitted to the treasury

4 That every sheriff, bailiff or other officer acting for any county, division, riding, city, borough or place, shall and he is hereby required to make up or cause to be made up annually, and immediately after the expiration of the year for which he shall act, or after the usual period for making up his account, in case he shall act under any grant, appointment or other authority for a longer period than one year, an account in writing, containing the names and residences of all persons incurring fines, issues, amerciaments, forfeited recognisances*, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them, which he has been authorised or required to levy by virtue of any writ or writs issued to him, or to any predecessor in office, and in case any fine, issue, amerciament, forfeited recognisance, sum or sums of money paid or to be paid in lieu or satisfaction of them or any of them, shall not have been levied or paid, the causes of nonpayment shall be fully and particularly stated, and such account such sheriff, bailiff or other officer is hereby required to transmit, within thirty days from the expiration of the year for which such account ought to be made up, to the commissioners of his majesty's treasury, or at or within such other period as such sheriff, bailiff or other officer shall be required by the said commissioners of his majesty's treasury, or any three or more of them, in order that such account may be duly examined, checked and inspected, under the direction of the said commissioners of his majesty's treasury, or any three or more of them, and when so examined and approved, such account shall be transmitted to the proper officer in the court of exchequer, or to the auditor or other officer duly authorised to pass such account

Clerks of the peace, &c., to send to the treasury within 20 days from opening of quarter sessions, copy of rolls delivered by sheriff

* See

5. That every clerk of the peace and town clerk, or other proper officer, is hereby required, within twenty days from the opening of the court of general or quarter sessions, to send to the commissioners of his majesty's treasury a copy or an extract of the roll or rolls delivered by the sheriff, bailiff or other officer, on the first day of the opening of such court of general or quarter sessions, in such form as shall be required by the said commissioners of his majesty's treasury, also the causes of discharge in case any person shall have been relieved on appeal to the said court of general or quarter sessions, and the answer given by any sheriff, bailiff or other officer to such court, where any fine, issue, amerciament, forfeited recognisance*, sum or sums of money paid or to be paid in lieu or satisfaction of them, or any of them, has not been received by such sheriff, bailiff or other officer duly authorised to receive the same

11 G 4 & 1 W 4, c 70

11 Geo. 4 & 1 Will. 4, c. 70. An Act for the more effectual Administration of Justice in England and Wales. [23rd July, 1830.]

For passing accounts of sheriffs of county of Chester and principality of Wales

33. "And whereas it is expedient that the accounts of the sheriffs of the county of Chester and principality of Wales should be passed, as nearly as circumstances will admit, in the same manner as heretofore" BE IT ENACTED, That the clerk of assize, within ten days after the conclusion of the assizes in the county of Chester and in each county in Wales, shall make out a roll containing the names and places of residence of all persons liable to the payment of any fines, issues, amerciements, recognisances, compositions, or other sums imposed or forfeited during the preceding assizes, with the sums set opposite to each name, and shall forthwith transmit the same to the sheriff, with an order upon the sheriff, signed in the name of one of the judges of assize, directing the sheriff to cause such sums to be levied and recovered from the parties liable to pay the same, which order shall be of the same force and efficacy, and be returnable to the same person or persons, as any writ or process heretofore issued to the sheriff for the like purpose, and the sheriff, upon the receipt thereof, shall proceed to levy the sums in the said roll mentioned, and shall be accountable for the same, and all arrears thereof, in the same manner, at the same time, and to the same officer, and shall pass his accounts before the same officer or officers, as he hath been heretofore accustomed.

3 & 4 W 4, c 42.

3 & 4 Will. 4, c. 42. An Act for the further Amendment of the Law, and the better Advancement of Justice. [14th August, 1833.]

Sheriffs to name deputies to be resident in London

20. That from and after the 1st day of June, 1833, the sheriff of each county in England and Wales shall severally name a sufficient deputy, who shall be resident or have an office within one mile from the Inner Temple hall, for the receipt of writs, granting warrants thereon, making returns thereto, and accepting of all rules and

orders to be made on or touching the execution of any process or writ to be directed to such sheriff. 3 & 4 W. 4, c. 42.

3 & 4 Will. 4, c. 99. An Act for facilitating the Appointment of Sheriffs, and the more effectual Audit and Passing of their Accounts; and for the more speedy Return and Recovery of Fines, Issues, forfeited Recognisances, Penalties, and Deodands; and to abolish certain Offices in the Court of Exchequer. [29th August, 1833.] 3 & 4 W. 4, c. 99.

"Whereas the appointment of sheriffs, and the audit and passing of their accounts in the court of exchequer, are attended with unnecessary expense, delay, and trouble:" for remedy whereof BE IT ENACTED, That so much of an Act passed in the third year of the reign of his majesty king George the first, intituled, &c., as entitles and authorises certain officers therein and in the schedule thereto mentioned to demand, take, and receive the fees named in the said schedule, and also the said schedule, and also an Act passed in the said third year of the reign of his majesty king George the first, intituled "An Act for better enabling Sheriffs to sue out their Patents and pass their Accounts," be and the same are hereby repealed. Repeal of part of 3 G. 1, c. 15, and of 3 G. 1, c. 16.

2. That from and after the passing of this Act it shall not be necessary for any sheriff or sheriffs of any county, city, or town in England or Wales to sue out any patent or writ of assistance, or to make or pay proffers, nor shall any bailiff or bailiffs of liberties in England or Wales be required to make or pay any proffers, nor shall he or they have any day of prefixion, or be apposed, or take any oath or oaths before the cursitor baron to account, or be cast out of court, as now or heretofore in use in his majesty's court of exchequer, any law, statute, or usage to the contrary notwithstanding. Sheriffs not to sue out patent or pass accounts in exchequer

3. That whenever any person shall be duly pricked or nominated by his majesty for and to be sheriff of any county in England or Wales, except the county palatine of Lancaster, the same shall be forthwith notified in the "London Gazette," and a warrant in the form set forth in the schedule to this Act shall be forthwith made out and signed by the clerk of the privy council, and transmitted by him to the person so nominated and appointed sheriff as aforesaid; and the appointment of sheriff thereby made shall be as good, valid, and effectual in the law to all intents and purposes whatsoever as if the same had been made by patent under the great seal of Great Britain, or by any ways and means heretofore in use; and the sheriff and sheriffs so appointed as aforesaid shall thereupon, and upon taking the oath of office hereafter mentioned, have and exercise all powers, privileges, and authorities whatsoever usually exercised and enjoyed by sheriffs of counties in England and Wales, without any patent writ of assistance or other writ whatsoever, or entering into any recognisance by himself or sureties, and without payment of or being liable to pay any fees whatsoever for the same. Appointment of sheriff.

4. Provided always, That a duplicate of the said warrant shall, within ten days next after the date of the same warrant, be transmitted by the said clerk of the privy council to the clerk of the peace of the county for which such person shall be nominated and appointed sheriff, to be by the said clerk of the peace enrolled, and which he is hereby required to enrol and keep without fee or reward. Clerk of peace to enrol duplicate.

5. That from and after the passing of this Act every person so appointed sheriff as aforesaid shall, within one calendar month next after the notification of his appointment in the "London Gazette," by writing under his hand, nominate and appoint some fit and proper person to be his under sheriff (a), and shall transmit a duplicate thereof to the clerk of the peace for the county, to be by him filed, and which he is hereby required to file, among the records of his office, and for which he shall be entitled to demand and have from such under sheriff the sum of five shillings, and no more; and such appointment and duplicate shall not be liable to any stamp duty whatever. Sheriff to appoint an under sheriff, and transmit a duplicate thereof to the clerk of the peace.

6. That each and every person so appointed sheriff and under sheriff as aforesaid, except the sheriffs of London and Middlesex and their under sheriffs, shall, before he enter upon the execution of his office, take the oath of office heretofore and now required by law, which oath shall be fairly written on parchment (without being subject to any stamp duty) and signed by him, and shall and may be sworn before the barons of his majesty's exchequer or any of them, or any one of his majesty's justices of the peace for the county of which he shall be appointed sheriff or under sheriff; and the same shall be thereupon transmitted to the clerk of the peace for the same county, who is hereby required to file the same among the records of his office, and for which he shall be entitled to demand and have from such sheriff or under sheriff the sum of five shillings, and no more. Oaths of sheriff and under sheriff.

7. That every sheriff of any county, city, liberty, division, town corporate, or place shall at the expiration of his office make out and deliver to the new or incoming sheriff a true and correct list and account under his hand of all prisoners in his custody, and Prisoners and writs to be turned over by

(a) See *Williams* v. *Thomas*, 4 Exch. 479, ante, Vol. II. p. 924, n. (a), tit. "JURIES."

3 & 4 W. 4, c. 99.

Sheriffs at the expiration of their office to the incoming sheriff.

of all writs and other process in his hands not wholly executed by him (*a*), with all such particulars as shall be necessary to explain to the said incoming sheriff the several matters intended to be transferred to him, and shall thereupon turn over and transfer to the care and custody of the said incoming sheriff all such prisoners, writs, and process, and all records, books, and matters appertaining to the said office of sheriff; and the said incoming sheriff shall thereupon sign and give a duplicate of such list and account to the sheriff going out of office, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned and transferred to the said incoming sheriff, and the further charge of the execution of the writs, process, and other matters therein contained, without any writ of discharge, or other writ whatsoever; and the said incoming sheriff shall thereupon stand and be charged with the said prisoners, and also with the execution and care of the said writs, process, and other matters, contained in the said list and account, as fully and effectually as if the same writs and process had been turned over by indenture and schedule; and in case any sheriff shall refuse or neglect at the expiration of his office to make out, sign, and deliver such list and account as aforesaid, and to turn over the process aforesaid in manner aforesaid, every such sheriff so neglecting or refusing shall be liable to make such satisfaction by damages and costs to the party aggrieved as he, she, or they shall sustain by such neglect or refusal.

8. [Sheriffs accounts to be audited by commissioners for auditing public accounts (*b*).]

Sheriffs going out of office (except those of Chester, Lancaster, and Durham) to transmit accounts to commissioners (*b*).

9. That every person and persons who now are or who hereafter shall be sheriff or sheriffs of any county, city, or town within England (except the said counties palatine of Chester, Lancaster, and Durham) shall within two calendar months next after the expiration of his or their office, or in case of the death of any sheriff or sheriffs, the under sheriff by him or them appointed shall within two calendar months next after the death of such sheriff or sheriffs, transmit to the said commissioners for auditing public accounts, a just and true account, under his or their hand or hands, of all sums received by such sheriff or sheriffs to or for the use of his majesty, and of all sums paid or claimed by him or them, or on his or their behalf (save such sums as are or have been usually inserted and allowed in the bill of cravings), with all such particulars as shall be needful to explain the same: Provided always, That such under sheriff shall not be personally responsible for any sum or sums received by such deceased sheriff, but that the same shall be answered by the representatives of the said deceased sheriff, or otherwise in due course of law: Provided always, That the sheriff of Westmoreland shall yearly, within two calendar months next after the 1st day of January in every year, transmit or cause to be transmitted to the said commissioners for auditing the public accounts a like account under his hand, or the hand of his under sheriff, of all sums paid by him to or for the use of his majesty within or during the year of our Lord next preceding, and of all sums paid or claimed by him or on his behalf during the same period (save such sums as are or have been usually inserted in the bill of cravings), with all such particulars as shall be needful to explain the same.

Sheriff of Westmoreland to transmit like accounts yearly.

The oath or affidavit of sheriff may be taken before a judge, commissioner, or magistrate.

10. That in case it shall be necessary for any such sheriff or sheriffs, or his or their under sheriff, to make oath or affidavit to any such account, or any article, matter, or thing relating thereto, such oath or affidavit, except when the said commissioners shall require his or their personal examination before them, shall and may be sworn before any of the judges of his majesty's superior courts of record at Westminster, or before any commissioner for taking affidavits in any of the same courts, or before any master or master extraordinary in the high court of chancery, or before any of his majesty's justices of the peace.

Bill of cravings to be settled by the treasury.

11. That the claim of every sheriff or sheriffs for certain allowances usually called the bill of cravings shall, from and after the passing of this Act, be preferred to the lord high treasurer or the commissioners of his majesty's treasury for the time being, who, or any three or more of whom, shall and may grant a warrant for the allowance of the same in the account of such sheriff or sheriffs, or for the payment of such sum or sums of money in respect thereof as they shall think reasonable in that behalf.

12. [Quit rents, &c., to be received by commissioners of woods, forests, and land revenues.]

13. [Power to treasury to release certain rents.]

14. [Certain parts of 32 Geo. 2, c. 14, repealed.]

15. [Sheriffs not to be chargeable with pre-fines or post-fines.]

16. [Not to extend to the county palatine of Lancaster.]

17. [Receiver-general to keep books, with liberty of inspection to persons entitled to fines.]

Treasury may order payment to parties entitled.

18. That it shall be lawful for the lord high treasurer or any three of the commissioners of his majesty's treasury, by warrant under his or their hand, from time to time to order and direct the said receiver-general to pay such of the same fines, or any of them, or any part thereof, to any body politic or corporate, person or persons, entitled to the same, or to his, her, or their bailiff or bailiffs, agent or agents: Provided always, That

---

(*a*) See *Harrison* v. *Paynter*, 6 M. & W. 387; 22 L. J. Q. B. 99. *Thomas* v. *Newman*, 2 Dowl. N. S. 33; *Yaroth* v. *Hopkins*, 3 Dowl. 711; *Taylor* v. *Warrington*,

(*b*) Repealed 22 & 23 Vict. c. 21, s. 28, post, p. 235.

notwithstanding such payment, any body politic or corporate, person or persons, aggrieved thereby, shall and may apply by petition in the manner hereinafter mentioned against the party or parties to whom such payment shall have been made, to restore or refund the sums by him or them so received. 8 & 4 W. 4, c. 99.

19. Provided always, That in case the commissioners of his majesty's treasury shall neglect, refuse, or decline to order the payment of any fine or fines received by the receiver-general of alienation fines which shall be claimed by any body corporate or politic, person or persons, or if any party shall be aggrieved by any order for payment made by the said commissioners, it shall be lawful for any such body corporate or politic, person or persons, to apply by petition, in a summary manner, to the lord chief baron and the other barons of his majesty's court of exchequer, setting forth the nature of the claim or title of the petitioner or petitioners; and thereupon the said barons of his majesty's court of exchequer shall and they are hereby authorised to proceed to call the proper parties before them, and to hear and determine the matter of the said petition, and to give such costs and to make such order or orders therein as they shall consider just; and in case payment be thereby ordered of any sum or sums of money in respect of such fines, or any of them, by the said receiver-general of alienation fines, he is hereby authorised and required to pay the same according to such order or orders. On refusal of treasury, appeal may be made to the court of exchequer by petition.

20. [Accounts of receiver-general to be audited by commissioners for auditing public accounts.]

21. [Accounts when audited to be transmitted to lords of treasury.]

29. That an account in writing of all fines, issues, amerciaments, penalties, and recognisances set, lost, imposed, or forfeited to or for the use of his majesty by or before any judge or judges of assizes, clerk of the market, or commissioners of sewers, throughout the kingdom of England, and also all deodands found or forfeited to or for the use of his majesty throughout the same kingdom, shall, within fourteen days next after any such fines, issues, amerciaments, penalties, recognisances, or deodands shall respectively be set, lost, imposed, forfeited, found, or accrue, be made out by the clerk of assize, clerk of the market, commissioners of sewers, and coroners, or other person or persons respectively to whom it doth appertain or belong to make estreat thereof, with the names and residences of the parties liable to make payment thereof respectively, and distinguishing such as shall have been paid or received; and two copies of such account when so made out shall be signed by the person or persons so required to make out the same, who shall, within the time last aforesaid, transmit one copy thereof to the commissioners of his majesty's treasury, and another copy thereof to the commissioners for auditing the public accounts; and the same fines, issues, amerciaments, penalties, recognisances, and deodands shall also within the time last aforesaid be duly certified and estreated by such officers and persons respectively in and into the said court of exchequer; and all sum and sums of money which shall have been received for or on account of any such fines, issues, amerciaments, penalties, forfeitures, recognisances, or deodands shall be paid over by the parties respectively receiving the same unto the sheriff or sheriffs of the county, city, or town wherein the same shall have been set, lost, imposed, forfeited, found, or accrued, to the intent that such sheriff or sheriffs may be charged therewith, and duly account for the same. Account of fines by clerks of assize, commissioners of sewers, clerks of the market, and of deodands, to be transmitted to treasury and to commissioners of audit.

30. Provided always, That in all cases where any fines, issues, recognisances, penalties, forfeitures, or deodands are required by any Act or Acts now in force to be estreated, upon oath, in or into the court of exchequer, such oath shall and may be sworn and taken before a judge of any of his majesty's superior courts of record at Westminster, or before any commissioners for taking affidavits in the same courts, or before any master extraordinary in the high court of chancery, or before any of his majesty's justices of the peace; and every such estreat shall be transmitted to and filed with his majesty's remembrancer of the said court of exchequer, and received and entered by him without fee or reward. Where fines, &c., are now estreated upon oath, such oath may be taken before a judge, &c.

31. That his majesty's remembrancer do and shall, on or before the first seal day next after every term, make out an account in writing of all fines, issues, amerciaments, penalties, forfeited recognisances, and deodands estreated during the preceding vacation and term, and also of all returns within the same period of sheriffs to process issued for the purpose of levying any estreated fines, issues, amerciaments, penalties, forfeited recognisances, and deodands, and shall, within the time last aforesaid, transmit and send one copy of such account to the commissioners of his majesty's treasury, and another copy thereof to the said commissioners for auditing the public accounts. Accounts of estreats to be transmitted to treasury and to commissioners of audit.

32. That his majesty's said remembrancer shall, on the first seal day next after every term, and also at any other time or times when required by the court of exchequer, or by the fiat or order of any baron thereof, make out and issue, or cause to be made out and issued, according to the practice of the court of exchequer, and without fee or reward, process for duly levying and enforcing payment of all such fines, issues, amerciaments, penalties, forfeited recognisances, and deodands estreated as aforesaid (except as hereinafter mentioned), which shall not theretofore have been levied, recovered, vacated, or discharged, and so from time to time until the same shall be fully paid or levied, vacated or discharged. Process to be issued every term, or oftener, to levy estreats.

33. That it shall be lawful for the lord high treasurer or the commissioners of his majesty's treasury, and he or they are hereby authorised, by warrant under his or their hands directed to the proper officer or officers, to stay the issuing or execution of all or any process touching any of the matters set, lost, imposed, forfeited, or estreated as aforesaid, and to vacate and discharge such fines, issues, amerciaments, penalties, for- Power to treasury to stay process and discharge the fines, &c.

3 & 4 W. 4, c. 99.

feited recognisances, or deodands, or any of them, or any part thereof; provided that nothing in this clause contained shall extend to enable the said lord high treasurer or the commissioners of his majesty's treasury to remit or restore any fine, issue, amerciaments, penalty, forfeited recognisance, or deodand to which any body corporate or politic, person or persons, shall or may be entitled, which shall have been actually levied by or paid to them.

Power to persons entitled to any fines, &c., to inspect accounts.

34. That all bodies corporate and politic, and all and every other person and persons having or claiming title to any fines, issues, amerciaments, penalties, forfeited recognisances, deodands, sum or sums of money contained in any account transmitted by virtue of this Act to the commissioners for auditing public accounts, shall and may, by themselves, or their, his, or her bailiff, steward, or agent, at all seasonable times, have access to the said accounts, and take minutes or extracts therefrom.

The treasury may order payment of fines, &c.

35. That it shall be lawful for the lord high treasurer, or any three or more of the commissioners of his majesty's treasury, from time to time to order and direct payment, by warrant under his or their hand, of the said fines, issues, amerciaments, penalties, forfeited recognisances, deodands, sum and sums of money, or any of them, to any body corporate or politic, person or persons, entitled to the same, or to their, his, or her bailiff, steward, or agent: Provided always, That notwithstanding such payment any body politic or corporate, person or persons, aggrieved thereby, shall and may apply by petition in the manner hereinafter mentioned against the party or parties to whom such payment shall have been made to restore or refund the sum or sums by him or them so received.

If treasury reject claims, the party may appeal to the court of exchequer.

36. Provided always, That in case the commissioners of his majesty's treasury shall neglect, refuse, or decline to order the payment of any fines, issues, amerciaments, penalties, forfeited recognisances, deodands, sum or sums of money so claimed as aforesaid, or if any party shall be aggrieved by any order made by the said commissioners, it shall be lawful for any such body or bodies corporate or politic, person or persons, to apply, in a summary way, by petition to the lord chief baron and the other barons of his majesty's court of exchequer, setting forth the nature of the claim or title of the petitioners or petitioner; and thereupon the said barons of his majesty's court of exchequer shall and they are hereby authorised to proceed to call the proper parties before them, and to hear and determine the matter of the said petition, and to give such costs and to make such order and orders therein as they shall deem just.

37. [Act not to prejudice rights of corporate bodies, &c.]

38. [Or to affect jurisdiction of court of exchequer.]

39. [Or rights of county palatines or of city of London.]

40. [Or rights of the city of Chester.]

SCHEDULE TO WHICH THIS ACT REFERS.

At the Court at the day of present, the King's most Excellent Majesty in Council.

To A. B. of, *et cætera.*

Whereas his majesty was this day pleased, by and with the advice of his privy council, to nominate and appoint you for and to be sheriff of the county of during his majesty's pleasure: These are therefore to require you to take the custody and charge of the said county, and duly to perform the duties of sheriff thereof during his majesty's pleasure; and whereof you are duly to answer according to law.

Dated this day of By his majesty's command,
C. D.

5 & 6 W. 4, c. 28.

5 & 6 Will. 4, c. 28. An Act for removing Doubts as to the Declaration to be made and Oaths to be taken by Persons appointed to the Office of Sheriff of any City or Town being a County of itself. [21st August, 1835.]

9 G. 4, c. 17.

No person chosen a sheriff of a city shall be liable to make declaration in recited Act. Proviso.

"Whereas by an Act passed in the ninth year of the reign of his late majesty king George the fourth, intituled," &c. [reciting sects. 1 & 4]: BE IT THEREFORE ENACTED, That no person who has already been or who shall hereafter be elected or chosen to the office of sheriff of any city or town being a county of itself, shall by reason thereof be liable to make or subscribe the aforesaid declaration within one calendar month next before or upon his admission to the said office: Provided always, That every person so elected or chosen to the said office of sheriff shall take, make, and subscribe, within the time required by law, all oaths and declarations which sheriffs of counties are bound to take, make, and subscribe.

1 Vict. c. 55.

1 Vict. c. 55. An Act for better regulating the Fees payable to Sheriffs upon the Execution of Civil Process. [15th July, 1837.]

"Whereas it is expedient to amend the laws relating to the fees payable to sheriffs,

under sheriffs, deputy sheriffs, sheriffs' agents, bailiffs, and others the officers or ministers of sheriffs in England and Wales, and to give the courts of record at Westminster hall a due control over such fees; and also to provide a summary remedy against such officers and others as shall extort or receive other or greater fees than by law they shall be entitled to: and whereas divers enactments, touching the said officers contained in certain ancient statutes, have become inconvenient, and ought to be repealed:" BE IT THEREFORE ENACTED, That so much of an Act passed in the forty-second year of his late majesty king Edward the third, intituled "Estreats shall be showed to the Party indebted, and that which is paid shall be totted: no Sheriff, *et cætera*, shall continue in Office above a year," as relates to the time during which under sheriffs and sheriffs' clerks may abide in their respective offices; and also an Act passed in the first year of the reign of his late majesty king Henry the fifth, intituled "Sheriffs' Bailiffs shall not be in the same Office in Three Years after: Sheriffs' Officers shall not be attorneys;" and also so much of an Act passed in the twenty-third year of the reign of his late majesty king Henry the sixth, intituled "No Sheriff shall let to farm his County or any Bailiwick: the Sheriffs' and Bailiffs' Fees and Duties in many Cases," as relates to the fees to be taken by sheriffs, under sheriffs, sheriffs' clerks, and other officers and ministers of sheriffs, be and the same are hereby repealed.

1 Vict. c. 55.

Part of 42 Edw. 3, c. 9; the Act 1 Hen. 5, c. 4: and part of 23 Hen. 6, c. 9, repealed.

2. That from and after the passing of this Act it shall be lawful for sheriffs, or their officers concerned in the execution of process directed to sheriffs, to demand, take, and receive such fees, and no more, as shall from time to time be allowed by any officer of the several courts of law at Westminster charged with the duty of taxing costs in such courts, under the sanction and authority of the judges of the said courts respectively (*a*).

Sheriffs to take only such fees as are allowed by taxing officer.

(*a*) This statute does not repeal any statutes except those expressly mentioned in it. It authorises the receipt of *fees*, beyond the *poundage* allowed by the statute of Elizabeth (*Davies* v. *Griffiths*, 4 M. & W. 377; *Wrightup* v. *Greenacre*, 10 Q. B. 1; see 5 & 6 Vict. c. 98, s. 31, post, p. 234). And its effect is to create exemptions from the operation of the statute of Elizabeth, and to legalise the receipt of fees beyond the poundage; but only if the Judges should make regulations to that effect (*Pilkington* v. *Cooke*, 16 M. & W. 627; *Slater* v. *Hames*, 7 M. & W. 413). All that is taken by the sheriff or his officer beyond what is warranted by the exemption given by this statute is, if it amounts to more than the fees and poundage, an excess under the statute of Elizabeth, and renders the officer taking such excess liable to an action for the penalty given by that statute (*per* Lord Denman, C. J., *Wrightup* v. *Greenacre*, 10 Q. B. 14; *Curlewis* v. *Bird*, 1 Dowl. N. C. 752). A declaration, therefore, under the statute of Elizabeth is still good; and if the defendant has received more than the sum allowed by the statute of Elizabeth, but not more than the sums allowed by the statutes of Elizabeth and this Act taken together, that must come from him by way of defence (*Pilkington* v. *Cooke*, 16 M. & W. 615; *Thibault* v. *Gibson*, 12 M. & W. 88; *Sander's case*, 1 Wms. Saunders, 262, b). A declaration, however, may be framed on the conjoint operation of both statutes; but in such case it must appear how much was taken by the defendant for poundage under the statute of Elizabeth, and how much for fees under this statute (*Usher* v. *Walters*, 4 Q. B. 553; *Wrightup* v. *Greenacre*, 10 Q. B. 1; *Ashby* v. *Harris*, 2 M. & W. 673). The sheriff is entitled, under the table of fees sanctioned by the Judges, to a percentage on the whole proceeds of sale, including rent paid to the landlord, but not to an allowance for extra expenses not included in the table (*Davies* v. *Edmonds*, 12 M. & W. 31; *Slater* v. *Hames*, 7 M. & W. 413); as for the expense of advertising sales by auction, under 24 & 25 Vict. c. 134, s. 73 (*Braithwaite* v. *Marriott*, 32 L. J. Ex. 24); and this, though the execution be irregular, and the money ordered to be returned to the defendant (*Bullen* v. *Ansley*, 6 Esp. 111; *Rawstorne* v. *Wilkinson*, 4 M. & Sel. 256).

Where a sheriff's officer takes more fees than allowed by this statute, the sheriff may be called upon to show cause why he should not return the excess, and the officer, why an attachment for contempt should not issue (*Blake* v. *Newburn*, 5 Dowl. & L. 601).

The following is a Table of Fees to be taken by the Sheriffs, Under Sheriffs, Deputy Sheriffs, Sheriffs' Agents, Bailiffs, and others the Officers or Ministers of Sheriffs, in England and Wales, pursuant to this Statute.

For every warrant which shall be granted by the sheriff to his officer upon any writ of process:—

	£	s.	d.
In London and Middlesex	0	2	6
And on crown* and outlawry process, an additional	0	2	6

* By R. G. M. 10 Vict. so much of this table of fees as relates to process at the suit of the crown is annulled.

1 Vict c 55 To prevent officers

3. That any sheriff, officer, or minister acting in the execution of process directed to any sheriff or sheriffs, or engaged or concerned therein, who shall extort, demand, take, accept, or receive from any person or persons any fee or fees, gratuity, or reward not

	£	s.	d.
In all other counties where the most distant party of the county shall not exceed 100 miles from London	0	5	0
Not exceeding 200 miles	0	6	0
Exceeding 200 miles	0	7	0
For an arrest in London	0	10	6
In Middlesex, not exceeding a mile from the General Post Office	0	10	6
Not exceeding 7 miles from same place	1	1	0
In other counties, not exceeding a mile from officer's residence	0	10	6
Not exceeding 7 miles	1	1	0
For conveying the defendant to gaol from the place of arrest, per mile*	0	1	6
For an undertaking to give a bail bond	0	10	6
FOR A BAIL BOND.			
If the debt shall not exceed £50	0	10	6
" " 100	1	1	0
" " 150	1	11	6
" " 300	2	2	0
" " 400	3	3	0
" " 500	4	4	0
If it shall exceed . . 500	5	5	0
For receiving money under the statute upon deposit for arrest, and paying the same into court, if in London or Middlesex	0	6	8
If in any other county	0	10	6
FOR FILING THE BAIL BOND.			
If the arrest be made in London or Middlesex	0	2	0
If in any other county	0	4	0
ASSIGNMENT OF BAIL OR OTHER BOND.			
If in London or Middlesex	0	5	0
If in any other county, including postage	0	7	6
For the return to any writ of *habeas corpus*, if one action	0	12	0
And for each action after the first	0	2	6
For the bailiff to conduct prisoners to gaol, *per diem*	0	10	6
And travelling expenses, per mile	0	1	0
For searching offices for detainers†	0	1	0

	£	s.	d.
Bailiff's messenger for that purpose	0	2	6
To the bailiffs for executing warrants on extent, *capias utlagatum*, *levari facias*, *fi. fa.*, *ca. sa.*, *ne exeat*, attachment, elegit, writ of possession, forfeited recognisance, process from pipe office, and other like matters, for each, if the distance from the sheriff's office or the bailiff's residence do not exceed 5 miles‡	1	1	0
If beyond that distance, per mile	0	0	6
On *distringas*, in London	0	5	0
In Middlesex, not exceeding 5 miles from General Post Office	0	5	0
Exceeding 5 miles	0	10	0
In other counties, not exceeding 5 miles from officer's residence	0	5	0
Exceeding 5 miles	0	10	0
For each man left in possession, when absolutely necessary,			
If boarded, *per diem*	0	3	6
If not boarded, *per diem*	0	5	0
For every sale by auction, § notwithstanding the defendant should become bankrupt or insolvent, where the property sold does not produce more than 300*l.* 5 per cent., 400*l.* 4 per cent., 500*l.* 3 per cent., and where it exceeds 500*l.* 2½ per cent. :—			
For the certificate of sale to save auction duty	0	2	6
Bond of indemnity, besides stamps	1	10	0
Certificate of execution having issued for record	0	5	0
ON WRITS OF TRIAL AND INQUIRY.			
For a deputation	1	1	0
On lodging writ for entering cause, and warrant for summoning jury, which fee shall be forfeited in case of countermand of trial	0	4	0
ON TRIAL OR INQUISITION.			
Sheriff, for presiding	1	1	0
Bailiff, for summoning jury, and attendance in court	0	4	0

* He is entitled to one guinea for executing the *ca. sa.*, and 1*s.* per mile for travelling expenses; but not to anything for an assistant or for conducting the defendant to gaol (*Cooper* v. *Hill*, 6 C. B. N. S. 703, 28 L. J. C. P. 311).

† See *Masters* v. *Lowther*, 11 C. B. 948, 21 L. J. C. P. 130, infra, p. 235, n. †.

‡ This table of fees allows the sheriff's bailiff for executing a *fieri facias*, if the distance do not exceed five miles, 1*l.* 1*s.*; if beyond that distance, per mile 6*d.*; and for each man in possession, *per diem*, 5*s.* On the execution of a *fieri facias* the defendant requested that a man might not be put in possession, and agreed to pay the possession money. The bailiff charged three days' possession money, and 1*s.* mileage. Upon application for an attachment, it was held that the agreement of the defendant was an answer as to the possession money, but that the charge of 6*d.* per mile each way was illegal (*Gill* v. *Jose*, 6 E. & B. 718).

§ No fee is payable for an appraisement (*Philips* v. *Lord Canterbury*, 11 M. & W. 619; *Marshall* v. *Hicks*, 10 Q. B. 15); or for advertising (*Braithwaite* v. *Marriott*, ante, p. 231, n. (*a*).

allowed as aforesaid, or greater in amount than as allowed as aforesaid, such sheriff, or other his officer or minister, upon complaint thereof made against him to any of the said courts, and on proof being made thereof upon oath, either by the examination of witnesses *vivâ* 1 Vict. c. 55. taking fees not allowed

	£	s.	d.
And if not held at the office of the under sheriff,			
For hire of room, if actually paid, not exceeding	0	10	0
For travelling expenses of under sheriff, from his office to place where trial or inquisition held, per mile	0	1	0
To the bailiff, from his residence, per mile	0	0	6
In all cases in which it shall appear to the Master that a saving of expense has accrued to the parties by reason of writ of trial having been executed by deputation, the fee for such deputation shall be allowed.			
On writs of extent, *elegit*, *capias utlagatum*, and others of the like nature:—			
For summoning the jury, use of room, presiding at the inquisition, &c.	2	2	0
Jury	0	12	0
For travelling expenses of under sheriff, from his office to place of inquisition, per mile	0	1	0
For drawing and engrossing the inquisition, per folio	0	1	6
For a summons for the attendance of a witness	0	5	0
IN REPLEVIN.			
Bond upon the same scale as the bail bond.			
Precept to bailiff	0	2	6
Notice for service on defendant	0	2	6
Broker, where the sum demanded and due shall exceed 20*l.*, and shall not exceed 50*l.*, for appraisement and affidavit of value	0	10	6
Where it shall exceed 50*l.*	1	1	0
And his travelling expenses from his residence to the place where the goods are, per mile	0	0	6
Bailiff, for summoning parties, and delivering goods to tenant	1	1	0
And his travelling expenses, same as broker.			
For the warrant record and return of a *re. fa. lo. accedas ad curiam*, *pone*, or writ of false judgment	0	16	6
For writ of *retorno habendo*	0	4	6
For each summons on a writ of *sci. fa.*, or for the service of writ of *capias*, where no arrest	0	5	0
And mileage, per mile	0	1	0
For recording each demand or proclamation under writs of outlawry	0	2	0
For bailiff, for making each demand or proclamation on writs of outlawry in London and Middlesex	0	2	6
In other counties	0	5	0
And travelling expenses; if the distance shall not exceed 5 miles, then for every mile beyond that distance	0	0	6
For any supersedeas, writ of error, order, *liberati*, or discharge to any writ or process, or for the release of any defendant in custody,* (unless in the prison of the county,) or of any goods taken in execution†	0	4	6
For the return of any writ or process, and filing same, exclusive of the fee paid in filing	0	1	0
JURY PROCESS‡.			
For return to common *venire*	0	3	6
The like to special	0	5	0
The like on *distringas* or *hab. corp.* for common jury	0	12	0
The like for special jury	0	14	0
The like with a view	1	0	0
The like to a traverse *venire*	0	14	6
For attendance naming special jury	2	2	0
Twenty-four warrants to summon special juror	1	4	0
For bailiff, for summoning each special juror	0	2	0
Sheriff attending in court	1	1	0
For attending a view—the fees as allowed by the rule of court, Trin. Term. 7 Geo. 4, 1826.§			
For any duty not herein provided for, such			

* See *Taylor* v. *Warrington*, 22 L. J. Q. B. 99.

† This is not applicable where the debt and costs are paid after the seisure under a *fi. fa.* (*Masters* v. *Lowther*, 21 L. J. C. P. 130).

‡ No greater fees are payable when the jurors reside at a distance (*Lane* v. *Sewell*, 1 Chit. 175).

A sheriff has no right to charge the fees in this table for jury process, in special jury causes, since the alteration in the mode of summoning special juries by sect. 108 of the 15 & 16 Vict. c. 76, ante, Vol. III, tit. "PLEADING, PRACTICE, &c. (AT LAW.)" (*Bennett* v. *Thompson*, 2 Jur. N. S. 613—Q. B.).

§ See R. G. H. T. 1853, pr. pl. 49.

1 Vict. c. 55 or greater fees than are allowed; and other persons from taking any fees.

voce or on affidavits, or on interrogatories, to the satisfaction of the court to which the said complaint shall be made, that such sheriff, officer, or minister, as the case may be, hath offended therein as aforesaid, then and in such case every such sheriff, officer, or minister, as the case may be, shall be adjudged guilty of a contempt of such court, and punished by such court accordingly; and if any person, not being such officer or minister as aforesaid, shall assume or pretend to act as such, and shall extort, demand, take, accept, or receive any fee or fees, gratuity or reward under colour or pretext of such office, he shall, on like complaint and proof, be in that respect dealt with by the court in like manner.

Court may award costs (a).

4. That in all cases of summary complaints as aforesaid the court before which such complaint shall be preferred may at its discretion award the costs of or occasioned by such complaint to be paid by either party to the other; such costs to be taxed by the master of such court: Provided always, That no such complaint shall be entertained unless made before the last day of term next following the act whereof complaint is made.

Fees to the sheriffs of Lancashire and Durham.

5. That from and after the passing of this Act the sheriffs of Lancashire and Durham, and their officers, shall have and be entitled to the like fees, and no more, upon process issuing out of the court of common pleas at Lancaster and out of the court of pleas at Durham respectively as from time to time shall be allowed under the authority of this Act to sheriffs upon process issuing from the superior courts at Westminster; and that the said court of common pleas at Lancaster and court of pleas at Durham respectively, or any judge thereof respectively, being also judge of one of the superior courts at Westminster, shall have the same powers in every particular, with respect to offences against this Act upon process issuing out of the said court of common pleas at Lancaster and court of pleas at Durham respectively, as are hereinbefore given to the courts at Westminster respectively in respect of process issuing from those courts.

2 & 3 Vict. c. 59.

2 & 3 Vict. c. 59. An Act for taking away the Exemption, except in certain cases, of Officers of the Militia to serve as Sheriff. [17th August, 1839.]

The under sheriff answerable for sheriff when militia is drawn out.

2. That if any sheriff shall be an officer of the militia at any time when the militia of which he is such officer shall be drawn out and embodied for actual service, he shall be discharged from personally performing the office of sheriff while the militia shall remain embodied, and the under sheriff shall be answerable for the execution of the said office, in the name of the high sheriff, during the same time; and the security given by the under sheriff, and his pledges to the high sheriff, shall stand a security to the queen, her heirs and successors, and to all persons whatsoever, for the due performing his office during such time.

5 & 6 Vict. c. 98.

5 & 6 Vict. c. 98. An Act to amend the Laws concerning Prisons. [10th August, 1842.]

Sheriff liable in damages only for

31. That if any debtor in execution shall escape out of legal custody after the passing of this Act, the sheriff, bailiff, or other person having the custody of such debtor shall be liable only (b) to an action upon the case for damages sustained (c) by the person

---

sum as one of the Masters of the Courts of Queen's Bench or Exchequer, or one of the prothonotaries of the Court of Common Pleas, may upon special application allow.

[Signed by the Judges.]

ADDENDA.

Bond in Replevin.

Instead of the allowance of the fees upon the same scale as the bail bond, the fee of one pound one shilling only is allowed, whatever be the amount, if above 20*l*.

Fees on Writs of Trial and Inquisition.

The travelling expenses of the under sheriff from his office, and of the bailiff from his residence to the place where the trial or inquisition is held, are to be apportioned rateably to the parties, if more than one trial or inquisition be held at the same time and place.

[Signed by all the Judges.]

Where there are several defendants in a writ of *capias*, and warrants are issued thereon by the under sheriff against more than one defendant, no more shall be charged in any case for each warrant, after the first, than two shillings and sixpence.

[Signed by eight of the Judges.]

(a) See *Curlewis* v. *Bird*, 1 Dowl. N. S. 752.

(b) An attachment will also issue (*Reg.* v. *Sheriff of Leicestershire*, 1 L. M. & P. 414).

(c) In an action for an escape on mesne process the sheriff is liable only for such damages as the plaintiff has sustained (*Scott* v. *Henley*, 1 M. & Rob. 227); and no action lies unless he has sustained some actual damage (*Williams* v.

or persons at whose suit such debtor was taken or imprisoned, and shall not be liable to any action of debt in consequence of such escape; and that after the 1st of March, 1843, no poundage shall be payable to sheriffs, bailiffs, and others, for taking the body of any person in execution, but there shall be payable to the sheriff or other person having the return of writs, upon every such execution against the body, such fees only as shall be allowed to be taken by sheriffs or other officers concerned in the execution of process under the sanction and authority of the judges of the courts of common law at Westminster, pursuant to the statute 7 Will. 4 & 1 Vict. c. 55, intituled "An Act for better regulating the Fees payable to Sheriffs upon the Execution of Civil Process." 5 & 6 Vict. c. 98. escapes; not to receive poundage.

8 & 9 Vict. c. 11. An Act for assigning Sheriffs in Wales. [8th May, 1845.]

8 & 9 Vict. c. 11.

[The sheriffs in each shire in Wales shall be appointed at the same time and place as is used for sheriffs in the shires of England.]

22 & 23 Vict. c. 21. An Act to regulate the Office of Queen's Remembrancer, and to amend the Practice and Procedure on the Revenue Side of the Court of Exchequer. [13th August, 1859.]

22 & 23 Vict. c. 21.

28. (a) Section eight of the Act of the session holden in the third and fourth years of king William the fourth, chapter ninety-nine, and so much of any other Act as provides for the examination and audit of the accounts of any sheriff or under sheriff by the commissioners for auditing the public accounts shall be repealed, so far as respects the accounts of any sheriff who may leave office after the passing of this Act, and the accounts of the under sheriff of any such sheriff; and all accounts of such sheriffs and their under sheriffs now required to be examined and audited by the said commissioners shall be examined and audited by such persons and in such manner as the commissioners of her majesty's treasury may from time to time, by warrant under their hands, direct, and the commissioners of the treasury may, by any such warrant, make all such provisions in relation to the transmission, examination and audit of such accounts, and for ascertaining and determining the balances due from and the discharge of the persons accounting as to the said commissioners may seem proper; and every such warrant shall be laid before both houses of parliament within fourteen days after the making thereof, if parliament be sitting, and if parliament be not sitting then within fourteen days after the next meeting of parliament. Sect 8 of 3 & 4 Will 4, c. 99, &c., requiring sheriff's accounts to be audited by commissioners of audit repealed.

29. Subject to such other provisions in this behalf as may be made by any such warrant as aforesaid, all sheriffs and under sheriffs now required to transmit accounts to the commissioners for auditing the public accounts, in manner provided by section nine of the said Act of the third and fourth years of king William the fourth, shall, in lieu of transmitting the same to such commissioners, transmit the same to the commissioners of her majesty's treasury, and so much of section thirty-one of the said Act as requires a copy of the accounts therein mentioned to be transmitted to the commissioners for auditing public accounts is hereby repealed. Transmission of sheriff's accounts.

30. The form of writ in the schedule to this Act shall be substituted for the form in schedule (A.) to the Act of the third year of king George the fourth, chapter forty-six, and section one of the Act of the fourth year of king George the fourth, chapter thirty- Form in schedule to be substituted for

---

Mostyn, 4 M. & W. 145; *Brown* v. *Jarvis*, 1 M. & W. 704): it must, therefore, so appear on the face of the declaration (*Randell* v. *Wheble*, 10 Ad. & E. 719).

In an action against a sheriff for an escape on final process, the measure of damages is the value of the custody of the debtor at the moment of the escape; and no deduction is to be made on account of anything which the plaintiff might have obtained by diligence in arresting the defendant after the escape. *Aliter*, however, if the plaintiff has done anything to aggravate the loss occasioned by the sheriff's neglect (*Arden* v. *Goodacre*, 2 L. M. & P. 383; *Clifton* v. *Hooper*, 6 Q. B. 468). So the amount of fine to be imposed on the sheriff for the negligent escape of an execution debtor, will be measured by the amount of injury likely to result to the execution creditor (*Reg.* v. *Leicestershire (Sheriff)*, 9 C. B. 659, 19 L. J. C. P. 320).

If in an action for an escape the defendant was arrested by virtue of a *capias*, the declaration must allege the pendency of a suit at the time of the making that judge's order to hold to bail (*Williams* v. *Griffith*, 3 Exch. 584; see *Howden* v. *Standish*, 18 L. J. C. P. 33; *Barnes* v. *Keene*, 15 Q. B. 75).

The defendant is entitled to a particular of the escape for which the plaintiff sues (*Davis* v. *Chapman*, 1 N. & P. 699; *Webster* v. *Jones*, 7 D. & R. 774).

(a) See sections 9–27, ante, Vol. I., p. 130, tit. "CROWN SUITS."

22 & 23 Vict. c. 21.

seven, amending the said Act of the third year of the same reign, shall be construed as if the words "lands or tenements" were omitted therein.

that in Schedule (A.) to 3 Geo. 4, c 46 Construction of sect 1 of 4 Geo 4, c. 37

Sect 14 of 3 Geo 4, c. 46, repealed

31. Section fourteen of the said Act of the third year of king George the fourth shall be and is hereby repealed.

Clerks of assize now required to estreat fines, &c, into the exchequer, to send process to the sheriff.

32. The clerks of assize and the clerk of the crown for the county palatine of Durham and Sadberge, by whom respectively any fines, issues, amerciaments, penalties and recognisances, set, lost, imposed or forfeited, would, if this Act had not been passed, have been certified or estreated in or into the exchequer, shall not so certify or estreat the same, or transmit any account thereof to the commissioners for auditing the public accounts, but every such clerk of assize and such clerk of the crown respectively shall in the like cases and at the like times in and at which he would, if this Act had not been passed, have certified or estreated such fines, issues, amerciaments, penalties and recognisances as aforesaid, copy on a roll such fines, issues, amerciaments, penalties and recognisances, together with the names and residences, trades, professions or callings of the parties, and distinguish such as have been paid, and send a copy of such roll, with a writ, according to the form and effect in the schedule to this Act, to the sheriff, bailiff or officer of the county, city, borough or place having execution of process therein in which the parties liable to the payment of such fines, issues, amerciaments, penalties and recognisances are stated to be resident, and such copy and writ shall be the authority to such sheriff, bailiff or officer for proceeding to the immediate levying and recovering of such fines, issues, amerciaments, penalties and recognisances on the goods and chattels of such parties, or for taking into custody their bodies, in case sufficient goods and chattels be not found whereon distress can be made for recovery thereof; and every person so taken shall be lodged in the common gaol until payment be made or he be discharged by the authority of the commissioners of her majesty's treasury, or otherwise in due course of law; and it shall be competent for such commissioners to give authority under their hands for such discharge, either absolutely or on such terms and conditions as they may see fit: Provided always, That where the residences of the parties in such roll liable as aforesaid are not all in one county, borough, city or place, then a copy of so much only of such roll as relates to the fines, issues, amerciaments, penalties and recognisances to be paid by the parties resident in each county, city, borough or place shall be sent with such writ as aforesaid to the sheriff, bailiff or officer having execution of process therein.

Oath of clerk of assize sending process.

33. The clerk of assize and clerk of the crown respectively shall, before sending such writ as aforesaid to any such sheriff, bailiff or officer, make oath before a judge of one of her majesty's superior courts of record at Westminster, or before any commissioner for taking affidavits in the same courts, or to administer oaths in chancery, which oath shall be endorsed on the back of the writ or of the said roll attached thereto; and such oath shall be in the form following:

"I make oath, that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, penalties and recognisances which in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll, and that in the said roll are also contained and expressed all such fines, issues, amerciaments, penalties and recognisances as have been paid to or received by me, without any wilful or fraudulent discharge, omission, misnomer or defect whatever.

"So help me God."

Return of writ to the treasury

34. The sheriff, bailiff or officer to whom any such writ as aforesaid is sent shall, on such day as the commissioners of her majesty's treasury may, from time to time, by warrant under their hands, direct, return such writ to such commissioners, and shall state on the back of the said roll what has been done in the execution of such process.

Until fines, &c, are levied, sheriff to retain writ, which shall continue in force and be authority to act upon.

35. The sheriff, bailiff or other officer to whom the said writ is sent, shall, until all the said fines, issues, amerciaments, penalties and recognisances have been paid or recovered or discharged, or it be duly ascertained to the satisfaction of the commissioners of her majesty's treasury, that the party in default has not any goods or chattels in the county, city, borough or place of such sheriff, bailiff or officer, or in any other county, city, borough or place in England in which a levy can be made, and that such party cannot be found, or that his body cannot be lodged in any of her majesty's gaols, keep and detain in the possession of such sheriff, bailiff or officer the writ so directed to him and the roll attached to such writ, delivering to the said commissioners of her majesty's treasury a copy of such roll on the day on which he is required to return such writ, and also a copy of any former roll or rolls in which the fines, issues, amerciaments, penalties and recognisances have not been paid or discharged; and the original writ and roll or writs and rolls sent to the sheriff, bailiff or other officer shall continue in force and effect, and shall be sufficient authority without any further writ or roll, for the levying of the said fines, issues, amerciaments, penalties and recognisances, and such sheriff, bailiff or other officer is hereby authorised and required on quitting his office to deliver over to his successor all rolls and writs in his possession, particularising any fines, issues, amerciaments, penalties and recognisances remaining unpaid or undischarged, in order that the sheriff, bailiff or other officer coming into the office may use every means in his power for recovering the sums unpaid and not charged to his predecessors on the passing of his accounts before any person duly authorised to pass the same.

22 & 23 Vict. c. 21.

Where a party resides in another county, &c., or has removed, sheriff to issue his warrant to the sheriff of the other county, &c.

36. In all cases where the party incurring or subject to the payment of any fine, issue, amerciament, penalty or recognisance resides, or has fled or removed from or out of the jurisdiction of the sheriff, bailiff or officer to whom any such writ as aforesaid has been directed, such sheriff, bailiff or officer shall issue his warrant, together with a copy of the said writ, directed to the sheriff, bailiff or other officer acting for the county, city, borough or place in which such person then resides or is, or in which his goods or chattels may be found, requiring such sheriff, bailiff or other officer to execute such writ; and every such last-mentioned sheriff, bailiff or other officer is hereby authorised and required to act in all respects under such warrant in the same manner as if the original writ had been delivered to him, and the said sheriff, bailiff or other officer is hereby required within thirty days after the receipt of such warrant to return to the sheriff, bailiff or other officer from whom he received the same what he has done in the execution of such process; and in case a levy has been made, to pay over all moneys received in pursuance of the warrant to the sheriff, bailiff, or officer from whom he received the same.

Penalty on sheriff for neglect.

37. Every sheriff, bailiff or other officer as aforesaid neglecting to do or perform any duty by this Act required shall forfeit and pay such sum as in section ten of the said Act of the third year of king George the fourth is provided for such neglect as therein mentioned, and to be recovered in like manner.

Estreats may be required to be enrolled in the exchequer.

38. The commissioners of her majesty's treasury, or the party liable to pay any fine, issue, amerciament, penalty or recognisance which, if this Act had not been passed, would have been certified or estreated into the exchequer, may, by notice in writing to the clerk of assize or clerk of the crown directed by this Act to proceed as hereinbefore provided for causing the same to be levied, require such clerk of assize or clerk of the crown, within twenty days after such notice, to return the estreat thereof into the office of the queen's remembrancer in the exchequer, there to be enrolled, and such estreat shall be returned and enrolled accordingly; and any and the like proceedings may be had and taken, by motion or otherwise, in the court of exchequer, in respect of such estreat so enrolled, as might be had and taken in the case of any fine, issue, amerciament, penalty or recognisance lawfully certified or estreated into the exchequer in the ordinary course of law.

Provision as to setting over fines, &c.

39. All fines, issues, amerciaments, penalties and forfeitures now from time to time set over by her majesty's remembrancer to corporations, lords of liberties, and others entitled thereto, shall, after the passing of this Act, be set over by such person as the commissioners of her majesty's treasury may direct; and the books of reference to such corporations, lords of liberties, and others now in the office of her majesty's remembrancer, or copies thereof, or of such parts thereof as may be necessary, shall be delivered to such commissioners or such person as they may direct.

Recognisances forfeited at coroner's inquests to be returned to clerks of the peace, as in the case of fines imposed by coroners.

40. Every recognisance forfeited at any inquest to be holden before the coroner of any county, city, town, liberty or place in England, shall be certified by such coroner to the clerk of the peace for the county, riding, division or place in which the person forfeiting such recognisance shall reside, on or before the first day of the quarter session of the peace then next ensuing, and such coroner shall cause a copy of such certificate to be served upon the person liable to the payment of such forfeiture by leaving it at his residence; and every such clerk of the peace shall proceed to act in respect of such forfeiture as in the case of fines certified by coroners pursuant to section seventeen of the Act passed in the seventh and eighth years of her majesty, chapter ninety-two, and such forfeiture shall be levied and applied in like manner, and subject to the like powers, provisions and penalties as such fines.

Original rolls not to be returned into exchequer.

41. The rolls known as originalia rolls shall cease to be returned or sent from the petty bag office of the court of chancery into the court of exchequer.

Approval of sheriffs of London and sheriff of Middlesex, how to be signified in future.

42. From and after the passing of this Act it shall not be necessary for the sheriffs of London and sheriff of Middlesex to attend on the morrow of Saint Michael in the court of exchequer as heretofore, and, unless otherwise directed by order of her majesty in council, warrants under the great seal of the exchequer shall be prepared at the office of her majesty's remembrancer signifying the approval by her majesty of the election of such sheriffs and sheriff, which warrants may be delivered to the said sheriffs and sheriff, or their under sheriffs or agents duly authorised to receive the same, without fee or reward in that behalf, on the said morrow of Saint Michael, or between that day and the morrow of Saint Martin, in each year, and an entry shall from time to time be made on the roll of the court of such warrants having been granted; and unless such warrants be stayed by order of her majesty in council on or before the morrow of Saint Michael the election of such sheriffs and sheriff shall be deemed and taken to be approved by her majesty; and all warrants, orders, certificates and other documents heretofore read and ordered to be filed and recorded in the said court on the annual presentation of the sheriffs shall continue to be filed and recorded in the office of her majesty's remembrancer as heretofore, on being presented at such office for that purpose within the period aforesaid, and shall be as valid and effectual to all intents and purposes as if the same had been filed and recorded by order of the court itself.

43. [As to rents rendered by the corporation of London before the court of exchequer.]

44. [Saving rights herein named.]

22 & 23 Vict. c. 21.

SCHEDULE.

Victoria, by the grace of God of the united kingdom of Great Britain and Ireland, queen, defender of the faith:

To the sheriff or bailiff or officer [*as the case may be*] for the county of [*or* city, borough, *or* place, *as the case may be*] greeting:

You are hereby required and commanded, as you regard yourself and all yours, that you omit not, by reason of any liberty in your county, city, borough or place [*as the case may be*], but that you enter the same, and of all the goods and chattels of and singular the persons in the roll to this writ annexed, you cause to be levied all and singular the debts and sums of money upon them in the same roll severally charged, so that the money may be ready for payment at the [*time of the return of the writ*], to be paid over in such manner as the commissioners of her majesty's treasury may direct; and if any of the several debts cannot be levied, by reason of no goods or chattels being to be found belonging to the parties, then in all cases that you take the bodies of the parties refusing to pay the aforesaid debts, and lodge them in the gaol (of the county, city, &c.), there to remain until they pay the same, or be discharged by the authority of the said commissioners or otherwise in due course of law.

Dated the day of in the year of our reign.

[*Signature*]
Clerk of assize *or* clerk of the crown
[*as the case may be*].

SHIPPING.

6 G 4, c 125.

6 Geo. 4, c. 125. An Act for the Amendment of the Law respecting Pilots and Pilotage, and also for the better Preservation of Floating Lights, Buoys, and Beacons (*a*). [5th July, 1825.]

Masters of ships coming from the westward not having a pilot shall display a signal for one, and facilitate his getting on board.

19. That the master or other person having the command of any ship or vessel, coming from the westward, and bound to any place in the rivers of Thames or Medway, not having a duly qualified cinque port pilot on board, shall, on the arrival of such ship or vessel off Dungeness, and until she shall have passed the south buoy of the Brake, or a line to be drawn from Sandown Castle to the said buoy, or have been at anchor for one hour, as hereinafter mentioned, display and keep flying the usual signal for a pilot to come on board; and if any duly qualified cinque port pilot shall be within hail or approaching and within half a mile, with the proper distinguishing flag flying in his vessel or boat, the master or other person having the command of such ship or vessel shall, by heaving to in proper time or shortening sail, or by all practicable means consistently with the safety of the ship or vessel, facilitate such pilot getting on board, and shall give the charge of piloting his ship or vessel to such cinque port pilot; and every person commanding any such ship or vessel, who shall not display and keep flying the usual signal for a pilot to come on board, from the time such ship or vessel shall have arrived off Dungeness, and until she shall have passed the south buoy of the Brake, in a line to be drawn from Sandown Castle to the said buoy (unless in the meantime a duly qualified cinque port pilot shall have come on board), or who shall within the limits aforesaid decline to take on board the first duly qualified cinque port pilot who shall offer, or to give charge of his ship or vessel to such duly qualified cinque port pilot, or who shall not heave to, shorten sail, or otherwise consistently with the safety of the ship or vessel facilitate such pilot's coming on board as aforesaid, shall forfeit and pay double the amount of the sum which would have been demanded for the pilotage of such ship or vessel (*b*): Provided always, That if any ship or vessel coming from the westward, and bound to any place in the rivers Thames or Medway, shall anchor anywhere in the downs between the South Foreland, and a line drawn from Sandown Castle to the south buoy of the Brake, having any licensed pilot other than a duly qualified cinque port pilot on board, it shall not be necessary for the master of such ship or vessel to display or keep flying the usual signal for a pilot to come on board thereof, any longer than for and during one hour next after such ship or vessel shall so have anchored as aforesaid; and it shall be lawful for any duly qualified cinque port pilot at any time before such ship or vessel shall have been at anchor one hour with such signal flying as aforesaid,

Penalty.

Ships anchoring within certain limits, shall display a signal for a cinque port pilot.

(*a*) See the decisions as to piloting a vessel considered, Arn. Sh. 7th ed. 195, Maude & Pollock on Sh., 2nd ed. p. 176.

This statute, which was confined to England (*The Eden*, 2 W. Rob. 442), is repealed by the Merchant Shipping Act, 17 & 18 Vict. c. 120. So much of this statute as related to the cinque ports had been previously repealed by 16 & 17 Vict. c. 129, s. 1. As questions, however, may still arise on some of the most important of its provisions, they are inserted. See the Act in full in the former edition of this work, Vol. III. p. 1092.

(*b*) See section 58, post, p. 243; *Peake* v. *Screech*, 7 Q. B. 603.

to repair on board the same, and to take charge of her up the said rivers, but not otherwise. 6 G. 4, c. 125.

31. That it shall be lawful for the said corporation of Trinity House of Deptford Strond, and for the said society or fellowship of pilots of Dover, Deal, and the Isle of Thanet, and also for all other corporate bodies or persons having lawful authority to appoint pilots within the limits of their respective jurisdictions, to license vessels of such size and description as shall appear to them to be proper, for the purpose of having pilots constantly in attendance in such vessels at sea, and to nominate and appoint, and from time to time to remove and again appoint the masters of such vessels respectively; and for the better support of such pilot vessels, it shall be lawful for any number of pilots, licensed by virtue of this Act, or otherwise lawfully licensed, with the consent of the said corporate bodies, or persons by whom respectively such pilots have been or shall be appointed as aforesaid, to constitute a joint-stock company or companies, for the providing and maintaining of such pilot vessels, which companies and the said vessels shall at all times be subject to such rules and regulations as shall from time to time be sanctioned and approved in that behalf by the corporate bodies or persons by whom respectively such pilots shall respectively have been licensed. Vessels to be licensed for having pilots in attendance at sea, &c.

32. That every pilot boat or vessel, or other boat or vessel, in the pilot service of any corporation or society established by law, in relation to pilotage, or of or belonging to any person authorised to act as a pilot by such corporation or society [shall at all times, and on every station, be fitted with black sides, and have the upper streak next the gunwale painted white (*a*)], and shall while afloat carry a flag at the mast-head, or on a sprit or staff, or in some other equally conspicuous situation, which flag shall be of large dimensions, proportioned to the size of the boat or vessel carrying the same, and shall be half red and half white, in horizontal stripes, of which the uppermost shall be white, and the same shall at all times be kept and preserved in a clean and distinct condition, so as to be easily discerned at a proper and sufficient distance; and every such boat or vessel shall also have the name of the principal pilot thereof for the time being painted in broad white letters, of three inches in length, on a black ground, on her stern, and on each bow such number as shall be expressed in the license of such principal pilot, which name and number shall not be hid or concealed by any person at any time, on pain of forfeiting, for the omission or evasion of any of the provisions hereinbefore made in respect of such pilot boat or vessel, the sum of twenty pounds, to be paid by the senior pilot on board, who is hereby declared answerable for the due observance of the matters aforesaid, by every person on board such boat or vessel; and in case any pilot shall be carried off in any boat not in the service of any such corporation or society, such pilot shall exhibit a similar flag at the mast-head, or on a sprit or staff, to distinguish that such boat has a pilot on board, on pain of such pilot so carried off forfeiting the sum of twenty pounds, unless he shall show reasonable cause for having omitted to exhibit such flag. How pilot boats are to be distinguished. Penalty. Pilot carried off in any other boat to display a flag.

33. That if any boat or vessel, not having a licensed pilot on board, shall without lawful authority carry such distinguishing flag as aforesaid, the owner or owners, or the master or other person having charge of such boat or vessel, displaying or carrying any such flag, shall for every such offence forfeit and pay a sum of one hundred pounds. Carrying distinguishing flag without pilot.

34. That if any boat or vessel shall run before any ship or vessel not having a licensed pilot on board, when such ship or vessel cannot, from particular circumstances, be boarded for the purpose of directing her course, until a licensed pilot can be put on board, the pilot on board such boat or vessel, or if no pilot shall be on board, and the person having charge of her shall run her before such ship or vessel, at the request or by the direction of the master, or other person having the command thereof, then such person having charge of such boat or vessel shall be entitled to the full pilotage for the distance run, until a duly licensed pilot shall be put on board, as if such pilot, or person respectively, had been actually on board such ship or vessel, and had the charge of her as a pilot. Boat running before a vessel, not having a pilot, entitled to pilotage.

35. [Name, &c., of pilots appointed to be transmitted to the trinity and custom houses, and also an annual list of all pilots.]

38. That no pilot shall be taken to sea beyond the limits of his district by the commanding officer of any of his majesty's ships, or by the master or other person having the command of any other ship or vessel whatever, without such pilot's free consent, except under circumstances of absolute and unavoidable necessity; and then and in such case every pilot so taken to sea shall over and above his pilotage have and receive ten shillings and sixpence *per diem*, to be computed from and inclusive of the day next after the day on which the ship or vessel shall pass the limit to which such pilot was engaged to pilot her up to, and until he shall be returned to the port or place where he was taken on board, or until he shall have been discharged from the ship for a sufficient time to have enabled him to return there. No pilot shall be taken to sea beyond his limits, without his consent, except in case of necessity, and then he shall receive 10*s.* 6*d.* *per diem* above his pilotage.

42. That if any pilot taking charge of any ship or vessel into the river Thames or Medway shall quit such ship or vessel at Gravesend or Standgate creek, or in any other part Pilots quitting ships in the

(*a*) Repealed, 3 & 4 Vict. c. 68.

6 G. 4, c. 125.

Thames or Medway, without consent, before arrival at the place to which bound, to forfeit pay, and be liable to penalty.

of the Thames or Medway respectively, before such ship or vessel shall have arrived at the place to which she is bound in the said rivers respectively, without the consent of the captain or other person having the command thereof, unless some other duly qualified pilot shall with such consent come on board, and shall take the charge and conduct of such ship or vessel for the residue of the pilotage to be performed, every such pilot so quitting such ship or vessel shall forfeit for every such offence all pay or reward to which he might be entitled for having conducted or piloted such ship or vessel to Gravesend, Standgate creek, or such part of the Thames or Medway respectively as aforesaid, and shall also be subject to such other penalty or punishment as by virtue of any of the provisions of this Act, or of the bye-laws, rules, orders, regulations, and ordinances hereby directed to remain in force, or which may be made or established in pursuance hereof, any pilots shall be liable to for quitting a ship or vessel before she shall arrive at her place of destination.

Pilot to write his name in log book, and same to be inserted in report of ship's entering the port of London, and reported daily to the trinity house, and monthly to the lord warden. Monthly reports of vessels clearing outwards. Penalty.

43. That every pilot shall write his christian and surname in the log book of every master or other person having the command for the time being of any ship or vessel entering the port of London, and required to be piloted according to the directions of this Act, and every pilot or other person inserting a false name shall forfeit the sum of twenty pounds; and the master or other person having the command of such ship or vessel shall, in making the entry or report of such ship or vessel inwards, insert or cause to be inserted in such entry or report, the name or names of the pilot or pilots employed or engaged to pilot such vessel into the said port, which insertion shall be made in the said entry or report (without fee or reward) by the proper officer of the customs, who shall report the same to the corporation of the trinity house daily, and to the lord warden of the cinque ports monthly; and such officer is hereby authorised and required to reject such entry or report, unless and until the name or names of the pilot or pilots so employed or engaged as aforesaid shall be inserted or notified to such officer for insertion in such entry or report as aforesaid; and also that the principal searcher or clearing officer of the customs at Gravesend shall demand and take the name or names of the pilot or pilots of all ships or vessels clearing outwards from the port of London, and shall transmit monthly lists of such names to the said corporation of trinity house, on pain of forfeiting a sum not exceeding ten pounds, nor less than five pounds, to be paid by each and every of the persons aforesaid, who shall neglect to comply with any of the foregoing regulations.

How pilotage of ships, except those not having British registers, trading to and from the port of London, may be recovered.

44. That all sums of money which shall become due to any licensed pilot, for the pilotage of any ship or vessel, except ships and vessels not having British registers, trading to and from the port of London, shall and may be recovered from the owners or masters of such ship or vessel, or from the consignees or agents thereof, who shall have paid or made themselves liable to pay any other charge for the said ship or vessel in the port of her arrival or delivery, as to pilotage inwards, and in the port from whence she shall clear out or sail as to pilotage outwards; which sums of money shall and may be levied in such and in the like manner, according to the amount of any such sums of money as aforesaid respectively, as any penalty or penalties of the like amount may be recovered and levied under and by virtue of this Act, demand thereof being made in writing at least fourteen days before such levy.

Consignees or agents may retain pilotage which they have paid, or are liable to.

45. That the consignees or agents of any ship or vessel, from whom any sum of money due to any licensed pilot for pilotage shall have been recovered, or shall be recoverable, or by whom any such sum of money shall have been paid, are hereby authorised and empowered to retain in their hands respectively, out of any moneys which they may have received, or shall thereafter receive, for or on account of such ship or vessel, or the owner or owners thereof, so much as shall be sufficient to pay and discharge such pilotage, and any expenses attending the same.

In what manner pilotage of ships not having British registers trading to and from the port of London shall be paid.

46. "And in order to prevent as well impositions and disputes respecting the charges for, as evasions in the payment of the pilotage of such ships and vessels trading to and from the port of London, and not having British registers, as are by law required to be piloted by pilots licensed by the said corporation of trinity house:" BE IT FURTHER ENACTED, That from and after the passing of this Act the master or other person having the charge of every such ship or vessel which shall enter into or sail from the said port of London, or the consignees of or agents for such ship or vessel, shall pay or cause to be paid at the trinity house in London, to such person or persons as shall from time to time be in that behalf appointed by the said corporation of trinity house, the full pilotage inwards and outwards respectively of every such ship or vessel; that is to say, in all cases as to pilotage outwards the full amount of pilotage for the distance which such ship or vessel shall by law be required to be piloted by such licensed pilot as aforesaid; and so far as concerns the pilotage inwards, where a duly licensed pilot shall have been on board such ship or vessel, the full amount of pilotage for the distance piloted by him, if greater than that which such ship or vessel shall be so required to be piloted; and if less, or if no such pilot shall have been on board, then the full amount of pilotage for the distance which such ship or vessel shall be by law required to be piloted as aforesaid; and if such pilotage inwards be not paid within fourteen days from the day of such ship or vessel's reporting inwards, the same shall and may be recovered by the said corporation from the master or other person having the charge of every such ship or vessel, or from the consignees or agents thereof, who shall have paid or made themselves liable to pay any other charge for such ship or vessel in the said port of London, and shall and may be levied in such and the like manner, according to the amount of any such sums of

money respectively, as any penalty or penalties may be recovered and levied under and by virtue of this Act. 6 G. 4, c. 125.

47. That the person or persons so to be appointed by the said corporation of trinity house of Deptford Strond as last aforesaid shall, upon his or their receiving such pilotage, give to the person paying the same a certificate thereof in writing, and that no ship or vessel not having a British register, and being required by law to be piloted as aforesaid, shall be cleared at the office of his majesty's customs in the said port of London, on her outward-bound voyage, without the production of such certificate as aforesaid; and the said person or persons so to be appointed as aforesaid shall, upon proof to the satisfaction of the said corporation that such pilotage service hath been duly performed, pay over to the pilot duly licensed, who shall have had charge of every such ship or vessel, all such sum or sums of money as shall have been received by such person or persons appointed as aforesaid, and as shall be due and payable to such pilot for or in respect of such pilotage service so by him performed, after deducting and retaining thereout the poundage hereinbefore made payable to the said corporation; and the residue of such pilotage received by such person or persons so appointed as aforesaid shall, together with the poundage aforesaid, be carried to and applied to the purposes of the pilots' fund of the said corporation of trinity house of Deptford Strond hereinafter mentioned.

Certificate of payment of pilotage to be given.

Receivers to pay over to the pilot what shall be due to him; and the residue with the poundage to be carried to the pilots' fund.

48. [Corporation of trinity house may, out of pilotage received, reward unlicensed persons who have piloted in the absence of a licensed pilot.]

53. That no owner or master of any ship or vessel shall be answerable for any loss or damage which shall happen to any person or persons whatsoever, from or by reason or means of no licensed pilot being on board of any such ship or vessel, or of no duly qualified pilot being on board thereof, unless it shall be proved that the want of such licensed or of such duly qualified pilot respectively shall have arisen from any refusal to take such licensed or qualified pilot on board, or from the wilful neglect of the master of such ship or vessel in not heaving to, or using all practicable means, consistently with her safety, for the purpose of taking on board thereof any pilot who shall be ready and offer to take charge of the same (*a*).

Owners or masters not answerable for loss from want of pilot, unless arising from refusal to take one, &c.

54. Provided always, That nothing in this Act contained shall extend or be construed to extend to make the owner of any ship or vessel liable in any such case for any loss or damage (*b*) beyond the value of such ship or vessel, and her appurtenances (*c*), and the freight due or to grow due for and during the voyage wherein such loss or damage may happen or arise (*d*).

Owners not liable for more than value of ship and freight.

(*a*) The *onus probandi* lies on the party claiming the protection of this statute (*The Batavier*, 2 W. Rob. 407; *The Atlas*, *ib.* 502; *The Protector*, 1 W. Rob. 45). Where a pilot is taken on board, it is his duty, and not that of the master, to determine where, and whether or not, the ship should be brought up. A hail from any of the crew on the look-out to alter the helm, if such advice be adopted by the pilot as a proper measure in his own judgment, will not be an interference with the duties of the pilot (*The Lochlibo*, 14 Jur. 1074; 3 W. Rob. 330; *The George*, 2 W. Rob. 386; *The Gipsey King*, 2 W. Rob. 537; *The Christina*, 3 W. Rob. 27).

(*b*) The repealed statute 53 Geo. 3, c. 159, s. 1, also limited the liability of owners under that section: it was held, that the word "damage" did not include the costs of recovering compensation; and an owner might be liable personally for such costs, though he might thus become answerable for more than the value of the ship and freight (*Ex parte Rayne*, 1 Q. B. 982). It was also held that that statute did not extend to foreign ships (*The Carl Johan*, cited in *The Dundee*, 1 Hagg. 113, 3 Hagg. 187); and that whatever was on board a ship, for the accomplishment of the objects of the voyage and adventure in which she was engaged, belonging to the owners, constituted part of the ship and her appurtenances within the meaning of sect. 1, and was liable for damages to another ship; and that section was to be construed as if the words "with all her appurtenances" were contained therein, like the 7th section (*Gale* v. *Laurie*, 5 B. & C. 156, 7 D. & R. 711). The fishing stores of a whaler (*The Dundee*, 1 Hagg. 109), and chronometer (*Langton* v. *Horton*, 6 Jur. 910, 11 L. J. Ch. 299; see *per* Lord Langdale, M. R., *ib.*; 5 Beav. 20; Ab. Sh., 7th ed. 401; Maude & Pollock on Sh. 33), would be included; but not any part of the cargo (*Langton* v. *Horton*, 5 Beav. 9).

(*c*) See *Brown* v. *Wilkinson*, 15 M. & W. 391; *The Richmond*, 3 Hagg. 431; *Dobree* v. *Schroder*, 6 Sim. 291; *The Mary Caroline*, 3 W. Rob. 101; see *Atkinson* v. *Stephens*, 7 Exch. 567.

(*d*) Under this statute it was held, that in an action against several defendants, as shipowners, for damage sustained by the loss of goods laden on board their ship, they were not liable in that character beyond the value of the ship and freight due or to grow due, although the loss was occasioned by the misconduct of one of the defendants, who was both master and part owner; secondly, that the value of the ship was to be calculated at the time of the loss, and not at the time of the commencement of the voyage; and thirdly, that in calculating the value of freight due or to grow due, money actually paid

G. 4, c. 125.
Nor for loss arising from incompetency of pilots (*a*).

55. That no owner or master of any ship or vessel shall be answerable for any loss or damage (*b*) which shall happen to any person or persons whomsoever from or by reason or means of any neglect, default, incompetency, or incapacity of any licensed pilot (*c*) acting in the charge of any such ship or vessel (*d*), under or in pursuance of any of the provisions of this Act, where and so long as such pilot shall be duly qualified to have the charge of such ship or vessel (*e*), or where and so long as no duly qualified pilot shall have offered to take charge thereof.

---

in advance was to be included (*Wilson* v. *Dickson*, 2 B. & Ald. 2). The court in this case, in deciding the second point, did not advert to a difficulty which would arise if there were several losses; for the 7th section of this statute contemplated that one value should be paid into court (see *per* Parke, B., *Brown* v. *Wilkinson*, supra; *Cannan* v. *Meaburn*, 1 Bing. 465; *The Volant*, 1 Rob. 385; see also Ab. Sh., 7th ed. 400). The part owner, through whose misconduct the loss occurred in *Wilson* v. *Dickson*, would not be protected (*Ib.*; *The Tribune*, 3 Hagg. 114).

(*a*) Before this enactment, a master continued liable for the acts of his crew done under the directions of a pilot (*Bowcher* v. *Noidstrom*, 4 Taunt. 568; see *The Eden*, 2 W. Rob. 442). It is still a question for a jury, whether at the time of the injury the pilot had the direction of the vessel (*Catts* v. *Herbert*, 3 Stark. 12). Under the 72nd section a pilot cannot refuse to go on board and take charge of any vessel wanting a pilot to remove it from one dock to another; and when required by the owner so to do, and so employed, he must be considered as acting under some of the provisions of the Act, and not as the private servant of the owner (*Lucy* v. *Ingram*, 6 M. & W. 302).

(*b*) Whether to goods on board that ship or another ship (*Ritchie* v. *Bousfield*, 7 Taunt. 309).

(*c*) That is, solely caused by his neglect, &c. Where, therefore, it was proved that the accident happened through the carelessness of the master and crew as well as the pilot, in not keeping a good look-out, it was held that the civil liability of the owner continued (*Stuart* v. *Isemonger*, 4 Moore, P. C. C. 11; *The Fama*, 2 W. Rob. 184; *The Protector*, 1 W. Rob. 45; *The Diana*, 1 W. Rob. 131; 4 Moore, P. C. C. 11; *Hammond* v. *Rogers*, infra; *The Massachusetts*, 1 W. Rob. 371; *Netherlands Steamboat Co.* v. *Styles*, 9 Moore, P. C. 227). If the evidence be nicely balanced, the court will incline to exempt the owner (*per* Dr. Lushington, *The George*, 9 Jur. 672).

It was held at first, in putting a construction upon this statute, that if a pilot was on board, and there was a neglect in the navigation of the vessel, it was *primâ facie* attributable to him, and that he, and not the owner, was responsible, unless it was shown that his orders were disobeyed (*Bennet* v. *Moita*, 7 Taunt. 258, Holt, N. P. 359). Subsequently a different and more correct view of this subject was taken, when, on a full consideration of the question, it was held (*The Protector*, 1 W. Rob. 45) that the master and owners were *primâ facie* liable, and that the *onus probandi* was thrown on them to show that the neglect was that of the pilot (see *per* Parke, B., *Hammond* v. *Rogers*, 7 Moore, P. C. C. 170). Although the pilot has charge of a ship, the owners are clearly responsible to third persons for the sufficiency of the ship and her equipments, the competency of the master and crew, and their obedience to the orders of the pilot in everything that concerns his duty; and under ordinary circumstances his commands are to be implicitly obeyed. There may, however, be extraordinary occasions when the master would be justified in disobeying the commands of the pilot. If from sudden illness or intoxication he becomes incompetent to command, the supreme authority would revert to the master during the period of the pilot's temporary incapacity; and it may be the same in the case of manifest incapacity of a permanent character (see *per* Parke, B., *Hammond* v. *Rogers*, 7 Moore, P. C. C. 172; *per* Dr. Lushington, *The Lochlibo*, 3 W. Rob. 321; *The Duke of Manchester*, 10 Jur. 863). In the case of a vessel taking up her berth in dock, the time and manner of dropping the anchor are exclusively within the province of the pilot (*The Agricola*, 2 W. Rob. 10; *The George*, 2 W. Rob. 386).

Whether the owner of a steam-tug can recover the amount of towage when the master has been guilty of misconduct in not obeying the pilot, does not appear to be settled (see *per* Lord Langdale, *Pettey* v. *Catto*, 6 Moore, P. C. C. 379; *The Christina*, 3 W. Rob. 27; see *The Duke of Sussex*, 1 W. Rob. 270).

The provisions of this statute seem equally to apply to cases where damage is done by a British ship to the property of foreigners, as to cases entirely between British subjects (*The Vernon*, 1 W. Rob. 316; *The Girolamo*, 3 Hagg. 169; *The Maria*, 1 W. Rob. 95; *The Agricola*, 2 W. Rob. 10; *The Christina*, 2 Hagg. 183).

(*d*) The owners will be absolved from liability if the damage be by the misconduct of the pilot in charge, though not taken on board in virtue of any compulsory clause (*Lucey* v. *Ingham*, 6 M. & W. 302; *The Fama*, 2 W. Rob. 184).

(*e*) The master of a vessel, having on board a pilot appointed by the Trinity House of Newcastle-upon-Tyne, under the local Act 41 Geo. 3,

56. That nothing in this Act contained shall extend or be construed to extend to deprive any person or persons of any remedy or remedies upon any contract of insurance (*a*), or of any other remedy whatsoever, which he or they might have had if this Act had not been passed, by reason or on account of the neglect, default, incompetency or incapacity of any pilot duly acting in the charge of any ship or vessel under or in pursuance of any of the provisions of this Act, or by reason or on account of no pilot, or of no duly qualified pilot, being on board of any such ship or vessel, unless it shall be proved that the want of a pilot, or of a duly qualified pilot, shall have arisen from any refusal to take a pilot or a duly qualified pilot on board, or from the wilful neglect of the master of such ship or vessel, in not heaving to or using all practicable means, consistently with the safety of such ship or vessel, for the purpose of taking on board any pilot who shall be ready and offer to take charge of such ship or vessel. 6 G. 4, c. 125. This Act not to deprive persons of remedies previously existing.

57. Provided always, That no pilot licensed or to be licensed as aforesaid, who shall have executed the bond hereinbefore directed to be executed by him, and shall be piloting or conducting, within the limits specified in his licence, any ship or vessel which he shall be duly qualified to pilot, or be piloting in the absence of a duly qualified pilot, shall be liable to any action for damages at the suit of the party grieved in any greater sum than the amount which shall have been specified by way of penalty in such bond, and the pilotage payable to him in respect of the voyage on which such ship or vessel shall then be, for any loss or damage which shall happen from or by reason or means of his neglect or want of skill whilst acting in his capacity of a pilot on board such ship or vessel. Licensed pilots, who have executed bond, not liable for neglect or want of skill beyond its penalty and the pilotage (*b*).

58. That every master of any ship or vessel who shall act himself as a pilot, or who shall employ or continue employed as a pilot any unlicensed person, or any licensed person acting out of the limits for which he is qualified, or beyond the extent of his qualification, after any pilot licensed (*c*) and qualified to act as such, within the limits in which such ship or vessel shall then actually be, shall have offered to take charge of such ship or vessel (*d*), or have made a signal for that purpose, shall forfeit for every such offence double the amount of the sum which would have been legally demandable for the pilotage of such ship or vessel (*e*), and shall likewise forfeit for every such offence an additional penalty of five pounds for every fifty tons burthen of such ship or vessel, if the corporation of Trinity house of Deptford Strond, as to cases in which pilots licensed by or under the said corporation shall be concerned, or the said lord warden for the time being, or his lieutenant for the time being, as to cases in which the cinque port pilots shall be concerned, shall think it proper that the person prosecuting should be at liberty to proceed for the recovery of such additional penalty, and certify the same in writing. Penalty on masters of vessels piloted by any other than a licensed pilot.

59. Provided always, That for and notwithstanding anything in this Act contained, the master of any collier, or of any ship or vessel trading to Norway, or to the Cattegat or Baltic (*g*), or round the North Cape, or into the White Sea, on their inward or outward voyages, or of any constant trader inwards, from the ports between Boulogne inclusive (*h*), and the Baltic (all such ships and vessels having British registers, and coming up either by the north channel, but not otherwise), or of any Irish trader using the navigation of the rivers Thames and Medway, or of any ship or vessel employed in the regular coasting trade of the kingdom (*i*), or of any ship or vessel wholly laden with stone from Guernsey, Jersey, Alderney, Sark or Man, and being the production thereof, or of any ship or vessel not exceeding the burthen of sixty tons, and having a Masters of certain ships may pilot same, so long as not assisted by any unlicensed pilots (*f*).

---

c. 86, s. 6, is not entitled to the protection of this section (*Dodds* v. *Embleton*, 9 D. & R. 27; see *A. G.* v. *Case*, 3 Price, 302).

(*a*) See *Carruthers* v. *Sydebotham*, 4 M. & Sel. 77.

(*b*) It was before held, that a pilot guilty of negligence was liable to an action, although a superior officer was on board (*Stort* v. *Clements*, Peo. 144).

(*c*) The master of a vessel does not incur the penalties imposed by this section, unless it distinctly appear that the pilot, at the time of offering his services, produced his licence, as required by the 66th section (*Hammond* v. *Blake*, 5 Man. & Ry. 361, 10 B. & C. 424). And if the plaintiff, in an action on this statute for not receiving a licensed pilot, do not prove the production of his licence at the time of such demand, he will be nonsuited (*Usher* v. *Lyon*, 2 Price, 118; see *Beilby* v. *Shepherd*, 3 Exch. 40, post, p. 245, n. (*b*)).

(*d*) The declaration must allege the offer to the master of the vessel personally, or that it was made in his presence or hearing, and it is not sufficient merely to follow the general words of the Act (*Peake* v. *Carrington*, 5 Moore, 176; 2 Bro. & B. 399; *Chaney* v. *Payne*, 1 Q. B. 712).

(*e*) That is, double the sum which the pilot would have been entitled to receive if he had been permitted to perform his duties (*Mackie* v. *Landon*, 6 Taunt. 256).

(*f*) See 17 & 18 Vict. c. 104, s. 353, post.

(*g*) The exemptions contained in this section, and continued by 17 & 18 Vict. c. 104, s. 353, are not limited by sec. 379 of that statute (see *Stanton* v. *Banks*, 27 L. J. M. C. 105).

(*h*) See *The Earl of Auckland*, 1 Lush. 164.

(*i*) What is a coasting vessel, and when privileged (see *Davison* v. *Mekibben*, 6 Moore, 387; 3 Bro. & B. 112; *Usher* v. *Lyon*, 2 Price, 118).

6 G. 4, c. 125. British register, except as hereinafter provided; or of any other ship or vessel whatever, whilst the same is within the limits of the port or place to which she belongs, the same not being a port or place in relation to which particular provision hath heretofore been made by any Act or Acts of parliament (a), or by any charter or charters for the appointment of pilots, shall and may lawfully, and without being subject to any of the penalties by this Act imposed, conduct or pilot his own ship or vessel when and so long as he shall conduct or pilot the same without the aid or assistance of any unlicensed pilot or other person or persons than the ordinary crew of the said ship or vessel.

His majesty may authorise certain ships to be conducted without pilots, &c.

60. Provided also, That from and after the passing of this Act it shall and may be lawful for his majesty, by and with the advice of his privy council, or by any order or orders in council, to permit and authorise ships and vessels not exceeding the burthen of sixty tons, and not having a British register, to be piloted and conducted without having a duly licensed pilot on board, upon the same terms and conditions as are by this Act imposed on British ships and vessels, not exceeding the like burthen.

Masters may employ unlicensed persons whilst ship in distress.

61. Provided also, That nothing in this Act contained shall extend or be construed to extend to subject the master or owner of any ship or vessel to any of the penalties of this Act, for employing any person or persons whomsoever as a pilot or pilots in and for the assistance of such ship or vessel whilst the same shall be in distress or in consequence thereof, or under any circumstances which shall have rendered it necessary for such owner or master to avail himself of the best assistance which at the time could be procured; anything herein contained to the contrary thereof in any wise notwithstanding.

Master or mate being owner or part owner, and residing at Dover, &c., may pilot his own ship up or down the Thames or Medway.

62. Provided always, That nothing in this Act contained shall extend or be construed to extend to subject to any penalty the master or mate of any ship or vessel being the owner or a part owner of such ship or vessel, and residing at Dover, Deal, or the Isle of Thanet, for conducting or piloting such his own ship or vessel from any of the places aforesaid (b), up or down the rivers Thames or Medway, or into or out of any port or place within the jurisdiction of the cinque ports.

Ships brought into any port by pilots may be removed

63. Provided always, That when any ship or vessel shall have been brought into any port or ports in England (c) by any pilot duly licensed, nothing in this Act contained shall extend or be construed to extend to subject to any penalty the master or mate, or other person belonging to such ship or vessel, and having the command thereof, or if in

---

(a) See *The Killarney*, 6 L. T. N. S. 908

(b) In *Hammond* v. *Tremayne*, tried at Maidstone before Lord Tenterden, 8th August, 1828, in an action of debt against the master of a vessel, for not taking a licensed pilot on board according to this Act, whereby the defendant forfeited 17*l.* 19*s.*, being double the pilotage that would have been payable, and 5*l.* penalty, the vessel being under the burthen of 50 tons; it appeared that the vessel was navigated by the defendant from a foreign port up the Thames, and not from Dover, Deal, or the Isle of Thanet; but the defendant offered to prove that he resided at Deal, and claimed the benefit of the exemption of this section, insisting that, if the master of a ship reside at either of those places, he is privileged to navigate a vessel up or down the Thames from any port whatever. But Lord Tenterden held, that the words "from any of the places *aforesaid*," could, as there were no other antecedents, relate only to Dover, Deal, or the Isle of Thanet, and only exempted vessels navigated from one of those places (see *Peake* v. *Screech*, 7 Q. B. 603; *Williams* v. *Newton*, 14 M. & W 747; *Kemler* v. *Blanchard*, 2 W. Bla. 690; 5 Burr. 2602; Ab. Sh. 7th ed. 197). It also appeared in evidence, that the defendant's principal place of residence was with his wife at Bermondsey, and that though he had taken a house and paid rent and taxes at Deal, that was only colourable, and his affidavit on obtaining the certificate described himself as of Bermondsey. Lord Tenterden directed the jury, that it was the defendant's duty in his affidavit to give his proper residence, for otherwise the Act requiring registry might be rendered inoperative. If indeed he had afterwards changed his residence, that might vary the case, but under the circumstances the pretended residence at Deal was colourable, and he directed the jury so to find, and they did so accordingly (Chitty's note; see *Hammond* v. *Blake*, 10 B. & C. 424, ante, p. 243, n. (c)).

(c) The master of a vessel bound on a voyage from Lisbon to London with a cargo of fruit and wine, the former, which was stowed above the wine, being deliverable at Coxe's Quay, which is higher up the river Thames than the London Docks, where the wine was deliverable, put into the London Docks, and while there applied to the consignees of the fruit to allow the same to be landed there, but, they refusing, the vessel proceeded from the London Docks towards Coxe's Quay, under the charge of a pilot duly licensed for that purpose, and while under his charge ran foul of a barge and sank it. In an action brought by the owners of the barge, it was held, that the vessel not having reached the place at which she was to commence the delivery of her cargo, her removal from the London Docks to that place was not a change of mooring within this section, and that the master, therefore, was bound by law to have a pilot on board her at the time when she ran foul of and sank the barge, and

ballast, any person or persons appointed by any owner, or master or agent of the owner thereof, for afterwards removing such ship or vessel in such port or ports for the purpose of entering into or going out of any dock, or for changing the moorings of such ship or vessel (a).

6 G 4, c 125. by the master, &c, for certain purposes.

64. That every master or other person having the command for the time being of any ship or vessel, who shall report, or be privy or consenting to any other person's reporting, to any pilot taking the charge of such ship or vessel, a false account of the draught of water of such ship or vessel, shall forfeit and pay for every such offence, in addition to the payment of the full rate of pilotage to the pilot entitled thereto, double the amount of such pilotage; and any master or other person having the command for the time being of any ship or vessel, or having any interest, share or property therein, who shall fraudulently alter any marks on the stem or stern post thereof, denoting the draught of water, or shall be privy and consenting thereto, shall for any such offence forfeit and pay the sum of five hundred pounds.

Penalty for reporting to pilots a false account of a vessel's draught of water, or altering marks denoting such draught.

65. That a particular description of the person of every pilot shall be written in or upon, or endorsed on the back of his licence; and every captain or master or other person having the command of a ship or vessel shall, on receiving a pilot on board, inspect his licence; and if he shall have reason to think that such pilot is not the person to whom the licence was granted, such captain or master or other person is hereby required forthwith to transmit a copy of such licence to the corporation or other authority by whom such licence shall have been granted, stating the date thereof, together with such account and description of the person producing such licence as may lead to the discovery of the offender.

Description of pilot to be on his licence, &c.

66. That no person shall take charge of any ship or vessel, or in any manner act as a pilot, or receive any compensation for acting as a pilot, until his licence shall have been registered by the principal officers of the custom house of the place at or nearest to which such pilot shall reside (which officers are hereby required to register the same without fee or reward), nor without having his licence at the time of his so acting in his personal custody, and producing the same to the master of any ship or vessel, or other person who shall be desirous of employing him as a pilot, or to whom he shall offer his services, on pain of forfeiting a sum not exceeding thirty pounds, nor less than ten pounds, for the first offence; and for the second or any subsequent offence, a sum not exceeding fifty pounds, nor less than thirty pounds; and upon further pain, as to any person licensed as aforesaid, of forfeiting his licence or being suspended from acting as a pilot, by and at the discretion of the corporation or other authority from which such pilot's licence was derived, either for the first, second, or any subsequent offence.

No pilot shall act until his licence has been registered, nor without producing it

70. That it shall be lawful for any licensed pilot within the limits of his licence, and the extent of his qualification therein expressed, to supersede in the charge of any ship or vessel any person not licensed to act as a pilot, or not licensed so to act within such limits, or acting beyond the extent of his qualification; and every person (b) assuming or continuing in the charge or conduct (c) of any ship or vessel, without being a duly licensed pilot, or without being duly licensed to act as a pilot within the limits in which such ship or vessel shall actually be, or beyond the extent of his qualification, as expressed in his licence, after any pilot, duly licensed and qualified to act in the premises, shall have offered (d) to take charge of such ship or vessel, shall forfeit for every such offence a sum not exceeding fifty pounds nor less than twenty pounds.

Licensed pilots may supersede unlicensed ones

71. Provided always, That for and notwithstanding anything in this Act contained, any person whatsoever shall and may lawfully, and without being subject to any penalty by this Act imposed, assume or continue in the charge or conduct of any ship or vessel as a pilot, where and so long as a pilot duly licensed and qualified shall not have offered to take the charge of such ship or vessel, or made a signal for that purpose, or where and so long as such ship or vessel shall be in distress, or under circumstances which shall have rendered it necessary for the master of such ship or vessel to avail himself of the best assistance which at the time could be procured.

When unlicensed persons, &c, may act as pilots.

72. That every pilot licensed or to be licensed as aforesaid, who shall, when not actually engaged in his capacity of pilot, refuse or decline or wilfully delay to go off to

Penalty on pilots who

---

that, consequently, the owners were discharged from responsibility (*M'Intosh* v. *Slade*, 6 B. & C. 657; see *Lucey* v. *Ingram*, 6 M. & W. 302; *Thornton* v. *Bolland*, 2 Bing. 219).

(a) See *Rex* v. *Lambe*, 5 T. R. 76; *Rex* v. *Neale*, 8 T. R. 241.

(b) It appears manifest that the legislature meant to make a distinction between the case of a master himself navigating his own vessel, and that of a stranger taking on himself without a licence to act as a pilot. And the master navigating himself as pilot is not liable to the penalty imposed by this section, although he is liable to double the amount of the pilotage of the vessel, within the 58th section (*Beilby* v. *Shepherd*, 3 Exch. 40; see *Kemler* v. *Blanchard*, 2 W. Bla. 690; 5 Burr. 2602; *Thornton* v. *Bolland*, 2 Bing. 219).

(c) See *Beilby* v. *Scott*, 7 M. & W. 93; *Rex* v. *Lambe*, 5 T. R. 76.

(d) A conviction under this section must show on the face of it that the defendant knew of the offer, and it is not enough to describe the offence in the words of the statute (*Chaney* v. *Payne*, 1 Q. B. 712; *Reg.* v. *Chaney*, 6 Dowl. 281).

6 G. 4, c. 125.

shall decline to go off to, or take charge of vessels, or who shall quit the same.

or on board of or to take charge of any ship or vessel wanting a pilot (*a*), and within the limits specified in his licence, and of which he shall be qualified to take charge, upon the usual signal for a pilot being displayed from such ship or vessel, or upon being required so to do by the captain, or by any commissioned or warrant officer of or belonging to such ship or vessel (if the same shall be in his majesty's service), or by the master, or other person having the command of such ship or vessel, or by any person or persons interested therein as principal or agent (if the same shall not be in his majesty's service), or upon being required so to do in either of the cases aforesaid, by any officer of the corporation or society to which such pilot shall belong, or by any principal officer of his majesty's customs, unless (in any of the cases aforesaid) it shall be unsafe for such pilot to obey such signal, or comply with such requisition, or he shall be prevented from so doing by illness or other sufficient cause to be shown by him in that behalf; and every pilot licensed or to be licensed as aforesaid, who shall on any frivolous pretext quit any ship or vessel, or decline the piloting thereof, after he has been engaged to pilot the same, or after going alongside thereof, before the service shall have been performed for which he was hired, and without leave of the captain of such ship or vessel (if in his majesty's service), or of the master or other person having the command of such ship or vessel (if not in his majesty's service), shall forfeit for every such offence any sum not exceeding one hundred pounds, nor less than ten pounds, and shall be liable to be dismissed from being a pilot, or suspended from acting as such, at the discretion of the corporation or other authority by whom such pilot was licensed.

For employing or requiring the employment of any boat, &c., beyond what is necessary, thereby to increase expense.

73. That in case any pilot, licensed or to be licensed as aforesaid, shall employ or make use of, or shall compel or require any person having the command or charge of any ship or vessel to employ or make use of, any boat, anchor, cable, hawser or any other matter or thing in or for the service or pretended service of such ship or vessel beyond what shall actually and *bonâ fide* be necessary and proper for the use thereof, with intent thereby to enhance or increase the charge or expense of pilotage or pilot assistance of such ship or vessel, whether for the gain and emolument of such pilot, or for the gain or emolument of any other person or persons whomsoever, then and in every such case the person so offending shall forfeit and pay a sum not exceeding fifty pounds, nor less than ten pounds, and shall also be liable to be deprived of his licence, or suspended from acting as a pilot, at the discretion of the corporation or other authority by whom he was licensed.

How penalties above 20*l.* may be recovered.

76. That all fines, penalties, or forfeitures hereinbefore or hereinafter imposed by this Act, or by any of the bye-laws, rules, orders, regulations, or ordinances hereby directed to remain in force, or hereafter to be made under the authority of this Act, which shall exceed the sum of twenty pounds (the manner of levying whereof shall not by this Act be otherwise expressly provided for), and likewise all fines, penalties, or forfeitures imposed as aforesaid (the manner of levying which shall not by this Act be otherwise expressly provided for), in cases where the lowest penalty recoverable not being greater than twenty pounds, and the largest penalty recoverable being greater than twenty pounds, the party prosecuting shall proceed in respect thereof for a sum greater than twenty pounds, with the written consent of the corporation of trinity house of Deptford Strond, or of the said lord warden (*b*) or his lieutenant for the time being respectively (as the case may be (*c*)), shall and may be recovered with full costs of suit, by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, to be commenced within twelve calendar months next after such offence or offences shall be committed, or within such other time as is hereinafter in that behalf directed; the venue in which said action, bill, plaint, or information shall and may, at the option of the plaintiff or informant, be laid, and the said action, bill, plaint, or information tried, either in the county of Middlesex or the city of London, or else in such county or place wherein the offence or offences shall have been committed (*d*), and no essoign, protection, wager of law, or any more than one imparlance shall be allowed; and in any such case or cases it shall be lawful to sue for the largest penalty or penalties recoverable in that behalf, and the jury giving the verdict shall and may award either such largest penalty or penalties, or any other smaller sum or sums of money, not less than the sum specified as the lowest penalty recoverable in that behalf.

Venue in same county, or in London or Middlesex.

77. [How penalties not exceeding 20*l.* may be recovered.]

(*a*) That is, any ship the master or owner of which thinks fit to require a pilot (*Lucey* v. *Ingram*, 6 M. & W. 302. ante, p. 242, n. (*a*); *The Fama*, 2 W. Rob. 184).

(*b*) The meaning of this enactment appears to be, that penalties, when the lowest is not greater than 20*l.*, and the highest is greater, are to be sued for with the consent of the Trinity House in cases in which pilots licensed by them are concerned, and with that of the Lord Warden with respect to pilots licensed by him; but that their consent is not required with reference to pilots not within the jurisdiction of either (*per* Parke, B., *Beilby* v. *Scott*, 7 M. & W. 102).

(*c*) See sect. 58, ante, p. 243.

(*d*) This avoids the former inconvenience (*Barber* v. *Tilson*, 3 M. & Sel. 429; Ab. Sh., 7th ed.; Maude & Pollock on Sh. 123).

16 & 17 Vict. c. 69. An Act to make better Provision concerning the Entry and Service of Seamen, and otherwise to amend the Laws concerning Her Majesty's Navy. [15th August, 1853.] 16 & 17 Vict. c. 69.

16 & 17 Vict. c. 107. An Act to amend and consolidate the Laws relating to the Customs of the United Kingdom and of the Isle of Man, and certain Laws relating to Trade and Navigation in the British Possessions (a). [20th August, 1853.] 16 & 17 Vict. c. 107.

16 & 17 Vict. c. 129. An Act further to amend the Law relating to Pilotage (b). [20th August, 1853.] 16 & 17 Vict. c. 129.

Present cinque port pilots to be competent to pilot vessels either inwards or outwards within the limits for which they are now licensed.

3. All cinque port pilots duly licensed and authorised before this Act comes into operation to pilot any vessel from Dungeness or the Downs up the river Thames or Medway shall, notwithstanding the repeal and enactment hereinbefore contained, be authorised to pilot the like vessels within the same limits and in the same manner within and in which they might have lawfully piloted the same before the passing of this Act according to the terms of their existing licences, and shall also by virtue of such existing licences (without any licence from the trinity house in that behalf) be authorised to pilot the like vessels down the said rivers Thames and Medway, or from those rivers to the Downs or Dungeness, or from the west end of the Owers to the south buoy of the Brake, within the limits within which such existing licences authorise them to act in piloting such vessels from the Downs to the said rivers, and up the same, or from the south buoy of the Brake to the west end of the Owers; and it shall be lawful for the trinity house by a supplemental licence to authorise any such cinque port pilot to pilot any vessels in any parts of the rivers Thames and Medway or in any of the seas or channels leading to or from such rivers to which his existing licence may not extend, after examination in respect of the further limits within which he is to be so licensed to act, and upon the payment of such fee, if any, as the said trinity house may, with the consent of the board of trade, appoint for the purpose; and such supplemental licence shall be taken to be part of and to be held upon the same conditions and subject to the same regulations in all respects as such existing licence.

The above-mentioned cinque port pilots to be subject to the same rules, &c., as trinity house pilots.

4. The said cinque port pilots who have been so licensed as aforesaid before this Act comes into operation shall be subject to all the provisions of the said Act of the sixth year of king George the fourth, chapter one hundred and twenty-five, and of any other Act now in force, which relate to pilots licensed by the trinity house (except such of them as are contained in the fourth section of the said Act of the sixth year of king George the fourth), and shall likewise be subject to the government and regulations of the trinity house, and to all bye-laws, rules, orders, or ordinances duly issued by it for the purpose of insuring the good conduct and constant attendance of pilots upon their duty, and to such penalties as may be duly annexed to the breach of the said regulations, bye-laws, rules, orders, or ordinances, in the same manner and to the same extent in and to which pilots licensed by the said trinity house are subject thereto.

Present trinity house pilots may pilot ships inwards within the limits of their licences.

5. All pilots licensed before this Act comes into operation by the said trinity house to pilot any vessels upon the rivers Thames and Medway, or from London bridge to the Downs, or from the Isle of Wight to London bridge, shall be authorised to pilot the like vessels from or by Dungeness up the rivers Thames and Medway, and from the south buoy of the Brake to the westward to the end of the Owers, or within such or so much of the same limits as under their present licences they might act within in piloting such vessels down the said rivers or outwards or to the westward: Provided always, that nothing herein contained shall be deemed to confer any privilege of piloting above Gravesend and Stangate-creek respectively upon any pilots by whatever authority they may be licensed, except with the concurrence of the trinity house in the case of each pilot.

Rates to be demanded for duties hitherto performed by cinque port pilots.

8. Until any such alteration as hereinafter provided for be made, the rates and prices to be demanded and received by all pilots performing the duties hitherto performed by cinque port pilots shall be such rates and prices as have immediately before this Act comes into operation been lawfully demanded and received by such last-mentioned pilots; and it shall be lawful for the said trinity house to increase, reduce, alter, or modify all or any of the said rates or prices, or to substitute other rates or prices in lieu thereof, with the same consent, in the same manner, and subject to the same conditions with, in, and subject to which the trinity house is empowered to increase, reduce, alter, and modify the rates and prices to be demanded and received by pilots licensed by it, or to substitute other rates and prices in lieu of such last-mentioned rates and prices, but so

(a) See 17 & 18 Vict. c. 5, s. 1, post, p. 251.

(b) This statute is repealed (except sections 3, 4, 5, 8, 10, 11, 12, and part of 9) by 17 & 18 Vict. c. 120, post.

16 & 17 Vict c 129.

that in no case shall any higher rate be imposed or demanded than might have been imposed or demanded if this Act had not passed.

Existing cinque port pilots to have same remedies for the recovery of rates as trinity house pilots Rates on foreign vessels claiming benefit of reciprocity treaties (a).

9. All rates and prices which may be lawfully demanded or received by the said cinque port pilots licensed before this Act comes into operation, or by any other pilots licensed by or under the government of the trinity house, shall be recoverable in the same manner in which rates and prices lawfully demanded or received by pilots licensed by the trinity house under the said Act of the sixth year of king George the fourth are by that Act made recoverable; and all rates or prices which may be lawfully demanded or received by any pilots under the government of the said trinity house for the pilotage of foreign vessels, the owners, masters, agents, or consignees of which claim, by virtue of any treaty of reciprocity, to be entitled to the privileges of British vessels, shall be recoverable from the same persons, in the same manner, and subject to the same conditions from whom and in and subject to which pilotage rates on British vessels are recoverable under the forty-fourth and forty-fifth sections of the said Act.

Property of society of cinque port pilots to be transferred to trinity house.

10. All property of every kind, whether real or personal, which may belong to or be held by the court of loadmanage or the said society of cinque port pilots, or any branch thereof, or any officer of the said society, or any other person as trustee for the said society, or any branch thereof, or which may be legally applicable for the benefit of the said society or of the members thereof, or for any purposes connected with pilotage (including a piece of land near Dover which was by indentures of lease and release, dated respectively the 16th and 17th days of August, 1726, conveyed to trustees therein named, upon certain trusts, for the poor of the trinity house of Dover), shall, upon the passing of this Act, belong to and become vested in the trinity house of Deptford Strond; and the said trinity house shall have power to sell the same or any part thereof as occasion may require, and to give full discharges for the purchase money of any part thereof which may be sold; and all moneys which if this Act had not passed would have been paid for any purpose connected with the relief or benefit of cinque port pilots, their appointees, widows, or issue, either in respect of surplus duties on foreign vessels, or by way of fees or contributions from cinque port pilots licensed before this Act comes into operation, and all sums which would if this Act had not passed been payable by such pilots as trinity money or clerks' fees, and all penalties or fines payable by or in respect of such pilots, shall, save as such contributions, trinity money, or clerks' fees may be varied or remitted under the regulations to be made and approved as hereinafter mentioned, and save also such of the said contributions as may cease by reason of any such purchases or commutations of claims as hereinafter provided for, be paid to the trinity house, and the said property and moneys shall be carried to and form part of the pilotage funds of the trinity house.

Payments to cinque port pilots' fund to be made henceforth to the trinity house.

Trinity house to pay debts and to settle the claims of persons now in receipt of relief, and of existing cinque port pilots.

11. The said trinity house shall, out of their said pilotage fund, pay all debts, if any, lawfully and properly incurred by the said court of loadmanage before this Act comes into operation, and also such compensation or superannuation allowances (if any) as the board of trade may in its discretion allow to any persons now in the employ or service of the court of loadmanage, or of the lord warden of the cinque ports, or of the society of cinque port pilots, who may be deprived of salaries or emoluments by reason of the passing of this Act, so that no such compensation or superannuation allowance shall exceed the proportion of salary or emoluments which might be granted under similar circumstances to a person in the public civil service under the Act of the fourth and fifth years of king William the fourth, chapter twenty-four; and may in the next place, subject to the regulations to be made and approved as hereinafter mentioned, either purchase out of the said funds the claims of all or any of the persons who, but for the passing of this Act, would have been in the receipt of pensions or other relief either out of the said cinque port pilots' fund, or under any bye-laws of the said society now in force, or who have already paid widows' dues, or have otherwise contributed to the relief of superannuated cinque port pilots, or of the widows, appointees, or issue of cinque port pilots, such purchases to be made upon such terms as may be determined by the said regulations, or may, subject as aforesaid, continue to pay out of the said funds, pensions, or other relief to all or any of the persons who might if this Act had not passed have received the same out of the said funds, or under any bye-laws of the said society now in force, such pensions or other relief to be of such amount as may be determined by the said regulations to be made and approved as hereinafter mentioned; and the trinity house may, subject to such regulations, make arrangements for enabling any person who, but for the passing of this Act, would be entitled to a pension or other relief under the bye-laws of the said society of cinque port pilots now in force, or any cinque port pilot licensed before this Act comes into operation, to purchase an interest in the said trinity house pilots' fund; and the terms of such purchase, including the amount and nature of such interest, and the consideration payable for the same, shall be determined by such regulations as aforesaid; and every cinque port pilot who chooses to make such purchase shall thereafter pay to the said trinity house the same contributions, whether by way of poundage or otherwise, as are for the time being payable by pilots licensed by the trinity house.

Trinity house may enable existing cinque port pilots to purchase an interest in the trinity house pilots' fund

---

(a) So much of this section as relates to the recovery of pilotage rates by Cinque Port pilots licensed before this Act came into operation, is repealed by 17 & 18 Vict. c. 120.

16 & 17 Vict. c. 129.

As to charges on trinity house pilotage fund, and its future management.

12. The said trinity house shall also out of their said pilotage funds pay all such superannuation allowances or other relief to pilots licensed by them before this Act comes into operation, or to the widows and children of such pilots, as might have been payable by the said trinity house if this Act had not passed; and, subject to the charges aforesaid, the said trinity house pilots' fund shall be chargeable in the first instance with such expenses as the said trinity house may duly incur in the performance of its duties in respect of pilots and pilotage, so nevertheless that no superannuation allowance to any person in the employ of the said trinity house which is included in such expenses shall exceed the proportion of his salary which might be granted under similar circumstances to a person in the public civil service under the Act of the fourth and fifth years of king William the fourth, chapter twenty-four, or under any other Act for regulating such superannuation allowances for the time being in force; and, subject thereto, the said trinity house pilots' fund shall be administered by the said trinity house for the benefit of such pilots licensed by the said trinity house after this Act comes into operation as are incapacitated for the performance of their duty by reason of age, infirmity, or accident, and of the widows and children of pilots so licensed, or of such incapacitated pilots only, upon such conditions and under such regulations as the said trinity house, with the consent of the board of trade, may think fit to adopt; and if it appears to the said trinity house that the contributions for the time being payable to the said trinity house pilots' fund are insufficient to enable them to grant allowances of proper and adequate amount, it shall be lawful for the said trinity house, with such consent and subject to such regulations as aforesaid, from time to time to increase and alter the amount of the annual contribution, or of the poundage upon the sums earned by pilots, which under the fourth section of the said Act of the sixth year of the reign of king George the fourth, chapter one hundred and twenty-five, pilots licensed by the said trinity house are required to pay to the said pilotage fund.

Recital of principles upon which claims of cinque port pilots are to be settled.

13. "And whereas it is intended that cinque port pilots licensed before this Act comes into operation, their widows and appointees shall, as a body, receive, under the provisions hereinbefore contained, benefits equal in amount to the benefits which they might lawfully and properly have received out of the several funds and payments so transferred to the trinity house as aforesaid if this Act had not passed: And whereas it has been estimated that the funds and payments so transferred, including the principal as well as the interest of the said funds, would, if duly applied, be sufficient to carry the said intention into effect; but in consequence of the numerous contingencies involved it is impossible to calculate with certainty the amount which will be necessary for that purpose, or to determine with precision the manner in which such amount shall be applied, and it is therefore expedient that all due claims of the said cinque port pilots, their widows, appointees, and issue, should be provided for by the said trinity house out of their general pilotage funds as hereinbefore provided, and that the board of trade and the trinity house should be intrusted with such powers as are necessary for settling the said claims, and for carrying into effect the provisions hereinbefore contained in respect thereof:" BE IT ENACTED, That for the purpose of carrying the said intention and provisions into effect the said trinity house may, with the approval of the board of trade, from time to time make regulations for altering and determining the payments and contributions to be made by cinque port pilots licensed before this Act comes into operation, and for settling, purchasing, and commuting the claims of persons now in receipt of relief from the said cinque port pilots' fund, and of the said cinque port pilots licensed before this Act comes into operation, their widows, appointees, and issue, and for determining the terms and conditions on which such settlement is to be made, and in framing such regulations due regard shall be had to the intention hereinbefore expressed; and the said trinity house may also, with such consent as aforesaid, from time to time make regulations for the future management of the trinity house pilots' fund, and also for the management and maintenance of any pilot boats or cutters belonging to the said cinque port pilots, or to any pilots for the time being under the government of the said trinity house, and for the distribution of the earnings (if any) of such boats or cutters, and for the succession to, purchase of, or transfer of any interests therein; and all such regulations, after being approved of by the board of trade, shall be binding upon all parties.

Trinity house, with consent of board of trade, may make regulations for settling the above claims.

16 & 17 Vict. c. 131. An Act to amend various Laws relating to Merchant Shipping (a). [20th August, 1853.]

16 & 17 Vict. c. 131.

Provisions for existing debts and charges

12. All debts and liabilities which have been duly incurred or undertaken by the trinity house, the commissioners of northern lighthouses, and the port of Dublin corporation respectively, before the passing of this Act, and which are such as if this Act had not been passed ought to have been paid out of the said tolls and rates, shall be paid or provided for out of the said mercantile marine fund; and all expenses of the trinity house, the commissioners of northern lighthouses, and the port of Dublin corporation, in respect of any charitable or other pensions, superannuations, or other allowances which

(a) With the exception of the following sections, this Act is repealed by 17 & 18 Vict. c. 120, post.

16 & 17 Vict. c. 131.

have been lawfully granted or allowed by them respectively before the passing of this Act, and which are such as if this Act had not been passed ought to have been paid out of the said tolls and rates, shall be paid out of the said mercantile marine fund during the respective lives or continuance in office of the persons receiving the same, or other periods for which the same may have been granted or allowed; and if it appear that any debts or liabilities so incurred as aforesaid, or any of the expenses in respect of charitable or other pensions, and superannuation or other allowances, are debts, liabilities, or expenses which if this Act had not been passed would have been paid partly out of the said tolls and rates and partly from other sources, such part thereof as the board of trade shall under the circumstances of the case think just shall be paid out of the said mercantile marine fund; and the trinity house, the commissioners of northern lighthouses, and the port of Dublin corporation respectively shall submit to the board of trade statements of all such debts and liabilities, and of all such expenses or parts of expenses in respect of charitable or other pensions, superannuations or other allowances, as are to be paid out of the said mercantile marine fund, and also estimates of the sums which may be from time to time required to provide for the same; and no payment in respect of any such debt, liability, or expense shall be made out of the said mercantile marine fund unless provided for by such estimates, and approved by the board of trade.

Power to commute pensions and grant superannuation allowances.

13. The trinity house, the commissioners of northern lighthouses, and the port of Dublin corporation may from time to time, with the sanction of the board of trade, commute any charitable or other pensions or other allowances payable out of the said mercantile marine fund, or grant superannuations or compensations to persons whose salaries may be charged on the said fund, and who may be discharged or may retire, so nevertheless that no superannuation allowance or compensation to any person so discharged or retiring shall exceed the proportion of his salary which might be granted under similar circumstances to a person in the public civil service under the Act of the fourth and fifth years of king William the fourth, chapter twenty-four, or under any other Act for regulating such superannuation allowances or compensations for the time being in force; and such commutations, superannuations, and compensations shall from time to time be included in the estimates to be submitted as aforesaid, and paid out of the said fund.

Dues levied on ships not to be sold or charged without consent of the board of trade.

24. No dues, tolls, rates, or charges, of what nature soever, levied or leviable, or hereafter to be levied or leviable, on any ships, or on any goods carried in any ships, in any port of Great Britain or Ireland for any purpose whatever, shall be sold, mortgaged, or charged in any manner or for any purpose without the consent of the board of trade first obtained, such consent to be signified by writing under the hand of one of the secretaries or assistant secretaries to such board; and any sale, mortgage, or charge of any such dues, tolls, rates, or charges made after the passing of this Act without such consent shall be absolutely void, except in the following cases; that is to say, in the case of any sale, mortgage, or charge of any dues, tolls, rates, or charges levied for the use of any dock or other undertaking intended solely for the benefit of shipping, where the moneys raised by the sale, mortgage, or charge are to be applied exclusively for the purposes of the undertaking for the use of which such dues, rates, tolls, or charges are levied or leviable in the case of any mortgage or charge made under the authority of any Act of parliament for the purpose of raising money to pay the costs of any work constructed or duly contracted for before the passing of this Act; and in the case of any mortgage or charge made or continued under any powers of reborrowing or continuing money on mortgage or bond given by any Act of parliament for the purposes of any work so constructed or contracted for as aforesaid.

Property belonging to merchant seamen's fund to be paid into exchequer.

28. All moneys which under "The Seamen's Fund Winding-up Act, 1851," now are or may hereafter become part of or applicable to the purposes of the general fund therein mentioned, shall be paid into the receipt of her majesty's exchequer in such manner as the commissioners of her majesty's treasury may direct; and all property, not being money so forming part of or being applicable to the purposes of the said fund as aforesaid, shall be sold, and the produce thereof shall be paid into the receipt of her majesty's exchequer in like manner; and all moneys so paid into the receipt of her majesty's exchequer shall be carried to and make part of the consolidated fund of the united kingdom.

Expenses of merchant seamen's fund to be provided for by annual vote.

29. The several payments and expenses which by the said "Seamen's Fund Winding-up Act, 1851," are charged partly on the said general fund therein mentioned, and partly on the consolidated fund of the united kingdom of Great Britain and Ireland, shall, except as regards the payment to the seamen's hospital society hereinafter mentioned, be provided for by annual votes of parliament.

& 18 Vict. c. 5.

17 & 18 Vict. c. 5. An Act to admit Foreign Ships to the Coasting Trade. [22nd March, 1854.]

Recital of 16 & 17 Vict. c 107, ss. 152 & 191.

"Whereas by the one hundred and fifty-second section of the Customs Consolidation Act, 1853, it is enacted, that no goods or passengers shall be carried coastwise from one part of the united kingdom to another, except in British ships: And whereas by the one hundred and ninety-first section of the same Act it is enacted, that no goods or passengers shall be imported into the united kingdom from the Channel Islands or exported from the united kingdom to the said islands, or carried from one of the said islands to another,

or from one part of any of the said islands to another part thereof, except in British ships And whereas it is expedient to remove the restrictions contained in the said recited enactments, BE IT ENACTED as follows

17 & 18 Vict. c. 5

1 The enactments hereinbefore recited, that is to say, the one hundred and fifty second and the hundred and ninety first sections of the said Customs Consolidation Act, 1853, shall be repealed from the passing of this Act Provided, that it shall be lawful for her majesty to exercise, in respect of foreign ships employed in the coasting trade as aforesaid, and of goods carried coastwise in such ships, such or the like powers as are conferred on her majesty by the three hundred and twenty fourth, three hundred and fifth, and three hundred and twenty sixth sections of the said Customs Consolidation Act, 1853, in respect of foreign ships employed in the overseas trade, and of goods exported or imported in such ships

Repeal of the recited enactments The queen enabled to exercise retaliatory powers as in 16 & 17 Vict. c 107 ss 144, 325, & 326

2 Every foreign ship which after the passing of this Act is employed in carrying goods or passengers coastwise from one part of the united kingdom to another, or from the islands of Guernsey, Jersey, Alderney, Sark, or Man, to the united kingdom, or from the united kingdom to any of the said islands, or from any of the said islands to any other of them, or from any part of any one of the said islands to any other part of the same, shall be subject, as to stores for the use of the crew, and in all other respects, to the same laws, rules, and regulations to which British ships when so employed are now subject

Foreign ships in the coasting trade to be subject to the same rules as British ships

3 No foreign ship which after the passing of this Act is employed in the coasting trade as aforesaid, nor any goods carried in any such ship, shall during the time such ship is so employed, be subject to any higher or other rate of dock, pier, harbour, light, pilotage, tonnage, or other dues, duties, tolls, rates, or other charges whatsoever, or to any other rules as to the employment of pilots, or any other rules or restrictions whatsoever, than British ships employed in like manner, or goods carried in such ships, any law, charter, special privilege, or grant to the contrary notwithstanding, nor shall any body corporate or person having or claiming any right or title to any such higher or other rates, dues, duties, tolls, or other charges as aforesaid be entitled to any compensation in respect thereof under any law or statute relating thereto, or otherwise howsoever

Foreign ships employed in the coasting trade not to be subject to higher rates than British ships.

MERCHANT SHIPPING ACT, 1854.

17 & 18 Vict. c 104. An Act to amend and consolidate the Acts relating to Merchant Shipping (a). [10th August, 1854.]

17 & 18 Vict c 104

"Whereas it is expedient to amend and consolidate the Acts relating to merchant shipping (b) ' BE IT THEREFORE ENACTED as follows

Preliminary

1. This Act may be cited for all purposes as "THE MERCHANT SHIPPING ACT, 1854 "

Short title of Act

2 In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings here inafter assigned to them, that is to say,

Interpretation of certain terms in this Act.

"Her majesty's dominions" shall mean her majesty's dominions strictly so called, and all territories under the government of the East India Company, and all other territories (if any) governed by any charter or licence from the crown or parliament of the united kingdom

"The united kingdom" shall mean Great Britain and Ireland

"British possession" shall mean any colony, plantation, island, territory, or settlement within her majesty's dominions, and not within the "united kingdom '

"The treasury shall mean the commissioners of her majesty s treasury

"The admiralty" shall mean the lord high admiral or the commissioners for executing his office

"The board of trade" shall mean the lords of the committee of privy council

---

(a) This Act applies only to British ships, except where otherwise mentioned (*Cope* v *Doherty*, 27 L J Ch 600, see *The Eden*, 2 W Rob 442)

The Legislature has no authority over foreign vessels on the high seas out of British jurisdiction, but may impose any conditions on foreign vessels entering a British port, and consequently, an obligation on foreign ships inward bound to take a pilot at a convenient station beyond three miles from the British shore (*The Annapolis—The Johanna Stoll*, 30 L J Adm 201, *The Eclipse*, 31 L J Adm 201, *Williams* v *Gulch*, 14 Moo, P C 202)

This statute applies to the colonies, and by sect 191, a master has a lien for his wages in the Vice Admiralty Court, whatever may be the municipal law of the colony (*The Rajah of Cochin*, 1 Swabey, 473)

(b) The corresponding clauses of the former statutes, consolidated by this Act, are noted in the margin

17 & 18 Vict. c 104

appointed for the consideration of matters relating to trade and foreign plantations

"The trinity house" shall mean the master, wardens, and assistants of the guild, fraternity, or brotherhood of the most glorious and undivided trinity and of St Clement in the parish of Deptford Strond, in the county of Kent, commonly called the corporation of the trinity house of Deptford Strond

"The port of Dublin corporation" shall mean the corporation for preserving and improving the port of Dublin

"Consular officer" shall include consul general, consul, and vice consul, and any person for the time being discharging the duties of consul general, consul, or vice consul

"Receiver" shall mean any person appointed in pursuance of this Act receiver of wreck

"Pilotage authority" shall include all bodies and persons authorised to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage

"Pilot" shall mean any person not belonging to a ship who has the conduct thereof

"Qualified pilot" shall mean any person duly licensed by any pilotage authority to conduct ships to which he does not belong

"Master" shall include every person (except a pilot) having command or charge of any ship

"Seaman" shall include every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship

"Salvor" shall, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to her majesty, mean the person in command of such ship

"Person" shall include body corporate

"Ship" shall include every description of vessel used in navigation not propelled by oars

"Foreign going ship" shall include every ship employed in trading or going between some place or places in the united kingdom, and some place or places situate beyond the following limits, that is to say, the coasts of the united kingdom, the islands of Guernsey, Jersey, Sark, Alderney, and Man, and the continent of Europe between the river Elbe and Brest inclusive

"Home trade ship" shall include every ship employed in trading or going within the following limits that is to say, the united kingdom, the islands of Guernsey, Jersey, Sark, Alderney, and Man, and the continent of Europe between the river Elbe and Brest inclusive

"Home trade passenger ship" shall mean every home trade ship employed in carrying passengers

"Lighthouses" shall, in addition to the ordinary meaning of the word, include floating and other lights exhibited for the guidance of ships, and "buoys and beacons" shall include all other marks and signs of the sea

"Wreck" (a) shall include jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water

Commencement of Act

3 This Act shall come into operation on the 1st day of May, 1855

Exemption of her majesty's ships

4. This Act shall not, except as hereinafter specially provided, apply to ships belonging to her majesty

Division of Act

5. This Act shall be divided into eleven parts

The first part relating to the board of trade its general functions
The second part to British ships their ownership, measurement, and registry.
The third part to masters and seamen
The fourth part to safety and prevention of accidents
The fifth part to pilotage
The sixth part to lighthouses
The seventh part to the mercantile marine fund
The eighth part to wrecks, casualties, and salvage
The ninth part to liability of shipowners
The tenth part to legal procedure
The eleventh part to miscellaneous matters

PART I

THE BOARD OF TRADE ITS GENERAL FUNCTIONS

Board of trade to be department to superintend merchant shipping [8 & 9 Vict. c 94, s 6]

6 The board of trade shall be the department to undertake the general superintendence of matters relating to merchant ships and seamen, and shall be authorised to carry into execution the provisions of this Act, and of all other Acts relating to merchant ships and seamen in force for the time being, other than such Acts as relate to the revenue

(a) See *Palmer* v *Rouse*, 3 H & N 505, 27 L. J. Ex 437, see sec 458, post

7. All documents whatever purporting to be issued or written by or under the direction of the board of trade, and purporting either to be sealed with the seal of such board, or to be signed by one of the secretaries or assistant secretaries to such board, shall be received in evidence and shall be deemed to be issued or written by or under the direction of the said board, without further proof, unless the contrary be shown; and all documents purporting to be certificates issued by the board of trade in pursuance of this Act, and to be sealed with the seal of such board, or to be signed by one of the officers of the marine department of such board, shall be received in evidence, and shall be deemed to be such certificates, without further proof, unless the contrary be shown. [17 & 18 Vict. c. 104, s. 19.]

Certificates and documents purporting to be sealed or signed in a given manner to be received in evidence.

8. The board of trade may from time to time prepare and sanction forms of the various books, instruments, and papers required by this Act other than those required by the second part thereof, and may from time to time make such alterations therein as it deems requisite; and shall, before finally issuing or altering any such form, give such public notice thereof as it deems necessary in order to prevent inconvenience; and shall cause every such form to be sealed with such seal as aforesaid, or marked with some other distinguishing mark, and to be supplied at the custom houses and shipping offices of the united kingdom free of charge, or at such moderate prices as it may from time to time fix, or may license any persons to print and sell the same; and every such book, instrument, and paper as aforesaid shall be made in the form issued by the board of trade, and sanctioned by it as the proper form for the time being; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part (*a*) of any owner or master of any ship; and every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be sealed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved. [13 & 14 Vict. c. 93, ss. 20, 21, 41.]

Board of trade to issue forms of instruments.

9. All instruments used in carrying into effect the second part of this Act, if not already exempted from stamp duty, and all instruments which by the third, fourth, sixth, or seventh parts of this Act are required to be made in forms sanctioned by the board of trade, if made in such forms, and all instruments used by or under the direction of the board of trade in carrying such parts of this Act into effect, shall be exempt from stamp duty. [7 & 8 Vict. c. 112, s. 41; 13 & 14 Vict. c. 93, s. 22.]

Certain forms and instruments to be exempt from stamp duty.

10. Every person who forges, assists in forging, or procures to be forged, such seal or other distinguishing mark as aforesaid, or who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any form issued by the board of trade, with the view of evading any of the provisions of this Act or any condition contained in such form, shall for each offence be deemed guilty of a misdemeanor (*b*); and every person who, in any case in which a form sanctioned by the board of trade is by the third part of this Act required to be used, uses without reasonable excuse any form not purporting to be so sanctioned, or who prints, sells, or uses any document purporting to be a form so sanctioned knowing the same not to be so sanctioned for the time being or not to have been prepared and issued by the board of trade, shall for each such offence incur a penalty not exceeding ten pounds. [13 & 14 Vict. c. 93, s. 23.]

Penalties for forgery of seal and fraudulent alteration of forms, and for not using forms issued by board of trade.

11. Subject to the provisions hereinafter contained, all fees and payments (other than fines) coming to the hands of the board of trade under the third and fourth parts of this Act, shall be carried to the account of the mercantile marine fund (*c*) hereinafter mentioned, and shall be dealt with as herein prescribed in that behalf; and all fines coming to the hands of the board of trade under this Act shall be paid into the receipt of her majesty's exchequer (*d*) in such manner as the treasury may direct, and shall be carried to and form part of the consolidated fund of the united kingdom. [16 & 17 Vict. c. 131, ss. 3, 4, 26.]

Application of moneys and fines paid to board of trade.

12. All consular officers (*e*) and all officers of customs abroad, and all local marine boards and shipping masters, shall make and send to the board of trade such returns or reports on any matter relating to British merchant shipping or seamen as such board requires; and all shipping masters shall, whenever required by the board of trade, produce to such board or to its officers all official log books and other documents which, in pursuance of this Act, are delivered to them. [13 & 14 Vict. c. 93, s. 103.]

Returns to board of trade.

13. Every officer of the board of trade, and every commissioned officer of any of her majesty's ships on full pay (*f*), and every British consular officer, and the registrar general of seamen and his assistant, and every chief officer of customs in any place in her majesty's dominions, and every shipping master, may, in cases where he has reason to suspect that the provisions of this Act or the laws for the time being relating to merchant seamen and to navigation are not complied with, exercise the following powers; (that is to say,)

Officers of board of trade, naval officers, consuls, the registrar general of seamen, officers of customs and shipping masters, may inspect

He may require the owner, master, or any of the crew of any British ship to produce any official log books or other documents relating to such crew or any member thereof in their respective possession or control:

(*a*) It may be evidenced against him (*Ridley* v. *Plymouth Grinding Co.*, 2 Ex. 716).

(*b*) How punishable. See sec. 518, post.

(*c*) See section 417, post.

(*d*) See section 524, post.

(*e*) Who are, is defined by section 2, ante.

(*f*) Previously the only power naval officers possessed was under 13 & 14 Vict. c. 93, s. 103.

17 & 18 Vict. c. 104.

He may require any such master to produce a list of all persons on board his ship, and take copies of such official log books or documents, or of any part thereof:

He may muster the crew of any such ship:

He may summon the master to appear and give any explanation concerning such ship or her crew or the said official log books or documents:

documents and muster crews [7 & 8 Vict. c. 112, ss. 55, 56; 13 & 14 Vict. c. 93, s. 103.]

And if, upon requisition duly made by any person so authorised in that behalf as aforesaid, any person refuses or neglects to produce any such official log book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such master of a crew as aforesaid, or refuses or neglects to give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives any person hereinbefore authorised to demand any such explanation, he shall for each such offence incur a penalty not exceeding twenty pounds.

Board of trade may appoint inspectors. [13 & 14 Vict. c. 93, s. 104; 14 & 15 Vict. c. 79, s. 31.]

14. The board of trade may from time to time, whenever it seems expedient to them so to do, appoint any person, as an inspector, to report to them upon the following matters; (that is to say,)

(1.) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused:

(2.) Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with:

(3.) Whether the hull and machinery of any steam ship are sufficient and in good condition.

Powers of inspectors. [13 & 14 Vict. c. 93, s. 105; 14 & 15 Vict. c. 79, s. 32.]

15. Every such inspector as aforesaid shall have the following powers; (that is to say,)

(1.) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage:

(2.) He may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make:

(3.) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make:

(4.) He may require and enforce the production of all books, papers, or documents which he considers important for such purpose:

(5.) He may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination:

Witnesses to be allowed expenses.

And every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to any witness attending on subpœna to give evidence before any court of record, or, if in Scotland, to any witness attending on citation the court of justiciary; and in case of any dispute as to the amount of such expenses the same shall be referred by the inspector to one of the masters of her majesty's court of queen's bench in England or Ireland, or to the queen's and lord treasurer's remembrancer in Scotland, who, on a request made to him for that purpose under the hand of the said inspector, shall ascertain and certify the proper amount of such expenses; and every person who refuses to attend as a witness before any such inspector, after having been required so to do in the manner hereby directed and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector is hereby empowered to require, shall for each such offence incur a penalty not exceeding ten pounds.

Penalty for refusing to give evidence.

Penalty for obstructing inspectors in the execution of their duty. [13 & 14 Vict. c. 93, s. 106; 14 & 15 Vict. c. 79, s. 33.]

16. Every person who wilfully impedes any such inspector appointed by the board of trade as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding ten pounds, and may be seized and detained by such inspector or other person or by any person or persons whom he may call to his assistance until such offender can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

PART II. (a).

BRITISH SHIPS: THEIR OWNERSHIP, MEASUREMENT, AND REGISTRY.

Application.

Application of part II of Act.

17. The second part of this Act shall apply to the whole (b) of her majesty's dominions.

(a) This part is amended by 18 & 19 Vict. c. 91, s. 9, post. See Maude and Pollock on Shipping, chap. 1; and 25 & 26 Vict. c. 63, s. 3.

(b) See sect. 108, post, as to East Indian ships.

Description and Ownership of British Ships.

17 & 18 Vict c 104

18. No ship shall be deemed to be a British ship unless she belongs wholly to owners of the following description; that is to say,

Description and ownership of British ships. [8 & 9 Vict c 89, ss 5-12; 12 & 13 Vict. s. 17.]

(1.) Natural-born British subjects (*a*):

Provided that no natural-born subject who has taken the oath of allegiance to any foreign sovereign or state shall be entitled to be such owner as aforesaid, unless he has subsequently to taking such last-mentioned oath taken the oath of allegiance to her majesty, and is and continues to be during the whole period of his so being an owner resident in some place within her majesty's dominions, or, if not so resident, member of a British factory, or partner in a house actually carrying on business in the united kingdom or in some other place within her majesty's dominions:

(2.) Persons made denizens by letters of denization, or naturalised by or pursuant to any Act of the imperial legislature, or by or pursuant to any Act or ordinance of the proper legislative authority in any British possession:

Provided that such persons are and continue to be during the whole period of their so being owners resident in some place within her majesty's dominions, or, if not so resident, members of a British factory, or partners in a house actually carrying on business in the united kingdom or in some other place within her majesty's dominions, and have taken the oath of allegiance to her majesty subsequently to the period of their being so made denizens or naturalised:

(3.) Bodies corporate (*b*) established under, subject to the laws of, and having their principal place of business in the united kingdom or some British possession.

19. Every British ship must be registered in manner hereinafter mentioned (*c*) except,

British ships with certain exceptions must be registered. [12 & 13 Vict c. 29, s. 20.]

(1.) Ships duly registered before this Act comes into operation:

(2.) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the united kingdom, or on the rivers or coasts of some British possession within which the managing owners of such ships are resident:

(3.) Ships not exceeding thirty tons burden, and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the gulf of St. Lawrence, or on such portion of the coasts of Canada, Nova Scotia, or New Brunswick as lie bordering on such gulf:

And no ship hereby required to be registered shall, unless registered, be recognised as a British ship; and no officer of customs shall grant a clearance or transire to any ship hereby required to be registered for the purpose of enabling her to proceed to sea as a British ship, unless the master of such ship, upon being required so to do, produces to him such certificate of registry as is hereinafter mentioned; and if such ship attempts to proceed to sea as a British ship without a clearance or transire, such officer may detain such ship until such certificate is produced to him.

Measurement of Tonnage.

Tonnage deck; feet decimals.

20. Throughout the following rules the tonnage deck shall be taken to be the upper in ships which have less than three decks, and to be the second deck from below in all other ships; and in carrying such rules into effect all measurements shall be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

Rule I. For ships to be registered and other ships of which the hold is clear. [8 & 9 Vict c. 89, s. 21] Lengths (*d*).

21. The tonnage of every ship to be registered, with the exceptions mentioned in the next section, shall previously to her being registered be ascertained by the following rule, hereinafter called Rule I.; and the tonnage of every ship to which such rule can be applied, whether she is about to be registered or not, shall be ascertained by the same rule:

(1.) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness), deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of

---

(*a*) As to who may be natural-born British subjects, see 7 Anne, c. 5, s. 3; 4 Geo. 2, c. 21, ante, Vol. I., p. 37, tit. "ALIENS;" (*Doe* v. *Jones*, 4 T. R. 300; *Calvin's Case* 7 Co. Rep. 1).

(*b*) The registry is to be in the corporate name, post, sect. 37.

(*c*) An equitable mortgage of a ship (unregistered) is invalid, under these provisions, and will not be enforced by a court of equity (*Liverpool Borough Bank* v. *Turner*, 30 L. J. Chan., 379; see *M'Leary* v. *Middleton*, 9 W. R. 861).

(*d*) This and the following section are amended by 18 & 19 Vict. c. 91, s. 14, post.

17 & 18 Vict c 104.

the stern timber in one-third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:—

TABLE.

Class 1. Ships of which the tonnage deck is according to the above measurement 50 feet long or under, into 4 equal parts:
,, 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long, and not exceeding 120, into 6 equal parts:
,, 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long, and not exceeding 180, into 8 equal parts:
,, 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long, and not exceeding 225, into 10 equal parts:
,, 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts.

Transverse areas

(2.) Then, the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length as follows:—Measure the depth at each point of division, from a point at a distance of one-third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (*i. e.*, numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizonal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

Computation from areas

(3.) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage of the ship in the following manner:—Number the areas successively, 1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit of the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in Classes 1 and 5, or any intermediate number as in Classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one-third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck, divide this product by one hundred, and the quotient being the tonnage under the tonnage deck shall be deemed to be the register tonnage of the ship, subject to the additions and deductions hereinafter mentioned.

Poop and any other closed-in space.

(4). If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows:—Measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one-third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisoes: first, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, unless such space exceeds one-twentieth of the remaining tonnage of the ship, and in case of such

excess the excess only shall be added; and, secondly, that nothing shall be added in respect of any building erected for the shelter of deck passengers, and approved by the board of trade. 17 & 18 Vict. c. 104.

(5.) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:—Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern; number them successively 1, 2, 3, &c., commencing at the stem; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space; measure the mean height of such space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the ship ascertained as aforesaid; and if the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid. In case of two or more decks.

22. Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by the rule above given, shall be measured by the following rule, hereinafter called Rule II.: RULE II. For ships not requiring registry with cargo on board. [8 & 9 Vict c. 89, s. 19.]

(1.) Measure the length on the upper deck from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it; measure also the greatest breadth of the ship to the outside of the outer planking or wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girt the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel; to half the girth thus taken add half the main breadth; square the sum; multiply the result by the length of the ship taken as aforesaid; then multiply this product by the factor ·0018 (eighteen ten-thousandths) in the case of ships built of wood, and by ·0021 (twenty-one ten-thousandths) in the case of ships built of iron, and the product shall be deemed the register tonnage of the ship subject to the additions and deductions hereinafter mentioned. Length. Breadth. Girting of the ship.

(2.) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of such space shall be ascertained by multiplying together the mean length, breadth, and depth of such space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the tonnage of such space, and shall, subject to the deduction for a closed-in space appropriated to the crew as mentioned in Rule I., be added to the tonnage of the ship ascertained as aforesaid. Poop and other closed-in spaces on upper deck.

23. In every ship propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as aforesaid, and the remainder shall be deemed to be the register tonnage of such ship; and such deduction shall be estimated as follows; (that is to say,) RULE III. Allowance for engine room in steamers. [Id. s. 17.]

(a.) As regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty *per cent.* and under thirty *per cent.* of the gross tonnage of the ship, such deduction shall be thirty-seven one-hundredths of such gross tonnage; and in ships propelled by screws in which the tonnage of such space is above thirteen *per cent.* and under twenty *per cent.* of such gross tonnage, such deduction shall be thirty-two one-hundredths of such gross tonnage: To be rateable in ordinary steamers.

(b.) As regards all other ships, the deduction shall, if the commissioners of customs and the owner both agree thereto, be estimated in the same manner; but either they or he may in their or his discretion require the space to be measured and the deduction estimated accordingly; and whenever such measurement is so required the deduction shall consist of the tonnage of the space actually occupied by or required to be enclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of *one half*, and in the case of ships propelled by screws of three fourths of the tonnage of such space, and the measurement and use of such space shall be governed by the following rules; (that is to say,) May be measured where the space is unusually large or small.

(1.) Measure the mean depth of the space from its crown to the ceiling at the limber Mode of

17 & 18 Vict c 104.

measurement

strake, measure also three, or, if necessary, more than three breadths of the space at the middle of its depth, taking one of such measurements at each end, and another at the middle of the length; take the mean of such breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth, and depth, and the product will be the cubical contents of the space below the crown: then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by 100; and the result shall be deemed to be the tonnage of the said space:

In case of separate compartments.

(2.) If in any ship in which the space aforesaid is to be measured the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space:

Shaft trunk of screw steamer

(3.) In the case of screw steamers in which the space aforesaid is to be measured, the contents of the shaft trunk shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100:

Alteration of engine room.

(4.) If in any ship in which the space aforesaid is to be measured any alteration be made in the length or capacity of such space, or if any cabins be fitted in such space, such ship shall be deemed to be a ship not registered until remeasurement:

Penalty for carrying goods in such space.

(5.) If in any ship in which the space aforesaid is to be measured any goods or stores are stowed or carried in such space, the master and owner shall each be liable to a penalty not exceeding one hundred pounds.

RULE IV Open ships, how measured.

24. In ascertaining the tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwartship line, extended from upper edge to upper edge of the said strake at each division of the length.

Tonnage and number of certificate to be carved on main beam.

25. In every registered British ship the number denoting the register tonnage, ascertained as hereinbefore directed, and the number of her certificate of registry, shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if it at any time cease to be so continued such ship shall no longer be recognised as a British ship.

[8 & 9 Vict. c. 89, s 20.]

Tonnage when once ascertained to be ever after deemed the tonnage [Id. s 22]

26. Whenever the tonnage of any ship has been ascertained and registered in accordance with the provisions of this Act, the same shall thenceforth be deemed to be the tonnage of such ship, and be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and the tonnage determined and registered according to the rules hereinbefore contained in that behalf.

Remeasurement of ships already registered may be made, but not to be compulsory [Id. s. 16]

27. The rules for the measurement of tonnage herein contained shall not make it necessary to alter the present registered tonnage of any British ship registered before this Act comes into operation; but if the owner of any such ship desires to have the same remeasured according to such rules, he may apply to the commissioners of customs for the purpose, and such commissioners shall thereupon, and on payment of such reasonable charge for the expenses of remeasurement, not exceeding the sum of seven shillings and sixpence for each transverse section, as they may authorise, direct such remeasurement to be made, and such ship shall thereupon be remeasured according to such rules as aforesaid, or according to such of them as may be applicable; and the number denoting the register tonnage shall be altered accordingly.

Power to remeasure engine rooms improperly extended.

28. If it appears to the commissioners of customs that in any steam ship measured before this Act comes into operation store rooms or coal bunkers have been introduced into or thrown across the engine room, so that the deduction from the tonnage on account of the engine room is larger than it ought to be, the said commissioners may, if they think fit, direct such engine room to be remeasured according to the rules in force before this Act comes into operation, excluding the space occupied by such store rooms or coal bunkers, or may, if the owners so desire, cause the ship to be remeasured according to the rules hereinbefore contained, and subject to the conditions contained in the last preceding section; and after remeasurement the said commissioners shall cause the ship to be registered anew, or the registry thereof to be altered, as the case may require.

Officers may be appointed and regulations made for measurement of ships

29. The commissioners of customs may, with the sanction of the treasury, appoint such persons to superintend the survey and admeasurement of ships as they think fit; and may, with the approval of the board of trade, make such regulations for that purpose as may be necessary; and also, with the like approval, make such modifications and alterations as from time to time become necessary in the tonnage rules hereby prescribed, in order to the more accurate and uniform application thereof, and the effectual carrying out of the principle of admeasurement therein adopted.

Registry of British Ships.

17 & 18 Vict. c. 104.

30. The following persons are required to register British ships, and shall be deemed registrars for the purposes of this Act; (that is to say,) Registrars of British ships. [8 & 9 Vict. c. 89, s. 8]

(1.) At any port or other place in the united kingdom or Isle of Man approved by the commissioners of customs for the registry of ships, the collector, comptroller, or other principal officer of customs for the time being:

(2.) In the islands of Guernsey and Jersey, the principal officers of her majesty's customs, together with the governor, lieutenant governor, or other person administering the government of such islands respectively:

(3.) In Malta, Gibraltar, and Heligoland, the governor, lieutenant governor, or other person administering the government of such places respectively:

(4.) At any port or place so approved as aforesaid within the limits of the charter but not under the government of the East India company, and at which no custom house is established, the collector of duties, together with the governor, lieutenant governor, or other person administering the government:

(5.) At the ports of Calcutta, Madras, and Bombay, the master attendants, and at any other port or place so approved as aforesaid within the limits of the charter and under the government of the East India company, the collector of duties, or any other person of six years' standing in the civil service of the said company who is appointed by any of the governments of the said company to act for this purpose:

(6.) At every other port or place so approved as aforesaid within her majesty's dominions abroad, the collector, comptroller, or other principal officer of customs or of navigation laws, or if there is no such officer resident at such port or place, the governor, lieutenant governor, or other person administering the government of the possession in which such port or place is situate.

31. The governor, lieutenant governor, or other person administering the government in any British possession where any ship is registered under the authority of this Act shall, with regard to the performance of any act or thing relating to the registry of a ship or of any interest therein, be considered in all respects as occupying the place of the commissioners of customs; and any British consular officer shall, in any place where there is no justice of the peace, be authorised to take any declaration hereby required or permitted to be made in the presence of a justice of the peace. Substitution of governor abroad for commissioners of customs, and of consul for justice. [Ibid.]

32. Every registrar shall keep a book, to be called "The Register Book," and enter therein the particulars hereinafter required to be registered. Registrar to keep register books. [Id. s. 10]

33. The port or place at which any British ship is registered for the time being shall be considered her port of registry or the port to which she belongs (*a*). Port of registry of British ship. [Id. ss. 10, 11]

34. The following rules shall be observed with respect to the names of British registered ships; (that is to say,) Name of ship. [Id. s. 27]

(1.) Before registry the name of each ship and of the port to which she belongs shall be painted on a conspicuous part of her stern on a dark ground in white or yellow letters of a length not less than four inches (*b*):

(2.) No change shall be made in the name of any registered ship:

(3.) No concealment, absence, or avoidable obliteration of the above names shall be permitted, except for the purpose of escaping capture by an enemy:

(4.) The ship shall not be described by or with the knowledge of the owner or master by any name other than the one by which she is registered:

And for every breach of the above rules or any of them the owner and master shall each incur a penalty not exceeding one hundred pounds.

35. Every application for the registry of a ship shall in the case of individuals be made by the person requiring to be registered as owner, or by some one or more of such persons if more than one, or by his or their duly authorised agent, and in the case of bodies corporate by their duly authorised agent; the authority of such agent, if appointed by individuals, to be testified by some writing under the hands of the appointers, and if appointed by a body corporate, by some instrument under the common seal of such body corporate. Application for registry, by whom to be made. [Id. s. 13]

36. Before registry, the ship shall be surveyed by a person duly appointed under this Act; and such surveyor shall grant a certificate in the form marked A. in the schedule hereto, specifying her tonnage, build, and such other particulars descriptive of the identity of the ship as may from time to time be required by the board of trade; and such certificate shall be delivered to the registrar before registry. Survey of ship. [Id. s. 15]

(*a*) A ship may now be registered at any place, and the registry may also be transferred. See post, ss. 89, 90.

(*b*) Pleasure yachts may be exempted from this rule, 18 & 19 Vict. c. 91, s. 13, post.

17 & 18 Vict. c. 104.

Rules as to entries in register book (a). [8 & 9 Vict. c. 89, ss. 35, 36.]

37. The following rules shall be observed with respect to entries in the register books (that is to say,)

(1.) The property in a ship shall be divided into sixty-four shares:

(2.) Subject to the provisions with respect to joint owners or owners by transmission hereinafter contained, not more than thirty-two individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner:

(3.) No person shall be entitled to be registered as owner of any fractional part of a share in a ship; but any number of persons, not exceeding five, may be registered as joint owners of a ship or of a share or shares therein:

(4.) Joint owners shall be considered as constituting one person only as regards the foregoing rule relating to the number of persons entitled to be registered as owners, and shall not be entitled to dispose in severalty of any interest in any ship or in any share or shares therein in respect of which they are registered:

(5.) A body corporate may be registered as owner by its corporate name.

Declaration of ownership by individual owner (b). [12 & 13 Vict. c. 29, s. 19.]

38. No person shall be entitled to be registered as owner of a ship or any share therein until he has made and subscribed a declaration in the form marked B. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)

(1.) A statement of his qualification to be an owner of a share in a British ship:

(2.) A statement of the time when and the place where such ship was built, or (if the ship is foreign built, and the time and place of building not known), a statement that she is foreign built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:

(3.) A statement of the name of the master:

(4.) A statement of the number of shares in such ship of which he is entitled to be registered as owner:

(5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein:

[8 & 9 Vict. c. 89, s. 18.] The above declaration of ownership shall be made and subscribed in the presence of the registrar if the declarant reside within five miles of the custom house of the port of registry, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Declaration of ownership by body corporate. [12 & 13 Vict. c. 29, s. 19.]

39. No body corporate shall be entitled to be registered as owner of a ship or of any share therein until the secretary or other duly appointed public officer of such body corporate has made and subscribed in the presence of the registrar of the port of registry a declaration in the form marked C. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)

(1.) A statement of such circumstances of the constitution and business of such body corporate as prove it to be qualified to own a British ship:

(2.) A statement of the time when and the place where such ship was built, or (if the ship is foreign built, and the time and place of building unknown), a statement that she is foreign built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:

(3.) A statement of the name of the master:

(4.) A statement of the number of shares in such ship of which such body corporate is owner:

(5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein.

Evidence to be produced on registry. [8 & 9 Vict. c. 89, s. 28.]

40. Upon the first registry of a ship there shall, in addition to the declaration of ownership, be produced the following evidence; (that is to say,)

(1.) In the case of a British built ship, a certificate (which the builder is hereby required to grant under his hand) containing a true account of the proper de-

---

(a) As to the rights and liabilities (*inter se*) of part owners, see *Buckley* v. *Barber*, 6 Ex. 164; *Rex* v. *Collector of Customs*, 2 M. & S. 223; and Maude and Pollock on Shipping, ed. 2, p. 67.

(b) A false statement made wilfully to the registrar under this or either of the two next sections, is a misdemeanor, 18 & 19 Vict. c. 91, s. 9, post.

nomination and of the tonnage of such ship as estimated by him, and of the time when and of the place where such ship was built, together with the name of the party (if any) on whose account he has built the same, and, if any sale or sales have taken place, the bill or bills of sale under which the ship or share therein has become vested in the party requiring to be registered as owner · 17 & 18 Vict. c. 104.

(2.) In the case of a foreign built ship, the same evidence as in the case of a British built ship, unless the person requiring to be registered as owner, or, in the case of a body corporate, the duly appointed officer, declares that the time or place of her building is unknown, or that the builder's certificate cannot be procured, in which case there shall be required only the bill or bills of sale under which the ship or share therein became vested in the party requiring to be registered as owner thereof:

(3.) In the case of a ship condemned by any competent court, an official copy of the condemnation of such ship.

41. If any builder wilfully makes a false statement in any certificate hereby required to be granted by him he shall for every such offence incur a penalty not exceeding one hundred pounds. Penalty on builder for false certificate.

42. As soon as the foregoing requisites to the due registry of a ship have been complied with, the registrar shall enter in the register book the following particulars relating to such ship; (that is to say,) Particulars of entry in register book (a) [8 & 9 Vict. c. 89, s. 10.]

(1.) The name of the ship and of the port to which she belongs:

(2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor:

(3.) The several particulars as to her origin stated in the declaration or declarations of ownership:

(4.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are interested in such ship.

43. No notice of any trust, express, implied, or constructive, shall be entered in the register book, or receivable by the registrar; and, subject to any rights and powers appearing by the register book to be vested in any other party, the registered owner of any ship or share therein shall have power absolutely to dispose in manner hereinafter mentioned of such ship or share, and to give effectual receipts for any money paid or advanced by way of consideration. No notice taken of trusts.

Certificate of Registry.

44. Upon the completion of the registry of any ship the registrar shall grant a certificate of registry in the form marked D. in the schedule hereto, comprising the following particulars; (that is to say,) Certificate of registry to be granted. [12 & 13 Vict. c. 29, s. 18.]

(1.) The name of the ship and of the port to which she belongs:

(2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor;

(3.) The name of her master:

(4.) The several particulars as to her origin stated in the declaration or declarations of ownership:

(5.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are respectively interested, indorsed upon such certificate.

45. Whenever any change takes place in the registered ownership of any ship, then, if such change occurs at a time when the ship is at her port of registry, the master shall forthwith deliver the certificate of registry to the registrar, and he shall indorse thereon a memorandum of such change; but if such change occurs during the absence of the ship from her port of registry, then upon her first return to such port the master shall deliver the certificate of registry to the registrar, and he shall indorse thereon a like memorandum of the change, or if she previously arrives at any port where there is a British registrar, such registrar shall, upon being advised by the registrar of her port of registry of the change having taken place, indorse a like memorandum thereof on the certificate of registry, and may for that purpose require the certificate to be delivered to him, so that the ship be not thereby detained; and any master who fails to deliver to Change of owners to be indorsed on certificate of registry.

(a) A., being owner of a ship which was unfinished, on the 5th of July mortgaged it to B. A., on the 5th of August, registered the ship as owner, pursuant to this section. On the following day, B. caused the mortgage to himself to be inserted on the registry. A. having become bankrupt, it was held, that A.'s assignees could not maintain trover against B. for the ship (*Bell v. Bank of London*, 3 H. & N. 730; 28 L. J. Exch. 116).

17 & 18 Vict. c. 104.

the registrar the certificate of registry as hereinbefore required shall incur a penalty not exceeding one hundred pounds.

Change of master to be indorsed on certificate of registry. [8 & 9 Vict. c. 89, s. 24]

46. Whenever the master of any British registered ship is changed, the following persons, that is to say, if such change is made in consequence of the sentence of any naval court, the presiding officer of such court, but if the change takes place from any other cause, the registrar, or if there is no registrar the British consular officer resident at the port where such change takes place, shall indorse on the certificate of registry a memorandum of such change, and subscribe his name to such indorsement, and forthwith report the change of master to the commissioners of customs in London; and the officers of customs at any port situate within her majesty's dominions may refuse to admit any person to do any act at such port as master of any British ship, unless his name is inserted in or indorsed upon the certificate of registry of such ship as the last appointed master thereof.

Power to grant new certificate.

47. The registrar may, with the sanction of the commissioners of customs, upon the delivery up to him of the former certificate of registry, grant a new certificate in the place of the one so delivered up.

Provision in case of loss of certificate. [Ibid. s. 29.]

48. In the event of the certificate of registry of any ship being mislaid, lost, or destroyed, if such event occurs at any port in the united kingdom, the ship being registered in the united kingdom, or at any port in any British possession, the ship being registered in the same British possession, then the registrar of her port of registry shall grant a new certificate of registry in lieu of and as a substitute for her original certificate of registry; but if such event occurs elsewhere, the master or some other person having knowledge of the circumstances shall make a declaration before the registrar of any port having a British registrar at which such ship is at the time or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of the declarant's knowledge and belief; and the registrar shall thereupon grant a provisional certificate as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such provisional certificate is granted.

Provisional certificate to be delivered up. [Ibid.]

49. Every such provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the united kingdom, if registered in the united kingdom, or if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant a new one, as near to the form appointed by this Act as circumstances permit; and if the master neglects to deliver up such certificate within such time he shall incur a penalty not exceeding fifty pounds.

Custody of certificate (a). [8 & 9 Vict c. 89, s. 30.]

50. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever, which any owner, mortgagee, or other person may have or claim to have on or in the ship described in such certificate; and if any person whatever, whether interested or not in the ship, refuses on request to deliver up such certificate when in his possession or under his control to the person for the time being entitled to the custody thereof for the purposes of such lawful navigation as aforesaid, or to any registrar, officer of the customs, or other person legally entitled to require such delivery, it shall be lawful for any justice, by warrant under his hand and seal, or for any court capable of taking cognisance of such matter, to cause the person so refusing to appear before him and to be examined touching such refusal; and unless it is proved to the satisfaction of such justice or court that there was reasonable (b) cause for such refusal the offender shall incur a penalty not exceeding one hundred pounds; but if it is made to appear to such justice or court that the certificate is lost, the party complained of shall be discharged, and such justice or court shall thereupon certify that the certificate of registry is lost.

Delivery of certificate may be required.

Penalty for detention.

Mode of proceeding if detaining party absconds. [Ibid.]

51. If the person charged with such detainer or refusal is proved to have absconded, so that the warrant of the justice or process of the court cannot be served upon him, or if he persists in his refusal to deliver the certificate, such justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate of registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

Penalty for using improper certificate.

52. If the master or owner of any ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a misdemeanor, and it shall be lawful for any commissioned officer on full pay

---

(a) See *Gibson* v. *Ingo*, 6 Hare, 162.

(b) If a person sole owner and captain of a ship pledges the certificate of registry of the ship for good consideration, he may nevertheless redemand the document for the purposes of navigation, and if it is not delivered to him on request, he may maintain an action against the pledgee; for the detention is made unlawful by this section (*Wiley* v. *Crawford*, 1 B. & S. 253; 30 L. J. (Ex. Ch.) Q. B. 319).

After a ship had arrived at the port of discharge, but before it was discharged, the owner demanded the certificate of registry from the master, intending to dismiss him, but not communicating that intention to him: It was held, that the master was not liable to be convicted under this section for refusing to deliver up the certificate (*Harkle* v. *Henzell*, 4 Jur. N. S. 306; 27 L. J. M. C. 110—Q. B.).

in the military or naval service of her majesty, or any British officer of customs, or any British consular officer, to seize and detain such ship, and to bring her for adjudication before the high court of admiralty in England or Ireland or any court having admiralty jurisdiction in her majesty's dominions; and if such court is of opinion that such use or attempt at use has taken place, it shall pronounce such ship, with her tackle, apparel, and furniture, to be forfeited to her majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication. 17 & 18 Vict. c. 104.

53. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by reason of a transfer to any persons not qualified to be owners of British ships, or of any other matter or thing, any such ship as aforesaid ceases to be a British ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall, immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the registrar at the port of registry of such ship, give such notice to him, and he shall make an entry thereof in his register book; and, except in cases where the certificate of registry is lost or destroyed, the master of every ship so circumstanced as aforesaid shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his arrival in port, deliver the certificate of registry of such ship to the registrar, or, if there be no registrar, to the British consular officer at such port, and such registrar if he is not himself the registrar of her port of registry, or such British consular officer, shall forthwith forward the certificate so delivered to him to the registrar of the port of registry of the ship; and every owner and master who, without reasonable cause, makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds. Certificate of ship lost or ceasing to be British to be delivered up. [Id. s. 49.]

54. If any ship becomes the property of persons qualified to be owners of British ships at any foreign port, the British consular officer resident at such port may grant the master of such ship, upon his application, a provisional certificate, stating— Provisional certificate for ship becoming vested in British owners at foreign port. [Id. s. 11.]

The name of the ship;
The time and place of her purchase, and the names of her purchasers;
The name of her master;
The best particulars as to her tonnage, build and description that he is able to obtain;

And he shall forward a copy of such certificate, at the first convenient opportunity, to the commissioners of customs in London; the certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a British registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

Transfers and Transmissions (a).

55. A registered ship or any share therein, when disposed of to persons qualified to be owners of British ships, shall be transferred by bill of sale; and such bill of sale shall contain such description of the ship as is contained in the certificate of the surveyor, or such other description as may be sufficient to identify the ship to the satisfaction of the registrar, and shall be according to the form marked E. in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferrer in the presence of and be attested by one or more witnesses. Transfer of ships or shares therein. [Id. s. 34.]

56. No individual shall be entitled to be registered as transferree of a ship or any share therein until he has made a declaration in the form marked F. in the schedule hereto, stating his qualification to be registered as owner of a share in a British ship, and containing a denial similar to the denial hereinbefore required to be contained in a Declaration to be made by transferree. [16 & 17 Vict. c. 131, s. 32.]

(a) It will be observed, that the bill of sale is now under seal. By the last Registry Act, 8 & 9 Vict. c. 89, s. 34, it was provided, that British registered ships should be transferred "by bill of sale or other instrument in writing, containing a recital of the certificate of registry of such ship or vessel, or the principal contents thereof, otherwise such transfer should not be valid or effectual for any purpose whatever either in law or in equity." These words were held to apply to an executory contract, as well as to an absolute sale; therefore an unregistered contract for the sale of shares in a British ship could not be enforced in equity (*Hughes* v. *Morris*, 2 De G. Mac. & Gor. 349; *M'Calmont* v. *Rankin*, 2 De G. Mac. & Gor. 403); and this was so even against a purchaser, with notice of the prior sale (*Coombs* v. *Mansfield*, 3 Drew. 193), in which case it was said, that the operation of the Ship Registry Acts precluded any application of the equitable doctrine of notice. Neither would any action lie for the breach of such a contract (*Duncan* v. *Tindale*, 13 C. B. 258); nor could equity afford relief even where the purchaser of a ship fraudulently took away the bill of sale, and got it registered without having paid the purchase-money (*Follett* v. *Delaney*, 2 De G. & Sm. 235. See *Holderness* v. *Lamport*, 29 Beav. 129, post, p. 268, n. (a); see Maude and Pollock on Shipping, ed. 2, p. 21, note (c)).

17 & 18 Vict c. 104

declaration of ownership by an original owner; and no body corporate shall be entitled to be registered as transferree of a ship or any share therein until the secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G. in the schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a British ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership made on behalf of a body corporate: in the case of an individual, the above declaration shall be made, if he reside within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace; in the case of a body corporate the declaration shall be made in the presence of the registrar of the port of registry.

Registration of transfer [8 & 9 Vict c 89, s. 37]

57. Every bill of sale for the transfer of any registered ship, or of any share therein, when duly executed, shall be produced to the registrar of the port at which the ship is registered, together with the declaration hereinbefore required to be made by a transferree; and the registrar shall thereupon enter in the register book the name of the transferree as owner of the ship or share comprised in such bill of sale, and shall endorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the registrar (*a*).

Transmission of shares by death, bankruptcy, or marriage

58. If the property in any ship or in any share therein becomes transmitted in consequence of the death or bankruptcy or insolvency of any registered owner, or in consequence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H. in the schedule hereto, and containing the several statements hereinbefore required to be contained in the declaration of a transferree, or as near thereto as circumstances permit, and, in addition, a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed if the declarant resides at or within five miles of the custom house of the port of registry in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Proof of transmission by bankruptcy, marriage, will, or on intestacy.

59. If such transmission has taken place by virtue of the bankruptcy or insolvency of any registered owner, the said declaration shall be accompanied by such evidence as may for the time being be receivable in courts of justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner the said declaration shall be accompanied by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument or by intestacy, then in England, Wales, and Ireland, the said declaration shall be accompanied by the probate of the will or the letters of administration or an official extract therefrom, and in Scotland or in any British possession by the will or any copy thereof that may be evidence by the laws of Scotland or of such possession or by letters of administration or any copy thereof, or by such other document as may by the laws of Scotland or of such possession be receivable in the courts of judicature thereof as proof of the person entitled upon an intestacy.

Registration of transmitted share.

60. The registrar, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons, if more than one, shall, however numerous, be considered as one person only as regards the rule hereinbefore contained relating to the number of persons entitled to be registered as owners.

Registrar to retain certain evidence.

61. Of the documents hereby required to be produced to the registrar he shall retain in his possession the following; that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

Unqualified owner entitled by transmission may apply to court for sale of ship (*b*).

62. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner or on the marriage of any female owner in any person not qualified to be the owner of British ships, it shall be lawful, if such ship is registered in England or Ireland for the court of chancery, if in Scotland for the court of session, or if in any British possession for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of

---

(*a*) A mortgage of a ship must be accompanied with the formalities required by this Act, and a court of equity can therefore give no effect to an unregistered contract to assign a ship as a security for money due (*The Liverpool Borough Bank* v. *Turner*, 1 John. & H. 159; 30 L. J. Ch. 379).

(*b*) This and the three following sections are entirely new.

any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the justice of the case requires. 17 & 18 Vict. c. 104.

63. Every order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold in some person or persons named by the court, and such nominee or nominees shall thereupon be entitled to transfer such ship or share in the same manner, and to the same extent, as if he or they were the registered owner or owners of the same; and every registrar shall obey the requisition of such nominee or nominees as aforesaid in respect of any transfer to the same extent, as he would be compellable to obey the requisition of any registered owner or owners of such ship or share. Order to be made by court.

64. Every such application as aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the date of such occurrence as aforesaid; and in the event of no such application being made within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner hereinafter directed with respect to interests acquired by unqualified owners in ships using a British flag and assuming the British character. Limit of time for application.

65. It shall be lawful in England or Ireland for the court of chancery (*a*), in Scotland for the court of session, in any British possession for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise of any other power such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either *ex parte* or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted with or without costs, and generally to act in the premises in such manner as the justice of the case requires; and every registrar, without being made a party to the proceedings, upon being served with such order, or an official copy thereof, shall obey the same. Power of courts to prohibit transfers.

Mortgages.

66. A registered ship or any share therein may be made a security for a loan or other valuable consideration; and the instrument creating such security, hereinafter termed a "mortgage," shall be in the form marked I. in the schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument the registrar of the port at which the ship is registered shall record the same in the register book. Mortgage of ships and shares therein. [8 & 9 Vict. c. 89, s. 45.]

67. Every such mortgage shall be recorded by the registrar in the order of time in which the same is produced to him for that purpose; and the registrar shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record. Mortgages to be registered in order of time of production. [Ibid.]

68. Whenever any registered mortgage has been discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money indorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged; and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made. Entry of discharge of mortgage.

69. If there is more than one mortgage registered of the same ship or share therein, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself. Priority of mortgages.

70. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship or any share therein, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as a security for the mortgage debt. Mortgagee not to be deemed owner (*b*). [Ibid.]

(*a*) See *Orr* v. *Dickinson*, 1 John. 672.

(*b*) Where a ship has been mortgaged for a debt, a creditor who has got judgment against the registered owner of the ship, cannot take and sell the ship in execution, for to do so would be to defeat the rights of the mortgagee to make the ship available as a security for his debt, given him by this section (*Kitchen* v. *Irvine*, 28 L. J. Q. B. 46. See *Williams* v. *Allsup*, 10 C. B. N. S. 417, 30 L. J. C. P. 353).

A mortgagee of a ship has power, under this section, to use as well as sell the ship (*European and Australian Royal Mail Co.* v. *Royal Mail Steam Packet Co.*, 4 Kay & J. 676; *De Mattos* v. *Gibson*, 1 John. & H. 79). And where a mortgagee of a steamship took possession of her, and used her for the purposes of a speculation which resulted in a loss, and subse-

17 & 18 Vict. c 104.

Mortgagee to have power of sale (a)

71. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognisance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

Rights of mortgagee not affected by any act of bankruptcy of mortgagor (b) [Id s 46]

72. No registered mortgage of any ship or of any share therein shall be affected by any act of bankruptcy committed by the mortgagor after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship or any share thereof which may belong to the assignees of such bankrupt.

Transfer of mortgages (c).

73. A registered mortgage of any ship or share in a ship may be transferred to any person, and the instrument creating such transfer shall be in the form marked K. in the schedule hereto, and on the production of such instrument the registrar shall enter in the register book the name of the transferree as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

Transmission of interest of mortgagee by death, bankruptcy, or marriage.

74. If the interest of any mortgagee in any ship or in any share therein becomes transmitted in consequence of death, bankruptcy, or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the form marked L. in the schedule hereto, and containing a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace, and shall be accompanied by such evidence as is hereinbefore required to authenticate a corresponding transmission of property from one registered owner to another.

Entry of transmitted mortgage

75. The registrar, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

Certificates of Mortgage and Sale.

Powers of mortgage and sale may be conferred by certificate.

76. Any registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country or possession in which the port of registry of such ship is situate, may apply to the registrar, who shall thereupon enable him to do so by granting such certificates as are hereinafter mentioned, to be called respectively certificates of mortgage or certificates of sale, according as they purport to give a power to mortgage or a power to sell.

Requisities for certificates of

77. Previously to any certificate of mortgage or sale being granted, the applicant shall state to the registrar, to be by him entered in the register book, the following particulars; (that is to say,)

---

quently sold her disadvantageously: it was held (affirming the decision of Stuart, V. C., 2 Giff. 457, 7 Jur. N. S. 155), that he must himself bear such loss, and be charged with the value of the vessel at the time he took possession of her (*Marriott* v. *Anchor Reversionary Co.*, 2 Giff. 457, 30 L. J. Chanc. 571).

In general, by the mortgage of a ship, the legal right of the freight is transferred (*Dobbyn* v. *Comerford*, 10 Ir. Chanc. Rep. 327. But a mere mortgage of a ship does not give a mortgagee a right to the earnings of the ship received by the mortgagor after the execution of the mortgage, but before the mortgagee takes possession (*Willis* v. *Palmer*, 7 C. B. N. S. 340).

(a) A claimant, upon an interpleader summons in a county court, as to his title to a ship seized in execution upon a judgment against a registered owner, proved a previous mortgage of the ship to him by such owner for a loan, with a proviso in the mortgage postponing until a date subsequently to the seizure of the ship the power of sale vested in the mortgagee by this section, and that such mortgage was recorded in the register book of the port of the ship's registration in the form prescribed by sect. 66, but there was no indorsement on the certificate of registry, according to the requirements of 4 Geo. 4, c. 41, ss. 35, 43, and of 3 & 4 Will. 4, c. 55, ss. 34, 42: it was held, that the mortgage was not invalid, either as a fraud against creditors, or as not being according to this Act, on the ground of the postponement of the power of sale (*Dickinson* v. *Kitchen*, 8 El. & Bl. 789).

(b) On this section, see *Boyson* v. *Gibson*, 4 C. B. 121; *Chapman* v. *Thompson*, 2 Hare, 142; *Palmer* v. *Moxon*, 2 M. & S. 43; *Dixon* v. *Ewart*, 3 Mer. 322.

(c) This and the two next sections are new.

(1.) The names of the persons by whom the power mentioned in such certificate is to be exercised, and in the case of a mortgage the maximum amount of charge to be created, if it is intended to fix any such maximum, and in the case of a sale the minimum price at which a sale is to be made, if it is intended to fix any such minimum : 17 & 18 Vict. c. 104. mortgage and sale.

(2.) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions hereinafter contained :

(3.) The limit of time within which such power may be exercised.

78. No certificate of mortgage or sale shall be granted so as to authorise any mortgage or sale to be made— Restrictions on certificates of mortgage and sale.

At any place within the united kingdom, if the port of registry of the ship be situate in the united kingdom ; or at any place within the same British possession if the port of registry is situate within a British possession ; or

By any person not named in the certificate.

79. Certificates of mortgage and sale shall be in the forms marked respectively M. and N. in the schedule hereto, and shall contain a statement of the several particulars hereinbefore directed to be entered in the register book, and in addition thereto an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given. Forms of certificates of mortgage and sale.

80. The following rules shall be observed as to certificates of mortgage ; (that is to say,) Rules as to certificates of mortgage.

(1.) The power shall be exercised in conformity with the directions contained in the certificate :

(2.) A record of every mortgage made thereunder shall be indorsed thereon by a registrar or British consular officer :

(3.) No mortgage *bonâ fide* made thereunder shall be impeached by reason of the person by whom the power was given dying before the making of such mortgage :

(4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage *bonâ fide* made to a mortgagee without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given :

(5.) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book : and if there be more mortgages than one so indorsed the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other according to the date at which a record of each instrument is indorsed on the certificate, and not according to the date of the instrument creating the mortgage :

(6.) Subject to the foregoing rules every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate :

(7.) The discharge of any mortgage so registered on the certificate may be indorsed thereon by any registrar or British consular officer, upon the production of such evidence as is hereby required to be produced to the registrar on the entry of the discharge of a mortgage in the register book ; and upon such indorsement being made, the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had been made :

(8.) Upon the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage registered thereon, cancel such certificate, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

81. The following rules shall be observed as to certificates of sale ; (that is to say,) Rules as to certificates of sale (a).

(1.) No such certificate shall be granted except for the sale of an entire ship :

(2.) The power shall be exercised in conformity with the directions contained in the certificate :

(a) The registration of a bill of sale of a ship does not confer an absolute title at law, unless the bill of sale itself not only appears to be, but is actually valid (*Orr* v. *Dickinson*, 1 John. 1, 28 L. J. Ch. 516). Where a valid title has been acquired at law, *quære*, whether a court of equity has jurisdiction to deal with the equitable interests (*Ib.*).

Where a bill of sale, though executed by the person named for that purpose by the plain-

17 & 18 Vict. c. 104.

(3.) No sale *bonâ fide* made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale:

(4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no sale *bonâ fide* made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:

(5.) Any transfer made to a person qualified to be the owner of British ships shall be by bill of sale in the form hereinbefore mentioned, or as near thereto as circumstances permit:

(6.) If the ship is sold to a party qualified to hold British ships, the ship shall be registered anew; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book:

(7.) Previously to such registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship:

(8.) Such last-mentioned registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the said certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:

(9.) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferree:

(10.) If the ship is sold to a party not qualified to be the owner of a British ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry shall be produced to some registrar or consular officer, who shall retain the certificates of sale and registry, and having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of British ships, shall forward such certificates to the registrar of the port appearing on the certificate of registry to be the port of registry of such ship; and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:

(11.) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by British law as having acquired no title to or interest in the ship; and further, the party upon whose applications such certificate was granted, and the persons exercising the power, shall each incur a penalty not exceeding one hundred pounds:

(12.) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the registrar by whom the same was granted; and such registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book; and every certificate shall be void to all intents.

Power of commissioners of customs in case of loss of certificate of mortgage or sale.

82. Upon proof at any time to the satisfaction of the commissioners of customs that any certificate of mortgage or sale is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the registrar, with the sanction of the said commissioners, as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done as might have been made or done if no such loss or obliteration had taken place.

---

tiff, the then owner of the ship, and purporting in all other respects to be made in conformity with the certificate of sale, was, in fact, made for less than the minimum price specified in the certificate, and the ship was registered in the name of the purchaser as sole owner, it was held that the registry was void; and the ship having been sold by arrangement pending a suit, that the plaintiff was entitled to the net proceeds of the sale (*Ib.*).

Where a person having no title to a ship, procures it to be registered in his name, the court will compel him to re-transfer it to the rightful owner, and account for the earnings, even though there has been no fraud, and notwithstanding this Act (*Holderness* v. *Lamport*, 29 Beav. 129; 30 L. J. Chanc. 489).

The non-registration of a ship required by the 8 & 9 Vict. c. 89, ss. 37, 38, by the first purchaser, did not affect the title of a subsequent *bonâ fide* purchaser (*Lapraik* v. *Burrows*, 13 Moore, P. C. C. 132).

83. The registered owner for the time being of any ship or share therein in respect of which a certificate of mortgage of sale has been granted, specifying the place or places where the power thereby given is to be exercised, may by an instrument under his hand made in the form O. in the schedule hereto, or as near thereto as circumstances permit, authorise the registrar by whom such certificate was granted to give notice to the registrar or consular officer, registrars or consular officers, at such place or places, that such certificate is revoked, and notice shall be given accordingly; and all registrars or consular officers receiving such notice shall record the same, and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate of mortgage or sale; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect; and every registrar or consular officer recording any such notice shall thereupon state to the registrar by whom the certificate was granted, whether any previous exercise of the power to which such certificate refers has taken place. 17 & 18 Vict. c. 104. Revocation of certificates of mortgage and sale.

Registry anew, and Transfer of Registry.

84. Whenever any registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if such alteration is made at a port where there is a registrar, the registrar of such port, but if made elsewhere, the registrar of the first port having a registrar at which the ship arrives after her alteration shall, on application made to him, and on the receipt of a certificate from the proper surveyor specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship so altered, or indorse on the existing certificate a memorandum of such alteration, and subscribe his name to such indorsement; and the registrar to whom such application as aforesaid is made, if he is the registrar of the port of registry of the ship, shall himself enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the registrar of the port of registry of the ship, who shall retain such old certificate (if any), and enter such particulars and facts in his register book accordingly. Alteration in ship to be registered [8 & 9 Vict. c. 89, s. 31.]

85. When the registrar to whom application is made in respect of any such alteration as aforesaid is the registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner hereinbefore directed on the first registry of a ship, and if he is not such registrar as lastly hereinbefore mentioned he may nevertheless require such ship to be registered anew, but he shall in such last-mentioned case grant a provisional certificate or make a provisional indorsement of the alteration made in manner hereinbefore directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the registrar of the port of registry of the ship a like statement. On alteration registry anew may be required. [Ibid.]

86. Every such provisional certificate, or certificate provisionally indorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the united kingdom, if registered in the united kingdom, or, if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon cause such ship to be registered anew in the same manner in all respects as hereinbefore required on the first registry of any ship. Grant of provisional certificate in respect of alteration. [Ibid.]

87. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognised as a British ship. Consequence (a) of omission to register anew. [Ibid.]

88. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the registrar of the port at which such ship is already registered, on the delivery up to him of the existing certificate of registry, and on the other requisites to registry or such of them as the registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof. On change of owners, registry anew may be granted, if required. [Id. s. 42.]

89. The registry of any ship may be transferred from one port to another upon the application of all parties appearing on the register to be interested in such ship, whether as owners or mortgagees, such application to be expressed by a declaration in writing made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom house of the port from which such ship is to be transferred, in the presence of the registrar of such port, but if beyond that distance in the presence of any registrar or of any justice of the peace. Registry may be transferred from port to port (b).

90. Upon such application being made as is hereinbefore mentioned, and upon the delivery to him of the certificate of registry, the registrar of the port at which such ship Manner of

(a) As to these, see post, sections 100 and 516. (b) This and the two next sections are new.

17 & 18 Vict. c. 104

Transfer of registry (a).

is already registered shall transmit to the registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned registrar shall, upon the receipt of such notice, enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

Transfer of registry not to affect rights of owners.

91. The transfer of the registry of any ship in manner aforesaid shall not in any way affect the rights of the several persons interested either as owners or mortgagees in such ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected.

Registry, Miscellaneous.

Inspection of register books.

92. Every person may, upon payment of a fee to be fixed by the commissioners of customs not exceeding one shilling, have access to the register book for the purpose of inspection at any reasonable time during the hours of official attendance of the registrar.

Indemnity to registrar

93. No registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

Return to be (b) made by registrars to commissioners of customs [8 & 9 Vict. c. 89, s. 10.]

94. Every registrar in the united kingdom shall at the expiration of every month, and every other registrar shall without delay, or at such stated times as may be fixed by the commissioners of customs, transmit to the custom house in London a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to them in their character of registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said commissioners.

Application of fees.

95. All fees authorised to be taken under the second part of this Act shall, if taken in any part of the united kingdom, be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the treasury may direct, but if taken elsewhere shall be disposed of in such way as the executive government of the British possession in which they are taken may direct.

Commissioners of customs to provide, and with consent of board of trade may alter forms and issue instructions (c).

96. The commissioners of customs shall cause the several forms required or authorised to be used by the second part of this Act, and contained in the schedule hereto, to be supplied to all registrars within her majesty's dominions for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct; and the said commissioners, with the consent of the board of trade, may from time to time make such alterations in the forms contained in the schedule hereto as it may deem requisite, but shall, before issuing any altered form, give such public notice thereof as may be necessary in order to prevent inconvenience; and the said commissioners may also with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any act or thing to be done in pursuance of the second part of this Act, as they may think fit.

Power to registrar to dispense with declarations and other evidence.

97. Whenever in any case in which under the second part of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the registrar, it is shown to the satisfaction of the registrar that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the registrar, with the sanction of the commissioners of customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

Power for commissioners or governor in special cases to grant a pass to a ship not registered.

98. In cases where it appears to the commissioners of customs, or to the governor or other person administering the government of any British possession, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from one port or place in her majesty's dominions to any other port or place within the same, it shall be lawful for such commissioners or governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

(a) Upon a transfer of registry the certificate may be delivered to the registrar of either port, 18 & 19 Vict. c. 91, s. 12, post.

(b) Copies or transcripts of registers kept under the direction of commissioners of customs or board of trade are made equivalent to the original registers, 18 & 19 Vict. c. 91, s. 15, post.

(c) Instruments made in any form, or containing any particulars other than the form and particulars prescribed, are not to be recorded without the express direction of the commissioners, 18 & 19 Vict. c. 91, s. 11, post.

99. If any person interested in any ship or any share therein is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person; and all acts done by such substitute shall be as effectual as if done by the person for whom he is substituted. 17 & 18 Vict c. 104 Provision for cases of infancy or other incapacity.

100. Whenever any person is beneficially interested, otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other Act on owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties, with or without joining the other of them. Liabilities of owners.

Forgery.

101. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of mortgage or sale, or any entry or indorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony. Punishment for forgery

National Character.

102. No officer of customs shall grant a clearance or transire for any ship until the master of such ship has declared to such officer the name of the nation to which he claims that she belongs, and such officer shall thereupon inscribe such name on the clearance or transire; and if any ship attempts to proceed to sea without such clearance or transire, any such officer may detain her until such declaration is made. National character of ship to be declared before clearance

103. The offences hereinafter mentioned shall be punishable as follows; (that is to say,) Penalties (a).

(1.) If any person uses the British flag and assumes the British national character on board any ship owned in whole or in part by any persons not entitled by law to own British ships, for the purpose of making such ship appear to be a British ship, such ship shall be forfeited to her majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same: For unduly assuming a British character. [16 & 17 Vict c. 131, s. 83]

(2.) If the master or owner of any British ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the British character of such ship from any person entitled by British law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to her majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanor: For concealment of British or assumption of foreign character.

(3.) If any unqualified person, except in the case of such transmitted interests as are hereinbefore mentioned, acquires as owner any interest, either legal or beneficial, in a ship using a British flag and assuming the British character, such interest shall be forfeited to her majesty: For acquiring ownership if unqualified.

(4.) If any person, on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons to own British ships or any shares therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to her majesty: For false declaration of ownership. [18 & 19 Vict. c. 89, s. 48]

And in order that the above provisions as to forfeitures may be carried into effect it shall be lawful for any commissioned officer on full pay in the military or naval service of her majesty, or any British officer of customs, or any British consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the high court of admiralty in England or Ireland, or any court having admiralty jurisdiction in her

(a) See also 18 & 19 Vict. c. 91, s. 9, post.

17 & 18 Vict. c. 104.

majesty's dominions; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

Officer not liable for any seizure made on reasonable grounds.

104. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown, such judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just.

Penalty for carrying improper colours [8 & 9 Vict. c. 87, s. 10.]

105. If any colours usually worn by her majesty's ships, or any colours resembling those of her majesty, or any distinctive national colours, except the red ensign usually worn by merchant ships, or except the union jack with a white border, or if the pendant usually carried by her majesty's ships or any pendant in anywise resembling such pendant, are or is hoisted on board any ship or boat belonging to any subject of her majesty without warrant for so doing from her majesty or from the admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for any officer on full pay in the military or naval service of her majesty, or any British officer of the customs, or any British consular officer, to board any such ship or boat, and to take away any such jack, colours, or pendant; and such jack, colours, or pendant shall be forfeited to her majesty (a).

Effect of declaration in the Act that a ship shall not be recognised as a British ship.

106. Whenever it is declared by this Act that a ship belonging to any person or body corporate qualified according to this Act to be owners of British ships shall not be recognised as a British ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships, and shall not be entitled to use the British flag or assume the British national character; but, so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised British ship.

Evidence.

Copies (b) of registers and declarations to be admissible in evidence, and to be *primâ facie* proof of certain things. [14 & 15 Vict. c. 99, s. 12.]

107. Every register of or declaration made in pursuance of the second part of this Act in respect of any British ship may be proved in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same, upon payment of one shilling for each such certified copy; and every such register or copy of a register, and also every certificate of registry of any British ship purporting to be signed by the registrar or other proper officer, shall be received in evidence in any court of justice or before any person having by law or by consent of parties authority to receive evidence as *primâ facie* (c) proof of all the matters contained or recited in such register when the register or such copy is produced, and of all the matters contained in or indorsed on such certificate of registry, and purporting to be authenticated by the signature of a registrar, when such certificate is produced.

Saving Clause.

Saving of 3 & 4 Vict. c. 56, relating to East Indian ships (d).

108. Nothing in this Act contained shall repeal or affect an Act passed in the session of parliament holden in the third and fourth years of the reign of her present majesty, chapter fifty-six, intituled "An Act further to regulate the Trade of Ships built and trading within the Limits of the East India Company's Charter."

PART III.

MASTERS AND SEAMEN (e).

Application.

Application of part III. of Act

109. The various provisions of the third part of this Act shall have the following

---

(a) A British merchant ship was boarded, having an ensign with the St. George's cross, &c., colours other than those legally worn by merchantmen, contrary to this section. A warrant of arrest was directed to issue against the master, upon affidavit of the facts in lieu of declarations in support of them (*Reg.* v. *Ewen*, 2 Jur. N. S. 454—Adm.).

(b) See 18 & 19 Vict. c. 91, s. 15, post.

(c) See *Myers* v. *Willis*, 17 C. B. 77, 25 L. J. C. P. 39.

(d) As to such ships, see *Crawford* v. *Spooner*, 6 Moore, P. C. 1.

(e) See Maude and Pollock on Shipping, chaps. 3 & 4. This part is amended by 25 & 26 Vict. c. 63, s. 3.

applications (*a*), unless the context or subject matter requires a different application; (that is to say,) 17 & 18 Vict. c. 104

So much of the third part of this Act as relates to the delivery or transmission of lists of crews to the registrar-general of seamen shall apply to all fishing vessels belonging to the united kingdom, whether employed exclusively on the coasts of the united kingdom or not; to all ships belonging to the trinity house, or the commissioners of northern lighthouses, constituted as hereinafter mentioned, or the port of Dublin corporation, and to all pleasure yachts, and to the owners, masters, and crews of such ships: Returns for certain ships belonging to the united kingdom.

So much of the third part of this Act as relates to the delivery and transmission of lists of crews, and to the wages and effects of deceased seamen and apprentices, shall apply to all sea-going British ships, wherever registered, to which the crews are discharged, or whose final port of destination is in the united kingdom, and to the owners, masters, and crews of such ships: Returns and wages of deceased seamen in certain colonial ships

So much of the third part of this Act as relates to the shipping and discharge of seamen in the united kingdom shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships: Shipping and discharging men in the united kingdom.

So much of the third part of this Act as relates to seamen volunteering into the royal navy shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships, wherever the same may be: Volunteering into the navy.

So much of the third part of this Act as relates to rights to wages and remedies for the recovery thereof; to the shipping and discharge of seamen in foreign ports; to leaving seamen abroad, and to the relief seamen in distress in foreign ports; to the provisions, health, and accommodation of seamen; to the power of seamen to make complaints; to the protection of seamen from imposition; to discipline; to naval courts on the high seas and abroad; and to crimes committed abroad; shall apply to all ships registered in any of her majesty's dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships: Provisions applicable to colonial ships.

And the whole of the third part of this Act shall apply to all sea-going ships registered in the united kingdom (except such as are exclusively employed in fishing on the coasts of the united kingdom, and such as belong to the trinity house, the commissioners of northern lighthouses, or the port of Dublin corporation, and also except pleasure yachts), and also to all ships registered in any British possession and employed in trading or going between any place in the united kingdom and any place or places not situate in the possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be. As to whole of part III. of Act

Local Marine Boards.

110. There shall be local marine boards for carrying into effect the provisions of this Act, under the superintendence of the board of trade at those seaports of the united kingdom at which local marine boards have heretofore been established, and at such other places as the board of trade appoints for this purpose; and each of such local marine boards shall be constituted as follows; (that is to say,) the mayor or provost and the stipendiary magistrate or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the board of trade appoints shall be a member or members *ex officio*; the board of trade shall appoint four members from persons residing or having places of business at the port or within seven miles thereof; and the owners of foreign-going ships and of home trade passenger ships registered at the port shall elect six members; and such elections as aforesaid shall take place on the 25th day of January, 1857, and on the 25th day of January in every third succeeding year, and such appointments as aforesaid shall take place within one month after such elections; and upon the conclusion of such month and the constitution of a new board the functions of the then existing board shall cease, and the board consisting of the members then newly elected and appointed shall take its place; and any occasional vacancy caused in the intervals between the general elections and appointments by death, resignation, disqualification, or otherwise, shall be filled up within one month after it occurs; and every person elected or appointed on an occasional vacancy shall continue a member until the next constitution of a new board; and the mayor or provost shall fix the place and mode of conducting all such elections as aforesaid, and also on occasional vacancies the day of election, and shall give at least ten days' notice thereof; and the board of trade shall have power to decide any questions concerning any such elections. Constitution of local marine boards [13 & 14 Vict. c. 93, s. 7.]

111. Owners (*b*) of foreign-going ships and of home trade passenger ships registered at Qualifica-

(*a*) Extended to fishing boats, &c. 25 & 26 Vict. c. 63, s. 13, post.

(*b*) If a woman is owner, there are no express words in the Act to prevent her being registered, and voting; but by sect. 117, there is an express provision that only males who are registered shall be qualified to be members of the board. It would therefore seem that the possibility of women being registered was contemplated.

17 & 18 Vict. c. 104.

tion of voters for members of local marine boards.

[18 & 14 Vict. c. 93, s. 9.]

any seaport at which there is a local marine board shall have votes at the election of members of such board as follows; (that is to say,) every registered owner of not less than two hundred and fifty tons in the whole of such shipping shall at every election have one vote for each member for every two hundred and fifty tons owned by him, so that his votes for any one member do not exceed ten: And for the purpose of ascertaining the qualification of such electors the following rules shall be observed; (that is to say,) in the case of a ship registered in the name of one person, such person shall be deemed to be the owner, and in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him; and in the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners, and each of such joint owners shall be deemed to be the owner of the equal share so apportioned to him, but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register; and in making any such apportionment as aforesaid any portion may be struck off so as to obtain a divisible amount; and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification.

Lists of such voters to be made.

[Id. s. 10.]

112. The collector or comptroller of customs in every seaport of the united kingdom at which there is a local marine board shall, with the assistance of the registrar general of seamen, on or before the 25th day of December, in the year 1856, and in every third succeeding year, make out an alphabetical list of the persons entitled by virtue of this Act to vote at the election of members of such local marine board, containing the christian name, surname, and residence of each such person, and the number of votes to which he is entitled, and shall sign such list, and cause a sufficient number of copies thereof to be printed, and to be fixed on or near the doors of the custom house at such seaport for two entire weeks next after such list has been made, and shall keep true copies of such list, and permit the same to be perused by any person, without payment of any fee, at all reasonable hours during such two weeks.

Revision of list of voters.

[Id. s. 11.]

113. The mayor or provost of every seaport at which there is a local marine board, or such of them, if more than one, as is or are for the time being so appointed as aforesaid, shall at least twenty days before the 25th day of January, in the year 1857, and in each succeeding third year, nominate two justices of the peace to revise the said lists; and such justices shall, between the 8th and 15th days of January, both inclusive in the year in which they are so nominated, revise the said list at the custom house of the port, or in some convenient place near thereto, to be hired, if necessary, by the said collector or comptroller, and shall give three clear days' notice of such revision by advertising the same in some local newspaper, and by affixing a notice thereof on or near to the doors of such custom house, and shall make such revision by inserting in such list the name of every person who claims to be inserted therein, and gives proof satisfactory to the said revisors of his right to have his name so inserted, and by striking out therefrom the name of every person to the insertion of which an objection is made by any other person named in such list who gives proof satisfactory to the said revisors that the name of the person so objected to ought not to have been inserted therein; and the decision of the said revisors with respect to every such claim or objection shall be conclusive; and the said revisors shall immediately after such revision sign their names at the foot of the list so revised; and such list so revised shall be the register of voters at elections of members of the local marine board of such seaport for three years from the 25th day of January then next ensuing inclusive to the 24th day of January inclusive in the third succeeding year: and the said revised list, when so signed, shall be delivered to such mayor or provost as aforesaid of the place, who shall, if necessary, cause a sufficient number of copies thereof to be printed, and shall cause a copy to be delivered to every voter applying for the same.

Registers to be produced.

[Id. s. 12.]

114. The said collector or comptroller, if required, shall for the assistance of the said revisors in revising the said list produce to them the books containing the register of ships registered at such seaport; and the registrar general of seamen, if required, shall also produce or transmit to such revisors such certified extracts or returns from the books in his custody as may be necessary for the same purpose.

Expenses to be paid by board of trade.

[Id. s. 13.]

115. The two justices aforesaid shall certify all expenses properly incurred by any such collector or comptroller as aforesaid in making and printing the said list and in the revision thereof, and the board of trade shall pay the same, and also all expenses properly incurred by any such mayor or provost as aforesaid in printing the same, or in elections taking place under this Act: and the said board may disallow any items of any such expenses as aforesaid which it deems to have been improperly incurred.

Persons on revised list qualified to vote.

[Id. s. 14.]

116. Every person whose name appears on such revised list, and no other person, shall be qualified to vote at the election of members of the local marine board at such seaport to be held on the 23th day of January next after the revision of such list, and at any occasional election held at any time between that day and the next ordinary triennial election of the members of such board.

117. Every male person who is according to such revised list of the voters at any seaport entitled to a vote shall be qualified to be elected a member of the local marine board of such seaport, and no other person shall be so qualified; and if any person elected as a member after such election ceases to be an owner of such quantity of tonnage as would entitle him to a vote, he shall no longer continue to act or be considered as a member, and thereupon another member shall be elected in his place. [13 & 14 Vict. c. 93, s. 15.]

17 & 18 Vict. c. 104.

Qualification of members of local marine boards.

118. No act of any local marine board shall be vitiated or prejudiced by reason of any irregularity in the election of any of its members, or of any error in the list of voters herein mentioned, or of any irregularity in the making or revising of such list, or by reason of any person who is not duly qualified as hereinbefore directed acting upon such board. [Id. s. 7.]

Error in elections not to vitiate acts done.

119. Every local marine board shall keep minutes of its proceedings, and the same shall be kept in such mode (if any) as the board of trade prescribes; and such minutes, and all books or documents used or kept by any local marine board, or by any examiners, shipping masters, or other officers or servants under the control of any local marine board, shall be open to the inspection of the board of trade and its officers; and every local marine board shall make and send to the board of trade such reports and returns as it requires; but, subject as aforesaid, every local marine board may regulate the mode in which its meetings are to be held and its business conducted. [Id. ss. 8, 102.]

Minutes and business of local marine boards.

120. If any local marine board, by reason of any election not taking place, or of the simultaneous resignation or continued nonattendance of all or the greater part of the members, or from any other cause, fails to meet or to discharge its duties, the board of trade may in its discretion either take into its own hands the performance of the duties of such local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of such local marine board shall take place immediately. [Id. s. 7; 14 & 15 Vict. c. 96, s. 3.]

If any local marine board fails to discharge its duties, board of trade may assume its duties, or direct a new election.

121. If upon complaint made to the board of trade it appears to such board that any appointments or arrangements made by any local marine board under the powers hereby given to it are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the board of trade may annul, alter, or rectify such appointments or arrangements in such manner as, having regard to the intention of this Act, and to the wants of the port, it deems to be expedient.

Board of trade, on complaint, may alter arrangements made by local marine boards.

Shipping Offices.

122. In every seaport in the united kingdom in which there is a local marine board such board shall establish a shipping office or shipping offices, and may for that purpose, subject as herein mentioned, procure the requisite premises, and appoint and from time to time remove and reappoint superintendents of such offices, to be called shipping masters, with any necessary deputies, clerks, and servants, and regulate the mode of conducting business at such offices, and shall, subject as herein mentioned, have complete control over the same; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master. [13 & 14 Vict. c. 93, s. 35.]

Local marine boards to establish shipping offices.

123. The sanction of the board of trade shall be necessary so far as regards the number of persons so appointed by any such local marine board, and the amount of their salaries and wages and all other expenses; and the board of trade shall have the immediate control of such shipping offices, so far as regards the receipt and payment of money thereat; and all shipping masters, deputies, clerks, and servants so appointed as aforesaid shall before entering upon their duties give such security (if any) for the due performance thereof as the board of trade requires; and if in any case the board of trade has reason to believe that any shipping master, deputy, clerk, or servant appointed by any local marine board does not properly discharge his duties, the board of trade may cause the case to be investigated, and may, if it thinks fit so to do, remove him from his office, and may provide for the proper performance of his duties until another person is properly appointed in his place. [Ibid.]

Board of trade to have partial control over shipping offices.

124. It shall be the general business of shipping masters appointed as aforesaid— [Id. s. 36; 14 & 15 Vi c. 96, s. 14]

Business of such offices generally.

To afford facilities for engaging seamen by keeping registries of their names and characters.

To superintend and facilitate their engagement and discharge in manner hereinafter mentioned;

To provide means for securing the presence on board at the proper times of men who are so engaged;

To facilitate the making of apprenticeships to the sea service;

To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.

125. Such fees, not exceeding the sums specified in the table marked P. in the schedule hereto, as are from time to time fixed by the board of trade, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned, and the board of trade shall cause scales of the fees payable for the time being to be prepared and to be conspicuously placed in the shipping offices; and all shipping masters, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid. [13 & 14 Vict. c. 93, s. 38; 14 & 15 Vict. c. 96, s. 28.]

Fees to be paid upon engagements and discharges.

17 & 18 Vict. c. 104.

Masters to pay fees, and to deduct part from wages. [13 & 14 Vict. c. 93, s. 39; 14 & 15 Vict. c. 96, s. 28.]

126. Every owner or master of a ship engaging or discharging any seamen or seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked Q. in the schedule hereto: Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

Proviso as to excess.

Penalty on shipping masters taking other remuneration [13 & 14 Vict. c. 93, s. 40.]

127. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seamen for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding twenty pounds, and shall also be liable to be dismissed from his office by the board of trade.

Business of shipping offices may be transacted at custom houses. [Id. s. 42.]

128. The board of trade may, with the consent of the commissioners of customs, direct that at any place in which no separate shipping office is established the whole or any part of the business of the shipping office shall be conducted at the custom house, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom house shall for all purposes be deemed to be a shipping office, and the officer of customs there to whom such business is committed shall for all purposes be deemed to be a shipping master within the meaning of this Act.

In London sailors' homes may be shipping offices. [Id. s. 43.]

129. The board of trade may appoint any superintendent of or other person connected with any sailors' home in the port of London to be a shipping master, with any necessary deputies, clerks, and servants, and may appoint any office in any such home to be a shipping office; and all shipping masters and shipping offices so appointed shall be subject to the immediate control of the board of trade and not of the local marine board of the port.

Dispensation with shipping master's superintendence. [Id. s. 44.]

130. The board of trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this Act to be so transacted, and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or in a shipping office.

Examinations and Certificates of Masters and Mates.

Examinations to be instituted for masters and mates. [Id. s. 24.]

131. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships, or of home trade passenger ships, or who wish to procure certificates of competency hereinafter mentioned; and, subject as herein mentioned, the local marine boards shall provide for the examinations at their respective ports, and may appoint and from time to time remove and reappoint examiners to conduct the same, and may regulate the same; and any members of the local marine board of the place where the examination is held may be present and assist at any such examination.

Powers of board of trade over examinations. [Ibid.]

132. The board of trade may from time to time lay down rules as to the conduct of such examinations and as to the qualifications of the applicants, and such rules shall be strictly adhered to by all examiners; and no examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the board of trade; and the sanction of the board of trade shall be necessary, so far as regards the number of examiners to be appointed, and the amount of their remuneration; and the board of trade may at any time depute any of its officers to be present and assist at any examination; and if it appears to the board of trade that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, it may require and authorise the local marine boards of such ports to act together as one board in providing for and regulating examinations and appointing and removing examiners for such ports.

Fees to be paid by applicants for examination. [Id. s. 25.]

133. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked R. in the schedule hereto, as the board of trade directs; and such fees shall be paid to such persons as the said board appoints for that purpose.

Certificates of competency to be granted to those who pass. [Id. s. 26.]

134. Subject to the proviso hereinafter contained, the board of trade shall deliver to every applicant who is duly reported by the local examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a home trade passenger ship, as the case may be: Provided that in every case in which the board of trade has reason to believe such report to have been unduly made, such board may remit the case either to the same or to any other examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

Certificates of services to be delivered to

135. Certificates of service, differing in form from certificates of competency, shall be granted as follows; (that is to say,)

(1.) Every person who before the 1st day of January 1851 served as master in the British

merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank in the service of her majesty or of the East India company, shall be entitled to a certificate of service as master for foreign-going ships :

17 & 18 Vict. c. 104.

(2.) Every person who before the 1st day of January, 1851, served as mate in the British merchant service shall be entitled to a certificate of service as mate for foreign-going ships :

(3.) Every person who before the 1st day of January, 1854, has served as master of a home trade passenger ship shall be entitled to a certificate of service as master for home trade passenger ships :

(4.) Every person who before the 1st day of January, 1854, has served as mate of a home trade passenger ship shall be entitled to a certificate of service as mate for home trade passenger ships :

Persons who served as masters or mates before 1851, and to certain naval officers; and certificates of service for home trade passenger ships to be delivered to persons who have served as masters or mates in such ships before 1st January, 1854. [13 & 14 Vict. c. 93, s. 27.]

And each of such certificates of service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service of the person to whom the same is delivered; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

136. No foreign-going ship or home trade passenger ship shall go to sea from any port in the united kingdom unless the master thereof, and in the case of a foreign-going ship the first and second mates or only mate (as the case may be), and in the case of a home trade passenger ship the first or only mate (as the case may be), have obtained and possess valid certificates either of competency or service appropriate to their several stations in such ship, or of a higher grade; and no such ship, if of one hundred tons burden or upwards, shall go to sea as aforesaid, unless at least one officer besides the master has obtained and possesses a valid certificate appropriate to the grade of only mate therein or to a higher grade; and every person who, having been engaged to serve as master or as first or second or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, or who employs any person as master, or first, second or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding fifty pounds.

No foreign-going ship or home trade passenger ship to proceed to sea without certificates of the master and mates (a). [Id. ss. 80, 81; 14 & 15 Vict. c. 96, s. 6.]

137. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home trade passenger ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Certificates for foreign-going ships available for home trade passenger ships.

138. All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the registrar general of seamen or by such other person as the board of trade appoints for that purpose; and the board of trade shall give to such registrar or such other person immediate notice of all orders made by it for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and the registrar or such other person as aforesaid shall thereupon make a corresponding entry in the record of certificates; and a copy purporting to be certified by such registrar or his assistant or by such person as aforesaid of any certificate shall be *primâ facie* evidence of such certificate, and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *primâ facie* evidence of the truth of the matters stated in such entry.

The registrar to record grants, cancellations, &c., of certificates. [13 & 14 Vict. c. 93, s. 29.]

Duplicates and entries to be evidence.

139. Whenever any master or mate proves to the satisfaction of the board of trade that he has, without fault on his part, lost or been deprived of any certificate already granted to him, the board of trade shall, upon payment of such fee (if any) as it directs, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

In case of loss a copy to be granted.

140. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person a certificate either of competency or service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate, or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who

Penalties for false representations for forging or altering or fraudulently using or lending any certificate. [Id. s. 31.]

(a) As to the effect upon the underwriters of non-compliance with statutory enactments, see *Lane* v. *Hollingsworth*, 7 T. R. 160; *Sadler* v. *Dixon*, 8 M. & W. 895; *Redmond* v. *Smith*, 7 M. & G. 457.

17 & 18 Vict. c. 104.

fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

Apprenticeships to the Sea Service.

Shipping masters to assist in binding apprentices, and may receive fees [14 & 15 Vict c 96, s. 14]

141. All shipping masters appointed under this Act shall, if applied to for the purpose, give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the board of trade, with the concurrence, so far as relates to pauper apprentices in England, of the poor law board in England, and so far as relates to pauper apprentices in Ireland, of the poor law commissioners in Ireland.

Indentures of boys bound apprentices to sea service by guardians or overseers to be witnessed by two justices (a). [7 & 8 Vict c. 112, s 82]

142. In the case of every boy bound apprentice to the sea service by any guardians or overseers of the poor, or other persons having the authority of guardians of the poor, the indentures shall be executed by the boy and the person to whom he is bound in the presence of and shall be attested by two justices of the peace, who shall ascertain that the boy has consented to be bound, and has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom the boy is to be bound is a proper person for the purpose.

Indentures of apprenticeship to be exempt from stamp duty, and to be recorded [Id. ss 34, 35, 36, 38, 39, 40, 42]

143. All indentures of apprenticeship to the sea service shall be exempt from stamp duty; and all such indentures shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the united kingdom shall within seven days after the execution of the indentures take or transmit the same to the registrar general of seamen or to some shipping master; and the said registrar or shipping master shall retain and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within seven days after such assignment, cancellation, death, or desertion, if the same happens within the united kingdom, or if the same happens elsewhere, as soon afterwards as circumstances permit, notify the same either to the said registrar of seamen, or to some shipping master, to be recorded; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding ten pounds.

Rules to govern apprenticeship of paupers in Great Britain and Ireland respectively.

144. Subject to the provisions hereinbefore contained, all apprenticeships to the sea service made by any guardians or overseers of the poor, or persons having the authority of guardians of the poor shall, if made in Great Britain, be made in the same manner and be subject to the same laws and regulations as other apprenticeships made by the same persons, and if made in Ireland shall be subject to the following rules; (that is to say,)

(1.) In every union the guardians of the poor, or other persons duly appointed to carry into execution the Acts for the relief of the destitute poor and having the authority of guardians of the poor, may put out and bind as an apprentice to the sea service any boy who or whose parent or parents is or are receiving relief in such union, and who has attained the age of twelve years, and is of sufficient health and strength, and who consents to be so bound:

(2.) If the cost of relieving any such boy is chargeable to an electoral division of a union, then (except in cases in which paid officers act in place of guardians) he shall not be bound as aforesaid unless the consent in writing of the guardians of such electoral division or of a majority of the guardians (if more than one) be first obtained, such consent to be, when possible, indorsed upon the indentures:

(3.) The expense incurred in the binding and outfit of any such apprentice shall be charged to the union or electoral division (as the case may be) to which the boy or his parent or parents is or are chargeable at the time of his being apprenticed:

(4.) All indentures made in any union may be sued upon by the guardians of the union or persons having the authority of guardians therein for the time being, by their name of office, and actions brought by them upon such indentures shall not abate by reason of death or change in the persons holding the office; but no such action shall be commenced without the consent of the Irish poor law commissioners:

(5.) The amount of the costs incurred in any such action and not recovered from the defendant therein, may be charged upon the union or electoral division (as the case may be), to which the boy or his parent or parents was or were chargeable at the time of his being apprenticed.

Apprentices and their indentures to be

145. The master of every foreign-going ship shall, before carrying any apprentice to sea from any place in the united kingdom, cause such apprentice to appear before the shipping master before whom the crew is engaged, and shall produce to him the indem-

(a) See *Rex* v. *Hamstall Ridgware*, 3 T. R. 380; and *Reg.* v. *Totness*, 11 Q. B. 80.

ture by which such apprentice is bound, and the assignment or assignments thereof (if any), and the name of such apprentice, with the date of the indenture and of the assignment or assignments thereof (if any), and the name of the port or ports at which the same have been registered shall be entered on the agreement, and for any default in obeying the provisions of this section the master shall for each offence incur a penalty not exceeding five pounds (17 & 18 Vict c 104 brought before shipping master before each voyage in a foreign going ship)

Engagement of Seamen

146 The board of trade may grant to such persons as it thinks fit licences to engage or supply seamen or apprentices for merchant ships in the united kingdom, to continue for such periods, to be upon such terms, and to be revocable upon such conditions, as such board thinks proper (Board of trade may licence persons to procure seamen [8 & 9 Vict c 116 s 1])

147 The following offences shall be punishable as hereinafter mentioned, (that is to say,) (Penalties)

(1) If any person not licensed as aforesaid, other than the owner or master or a mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the united kingdom, he shall for each seamen or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds (for supplying seamen without licence,)

(2) If any person employs any unlicensed person, other than persons so excepted as aforesaid for the purpose of engaging or supplying any seaman or apprentice to be entered on board any ship in the united kindom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds, and if licensed shall in addition forfeit his licence (for employing unlicensed persons,)

(3) If any person knowingly receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds (for receiving seamen illegally supplied [Id ss 3, 4, 5 6])

148 If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorised, for providing him with employment, he shall for every such offence incur a penalty not exceeding five pounds (Penalty for receiving remuneration from seamen for shipping them [8 & 9 Vict c 116 s 8])

149 The master of every ship, except ships of less than eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the united kingdom, shall enter into an agreement with every seaman whom he carries to sea from any port in the united kingdom as one of his crew in the manner hereinafter mentioned, and every such agreement shall be in a form sanctioned by the board of trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, (that is to say,) (Agreements to be made with seamen containing certain particulars [13 & 14 Vict. c 93 s 46 14 & 15 Vict. c 96 ss 7, 15] (a))

(1) The nature, and, as far as practicable, the duration of the intended voyage or engagement (b)
(2) The number and description of the crew, specifying how many are engaged as sailors
(3) The time at which each seaman is to be on board or to begin work
(4) The capacity in which each seaman is to serve
(5) The amount of wages which each seaman is to receive
(6) A scale of the provisions which are to be furnished to each seaman
(7) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the board of trade as regulations proper to be adopted, and which the parties agree to adopt

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seamen in such case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law Provided that if the master of any ship belonging to any British possession has an agreement with his crew made in due form according to the law of the possession to which such ship belongs or in which her crew were engaged, and engages single seamen in the united kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the board of trade (Proviso as to forms for colonial ships)

150 In the case of all foreign going ships, in whatever part of her majesty's dominions the same are registered, the following rules shall be observed with respect to agreements, (that is to say,) (For foreign going ships such agreements, when)

(a) See *Frazer* v *Hatton*, 2 C B N S 512, 26 L. J C P 226 *The Westmorland*, 1 W Rob 213, *The Minerva*, 1 Hagg 347, *The George Horne*, 1 Hagg 376

(b) As to how this should be specified, see

17 & 18 Vict c 104 made in the united kingdom, except in special cases, to be made before and attested by a shipping master.

(1.) Every agreement made in the united kingdom (except in such cases of agreements with substitutes as are hereinafter specially provided for) shall be signed by each seaman in the presence of a shipping master:

(2.) Such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature:

To be in duplicate;

(3.) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master:

Provision for substitutes [13 & 14 Vict c. 93, s 47, 14 & 15 Vict. c 96, ss. 7, 8.]

(4.) In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Foreign-going ships making short voyages may have running agreements [14 & 15 Vict. c. 96, s. 9.]

151. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December or the first arrival of the ship at her port of destination in the united kingdom after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in the united kingdom, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Engagement and discharge of seamen in the meantime [Id s 10.]

152. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in the united kingdom before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return indorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so indorsed to the shipping master; and any master who wilfully makes a false statement in such indorsement shall incur a penalty not exceeding twenty pounds; and the shipping master shall also sign an indorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so indorsed to the master.

Duplicates of running agreements, how to be dealt with [14 & 15 Vict. c. 96, s 11]

153. In cases in which such running agreements are made, the duplicate agreement retained by the shipping master upon the first engagement of the crew shall either be transmitted to the registrar general of seamen immediately, or be kept by the shipping master until the expiration of the agreement, as the board of trade directs.

Fees to be paid on such running agreements. [Id s 12.]

154. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In home trade ships agreement to be entered into before a shipping master or other witness [13 & 14 Vict c 93, s 48.]

155. In the case of home trade ships, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

Special agreements for home trade ships belonging to same owners.

156. In cases where several home trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seaman may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement: but with the foregoing exception all provisions herein contained which relate to ordinary agreements for home trade ships shall be applicable to agreements made in pursuance of this section.

Penalty for shipping

157. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such

case required, the master in the case of a foreign going ship, and the master or owner in the case of a home trade ship, shall for each such offence incur a penalty not exceeding five pounds

17 & 18 Vict c 104 [Id s 55]

seamen without agreement duly executed

158 The master of every foreign going ship of which the crew has been engaged before a shipping master shall before finally leaving the united kingdom sign and send to the nearest shipping master a full and accurate statement in a form sanctioned by the board of trade of every change which takes place in his crew before finally leaving the united kingdom, and in default shall for each offence incur a penalty not exceeding five pounds, and such statement shall be admissible in evidence, subject to all just exceptions

Changes in crew to be reported. [Id ss 83, 93]

159 Every master of a ship who, if such ship is registered in the united kingdom, engages any seaman in any British possession, or if such ship belongs to any British possession engages any seaman in any British possession other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any official shipping master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such shipping master, and if there is no such shipping master or officer, then before some officer of customs and the same rules, qualifications, and penalties as are hereinbefore specified with respect to the engagement of seamen before shipping masters in the united kingdom shall apply to such engagements in a British possession, and upon every such engagement such shipping master or officer as aforesaid shall indorse upon the agreement an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required, and if in any case such attestation is not made, the burden of proving that the seaman was duly engaged as hereby required shall lie upon the master

Seamen engaged in the colonies to be shipped before some shipping master or officer of customs

160 Every master of a British ship who engages any seaman at any place out of her majesty's dominions in which there is a British consular officer shall, before carrying such seaman to sea, procure the sanction of such officer, and shall engage such seaman before such officer and the same rules as are hereinbefore contained with respect to the engagement of seamen before shipping masters in the united kingdom shall apply to such engagements made before consular officers and upon every such engagement the consular officer shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required, and every master who engages any seaman in any place in which there is a consular officer, otherwise than as hereinbefore required, shall incur a penalty not exceeding twenty pounds, and if in any case the indorsement and attestation hereby required is not made upon the agreement, the burden of proving the engagement to have been made as hereinbefore required shall lie upon the master

Seamen engaged in foreign ports to be shipped with the sanction and in the presence of the consul [7 & 8 Vict c 112, s 54]

161 The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign going ships, (that is to say,)

Rules as to production of agreements and certificates of masters and mates of foreign going ships. [13 & 14 Vict c 93 ss 50, 55 14 & 15 Vict. c 96 s 6]

(1) The master of every foreign going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed the certificates of competency or service which the said master and his first and second mate or only mate, as the case may be, are hereby required to possess, and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect

(2) In the case of running agreements for foreign going ships the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any first, second, or only mate then first engaged by him, a certificate to that effect

(3) The master of every foreign going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector or comptroller of customs, and no officer of customs shall clear any such ship outwards without such production, and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced

(4) The master of every foreign going ship shall, within forty eight hours after the ship's arrival at her final port of destination in the united kingdom, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place, and such shipping master shall thereupon give to the master a certificate of such delivery, and no officer of customs shall clear any foreign going ship inwards without the production of such certificate

And if the master of any foreign going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds

162 The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home trade ships, (that is to say,)

Rules as to production of agreements and

(1) In the case of home trade ships of more than eighty tons burden, no agreement shall extend beyond the next following thirtieth day of June or thirty first day of December, or the first arrival of the ship at her final port of destination in

17 & 18 Vict. c. 104.

the united kingdom after such date, or the discharge of cargo consequent upon such arrival:

Certificates for home trade ships. [18 & 14 Vict. c. 93, s. 51.]

(2.) The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping master in the united kingdom every agreement made within the six calendar months next preceding such days respectively, and shall also in the case of home trade passenger ships produce to the shipping master the certificates of competency or service which the said master, and his first or only mate, as the case may be, are hereby required to possess:

(3.) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs shall grant a clearance or transire for any such ship as last aforesaid without the production of such certificate; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until the said certificate is produced:

And if the agreement for any home trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding five pounds.

Alterations to be void unless attested to have been made with the consent of all parties (a). [Id. s. 49.]

163. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the third part of this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in her majesty's dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of her majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Penalty for falsifying agreement. [Id. s. 55.]

164. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes, or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement, shall for each such offence be deemed guilty of a misdemeanor.

Seamen not to be bound to produce agreement. [Id. s. 52.]

165. Any seaman may bring forward evidence to prove the contents of any agreement or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Copy of agreement to be made accessible to crew. [Id. ss. 54, 55.]

166. The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding five pounds.

Seamen discharged before voyage to have compensation. [Id. s. 57.]

167. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Allotment of Wages.

Regulations as to allotment notes. [Id. s. 62.]

168. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made; and all allotment notes shall be in forms sanctioned by the board of trade.

Allotment notes may be sued on summarily by certain persons and under certain conditions.

169. The wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister of any seaman in whose favour an allotment note of part of the wages of such seaman is made, may, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorised the drawing of the note, either in the county court or in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorised agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed

---

(a) As to the effects of alterations in agreements generally, see *Pigott's case*, 11 Co. 27; *Davidson* v. *Cooper*, 13 M. & W. 343; *Doe* v. *Catomore*, 16 Q. B. 745.

by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid: Provided that the wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favour. 17 & 18 Vict. c. 104.

Discharge and Payment of Wages.

170. In the case of all British foreign-going ships, in whatever part of her majesty's dominions the same are registered, all seamen discharged in the united kingdom shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages within the united kingdom in any other manner, shall incur a penalty not exceeding ten pounds; and in the case of home trade ships seamen may, if the owner or master so desires, be discharged and receive their wages in like manner. Discharge from foreign-going ships to be made before shipping master [13 & 14 Vict. c. 93, ss. 96, 101; 14 & 15 Vict. c. 96, s. 7.]

171. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or if he is to be discharged before a shipping master, to such shipping master, a full and true account in a form sanctioned by the board of trade of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments. Master to deliver account of wages. [13 & 14 Vict. c. 93, ss. 95, 101.]

172. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the board of trade, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge he shall for each such offence incur a penalty not exceeding ten pounds; and the master shall also, upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding twenty pounds. On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates. [7 & 8 Vict. c. 112, s. 13.]

173. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any court of justice be deemed to be conclusive as to the rights of the parties; and no such submission or award shall require a stamp; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof. Shipping master may decide questions which parties refer to him. [13 & 14 Vict. c. 93, s. 97.]

174. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log books, papers, or other documents, in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such master; and every owner, agent, master, mate, or other member of the crew who when called upon by the shipping master does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall unless he shows some reasonable excuse for such default for each such offence incur a penalty not exceeding five pounds. Master and others to produce ship's papers to shipping masters, and give evidence. [Id. ss. 100, 101.]

175. The following rules shall be observed with respect to the settlement of wages; (that is to say,) Settlement of wages.

(1.) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively in the presence of the shipping master sign in a form sanctioned by the board of trade a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain and transmit it as herein directed: Release to be signed before and attested by the shipping master. [13 & 14 Vict. c. 93, s. 98.]

(2.) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement: To be a discharge;

(3.) A copy of such release certified under the hand of such shipping master to be a true copy shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching And to be evidence.

17 & 18 Vict. c. 104.

such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy:

No other receipt to be a discharge.

(4.) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim:

Voucher to be given to master, and to be evidence.

(5.) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid; and such statement shall as between the master and his employer be received as evidence that he has made the payments therein mentioned.

Master to make reports of character. [Id. ss. 99, 101.]

176. Upon every discharge effected before a shipping master, the master shall make and sign in a form sanctioned by the board of trade a report of the conduct, character, and qualifications of the persons discharged, or may state in a column to be left for that purpose in the said form that he declines to give any opinion upon such particulars or upon any of them; and the shipping master shall transmit the same to the registrar general of seamen, or to such other person as the board of trade directs, to be recorded, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him; and every person who makes, assists in making, or procures to be made any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report or of any copy of any certificate or report which is forged or altered or does not belong to him, shall for each such offence be deemed guilty of a misdemeanor.

Remittance of Wages and Savings Banks for Seamen.

Facilities may be given for remitting seamen's wages (a).

177. Facilities shall, if the board of trade so directs, be given for remitting the wages and other moneys of seamen and apprentices to their relatives or other persons by means of money orders issued by shipping masters; and the board of trade may make regulations concerning such orders, and the persons by or to whom, and the mode and time in and at which, the same are to be paid, and may from time to time repeal or alter any such regulations; and all such regulations, so long as they are in force, shall be binding upon all persons interested or claiming to be interested in such orders, as well as upon the officers employed in issuing or paying the same; and no legal proceeding shall be instituted against the board of trade, or against any shipping master or other public officer employed about such orders, on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any such money order, unless such refusal, neglect, or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Power to pay when order is lost.

178. The board of trade may, in any case in which it thinks fit so to do, cause the amount of any such money order as aforesaid to be paid to the person to whom or in whose favour the same may have been granted, or to his personal representatives, legatees, or next of kin, notwithstanding that such order may not be in his or their possession; and in all such cases from and after such payment the board of trade and every shipping master or other officer of the board of trade shall be freed from all liability in respect of such order.

Penalty for issuing money orders with fraudulent intent.

179. Every shipping master or other public officer who grants or issues any money order with a fraudulent intent shall in England or Ireland be deemed guilty of felony, and in Scotland of a high crime and offence, and shall be liable to be kept in penal servitude for a term not exceeding four years.

Savings banks for seamen may be established (b).

180. The commissioners for the reduction of the national debt, or the comptroller general acting under them, may on the application and recommendation of the board of trade, establish savings banks at such ports and places within the united kingdom, either in the shipping offices established in such ports or elsewhere, as may appear to be expedient, and may appoint treasurers to receive from or on account of seamen, or the wives, and families of seamen, desirous to become depositors in such savings banks, deposits to an amount not exceeding one hundred and fifty pounds in the whole in respect of any one account under such regulations as may be prescribed by the said commissioners or comptroller general; and such regulations shall be binding on all such treasurers and depositors; and the said commissioners may remove such treasurers, and appoint others in their place; and all the provisions of the Acts now in force relating to savings banks,

---

(a) Altering the letter M, which denotes middling, into the letter G, which denotes good, ability, with intent to deceive, is a forgery within this section (*Reg.* v. *Wilson*, 27 L. J. M. C. 230).

(b) This section is extended to seamen in the navy by 18 & 19 Vict. c. 91, s. 17, post.

By 19 & 20 Vict. c. 41, post, power is given to the Board of Trade to establish savings banks for seamen.

except so far as relates to the annual amount of deposit, shall apply to all savings banks which may be established under the authority of this Act, and to such treasurers and depositors as aforesaid. 17 & 18 Vict c. 104.

Legal Rights to Wages (a).

181. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens. Right to wages and provisions, when to begin. [13 & 14 Vict c. 93, s. 56]

182. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative (b). Seamen not to give up certain rights [Id. s. 58.]

183. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim. Wages not to be dependent on the earning of freight. [7 & 8 Vict c 112, s. 17]

184. If any seaman or apprentice to whom wages are due under the last preceding enactment dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage. In case of death, such wages to be paid as after mentioned

185. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted as hereinafter mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period. Rights to wages in case of termination of service by wreck or illness.

186. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him. Wages not to accrue during refusal to work or imprisonment. [13 & 14 Vict c. 93, ss. 56, 80]

187. The master or owner of every ship shall pay to every seaman his wages within the respective periods following; (that is to say,) in the case of a home trade ship within two days after the termination of the agreement or at the time when such seaman is discharged, whichever first happens; and in the case of all other ships (except ships employed in the southern whale fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects (c) or refuses to make payment in manner aforesaid, without sufficient cause shall pay to the seaman a sum not exceeding the amount of two days pay for each of the days, not exceeding ten days (d), during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages. Period within which wages are to be paid [7 & 8 Vict. c 112, ss 11, 14.]

Mode of recovering Wages.

188. Any seaman or apprentice, or any person duly authorised on his behalf, may sue in a summary manner before any two justices of the peace acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, or in Scotland Seamen may sue for wages in a summary manner [Id ss. 14, 15]

(a) See Maude and Pollock on Shipping, 2nd ed. p. 150.

(b) See 25 & 26 Vict. c. 63, s. 18, post.

(c) See *Fraser* v. *Hatton*, 2 C. B N. S. 512, 26 L. J. C. P. 226.

(d) A master is entitled, under this sect., to double pay for the number of days (not exceeding ten) during which the payment of his wages is improperly withheld; but he is not so entitled if he himself causes the delay by improperly keeping back the accounts of the ship (*The Princess Helena*, 1 Lush. 190; 30 L. J., 137, 869—Adm.).

An owner of a ship refused to pay wages to a master for a voyage, unless credited with salvage money received by the master under an award, and kept by him for his own share; the master refusing to account for a subsequent voyage, except on a condition of a settlement for the former voyage, without reference to the salvage money: it was held, that the payment of wages was improperly withheld, and that the master was entitled to ten days' double pay (*Ib.*).

17 & 18 Vict. c. 104

either before any such justices or before the sheriff of the county within which any such place is situated, for any amount of wages due to such seaman or apprentice not exceeding fifty pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable; and every order made by such justices or sheriff in the matter shall be final.

Restrictions on suits for wages in superior courts (a). [Id s 16]

189. No suit or proceeding for the recovery of the wages under the sum of fifty pounds shall be instituted by or on behalf of any seaman or apprentice in any court of admiralty or vice-admiralty, or in the court of session in Scotland, or in any superior court of record in her majesty's dominions, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor master is or resides (b) within twenty miles of the place where the seaman or apprentice is discharged or put ashore (c).

No seaman to sue for wages abroad, except in cases of discharge or of danger to life. [13 & 14 Vict c. 93, s. 94]

190. No seaman who is engaged for a voyage or engagement which is to terminate in the united kingdom shall be entitled to sue in any court abroad, for wages, unless he is discharged with such sanction as herein required and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to the united kingdom proves that the master or owner has been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation not exceeding twenty pounds as the court hearing the case thinks reasonable.

Master to have same remedies for wages as seamen (d) [7 & 8 Vict c. 112, s 16.]

191. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages (e) which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in any court of admiralty or vice-admiralty touching the claim of a master to wages any right of set-off or counter-claim is set up, it shall be lawful for such court to

---

(a) Where a seaman of a foreign vessel which had come into a British port, had obtained an order to hold the owner of such vessel to bail for wages under 50*l.*, the court refused, on applications before declaration, to rescind such order for want of jurisdiction, as the application was premature; and as it was at least doubtful whether this section applied in such case to a foreign vessel, and also, whether the Act applied so as to oust the court of jurisdiction (*Burns* v. *Chapman*, 27 L. J. C. P. 6; see also the judgment of Dr. Lushington in *The King William*, 2 W. Rob. 231).

The plaintiff having brought an action for wages as a seaman to an amount less than 50*l.*, together with a claim for damages for an assault, the court allowed the defendant (upon terms) to plead a plea founded upon the 188th and this section (*Rossi* v. *Grant*, 5 C. B. N. S. 699).

Quære, whether this section applies to a claim for wages earned on board an American ship (*Burns* v. *Chapman*, 5 C. B. N. S. 481, 5 Jur. N. S. 19).

(b) An owner's usual place of residence was Blakeney, in Norfolk; but he regularly attended the corn market in London, and frequented on those occasions the house of his agent in Mark-lane. The port of discharge was London: it was held, that the owner did not reside within twenty miles of the port of discharge, so as to prevent the master from suing for his wages in the Court of Admiralty, by virtue of the 191st section (*The Blakeney*, 5 Jur. N. S. 418—Adm.).

This read with sect. 191, extends to masters of ships (*The Blakeney*, 1 Swa. 428).

(c) This section bars a seaman from recovering wages less than 50*l.* in the Court of Admiralty (*The Harriet*, 1 Lush. 285).

(d) The remedy given by this section applies in the case of the master of a foreign ship (*The Milford*, 1 Swa. 362; *The Jonathan Goodhue*, 1 Swa. 524); and by this section, a master has a lien for his wages in the Vice-Admiralty Court, whatever may be the municipal law of the colony (*The Rajah of Cochin*, 1 Swa. 472).

(e) That is, subject to all deductions for moneys received, clothes, or other advances fairly and *bonâ fide* made (*per* Dr. Lushington, *The Repulse*, 2 W. Rob. 401; *The Tecumseh*, 3 ib. 148). He can sue for nothing but his wages; he cannot sue in the Admiralty Court on a special contract, or on a customary right (*The Tecumseh*, 3 W. Rob. 146).

A subject of the United States was mate on board a vessel of that country during a voyage from California to Great Britain. By the death of the master, the mate assumed that position. He proceeded in the British Court of Admiralty against the freight for wages due to him. The owners appeared under protest, objecting that the lex fori ought to prevail, and not the lex loci:—it was held that the lex fori must govern the case, and the protest be overruled, and that the mate had a lien on the freight, whatever might be the law of the United States, and notwithstanding the provisions of this section (*The Milford*, 4 Jur., N. S. 417—Adm.).

enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due. 17 & 18 Vict c 104

Relief to Seamen's Families out of Poor Rates.

192. Whenever during the absence of any seaman on a voyage his wife, children, and step-children, or any of them, become or becomes chargeable to any union or parish in the united kingdom, such union or parish shall be entitled to be reimbursed out of the wages of such seaman earned during such voyage any sums properly expended during his absence in the maintenance of his said relations, or any of them, so that such sums do not exceed the following proportions of his said wages; (that is to say,) Relief to seamen's families to be chargeable on a certain proportion of their wages [59 Geo 3, c. 112, s. 32.]

(1.) If only one of such relations is chargeable, one half of such wages:
(2.) If two or more of such relations are chargeable, two-thirds of such wages:

But if during the absence of the seaman any sums have been paid by the owner to or on behalf of any such relation as aforesaid, under an allotment note given by the seaman in his, her, or their favour, any such claim for reimbursement as aforesaid shall be limited to the excess (if any) of the proportion of the wages hereinbefore mentioned over the sums so paid.

193. For the purpose of obtaining such reimbursement as aforesaid, the guardians of the union or parish, where the relief of the poor is administered by guardians, and the overseers of the poor of any other parish in England, and the guardians or other persons having the authority of guardians in any union in Ireland, and the inspector of the poor in Scotland, may give to the owner of the ship in which the seaman is serving a notice in writing stating the proportion of the seaman's wages upon which it is intended to make the claim, and requiring the owner to retain such proportion in his hands for a period to be therein mentioned, not exceeding twenty-one days from the time of the seaman's return to his port of discharge, and also requiring such owner immediately on such return to give to such guardians, overseers, persons, or inspector notice in writing of such return; and such owner, after receiving such notice as aforesaid, shall be bound to retain the said proportion of wages, and to give notice of the seaman's return accordingly, and shall likewise give to the seaman notice of the intended claim; and the said guardians, overseers, persons, or inspector may upon the seaman's return apply in a summary way in England or Ireland to any two justices having jurisdiction in such union or parish as aforesaid, and in Scotland to the sheriff of the county, for an order for such reimbursement as aforesaid; and such justices or sheriff may hear the case, and may make an order for such reimbursement to the whole extent aforesaid, or to such lesser amount as they or he may under the circumstances think fit: and the owner shall pay to such guardians, overseers, persons, or inspector, out of the seaman's wages, the amount so ordered to be paid by way of reimbursement, and shall pay the remainder of the said wages to the seaman; and if no such order as aforesaid is obtained within the period mentioned in the notice so to be given to the owner as aforesaid, the proportion of wages so to be retained by him as aforesaid shall immediately on the expiration of such period, and without deduction, be payable to the seaman. Notice to be given to owner, and charge to be enforced on the return of the seaman.

Wages and Effects of deceased Seamen.

194. Whenever any seaman or apprentice belonging to or sent home in any British ship, whether a foreign-going ship or a home trade ship, employed on a voyage which is to terminate in the united kingdom, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of the said clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book containing the following particulars; (that is to say,) Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log [14 & 15 Vict. c. 102, s. 29.]

(1.) A statement of the amount of the money and a description of the effects so left by the deceased:
(2.) In case of a sale, a description of each article sold, and the sum received for each:
(3.) A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom:

And shall cause such entry to be attested by a mate and by one of the crew.

195. In the cases provided for by the last preceding section, the following rules shall be observed; (that is to say,) Such effects and wages to be paid either to consul or to shipping master, with full accounts. [Ibid.]

(1.) If the ship proceeds at once to any port in the united kingdom without touching on the way at any foreign port, the master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at the port of destination in the united kingdom:
(2.) If the ship touches and remains for forty-eight hours at some foreign port or at some port in her majesty's dominions abroad before coming to any port in the united kingdom, the master shall report the case to the British consular officer or officer of customs there, as the case may be, and shall give to such officer any

17 & 18 Vict. c. 104

information he requires as to the destination of the ship and probable length of the voyage; and such officer may thereupon, if he considers it expedient so to do, require the said effects, money, and wages to be delivered and paid to him, and shall upon such delivery and payment give to the master a receipt, and the master shall within forty-eight hours after his arrival at his port of destination in the united kingdom produce the same to the shipping master there; and such consular officer or officer of customs shall in such case indorse and certify upon the agreement with the crew such particulars with respect to such delivery and payment as the board of trade requires:

(3.) If such officer as aforesaid does not require such payment and delivey to be made to him, the master shall take charge of the said effects, money, and wages, and shall within forty-eight hours after his arrival at his port of destination in the united kingdom deliver and pay the same to the shipping master there:

(4.) The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement give to the board of trade, or to such officer or shipping-master as aforesaid, an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is any official log book, by such entry therein as hereinbefore required, and also, by such other vouchers (if any) as may be reasonably required by the board of trade, or by the officer or shipping master to whom the account is rendered.

(5.) Upon due compliance with such of the provisions of this section as relate to Acts to be done at the port of destination in the united kingdom, the shipping master shall grant to the master a certificate to that effect, and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate.

Penalties for not taking charge of, remitting, or accounting for such moneys and effects. [14 & 15 Vict c 102, s 30]

196. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the board of trade, and shall pay and deliver the same accordingly; and such master shall in addition for every such offence incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds; and if any such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Officers of customs and consuls to take charge of effects left by seamen abroad, and to remit the same and their wages to board of trade [Id. s. 35]

197. If any such seaman or apprentice as last aforesaid (a) dies abroad at any place either in or out of her majesty's dominions leaving any money or effects not on board his ship, the chief officer of customs or the British consular officer at or nearest to the place, as the case may be, shall claim and take charge of such money and effects; and such officer shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions hereinbefore contained; and every such officer shall quarterly or at such other times as the board of trade directs, remit to her majesty's paymaster-general all moneys belonging to or arising from the sale of the effects of or paid as the wages of any deceased seamen or apprentices which have come to his hands under the provisions hereinbefore contained, and shall render such accounts in respect thereof as the board of trade requires.

Wages and effects of seamen dying at home to be paid in certain cases to board of trade [Id. s. 34]

198. Whenever any seaman or apprentice dies in the united kingdom, and is at the time of his death entitled to claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master at the port where the seaman or apprentice was discharged or was to have been discharged, or to the board of trade, or as it directs.

If less than 50l wages and property of deceased seaman may be paid over without pro-

199 If the money and effects of any deceased seaman or apprentice paid, delivered, or remitted to the board of trade or its agents, including the moneys received for any part of the said effects which have been sold either before delivery to the board of trade or by its direction, do not exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the said board

(a) See 25 & 26 Vict. c. 63, s. 20, post.

thinks proper to allow, the said board may, if it thinks fit so to do, pay and deliver the said money and effects either to any claimants who can prove themselves to the satisfaction of the said board either to be his widow or children, or to be entitled to the effects of the deceased under his will (if any), or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, or to be entitled to procure probate or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered, or may, if it thinks fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained and to deduction for expenses, the board of trade shall pay and deliver the same to the legal personal representatives of the deceased.

17 & 18 Vict. c. 104. Date of administration to the persons entitled. [Id. s. 95.]

200. In cases where the deceased seaman or apprentice has left a will, the board of trade shall have the following powers; (that is to say,)

Mode of payment under wills made by seamen.

(1.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on board ship unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master or first or only mate of the ship, and is attested by such master or mate:

(2.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person not being related to the testator by blood or marriage who claims to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some shipping master appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some justice of the peace, or some British consular officer, or some officer of customs, and is attested by such witnesses:

Whenever any claim made under a will is rejected by the board of trade on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

201. The following rules shall be observed with respect to creditors of deceased seamen and apprentices; (that is to say,)

Provision for payment of just claims by creditors, and for preventing fraudulent claims.

(1.) No such creditor shall be entitled to claim from the board of trade the wages or effects of any such seaman or apprentice or any part thereof by virtue of letters of administration taken out by him, or by virtue of confirmation in Scotland as executor creditor:

(2.) No such creditor shall be entitled by any means whatever to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death:

(3.) Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows (that is to say): every person making a demand as creditor shall deliver to the board of trade an account in writing in such form as it requires, subscribed with his name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice:

(4.) If before such demand is made any claim to the wages and effects of the deceased made by any person interested therein as his widow or child, or under a will or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, has been allowed, the board of trade shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased.

(5.) If no claim by any such person has been allowed, the board of trade shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the board of trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the assets in the hands of the board of trade will extend for that purpose, and such payment shall discharge the board of trade from all further liability in respect of the money so paid; but if such board is not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed:

(6.) In any case whatever the board of trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein as a widow or child, or

17 & 18 Vict. c. 104.

under a will, or under the statute for the distribution of the effects of intestates, or under any other statute, or at common law, the board of trade may pay and deliver the same to such person; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.

Mode of dealing with unclaimed wages of deceased seamen. [16 & 17 Vict. c. 131, s. 27.]

202. In cases of wages or effects of deceased seamen or apprentices received by the board of trade to which no claim is substantiated within six years after the receipt thereof by such board, it shall be in the absolute discretion of such board, if any subsequent claim is made, either to allow or refuse the same; and, subject to the provisions hereinafter contained, the board of trade shall from time to time pay any moneys arising from the unclaimed wages and effects of deceased seamen, which in the opinion of such board it is not necessary to retain for the purpose of satisfying claims, into the receipt of her majesty's exchequer in such manner as the treasury directs, and such moneys shall be carried to and form part of the consolidated fund of the united kingdom.

Punishment for forgery and false representations in order to obtain wages and property of deceased seamen. [14 & 15 Vict. c. 102, s. 37.]

203. Every person who, for the purpose of obtaining, either for himself or for another, any money or effects of any deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document purporting to show or assist in showing a right to such wages or effects, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes or procures to be given or made, or assists in giving or making or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labour for any period not exceeding two years, or if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months.

Effects of seamen discharged from navy to be disposed of by accountant general of navy.

204. In the case of seamen invalided or discharged from any of her majesty's ships, and sent home in merchant ships, any moneys or effects belonging to them which are paid, remitted, or delivered to the board of trade, or its agents, under the provisions hereinbefore contained, shall be paid over and disposed of in such manner as the accountant general of her majesty's navy directs.

Leaving Seamen abroad.

On discharge of men abroad, by sale of ship or otherwise, certificates of discharge to be given, and seamen to be sent home at expense of owner. [7 & 8 Vict. c. 112, s. 17.]

205. Whenever any British ship is transferred or disposed of at any place out of her majesty's dominions, and any seaman or apprentice belonging thereto does not in the presence of some British consular officer, or, if there is no such consular officer there, in the presence of one or more respectable British merchants residing at the place, and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any British ship terminates at any place out of her majesty's dominions, the master shall give to each such seaman or apprentice a certificate of discharge in the form sanctioned by the board of trade as aforesaid, and in the case of any certificated mate whose certificate he has retained shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some other British ship bound to the port in her majesty's dominions at which he was originally shipped, or to such other port in the united kingdom as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home; and such consular officer or merchants shall indorse upon the agreement of the ship which the seaman or apprentice is leaving the particulars of such payment, provision, or deposit; and if the master refuses or neglects to comply with the requirements of this section, such expenses as last aforesaid, if defrayed by such consular officer or by any other person, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged and upon the owner for the time being thereof, and may be recovered against such owners, with costs, at the suit of the consular officer or other person defraying such expenses, or, in case the same has been allowed to the consular officer out of the public moneys, as a debt due to her majesty either by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him.

Forcing seamen on shore a misdemeanor. [Id. s. 47.]

206. If the master or any other person belonging to any British ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place, on shore or at sea, in or out of her majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged or the return of the ship to the united kingdom, he shall for each such offence be deemed guilty of a misdemeanor.

No seamen to be discharged or left abroad without certificate of

207. If the master of any British ship does any of the following things; (that is to say,)

(1.) Discharges any seaman or apprentice in any place situate in any British possession abroad (except the possession in which he was shipped), without previously obtaining the sanction in writing indorsed on the agreement of some public shipping master or other officer duly appointed by the local government in that

behalf, or (in the absence of any such functionary) of the chief officer of customs resident at or near the place where the discharge takes place; 17 & 18 Vict. c. 104.

(2.) Discharges any seaman or apprentice at any place out of her majesty's dominions without previously obtaining the sanction so indorsed as aforesaid of the British consular officer there, or (in his absence) of two respectable merchants resident there; some functionary. [Id. s. 46.]

(3.) Leaves behind any seaman or apprentice at any place situate in any British possession abroad on any ground whatever, without previously obtaining a certificate in writing so indorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance;

(4.) Leaves behind any seaman or apprentice at any place out of her majesty's dominions on shore or at sea, on any ground whatever, without previously obtaining the certificate indorsed in manner and to the effect last aforesaid of the British consular officer there, or (in his absence) of two respectable merchants, if there is any such at or near the place where the ship then is:

He shall for each such default be deemed guilty of a misdemeanor; and the said functionaries shall and the said merchants may examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just.

208. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice, contrary to the provisions of this Act, it shall be upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate. Proof of such certificate to be upon the master. [7 & 8 Vict. c. 112, s. 48.]

209. Every master of any British ship who leaves any seaman or apprentice on shore at any place abroad in or out of her majesty's dominions, under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account when delivered to a consular officer to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner; and in the case of every bill so drawn, such functionary, merchants or merchant as aforesaid, shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the board of trade requires, upon the agreement of the ship; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill, as hereinbefore required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding ten pounds; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds. Wages to be paid when seamen are left behind on ground of inability (a). [Id. s. 49.]

210. Every such payment as last aforesaid, whether by bill or in money, shall, if made in any British possession, be made to the seaman or apprentice himself, and, if made out of her majesty's dominions, to the consular officer, who shall, if satisfied with the account, indorse on one of the duplicates thereof a receipt for the amount paid or bill delivered, and shall return the same to the master; and the master shall, within forty-eight hours after his return to his port of destination in the united kingdom, deliver the same to the shipping master there; and the consular officer shall retain the other duplicate of the said account, and shall, if the seaman or apprentice subsequently obtains employment at or otherwise quits the port, deduct out of the sum received by him as aforesaid any expenses which have been incurred by him in respect of the subsistence of the seaman or apprentice under the provisions herein contained, except such as the master or owner of the ship is hereby required to pay, and shall pay the remainder to the seaman or apprentice, and shall also deliver to him an account of the sums so received and expended on his behalf; and shall, if the seaman or apprentice dies before his ship quits the port, deal with the same in the manner hereinafter specified in that behalf, and shall, if the seaman or apprentice is sent home at the public expense under the provisions herein contained, account for the amount received to the board of trade; and such amount shall, after deducting any expenses which have been duly incurred in respect of such seaman or apprentice, except such as the master or owner of the ship is hereby required to pay, be dealt with as wages to which he is entitled, and shall be paid accordingly. Such wages to be treated as money due to the seamen, subject to payment of expense of their subsistence and passage home.

211. The governors, consular officers, and other officers of her majesty in foreign countries shall, and in places where there are no such governors or officers any two resi- Distressed seamen.

(a) See 25 & 26 Vict. c. 63, s. 19, post. This is an additional provision in favour of seamen, and does not affect the right of the master (*The Rajah of Cochin*, 1 Sw. Ad. 473).

17 & 18 Vict. c. 104.

found abroad may be relieved and sent home at the public expense (a). [11 Geo. 4, c. 20, s. 82; 7 & 8 Vict. c. 112, s. 52.

dent British merchants may, provide for the subsistence of all seamen or apprentices, being subjects of her majesty, who have been shipwrecked, discharged, or left behind at any place abroad, whether from any ship employed in the merchant service or from any of her majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power or to the subject of any foreign state, and who are in distress in any place abroad, until such time as they are able to provide them with a passage home, and for that purpose shall cause such seamen or apprentices to be put on board some ship belonging to any subject of her majesty bound to any port of the united kingdom, or to the British possession to which they belong (as the case requires), which is in want of men to make up its complement, and in default of any such ship shall provide them with a passage home as soon as possible in some ship belonging to a subject of her majesty so bound as aforesaid, and shall indorse on the agreement of any ship on board of which any seaman or apprentice is so taken or sent the name of every person so sent on board thereof, with such particulars concerning the case as the board of trade requires, and shall be allowed for the subsistence of any such seaman or apprentice such sum *per diem* as the board of trade from time to time appoints; and the amount due in respect of such allowance shall be paid out of any moneys applicable to the relief of distressed British seamen, and granted by parliament for the purpose, on the production of the bills of the disbursements, with the proper vouchers.

Masters of British ships compelled to take them. [11 Geo 4, c. 2, s. 82; 7 & 8 Vict. c. 112, s. 52.]

212. The master of every British ship so bound as aforesaid shall receive and afford a passage and subsistence to all seamen or apprentices whom he is required to take on board his ship under the provisions hereinbefore contained, not exceeding one for every fifty tons burden, and shall during the passage provide every such seaman or apprentice with a proper berth or sleeping place effectually protected against sea and weather; and on the production of a certificate signed by any governor, consular officer, or merchants by whose directions any such seaman or apprentice was received on board, specifying the number and names of such seamen or apprentices, and the time when each of them respectively was received on board, and on a declaration made by such person before a justice, and verified by the registrar general of seamen, stating the number of days during which each seaman or apprentice received subsistence and was provided for as aforesaid on board his ship, and stating also the number of men and boys forming the complement of his crew, and the number of seamen and apprentices employed on board his ship during such time, and every variation (if any) of such number, such person shall be entitled to be paid out of the said moneys applicable to the relief of distressed British seamen, in respect of the subsistence and passage of every seaman or apprentice so conveyed, subsisted, and provided for by him exceeding the number (if any) wanted to make up the complement of his crew, such sum *per diem* as the board of trade from time to time appoints; and if any person having charge of any such ship fails or refuses to receive on board his ship, or to give a passage home, or subsistence to, or to provide for any such seaman or apprentice as aforesaid, contrary to the provisions of this Act, he shall incur a penalty not exceeding one hundred pounds for each seaman or apprentice with respect to whom he makes such default or refusal.

Power to sue for the amount advanced for the relief of seamen left abroad. [7 & 8 Vict. c. 112, s. 52.]

213. If any seaman or apprentice belonging to any British ship is discharged or left behind at any place out of the united kingdom, without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed and is relieved under the provisions of this Act, or if any subject of her majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, or to the subject of any foreign power, becomes distressed and is relieved as aforesaid, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial, in case he should die abroad before reaching home, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid; and the board of trade may in the name of her majesty (besides suing for any penalties which may have been incurred) sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, or, in the case of such engagement as aforesaid for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made as aforesaid; and such sums shall be recoverable either in the same manner as other debts due to her majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose production of the account (if any) to be furnished as hereinbefore is provided in such cases, together with proof of payment by the board of trade or by the paymaster general of the charges incurred on account of any such seaman, apprentice, or other person, shall be sufficient evidence that he was relieved, conveyed home, or buried (as the case may be) at her majesty's expense.

Volunteering into the Navy.

Seamen allowed to

214. Any seaman may leave his ship for the purpose of forthwith entering into the naval service of her majesty, and such leaving his ship shall not be deemed a deser-

(a) The provisions of this and the two next sections are extended by 18 & 19 Vict. c. 91, s. 16, post, and amended by 25 & 26 Vict. c. 63, s. 22.

tion therefrom, and shall not render him liable to any punishment or forfeiture whatever; and all stipulations introduced into any agreement whereby any seaman is declared to incur any forfeiture or be exposed to any loss in case he enters into her majesty's naval service shall be void, and every master or owner who causes any such stipulation to be so introduced shall incur a penalty not exceeding twenty pounds. [17 & 18 Vict. c. 104.]

leave their ships in order to enter the navy. [Id. s. 50.]

215. Whenever any seaman, without having previously committed any act amounting to and treated by the master as desertion, leaves his ship in order to enter into the naval service of her majesty and is received into such service, the master shall deliver to him his clothes and effects on board such ship, and shall pay the proportionate amount of his wages down to the time of such entry, subject to all just deductions, as follows; (that is to say,) the master of the said ship shall pay the same to the officer authorised to receive such seaman into her majesty's service, either in money or by bill drawn upon the owner and payable at sight to the order of the accountant general of the navy; and the receipt of such officer shall be a discharge for the money or bill so given; and such bill shall be exempt from stamp duty; and if such wages are paid in money, such money shall be credited in the muster book of the ship to the account of the said seaman; and if such wages are paid by bill, such bill shall be noted in the said muster book and shall be sent to the said accountant general, who shall present the same or cause the same to be presented for payment, and shall credit the produce thereof to the account of the said seaman; and such money or produce (as the case may be) shall not be paid to the said seaman until the time at which he would have been entitled to receive the same if he had remained in the service of the ship which he had so quitted as aforesaid; and if any such bill is not duly paid when presented, the said accountant general or the seaman on whose behalf the same is given may sue thereon or may recover the wages due by all or any of the means by which wages due to merchant seamen are recoverable; and if upon any seaman leaving his ship in the manner and for the purpose aforesaid, the master fails to deliver his clothes and effects, or to pay his wages as hereinbefore required, he shall, in addition to his liability to pay and deliver the same, incur a penalty not exceeding twenty pounds; provided that no officer who receives any such bill as aforesaid shall be subject to any liability in respect thereof, except for the safe custody thereof until sent to the said accountant general as aforesaid.

Clothes to be delivered at once.

Wages to be given to the queen's officer on account of the seamen. [16 & 17 Vict. c. 131, s. 35.]

216. If upon any seaman leaving his ship for the purpose of entering the naval service of her majesty, the owner or master of such ship shows to the satisfaction of the admiralty that he has paid or properly rendered himself liable to pay an advance of wages to or on account of such seaman, and that such seaman has not at the time of quitting his ship duly earned such advance by service therein, and, in the case of such liability as aforesaid, if such owner or master actually satisfies the same, it shall be lawful for the admiralty to pay to such owner or master so much of such advance as has not been duly earned, and to deduct the sum so paid from the wages of the seaman earned or to be earned in the naval service of her majesty.

Repayment to owner of advance paid and not duly earned.

217. If, in consequence of any seaman so leaving his ship without the consent of the master or owner thereof, it becomes necessary for the safety and proper navigation of the said ship to engage a substitute or substitutes, and if the wages or other remuneration paid to such substitute or substitutes for subsequent service exceed the wages or remuneration which would have been payable to the said seaman under his agreement for similar service, the master or owner of the said ship may apply to the registrar of the high court of admiralty in England for a certificate authorising the repayment of such excess; and such application shall be in such form, and shall be accompanied by such documents, and by such statements, whether on oath or otherwise, as the judge of the said court from time to time directs. [16 & 17 Vict. c. 131, s. 36.]

If new seamen are engaged instead of the original seamen, the owner may apply for repayment of any extra expense he has been put to.

218. The said registrar shall, upon receiving any such application as aforesaid, give notice thereof in writing, and of the sum claimed, to the secretary to the admiralty, and shall proceed to examine the said application, and may call upon the registrar general of seamen to produce any papers in his possession relating thereto, and may call for further evidence; and if the whole of the claim appears to him to be just, he shall give a certificate accordingly; but if he considers that such claim or any part thereof is not just, he shall give notice of such his opinion in writing under his hand to the person making the said application or his attorney or agent; and if within sixteen days from the giving of such notice such person does not leave or cause to be left at the office of the registrar of the said court a written notice demanding that the said application shall be referred to the judge of the said court, then the said registrar shall finally decide thereon, and certify accordingly; but if such notice is left as aforesaid, then the said application shall stand referred to the said judge in his chambers, and his decision thereon shall be final, and the said registrar shall certify the same accordingly; and the said registrar and judge respectively shall in every proceeding under this Act have full power to administer oaths, and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the said registrar or judge (as the case may be) may, if he thinks fit, allow for the costs of any proceeding under this Act any sum not exceeding five pounds for each seaman so quitting his ship as aforesaid; and such sum shall be added to the sum allowed, and shall be certified by the said registrar accordingly.

Application how to be decided on, and amount of repayment how to be ascertained. [Ibid.]

219. Every certificate so given shall be sent by post or otherwise to the person making the application, his attorney or agent, and a copy thereof shall be sent to the accountant

Accountant general to

17 & 18 Vict. c. 104.

pay sums when ascertained. [Id. s. 57.]

general of the navy; and such accountant general shall, upon delivery to him of the said original certificate, together with a receipt in writing purporting to be a receipt from the master or owner making the application, pay to the person delivering the same out of the moneys applicable to the naval service of her majesty, and granted by parliament for the purpose, the amount mentioned in such certificate; and such certificate and receipt shall absolutely discharge the said accountant general and her majesty from all liability in respect of the moneys so paid or of the said application.

Penalty for forgery and false representations in support of such applications. [Id. s. 52.]

220. Every person who, in making or supporting any such application as aforesaid to the registrar of the high court of admiralty, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in making or supporting any such application presents or makes use of any such forged or altered document, or who in making or supporting any such application makes or gives, or assists in making or giving, or procures to be made or given, any false evidence or representation, knowing the same to be false, shall be deemed guilty of a misdemeanor.

Provisions, Health, and Accommodation.

Survey of provisions and water on complaint made. [7 & 8 Vict. c. 112, s. 57.]

221. Any three or more of the crew of any British ship may complain to any officer in command of any of her majesty's ships, or any British consular officer, or any shipping master, or any chief officer of customs, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the board of trade, and such report, if produced out of the custody of such board or its officers, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

222. If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions (a). [7 & 8 Vict. c. 112, s. 12; 13 & 14 Vict. c. 93, s. 81.]

223. In the following cases, (that is to say,)

(1.) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

(2.) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and recoverable as wages; (that is to say,)

(1.) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding fourpence a day;

(2.) If his allowance is reduced by more than one-third of such quantity, eightpence a day;

(3.) In respect of such bad quality as aforesaid, a sum not exceeding one shilling a day:

But if it is shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.

Medicines, lime, or lemon juice, sugar and vinegar, to

224. The following rules shall be observed with respect to medicines, medical stores, and anti-scorbutics; (that is to say,)

(1.) The board of trade shall from time to time issue and cause to be published a scale

---

(a) Owing to the unexpected length of a voyage, the crew of a vessel had been put on short allowance. They were, on motion, allowed compensation, under this section (*The Josephine*, 1 Swabey, 152).

of medicines and medical stores suitable to accidents and diseases arising on sea voyages: 17 & 18 Vict. c. 104.

(2.) The owner of every ship navigating between the united kingdom and any place out of the same shall provide and cause to be constantly kept on board such ship a supply of such medicines and medical stores in accordance with the said scale (a): be provided and kept on board certain ships.

(3.) The master or owner of every foreign-going ship (except those bound to European ports or to ports in the Mediterranean sea, and also except such ships or classes of ships bound to ports on the eastern coast of America north of the thirty-fifth degree of north latitude and to any islands or places in the Atlantic ocean north of the same limit, as the board of trade may from time to time exempt from this enactment) shall also provide and cause to be kept on board such ship a sufficient quantity of lime or lemon juice, or of such articles as the board of trade sanctions as substitutes for lime or lemon juice, and also of sugar and vinegar: [7 & 8 Vict. c. 112, s. 18; 13 & 14 Vict. c. 93, ss. 64, 65; 14 & 15 Vict. c. 90, ss. 18, 19.]

(4.) The master of every such ship as last aforesaid shall serve out the lime or lemon juice or other such articles as aforesaid and sugar and vinegar to the crew, whenever they have consumed salt provisions for ten days, and so long afterwards as such consumption continues, the lime or lemon juice and sugar daily at the rate of half an ounce each per day and the vinegar weekly at the rate of half a pint per week, to each member of the crew:

And if in any such ship as aforesaid such medicines, medical stores, lime or lemon juice or other articles, sugar and vinegar, as are hereinbefore required, are not provided and kept on board as hereinbefore required, the master or owner shall incur a penalty not exceeding twenty pounds; and if the master of any such ship as aforesaid neglects to serve out the lime or lemon juice or other articles, sugar or vinegar, in the case and manner hereinbefore directed, he shall for each such offence incur a penalty not exceeding five pounds; and if any master is convicted in either of the last-mentioned penalties, and it appears that the offence is owing to the act of default of the owner, such master may recover the amount of such penalty and the costs incurred by him from the owner (a).

225. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding ten pounds. [13 & 14 Vict. c 93, ss. 68, 69.] Masters to keep weights and measures on board.

226. Any local marine board may, upon being required by the board of trade so to do, appoint and remove a medical inspector of ships for the port, and may fix his remuneration, such remuneration to be subject to the control of the board of trade; and at ports where there are no local marine boards the board of trade may appoint and remove such inspectors, and fix their remuneration; and it shall be the duty of such inspectors to inspect the medicines, medical stores, lime or lemon juice, or other articles, sugar and vinegar, required to be kept on board any such ships as aforesaid; and such inspection, if made at places where there are local marine boards, shall be made under their direction, and also in any special cases under the direction of the board of trade, and if made at places where there are no local marine boards, shall be made under the direction of the board of trade; and such medical inspectors shall for the purposes of such inspection have the same powers as the inspectors appointed by the board of trade under the first part of this Act; but every such inspector, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical inspector is of opinion that in any ship hereby required to carry such articles as aforesaid the same or any of them are deficient in quantity or quality, or are placed in improper vessels, he shall signify the same in writing to the chief officer of customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of customs a certificate under the hand of such medical inspector or of some other medical inspector, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels, as the case may require; and such chief officer of customs shall not grant a clearance for such ship without the production of such certificate, and if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced; and if such ship proceeds to sea without the production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding twenty pounds. Board of trade and local boards may appoint inspectors of medicines, who are to see that ships are properly provided. [Id. s. 66.]

227. Any person who sells or supplies any medicines, medical stores, lime or lemon juice, of bad quality, for the use of any ship, shall for each such offence incur a penalty not exceeding twenty pounds. [13 & 14 Vict. c. 93, s. 67.] Penalty for selling bad drugs for ships.

(a) These provisions do not interfere with the common law right of a seaman serving on board the vessel to maintain an action in respect of a special damage resulting to him from the breach of the duty imposed by this section (*Couch* v. *Steel*, 3 E. & B. 402).

17 & 18 Vict c 104

Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed [7 & 8 Vict c 112, s 18]

228. The following rules shall be observed with respect to expenses attendant on illness and death; (that is to say,)

(1.) If the master or any seaman or apprentice receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the united kingdom, if shipped in the united kingdom, or if shipped in some British possession to some port in such possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice:

(2.) If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines and of his subsistence whilst away from the ship, shall be defrayed in like manner:

(3.) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman, or apprentice whilst on board his ship shall be defrayed in like manner:

(4.) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

Expenses, if paid by consul, to be recoverable from owner. [Ibid]

229. If any such expenses in respect of the illness, injury, or hurt of any seaman or apprentice, as are to be borne by the owner, are paid by any consular officer or other person on behalf of her majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being as a debt due to her majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such consular officer or other person as aforesaid.

Certain ships to carry medical practitioners. [Ibid]

230. Every foreign-going ship having one hundred persons or upwards on board shall carry on board as part of her complement some person duly authorised by law to practise as physician, surgeon, or apothecary; and in default the owner shall for every voyage of any such ship made without such medical practitioner incur a penalty not exceeding one hundred pounds: Provided that nothing herein contained shall in anywise affect any provision contained in the "Passengers Act, 1852," concerning the carriage of medical practitioners by the class of ships therein named passenger ships, nor shall any such passenger ship, if not thereby required to carry a medical practitioner, be hereby required to do so.

Place appropriated to seamen to have a certain space for each man, and to be properly constructed and kept clear [13 & 14 Vict c 93, ss. 63, 69]

231. The following rules shall be observed with respect to accommodation on board; (that is to say,)

(1.) Every place in any ship occupied by seamen or apprentices, and appropriated to their use, shall have for every such seaman or apprentice, if they sleep in hammocks, a space of not less than nine superficial feet, and if they do not sleep in hammocks, a space of not less than twelve superficial feet, measured on the deck or floor of such place:

(2.) Every such place shall either be six feet in height from deck to deck, or shall for every seaman and apprentice, if they sleep in hammocks, a space of not less than fifty-four cubic feet, and if they do not sleep in hammocks, a space of not less than seventy-two cubic feet:

(3.) Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage.

(4.) Every such place shall be properly caulked, and in all other respects securely and properly constructed and well ventilated:

And if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall for every such failure to comply with the provisions of this section incur a penalty not exceeding twenty pounds; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall for every such failure to comply with the provisions of this section incur a penalty not exceeding ten pounds.

Power of making Complaint (*a*)

17 & 18 Vict c 104

Seamen to be allowed to go ashore to make complaint to a justice [7 & 8 Vict c 112, s 43]

232 If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a justice of the peace, or consular officer, or naval officer in command of any of her majesty s ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding ten pounds

Protection of Seamen from Imposition

Sale of and charge upon wages to be invalid [Id s 12]

233. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court, and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon, and no assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the party making the same, and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable

No debt exceeding £5 recoverable till end of voyage [Id s 10]

234 No debt exceeding in amount five shillings, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded

Penalty for overcharges by lodging house keepers [8 & 9 Vict c 116, s 11]

235 If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding ten pounds

Penalty for detaining seamen s effects [7 & 8 Vict c 112 s 10, 8 & 9 Vict c 116, s 11]

236 If any person receives or takes into his possession or under his control any moneys, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding ten pounds, and any two justices may, besides inflicting such penalty, by summary order direct the amount or value of such moneys, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice

Persons not to go on board before the final arrival of ship without permission [8 & 9 Vict c 116, s 9]

237 Every person who, not being in her majesty's service, and not being duly authorised by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival in dock or at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds, and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices or the sheriff of the county in Scotland, and to be dealt with according to the provisions of this Act

Penalty for solicitations by lodging house keepers [7 & 8 Vict c 112, s 10]

238 If, within twenty four hours after the arrival of any ship at any port in the united kingdom, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds

Discipline (*b*)

Misconduct endangering ship or life or limb a misdemeanor [13 & 14 Vict c 93, s 77]

239 Any master of or any seaman or apprentice belonging to any British ship who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving

---

(*a*) See the *Westmorland*, 1 Co Rob 216

(*b*) The following sections under this head have reference to British ships only (*Leary* v *Lloyd*, 6 Jur N S 1246, 29 L J M C 194, Q B) In order, therefore, to convict under section 257, of knowingly harbouring a seaman who has deserted, the ship must be shown to be British, and as, by section 19, no ship shall, unless registered, be recognised as British, it is essential to a conviction that the fact of the ship having been registered be duly proved by the original register, or by an examined or certified copy, under section 107 *Ib*

17 & 18 Vict c 104.

any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanor (a).

Power of admiralty courts to remove master (b)

240. Any court having admiralty jurisdiction in any of her majesty's dominions may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate, or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

Power to investigate cases of alleged incompetency and misconduct [13 & 14 Vict c 93, s 28.]

241. If the board of trade or any local marine board has reason to believe that any master or mate is from incompetency or misconduct unfit to discharge his duties, the board of trade may either institute an investigation or may direct the local marine board at or nearest to the place at which it may be convenient for the parties and witnesses to attend to institute the same, and thereupon such persons as the board of trade may appoint for the purpose, or, as the case may be, the local marine board, shall, with the assistance of a local stipendiary magistrate (if any), and if there is no such magistrate of a competent legal assistant to be appointed by the board of trade, conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity of making a defence either in person or otherwise, and shall for the purpose of such investigation have all the powers given by the first part of this Act to inspectors appointed by the board of trade, and may make such order with respect to the costs of such investigation as they may deem just; and shall on the conclusion of the investigation make a report upon the case to the board of trade; and in cases where there is no local marine board before which the parties and witnesses can conveniently attend, or where such local marine board is unwilling to institute the investigation, the board of trade may direct the same to be instituted before two justices or a stipendiary magistrate; and thereupon such investigation shall be conducted, and the results thereof reported, in the same manner and with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in the eighth part of this Act, save only that, if the board of trade so directs, the person bringing the charge of incompetency or misconduct to the notice of the board of trade shall be deemed to be the party having the conduct of the case.

Board of trade may cancel or suspend certificates in certain cases. [Ibid; 14 & 15 Vict. c. 90, s 4]

242. The board of trade (c) may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases; (that is to say,)

(1.) If upon any investigation made in pursuance of the last preceding section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny:

(2.) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as hereinafter mentioned, it is reported that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default:

(3.) If he is superseded by the order of any admiralty court or of any naval court constituted as hereinafter mentioned:

(4.) If he is shown to have been convicted of any offence:

(5.) If upon any investigation made by any court or tribunal authorised or hereafter to be authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default, and such report is confirmed by the governor or person administering the government of such possession:

And every master or mate whose certificate is cancelled or suspended shall deliver it to the board of trade or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds; and the board of trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Offences of seamen and

243. Whenever any seaman (d) who has been lawfully engaged or any apprentice to

---

(a) To sustain an indictment for a misdemeanor under this section it is not necessary that the act done or omitted should be followed by actual loss, destruction, or damage of such ship (*Reg.* v. *Gardner*, 1 F. & F. 669—Bramwell).

(b) This section is new.

(c) See 25 & 26 Vict. c. 63, s. 23, post.

(d) As to the meaning of this term, see ante, section 2.

the sea service commits any of the following offences he shall be liable to be punished summarily as follows, (that is to say,) 17 & 18 Vict. c 104 apprentices

and their punishments [7 & 8 Vict c 112 ss 6 7 9 13 & 14 Vict c 93, ss 70 78.]

(1) For desertion (a) he shall be liable to imprisonment for any period not exceeding twelve weeks with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the united kingdom, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him — Desertion (a)

(2) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty four hours of the ship s sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty four hours of absence either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute — Neglecting or refusing to join or to proceed to sea, absence within 24 hours before sailing and absence without leave

(3) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month s pay — Quitting without leave before ship is secured (b)

(4) For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days pay — Act of disobedience

(5) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty four hours' continuance of such disobedience or neglect either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute — Continued disobedience

(6) For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour — Assault on officers

(7) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour — Combining to disobey

(8) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour — Wilful damage and embezzlement

(9) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy — Act of smuggling causing loss to owner

244 Upon the commission of any of the offences enumerated in the last preceding section an entry thereof shall be made in the official log book, and shall be signed by the master and also by the mate or one of the crew, said the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit, and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid, — Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply if any, to be also

---

(a) A sailor who leaves a ship to avoid great and unreasonable cruelty on the part of the captain does not commit desertion (*Prince Edward* v *Trevellick*, 24 L J Q B 9, 4 E & B 59) Desertion as here used means abandoning the ship *sine animo revertendi*, and without just cause (*The Two Sisters*, 2 W Rob 125, 24 L J Q B 12)

(b) See *M'Donald* v *Jopling*, 4 M & W 225, *The Two Sisters*, 2 W Rob 125 and Maude and Pollock on Shipping, ed 2, p 157

17 & 18 Vict. c. 104. entered. [7 & 8 Vict. c. 112, s 7; 13 & 14 Vict. c. 93, ss 70, 78; 14 & 15 Vict. c 96, s 27]

and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

245. Every seafaring person whom the master is, under the authority of this Act or of any other Act of parliament, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant. [13 & 14 Vict c. 93, ss. 71, 72]

246. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may in any place in her majesty's dominions, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, and also at any place out of her majesty's dominions, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognisance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made shall incur a penalty not exceeding twenty pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned. [7 & 8 Vict. c 112, s 6; 13 & 14 Vict. c. 93, s. 70.]

247. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offendor to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence. [10 & 17 Vict c. 131, s. 38.]

248. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence. [13 & 14 Vict. c. 93, s. 74.]

249. In all cases of desertion from any ship in any place abroad the master shall produce the entry of such desertion in the official log book to the person or persons hereby required to indorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion; and if such person is a public functionary he shall, and in other cases the said master shall forthwith transmit such copies to the registrar general of seamen in England; and the said registrar shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, and certified to have come from the custody of the said registrar, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Facilities for proving desertion, so far as concerns forfeiture of wages (a).

250. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show

(a) By desertion the wages for the whole voyage which was not completed at the time of the desertion are forfeited, but not the wages for any other completed voyage (*The Pearl*, 5 C. Rob. Ad. 224).

that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate in the united kingdom and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship. 17 & 18 Vict. c. 104.

251. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefore by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment. [14 & 15 Vict. c. 96, s. 22.] Costs of procuring imprisonment may to the extent of 3*l.* be deducted from wages.

252. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a calendar month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share. Amount of forfeiture, how to be ascertained when seamen contract for the voyage. [7 & 8 Vict. c. 112, s. 8.]

253. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and subject to such reimbursement the same shall be paid into the receipt of her majesty's exchequer in such manner as the treasury may direct, and shall be carried to and form part of the consolidated fund of the united kingdom; and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable. Application of forfeitures. [Id. s. 9; 13 & 14 Vict. c. 93, s. 73.]

254. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding. Questions of forfeitures may be decided in suits for wages.

255. If any seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding five pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act. Penalty for false statement as to last ship or name [13 & 14 Vict. c. 93, s. 75.]

256. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows; (that is to say,) if the offender is discharged in the united kingdom, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if before the final discharge of the crew in the united kingdom any such offender as aforesaid enters into any of her majesty's ships, or is discharged abroad, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any) and signed by such officer or other person; and on the return of the ship to the united kingdom the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping master before whom the crew is discharged, and in the case of home-trade ships to the shipping master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct Fines to be deducted from wages, and paid to shipping master. [Id. s. 79.]

17 & 18 Vict. c. 104.

for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert, and harbouring deserters (a). [7 & 8 Vict. c. 112, s. 10 14 & 15 Vict. c. 96, s. 20.]

257. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

Penalty for obtaining passage surreptitiously. [13 & 14 Vict. c. 93, s. 423.]

258. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding twenty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding four weeks.

On change of masters, documents hereby required to be handed over to successor.

259. If during the progress of a voyage the master is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall immediately on assuming the command of the ship enter in the official log a list of the documents so delivered to him.

Naval Courts on the High Seas and abroad.

Naval courts may be summoned for hearing complaints, and investigating wrecks on the high seas or abroad. [Id. s. 82; 14 & 15 Vict. c. 96, s. 26.]

260. Any officer in command of any ship of her majesty on any foreign station, or, in the absence of such officer, any consular officer, may summon a court, to be termed a "naval court," in the following cases; (that is to say,)

(1.) Whenever a complaint which appears to such officer to require immediate investigation is made to him by the master of any British ship, or by any certificated mate, or by one or more of the seamen belonging to any such ship:

(2.) Whenever the interest of the owner of any British ship or of the cargo of any such ship appears to such officer to require it:

(3.) Whenever any British ship is wrecked or abandoned or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad, arrives at such place.

Constitution of such courts. [13 & 14 Vict. c. 93, s. 82.]

261. Every such naval court as aforesaid shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of her majesty not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the rest shall be either officers in the naval service of her majesty, masters of British merchant ships, or British merchants; and such court may include the naval or consular officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against may belong; and the naval or consular officer in such court, if there is only one such officer in the court, or, if there is more than one, the naval or consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of such court.

General functions and mode of action of such courts. [13 & 14 Vict. c. 93, s. 82; 14 & 15 Vict. c. 96, s. 26.]

262. Every such naval court shall hear and investigate the complaint brought before it, or the cause of the wreck or abandonment, (as the case may be,) and may for that purpose summon and compel the attendance of parties and witnesses, and administer oaths, and order the production of documents, and shall conduct the investigation in such manner as to give any person against whom any charge is made an opportunity of making a defence.

Powers of such courts: [Ibid.]

263. Every such naval court may, after hearing the case, exercise the following powers; (that is to say,)

To supersede the master:

(1.) It may, if unanimous that the safety of the ship or crew, or the interest of the owner absolutely requires it, supersede the master, and may appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship, if then at the place:

To discharge a seaman:

(2.) It may discharge any seaman from his ship:

To forfeit wages:

(3.) It may order the wages of any seaman so discharged or any part of such wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the receipt of her majesty's exchequer in the same manner as other penalties and forfeitures under this Act:

To decide disputes as to wages, &c.:

(4.) It may decide any questions as to wages, or fines, or forfeitures, arising between any of the parties to the proceedings:

(a) See *Leary* v. *Lloyd*, ante, p. 297, n. (b).

(5.) It may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of such seaman or apprentice, whether then or subsequently earned : 17 & 18 Vict. c. 104. To direct costs of imprisonment to be paid out of wages :

(6.) It may exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as are by this Act given to British consular officers : To send home offenders for trial :

(7.) It may order the costs of the proceeding before it (if any), or any portion thereof, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby ; and any cost or compensation so ordered shall be paid by such person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from his wages : To order payment of costs, &c. [13 & 14 Vict. c. 93, ss. 82, 83 ; 14 & 15 Vict. c. 96, ss. 23, 24.]

And all orders duly made by any such court under the powers hereby given to it shall in any subsequent legal proceedings be deemed conclusive as to the rights of the parties.

264. All orders made by any such naval court shall, whenever practicable, be entered in the official log book of the ship to which the parties to the proceedings before it belong, and shall be signed by the president of the court. Orders to be entered in official log. [14 & 15 Vict. c. 96, s. 25.]

265. Every such naval court shall make a report to the board of trade, containing the following particulars ; (that is to say,) Report to be made of proceedings of naval courts. [13 & 14 Vict. c. 93, s. 82 ; 14 & 15 Vict. c. 96, s. 26.]

(1.) A statement of the proceedings, with the order made by the court, and a report of the evidence :

(2.) An account of the wages of any seaman or apprentice who is discharged from his ship by such court :

(3.) If summoned in order to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of such wreck or abandonment, with such remarks on the conduct of the master and crew as the circumstances require :

And every such report shall be signed by the president of the court ; and every document purporting to be such a report and to be so signed as aforesaid shall, if produced out of the custody of some officer of the board of trade, be deemed to be such report, unless the contrary is proved, and shall be received in evidence, subject to all just exceptions.

266. Any person who wilfully and without due cause prevents or obstructs the making of any such complaint as last aforesaid, or the conduct of any case or investigation by any naval court, shall for each such offence incur a penalty not exceeding fifty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding twelve weeks. Penalty for preventing complaint or obstructing investigation. [13 & 14 Vict. c. 93, s. 84.]

Crimes committed on the High Seas and abroad.

267. All offences against property or person committed in or at any place either ashore or afloat out of her majesty's dominions by any master, seaman, or apprentice who at the time when the offence is committed is or within three months previously has been employed in any British ship, shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if such offences had been committed within the jurisdiction of the admiralty of England ; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the admiralty of England. Offences committed by British seamen at foreign ports to be within admiralty jurisdiction. [7 & 8 Vict. c. 112, s. 58.]

268. The following rules shall be observed with respect to offences committed on the high seas or abroad ; (that is to say,) Conveyance of offenders and witnesses (*a*) to united kingdom or some British possession. [7 & 8 Vict. c. 112, ss. 59, 60.]

(1.) Whenever any complaint is made to any British consular officer of any of the offences mentioned in the last preceding section, or of any offence on the high seas having been committed by any master, seaman, or apprentice belonging to any British ship, such consular officer may inquire into the case upon oath, and may if the case so requires take any steps in his power for the purpose of placing the offender under necessary restraint and of sending him as soon as

---

(*a*) Where the plaintiff was hired as a marine on board a ship for a specific voyage. In the course of the voyage he was obliged to leave the ship, and was sent to England by authority of a British consul, under the 7 & 8 Vict. c. 112, ss. 59, 60, and 13 & 14 Vict. c. 93, as a witness on a trial of a person for an offence committed on the high seas :—it was held that this operated as a dissolution of the contract, and that the plaintiff could not recover any wages subsequently to the period when he was sent to England (*Melville* v. *De Wolfe*, 4 El. & Bl. 844 ; 24 L. J. Q. B. 200).

17 & 18 Vict. c. 104.

practicable in safe custody to the united kingdom, or to any British possession in which there is a court capable of taking cognisance of the offence, in any ship belonging to her majesty or to any of her subjects, to be there proceeded against according to law:

(2.) For the purpose aforesaid such consular officer may order the master of any ship belonging to any subject of her majesty bound to the united kingdom or to such British possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that such master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage; and such consular officer shall indorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the board of trade requires:

(3.) Every such master shall on his ship's arrival in the united kingdom, or in such British possession as aforesaid, give every offender so committed to his charge into the custody of some police officer or constable, who shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and such justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas:

And any such master as aforesaid who, when required by any British consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford such passage and subsistence to him, or who does not deliver any offender committed to his charge into the custody of some police officer or constable as hereinbefore directed, shall for each such offence incur a penalty not exceeding fifty pounds; and the expense of imprisoning any such offender and of conveying him and the witnesses to the united kingdom or to such British possession as aforesaid in any manner other than in the ship to which they respectively belong, shall be part of the costs of the prosecution, or be paid as costs incurred on account of seafaring subjects of her majesty left in distress in foreign parts.

Inquiry into cause of death on board.

269. Whenever any case of death happens on board any foreign-going ship, the shipping master shall on the arrival of such ship at the port where the crew is discharged inquire into the cause of such death, and shall make on the list of the crew delivered to him as herein required an indorsement to the effect either that the statement of the cause of death therein contained is in his opinion true or otherwise, as the result of the inquiry requires; and every such shipping master shall for the purpose of such inquiry have the powers hereby given to inspectors appointed by the board of trade under the first part of this Act; and if in the course of such inquiry it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the board of trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

Depositions to be received in evidence when witness cannot be produced. [Id. s. 59; 13 & 14 Vict. c. 93, s. 115.]

270. Whenever in the course of any legal proceedings instituted in any part of her majesty's dominions before any judge or magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, then upon due proof, if such proceeding is instituted in the united kingdom, that such witness cannot be found in that kingdom, or if, in any British possession, that he cannot be found in the same possession, any deposition that such witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in her majesty's dominions, or any British consular officer elsewhere, shall be admissible in evidence subject to the following restrictions; (that is to say,)

(1.) If such deposition was made in the united kingdom, it shall not be admissible in any proceeding instituted in the united kingdom:

(2.) If such a deposition was made in any British possession, it shall not be admissible in any proceeding instituted in the same British possession:

(3.) If the proceeding is criminal it shall not be admissible unless it was made in the presence of the person accused:

Every deposition so made as aforesaid shall be authenticated by the signature of the judge, magistrate, or consular officer, before whom the same is made; and such judge, magistrate, or consular officer shall, when the same is taken in a criminal matter, certify if the fact is so, and that the accused was present at the taking thereof, but it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified; but nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of parliament, or by any act or ordinance of the legislature of any colony, so far as regards such colony, or to interfere with the power of any colonial legislature to make such depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

Registration of and Returns respecting Seamen.

17 & 18 Vict. c. 104.

Establishment of register office. [5 & 6 W. 4, c. 19; 7 & 8 Vict. c. 112, s. 19; 13 & 14 Vict. c. 93, ss. 32, 37.]

271. There shall be in the port of London an office, to be called the "General Register and Record Office of Seamen," and the board of trade shall have control over the same, and may appoint and from time to time remove a registrar general, and such assistants, clerks, and servants as may be necessary, and may from time to time, with the consent of the treasury, regulate their salaries and allowances, and such salaries and allowances, and all other necessary expenses, shall be paid by the treasury out of any moneys to be granted by parliament for that purpose; and the board of trade may direct the business of the register office at any of the outports to be transacted at the shipping office, with the consent of the commissioners of customs, at the custom house of the port, and may appoint the shipping master, or, with such consent as aforesaid, some officer of customs, to conduct the same; and such business shall thereupon be conducted accordingly, but shall in all cases be subject to the immediate control of the board of trade.

Register of seamen to be kept. [7 & 8 Vict. c. 93, s. 32.]

272. The said registrar general of seamen shall by means of the agreements, lists, and other papers to be transmitted to him as herein directed, or by such other means as are in his power, keep a register of all persons who serve in ships subject to the provisions of this Act. c. 112, s. 20; 13 & 14 Vict.

Lists to be made for all ships, containing certain particulars [7 & 8 Vict. c. 112, ss. 26, 27; 14 & 15 Vict. c. 96, s. 7; 14 & 15 Vict. c. 102, s. 32.]

273. Every master of every foreign-going ship of which the crew is discharged in the united kingdom, in whatever part of her majesty's dominions the same is registered, and of every home trade ship shall make out and sign a list in a form sanctioned by the board of trade, containing the following particulars; (that is to say,)

(1.) The number and date of the ship's register and her registered tonnage:
(2.) The length and general nature of the voyage or employment:
(3.) The christian names, surnames, ages, and places of birth of all the crew, including the master and apprentices; their qualities on board, their last ships or other employments, and the dates and places of their joining the ship:
(4.) The names of any members of the crew who have died or otherwise ceased to belong to the ship, with the times, places, causes, and circumstances thereof:
(5.) The names of any members of the crew who have been maimed or hurt, with the times, places, causes, and circumstances thereof:
(6.) The wages due to any of the crew who have died, at the times of their respective deaths:
(7.) The clothes and other effects belonging to any of the crew who have died, with a statement of the manner in which they have been dealt with, and the money for which any of them have been sold:
(8.) The name, age, and sex of every person, not being one of the crew, who dies on board, with the date and the cause thereof:
(9.) Every birth which happens on board, with the date thereof, the sex of the infant, and the names of the parents:
(10.) Every marriage which takes place on board, with the date thereof, and the names and ages of the parties.

Lists for foreign-going ships to be delivered to shipping master on arrival [7 & 8 Vict. c. 112, s. 26; 14 & 15 Vict. c. 96, ss. 7, 30.]

274. In the case of foreign-going ships, the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the united kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged such list as hereinbefore required, and if he fails so to do shall for every default incur a penalty not exceeding five pounds; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists to be delivered by home-trade ships half-yearly [7 & 8 Vict. c. 112, s. 26; 14 & 15 Vict. c. 96, s. 30.]

275. The master or owner of every home trade ship shall, within twenty-one days after the 30th day of June and the 31st day of December in every year, transmit or deliver to some shipping master in the united kingdom such list as hereinbefore required for the preceding half year, and shall in default incur a penalty not exceeding five pounds; and such shipping master shall give to the master or owner a certificate of such transmission or delivery; and no officer of customs shall grant a clearance or transire for any home trade ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists to be sent home in case of transfer of ship and in case of loss. [7 & 8 Vict. c. 112, s. 28.]

276. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall, if such ship is then in the united kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship has belonged such list as hereinbefore mentioned, duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged such list as hereinbefore mentioned duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Shipping masters and other offi-

277. All shipping masters and officers of customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling

17 & 18 Vict c. 104.

any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the registrar general of seamen, to be by him recorded and preserved; and the said registrar shall, on payment of a moderate fee to be fixed by the board of trade, or without payment of any fee if the board of trade so directs, allow any person to inspect the same; and in cases in which the production of the original of any such document in any court of justice or elsewhere is essential, shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Officers to transmit documents to registrar.

Registrar to permit inspection, to produce originals, and give copies.

[7 & 8 Vict. c. 112, ss 25, 29; 13 & 14 Vict. c. 93, s. 34]

Officers of customs to make returns of ships to registrar

278. The collector or comptroller of customs at every port in the united kingdom shall on or before the 1st day of February and the 1st day of August in every year transmit to the registrar general of seamen a list of all ships registered in such port, and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

[7 & 8 Vict. c. 112, s. 27.]

Agreements, indentures, and assignments, on arrival at a foreign port to be deposited with the consul, and at a colony with the officers of customs.

279. The following rules shall be observed with respect to the delivery of documents to British consular officers; (that is to say,)

(1.) Whenever any ship, in whatever part of her majesty's dominions the same is registered (except ships whose business for the time being is to carry passengers), arrives at any foreign port where there is a British consular officer, or at any port in any British possession abroad, and remains thereat for forty-eight hours, the master shall, within forty-eight hours of the ship's arrival, deliver to such consular officer, or to the chief officer of customs (as the case may be), the agreement with the crew, and also all indentures and assignments of apprenticeships, or, in the case of a ship belonging to a British possession, such of the said documents as such ship is provided with:

(2.) Such officer shall keep such documents during the ship's stay in such port, and, in cases where any indorsements upon the agreement are hereby required, shall duly make the same, and shall return the said documents to the master a reasonable time before his departure, with a certificate indorsed on the agreement, stating when the same were respectively delivered and returned:

(3.) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, such officer shall make an indorsement to that effect on the agreement, and forthwith transmit a copy of such indorsement, with the fullest information he can collect regarding such neglect or transgression, to the registrar general of seamen:

[Id. s. 53.]

And if any master fails to deliver any such document as aforesaid he shall for every such default incur a penalty not exceeding twenty pounds; and in any prosecution for such penalty it shall lie upon the master either to produce the certificate of the consular officer or officer of customs hereinbefore required, or to prove that he duly obtained the same, or that it was impracticable for him so to do.

Official Logs.

Official logs to be kept in forms sanctioned by board of trade

280. The board of trade shall sanction forms of official log books, which may be different for different classes of ships, so that each such form contains blanks for the entries hereinafter required; and an official log of every ship (except ships employed exclusively in trading between ports on the coasts of the united kingdom) shall be kept in the appropriate sanctioned form; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

[13 & 14 Vict. c 93, s. 85.]

Entries to be made in due time.

281. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

[Ibid.]

Entries required in official log

282. Every master of a ship for which an official log book is hereby required shall make or cause to be made therein entries of the following matters; (that is to say,)

[Id. ss. 86, 87.]

Convictions.

(1.) Every legal conviction of any member of his crew, and the punishment inflicted:

Offences

(2.) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry, and concerning the reply (if any) made to the charge, as hereinbefore (*a*) required:

(*a*) See section 244, ante, p. 299.

(3.) Every offence for which punishment is inflicted on board, and the punishment inflicted : 17 & 18 Vict. c 104. Punishments.

(4.) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars : Conduct, &c., of crew.

(5.) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any) : Illnesses and injuries.

(6.) Every case of death happening on board, and of the cause thereof : Deaths.

(7.) Every birth happening on board, with the sex of the infant and the names of the parents : Births

(8.) Every marriage taking place on board, with the names and ages of the parties : Marriages.

(9.) The name of every seaman or apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner, and cause thereof : Quitting ship.

(10.) The amount of wages due to any seaman who enters her majesty's service during the voyage : Wages of men entering navy.

(11.) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom : Wages of deceased seamen.

(12.) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it : Sale of deceased men's effects

(13.) Every collision with any other ship, and the circumstances under which the same occurred. Collisions.

283. The entries hereby required to be made in official log books shall be signed as follows ; that is to say, every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any) ; and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew ; and every entry of wages due to any seaman who enters her majesty's service shall be signed by the master, and by the seaman or by the officer authorised to receive the seaman into such service. Entries how to be signed. [13 & 14 Vict c. 93, ss. 86, 87.]

284. The following offences in respect of official log books shall be punishable as hereinafter mentioned ; (that is to say,) Penalties in respect of official logs [Id. s. 93.]

(1.) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding five pounds ;

(2.) Every person who makes or procures to be made or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding thirty pounds :

(3.) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be deemed guilty of a misdemeanor.

285. All entries made in any official log book as hereinbefore directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions. Entries in official logs to be received in evidence.

286. In the case of foreign-going ships the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the united kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log book of the voyage ; and the master or owner of every home trade ship, not exclusively employed in trading between ports on the coasts in the united kingdom, shall within twenty-one days after the 30th day of June and the 31st day of December in every year transmit or deliver to some shipping master in the united kingdom the official log book for the preceding half year ; and every master or owner who refuses or neglects to deliver his official log book as hereby required shall be subject to the same consequences and liabilities to which he is hereby made subject for the non-delivery of the list of his crew hereinbefore (a) mentioned. Official logs to be delivered to shipping master. [Id. ss 89, 90.]

287. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall if such ship is then in the united kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each Official logs to be sent home in case of transfer of ship, and in case of loss. [Id. s. 91.]

(a) Sect. 275, ante, p. 305.

17 & 18 Vict. c. 104.

offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

East Indies and Colonies.

Provisions of Act as applied by East Indian and colonial governments to their own ships, may be enforced throughout the empire. [Id. s. 121.]

288. If the governor general of India in council, or the respective legislative authorities in any British possession abroad, by any acts, ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout her majesty's dominions, in the same manner as if such provisions had been hereby so adopted and applied, and such penalties and punishments had been hereby expressly imposed

East Indian and colonial Acts to be subject to disallowance, and require sanction as in other cases [Id s. 122.]

289. Every act, ordinance, or other form of law to be passed or promulgated by the governor-general of India in council, or by any other legislative authority, in pursuance of this Act, shall respectively be subject to the same right of disallowance or repeal, and require the same sanction or other acts and formalities, and be subject to the same conditions in all respects, as exist and are required in order to the validity of any other act, ordinance, or other form of law passed by such governor-general in council or other legislative authority respectively.

Conflict of laws. [Id. s. 121.]

290. If in any matter relating to any ship or to any person belonging to any ship there appears to be a conflict of laws, then, if there is in the third part of this Act any provision on the subject which is hereby expressly made to extend to such ship, the case shall be governed by such provision, and if there is no such provision the case shall be governed by the law of the place in which such ship is registered.

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS (a).

Application.

Application of Part IV. of Act.

291. The fourth part of this Act shall apply to all British ships; and all foreign steam ships carrying passengers between places in the united kingdom shall be subject to all the provisions contained in the fourth part of this Act, and likewise to the same provisions with respect to the certificates of the masters and mates thereof to which British steamships are subject.

Boats for Sea-going Ships.

Rules as to boats and life buoys. 14 & 15 Vict. c. 79, s. 22.]

292. The following rules shall be observed with respect to boats and life buoys; (that is to say,)

(1.) No decked ship (except ships used solely as steam tugs and ships engaged in the whale fishery) shall proceed to sea from any place in the united kingdom, unless she is provided, according to her tonnage, with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than the boats the number and cubic contents of which are specified in the table marked S. in the schedule hereto for the class to which such ship belongs.

(2.) No ship carrying more than ten passengers shall proceed to sea from any place in the united kingdom, unless, in addition to the boats hereinbefore required, she is also provided with a lifeboat furnished with all requisites for use, or unless one of her boats hereinbefore required is rendered buoyant after the manner of a lifeboat:

(3.) No such ship as last aforesaid shall proceed to sea unless she is also provided with two life buoys:

And such boats and life buoys shall be kept so as to be at all times fit and ready for use: Provided, that the enactments with respect to boats and life buoys herein contained shall not apply in any case in which a certificate has been duly obtained under the tenth section of the "Passengers Act, 1852."

15 & 16 Vict. c. 44, s. 10.

293. In any of the following cases; (that is to say,)

(a) See Maude and Pollock on Shipping, chaps. x., xi., and the 18 & 19 Vict. c. 119, Passengers Act, and 25 & 26 Vict. c. 63, s. 25, post.

(1.) If any ship hereinbefore required to be provided with boats or life buoys proceeds to sea without being so provided therewith, or if any of such boats or life buoys are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master; or,

(2.) If, in case of any of such boats or life buoys being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity; or,

(3.) If such boats and life buoys are not kept so as to be at all times fit and ready for use;

17 & 18 Vict c. 104 Penalties on masters and owners, &c, neglecting to provide boats and life buoys. [Id s 24]

Then if the owner appears to be in fault he shall incur a penalty not exceeding one hundred pounds, and if the master appears to be in fault he shall incur a penalty not exceeding fifty pounds.

294. No officer of customs shall grant a clearance or transire for any ship hereinbefore required to be provided with boats or with life buoys unless the same is duly so provided: and if any such ship attempts to go to sea without such clearance or transire any such officer may detain her until she is so provided. complying with the above provisions. [Id. s. 25]

Officers of customs not to clear ships not

Lights and Fog Signals, and Meeting and Passing.

295 (*a*). [The following rules shall be observed with regard to lights and fog signals; (that is to say,)

Regulations as to lights and fog signals. [Id. s. 26]

(1.) The admiralty shall from time to time make regulations requiring the exhibition of such lights, by such classes of ships, whether steam or sailing ships, within such places and under such circumstances as they think fit, and may from time to time revoke, alter, or vary the same (*b*):

(2.) The admiralty may, if they think fit, make regulations requiring the use of such fog signals, by such classes of ships, whether steam or sailing ships, within such places and under such circumstances as they think fit, and may from time to time revoke, alter, or vary the same:

(3.) All regulations made in pursuance of this section shall be published in the "London Gazette," and shall come into operation on a day to be named in the gazette in which they are published, and the admiralty shall cause all such regulations to be printed, and shall furnish a copy thereof to any owner or master of a ship who applies for the same, and production of the gazette containing such regulations shall be sufficient evidence of the due making and purport thereof: (*c*)

(4.) All owners and masters shall be bound to take notice of the same, and shall, so long as the same continue in force, exhibit such lights, and use such fog signals, at such times, within such places, in such manner, and under such circumstances as are enjoined by such regulations, and shall not exhibit any other lights or use any other fog signals, and in case of default the master, or the owner of the ship, if it appears that he was in fault, shall for each occasion upon which such regulations are infringed incur a penalty not exceeding twenty pounds.

296. Whenever any ship, whether a steam or sailing ship, proceeding in one direction, meets another ship (*d*), whether a steam or sailing ship, proceeding in another

Rule as to ships meet-

(*a*) Sections 295, 296, 297, 298, and 299 are repealed by 25 & 26 Vict. c. 63, s. 2, post.

(*b*) See *Morrison* v. *General Steam Navigation Company*, 8 Exch. 733.

(*c*) See *The Olivia*, 1 Lush. 497.

(*d*) See *The Cleopatra*, 1 Swabey, 135; *The Juliana*, 1 Swabey, 20; *The Ericsson*, 1 Swabey, 38; *The Dumfries*, 1 Swa. 125; *The Saxonia*, 1 Lush. 410).

This statute leaves the rule of law upon this subject as it was before, the only effect of the 296th and 298th sections being to bring the non-compliance with the Admiralty sailing regulations within the category of negligence (*Tuff* v. *Warman*, 2 C. B. N. S. 740; 26 L. J. C. B. 263).

The rule laid down by this section as to cases of collision is, that when there is danger of a collision each vessel shall port her helm; and the penalty is, that if a vessel neglect to port her helm she cannot recover anything, even if the other vessel is also in fault. The section is not confined to cases where one vessel only is in fault, but applies also to the case of vessels lying to (*The James*, 1 Swa. 60).

This section applies to ships meeting, not crossing each other's courses; and the risk of collision, which is the condition of the obligation to port the helm, is a proper question for the determination of the Trinity Masters (*H.M.S. Inflexible*, 1 Swa. 32; but see *Lawson* v. *Carr*, 10 Moore, 162).

A master is not bound to give directions for the porting the helm of his vessel, in accordance with the terms of this section, until he has discovered the course of the vessel approaching him (*The Ironmaster*, 6 Jur. N. S. 782—Adm.).

This section may (semble) be controlled by sect. 291, so as not to apply to a foreign steamship; but a customary course of navigation for all steamships on the river Thames will be presumed to have emanated from sect. 297, which

17 & 18 Vict. c. 104. ing each other. [14 & 15 Vict. c. 79, s. 27.]

direction, so that if both ships were to continue their respective courses they would pass so near as to involve any risk of a collision, the helms of both ships shall be put to port so as to pass on the port side of each other (*a*); and this rule shall be obeyed by all steam ships and by all sailing ships whether on the port or starboard tack, and whether close-hauled (*b*) or not, unless the circumstances of the case are such as to render a departure from the rule necessary in order to avoid immediate danger, and subject also to the proviso that due regard shall be had to the dangers of navigation, and, as regards sailing ships on the starboard tack close-hauled, to the keeping such ships under command.

Rule for steamers in narrow channels. [Ibid.]

297. Every steam ship, when navigating (*c*) any narrow channel, shall, whenever it is safe and practicable, keep to that side of the fair-way or mid-channel which lies on the starboard side (*d*) of such steam ship (*e*).

If collision ensues from breach of

298. If in any case of collision it appears to the court before which the case is tried that such collision was occasioned by the non-observance of any rule for the exhibition of lights (*f*) or the use of fog signals issued in pursuance of the powers hereinbefore

---

course every foreign steamship is bound to know and obey (*The Fyenoord*, 1 Swa. 374—P. C.).

The mere convenience of the foreign steamship, or of custom-house officers in the performance of their duty, will not justify a departure from such customary course of navigation (*Ib.*).

Owners of a steamship are responsible for damage caused by the act of the master in not observing this section, notwithstanding sect. 299 declares that the damage in such case shall be deemed to be caused by the wilful default of the person in charge of the deck (*The Seine*, 1 Swa. 411).

If a pilot, having sole charge of the navigation of a ship, takes a steam-vessel to the port side of a narrow channel, contrary to this section, the master is not bound to interfere, and the owners are not responsible for damage caused thereby (*The Argo*, 1 Swa. 46[illegible]).

Where a party intends to reply upon this section, he ought to plead specifically a violation of it (*The Bothnia*, 29 L. J. Adm. 65; 1 Lush. 52). And in pleading it is necessary to state, as accurately as the circumstances of the case will admit, in what respect it is intended to allege that this Act has been violated (*The Ironmaster*, 6 Jur. N. S. 782—Adm.).

The court will proceed *secundum allegata et probata*, even though entertaining some doubt whether, in so doing, it will arrive at the real truth and justice of the case (*Lugasti* v. *Lamer*, or *The North American*, 12 Moore, P. C. C. 331; 1 Swa. 358).

This and sect. 298 are not confined to vessels strictly proceeding on their several voyages, but equally apply to vessels lying to (*Ib.*; *Ibbwson* v. *Carr*, 10 Moore, P. C. C. 162; but see *In re Inflexible*, 1 Swab. 32, ante, p. 209, n. (*d*); *The Independence*, 9 W. R. 582; 4 L. T. N. S. 563—P. C.).

Where two steamers approaching each other in parallel directions, and seeing each other's lights several miles off, the A., when coming near, put her helm hard a-port, and the B. put hers hard a-starboard, and a collision occurred: it was held that a vessel obeying the rule of the statute has a right to trust that the vessel she meets, if a British vessel, will obey it too. Therefore, when the A. steamer, a mile and a half off, starboarded her helm instead of porting, she was *primâ facie* in the wrong, though at that time, if both had starboarded, the risk of collision would have been equally avoided (*The Araxes, The Black Prince*, 5 L. T. N. S. 39—P. C.).

(*a*) A vessel meeting another within the meaning of this section is not, if close-hauled on the starboard tack, bound by the rule of that section to port her helm (*The Halcyon*, 1 Lush. 100).

(*b*) As to the meaning of the terms "close-hauled" and "under command" (*Chadwick* v. *The City of Dublin Steam Packet Co.* 6 E. & B. 771).

(*c*) This section extends to vessels in tow (*The La Plata*, Swa. 298).

(*d*) See *Smith* v. *Voss*, 2 H. & Nor. 97; 26 L. J. Exch. 233.

(*e*) A steamer running between France and England, on its way up the river to London, crossed over at Gravesend, from the north to the south shore, in order to receive on board the custom-house officers, at the place or station appointed by the Commissioners of the Customs for that purpose. In so doing she ran down and sank a steam-tug: it was held that an order issued by the custom-house authorities cannot overrule the express regulations of this section, and that a custom, in obedience to such order, for vessels to receive the custom-house officers on board on the south or wrong side of the fair-way at Gravesend, is not a "circumstance to render a departure from the rule necessary" (*The Seine*, 5 Jur. N. S. 298—Adm.).

The sect. 299 does not exonerate the owners from the responsibility of such damage (*Ib.*).

A brig, in ballast, coming up the Tyne, along the south shore, came into collision with a smack being tugged down along the same shore. She pleaded in defence a custom of that river that vessels in ballast should come along the south shore: it was held that no such custom could be maintained against the express provisions of this section (*The Hand of Providence*, 1 Swa. 107).

(*f*) See *The Telegraph*, 8 Moore, P. C. C. 167; *The Aurora*, 1 Lush. 327; *The London*, 1 Swab.

contained, or of the foregoing rule as to the passing of steam and sailing ships, or of the foregoing rule as to a steam ship keeping to that side of a narrow channel which lies on the starboard side, the owner of the ship by which such rule has been infringed shall not be entitled to recover any recompense whatever for any damage sustained by such ship in such collision, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the rule necessary (*a*). [17 & 18 Vict. c. 104.] [the above rules, owner not to be entitled to recover (*b*). [Id. s. 28]]

299. In case any damage to person or property arises from the non-observance by any ship of any of the said rules, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of such ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the rule necessary. [Breaches of such rules to imply wilful default. [Ibid.]]

Build and Equipment of Steam Ships.

300. (*c*) [The following rules shall be observed with respect to the build of iron steam ships; (that is to say,)] [Iron steamers to be divided by water-tight partitions. [Id. s. 20.]]

(1.) Every steam ship built of iron of one hundred tons or upwards the building of which commenced after the 28th day of August, 1846, and every steam ship built of iron of less burden than one hundred tons the building of which commenced after the 7th of August, 1851 (except ships used solely as steam tugs), shall be divided by substantial transverse water-tight partitions, so that the

---

300; *Valentine* v. *Cleugh*, 8 Moore, P. C. C. 167; *Mackay* v. *Roberts*, 9 Moore, P. C. C. 357.

A British vessel not carrying the coloured lights appointed by the Admiralty regulations is guilty, *primâ facie*, of a violation of the regulations, and to escape the legal consequences must prove it to have been impracticable to have done so (*The Livingstone*, 1 Swa. 519).

Where it is alleged that it was impracticable to carry the coloured lights fixed, on account of the sea, the question was referred to the Trinity Masters (*Ib.*; *The Calla*, 1 Swa. 465).

The fact of its being a clear bright moonlight night does not relieve a sailing vessel hove-to from compliance with the Admiralty regulations for exhibiting a light (*Morgan* v. *Sim*, 11 Moore, P. C. C. 307).

The omission to show a light being the cause of the collision, as it was probable that if a light had been shown the collision would not have occurred, and there being no default of a look-out by the steamer, the owners of the sailing vessel were held concluded by this section from recovering damage against the steamer (*Ib.*).

Where the absence of a light which ought to have been exhibited by the injured vessel had contributed to the accident, the owners cannot recover (*Dowell* v. *The Steam Navigation Co.*, 5 E. & B. 195; 26 L. J. Q. B. 59).

The absence of a light which ought to have been exhibited by the plaintiffs may be shown under a plea of not guilty (*Ib.*).

Where both vessels are in fault in not observing the Admiralty rules, no damages can be recovered by the owners of the injured vessel (*Lawson* v. *Carr*, 10 Moore, P. C. C. 162; *Dowell* v. *The Steam Navigation Co.*, ubi supra). Unless it appears that the non-observance of the rules by the injured vessel has not directly contributed to the injury (*Tuff* v. *Warman*, 5 C. B. 573; 26 L. J. C. P. 263; 2 C. B. N. S. 740).

In an action to recover damages for an injury occasioned by a collision between two vessels, the proper question for the jury is, whether the damage was occasioned entirely by the negligence or improper conduct of the defendant, or whether the plaintiff himself so far contributed to the misfortune by his own negligence or want of ordinary and common care and caution, that, but for such negligence or want of ordinary care and caution on his part, the misfortune would not have happened; in the first case, the plaintiff would be entitled to recover; in the latter not, as, but for his own fault, the misfortune could not have happened. And the plaintiff's compliance with the regulations of this and 296th sects., as to porting his helm, &c., is not in such a case a condition precedent to his right to recover (*Ib.*).

The former rule of the Admiralty Court, that in case of mutual blame the loss should be divided between the vessels, is superseded by this section (*Lawson* v. *Carr*, supra. See *The Aurora*, 1 Lush. 327).

(*a*) This is very nearly a re-enactment of the 28th section of the 14 & 15 Vict. c. 79; on the construction of which it has been held, that where a vessel, through sheer negligence, injured another vessel by running her down at night, the mere fact that the injured vessel was at the time guilty of an infringement of the Admiralty rules, by not exhibiting a light, afforded no justification under that section, where the absence of the light did not in any way contribute to the accident (*Morrison* v. *General Steam Navigation Co.*, 8 Exch. 733; see also *General Steam Navigation Co.* v. *Morrison*, 22 L. J. C. P. 178, and 13 C. B. 581 (3)).

(*b*) This section disentitles the owner of a ship guilty of a breach of the Admiralty regulations from recovering in the Court of Admiralty (*In re The Millan*, 31 L. J. P. M. & A. C. 105).

(*c*) Repealed 25 & 26 Vict. c. 63, s. 2, post.

17 & 18 Vict. c. 104.

fore part of the ship shall be separated from the engine-room by one of such partitions, and so that the after part of such ship shall be separated from the engine-room by another of such partitions:

(2.) Every steam ship built of iron the building of which commences after the passing of this Act, shall be divided by such partitions as aforesaid into not less than three equal parts, or as nearly so as circumstances permit:

(3.) In such last-mentioned ships each such partition as aforesaid shall be of equal strength with the side plates of the ship with which it is in contact:

(4.) Every screw steam ship built of iron, the building of which commences after the passing of this Act, shall, in addition to the above partitions, be fitted with a small water-tight compartment inclosing the after-extremity of the shaft.

Officers of customs not to grant certificates except so divided

And no officer of customs or other person shall grant a clearance or transire for any iron steam ship required to be divided or fitted as aforesaid, unless the same is so divided and fitted; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until she is so divided and fitted; and if any steam ship hereinbefore required to be so divided or fitted plies or goes to sea without being so divided or fitted, the owner shall incur a penalty not exceeding one hundred pounds.]

Equipment of steam ships.

301. Steam ships shall be provided as follows; (that is to say,)

Safety valve. [Id. s. 21.]

(1.) Every steam ship of which a survey is hereby required shall be provided with a safety valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve:

Compasses to be adjusted [14 & 15 Vict. c. 79, s. 3]

(2.) Every sea-going steam ship employed to carry passengers shall have her compasses properly adjusted from time to time; such adjustment, in the case of ships surveyed as hereinafter mentioned, to be made to the satisfaction of the shipwright surveyor, and according to such regulations as may be issued by the board of trade;

Fire hose. [Id ss. 23, 24]

(3.) Every sea-going steam ship (unless used solely as a steam tug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship, and capable of being connected with the engines of the ship:

Signals [Ibid.]

(4.) Every sea-going steam ship employed to carry passengers shall be provided with the following means of making signals of distress; (that is to say,) twelve blue lights or twelve port fires, and one cannon with ammunition for at least twelve charges, or, in the discretion of the master or owner of such ship, with such other means of making signals (if any) as may have previously been approved by the board of trade:

Shelter for deck passengers

(5.) Every home-trade steam ship employed to carry passengers by sea shall be provided with such shelter for the protection of deck passengers (if any) as the board of trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require:

And if any steam ship as aforesaid plies or goes to sea from any port in the united kingdom without being so provided as hereinbefore required, then for each default in any of the above requisites the owner shall (if he appears to be in fault) incur a penalty not exceeding one hundred pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding fifty pounds.

Penalty for improper weight on safety valve

302. If any person places an undue weight on the safety valve of any steam ship, or, in the case of steam ships surveyed as hereinafter mentioned, increases such weight beyond the limits fixed by such engineer surveyor as hereinafter mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding one hundred pounds.

Survey of Passenger Steamers.

Definition of passenger steamer [Id. ss. 3, 48.]

303. For the purpose of the enactments herein contained with respect to surveys and certificates of passenger steam ships, the word "passengers" shall be held to include any persons carried in a steam ship, other than the master and crew and the owner, his family and servants: and the expression "passenger steamer" shall be held to include every British steam ship carrying passengers to, from, or between any place or places in the united kingdom, excepting steam ferry boats working in chains, commonly called steam bridges.

Passenger steamers to be surveyed. [Id. s 3]

304. Every passenger steamer shall be surveyed twice at the least in each year in manner hereinafter mentioned.

Board of trade to appoint surveyors, and fix their remuneration [Id s 16]

305. The board of trade may from time to time appoint such number of fit and proper persons to be shipwright surveyors and engineer surveyors for the purposes of this Act at such ports or places as it thinks proper, and may also appoint a surveyor-general for the united kingdom, and may from time to time remove such surveyors or any of them, and may from time to time fix and alter the rates of remuneration to be received by such surveyors.

Surveyors to have

306. It shall be lawful for the said surveyors in the execution of their duties to go on board any steam ship at all reasonable times, and to inspect the same or any part

thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificates of the master or mate to which the provisions of this Act or any of the regulations to be made by virtue thereof apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to any such ship or for any other reason they consider it necessary so to do, to require the ship to be taken into dock for the purpose of surveying the hull thereof; and any person who hinders any such surveyor from going on board any such steam ship, or otherwise impedes him in the execution of his duty under this Act, shall incur a penalty not exceeding five pounds.

17 & 18 Vict. c. 104. power to inspect [Id. s. 18.]

307. The said surveyors shall execute their duties under the direction of the board of trade, and such board shall make regulations as to the manner in which the surveys hereinafter mentioned shall be made, and as to the notice to be given to the surveyors when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by such surveyors in the execution of their duties, and may thereby determine the persons by whom and the conditions under which such payment shall be made.

Board of trade to regulate mode of making surveys.

308. Every surveyor who demands or receives directly or indirectly from the owner or master of any ship surveyed by him under the provisions of this Act any fee or remuneration whatsoever for or in respect of such survey, otherwise than as the officer and by the direction of the board of trade, shall incur a penalty not exceeding fifty pounds.

Penalty on surveyors receiving fees unlawfully. [Id. s. 19.]

309. The owner of every passenger steamer shall cause the same to be surveyed at the times hereinafter directed by one of the said shipwright surveyors and by one of the said engineer surveyors so appointed as aforesaid; such shipwright surveyor being, in the case of iron steamers, a person who is in the judgment of the board of trade properly qualified to survey such ships; and such surveyors shall thereupon, if satisfied that they can with propriety do so, give to such owner declarations as follows:

Owners to have surveys made by shipwright and engineer surveyors, and surveyors to give declarations. [Id. s. 3.]

The declaration of the shipwright surveyor shall contain statements of the following particulars; (that is to say,)

(1.) That the hull of the ship is sufficient for the service intended and in good condition:
(2.) That the partitions, boats, life buoys, lights, signals, compasses, and shelter for deck passengers, and the certificates of the master and mate or mates, are such, and in such condition, as required by this Act:
(3.) The time (if less than six months) for which the said hull and equipments will be sufficient:
(4.) The limits (if any) beyond which, as regards the hull and equipments, the ship is in the surveyor's judgment not fit to ply:
(5.) The number of passengers which the ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins; such numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires:

And the declaration of the engineer surveyor shall contain statements of the following particulars; (that is to say,)

(1.) That the machinery of the ship is sufficient for the service intended, and in good condition:
(2.) The time (if less than six months) for which such machinery will be sufficient.
(3.) That the safety valves and fire hose are such and in such condition as are required by this Act:
(4.) The limits of the weight to be placed on the safety valves:
(5.) The limits (if any) beyond which, as regards the machinery, the ship is in the surveyor's judgment not fit to ply:

And such declarations shall be in such form as the board of trade directs.

310. The said owner shall transmit such declarations to the board of trade within fourteen days after the dates of the receipt thereof respectively; and in default shall forfeit a sum not exceeding ten shillings for every day that the sending of such declarations is delayed; and such sum shall be paid upon the delivery of the certificate hereinafter mentioned in addition to the fee payable for the same, and shall be applied in the same manner as such fees.

Transmission of declarations to board of trade. Penalty for delay. [14 & 15 Vict. c. 79, s. 4.]

311. In all cases where it is possible the said half-yearly surveys shall be made in the months of April and of October, and the declarations shall be transmitted on or before the 30th day of April and the 31st day of October respectively; but if the owner of any passenger steamer is unable to have the same surveyed in the month of April or October, (as the same may be,) either by reason of such ship being absent from the united kingdom during the whole of those periods respectively, or by reason of such ship or the machinery thereof being under construction or repair, or of such ship being laid up in dock, or for

Times appointed for surveys and transmission of declarations [Ibid.] (a).

(a) See 25 & 26 Vict. c. 63, s. 34, post.

17 & 18 Vict c 104

any other reason satisfactory to the board of trade then he shall have the same surveyed as aforesaid as soon thereafter as possible, and shall transmit such declarations to the board of trade within fourteen days after the receipt thereof, together with a statement of the reasons which have prevented the survey of such ship at the time hereinbefore prescribed, and shall, in case of delay in transmitting the declarations, be liable to a forfeiture similar to that mentioned in the last preceding section

Board of trade to issue certificates [Id s 5]

312 Upon the receipt of such declarations the board of trade shall, if satisfied that the provisions of the fourth part of this Act have been complied with, cause a certificate in duplicate to be prepared and issued to the effect that the provisions of the law with respect to the survey of the ship and the transmission of declarations in respect thereof have been complied with, and such certificate shall state the limits (if any) beyond which, according to the declaration of the surveyors, such ship is not fit to ply, and shall also contain a statement of the number of passengers which, according to the declaration of the shipwright surveyor, such ship is fit to carry, distinguishing (if necessary) between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried, and other circumstances, as the case requires

Issue and transmission of certificates [Id s 88]

313 The board of trade shall transmit such duplicate certificate to the shipping master or to some other public officer at such port as the owner may mention for the purpose, or at the port where the owner or his agent resides or where the ship was surveyed and is for the time being lying, and shall cause notice of such transmission to be given by post or otherwise to the master or owner or his agent and the said shipping master or officer shall deliver such duplicate certificate to the said owner, master, or agent on his applying and paying the fees and other sums (if any) herein mentioned as payable in that behalf, and in proving the due issue and transmission to the owner, agent or master of such certificate, it shall be sufficient to show that the same has been duly received by such shipping master or public officer as aforesaid, and that due notice of the transmission thereof to such shipping master or officer has been given to such owner, master, or agent

Fees to be paid for certificates [Id s 8]

314 The owner of every passenger steamer requiring a certificate under the fourth part of this Act shall pay for every certificate granted by the board of trade such fees as such board directs, not exceeding the fees mentioned in the table marked T in the schedule hereto

How long certificates to continue in force [Id s 7]

315 No certificate shall be held to be in force for the purposes of the fourth part of this Act beyond the date fixed by the board of trade for the expiration thereof, and no certificate shall be in force after notice is given by the board of trade to the owner, agent, or master of the ship to which the same relates, that such board has cancelled or revoked the same Provided, that if any passenger steamer is absent from the united kingdom at the time when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to ply with passengers after her next subsequent return to the united kingdom and the board of trade may require any certificate which has expired, or has been revoked or cancelled, to be delivered up as it directs and any owner or master who, without reasonable cause, neglects or refuses to comply with such requirement, shall incur a penalty not exceeding ten pounds

Board of trade may cancel certificates and require fresh declarations. [14 & 15 Vict. c 79, s 6]

316 The board of trade may revoke and cancel such certificates in any case in which it has reason to believe,—

(1) That the declarations of the sufficiency and good condition of the hull, equipments, and machinery of any passenger steamer, or either of them, have been fraudulently or erroneously made, or,

(2) That such certificate has otherwise been issued upon false or erroneous information, or,

(3) That since the making of such declarations the hull, equipments, or machinery of such ship have sustained any injury, or are otherwise insufficient

And in every such case the board of trade may, if it thinks fit, require the owner to have the hull, equipments, or machinery of such ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof, before re issuing any certificate, or granting a fresh one in lieu thereof

Copy of certificate to be placed in conspicuous part of ship [Id. s. 10]

317 The owner or master of every passenger steamer shall forthwith, on the transmission of any such certificate as aforesaid to him or his agent, cause one of the duplicates thereof so transmitted to be put up in some conspicuous part of the ship, so as to be visible to all persons on board the same, and shall cause it to be continued so put up so long as such certificate remains in force and such ship is in use, and in default such owner or master shall for every offence incur a penalty not exceeding ten pounds

Ship not to proceed on her voyage without certificate. [Id s 11]

318 It shall not be lawful for any passenger steamer to proceed to sea or upon any voyage or excursion with any passengers on board, unless the owner thereof has transmitted to the board of trade the declarations hereinbefore required, nor unless the owner or master thereof has received from such board such a certificate as hereinbefore provided for such certificate being a certificate applicable to the voyage or excursion on which such ship is about to proceed, and no officer of customs shall grant any clearance or transire for any passenger steamer unless upon the production of such certificate as aforesaid (being a certificate then in force and applicable as aforesaid), and if any passenger steamer attempts to ply or go to sea without such production, any such officer may detain her until such certificate is produced, and if any passenger steamer plies or goes to sea

with any passengers on board, without having one of the duplicates of such certificate as aforesaid (being a certificate then in force, and applicable as aforesaid,) so put up as aforesaid in some conspicuous part of the ship, the owner thereof shall for such offence incur a penalty not exceeding one hundred pounds, and the master of such ship shall also incur a further penalty not exceeding twenty pounds. 7 & 18 Vict. c. 104.

319. If the owner or master or other person in charge of any passenger steamer receives on board thereof or on or in any part thereof, or if such ship has on board thereof or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number of passengers allowed by the certificate, the owner or master shall incur a penalty not exceeding twenty pounds, and also an additional penalty not exceeding five shillings for every passenger over and above the number allowed by the certificate, or, if the fare of any of the passengers on board exceeds five shillings, not exceeding double the amount of the fares of all the passengers who are over and above the number so allowed as aforesaid, such fares to be estimated at the highest rate of fare payable by any passenger on board. Penalty for carrying passengers in excess of numbers specified in certificate. [Id. s. 12.]

320. Every person who knowingly and wilfully makes or assists in making, or procures to be made, a false or fraudulent declaration or certificate with respect to any passenger steamer requiring a certificate under the fourth part of this Act, or who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any declaration or certificate required by the fourth part of this Act, or any words or figures in any such declaration or certificate, or any signature thereto, shall be deemed guilty of a misdemeanor. Forgery of declaration or certificate a misdemeanor. [Id. s. 9.]

321. The said surveyors shall from time to time make such returns to the board of trade as it requires with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of the ships surveyed by them; and every owner, master, and engineer of any such ship shall, on demand, give to such surveyors all such information and assistance within his power as they require for the purpose of such returns; and every such owner, master, or engineer who, on being applied to for that purpose, wilfully refuses or neglects to give such information or assistance, shall be liable to a penalty not exceeding five pounds. Surveyors to make returns of the build and other particulars of steam ships, and owners and masters to give information for that purpose. [Id. s. 17.]

Misconduct by Passengers in Steamers.

322. The following offenders, that is to say, Penalties on persons forcing way on board; or refusing to quit the ship. [Id. s. 13.] (a).

(1.) Any person who, after having been refused admission into any steamer by the owner or person in charge thereof, or by any person in the employ of the owner thereof, on account of such steamer being full, and after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same; and

(2.) Any person, having got on any steamer, who, upon being requested on the like account by the owner or person in charge thereof, or by any person in the employ of the owner, to leave such steamer before the same has quitted the place at which such person got on board, and upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

Shall for each such offence incur a penalty not exceeding forty shillings, to be paid to the said owner.

323. (a) The following offenders, that is to say, Penalty for avoiding payment of fares. [14 & 15 Vict. c. 79, s. 14.]

(1.) Any person who travels or attempts to travel in any passenger steamer which has been duly surveyed in conformity with the provisions of this Act, without having previously paid his fare, and with intent to avoid payment thereof: and

(2.) Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; and

(3.) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer;

Shall for every such offence incur a penalty not exceeding five shillings, in addition to the fare payable by him, such penalty to be payable to the owner of such steamer.

324. (a) Every person who, having committed any of the offences mentioned in the two last preceding sections, or either of them, refuses on application of the master of the ship or of any other person in the employ of the owner thereof to give his name and address, or who on such application gives a false name or address, shall incur a penalty not exceeding twenty pounds, to be paid to the said owner. Penalty on persons refusing to give their name and address (b). [Id. s. 15.]

325. (a) The master of any home trade passenger steam ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on Power to refuse or remove passengers

(a) Repealed, 25 & 26 Vict. c. 63, s. 2, post. against, see sect. 518, post.

(b) As to how the offender is to be proceeded

17 & 18 Vict. c 104

who are drunk or misconduct themselves

board, or, if such person is on board, may put him on shore at any convenient place; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid.

Accidents.

Accidents to steam ships to be reported to board of trade [Id s. 29.]

326. Whenever any steam ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, send to the board of trade, by letter signed by such owner or master, a report of such accident or damage, and of the probable occasion thereof, stating the name of the ship, the port to which she belongs, and the place where she is; and if such owner or master neglect so to do he shall for such offence incur a penalty not exceeding fifty pounds.

Notice to be given of apprehended loss of steam ships [Id s. 30.]

327. If the owner of any steam ship have reason, owing to the non-appearance of such ship, or to any other circumstances, to apprehend that such ship has been wholly lost, he shall as soon as conveniently may be send notice thereof in like manner to the board of trade, and if he neglect so to do within a reasonable time he shall for such offence incur a penalty not exceeding fifty pounds.

Collisions to be entered in official log

328. In every case of collision, in which it is practicable so to do, the master shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (if any), such entry to be signed by the master, and also by the mate or one of the crew, and in default shall incur a penalty not exceeding twenty pounds.

Carrying Dangerous Goods.

Provisions to prevent the taking dangerous goods on board without due notice (a)

329. No person shall be entitled to carry in any ship, or to require the master or owner of any ship to carry therein, any aquafortis, oil of vitriol, gunpowder, or any other goods which, in the judgment of such master or owner, are of a dangerous nature; and if any person carries or sends by any ship any goods of a dangerous nature without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the master or owner at or before the time of carrying or sending the same to be shipped, he shall for every such offence incur a penalty not exceeding one hundred pounds; and the master or owner of any ship may refuse to take on board any parcel that he suspects to contain goods of a dangerous nature, and may require them to be opened to ascertain the fact.

PART V.

PILOTAGE (b).

Application.

Application of Part V. of Act

330. The fifth part of this Act shall apply to the united kingdom only.

Powers of Pilotage Authorities (General).

General jurisdiction of pilotage authorities

331. Every pilotage authority shall retain all powers and jurisdiction which it now lawfully possesses, so far as the same are consistent with the provisions of this Act; but no law relating to such authority, or to the pilots licensed by it, and no act done by such authority, shall, if inconsistent with any provision of this Act, be of any force whatever.

Power of pilotage authorities to make and extend exemptions from compulsory pilotage.

332. Every pilotage authority shall have power, by byelaw made with the consent of her majesty in council, to exempt the masters of any ships, or of any classes of ships, from being compelled to employ qualified pilots, and to annex any terms or conditions to such exemptions, and to revise and extend any exemptions now existing by virtue of this Act or any other Act of parliament, law, or charter, or by usage, upon such terms and conditions and in such manner as may appear desirable to such authority.

(a) Extended to foreign ships when within the united kingdom, 25 & 26 Vict. c. 63, s. 38.

(b) See Maude and Pollock on Shipping, ch. v. Amended by 25 & 26 Vict. c. 63, s. 39, post.

Those sections of this part of the statute which do not expressly exclude foreign ships must be taken to have a universal application; the exemption, therefore, from liability attaches equally to foreign as to British ships (*The Annapolis—Pickett, master;* and *The Johanna Stoll—Berg, master*, 30 L. J. P. M. & A. C. 201).

333. Subject to the provisions contained in the fifth part of this Act, it shall be lawful for every pilotage authority, by byelaw made with the consent of her majesty in council, from time to time to do all or any of the following things within its districts; (that is to say,) [16 & 17 Vict. c. 129, s. 21.] 17 & 18 Vict. c. 104. Powers of pilotage authorities.

(1.) To determine the qualifications to be required from persons applying to be licensed as pilots, whether in respect of their age, skill, time of service, character, or otherwise: To determine qualifications of pilots:

(2.) To make regulations as to the approval and licensing of pilot boats and ships, with power to establish and regulate companies for the support of such boats and ships, and for a participation in the profits made thereby; the companies so established to be exempt from the provisions of the Act passed in the session holden in the seventh and eighth years of the reign of her present majesty, chapter one hundred and ten, intituled "An Act for the Registration, Incorporation, and Regulation of Joint Stock Companies:" To make regulations as to pilot boats:

(3.) To make regulations for the government of the pilots licensed by them, and for insuring their good conduct, and their constant attendance to and effectual performance of their duty, either at sea or on shore: To make regulations for the government of pilots:

(4.) To fix the terms and conditions of granting licences to pilots and apprentices, and of granting such pilotage certificates as hereinafter mentioned to masters and mates, and to make regulations for punishing any breach of such regulations as aforesaid committed by such pilots or apprentices or by such masters and mates by the withdrawal or suspension of their licences or certificates, as the case may be, or by the infliction of penalties to be recoverable summarily before two justices, so that no such penalty be made to exceed the sum of twenty pounds, and so that every such penalty be capable of reduction at the discretion of the justices by whom the same is inflicted: To make regulations as to licences and certificates:

(5.) To fix the rates and prices and other remuneration to be demanded and received for the time being by pilots licensed by such authority, or to alter the mode of remunerating such pilots, in such manner as such authority may, with such consent as aforesaid, think fit, so that no higher rates or prices be demanded or received from the masters or owners of ships in the case of the trinity house than the rates and prices specified in the table marked U. in the schedule hereto; and in the case of all other pilotage authorities, than the rates and prices which might have been lawfully fixed or demanded by such pilotage authorities respectively under any Act of parliament, charter, or custom in force immediately before the commencement of this Act: To alter and reduce rates of pilotage.

(6.) To make such arrangements with any other pilotage authority for altering the limits of their respective districts, and for extending the powers of such other authority or the privileges of the pilots licensed by such authority or any of them to all or any part of its own district, or for limiting its own powers or the privileges of its own pilots or any of them, or for sharing the said last-mentioned powers and privileges with the said other authority and the pilots licensed by it, or for delegating or surrendering such powers and privileges or any of them to any other pilotage authority either already constituted or to be constituted by agreement between such authorities, and to the pilots licensed by it, as may appear to such pilotage authorities to be desirable for the purpose of facilitating navigation or of reducing charges on shipping: To arrange the limits of pilotage districts:

(7.) To establish, either alone or in conjunction with any other pilotage authority or authorities, funds for the relief of superannuated or infirm qualified pilots, or of their wives, widows, or children, or to make any new regulations with respect to any funds already applicable to the above purposes or any of them, with power to determine the amount, manner, time, and persons (such persons to be in the service of such pilotage authority) to and in which and by and upon whom the contributions in support of such existing or future funds may be made or levied; and further, to declare the persons or class of persons (such persons or class of persons being confined to men in the service of such pilotage authority, their wives, widows or children) entitled to participate in the benefits of such existing or future funds, and the terms and conditions upon which they are to be so entitled: To establish funds for superannuated pilots:

(8.) To repeal or alter any byelaw made in exercise of the above powers, and to make a new byelaw or new byelaws in lieu thereof: To alter byelaws.

And every byelaw duly made by any pilotage authority in exercise of the powers hereby given to it, shall be valid and effectual, notwithstanding any Act of parliament, rule, law, or custom to the contrary.

334. Every byelaw proposed to be enacted by any pilotage authority in pursuance of the foregoing powers shall, before it is submitted to her majesty in council for her assent, be published in such manner as may from time to time be prescribed by the board of trade. Publication of byelaws.

335. Every order in council made in pursuance of the provisions hereinbefore contained shall be laid before both houses of parliament as soon as possible after the making thereof. [16 & 17 Vict. c. 129, s. 24.] Byelaws to be laid before parliament.

336. If the greater part in number of the qualified pilots belonging to any port, or the local marine board, where there is one, or at any port where there is no local marine Power of appeal to

[1" & 18 Vict c 104 board of trade [6 Geo 4 c 125 s 9 16 & 17 Vict c 129 s 6]

board, if any masters, owners, or insurers of ships, being not less than six in number, consider themselves aggrieved by any regulation or byelaw in force when this Act comes into operation or hereafter made under some authority other than the provisions of this Act, or by any defect or omission therein they may appeal to the board of trade, and the said board may thereupon revoke or alter any such regulation or byelaw or may make additions thereto in such manner as having regard to the interests of the persons concerned may appear to be just and expedient, and every order so made shall be conclusive in the matter

Returns by Pilotage Authorities (General)

Pilotage authorities to make full returns to the board of trade of certain particulars connected with pilotage [16 & 17 Vict. c 129, s 18.]

337 Every pilotage authority shall deliver periodically to the board of trade, in such form and at such times as such board requires returns of the following particulars with regard to pilotage within the port or district under the jurisdiction of such authority, that is to say,

(1) All byelaws, regulations, orders, or ordinances relating to pilots or pilotage for the time being in force

(2) The names and ages of all pilots or apprentices licensed or authorised to act by such authority, and of all pilots or apprentices acting either mediately or immediately under such authority, whether so licensed or authorised or not

(3) The service for which each pilot or apprentice is licensed

(4) The rates of pilotage for the time being in force including therein the rates and descriptions of all charges upon shipping made for or in respect of pilots or pilotage

(5) The total amount received for pilotage, distinguishing the several amounts received from British ships and from foreign ships respectively, and the several amounts received in respect of different classes of ships paying different rates of pilotage according to the scale of such rates for the time being in force, and the several amounts received for the several classes of service rendered by pilots, and also the amount paid by such ships (if any) as have before reaching the outer limits of pilotage water if outward bound, or their port of destination if inward bound, to take or pay for two or more pilots, whether licensed by the same or by different pilotage authorities together with the numbers of the ships of each of the several classes paying such several amounts as aforesaid

(6) The receipt and expenditure of all moneys received by or on behalf of such authority, or by or on behalf of any sub commissioners appointed by them, in respect of pilots or pilotage

And shall allow the board of trade, or any persons appointed by such board for the purpose, to inspect any books or documents in its possession relating to the several matters hereinbefore required to be returned to the board of trade

If local authorities fail to give the required returns their jurisdiction may be transferred to the trinity house [Id s 19]

338 If any of such pilotage authorities as aforesaid (other than the trinity house or sub commissioners of pilotage appointed by it, as hereinafter mentioned) fail to deliver to the board of trade the periodical returns hereinbefore required within one year of such time as may be fixed by such board for the purpose, or if any of such authorities do not allow the said board, or any persons who may be appointed by it for the purpose, to inspect any books or documents in their possession relating to the matters herein before required to be returned by them, it shall be lawful for her majesty, by and with the advice of her privy council to direct that all the rights and powers of such authorities in respect of pilotage shall cease or be suspended during such time as her majesty directs and thereupon the trinity house shall thereafter, or during such time as such suspension may continue, have and exercise the same powers of appointing sub commissioners of pilotage, and of licensing pilots, and of establishing and altering rates of pilotage, within the district within which the authority so making default has previously appointed or licensed pilots, as it is by this Act authorised to exercise in any district for which no particular provision is made by any Act of parliament or charter for the appointment of pilots, and shall also during such time as aforesaid have and exercise the same rights, title, and powers to and in respect of any pilotage funds or other pilotage property which the said pilotage authorities would or might have had or exercised if not so suspended as aforesaid

Returns to be laid before parliament [Id s 20]

339 The board of trade shall without delay cause the several returns hereinbefore required to be made to such board to be laid before both houses of parliament

Licensing of Masters and Mates (General)

Master or mate if examined and passed to receive a pilotage certificate enabling him to pilot particular ships [1 & 18 Vict c 88 s 1]

340 The master or mate of any ship may, upon giving due notice, and consenting to pay the usual expenses, apply to any pilotage authority to be examined as to his capacity to pilot the ship of which he is master or mate, or any one or more ships belonging to the same owner, within any part of the district over which such pilotage authority has jurisdiction, and such master or mate shall, if such authority thinks fit thereupon be examined and if found competent a pilotage certificate shall be granted to him containing his name, a specification of the ship or ships in respect of which he has been examined, and a description of the limits within which he is to pilot the same, such

limits to be within such jurisdiction as aforesaid; and such certificate shall enable the person therein named to pilot the ship or any of the ships therein specified, of which he is acting as master or mate at the time, but no other, within the limits therein described, without incurring any penalties for the non-employment of a qualified pilot (*a*). 17 & 18 Vict. c. 104.

341. The pilotage certificate so granted shall not be in force for more than one year, unless the same is renewed, which may from time to time be done by an indorsement under the hand of the secretary or other proper officer of the authority by whom such certificate was granted. Renewal of pilotage certificate. [12 & 13 Vict. c. 88, s. 1.]

342. If upon complaint to the board of trade it appear to such board that any such authority as aforesaid has without reasonable cause refused or neglected to examine any master or mate who has applied to them for the purpose, or after he has passed the examination has without reasonable cause refused or neglected to grant him a pilotage certificate, or that the examination of any such master or mate has been unfairly or improperly conducted, or that any terms imposed or sought to be imposed by such authority are unfair or improper, or that any pilotage certificate granted by such authority has been improperly withdrawn, the board of trade may, if in its judgment the circumstances appear to require it, appoint persons to examine such master or mate, and if he is found competent may grant him a pilotage certificate, containing the same particulars as would have been inserted in any certificate granted by such pilotage authorities as aforesaid, upon such terms and conditions and subject to such regulations as such board may think fit; and such certificate shall have the same effect as if it had been granted by such pilotage authority as aforesaid; and such certificate shall be in force for one year, and may be renewed from year to year, either by the said authorities in manner hereinbefore mentioned, or by the board of trade, if such board thinks fit, such renewal to be indorsed on the said certificate, either by such person as the board of trade may appoint for the purpose, or in manner hereinbefore provided as to certificates granted by any pilotage authority. Board of trade to examine and grant pilotage certificates to masters, on pilotage authorities refusing to do so. [16 & 17 Vict. c. 129, s. 14.]

343. All masters or mates to or for whom any such pilotage certificates as aforesaid are granted or renewed by any pilotage authority shall pay to such authority, or as it directs, such fees upon their respective certificates and upon the renewals thereof, as are from time to time fixed for that purpose by such authority, with the consent of the board of trade; and all masters and mates to or for whom any such certificates are granted or renewed by the board of trade shall pay to such board, or as it directs, such fees upon their certificates and upon the renewals thereof as may be fixed by such board, so nevertheless that in the case of pilotage certificates granted or renewed by the board of trade such fees shall in no case be less than the fees payable by the qualified pilots in the same district upon their licences and the renewal thereof; and such fees shall in the case of certificates and renewals granted by pilotage authorities be applicable either to paying the expense of the examinations, or any other general expenses connected with pilotage incurred by such authorities, or to the pilots' superannuation fund of the district (if any), or otherwise for the benefit of the pilots appointed by such authorities, as such authorities think fit; and such fees shall in the case of pilotage certificates granted or renewed by the board of trade be applicable to the expense of the examinations, and the surplus (if any) shall be applied for the benefit of the qualified pilots of the port or district to which such certificates apply, in such manner as such board thinks fit. Fees to be paid upon such certificates and the renewals thereof. [Id. s. 15.]

344. If at any time it appears to the board of trade or to any pilotage authority that any master or mate to whom a pilotage certificate has been granted by such board or authority has been guilty of misconduct, or has shown himself incompetent to pilot his ship, such board or such authority (as the case may be) may thereupon withdraw his certificate, and such certificate shall thenceforth cease to be of any effect whatever. Power to withdraw pilotage certificates. [Id. s. 16.]

Pilot Boats (General).

345. All boats and ships regularly employed in the pilotage service of any district shall be approved and licensed by the pilotage authority of such district, who may, at their discretion, appoint and remove the masters of such boats and ships. [6 Geo. 4, c. 125, s. 31.] Pilot boats how to be provided.

346. Every pilot boat or ship shall be distinguished by the following characteristics; (that is to say,) Characteristics of pilot boats. [Id. s. 32; 3 & 4 Vict. c. 68, s. 2.]

(1.) A black colour painted or tarred outside, with the exception of such names and numbers as are hereinafter mentioned; or such other distinguishing colour or colours as the pilotage authority of the district, with the consent of the board of trade, directs:

(2.) On her stern the name of the owner thereof and the port to which she belongs

---

(*a*) A certificate, according to this section, purporting to enable a master to pilot his vessel within certain waters, was signed and sealed by the pilotage authority, and was lying in the office to be called for by the master; but he had not applied for it, and was ignorant that it would be given him on application:—it was held, that the certificate was not granted to the master, nor possessed by him within this and 353rd sects., so as to enable him to pilot his vessel in the specified waters (*The Killarney*, 30 L. J. Adm. 41, 5 L. T. N. S. 21).

17 & 18 Vict c 104

painted in white letters at least one inch broad and three inches long, and on each bow the number of the licence of such boat or ship

(3) When afloat a flag at the mast head or on a spirit or staff or in some other equally conspicuous situation such flag to be of large dimensions compared with the size of the boat or ship carrying the same, and to be of two colours, the upper horizontal half white, and the lower horizontal half red

And it shall be the duty of the master of such boat or ship to attend to the following particulars first that the boat or ship possesses all the above characteristics, secondly, that the aforesaid flag is kept clean and distinct, so as to be easily discerned at a proper distance and lastly that the names and numbers before mentioned are not at any time concealed and if default is made in any of the above particulars he shall incur a penalty not exceeding twenty pounds for each default

Qualified pilot to display flag though not in pilot boat. [6 Geo 4, c 125 s 32]

347 Whenever any qualified pilot is carried off in a boat or ship not in the pilotage service he shall exhibit a flag of the above description, in order to show that such boat or ship has a qualified pilot on board and if he fails to do so, without reasonable cause, he shall incur a penalty not exceeding fifty pounds

Penalty on ordinary boat displaying pilot flag [Id s 33]

348 If any boat or ship, not having a licensed pilot on board displays a flag of the above mentioned description there shall be incurred for every such offence a penalty not exceeding fifty pounds, to be recovered from the owner or from the master of such boat or ship

Pilot Licences (General)

Registry of pilots licence [Id ss 65, 66]

349 Every qualified pilot on his appointment shall receive a licence, containing his name and usual place of abode, together with a description of his person, and a specification of the limits within which he is qualified to act And it shall be the duty of the principal officer of customs at the place at or nearest to which any qualified pilot may reside, upon his request, to register his licence and no qualified pilot shall be entitled to act as such until his licence is so registered, and any qualified pilot acting beyond the limits for which he is qualified by his licence shall be considered as an unqualified pilot

Copies of regulations to be furnished to qualified pilot and to be produced by him

350 Every qualified pilot shall, upon receiving his licence, be furnished with a copy of such part of this Act as relates to pilotage, together with a copy of the rates, byelaws, and regulations established within the district for which he is licensed, and he shall produce such copies to the master of any ship, or other person employing him, when required to do so, under a penalty in case of default not exceeding five pounds.

Qualified pilot to produce licence to employer [Id s 66]

351. Every qualified pilot, while acting in that capacity, shall be provided with his licence, and produce the same to every person by whom he is employed, or to whom he tenders his services as pilot and if he refuses to do so at the request of such person, he shall incur for each offence a penalty not exceeding ten pounds, and shall be subject to suspension or dismissal by the pilotage authority by whom he is licensed

Licences to be delivered up when required, and returned on death (a) [Id. s 67]

352 Every qualified pilot, when required by the pilotage authority who appointed him, shall produce or deliver up his licence, and on the death of any qualified pilot the person into whose hands his licence happens to fall shall without delay transmit the same to the pilotage authority who appointed the deceased pilot and any pilot or person failing to comply with the provisions of this section shall incur a penalty not exceeding ten pounds

Compulsory Pilotage (General)

Compulsory pilotage in what mode to be enforced (b)

353 Subject to any alteration to be made by any pilotage authority in pursuance of the power hereinbefore in that behalf given, the employment of pilots shall continue to be compulsory (c) in all districts in which the same was by law compulsory immediately before the time when this Act comes into operation, and all exemptions from compulsory pilotage then existing within such districts shall also continue in force (d), and every master of any unexempted ship navigating within any such district who, after a qualified

---

(a) The pilotage authority need not assign any reason for requiring the licence to be delivered up (*Henry* v *The Newcastle Trinity House*, 8 E & B 723 27 L J M C 57)

(b) See *The Killarney*, 3 L J P M & A C 41, ante, p 319, n. (a)

The exemptions from compulsory pilotage given by 6 Geo 4, c 125, s 59, extended by order in council the 18th of February, 1854, are continued by this section A British ship, therefore, trading between Boulogne and the Baltic, whether carrying passengers or not, is not bound to employ a licensed pilot in the Thames (*The Earl of Auckland*, 30 L J Adm 121 Affirmed on appeal, 10 W R 124—P C)

Where pilotage is not compulsory, a licensed pilot, if taken, is the servant of the owners, his presence does not, therefore, free them from liability (*Ib*)

(c) As to the meaning of the word compulsory, see *The Maria*, 1 W Rob 95

(d) The exemptions retained by this section are not limited by the effect of sections 376, 379 And the exemption given by the 6 Geo 4, c 125,

pilot has offered to take charge of such ship or has made a signal for that purpose, either himself pilots such ship without possessing a pilotage certificate enabling him so to do, or employs or continues to employ an unqualified person to pilot her, and every master of any exempted ship navigating within any such district who after a qualified pilot has offered to take charge of such ship or has made a signal for that purpose employs or continues to employ an unqualified pilot to pilot her, shall for every such offence incur a penalty of double the amount of pilotage demandable for the conduct of such ship. 17 & 18 Vict. c. 104.

354. The master of every ship carrying passengers between any place situate in the united kingdom, or the islands of Guernsey, Jersey, Sark, Alderney, and Man, and any other place so situate, when navigating upon any waters situate within the limits of any district for which pilots are licensed by any pilotage authority under the provisions of this or of any other Act, or upon any part thereof so situate, shall, unless he or his mate has a pilotage certificate enabling such master or mate to pilot the said ship within such district, granted under the provisions hereinbefore contained, or such certificate as next hereinafter mentioned, being a certificate applicable to such district and to such ship, employ a qualified pilot to pilot his ship; and if he fails so to do he shall for every offence incur a penalty not exceeding one hundred pounds. Home trade passenger ships to employ qualified pilots, unless they have certificated masters or mates (a).

355. Any master or mate of a ship which by the last preceding section is made subject to compulsory pilotage may apply to the board of trade for a certificate, and the board of trade shall thereupon, on satisfactory proof of his having continuously piloted any ship within the limits of any pilotage district or of any part or parts thereof for two years prior to the commencement of this Act, or upon satisfactory proof by examination of his competency, or otherwise as it may deem expedient, cause to be granted to him, or to be indorsed on any certificate of competency or service obtained by him under the third part of this Act, a certificate to the effect that he is authorised to pilot any ship or ships belonging to the same owner, and of a draft of water not greater than such draft as may be specified in the certificate within the limits aforesaid; and the said certificate shall remain in force for such time as the board of trade directs, and shall enable the master or mate therein named to conduct the ship or ships therein specified within the limits therein described to the same extent as if the last preceding section had not been passed, but not further, or otherwise; and every such master or mate shall, upon applying for such certificate or for any renewal thereof, pay to the board of trade or as it directs such fees not exceeding the fees payable on an examination for a master's certificate of competency under the third part of this Act as the board of trade directs; and such fees shall be applied in the same manner in which the fees payable on such last-mentioned examination are made applicable. Certificates, how to be granted to such masters and mates (b).

Rights, Privileges, and Remuneration of Pilots (General).

356. If any boat or ship, having a qualified pilot on board, leads any ship which has not a qualified pilot on board when such last-mentioned ship cannot from particular circumstances be boarded, the pilot so leading such last-mentioned ship shall be entitled to the full pilotage for the distance run as if he had actually been on board and had charge of such ship. Qualified pilot unable to board when entitled to pilotage. [6 Geo. 4, c. 125, s. 34.]

357. No pilot, except under circumstances of unavoidable necessity, shall without his consent be taken to sea or beyond the limits for which he is licensed in any ship whatever; and every pilot so taken under circumstances of unavoidable necessity or without his consent shall be entitled, over and above his pilotage, to the sum of ten shillings and sixpence a day, to be computed from and inclusive of the day on which such ship passes the limit to which he was engaged to pilot her up to and inclusive of the day of his being returned in the said ship to the place where he was taken on board, or up to and inclusive of such day as will allow him, if discharged from the ship, sufficient time to return thereto; and in such last-mentioned case he shall be entitled to his reasonable travelling expenses. Allowance to qualified pilot taken out of his district. [Id. s. 38]

358. Any qualified pilot demanding or receiving, and also any master offering or paying to any pilot, any other rate in respect of pilotage services (c), whether greater or less, than the rate for the time being demandable by law, shall for each offence incur a penalty not exceeding ten pounds. Penalty on qualified pilot receiving or master offering improper rate.

---

s. 59, is still in force, notwithstanding the repeal of that statute by 17 & 18 Vict. c. 120 (*Reg.* v. *Stanton*, 27 L. J. M. C. 105, 8 E. & B. 445; see *The Earl Auckland*, 1 Lush. 187; *The Killarney*, *ib.* 427).

(*a*) This section, making pilotage compulsory upon certain vessels, is not to be restricted by the provision of the 353rd section, that all existing exemptions from compulsory pilotage should continue in force (*The Temora*, 1 Lushington, 17).

An Irish trader (as described by 6 Geo. 4, c. 125, s. 59), therefore, carrying passengers, is compelled to employ a licensed pilot in the river Thames (*Ib.*).

(*b*) A misdescription of the ownership of a vessel will invalidate a pilotage certificate granted under this section (*The Earl of Auckland*, 1 Lush. 164, 387, 30 L. J. Adm. 121).

(*c*) But he may charge extra for other than pilotage services (see *The Hebe*, 2 W. Rob. 246; and *The General Palmer*, 2 Hagg. 176).

17 & 18 Vict. c. 104.

Penalty on making a false declaration as to draught of ship or falsifying marks. [Id s 64]

359. If any master, on being requested by any qualified pilot having the charge of his ship to declare her draught of water, refuses to do so, or himself makes or is privy to any other person making a false declaration to such pilot as to such draught, he shall incur a penalty for every such offence not exceeding double the amount of pilotage which would have been payable to the pilot making such request; and if any master or other person interested in a ship makes or is privy to any other person making any fraudulent alteration in the marks on the stern or stem post of such ship denoting her draught of water, the offender shall incur a penalty not exceeding five hundred pounds.

Power of qualified pilot to supersede unqualified pilot [Id s 70]

360. A qualified pilot may supersede an unqualified pilot, but it shall be lawful for the master to pay to such unqualified pilot a proportionate sum for his services, and to deduct the same from the charge of the qualified pilot; and in case of dispute the pilotage authority by whom the qualified pilot is licensed shall determine the proportionate sums to which each party is entitled.

Penalty on unqualified person acting as pilot. [Ibid.]

361. An unqualified pilot assuming or continuing in the charge of any ship after a qualified pilot has offered to take charge of her, or using a licence which he is not entitled to use for the purpose of making himself appear to be a qualified pilot, shall for each offence incur a penalty not exceeding fifty pounds.

Occasions on which unlicensed persons may act as pilots [Id. s 71]

362. An unqualified pilot may, within any pilotage district, without subjecting himself or his employer to any penalty, take charge of a ship as pilot under the following circumstances; (that is to say,)

When no qualified pilot has offered to take charge of such ship, or made a signal for that purpose; or

When a ship is in distress or under circumstances making it necessary for the master to avail himself of the best assistance which can be found at the time; or

[Id s. 63] For the purpose of changing the moorings of any ship in port, or of taking her into or out of any dock, in cases where such act can be done by an unqualified pilot without infringing the regulations of the port, or any orders which the harbour master is legally empowered to give.

Liability for and recovery of pilotage dues. [Id. s. 44]

363. The following persons shall be liable to pay pilotage dues for any ship for which the services of a qualified pilot are obtained; (that is to say,) the owner or master, or such consignees or agents thereof as have paid or made themselves liable to pay any other charge on account of such ship in the port of her arrival or discharge, as to pilotage inwards, and in the port from which she clears out as to pilotage outwards; and in default of payment such pilotage dues may be recovered in the same manner as penalties (a) of the like amount may be recovered by virtue of this Act; but such recovery shall not take place until a previous demand thereof has been made in writing, and the dues so demanded have remained unpaid for seven days after the time of such demand being made.

Power for consignees to retain pilotage dues paid by them. [Id. s. 45]

364. Every consignee and agent (not being the owner or master) hereby made liable for the payment of pilotage dues in respect of any ship may, out of any moneys in his hands received on account of such ship or belonging to the owner thereof, retain the amount of all dues so paid by him together with any reasonable expenses he may have incurred by reason of such payment or liability.

Offences of Pilots (General).

Penalties on qualified pilot:

365. If any qualified pilot commits any of the following offences; (that is to say,)

exercising certain trades; [Id. s 68]

(1.) Keeps himself, or is interested in keeping by any agent, servant, or other person, any public house or place of public entertainment, or sells or is interested in selling any wine, spirituous liquors, tobacco, or tea;

offending against revenue; [6 Geo 4, c. 125, s. 68.]

(2.) Commits any fraud or other offence against the revenues of customs or excise or the laws relating thereto;

guilty of corrupt practices; [Ibid.]

(3.) Is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, furniture, cargoes, crews, or passengers, or to persons in distress at sea, or by shipwreck, or to their moneys, goods or chattels;

lending licence; [Id. s. 74]

(4.) Lends his licence;

acting when suspended; [Id s. 69]

(5.) Acts as pilot whilst suspended;

acting when drunk; [Id s. 74.]

(6.) Acts as pilot when in a state of intoxication;

unnecessarily causing expense; [Id s. 73]

(7.) Employs or causes to be employed on board any ship of which he has the charge any boat, anchor, cable, or other store, matter, or thing beyond what is necessary for the service of such ship, with the intent to enhance the expenses of pilotage for his own gain or for the gain of any other person;

(a) See sect. 513, post.

(8.) Refuses or wilfully delays, when not prevented by illness or other reasonable cause (a), to take charge of any ship within the limits of his licence upon the signal for a pilot being made by such ship, or upon being required to do so by the master, owner, agent, or consignee thereof, or by any officer of the pilotage authority by whom such pilot is licensed, or by any principal officer of customs; 17 & 18 Vict. c. 104. declining to go off; [Id. s. 72.]

(9.) Unnecessarily cuts or slips or causes to be cut or slipped any cable belonging to any ship; unnecessarily cutting or slipping cable; [Id. s. 74.]

(10.) Refuses, on the request of the master, to conduct the ship of which he has the charge into any port or place into which he is qualified to conduct the same, except on reasonable ground of danger to the ship; refusing to conduct ship into port;

(11.) Quits the ship of which he has the charge, without the consent of the master, before the service for which he was hired has been performed; quitting ship. [Id. ss. 42, 72.]

He shall for each such offence, in addition to any liability for damages at the suit of the person aggrieved, incur a penalty not exceeding one hundred pounds, and be liable to suspension or dismissal by the pilotage authority by whom he is licensed; and every person who procures, abets, or connives, at the commission of any such offence shall likewise, in addition to any such liability for damages as aforesaid, incur a penalty not exceeding one hundred pounds, and, if a qualified pilot, shall be liable to suspension or dismissal by the pilotage authority by whom he is licensed.

366. If any pilot, when in charge of any ship, by wilful breach of duty or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person on board such ship; or if any pilot, by wilful breach of duty or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from danger to life or limb; the pilot so offending shall for each such offence be deemed guilty of a misdemeanor, and, if a qualified pilot, also be liable to suspension and dismissal by the authority by which he is licensed. Penalty on pilot endangering ship, life, or limb. [Id. s. 74; 14 & 15 Vict. c. 21, s. 90.]

367. If any person, by wilful misrepresentation of circumstances upon which the safety of a ship may depend, obtains or endeavours to obtain the charge of such ship, such person, and every other person, procuring, abetting, or conniving at the commission of such offence, shall, in addition to any liability for damages at the suit of the party aggrieved, incur a penalty not exceeding one hundred pounds, and, if the offender is a qualified pilot, he shall also be liable to suspension or dismissal by the pilotage authority by which he is licensed. Penalty on pilot in charge of a ship doing her wilful injury. [6 Geo. 4, c. 125, s. 7.]

General Power of Trinity House.

368. The trinity house may, in exercise of the general power hereinbefore given to all pilotage authorities of doing certain things in relation to pilotage matters, alter such of the provisions hereinafter contained as are expressed to be subject to alteration by them in the same manner and to the same extent as they might have altered the same if such provisions had been contained in any previous Act of parliament instead of in this Act. Power of trinity house to alter regulations.

Sub-Commissioners and Pilots (Trinity House).

369. The trinity house shall continue to appoint sub-commissioners, not being more than five nor less than three in number, for the purpose of examining pilots in all districts in which they have been used to make such appointments, and may, with the consent of her majesty in council, but not otherwise, appoint like sub-commissioners for any other district in which no particular provision is made by any Act of parliament or charter for the appointment of pilots; but no pilotage district already under the authority of any sub-commissioners appointed by the trinity house shall be extended, except with such consent as aforesaid, and no sub-commissioners so appointed shall be deemed to be pilotage authorities within the meaning of this Act. Power of trinity house to appoint sub-commissioners. [Id. s. 5; 16 & 17 Vict. c. 129, s. 22.]

370. The trinity house shall continue, after due examination by themselves or their sub-commissioners, to appoint and license under their common seal pilots for the purpose of conducting ships within the limits following or any portion of such limits; (that is to say,) Trinity house to license pilots to act within certain limits [6 Geo. 4, c. 125, s. 2.]

(1.) "The London district," comprising the waters of the Thames and Medway as high as London bridge and Rochester bridge respectively, and also the seas and channels leading thereto or therefrom as far as Orfordness to the north and Dungeness to the south; so nevertheless, that no pilot shall be hereafter licensed to conduct ships both above and below Gravesend:

(2.) "The English channel district," comprising the seas between Dungeness and the Isle of Wight:

(3.) "The trinity house outport districts," comprising any pilotage district for the appointment of pilots within which no particular provision is made by any Act of parliament or charter.

(a) See *The Frederick*, 1 W. Rob. 16.

17 & 18 Vict. c. 104.

Publication of notice of licences of pilots by the trinity house of pilots [6 Geo. 4, c. 125, s. 7]

371. Subject to any alteration to be made by the trinity house, the names of all pilots licensed by the trinity house shall be published in manner following; (that is to say,)

(1.) The trinity house shall at their house in London fix up a notice specifying the name and usual place of abode of every pilot so licensed, and the limits within which he is licensed to act:

(2.) The trinity house shall transmit a copy of such notice to the commissioners of customs in London, and to the principal officers of customs resident at all ports within the limits for which such pilot is licensed; and such notice shall be posted up by the commissioners at the custom house in London, and by such officers at the custom houses of the ports at which they are respectively resident.

Bonds to be given. [Id. s. 27.]

372. Subject to any alteration to be made by the trinity house, every trinity house pilot on his appointment shall execute a bond for one hundred pounds conditioned for the due observance on his part of the regulations and byelaws of the trinity house, such bond to be free from stamp duty, and from any other charge except the actual expense for preparing the same.

Liability limited. [Id. s. 57.]

373. No qualified pilot who has executed such bond as is hereinbefore mentioned shall be liable for neglect or want of skill beyond its penalty and the amount of pilotage payable to him in respect of the voyage on which he is engaged.

Continuance and renewal of licences. [Id. s. 10.]

374. Subject to any alteration to be made by the trinity house, no licence granted by them shall continue in force beyond the thirty-first day of January next ensuing the date of such licence, but the same may, upon the application of the pilot holding such licence, be renewed on such thirty-first day of January in every year, or any subsequent day, by indorsement under the hand of the secretary of the trinity house, or such other person as may be appointed by them for that purpose.

Power to revoke and suspend licences. [Id. s. 29.]

375. The trinity house shall have power to revoke or suspend the licence of any pilot appointed by them, in such manner and at such time as they think fit.

Compulsory Pilotage (Trinity House).

Penalty on masters of ships employing unlicensed pilots, or acting as pilot [Id. s. 58.]

376. Subject to any alteration to be made by the trinity house, and to the exemptions hereinafter contained (*a*), the pilotage districts of the trinity house within which the employment of pilots is compulsory are the London district, and the trinity house outport districts, as hereinbefore defined; and the master of every ship navigating within any part of such district or districts, who, after a qualified pilot has offered to take charge of such ship, or has made a signal for that purpose, either himself pilots such ship without possessing a certificate enabling him so to do, or employs or continues to employ an unqualified person to pilot her, shall for every such offence, in addition to the penalty hereinbefore specified, if the trinity house certify in writing under their common seal that the prosecutor is to be at liberty to proceed for the recovery of such additional penalty, incur an additional penalty not exceeding five pounds for every fifty tons burden of such ship.

Trinity house to make regulations for a constant supply of qualified pilots at Dungeness. [16 & 17 Vict. c. 129, s. 6.]

377. Subject to any alteration to be made by the trinity house, a sufficient number of qualified pilots shall always be ready to take charge of ships coming from the westward past Dungeness; and the trinity house shall, by byelaw to be made in the same manner as other byelaws made under the powers herein contained, make such regulations with respect to the pilots under their control as may be necessary in order to provide for an unintermitted supply of qualified pilots for such ships, and to insure their constant attendance upon and due performance of their duty both by night and day, whether by cruising between the South Foreland and Dungeness, or by going off from shore upon signals made for the purpose, or by both of such means, or by any other means, and whether in rotation or otherwise, as the trinity house think fit.

Ship coming past Dungeness not having pilot on board to take the first qualified pilot who offers. [Id. s. 7]

378. Subject to any alteration to be made by the trinity house, every master of any ship coming from the westward, and bound to any place in the rivers Thames and Medway (unless she has a qualified pilot on board or is exempted from compulsory pilotage), shall, on the arrival of such ship off Dungeness, and thenceforth until she has passed the south buoy of the brake, or a line to be drawn from Sandown castle to the said buoy, or until a qualified pilot has come on board, display and keep flying the usual signal for a pilot; and if any qualified pilot is within hail, or is approaching and within half a mile, and has the proper distinguishing flag flying in his boat, such master shall, by heaving-to in proper time or shortening sail, or by any practicable means consistent with the safety of his ship, facilitate such pilot getting on board, and shall give the charge of piloting his ship to such pilot; or if there are two or more of such pilots offering at the same time, to such one of them as may, according to the regulations for the time being in force, be entitled or required to take such charge; and if any such master fails to display or keep flying the usual signal for a pilot in manner hereinbefore required, or to facilitate any such qualified pilot as aforesaid getting on board as hereinbefore required, or to give the charge of piloting his ship to such pilot as hereinbefore mentioned in that behalf, he shall incur a penalty not exceeding double the sum which might have been

Penalty on masters failing to display usual signal for pilot.

(*a*) See ante, p. 320, n. (*b*).

demanded for the pilotage of his ship, such penalty to be paid to the trinity house, and to be carried to the account of the trinity house pilot fund. 17 & 18 Vict c. 104.

379. The following ships, when not carrying passengers, shall be exempted from compulsory pilotage in the London district, and in the trinity house outport districts; (that is to say,) Exemptions from compulsory pilotage (a).

(1.) Ships employed in the coasting trade of the united kingdom:
(2.) Ships of not more than sixty tons burden:
(3.) Ships trading to Boulogne or to any place in Europe north of Boulogne (b):
(4.) Ships from Guernsey, Jersey, Alderney, Sark, or Man, which are wholly laden with stone being the produce of those islands:
(5.) Ships navigating within the limits of the port to which they belong (c):
(6.) Ships passing through the limits of any pilotage district on their voyages between two places both situate out of such limits, and not being bound to any place within such limits nor anchoring therein.

Rates of Pilotage (Trinity House).

380. Subject to any alteration to be made by the trinity house, there shall continue to be paid to all trinity house pilots, in respect of their pilotage services, such dues as are immediately before the time when this Act comes into operation payable to them in respect of such services. Rates of pilotage. [6 Geo. 4, c. 125, ss. 25, 26.]

381. Subject to any alteration to be made by the trinity house, and notwithstanding anything hereinbefore contained, there shall be paid in respect of all foreign ships trading to and from the port of London, and not exempted from pilotage, the following pilotage dues; that is to say, as to ships inwards, the full amount of dues for the distance piloted, and as to ships outwards, the full amount of dues for the distance required by law; and payment of such pilotage dues shall be made to the collector of customs in the port of London by some one or more of the following persons, that is to say, the master or other person having the charge of such ship, or the consignees or agents thereof who have paid or made themselves liable to pay any other charge for such ship in the said port of London; and such pilotage may be recovered in the same manner as other pilotage dues are hereinbefore declared to be recoverable. Payment of pilotage dues from foreign ships trading to and from the port of London.

382. Subject to any alteration to be made by the trinity house, the said collector of customs shall, on receiving any pilotage dues in respect of foreign ships, give to the person paying the same a receipt in writing; and no officer of customs in the port of London shall grant a clearance or transire for any such foreign ship as aforesaid without the production of such receipt; and if any such ship attempts to go to sea without such clearance or transire, any such officer may detain her until the said receipt is produced. Certificate of payment of pilotage to be given.

383. Subject to any alteration to be made by the trinity house, the said collector shall pay over to the trinity house the pilotage dues received by him in respect of any foreign ship; and the trinity house shall apply the same in manner following: Application of such moneys by trinity house.

In the first place, in paying to any pilot who may bring sufficient proof of his having had the charge of such ship such dues as would have been payable to him for such pilotage service if the ship had been a British ship, after deducting therefrom the poundage due to the trinity house:

In the second place, in paying to any unlicensed person who may bring sufficient proof of his having, in the absence of a licensed pilot, had the charge of such ship, such amount as the trinity house may think proper, not exceeding the amount which would under similar circumstances have been payable to a licensed pilot, after deducting poundage:

And, lastly, shall pay over to the trinity house pilots fund the residue, together with all poundage deducted as aforesaid.

384. Whenever any difference arises between the master and the qualified pilot of any ship trading to or from the port of London as to her draught of water, the trinity house shall upon application by either party, made, in case of a ship inward-bound, within twelve hours after her arrival or at some time before she begins to discharge her cargo, and in the case of a ship outward-bound before she quits her moorings, appoint some proper officer who shall measure the ship, and settle the difference accordingly: and there shall be paid to the officer measuring such ship, by the party against whom he decides, the following sums; (that is to say,) one guinea if the ship be below and half a guinea if the ship be above the entrance of the London docks at Wapping. Settlement of difference as to draught of ship. [Id. s. 50]

(a) See ante, p. 320, n. (b).

(b) See *The Wesley*, 1 Lush., 268.

(c) See *The Stettin*, 31 L. J. P. & M. 208.

This section does not limit the exemptions contained in sect. 59 of 6 Geo. 4, c. 125, and continued by sect. 353, ante, p. 320; and a conviction of the master of a ship carrying passengers, under this section, for refusing the services of a duly qualified pilot at Gravesend on a voyage outward to the Baltic, was held to be wrong, the ship being exempt from compulsory pilotage by sect. 353 (*Stanton* v. *Banks*, 8 E. & B 445, 27 L. J. M. C. 105).

17 & 18 Vict c. 104

Pilot Fund (Trinity House).

Payments to be made to the pilot fund [Id s. 4.]

385. Subject to any alteration to be made by the trinity house, there shall continue to be paid to them, and carried over to the trinity house pilot fund, the sums of money following; (that is to say,)

(1.) A poundage of sixpence in the pound upon the pilotage earnings of all pilots licensed by the trinity house:

(2.) A sum of three pounds three shillings to be paid on the 1st day of January in every year by every person licensed by the trinity house to act as pilot in any district not under the superintendence of sub-commissioners, or in any part of such district:

And any qualified pilot giving a false account of his earnings, or making default in payment of any sum due from him under this section, shall forfeit double the amount payable, and shall further be liable, at the discretion of the trinity house, to suspension or dismissal.

Application to fund [Id s. 52: 16 & 17 Vict. c. 129, s. 13.]

386. Subject to any prior charges that may be subsisting thereon by virtue of any Act or Acts of parliament or otherwise, the said trinity house pilot fund shall be chargeable in the first instance with such expenses as the trinity house may duly incur in performance of their duties in respect of pilots and pilotage, and after payment thereof shall, subject to any alteration to be made by the trinity house, be administered by the trinity house for the benefit of such pilots licensed by them after the 1st day of October, 1853, as are incapacitated for the performance of their duty by reason of age, infirmity, or accident, or of the widows and children of pilots so licensed, or of such incapacitated pilots only.

Appointment of Sub-Commissioners by Trinity Houses of Hull and Newcastle.

Power to trinity houses of Hull and Newcastle to appoint sub-commissioners. [6 Geo 4, c. 125, s 8: 16 & 17 Vict c. 129, s. 22.]

387. The two corporations of the trinity houses of the ports of Hull and Newcastle shall continue to appoint sub-commissioners, not being more than seven nor less than three in number, for the purpose of examining pilots in all districts in which they have been used to make such appointments, and may, with the consent of her majesty in council, but not otherwise, appoint like sub-commissioners for any other district situate within their respective jurisdictions; but no pilotage district already under the authority of any sub-commissioners appointed by either of the said corporations shall be extended, except with such consent as aforesaid; and no sub-commissioners appointed or to be appointed by the trinity houses of Hull and Newcastle shall be deemed to be pilotage authorities within the meaning of this Act, nor shall anything in this Act contained be held to confer upon the commissioners for regulating the pilotage of the port of Kingston-upon-Hull and of the river Humber any jurisdiction of a different nature or character from that which they have heretofore exercised.

Saving of Owners' and Masters' Rights.

Limitation of liability of owner where pilotage is compulsory [6 Geo. 4, c. 125, s. 63.]

388. No owner or master of any ship (*a*) shall be answerable to any person whatever for any loss or damage occasioned by the fault or incapacity of any qualified pilot acting in charge of such ship, within any district where the employment of such pilot is compulsory by law (*b*).

PART VI. (*c*).

LIGHTHOUSES.

Management of Lighthouses.

Management of lighthouses,

389. Subject to the provisions hereinafter contained, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by

---

(*a*) This does not apply to the owner of cargo (*The Milan*, 1 Lush. 388).

(*b*) Unless there be negligence in the master or crew (*The Mobile*, 1 Swab. 127).

This section protects the owners from damage when occasioned by the sole fault or incapacity of the pilot (*North German Lloyd's* v. *Elder*, *The Schwalbe*, 14 Moore, P. C. C. 241, 1 Lush. 239).

This section applies to foreign vessels in British waters (*The Annapolis*, Lush. 295).

A French vessel upon the Thames took on board a pilot, and, as none of her crew understood English, a waterman took the wheel. The waterman put her helm up, instead of luffing, as the pilot ordered, whereby a barge was run into and damaged. It was held, that the pilot was not answerable for the waterman's incapacity or fault; and that this section should be construed strictly (*The General De Caen*, 1 Swab. 9).

When the master or mate of a vessel is duly licensed under this Act, so as to render it unnecessary for him to take a pilot on board, the employment of such pilot does not bring his owners within the immunity of this section (*The Killarney*, 30 L. J. P. M. & A. C.).

(*c*) This part is amended by 18 & 19 Vict. c. 91, post, and 25 & 26 Vict. c. 63, s. 48, post.

law or usage authority over local lighthouses, buoys, or beacons, hereinafter termed "local authorities," the superintendence and management of all lighthouses, buoys, and beacons shall be vested in the following bodies; (that is to say,) 17 & 18 Vict. c. 104.

In England and Wales and the islands of Jersey, Guernsey, Sark, and Alderney, and the adjacent seas and islands, and in Heligoland and Gibraltar, in the trinity house:

In Scotland and the adjacent seas and islands, and in the isle of Man, in the commissioners of northern lighthouses hereinafter mentioned:

In Ireland and the adjacent seas and islands, in the port of Dublin corporation:

And, subject to the provisions hereinafter contained, the said trinity house commissioners, and corporation (hereinafter termed general lighthouse authorities) shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same. 1 & 2 Vict. c. 60.

Buoys, and beacons to be in trinity house, commissioners of northern lighthouses, and port of Dublin corporation. [8 Eliz. c. 13; 26 Geo. 3. c. 101; 52 Geo. 3. c. 115; 6 & 7 W. 4, c. 79; 1 & 2 Vict. c. 60.]

390. The persons holding the following offices shall be a body corporate under the name of the commissioners of northern lighthouses; (that is to say,)

(1.) The lord advocate and the solicitor general for Scotland;
(2.) The lords provosts of Edinburgh and Glasgow, and the provosts of the cities of Aberdeen, Inverness, and Campbeltown;
(3.) The eldest bailies of Edinburgh and Glasgow;
(4.) The sheriffs of the counties of Edinburgh, Lanark, Renfrew, Bute, Argyle, Inverness, Ross, Orkney, Caithness, Aberdeen, Ayr, Fife, Forfar, Wigton, Sutherland, Kincardine, Kircudbright, and Elgin:

And shall have a common seal; and any five of such commissioners shall constitute a quorum, and shall have power to do all such matters and things as might be done by the whole body of commissioners.

Incorporation of commissioners of northern lighthouses. [26 Geo. 3, c. 101, s. 1.]

391. In addition to the persons above mentioned, it shall be lawful for the said commissioners at any time after this Act comes into operation to elect the provost or chief magistrate of any royal or parliamentary burgh on or near any part of the coasts of Scotland and the sheriff of any county abutting on such coasts.

Power to elect certain new members.

392. The trinity house, their engineers, workmen, and servants, may at all times enter any lighthouses within the jurisdiction of the said commissioners or corporation to view the condition thereof or otherwise for the purposes of this Act.

Trinity house may inspect lighthouses in Scotland and Ireland. [6 & 7 W. 4, c. 79, s. 44.]

393. The board of trade may, upon complaint to the effect that any lighthouse, buoy, or beacon under the management of any of the said general lighthouse authorities, or any work connected therewith, is inefficient or improperly managed or unnecessary, authorise persons to inspect the same; and every person so authorised may inspect the same accordingly, and make such inquiries in respect thereof, and of the management thereof, as he may think fit; and all officers and others having the care of such lighthouses, buoys, or beacons or concerned in the management thereof, shall furnish all such information and explanations in relation thereto as he may require: and the said general lighthouse authorities and their respective officers shall at all times give to the board of trade all such returns, explanations or information in relation to the lighthouses, buoys, or beacons within their jurisdiction and the management thereof, as such board may from time to time require.

Board of trade may appoint persons to inspect lighthouses, &c. [16 & 17 Vict. c. 131, s. 20.]

394. Each of the said general lighthouse authorities, upon giving due notice of their intention, shall have power, with the sanction of the board of trade, to compel any local authority having jurisdiction in the matter of lighthouses, buoys, or beacons at any place situate within the jurisdiction of such general lighthouse authority, to lay down buoys, or to remove or discontinue any existing lighthouse or beacon, or to make any variation in the character of any lighthouse or in the mode of exhibiting lights therein; and no such local authority as aforesaid shall erect any new lighthouse, or remove or discontinue any lighthouse, or vary the character of any lighthouse or the mode of exhibiting lights therein, without the sanction of the general lighthouse authority within whose jurisdiction the same is situate.

Power to general lighthouse authorities to control local authorities. [6 & 7 W. 4, c. 79, s. 38; 10 & 11 Vict. c. 27, s. 77.]

395. If any local authority having power to erect, maintain, or place any local lighthouse, buoy, or beacon at any place within the jurisdiction of one of the said general lighthouse authorities fails so to do, or fails to obey any direction given by such authority under the last preceding section, her majesty may, upon application from such general lighthouse authority, by order in council direct that such power as aforesaid shall be transferred to such last-mentioned authority; and such power, together with all powers of levying and receiving dues in respect of such lighthouse, buoy, or beacon, shall thereupon become vested in such last-mentioned authority; and such lighthouse, with its appurtenances, and also such buoy or beacon, and all dues leviable in respect thereof, shall thenceforth be subject in all respects to the same regulations as other lighthouses and light dues, buoys and beacons provided for by this Act.

In case of default by local bodies local lighthouses may be transferred to general lighthouse authorities.

Light Dues.

396. Subject to any alterations to be made under the powers hereinafter contained, the said general lighthouse authorities shall, in respect of the existing lighthouses, buoys, or beacons within their respective jurisdictions, continue to levy dues, hereinafter

Dues to be levied. [6 & 7 W. 4,

17 & 18 Vict. c 104 c 79, s 40; 52 Geo 3, c. 115]

called light dues, after the rate at which the same are levied at the time when this Act comes into operation; and such light dues shall be payable in respect of all ships whatever, except ships belonging to her majesty, and ships hereby exempted from payment thereof.

Light dues to be subject to revision by her majesty in council. [16 & 17 Vict. c. 131, s 15.]

397. Her majesty may, by and with the advice of her privy council, from time to time reduce all or any of the dues for the time being payable in respect of existing or future lighthouses, buoys or beacons, for the time being under the management of the said general lighthouse authorities; and may also by and with the like advice from time to time increase or vary any of such dues, so that no dues payable in respect of any lighthouse, buoy, or beacon existing at the time when this Act comes into operation are made to exceed the amount which has at any period previous to such time been received in respect thereof, or to which the said dues might during any part of such period as last aforesaid lawfully have been raised.

Powers of general lighthouse authorities to alter and regulate dues. [6 & 7 W 4, c. 79, s. 57]

398. Each of the said general lighthouse authorities shall have power, with the consent of her majesty in council, to do any of the following things; that is to say,

To exempt any ships or any classes of ships from the payment of light dues receivable by such authority, and to annex any terms or conditions to such exemptions:

To alter the times, places, and modes at and in which the light dues receivable by such authority are payable:

To substitute any other dues or class of dues, whether by way of annual payment or otherwise, in respect of any ships or classes of ships, for the dues payable to such authority for the time being.

Publication of dues and regulations. [Id. s. 58.] (a).

399. Tables of all light dues, and a copy of the regulations for the time being in force in respect thereof, shall be posted up at all custom houses within the united kingdom; and each of the said general lighthouse authorities shall from time to time as occasion requires furnish copies of such tables and regulations to the commissioners of customs in London, and to the principal officers of customs resident at all places where light dues are collected on account of such lighthouse authority; and such copies shall be posted up by the commissioners at the custom-house in London, and by such officers at the custom houses of the places at which they are respectively resident.

Ship not to be cleared without production of receipt for light dues. [Id. s. 53.] (a)

400. A receipt for light dues shall be given by the person appointed to collect the same to every person paying the same, and no officer of customs at any port where light dues are payable in respect of any ship shall grant a clearance or transire for any such ship, unless the receipt for the same is produced to him.

Power of distress for light dues. [Id s 55] (a)

401. If the owner or master of any ship fails on demand of the authorised collector to pay the light dues in respect thereof, it shall be lawful for such collector, in addition to any other remedy which he or the authority by whom he is appointed is entitled to use, to enter upon such ship, and distrain the goods, guns, tackle, or any other thing of or belonging to or on board such ship, and to detain such distress until the said light dues are paid; and if payment of the same is not made within the period of three days next ensuing such distress, he may, at any time during the continuance of such non-payment cause the same to be appraised by two sufficient persons or sworn appraisers, and thereupon sell the same, and apply the proceeds in payment of the light dues due, together with all reasonable expenses incurred by him under this section, paying the surplus (if any) on demand to the said owner or master.

Light dues, how to be paid over and accounted for [6 & 7 W 4, c. 79, s. 51.]

402. Every person appointed to collect light dues by any of the said general lighthouse authorities shall collect all light dues payable at the port or place at which he is so appointed, whether the same be collected on account of such last-mentioned authority or of the other general lighthouse authorities, and shall pay over to the general lighthouse authority by whom he was appointed, or as it directs, the whole amount of light dues received by him; and the authority so receiving the same shall keep accounts thereof, and shall cause the same to be remitted to her majesty's paymaster-general in such manner as the board of trade directs.

Application of light dues. [16 & 17 Vict. c. 131, s. 4]

403. All light dues coming to the hands of any of the said general lighthouse authorities under this Act shall be carried to the account of the mercantile marine fund hereinafter mentioned, and shall be dealt with in manner hereinafter prescribed.

Construction of and Dues for New Lighthouses.

Power to lighthouse authorities to erect, place, and alter lighthouses, buoys, and beacons. [6 & 7 W 4, c. 79, ss 42, 59, 60]

404. Each of the said general lighthouse authorities shall have power within its jurisdiction, to execute the following works and do the following things; (that is to say),

(1.) To erect or place new lighthouses, with all requisite works, roads, and appurtenances, or alter or remove any existing lighthouses:

(2.) To erect or place any new buoys or beacons, or alter or remove any existing buoys or beacons:

(3.) To take and purchase any land which may be necessary for the above purposes, or for the maintenance of the works or the residence of the light keepers:

(a) These three sections are amended by 18 & 19 Vict c. 91, s. 4, post.

(4.) To vary the character of any lighthouse or the mode of exhibiting lights therein : 17 & 18 Vict. c. 104.
(5.) To sell any land belonging to it ;

But the exercise of the above power shall, in the case of the said commissioners and corporation, be subject to the restrictions hereinafter contained.

This power in the case of the commissioners and corporation to be subject to approval by trinity house, with appeal to board of trade.

405. Previously to undertaking any such work as aforesaid, the said commissioners or corporation, as the case may be, shall forward a notice specifying fully the nature of the work proposed to be undertaken by them, and their reasons for undertaking the same, to the trinity house, who shall take the proposed scheme into their consideration, and notify to the said commissioners or corporation their approval or rejection thereof with or without modifications; but no such notification shall be binding on the said commissioners or corporation until the same has been sanctioned by the board of trade in manner hereafter mentioned; and at any time previous to such sanction being given the said commissioners or corporation may forward to the trinity house and the board of trade, or either of them, any objections to, or observations upon, or suggestions in respect of such notification. [Id. s. 42; 16 & 17 Vict. c. 131, s. 21.]

Sanction of board of trade, how to be obtained. [16 & 17 Vict. c. 131, s. 21.]

406. In order to obtain such sanction as aforesaid, the trinity house shall forward a copy of their notification, accompanied by copies of all communications that have passed between the trinity house and the said commissioners or corporation, to the board of trade; and such board shall have power to give any directions they may think fit in relation to the matters submitted to them, by granting or withholding their sanction, either wholly or partially, and either with or without modification.

Trinity house to inform lighthouse authorities of decision of board of trade. [Ibid.]

407. The trinity house shall forthwith communicate the directions given by the board of trade in relation to the matters aforesaid to the said commissioners or corporation, and the said commissioners or corporation shall, upon the receipt of such directions, be bound to act in conformity therewith, and to do or forbear doing anything thereby directed to be done or forborne.

Power to trinity house, with sanction of board of trade, to compel execution of works by commissioners and corporation [Ibid.]

408. The trinity house shall have power to direct the said commissioners and corporation, or either of them, to execute the following works; (that is to say,)

(1.) To continue any existing lighthouses, buoys, or beacons :
(2.) To erect or place any new lighthouses, buoys, or beacons, or alter or remove any existing lighthouses, buoys, or beacons :
(3.) To vary the character of any lighthouse, or the mode of exhibiting lights therein :

But no such directions shall be issued to the said commissioners or corporation until the issue thereof has been sanctioned by the board of trade; such sanction to be obtained by the trinity house in manner hereinafter mentioned.

Sanction of board of trade, how to be obtained. [Ibid.]

409. Previously to issuing any such directions as aforesaid, the trinity house shall make an application to the board of trade, stating fully the nature of the work to which such directions relate and their reasons for directing the same; and shall at the same time give notice to the said commissioners or corporation respectively of such their application, by causing written notice of the said application and a copy of the proposed directions to be left at or sent to the office of the said commissioners in Edinburgh, or the office of the said corporation in Dublin, as the case may be; and opportunity shall be afforded to the said commissioners or corporation to submit any observations they may see fit to make with respect to such application to the trinity house and to the board of trade; and if thereupon the said trinity house adhere to their said directions, and if the board of trade concur therein, and if such adherence and concurrence is duly notified to the said commissioners or corporation, it shall be their duty within a reasonable time after such notification is made to carry the said directions into effect.

Her majesty may by order in council fix dues to be taken for new lighthouses [Id. s. 11.]

410. Upon the completion of any new lighthouse, buoy, or beacon, her majesty may by order in council fix such dues in respect thereof to be paid by the master or owner of every ship which passes the same or derives benefit therefrom, as her majesty may deem reasonable, and may from time to time alter the amount thereof; and such dues shall be paid and collected in the same manner, and by the same means, and subject to the same conditions in, by, and subject to which the light dues authorised to be levied by this Act are paid and collected.

No dues to be levied in the channel islands without consent of the states, and no power to be exercised therein but by order in council.

411. No dues for any lighthouse, buoy, or beacon to be erected or placed in or near the islands of Guernsey, Jersey, Sark, or Alderney shall be taken in the said islands of Guernsey or Jersey without the consent of the states of the said islands respectively; nor shall any powers hereinbefore given to the trinity house in respect of any lighthouse, buoy, or beacon erected or placed in the islands of Guernsey or Jersey, or hereafter to be erected or placed in such islands, be exercised without the consent of her majesty in council.

Incorporation of 8 & 9 Vict. cc. 18 & 19 [16 & 17 Vict. c. 131, s. 23.]

412. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland) 1845, shall be incorporated in this Act, and shall apply to all lighthouses to be constructed and all land to be purchased under the powers thereof.

Surrender of Local Lighthouses.

Local lighthouses may be surrendered to

413. Every local authority holding any lighthouse, buoy, or beacon at any place within the jurisdiction of any of the said general lighthouse authorities may, if they think fit, surrender or sell the same to such general lighthouse authority, and such

17 & 18 Vict c. 104 general lighthouse authorities [6 & 7 W 4, c. 79, s. 48.]

authority may, with the consent of the board of trade, accept or purchase the same, the purchase money (if any) to be paid out of the said mercantile marine fund; and thereupon such lighthouse and its appurtenances or such buoy or beacon, as the case may be, shall become vested in such authority; and such authority shall be entitled to receive all dues lawfully payable in respect thereof at the time of such surrender or sale, or, if her majesty by order in council so directs, such dues as might be fixed and made payable if the same were a new lighthouse, buoy, or beacon; and such lighthouse, buoy, or beacon, and the dues payable in respect thereof, shall, after such surrender or sale, be subject in all respects to the same regulations as other lighthouses and light dues, buoys and beacons provided for by this Act.

Damage to Lights, Buoys, and Beacons.

Penalty for injuring lights, buoys, and beacons [8 Eliz c. 13, s. 4; 6 Geo. 4, c. 125, s. 91.]

414. If any person wilfully or negligently commits any of the following offences; (that is to say,)

(1.) Injures any lighthouse or the lights exhibited therein, or any buoy or beacon;
(2.) Removes, alters, or destroys any light ship, buoy, or beacon;
(3.) Rides by, makes fast to, or runs foul of any light ship or buoy;

He shall, in addition to the expenses of making good any damage so occasioned, incur a penalty not exceeding fifty pounds.

Prevention of False Lights.

General lighthouse authorities may prohibit false lights. [6 & 7 W. 4, c. 79, s. 61.]

415. Whenever any fire or light is burned or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, it shall be lawful for the general lighthouse authority within whose jurisdiction such place is situate, to serve a notice upon the owner of the place where the fire or light is burned or exhibited, or on the person having the charge of such fire or light, either personally or by delivery at the place of abode of such owner or person, or by affixing the same in some conspicuous spot near to such fire or light, and by such notice to direct such owner or person, within a reasonable time to be therein specified, to take effectual means for the extinguishing or effectually screening such existing light, and for preventing for the future any similar fire or light; and any owner or person disobeying such notice shall be deemed guilty of a common nuisance, and in addition to any other penalties or liabilities of any kind thereby incurred, shall incur a penalty not exceeding one hundred pounds.

If not obeyed they may abate such lights. [Ibid.]

416. If any owner or person served with such notice as aforesaid neglects for a period of seven days to extinguish or effectually screen the fire or light therein mentioned, it shall be lawful for the general lighthouse authority within whose jurisdiction the same may be, by their servants or workmen, to enter upon the place whereon the same may be, and forthwith to extinguish such fire or light, doing no unnecessary damage; and all expenses incurred by such authority in such extinction may be recovered from such person or owner as aforesaid in the same way as penalties are hereby directed to be recoverable.

PART VII.

MERCANTILE MARINE FUND.

Sums to be carried to mercantile marine fund. [16 & 17 Vict. c. 131, ss. 4, 5.]

417. The following sums shall be carried to a common fund, to be entitled the "Mercantile Marine Fund;" (that is to say,)

(1.) All fees and other sums (other than fines and forfeitures) received by the board of trade under the provisions of the third and fourth parts of this Act:
(2.) All light dues or other sums received by or accruing to the trinity house, the commissioners of northern lighthouses, and the port of Dublin corporation, under the sixth part of this Act:
(3.) All rates and moneys received by the trinity house under the local Act of the seventh year of her present majesty, chapter fifty-seven, for the regulation of lastage and ballastage in the river Thames; 7 Vict. c. lvii.
(4.) All fees and other sums mentioned in the table marked V. in the schedule hereto which are received by receivers appointed under the eighth part of this Act:

And an account of the said fund, intituled "The Mercantile Marine Fund Account," shall be kept with her majesty's paymaster general.

Application of mercantile marine fund. [Id. s 4.]

418. Subject to any prior charges that may be subsisting thereon by virtue of any Act or Acts of parliament or otherwise, the said fund shall be chargeable with the following expenses; that is to say,

(1.) The salaries and other expenses connected with the local marine boards, the examinations, and the shipping offices, provided for by the third part of this Act:
(2.) The salaries of surveyors, and other expenses connected with the survey of passenger steam ships provided for by the fourth part of this Act:
(3.) All expenses incurred by the general lighthouse authorities aforesaid in the works

and services of lighthouses, buoys and beacons provided for by the sixth part of this Act, or in the execution of any works necessary or expedient for the purpose of permanently reducing the expense of such works and services : 17 & 18 Vict. c. 104.

(4.) All expenses incurred by the trinity house in respect of lastage and ballastage in the river Thames :

(5.) Such expenses for establishing and maintaining on the coasts of the united kingdom proper life-boats, with the necessary crews and equipments, and for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, and for rewarding the preservation of life in such cases, as the board of trade directs :

(6.) Any expenses incurred in carrying into effect the provisions with regard to receivers and the performance of their duties contained in the eighth part of this Act :

(7.) Any expenses which by this or any other Act of parliament are specially charged thereon :

And shall, save as hereinafter mentioned, be applicable to no other purpose whatever.

Application of ballastage rates. 6 & 7 Vict. c. lvii. [16 & 17 Vict. c. 131, s. 14.]

419. The said rates and moneys received by the trinity house under the said local Act of the seventh year of her present majesty, chapter fifty-seven, shall, subject to the payment of such proportion of any prior charges subsisting on the mercantile marine fund as may in the opinion of the board of trade be fairly chargeable thereon, and to the powers of raising money upon the credit of the said fund herein contained, be applicable only to services performed for the purpose of supplying ballast to or providing for the safety or convenience of such ships as navigate the said river Thames and the seas and channels leading thereto between Orfordness on the north and Dungeness on the south : Provided that if, in addition to the duties performed in consideration of the said ballastage rates under the said local Act, the trinity house, at the request or with the consent of the owners or masters of or agents for any ships, undertake to place ballast on board thereof, or to unload ballast therefrom, they shall be entitled to charge for such additional duties such reasonable additional rate per ton for ballast so placed on board or unladen as her majesty by order in council from time to time approves.

Establishments for lighthouses and ballastage charged on fund to be fixed by her majesty in council [Id. s. 6.]

420. Her majesty may from time to time, by and with the advice of her privy council, fix the establishments to be maintained by each of the said general lighthouse authorities on account of the services of lighthouses, buoys and beacons, and also as regards the trinity house, on account of the service of lastage and ballastage in the river Thames, or the annual or other sums to be paid out of the said fund, in respect of such establishments ; and if it appears that any part of the establishments of the said lighthouse authorities is maintained for the purposes of such duties and also for other purposes, to fix and from time to time alter the portion of the expense of such establishments to be paid out of the said fund ; and no increase of any establishment or part of an establishment so fixed shall be made without the consent of the board of trade.

Power to grant superannuation allowances [Id. s. 13 ; 4 & 5 W. 4, c. 24]

421. The said general lighthouse authorities may from time to time, with the sanction of the board of trade, grant superannuations or compensations to persons whose salaries are payable out of the said fund, and who are discharged or retire ; so nevertheless that no superannuation allowance or compensation to any person so discharged or retiring shall exceed the proportion of his salary which might be granted to a person in the public civil service, under the Act of the fourth and fifth years of king William the fourth, chapter twenty-four, or under any other Act for regulating such superannuation allowances or compensations for the time being in force.

Estimates and accounts for other expenses to be approved by the board of trade. [16 & 17 Vict c. 131, s. 7.]

422. Each of the said general lighthouse authorities shall from time to time submit to the board of trade estimates of all expenses to be incurred by them in respect of the matters aforesaid, other than the establishment expenses for the time being allowed by order in council as aforesaid ; and shall also, whenever in providing for any sudden emergency it is necessary to incur any expense without waiting until an estimate can be sanctioned, as soon as possible send to the board of trade a full account of such expense ; and the board of trade shall consider and may approve such estimates and accounts, either with or without modification.

No expense to be allowed unless sanctioned by board of trade. [Id. s 8]

423. No expense of any of the said general lighthouse authorities in respect of the said services shall be paid out of the mercantile marine fund, or allowed in account, other than the sums so allowed for establishment expenses as aforesaid, or included in estimates or accounts approved by the board of trade.

For the purpose of erecting and repairing lighthouses, and other extraordinary expenses, treasury may advance money. [Id. s. 9.] (a).

424. For the purpose of the construction and repair of lighthouses, and of other extraordinary expenses connected with the said services, the treasury are authorised from time to time, upon the application of the board of trade, to advance out of the growing produce of the consolidated fund of the united kingdom such sums of money, upon such terms and at such rate of interest as they think fit, and to pay the same into the mercantile marine fund account, so nevertheless that the whole sum for the time being due in respect of such advances shall never at any one time exceed two hundred thousand pounds ; and upon any advance being so made, the sum so advanced and the

(a) This and the two following sections are amended by 18 & 19 Vict. c. 91, s. 7, post, and 25 & 26 Vict. c. 63, s. 49, post.

17 & 18 Vict c 104.

interest shall be a charge on the mercantile marine fund, and upon the dues, rates, fees, and payments so to be carried thereto as aforesaid; and the board of trade shall make such provision for the repayment thereof out of the said fund, either by forming a sinking fund or otherwise, as the treasury may require, provided that no such advance shall prevent any lawful reduction of any of the said dues, rates, fees, or payments, if such reduction be assented to by the treasury.

Power to board of trade to borrow money on the credit of fund [16 & 17 Vict. c. 181, s 10]

425. The board of trade may also, for the purpose last aforesaid, raise money by mortgaging the mercantile marine fund, and the several dues, rates, fees, and payments so to be carried thereto as aforesaid, or any of them, or any part thereof, to any person or body of persons; and every such mortgage shall be in such form, and under the hand and seal of such person or persons, as the president of the said board for the time being may direct; and no person or body of persons lending money upon any such mortgage shall be bound to see to the purpose for which the same is raised, or to the mode in which it is applied.

Power to public works loan commissioners to advance money on the credit of the fund

426. The public works loan commissioners may also, for the purpose last aforesaid, advance money upon mortgage of the said mercantile marine fund, and the several dues, rates, fees, and payments so to be carried thereto as aforesaid, or any of them, or any part thereof, without requiring any further security than such mortgage as aforesaid; but every mortgage so made to the said public works loan commissioners, or their secretary for the time being, shall be made under and in pursuance of the Acts of parliament regulating the proceedings of the said public works loan commissioners, anything herein contained to the contrary notwithstanding: Provided, that no advance which may be made by the said public works loan commissioners shall prevent any lawful reduction of any of the said dues, rates, fees, or payments, if such reduction is assented to by the said public works loan commissioners.

Lighthouse authorities to account for receipt and expenditure to board of trade [Id. s. 17.]

427. Each of the said general lighthouse authorities shall account to the board of trade for their receipts from the said light dues and ballastage rates, and for their expenditure as regards expenses paid out of the said fund, in such form, and at such times, and with such details, explanations, and vouchers, as the board of trade requires, and shall, when required by such board, permit all books of accounts kept by or under their respective direction to be inspected and examined by such persons as the said board appoints for that purpose.

Accounts of fund to be audited by commissioners of audit (a) [Id. s. 18]

428. The board of trade shall render to the commissioners for auditing the public accounts periodical accounts of the whole of the receipts and expenditure of the mercantile marine fund, such accounts to be signed and declared to by the accountant appointed by the board of trade for that purpose; and in case of default it shall be lawful for the treasury to make or direct such allowance as under the circumstances of the case they may think fit in respect thereof.

Accounts to be laid before parliament. [Id s. 19.]

429. The board of trade shall as soon as practicable after the meeting of parliament in every year cause the account of the mercantile marine fund for the then preceding year to be laid before both houses of parliament.

Property used for the purposes of parts iii. and vi of Act to be exempt from all rates and taxes [Id. s 22.]

430. All lighthouses, buoys, beacons, and light dues, and all other rates, fees, or payments accruing to or forming part of the said fund, and all premises or property belonging to or occupied by any of the said general lighthouse authorities or the board of trade, which are used or applied for the purposes of any of the services for which such dues, rates, fees, and payments are received, and all instruments or writings used by or under the direction of any of the said general lighthouse authorities or the board of trade in carrying on the said services, shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

Ships of lighthouse authorities exempt from harbour dues.

431. The ships (b) belonging to or used by any of the said general lighthouse authorities, or by the board of trade, shall be privileged to enter, resort to, and use any harbours, ports, docks, or piers in the united kingdom, without payment of any tolls, dues, or rates of any kind.

[6 & 7 W. 4, c. 79, s. 39; 16 & 17 Vict c. 181, s. 22]

PART VIII.

WRECKS, CASUALTIES, AND SALVAGE (c).

Inquiries into Wrecks.

Inquiries to be instituted in cases of wreck and

432. In any of the cases following; (that is say,)

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of the united kingdom:

(a) This section is amended by the 18 & 19 Vict. c. 91, s. 8, post.

(b) "And boats," 25 & 26 Vict. c. 63, s. 48.

(c) Part 8 is amended by 18 & 19 Vict. c. 91, ss. 19 and 20, post.

See also Maude and Pollock on Shipping, chap. x.

Whenever any ship causes loss or material damage to any other ship on or near such coasts: 17 & 18 Vict. c. 104.

Whenever by reason of any casualty happening to or on board of any ship on or near such coasts loss of life ensues; casualty. [13 & 14 Vict. c. 93, s. 28.]

Whenever any such loss, abandonment, damage, or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the united kingdom:

It shall be lawful for the inspecting officer of the coast guard or the principal officer of customs residing at or near the place where such loss, abandonment, damage, or casualty occurred, if the same occurred on or near the coasts of the united kingdom, but if elsewhere at or near the place where such witnesses as aforesaid arrive or are found or can be conveniently examined, or for any other person appointed for the purpose by the board of trade, to make inquiry respecting such loss, abandonment, damage, or casualty; and he shall for that purpose have all the powers given by the first part of this Act to inspectors appointed by the said board.

433. If it appear to such officer or person as aforesaid, either upon or without any such preliminary inquiry as aforesaid, that a formal investigation is requisite or expedient, or if the board of trade so directs, he shall apply to any two justices or to a stipendiary magistrate to hear the case; and such justices or magistrate shall thereupon proceed to hear and try the same, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which they or he have power to make a summary conviction or order, or as near thereto as circumstances permit; and it shall be the duty of such officer or person as aforesaid to superintend the management of the case, and to render such assistance to the said justices or magistrate as is in his power; and, upon the conclusion of the case, the said justices or magistrate shall send a report to the board of trade, containing a full statement of the case and of their or his opinion thereon, accompanied by such report of or extracts from the evidence, and such observations (if any) as they or he may think fit. Formal investigation before justices.

434. In cases where nautical skill and knowledge are required, the board of trade shall have the power, either at the request of such justices or magistrate, or at its own discretion, to appoint some person of nautical (*a*) skill and knowledge to act as assessor to such justices or magistrate; and such assessor shall, upon the conclusion of the case, either signify his concurrence in their report by signing the same, or if he dissents therefrom shall signify such dissent and his reasons therefor to the board of trade. Power to appoint nautical assessor.

435. In places where there is a local marine board, and where a stipendiary magistrate is a member of such board, all such investigations as aforesaid shall, whenever he happens to be present, be made before such magistrate; and there shall be paid to such magistrate in respect of his services under this Act such remuneration, whether by way of annual increase of salary or otherwise as her majesty's secretary of state for the home department, with the consent of the board of trade, may direct; and such remuneration shall be paid out of the mercantile marine fund. Stipendiary magistrate to be the magistrate who is member of local marine board, and to be paid. [13 & 14 Vict. c. 93, s. 28.]

436. The said justices or magistrate may make such order with respect to the costs of any such investigation or any portion thereof as they or he may deem just, and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before them or him; and the board of trade may, if in any case it thinks fit so to do, pay the expense of any such investigation, and may pay to such assessor as aforesaid such remuneration as it thinks fit. Costs of such investigations.

437. In the case of any such investigation as aforesaid to be held in Scotland, the board of trade may, if it so thinks fit, remit the same to the lord advocate to be prosecuted in such manner as he may direct, and in case he so requires, with the assistance of such person of nautical (*a*) skill and knowledge as the board of trade may appoint for the purpose. Investigations in Scotland.

438. Such justices or magistrate as aforesaid may, or in Scotland such person or persons as is or are directed by the lord advocate to conduct the investigation may, if they or he think fit, require any master or mate possessing a certificate of competency or service whose conduct is called in question or appears to them or him likely to be called in question in the course of such investigation, to deliver such certificate to them or him, and they or he shall hold the certificate so delivered until the conclusion of the investigation, and shall then either return the same to such master or mate, or, if their report is such as to enable the board of trade to cancel or suspend such certificate under the powers given to such board by the third part of this Act, shall forward the same to the board of trade, to be dealt with as such board thinks fit; and if any master or mate fails so to deliver his certificate when so required, he shall incur a penalty not exceeding fifty pounds. Master or mate may be required to deliver certificate to be held until close of inquiry.

Appointment and Duties of Receivers.

439. The board of trade shall throughout the united kingdom have the general superintendence of all matters relating to wreck; and it may, with the consent of the Board of trade super-

(*a*) See 25 & 26 Vict. c. 63, s. 23.

17 & 18 Vict. c. 104.

Intendents of wreck, with power to appoint receivers. [9 & 10 Vict. c. 99, s. 3.]

commissioners of her majesty's treasury, appoint any officer of customs or of the coast guard, or any officer of inland revenue, or, when it appears to such board to be more convenient, any other person, to be a receiver of wreck in any district, and to perform such duties as are hereinafter mentioned, and shall give due notice of every such appointment.

Admiral not to interfere with wreck. [Id. s. 12.]

440. No admiral, vice-admiral, or other person, under whatever denomination, exercising admiralty jurisdiction, shall as such, by himself or his agents, receive, take, or interfere with any wreck except as hereinafter mentioned.

Duty of receiver when any ship is stranded or in distress. [Id. s. 15.]

441. Whenever any ship or boat is stranded or in distress at any place on the shore of the sea or of any tidal water within the limits of the united kingdom, the receiver of the district within which such place is situate shall, upon being made acquainted with such accident, forthwith proceed to such place, and upon his arrival there he shall take the command of all persons present, and assign such duties to each person, and issue such directions, as he may think fit with a view to the preservation of such ship or boat, and the lives of the persons belonging thereto, and the cargo and apparel thereof; and if any person wilfully disobeys such directions, he shall forfeit a sum not exceeding fifty pounds; but it shall not be lawful for such receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

Powers of receiver in case of such accident to any ship or boat. [9 & 10 Vict. c. 99, s. 14.]

442. The receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and apparel, do the following things; (that is to say,)

(1.) Summon such number of men as he thinks necessary to assist him:

(2.) Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship, or boats as may be in his power:

(3.) Demand the use of any waggon, cart, or horses that may be near at hand:

And any person refusing without reasonable cause to comply with any summons, requisition, or demand so made as aforesaid, shall for every such refusal incur a penalty not exceeding one hundred pounds; but no person shall be liable to pay any duty of assessed taxes in respect of any such waggon, cart, or horses by reason of the user of the same under this section.

All articles washed on shore, or lost, or taken from any ship or boat, to be delivered to the receiver.

443. All cargo and other articles belonging to such ship or boat as aforesaid, that may be washed on shore, or otherwise be lost or taken from such ship or boat, shall be delivered to the receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or to any person authorised by him to demand the same, shall incur a penalty not exceeding one hundred pounds; and it shall be lawful for such receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

Power of receiver to suppress plunder and disorder by force.

444. Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs the preservation of such ship, boat, lives, or cargo as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction as aforesaid, with power to command all her majesty's subjects to assist him in the use of such force; and if any person is killed, maimed, or hurt by reason of his resisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be free and fully indemnified as well against the queen's majesty, her heirs and successors, as against all persons so killed, maimed, or hurt.

Certain officers to exercise powers of receiver in his absence [Id. s. 15.]

445. During the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Act, the following officers in succession, each in the absence of the other, in the order in which they are named, that is to say, any principal officer of customs or of the coast guard, or officer of inland revenue, and also any sheriff, justice of the peace, commissioned officer on full pay in the naval service of her majesty, or commissioned officer on full pay in the military service of her majesty, may do all matters and things hereby authorised to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat, the delivery up of which to the receiver is hereinbefore required, any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Power in case of a ship being in distress to pass over adjoining lands with carriages [Id. s. 17.]

446. Whenever any such accident as aforesaid occurs to any ship or boat, all persons may, for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo or apparel thereof, unless there is some public road equally convenient, pass and repass either with or without carriages or horses over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit as aforesaid shall be a charge on the ship, boat, cargo, or articles in respect of or by which such damage was occasioned, and shall, in

default of payment, be recoverable in the same manner as salvage is hereby made recoverable; and the amount payable in respect thereof, if disputed, shall be determined in the same manner as the amount of salvage is hereby in case of dispute directed to be determined. 17 & 18 Vict. c. 104.

447. If the owner or occupier of any land over which any person is hereby authorised to pass or repass for any of the purposes hereinbefore mentioned does any of the following things, (that is to say,) Penalty on owners and occupiers of land refusing to allow carriages, &c., to pass over their land. [Id. s. 18.]

(1.) Impedes or hinders any such person from so passing or repassing, with or without carriages, horses, and servants, by locking his gates, refusing, upon request, to open the same, or otherwise however;

(2.) Impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat, as hereinbefore mentioned;

(3.) Prevents such cargo or other article from remaining so deposited for a reasonable time, until the same can be removed to a safe place of public deposit;

He shall for every such offence incur a penalty not exceeding one hundred pounds.

448. Any receiver, or in his absence any justice of the peace, shall, as soon as conveniently may be, examine upon oath (which oath they are hereby respectively empowered to administer) any person belonging to any ship which may be or may have been in distress on the coasts of the united kingdom, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters; (that is to say,) Power of receiver to institute examination with respect to ships in distress. [Id. s. 10]

(1.) The name and description of the ship;

(2.) The name of the master and of the owners;

(3.) The names of the owners of the cargo;

(4.) The ports or places from and to which the ship was bound;

(5.) The occasion of the distress of the ship;

(6.) The services rendered;

(7.) Such other matters or circumstances relating to such ship, or to the cargo on board the same, as the receiver or justice thinks necessary;

And such receiver or justice shall take the examination down in writing, and shall make two copies of the same, of which he shall send one to the board of trade, and the other to the secretary of the committee for managing the affairs of Lloyd's in London, and such last-mentioned copy shall be placed by the said secretary in some conspicuous situation for the inspection of persons desirous of examining the same; and for the purposes of such examination every such receiver or justice as aforesaid shall have all the powers given by the first part of this Act to inspectors appointed by the board of trade.

449. Any examination so taken in writing as aforesaid, or a copy thereof, purporting to be certified under the hand of the receiver or justice before whom such examination was taken, shall be admitted in evidence in any court of justice, or before any person having by law or by consent of parties authority to hear, receive and examine evidence, as *primâ facie* proof of all matters contained in such written examination. Original or certified copy of examination to be *primâ facie* evidence.

450. The following rules shall be observed by any person finding or taking possession of wreck within the united kingdom; (that is to say,) Rules to be observed by persons finding wreck (a). [9 & 10 Vict. c. 99, s. 5]

(1.) If the person so finding or taking possession of the same is the owner, he shall as soon as possible give notice to the receiver of the district within which such wreck is found stating that he has so found or taken possession of the same; and he shall describe in such notice the marks by which such wreck is distinguished;

(2.) If any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver as aforesaid:

And any person making default in obeying the provisions of this section shall incur the following penalties; (that is to say,)

(3.) If he is the owner and makes default in performing the several things the performance of which is hereby imposed on an owner,

He shall incur a penalty not exceeding one hundred pounds:

(4.) If he is not the owner and makes default in performing the several things, the performance of which is hereby imposed on any person not being an owner,

He shall forfeit all claim to salvage;

He shall pay to the owner of such wreck, if the same is claimed, but if the same is unclaimed then to the person entitled to such unclaimed wreck, double the value of such wreck (such value to be recovered in the same way as a penalty of like amount); and

He shall incur a penalty not exceeding one hundred pounds.

451. If any receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or otherwise improperly Power for receivers to

(a) As to what is wreck, see *Barry* v. *Anaud*, Nor. 503, 27 L. J. Ex. 437, post, p. 336, n. (b). 10 A. & E. 646; and *Palmer* v. *Rouse*, 3 H. &

17 & 18 VICT. c. 104

Seize concealed wreck [Id. s 6]

dealt with, he may apply to any justice of the peace for a warrant, and such justice shall have power to grant a warrant, by virtue whereof it shall be lawful for the receiver to enter into any house or other place wherever situate, and also into any ship or boat, and to search for, and to seize and detain any such wreck as aforesaid there found; and if any such seizure is made in consequence of information that may have been given by any person to the receiver, the informer shall be entitled by way of salvage to such sum not exceeding in any case five pounds as the receiver may allow.

Notice of wreck to be given by receiver. [Id. s. 7]

452. Every receiver shall within forty-eight hours after taking possession of any wreck cause to be posted up in the custom house of the port nearest to the place where such wreck was found or seized a description of the same and of any marks by which it is distinguished, and shall also, if the value of such wreck exceeds twenty pounds, but not otherwise, transmit a similar description to the secretary of the committee of Lloyd's aforesaid; and such secretary shall post up the description so sent, or a copy thereof, in some conspicuous place, for the inspection of all persons desirous of examining the same.

Goods deemed perishable or of small value may be sold immediately. [Id. s. 11]

453. In cases where any wreck in the custody of any receiver is under the value of five pounds, or is of so perishable a nature or so much damaged that the same cannot, in his opinion, be advantageously kept, or if the value thereof is not sufficient to defray the charge of warehousing, the receiver may sell the same before the expiration of the period hereinafter mentioned, and the money raised by such sale, after defraying the expenses thereof, shall be held by the receiver for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

In cases where any lord of the manor or other person is entitled to unclaimed wreck, receiver to give notice to him [Id. s 8]

454. In cases where any admiral, vice-admiral, lord of the manor, or other person is entitled for his own use to unclaimed wreck found on any place situate within a district for which a receiver is appointed, such admiral, vice-admiral, lord of the manor, or other person shall deliver to such receiver a statement containing the particulars of his title, and the address to which notices are to be sent; and upon such statement being so delivered, and proof made to the satisfaction of the receiver of the validity of such title, it shall be his duty, whenever he takes possession of any wreck found at any such place, to send within forty-eight hours thereafter a description of the same and of any marks by which it is distinguished, directed to such address as aforesaid.

Payments to be made to receiver.

455. There shall be paid to all receivers appointed under this Act the expenses properly incurred by them in the performance of their duties, and also in respect of the several matters specified in the table marked V. in the schedule hereto, such fees not exceeding the amounts therein mentioned, as may from time to time be directed by the board of trade; and the receiver shall have the same lien and be entitled to the same remedies for the recovery of such expenses and fees as a salvor has or is entitled to in respect of salvage due to him; but, save as aforesaid, no receiver appointed under this Act shall as such be entitled to any remuneration whatsoever.

Disputes as to sums payable to receiver to be determined by board of trade

456. Whenever any dispute arises in any part of the united kingdom as to the amount payable to any receiver in respect of expenses or fees such dispute shall be determined by the board of trade, whose decision shall be final.

Application of fees.

457. All fees received by any receiver appointed under this Act, in respect of any services performed by him as receiver, shall be carried to and form part of the mercantile marine fund, and a separate account thereof shall be kept, and the moneys arising therefrom shall be applied in defraying any expenses duly incurred in carrying into effect the purposes of the eighth part of this Act, in such manner as the board of trade directs.

Salvage in the United Kingdom (*a*).

Salvage in respect of services rendered in the united kingdom [9 & 10 Vict. c. 90, s 19]

458. In the following cases; (that is to say,)

Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea or tidal water situate within the limits of the united kingdom, and services are rendered by any person,

(1.) In assisting such ship or boat;

(2.) In saving the lives of the persons belonging to such ship or boat;

(3.) In saving the cargo or apparel of such ship or boat, or any portion thereof;

And whenever any wreck (*b*) is saved by any person other than a receiver within the united kingdom;

There shall be payable by the owners of such ship or boat, cargo, apparel or wreck, to the person by whom such services or any of them are rendered or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses properly incurred by

---

(*a*) See Maude and Pollock on Shipping, ed. 2, c. 10; and see 18 & 19 Vict. c. 91, s. 20, as to services rendered by coast guard, post.

(*b*) Timber found floating without an apparent owner at sea, having drifted from the place where it was moored in a river, is not "wreck" within this meaning (*Palmer* v. *Rouse*, 3 H. & N. 505, 27 L. J. Exch. 432).

This Act does not give the court jurisdiction over salvage of life only (*The Johannes*, 1 Lush. 182; see 25 & 26 Vict. c. 63, sect. 59, post).

him in the performance of such services or the saving of such wreck, the amount of such salvage and expenses (which expenses are hereinafter included under the term salvage) to be determined in case of dispute in manner hereinafter mentioned. 17 & 18 Vict. c. 104.

459. Salvage in respect of the preservation of the life or lives of any person or persons belonging to any such ship or boat as aforesaid shall be payable by the owners of the ship or boat in priority to all other claims for salvage; and in cases where such ship or boat if destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage due in respect of any life or lives, the board of trade may in its discretion award to the salvors of such life or lives out of the mercantile marine fund such sum or sums as it deems fit, in whole or part satisfaction of any amount of salvage so left unpaid in respect of such life or lives (*a*). Salvage for life may be paid by board of trade out of mercantile marine fund. [Id. ss. 13, 19.]

460. Disputes with respect to salvage arising within the boundaries of the cinque ports shall be determined in the manner in which the same have hitherto been determined; but whenever any dispute arises elsewhere in the united kingdom between the owners of any such ship, boat, cargo, apparel, or wreck as aforesaid, and the salvors, as to the amount of salvage, and the parties to the dispute cannot agree, as to the settlement thereof by arbitration or otherwise, Disputes as to salvage, how to be settled. [Id. s. 15.]

Then, if the sum claimed does not exceed two hundred pounds (*b*),

Such dispute shall be referred to the arbitration of any two justices of the peace resident as follows; (that is to say,)

In case of wreck, resident at or near the place where such wreck is found: [Id. s. 21.]

In case of services rendered to any ship or boat, or to the persons, cargo, or apparel belonging thereto, resident at or near the place where such ship or boat is lying, or at or near the first port or place in the united kingdom into which such ship or boat is brought after the occurrence of the accident by reason whereof the claim to salvage arises:

But if the sum claimed exceeds two hundred pounds,

Such dispute may, with the consent of the parties, be referred to the arbitration of such justices as aforesaid, but if they do not consent shall in England be decided by the high court of admiralty of England, in Ireland by the high court of admiralty of Ireland, and in Scotland by the court of session; subject to this proviso, that if the claimants in such dispute do not recover in such court of admiralty or court of session a greater sum than two hundred pounds, they shall not, unless the court certifies that the case is a fit one to be tried in a superior court, recover any costs (*c*), charges, or expenses incurred by them in the prosecution of their claim:

And every dispute with respect to salvage may be heard and adjudicated upon on the

---

(*a*) Preservation of human life is made by this section, a distinct ground of salvage reward, with priority over all other claims for salvage where the property is insufficient (*The Coromandel*, 1 Swabey, 205).

In a suit for salvage, the court will now, whatever it may have done before the passing of this Act, always take into its special consideration the salvation of human life, and give a corresponding reward (*The Bartley*, 1 Swabey, 198).

(*b*) Where the sum claimed as salvage is under 200*l.*, and any dispute arises thereon, it must be referred to justices under this section (*Atkinson* v. *Woodall*, 31 L. J. M. C. 174).

In an action for salvage rendered without the limits of the Cinque Ports, but within three miles of the united kingdom, entered in 200*l.*; appearance was given, under protest, under this section:—it was held, that this section and the 458th must be taken together, and that where any salvage service is performed within three miles of the coast of the united kingdom, the limitation of jurisdiction by reason of the amount claimed attaches; that "stranded, or otherwise in distress on the shore," mentioned in sect. 458, are distinct situations; that the latter does not mean only touching the shore, but that the legislature does not intend the limitation of jurisdiction arising from the amount claimed to attach to any salvage service performed on the high seas, *i.e.*, more than three miles from the shore (*The Leda*, 1 Swabey, 40).

Salvage services were rendered to a vessel beyond three miles from the shore of the united kingdom: 100*l.* only was awarded:—it was held, that since the salvage was not in the united kingdom, the provision in this section did not apply so as to bar the salvors of their costs (*The Actif*, 1 Swabey, 237, 3 Jur. N. S. 893—Adm.).

The Court of Admiralty had a concurrent jurisdiction within the boundaries of the jurisdiction of the Cinque Ports; and this remains unaltered by this section; the 476th section of which sustains the general jurisdiction of the Court of Admiralty in salvage in the widest terms (*Maria Luisa*, 1 Swabey, 67).

(*c*) See *The Alpha*, 1 Lush. 89; *The John*, ib. 11; *The Nesselrood*, ib. 454.

The limitation as to costs in this section, extends only to cases where the service is performed within the limits of the united kingdom, *i.e.*, within three miles of the coast; beyond that distance the court will exercise its own discretion as to giving costs with reference to the sum awarded (*The Actif*, 1 Swabey, 237).

17 & 18 Vict c. 104.

application either of the salvor or of the owner of the property salved, or of their respective agents.

Manner in which justices may decide disputes [Ibid.]

461. Whenever in pursuance of this Act any dispute as to salvage is referred to the arbitration of two justices, they may either themselves determine the same, with power to call to their assistance any person conversant with maritime affairs as assessor, or they may if a difference of opinion arises between them, or without such difference, if they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute; and such justices or their umpire shall make an award as to the amount of salvage payable, within the following times, that is to say, the said justices within forty-eight hours after such dispute has been referred to them, and the said umpire within forty-eight hours after his appointment, with power nevertheless for such justices or umpire by writing under their or his hands or hand to extend the time within which they and he are hereby respectively directed to make their or his award.

Costs of arbitration [9 & 10 Vict c. 99, s. 21.]

462. There shall be paid to every assessor and umpire who may be so appointed as aforesaid in respect of his services such sum not exceeding five pounds as the board of trade may from time to time direct; and all the costs of such arbitration, including any such payments as aforesaid, shall be paid by the parties to the dispute, in such manner and in such shares and proportions as the said justices or as the said umpire may direct by their or his award.

Justices may call for documents and administer oaths

463. The said justices or their umpire may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Appeal to courts of admiralty [Id. s. 23]

464. If any person is aggrieved by the award made by such justices or such umpire as aforesaid, he may in England appeal to the high court of admiralty of England, in Ireland to the high court of admiralty of Ireland, and in Scotland to the court of session: but no such appeal shall be allowed unless the sum in dispute exceeds fifty pounds, nor unless within ten days after the date of the award the appellant give notice to the justices to whom the matter was referred of his intention to appeal, nor unless the appellant proceeds to take out a monition, or to take such other proceeding as according to the practice of the court of appeal is necessary for the institution of an appeal, within twenty days from the date of the award.

Justices to transmit copy of proceedings and certificate of value to court of appeal. [Ibid.]

465. Whenever any appeal is made in manner hereinbefore provided, the justices shall transmit to the proper officer of the court of appeal a copy on unstamped paper certified under their hands to be a true copy of the proceedings had before such justices or their umpire, if any, and of the award so made by them or hun, accompanied with their or his certificate in writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the court of appeal as evidence in the cause.

Payment of salvage, to whom to be made in case of dispute as to apportionment. [Id. ss. 25, 26.]

466. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the united kingdom has been finally ascertained either by agreement or by the award of such justices or their umpire, but a dispute arises as to the apportionment thereof amongst several claimants, then, if the amount does not exceed two hundred pounds, it shall be lawful for the party liable to pay the amount so due to apply to the receiver of the district for liberty to pay the amount so ascertained to him; and he shall, if he thinks fit, receive the same accordingly, and grant a certificate under his hand, stating the fact of such payment and the services in respect of which it is made; and such certificate shall be a full discharge and indemnity to the person or persons to whom it is given, and to their ship, boats, cargo, apparel, and effects against the claims of all persons whomsoever in respect of the services therein mentioned; but if the amount exceeds two hundred pounds, it shall be apportioned in manner hereinafter mentioned.

Apportionment of salvage [Ibid.]

467. Upon the receipt of any such amount as aforesaid the receiver shall with all convenient speed proceed to distribute the same among the several persons entitled thereto, upon such evidence and in such shares and proportions as he thinks fit, with power to retain any moneys that may appear to him to be payable to any absent parties; but any distribution made in pursuance of this section shall be final and conclusive against the rights of all persons claiming to be entitled to any portion of the moneys so distributed.

Manner of enforcing payment of salvage. [Id. ss. 19, 24.]

468. Whenever any salvage is due to any person under this Act, the receiver shall act as follows; (that is to say,)

(1.) If the same is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same, or the cargo or apparel thereof,

He shall detain such ship or boat and the cargo and apparel belonging thereto until payment is made, or process has been issued by some competent court for the detention of such ship, cargo, or apparel:

(2.) If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions hereinafter contained,

He shall detain such wreck until payment is made, or process has been issued in manner aforesaid:

But it shall be lawful for the receiver, if at any time previously to the issue of such process security is given to his satisfaction for the amount of salvage due, to release

from his custody (a) any ship, boat, cargo, apparel, or wreck so detained by him as aforesaid; and in cases where the claim for salvage exceeds two hundred pounds it shall be lawful in England for the high court of admiralty of England, in Ireland for the high court of admiralty of Ireland, and in Scotland for the court of session, to determine any question that may arise concerning the amount of the security to be given or the sufficiency of the sureties; and in all cases where bond or other security is given to the receiver for an amount exceeding two hundred pounds it shall be lawful for the salvor or for the owner of the property salved, or their respective agents, to institute proceedings in such last-mentioned courts for the purpose of having the questions arising between them adjudicated upon, and the said courts may enforce payment of the said bond or other security, in the same manner as if bail had been given in the said courts. 17 & 18 Vict. c. 104.

469. Whenever any ship, boat, cargo, apparel, or wreck is detained by any receiver for nonpayment of any sums so due as aforesaid, and the parties liable to pay the same are aware of such detention, then, in the following cases, that is to say, Power of receiver to sell property salved in cases of nonpayment. [9 & 10 Vict c. 99, s. 24.]

(1.) In cases where the amount is not disputed, and payment thereof is not made within twenty days after the same has become due;

(2.) In cases where the amount is disputed, but no appeal lies from the first tribunal to which the dispute is referred, and payment thereof is not made within twenty days after the decision of such first tribunal;

(3.) In cases where the amount is disputed, and an appeal lies from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days as last aforesaid, or such monition as hereinbefore mentioned is not taken out within such twenty days, or such other proceedings as are according to the practice of such other tribunal necessary for the prosecution of an appeal are not instituted within such twenty days;

The receiver may forthwith sell such ship, boat, cargo, apparel, or wreck, or a sufficient part thereof, and out of the proceeds of the sale, after payment of all expenses thereof, defray all sums of money due in respect of expenses, fees, and salvage, paying the surplus, if any, to the owners of the property sold, or other the parties entitled to receive the same.

470. Subject to the payment of such expenses, fees, and salvage as aforesaid, the owner of any wreck who establishes his claim thereto to the satisfaction of the receiver within one year from the date at which such wreck has come into the possession of the receiver, shall be entitled to have the same delivered up to him. Subject to payment of expenses, fees, and salvage, owner entitled to wreck. [Id. s. 9.]

Unclaimed Wreck in the United Kingdom (b).

471. In the event of no owner establishing a claim to wreck found in any place in the united kingdom before the expiration of a year from the date at which the same has come into the possession of the receiver, then, if any such admiral, vice-admiral, lord of any manor, or other person as aforesaid has given notice to and has proved to the satisfaction of the receiver that he is entitled to wreck found at such place, the receiver shall, upon payment of all expenses, fees, and salvage due in respect of such wreck, deliver up possession thereof to such admiral, vice-admiral, lord of the manor or other person; and in case of dispute as to the amount of the sums so payable, and also in case of default being made in payment thereof, such dispute shall be determined and payment enforced in the manner in which such amount and payment is hereby directed to be determined and enforced in cases where any owner establishes his claim to wreck. Receiver to deliver up possession of unclaimed wreck to lord of manor or other person entitled. [Id. s. 4.]

472. If any dispute arises between the receiver and any such admiral, vice-admiral, lord of any manor, or other person as aforesaid as to the validity of his title to wreck, or if divers persons claim to be entitled to wreck found at the same place, the matter in dispute may be decided by two justices in the same manner in which disputes as to salvage coming within the jurisdiction of justices are hereinbefore directed to be determined. Disputed title to wreck how to be decided.

473. If any party to such dispute is unwilling to refer the same to two justices, or, having so referred the same, is dissatisfied with their decision, he may within three months from the expiration of such year as aforesaid or from the date of such decision as aforesaid, as the case may be, take such proceedings as he may be advised in any court of law, equity, or admiralty having jurisdiction in the matter, for establishing his title. Appeal from decision of justices.

474. The board of trade shall have power, with the consent of the treasury, out of the revenue arising under the eighth part of this Act, for and on behalf of her majesty, her heirs and successors, to purchase all such rights to wreck as may be possessed by any person or body corporate, other than her majesty; and for the purpose of facilitating such purchases the provisions of the "Lands Clauses Consolidation Act, 1845," and the "Lands Clauses Consolidation (Scotland) Act, 1845," relating to the purchase of lands by agreement, shall be incorporated with this Act; and in the construction of this Act and the said incorporated Act this Act shall be considered to be the "special Act;" and any such rights to wreck as aforesaid shall be considered as an interest in land Power of the board of trade on behalf of the crown to purchase rights to wreck.

(a) See *The Lady Katherine Barham*, 1 Lush. 404.

(b) In case of wreck of foreign ship, consuls-general are to be deemed the agents of the owners; 18 & 19 Vict. c. 91, s. 19, post.

17 & 18 Vict. c. 104.

authorised to be taken by the special Act, and her majesty, her heirs, and successors, shall be considered as the promoters of the undertaking.

Unclaimed wreck to be sold [Id. ss. 4, 10, 11, 20.]

475. If no owner establishes his claim to wreck found at any place before the expiration of such period of a year as aforesaid, and if no admiral, vice-admiral, lord of any manor, or person other than her majesty, her heirs and successors, is proved to be entitled to such wreck, the receiver shall forthwith sell the same, and after payment of all expenses attending such sale, and deducting therefrom his fees, and all expenses (if any) incurred by him, and paying to the salvors such amount of salvage as the board of trade may in each case or by any general rule determine, pay the same into the receipt of her majesty's exchequer in such manner as the treasury may direct, and the same shall be carried to and form part of the consolidated fund of the united kingdom.

Jurisdiction of the High Court of Admiralty.

High court of admiralty may decide on all salvage cases, whether on sea or land. [Id. s. 40.] (a).

476. Subject to the provisions of this Act, the high court of admiralty shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed upon the high seas, or within the body of any county, or partly in one place and partly in the other, and whether the wreck is found at sea or cast upon the land, or partly in the sea and partly on land.

Offences in respect of Wreck.

In case of ship wrecked being plundered by a tumultuous assemblage the hundred to be liable for damages. 7 & 8 G. 4, c. 31. [9 & 10 Vict. c. 99, s. 44.]

477. Whenever any ship or boat is stranded or otherwise in distress on or near the shore of any sea or tidal water in the united kingdom, and such ship or boat or any part of the cargo or apparel thereof, is plundered, damaged, or destroyed by any person riotously and tumultuously assembled together, whether on shore or afloat, full compensation shall be made to the owner of such ship, boat, cargo, or apparel, as follows; (that is to say,)

In England by the inhabitants of the hundred, wapentake, ward, or district in the nature of a hundred, by whatever name denominated, in or nearest to which the said offence is committed, in manner provided by an Act of the eighth year of the reign of king George the fourth, chapter thirty-one, in case of the destruction of churches and other buildings by a riotous assemblage, or as near thereto as circumstances permit:

3 & 4 W 4, c 37, s. 72.

In Ireland by the inhabitants of the county, county of a city or town, barony, town or towns, parish or parishes, in or nearest to which such offence is committed, in manner provided by an Act of the fourth year of the reign of king William the fourth, chapter thirty-seven, for the recovery of satisfaction and amends for the malicious demolition of or injury to churches, chapels, and other buildings used for religious worship, according to the usage of the united church of England and Ireland, or as near thereto as circumstances permit:

1 G 1, st. 2, c. 5.

In Scotland, by the inhabitants of the county, city, or borough in or nearest to which such offence is committed, in manner provided by an Act of the first year of king George the first, statute two, chapter five, with respect to prosecutions for repairing the damages of any churches and other buildings, or as near thereto as circumstances permit:

Penalty for plundering in cases of shipwreck, for obstructing the saving of shipwrecked property, and for secreting the same. [Id ss. 5, 96.]

478. Every person who does any of the following acts, (that is to say,)

(1.) Wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof, or any wreck; or

(2.) Endeavours in any way to impede or hinder the saving of such ship, boat, cargo, apparel, or wreck; or

(3.) Secretes any wreck, or obliterates or defaces any marks thereon;

Shall, in addition to any other penalty or punishment he may be subject to under this or any other Act or law, for each such offence incur a penalty not exceeding fifty pounds; and every person, not being a receiver or a person hereinbefore authorised to take the command in cases of ships being stranded or in distress, or not acting under the orders of such receiver or person, who, without the leave of the master, endeavours to board any such ship or boat as aforesaid, shall for each offence incur a penalty not exceeding fifty pounds; and it shall be lawful for the master of such ship or boat to repel by force any such person so attempting to board the same.

Penalty for selling wreck in foreign ports [Id. s. 31.]

479. If any person takes into any foreign port or place any ship or boat stranded, derelict, or otherwise in distress on or near the shore of the sea or of any tidal water situate within the limits of the united kingdom, or any part of the cargo or apparel thereof, or anything belonging thereto, or any wreck found within such limits as aforesaid, and there sells the same, he shall be guilty of felony, and be subject to penal servitude for a term not exceeding four years.

(a) See *Maria Luisa*, ante, p. 337, n. (b).

Dealers in Marine Stores and Manufacturers of Anchors.

17 & 18 Vict. c. 104.

Regulations to be observed by dealers in marine stores. [Id. ss 33, 34.]

480. Every person dealing in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description, shall conform to the following regulations; (that is to say,)

(1.) He shall have his name, together with the words "dealer in marine stores," painted distinctly in letters of not less than six inches in length on every warehouse or other place of deposit belonging to him;

If he does not he shall incur a penalty not exceeding twenty pounds:

(2.) He shall keep a book or books, fairly written, and shall enter therein an account of all such marine stores as he may from time to time become possessed of, stating, in respect of each article, the time at which and the person from whom he purchased or received the same, adding, in the case of every such last-mentioned person, a description of his business and place of abode;

If he does not he shall incur for the first offence a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds;

(3.) He shall not, by himself or his agents, purchase marine stores of any description from any person apparently under the age of sixteen years;

If he does so he shall incur for the first offence a penalty not exceeding five pounds, and for every subsequent offence a penalty not exceeding twenty pounds:

(4.) He shall not cut up any cable, or any similar article, exceeding five fathoms in length, or unlay the same into twine or paper stuff, on any pretence whatever, without obtaining such permit and publishing such notice of his having so obtained the same as is hereinafter mentioned;

If he does so he shall incur for the first offence a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds.

Manner of obtaining permit to cut up cables. [9 & 10 Vict c. 99, s. 32]

481. In order to obtain such permit as aforesaid a dealer in marine stores shall make a declaration before some justice of the peace having jurisdiction over the place where such dealer resides containing the following particulars; (that is to say,)

(1.) A statement of the quality and description of the cable or other like article about to be cut up or unlaid:

(2.) A statement that he purchased or otherwise acquired the same *bonâ fide* and without fraud, and without any knowledge or suspicion that the same had been come by dishonestly:

(3.) A statement of the name and description of the person from whom he purchased or received the same:

And it shall be lawful for the justice before whom any such declaration is made, or for the receiver of the district in which such dealer in marine stores resides, upon the production of any such declaration as aforesaid, to grant a permit authorising him to cut up or unlay such cable or other like article.

Permit to be advertised before dealer proceed to act thereon [Id. s. 34.]

482. No dealer in marine stores who has obtained such permit as aforesaid shall proceed by virtue thereof to cut up or unlay any cable or other like article until he has for the space of one week at the least before doing any such act published in some newspaper published nearest to the place where he resides one or more advertisements notifying the fact of his having so obtained a permit, and specifying the nature of the cable or other article mentioned in the permit, and the place where the same is deposited, and the time at which the same is intended to be so cut up or unlaid; and if any person suspects or believes that such cable or other article is his property, he may apply to any justice of the peace for a warrant: and such justice of the peace may, on the applicant making oath, or, if a person entitled to make an affirmation, making an affirmation in support of such his suspicion or belief, grant a warrant by virtue whereof the applicant shall be entitled to require the production by such dealer as aforesaid of the cable or other article mentioned in the permit, and also of the book of entries hereinbefore directed to be kept by every dealer in marine stores; and, upon such cable or other article and book of entries being produced, to inspect and examine the same; and if any dealer in marine stores makes default in complying with any of the provisions of this section, he shall for the first offence incur a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds.

Manufacturers to place marks on anchors. [Id. s. 35.]

483. Every manufacturer of anchors shall, in case of each anchor which he manufactures, mark in legible characters on the crown and also on the shank under the stock his name or initials, with the addition of a progressive number and the weight of such anchor; and if he makes default in doing so he shall for each offence incur a penalty not exceeding five pounds.

Salvage by her Majesty's Ships.

No claim for salvage services to be allowed in respect of

484. In cases where salvage services are rendered by any ship belonging to her majesty or by the commander or crew thereof, no claim shall be made or allowed for any loss, damage, or risk thereby caused to such ship, or to the stores, tackle, or furniture thereof, or for the use of any stores or other articles belonging to her majesty supplied

17 & 18 Vict. c. 104.

in order to effect such services, or for any other expense or loss sustained by her majesty by reason of such services.

loss or risk of her majesty's ships or property. [16 & 17 Vict. c. 131, s. 30.]

Claims for salvage by her majesty's officers not to be determined without consent of admiralty (a).

485. No claim whatever on account of any salvage services rendered to any ship or cargo to any appurtenances of any ship by the commander or crew or part of the crew of any of her majesty's ships shall be finally adjudicated upon unless the consent of the admiralty has first been obtained, such consent to be signified by writing under the hand of the secretary to the admiralty; and if any person who has originated proceedings in respect of any such claim fails to prove such consent to the satisfaction of the court, his suit shall stand dismissed and he shall pay all the costs of such proceedings; provided that any document purporting to give such consent and to be signed by the secretary to the admiralty shall be *primâ facie* evidence of such consent having been given.

Steps to be taken when salvage services have been rendered by her majesty's ships abroad. [Id. s. 41.]

486. Whenever services for which salvage is claimed are rendered to any ship or cargo, or to any part of any ship or cargo, or to any appurtenances of any ship, at any place out of the united kingdom and the four seas adjoining thereto, by the commander or crew or part of the crew of any of her majesty's ships, the property alleged to be salved shall, if the salvor is justified by the circumstances of the case in detaining it at all, be taken to some port where there is either a consular officer or a vice-admiralty court; and within twenty-four hours after arriving at such port the said salvor and the master or other person in charge of the property alleged to be salved shall each deliver to the consular officer or vice-admiralty judge there a statement verified on oath, specifying so far as they respectively can, and so far as the particulars required apply to the case,

(1.) The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the services were rendered for which salvage is claimed:

(2.) The nature and duration of the services rendered:

And the salvor shall add to his statement,

(3.) The proportion of the value of the said ship, cargo, and property, and of the freight which he claims for salvage, or the values at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same:

(4.) Any other circumstances he thinks relevant to the said claim:

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement,

(3.) A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers:

(4.) The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on:

(5.) A general account of the quantity and nature of the cargo at the time the salvage services were rendered:

(6.) The name and place of business or residence of the owner of such cargo and of the consignee thereof:

(7.) The values at which the said master estimates the said ship, cargo, and property, and the freight respectively, or if he thinks fit, in lieu of such estimated value of the cargo, a copy of the ship's manifest:

(8.) The amounts which the master thinks should be paid as salvage for the services rendered:

(9.) An accurate list of the property saved, in cases where the ship is not saved:

(10.) An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid:

(11.) The number, capacities, and condition of the crew of the said ship at the time the said services were rendered:

(12.) Any other circumstances he thinks relevant to the matters in question:

(13.) A statement of his willingness to execute a bond, in the form in the table marked W. in the schedule hereto, in such amount as the said consular officer or vice-admiralty judge may fix.

Consular officer or judge to fix amount for which a bond is to be given.

487. The said consular officer or judge, as the case may be, shall within four days after receiving the aforesaid statements fix the amount to be inserted in the said bond at such sum as he thinks sufficient to answer the demand for the salvage services rendered; but such sum shall not exceed one half of the value which in his estimation the said ship, freight, and cargo, or any parts thereof in respect of which salvage is claimed, are worth; and the said consular officer or judge may, if either of the aforesaid statements is not delivered to him within the time hereby required, proceed *ex parte*, but he shall in no case under this Act require the cargo to be unladen; and the said consular officer may in any proceeding under this Act relating to salvage take affidavits and receive affirmations.

(a) See *The Alma*, 1 Lush. 378.

488. The said consular officer or judge shall send notice of the sum which he has so fixed as aforesaid to the said salvor and the said master; and upon such master executing a bond in such form as aforesaid, with the said sum inserted therein, in the presence of the said officer or judge (who shall attest the same), and delivering the same to the said salvor, the right of the said salvor to detain or retain possession of the said ship, cargo, or property, or any of them, in respect of the said salvage claim, shall cease. 17 & 18 Vict. c. 104

On master executing bond, the right of detention to cease.

489. If the ship, cargo, or property in respect of which the claim for salvage is made is not owned by persons domiciled in her majesty's dominions, the right of the salvor to detain or retain possession thereof shall not cease unless the master procures, in addition to the said bond, such security for the due performance of the conditions thereof as the said officer or judge considers sufficient for the purpose, and places the same in the possession or custody of the said officer or judge, or, if the salvor so desires, in the possession or custody of the said officer or judge jointly with any other person whom the said salvor appoints for the purpose.

Provision for additional security in the case of ships owned by persons resident out of her majesty's dominions.

490. The said consular officer or judge shall at the earliest opportunity transmit the said statements and documents so sent to him as aforesaid, and a notice of the sum he has so fixed as aforesaid, to the high court of admiralty of England, or if the said salvor and the said master or other person in charge as aforesaid agree that the said bond shall be adjudicated upon by any vice-admiralty court to such court.

Documents to be sent to England

491. The said bond shall bind the respective owners of the said ship, freight, and cargo, and their respective heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the said ship, freight, and cargo respectively.

Whom the bond shall bind.

492. The said bond shall be adjudicated on and enforced by the high court of admiralty in England, or if the said salvor and master at the time of the execution of the said bond agree upon any vice-admiralty court, then by such vice-admiralty court; and any such vice-admiralty court may in every proceeding under this Act have and exercise all powers and authorities whatsoever which the said high court of admiralty now has or at any time may have in any proceeding whatsoever before it; and in cases where any security for the due performance of the conditions of the said bond has been placed in the possession or custody of the said consular officer or vice-admiralty judge or of such officer or judge jointly with any other person, the person or persons having the custody of such security shall respectively deal with the same in such manner as the court that adjudicates on the bond directs.

Court in which it is to be adjudicated on.

493. The said high court of admiralty shall have power to enforce any bond given in pursuance of this Act in any vice-admiralty court in any part of her majesty's dominions; and all courts in Scotland, Ireland, and the islands of Jersey, Guernsey, Alderney, Sark, and Man exercising admiralty jurisdiction, shall, upon application, aid and assist the high court of admiralty in enforcing the said bonds.

Power of high court of admiralty to enforce bonds. [16 & 17 Vict. c. 131, s. 48]

494. Any such salvor as aforesaid of any ship, cargo, or property who elects not to proceed under this Act shall have no power to detain the said ship, cargo, or property, but may proceed otherwise for the enforcement of his salvage claim as if this Act had not been passed; and nothing in this Act contained shall abridge or affect the rights of salvors, except in the cases by it provided for.

Saving clause. [Id. s. 49.]

495. All bonds, statements, agreements, and other documents made or executed in pursuance of the eighth part of this Act shall, if so made or executed out of the united kingdom, be exempt from stamp duty. [16 & 17 Vict. c. 131, s. 51]

Documents free from duty.

496. Every person who, in any proceeding under provisions contained in the eighth part of this Act relating to salvage by her majesty's ships, forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in any such proceeding puts off or makes use of any such forged or altered document, knowing the same to be so forged or altered, or who in any such proceeding gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with imprisonment, with or without hard labour, for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months.

Punishment for forgery and false representations [Id. s. 52]

Salvage (General).

497. Whenever services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of her majesty's ships, or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salved, upon the master or other person in charge thereof entering into a written agreement attested by two witnesses to abide the decision of the said high court of admiralty or of any vice-admiralty court, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the same manner as the bonds provided for by the eighth part of this Act, in the case of detention for salvage services rendered by her majesty's ships; and upon such agreement

Voluntary agreement may be made which shall have the same effect as the bond above mentioned. [Id. s. 50]

17 & 18 Vict. c. 104.

being made the salvor and the master or other person in charge as aforesaid shall respectively make such statements as are hereinbefore required to be made by them in case of a bond being given, except that such statements need not be made upon oath; and the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the court in which the said agreement is to be adjudicated upon.

Powers for courts having admiralty jurisdiction to apportion salvage (a).

498. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the united kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever such amount may be, then if any delay or dispute arises as to the apportionment thereof, any court having admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be there dealt with as the court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

Miscellaneous.

Foreign goods found derelict to be subject to the same duties as on importation.

499. All wreck, being foreign goods brought or coming into the united kingdom or the Isle of Man, shall be subject to the same duties as if the same were imported (b) into the united kingdom or the Isle of Man respectively; and if any question arises as to the origin of such goods, they shall be deemed to be the produce of such country as the commissioners of customs may upon investigation determine. [8 & 9 Vict. c. 86, s. 51.]

Goods saved from ships wrecked to be forwarded to the ports of their original destination. [9 & 10 Vict. c. 99, s. 39.]

500. The commissioners of customs and excise shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination, and all goods, wares, and merchandise saved from any ship stranded or wrecked on its outward voyage to be returned to the port at which the same were shipped; but such commissioners are to take security for the due protection of the revenue in respect of such goods, wares, and merchandise.

Provision as to certain terms in Scotland.

501. All matters and things that may in pursuance of the eighth part of this Act be done by or to any justice, or any two justices, may in Scotland be done also by or to the sheriff of the county, including the sheriff substitute; and the expression "lord or lady of a manor" shall in the eighth part of this Act, so far as regards Scotland, include "heritable proprietor duly infeft."

PART IX.

LIABILITY OF SHIPOWNERS (c).

Application.

Application of part ix. of Act.

502. The ninth part of this Act shall apply to the whole of her majesty's dominions.

Limitation of Liability.

Owner not liable in respect of certain articles. [7 Geo. 2, c. 15; 26 Geo. 3, c. 86, ss. 1, 2, 3; 58 Geo. 3, c. 159, s. 1.]

503. No owner of any sea-going ship or share therein shall be liable to make good any loss or damage that may happen without his actual fault or privity of or to any of the following things; (that is to say,)

(1.) Of or to any goods, merchandise, or other things whatsoever taken in or put on board any such ship, by reason of any fire happening on board such ship (d);

(2.) Of or to any gold, silver, diamonds, watches, jewels, or precious stones taken in or put on board any such ship by reason of any robbery, embezzlement, making away with or secreting thereof, unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bills of lading or otherwise declared in writing to the master or owner of such ship the true nature and value (e) of such articles,

To any extent whatever.

(a) See *The Princess Helena*, ante, 285, n. (d).

Upon application to the court under this section, for an apportionment, the court will decree an equitable apportionment, unless an equitable agreement is proved, or any equitable tender has been made (*The Enchantress*, 1 Lushington, 93, 30 L. J. Adm. 15).

An agreement between salvors and the agent of the salving ship to leave the amount of their reward to his determination, was held inequitable and void (*Ib.*).

(b) See *Barry* v. *Arnaud*, 10 A. & E. 646.

(c) Amended by 25 & 26 Vict. c. 63, s. 54. This part applies only to British ships, excepting where foreign ships are expressly mentioned (*Cope* v. *Doherty*, 2 De Gex & J. 614, 29 L. J. C. 600).

As to the liability of owners under the repealed Acts generally, see Maude and Pollock on Shipping, ed. 2, p. 46.

(d) See *Morewood* v. *Pollok*, 1 E. & B. 743.

(e) Where a bill of lading described the goods which had been stolen as "one box containing

504. No owner of any sea-going ship or share therein shall, in cases where all or any of the following events occur without his actual fault or privity; (that is to say,) 17 & 18 Vict. c. 104.

Measure of owner's liability.

(1.) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2.) Where any damage or loss is caused to any goods, merchandise or other things whatsoever on board any such ship;

(3.) Where any loss of life or personal injury is by reason of the improper navigation of such sea-going ship as aforesaid caused to any person carried in any other ship or boat;

(4.) Where any loss or damage is by reason of any such improper navigation of such sea-going ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever, on board any other ship or boat;

Be answerable in damages to an extent beyond the value (*a*) of his ship and the freight due or to grow due in respect of such ship during the voyage which at the time of the happening of any such events as aforesaid is in prosecution, or contracted for, subject to the following proviso, (that is to say,) that in no case where any such liability as aforesaid is incurred in respect of loss of life or personal injury to any passenger, shall the value of any such ship and the freight thereof be taken to be less than fifteen pounds per registered ton.

505. For the purposes of the ninth part of this Act, the freight shall be deemed to include the value of the carriage of any goods or merchandise belonging to the owners of the ship, passage money, and also the hire due or to grow due under or by virtue of any contract, except only such hire, in the case of a ship hired for a time, as may not begin to be earned until the expiration of six months after such loss or damage. Value of carriage of goods and passage money to be considered as freight. [53 Geo. 3 c. 159, s. 2.]

506. The owner of every sea-going ship or share therein shall be liable in respect of every such loss of life (*b*), personal injury, loss of or damage to goods as aforesaid arising on distinct occasions to the same extent as if no other loss, injury, or damage had arisen. Provision for separate losses. [Id. s. 3.]

Mode of Procedure.

507. Whenever any such liability as aforesaid has been or is alleged to have been incurred in respect of loss of life or personal injury, the board of trade may, in its discretion, after giving not less than three days' notice by post or otherwise to the party to be made defendant or defender, by warrant sealed with the seal of such board or signed by one of its secretaries or assistant secretaries, require the sheriff having jurisdiction over any place in the united kingdom to summon a jury, at a time and place to be specified in such warrant, for the purpose of determining the following question; (that is to say,) In case of loss of life or personal injury, board of trade may direct proceedings.

The number, names, and descriptions of all persons killed or injured by reason of any wrongful act, neglect, or default;

And upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at such time and place as aforesaid.

508. If either party to the inquiry desire any such question as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, is given to the board of trade before it has issued its Either party may require question to be tried by

---

about 248 ounces of gold dust: it was held, that there was no such declaration of value as is required by this section, and that the shipowner was consequently not liable to make good the loss (*Williams* v. *The African Steam Ship Co.*, 1 H. & Nor. 300, 26 L. J. Ex. 69).

(*a*) The value of the ship must in ordinary cases be taken to be the price which she would have sold for immediately before the collision (*The African Steam Ship Co.* v. *Swanzy*, 25 L. J. Ch. 870, 2 K. & J. 660; *Leycester* v. *Logan*, 4 K. & J. 725). Therefore, when a ship had run down another, and was afterwards sold, and her owners claimed the benefit of this Act:—it was held, that they were accountable for the gross proceeds of the sale, without deduction in respect of disbursements and fees retained by the Admiralty (*Ib.*; *Nixon* v. *Roberts*, 30 L. J. Ch. 844).

This and 514 sections do not apply to a collision on the high seas between foreign ships, of which the owners are foreigners (*Cope* v. *Doherty*, 2 De G. & J. 614, 27 L. J. Chanc. 600, 4 K. & J. 367; *The Ranger*, 32 L. J. P. M. & A. C. 49). But they do when such damage occurs within three miles of the coast of this country (*General Iron Screw Collier Co.* v. *Shurmans*, 1 Johns. & H. 180, 6 Jur. N. S. 883; *The Zollverein*, 1 Swabey, 96).

In a case of collision, in which one of the vessels is foreign, the municipal law of Great Britain cannot apply, but the case must be decided by the general maritime law which is common to all nations (*The Dumfries*, 1 Swabey, 63).

(*b*) As to the proof of the parties lost being passengers, see 25 & 26 Vict. c. 63, s. 56.

17 & 18 Vict. c. 104.

a special jury.

warrant to the sheriff; and for that purpose the board of trade shall, by its warrant to the sheriff, require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him by themselves or their attorneys or agents at some convenient time and place appointed by him for the purpose of nominating a special jury; and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury in the manner in which such juries are required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts; and the sheriff shall appoint a day, and shall on the day so appointed proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

Provisions for conduct of proceedings.

509. The following provisions shall be applicable to the conduct of proceedings by the board of trade; (that is to say,)

(1.) The sheriff shall preside at such inquiry, and the board of trade shall be deemed in England and Ireland to be the plaintiff, and in Scotland the pursuer, both of which terms are hereafter included in the term plaintiff, with power to appoint any agent to act on its behalf, and shall have all such rights and privileges as the plaintiff is entitled to in actions at law; and the owner or owners of the ship or ships by whom such liability as last aforesaid is alleged to have been incurred shall be deemed in England and Ireland to be the defendant, and in Scotland the defender, both of which terms are hereinafter included in the term defendant:

(2.) Not less than ten days' notice of the time and place of the inquiry shall be served by the board of trade on the defendant:

(3.) Service on the master of any ship shall be deemed good service on the owner thereof, and the master shall, in respect of the proceedings on such inquiry, be deemed the agent and representative of the owner, with power to appear for him on such inquiry, and to do all matters and things which he might himself have done:

(4.) If the defendant does not appear at the time of such inquiry, the same shall be proceeded with as if he had appeared, upon due proof of service of notice having been made on him in pursuance of this Act:

(5.) The empannelling of the jury and the summoning and attendance of witnesses shall be conducted and enforced in England and Ireland in manner provided by the Lands Clauses Consolidation Act, 1845, in cases of disputed compensation as to land, and in Scotland in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in like cases, or as near thereto as circumstances permit; and all provisions in the said Acts having reference to cases where any question of disputed compensation requires to be determined by the verdict of a jury shall, with the requisite alterations, be considered as incorporated with this Act, and to have reference to cases where the question of the liability of any owner in respect of any such accident as aforesaid requires to be determined by the verdict of a jury:

(6.) In England and Ireland the sheriff shall, if the board of trade so requires, or if the defendant so requires and the board of trade consents thereto, appoint as assessor a barrister-at-law of competent knowledge and standing:

(7.) The costs incurred by all parties in and incidental to any such inquiry as aforesaid shall in England and Ireland be taxed by the master of one of her majesty's superior courts of common law as between attorney and client, and in Scotland by the auditor of the court of session as between agent and client; and shall, if the verdict in any inquiry is in favour of the plaintiff, be paid by the defendant, but if such verdict is in favour of the defendant, be paid by the board of trade out of the mercantile marine fund:

(8.) The payment of all damages and costs in any such inquiry as aforesaid shall, upon application made to such superior court as aforesaid by the party entitled thereto, be enforced by rule or order of such court or a judge thereof, or otherwise as such court or judge thinks fit:

(9.) The board of trade may make any compromise it thinks fit as to the damages payable in respect of personal injury, or of the death of any person; and any damages received in pursuance of such compromise shall, so far as the same extend, be applied in the same manner and be subject to the same rules as if the same were damages recovered on an inquiry instituted by the board of trade.

Rules as to damages, and application thereof.

510. The following rules shall be observed as to the damages recovered in any such inquiry, and the application thereof; (that is to say,)

(1.) The damages payable in each case of death or injury shall be assessed at thirty pounds:

(2.) The damages found due on any such inquiry as aforesaid shall be the first charge on the aggregate amount for which the owner is liable, and shall be paid thereout in priority to all other claims:

(3.) All such damages as aforesaid shall be paid to her majesty's paymaster-general, and shall be distributed and dealt with by him in such manner as the board of trade directs; and in directing such distribution the board of trade shall have power in the first place to deduct and retain any costs incidental thereto; and

in the next place, as regards the sums paid in respect of injuries, shall direct payment to each person injured of such compensation, not exceeding in any case the statutory amount, as the said board thinks fit; and as regards the sums paid in respect of deaths shall direct payment thereof for the benefit of the husband, wife, parent, and child of the deceased, or any of them, in such shares, upon such evidence, and in such manner as the said board thinks fit: 17 & 18 Vict. c. 104.

(4.) The board of trade shall refund to the owner any surplus remaining under its control after making such distribution as aforesaid, and the sum so refunded shall form part of the residue hereinafter mentioned:

(5.) The board of trade shall not, nor shall any person acting under it, be liable to any action, suit, account, claim, or demand whatsoever for or in respect of any act or matter done, or omitted to be done, in the distribution of such damages as aforesaid:

(6.) If the amount paid to her majesty's paymaster-general in manner aforesaid is insufficient to meet the demands upon it, the several claims thereon shall abate proportionally.

511. After the completion of such inquiry as aforesaid, if any person injured estimates the damages payable in respect of such injury, or if the executor or administrator of any deceased person estimates the damages payable in respect of his death, at a greater sum than such statutory amount, or, in case of a compromise having been made by the board of trade, than the amount accepted by such board by way of compensation for such injury or death as aforesaid, the person so estimating the same shall, upon repaying or obtaining the repayment by the board of trade to the owner of the amount paid by him to the board of trade in respect of such injury or death, be at liberty to bring an action for the recovery of damages in the same manner as if no power of instituting an inquiry had hereinbefore been given to the board of trade, subject to the following proviso; (that is to say,) that any damages recoverable by such person shall be payable only out of the residue, if any, of the aggregate amount for which the owner is liable, after deducting all sums paid to her majesty's paymaster-general in manner aforesaid; and if the damages recovered in such action do not exceed double the statutory amount, such person shall pay to the defendant in such action all the costs thereof, such costs to be taxed in England and Ireland as between attorney and client, and in Scotland as between agent and client. Any person who is dissatisfied with the amount of statutory damage may bring an action on his own account.

512. In cases where loss of life or personal injury has occurred by any accident in respect of which the owner of any such ship as aforesaid is or is alleged to be liable in damages, no person shall be entitled to bring any action, or institute any suit or other legal proceeding in the united kingdom, until the completion of the inquiry (if any) instituted by the board of trade, or until the board of trade has refused to institute the same; and the board of trade shall, for the purpose of entitling any person to bring an action or institute a suit or other legal proceeding, be deemed to have refused to institute such inquiry whenever notice has been served on it by any person of his desire to bring such action or institute such suit or other legal proceeding, and no inquiry is instituted by the board of trade in respect of the subject matter of such intended action, suit, or proceeding for the space of one month after the service of such notice. If board of trade decline to institute proceedings, individuals may bring actions.

513. Whenever the board of trade, having refused in manner aforesaid to institute any inquiry, afterwards determines to institute the same, the damages and costs (if any) recovered on such inquiry shall be payable rateably with and not in priority to the costs and damages recovered in any other action, suit, or legal proceeding. Proceedings by board of trade after refusal.

514. In cases where any liability has been or is alleged to have been incurred by any owner in respect of loss of life, personal injury, or loss of or damage to ships, boats, or goods, and several claims are made or apprehended in respect of such liability, then, subject to the right hereinbefore given to the board of trade of recovering damages in the united kingdom in respect of loss of life or personal injury, it shall be lawful, in England or Ireland for the high court of chancery, and in Scotland for the court of session, and in any British possession for any competent court, to entertain proceedings at the suit of any owner for the purpose of determining the amount of such liability subject as aforesaid, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending (b) in any other court in relation to the same subject matter; and any proceeding enter- Proceedings in case of several claims being made on owner of ship (a).

(a) This section does not apply where the liability is denied altogether by the ship-owner (*Hill* v. *Audus*, 24 L. J. Ch. 229; 1 Kay & J. 263).

As to the costs of proceedings under this section, see *The African Steam Ship Co.* v. *Swanzy*, 25 L. J. Ch. 370; 2 K. & J. 660.

(b) A judgment having been obtained in an action commenced in the Admiralty Court, the ship was arrested by process of that court, and at the time of filing the bill, was in custody of an officer and liable to be sold: it was held, by Wood, V. C., that the action was a suit pending within this section (*Leycester* v. *Logan*, 26 L. J. Ch. 306; 1 Kay & J. 725, 3 *ib.* 446).

In such a case, though the court cannot prevent a sale under the admiralty decree, it will superintend the distribution of the proceeds rateably among the claimants (*ib.*).

17 & 18 Vict. c. 104.

tained by such court of chancery or court of session, or other competent court, may be conducted in such manner and subject to such regulations as to making any persons interested parties to the same, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the court thinks just (a).

Money paid for damage how to be accounted for between part owners.

515. All sums of money paid for or on account of any loss or damage in respect whereof the liability of the owners of any ship is limited by the ninth part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof. [53 Geo. 3, c 159, s. 16]

Saving Clause.

Saving clause. [Id. s. 5.]

516. Nothing in the ninth part of this Act contained shall be construed—

To lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman; or

To extend to any British ship not being a recognised British ship within the meaning of this Act.

PART X. (b).

LEGAL PROCEDURE.

Application.

Application of part x. of the Act.

517. The tenth part of this Act shall in all cases, where no particular country is mentioned, apply to the whole of her majesty's dominions.

Legal Procedure (General.)

Punishment of offences, and recovery of penalties.

518. In all places within her majesty's dominions, except Scotland, the offences hereafter mentioned shall be punished and penalties recovered in manner following; (that is to say,)

(1.) Every offence by this Act declared to be a misdemeanor shall be punishable by fine or imprisonment with or without hard labour; and the court before which such offence is tried may in England make the same allowances and order payment of the same costs and expenses as if such misdemeanor had been enumerated in the Act passed in the seventh year of his late majesty king George the fourth, chapter sixty-four, or any other Act that may be passed for the like purpose; and may in any other part of her majesty's dominions make such allowances and order payment of such costs and expenses (if any) as are payable or allowable upon the trial of any misdemeanor under any existing Act or ordinance, or as may be payable or allowable under any Act or law for the time being in force therein:

7 G 4, c. 64.

(2.) Every offence declared by this Act to be a misdemeanor shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by a penalty not exceeding one hundred pounds, and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanor:

(3.) Every offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by any penalty not exceeding one hundred pounds, shall in England and Ireland be prosecuted summarily before any two or more justices, as to England in the manner directed by the Act of the eleventh and twelfth years of the reign of her majesty queen Victoria, chapter forty-three, and as to Ireland in the manner directed by the Act of the fourteenth and fifteenth years of the reign of her majesty queen Victoria, chapter ninety-three, or in such other manner as may be directed by any Act or Acts that may be passed for like purposes: And all provisions contained in the said Acts shall be applicable to such prosecutions in the same manner as if the offences in respect of which the same are instituted were hereby stated to be offences in respect of which two or more justices have power to convict summarily or to make a summary order:

(4.) In all cases of summary convictions in England, where the sum adjudged to be paid exceeds five pounds, or the period of imprisonment adjudged exceeds one month, any person who thinks himself aggrieved by such conviction may appeal to the next court of general or quarter sessions which is holden not less than twelve days after the day of such conviction for the county, city, borough, liberty, riding, division, or place wherein the case has been tried; provided

(a) See *Cope* v. *Doherty*, antc, p. 345, n. (a).

(b) This part is amended by 18 & 19 Vict. c. 91, s. 21, post.

that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognisance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognisance being entered into, the justice before whom the same shall be entered into shall liberate such person, if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing such judgment: 17 & 18 Vict. c. 104.

(5.) All offences under this Act shall in any British possession be punishable in any court or by any justice of the peace or magistrate in which or by whom offences of a like character are ordinarily punishable, or in such other manner, or by such other courts, justices, or magistrates, as may from time to time be determined by any Act or ordinance duly made in such possession in such manner as Acts and ordinances in such possession are required to be made in order to have the force of law.

519. Any stipendiary magistrate shall have full power to do alone whatever two justices of the peace are by this Act authorised to do. Stipendiary magistrate to have same power as two justices.

520. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be. Offence where deemed to have been committed (a). [13 & 14 Vict. c. 93, s. 108.]

521. In all cases where any district within which any court or justice of the peace or other magistrate has jurisdiction either under this Act or under any other Act or at common law, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice of the peace, or magistrate shall have jurisdiction over any ship or boat being on or lying or passing off such coast, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such court, justice, or magistrate. Jurisdiction over ships lying off the coasts.

522. Service of any summons or other matter in any legal proceeding under this Act shall be good service, if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any ship to which he may belong with the person being or appearing to be in command or charge of such ship. Service to be good if made personally, or on board. [Id. s. 109.]

523. In all cases where any court, justice or justices of the peace, or other magistrate, has or have power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice or justices, or other magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or poinding and sale of the said ship, her tackle, furniture, and apparel. Sums ordered to be paid levyable by distress on ship. [7 & 8 Vict. c. 112, s. 15.]

524. Any court, justice, or magistrate imposing any penalty under this Act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the Act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the united kingdom shall be paid into the receipt of her majesty's exchequer in such manner as the treasury may direct, and shall be carried to and form part of the consolidated fund of the united kingdom; and all penalties recovered in any British possession shall be paid over into the public treasury of such possession, and form part of the public revenue thereof. Application of penalties. [13 & 14 Vict. c. 93, s. 111; 16 & 17 Vict. c. 131, s. 26.]

525. The time for instituting summary proceedings under this Act shall be limited as follows; (that is to say,) Limitation of time in summary proceedings. [13 & 14 Vict. c. 93, s. 114.]

(1.) No conviction for any offence shall be made under this Act in any summary proceeding instituted in the united kingdom, unless such proceeding is commenced within six months after the commission of the offence; or, if both or either of

(a) See 18 & 19 Vict. c. 91, s. 21, post.

17 & 18 Vict. c. 104.

the parties to such proceeding happen during such time to be out of the united kingdom, unless the same is commenced within two months after they both first happen to arrive or to be at one time within the same :

(2.) No conviction for any offence shall be made under this Act in any proceeding instituted in any British possession, unless such proceeding is commenced within six months after the commission of the offence ; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first happen to arrive or to be at one time within such jurisdiction :

(3.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in the united kingdom, unless such proceeding is commenced within six months after the cause of complaint arises ; or, if both or either of the parties happen during such time to be out of the united kingdom, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same :

(4.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in any British possession, unless such proceeding is commenced within six months after the cause of complaint arises ; or, if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within six months after they both first happen to arrive or be at one time within such jurisdiction :

And no provision contained in any other Act or Acts, ordinance or ordinances, for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Document proved without calling attesting witness.

526. Any document required by this Act to be executed in the presence of or to be attested by any witness or witnesses, may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses or any of them.

Power of judge of court of record or admiralty to arrest foreign ship that has occasioned damage (*a*). [9 & 10 Vict c. 99, s. 41]

527. Whenever any injury has, in any part of the world, been caused to any property belonging to her majesty or to any of her majesty's subjects by any foreign ship, if at any time thereafter such ship is found in any port or river of the united kingdom or within three miles of the coast thereof, it shall be lawful for the judge of any court of record in the united kingdom, or for the judge of the high court of admiralty, or in Scotland the court of session, or the sheriff of the county within whose jurisdiction such ship may be, upon its being shown to him by any person applying summarily that such injury was probably caused by the misconduct or want of skill of the master or mariners of such ship, to issue an order directed to any officer of customs or other officer named by such judge, requiring him to detain such ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of such injury, or has given security, to be approved by the judge, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of such injury, and to pay all costs and damages that may be awarded thereon ; and any officer of customs or other officer to whom such order is directed shall detain such ship accordingly.

Power in certain cases to detain ship before application made to judge [Ibid.]

528. In any case where it appears that before any application can be made under the foregoing section such foreign ship will have departed beyond the limits therein mentioned, it shall be lawful for any commissioned officer on full pay in the military or naval service of her majesty, or any British officer of customs, or any British consular officer, to detain such ship until such time as will allow such application to be made and the result thereof to be communicated to him ; and no such officer shall be liable for any costs or damages in respect of such detention, unless the same is proved to have been made without reasonable grounds.

Who to be defendant to suit in such cases. [Ibid.]

529. In any action, suit, or other proceeding in relation to such injury, the person so giving security as aforesaid shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned such damage ; and the production of the order of the judge made in relation to such security shall be conclusive evidence of the liability of such defendant or defender to such action, suit, or other proceeding.

Legal Procedure (Scotland).

Offences punishable as misdemeanors. [16 & 17 Vict c. 181, s 54.]

530. In Scotland every offence which by this Act is described as a felony or misdemeanor may be prosecuted by indictment or criminal letters at the instance of her majesty's advocate before the high court of justiciary, or by criminal libel at the instance of the procurator fiscal of the county before the sheriff, and shall be punishable with fine

---

(*a*) Damage done by a foreign vessel to a barge in the Thames ; arrest according to ordinary process, absolute appearance and release of vessel thereon ; petition filed. Plea, that the barge was not a seagoing vessel within the 3 & 4 Vict. c. 65, s. 6, and that the Court had no jurisdiction : It was held, that the court had jurisdiction by this section; and that after absolute appearance, the defendant could not object that the arrest had not strictly followed the course prescribed in this section (*The Bilboa*, 1 Lushington, 149).

and with imprisonment, with or without hard labour, in default of payment, or with imprisonment with or without hard labour, or with both, as the court may think fit, or in the case of felony with penal servitude, where the court is competent thereto; and such court may also, if it think fit, order payment by the offender of the costs and expenses of the prosecution. 17 & 18 Vict. c. 104.

531. In Scotland, all prosecutions, complaints, actions, or proceedings under this Act, other than prosecutions for felonies or misdemeanors, may be brought in a summary form before the sheriff of the county, or before any two justices of the peace of the county or burgh where the cause of such prosecution or action arises, or where the offender or defender may be for the time, and when of a criminal nature, or for penalties, at the instance of the procurator fiscal of court; and the court may, if it think fit, order payment by the offender or defender of the costs of the prosecution or action. Summary proceedings. [Id. ss. 55, 56.]

532. In Scotland, all prosecutions, complaints, actions, or other proceedings under this Act may be brought either in a written or printed form, or partly written and partly printed, and where such proceedings are brought in a summary form it shall not be necessary in the complaint to recite or set forth the clause or clauses of the Act on which such proceeding is founded, but it shall be sufficient to specify or refer to such clause or clauses, and to set forth shortly the cause of complaint or action, and the remedy sought; and when such complaint or action is brought in whole or in part for the enforcement of a pecuniary debt or demand, the complaint may contain a prayer for warrant to arrest upon the dependence. Form of complaint [Id. s. 57.]

533. In Scotland, on any complaint or other proceeding brought in a summary form under this Act being presented to the sheriff clerk or clerk of the peace, he shall grant warrant to cite the defender to appear personally before the said sheriff or justices of the peace on a day fixed, and at the same time shall appoint a copy of the same to be delivered to him by a sheriff officer or constable, as the case may be, along with the citation; and such deliverance shall also contain a warrant for citing witnesses and havers to compear at the same time and place to give evidence and produce such writs as may be specified in their citation; and where such warrant has been prayed for in the complaint or other proceeding, the deliverance of the sheriff clerk or clerk of the peace shall also contain warrant to arrest upon the dependence in common form: Provided always, that where the apprehension of any party, with or without a warrant, is authorised by this Act, such party may be detained in custody until he can be brought at the earliest opportunity before any two justices, or the sheriff who may have jurisdiction in the place, to be dealt with as this Act directs, and no citation or inducise shall in such case be necessary. Mode of requiring appearance of defender and witnesses. [Id. s. 58.]

534. When it becomes necessary to execute such arrestment on the dependence against goods or effects of the defender within Scotland, but not locally situated within the jurisdiction of the sheriff or justices of the peace by whom the warrant to arrest has been granted, it shall be competent to carry the warrant into execution on its being endorsed by the sheriff clerk or clerk of the peace of the county or burgh respectively within which such warrant comes to be executed. Backing arrestments. [Id. s. 59.]

535. In all proceedings under this Act in Scotland the sheriff or justices of the peace shall have the same power of compelling attendance of witnesses and havers as in cases falling under their ordinary jurisdiction. Compelling attendance of witnesses. [Id s. 60.]

536. The whole procedure in cases brought in a summary form before the sheriff or justices of the peace in Scotland shall be conducted *viva voce*, without written pleadings, and without taking down the evidence in writing, and no record shall be kept of the proceedings, other than the complaint, and the sentence or decree pronounced thereon. Proceedings to be *viva voce*. [Id. s. 61.]

537. It shall be in the power of the sheriff or justices of the peace in Scotland to adjourn the proceedings from time to time to any day or days to be fixed by them, in the event of absence of witnesses or of any other cause which shall appear to them to render such adjournment necessary. Power to adjourn. [Id. s. 62.]

538. In Scotland all sentences and decrees to be pronounced by the sheriff or justices of the peace upon such summary complaints shall be in writing; and where there is a decree for payment of any sum or sums of money against a defender, such decree shall contain warrant for arrestment, poinding, and imprisonment in default of payment, such arrestment, poinding, or imprisonment to be carried into effect by sheriffs' officers or constables, as the case may be, in the same manner as in cases arising under the ordinary jurisdiction in the sheriff or justices: Provided always, that nothing herein contained shall be taken or construed to repeal or affect an Act of the fifth and sixth years of William the fourth, intituled "An Act for abolishing, in Scotland, Imprisonment for Civil Debts of small Amount." Sentence to be in writing. Imprisonment to be inflicted in default of payment. 5 & 6 W. 4, c. 70. [Id. s. 63.]

539. In all summary complaints and proceedings for recovery of any penalty or sum of money in Scotland, if a defender who has been duly cited shall not appear at the time and place required by the citation, he shall be held as confessed, and sentence or decree shall be pronounced against him in terms of the complaint, with such costs and expenses as to the court shall seem fit; Provided always, that he shall be entitled to obtain himself reponed against any such decree at any time before the same be fully implemented, by lodging with the clerk of court a reponing note, and consigning in his hands the sum decerned for, and the costs which had been awarded by the court, and on the same day delivering or transmitting through the post to the pursuer or his agent a copy of such reponing note; and a certificate by the clerk of court of such note having been lodged shall operate as a sist of diligence till the cause shall have been reheard and finally Sentence and penalties in default of defender's appearance. [Id. s. 64.]

& 18 Vict c. 104.

disposed of, which shall be on the next sitting of the court, or on any day to which the court shall then adjourn it.

Warrant to apprehend in default of appearance [16 & 17 Vict. c. 181, s. 65]

540. In all summary complaints or other proceedings not brought for the recovery of any penalty or sum of money in Scotland, if a defender, being duly cited, shall fail to appear the sheriff or justices may grant warrant to apprehend and bring him before the court.

Backing sentences or decrees. [Id. s. 66.]

541. In all cases where sentences or decrees of the sheriff or justices require to be enforced within Scotland, but beyond the jurisdiction of the sheriff or justices by whom such sentences or decrees have been pronounced, it shall be competent to carry the same into execution upon the same being indorsed by the sheriff clerk or clerk of the peace of the county or burgh within which such execution is to take place.

Orders not to be quashed for want of form, and to be final. [Id. s. 67.]

542. No order, decree, or sentence pronounced by any sheriff or justice of the peace in Scotland under the authority of this Act shall be quashed or vacated for any misnomer, informality, or defect of form; and all orders, decrees, and sentences so pronounced shall be final and conclusive, and not subject to suspension, advocation, reduction, or to any form of review or stay of execution, except on the ground of corruption or malice on the part of the sheriff or justices, in which case the suspension, advocation, or reduction must be brought within fourteen days of the date of the order, decree, or sentence complained of: Provided always, that no stay of execution shall be competent to the effect of preventing immediate execution of such order, decree, or sentence.

General rules, so far as applicable, to extend to penalties and proceedings in Scotland. [Id. s. 68.]

543. Such of the general provisions with respect to jurisdiction, procedure, and penalties contained in this Act as are not inconsistent with the special rules hereinbefore laid down for the conduct of legal proceedings and the recovery of penalties in Scotland, shall, so far as the same are applicable, extend to such last-mentioned proceedings and penalties: Provided always, that nothing in this Act contained shall be held in any way to annul or restrict the common law of Scotland with regard to the prosecution or punishment of offences at the instance or by the direction of the lord advocate, or the rights of owners or creditors in regard to enforcing a judicial sale of any ship and tackle, or to give to the high court of admiralty of England any jurisdiction in respect of salvage in Scotland which it has not heretofore had or exercised.

PART XI.

MISCELLANEOUS.

Contracts may be made with natives in India, under certain conditions, binding them to go to Australia, and thence to serve in other ships to the united kingdom. [Id. s. 40 (a).]

544. It shall be lawful for any master or owner of a ship, or his agent, to enter into contracts with lascars or natives of the territories of the East India company, binding them to proceed to any port or ports in the Australian colonies either as seamen or as passengers, and there to engage themselves as seamen in any ship which may happen to be there and to be bound to the united kingdom or to any other part of her majesty's dominions; provided that every such contract shall be in such form, and shall contain such provisions, and shall be executed in such manner, and under such conditions for securing the return of such lascars or natives to their own country, and for other purposes, as the governor-general of India in council, or the governors of the respective presidencies in which the contract is made, in council, may direct; and if any lascar or other person who has bound himself by any such contract is, on arriving in any of the said colonies, required to enter into an agreement to serve as a seaman in any ship bound for the united kingdom or to any other part of her majesty's dominions, and if it is certified by some officer appointed for that purpose by the governor of the said colony that such agreement is a proper agreement in all respects for such lascar or other person to enter into, and is in accordance with the original contract, and that the ship to which such agreement relates is a proper ship for such lascar or other person to serve in, and is properly supplied with provisions, and that there is not in the opinion of such officer any objection to the full performance of the said contract, such lascar or other person shall be bound to enter into the said agreement, and to serve as a seaman in the ship to which it relates, and shall thereupon be deemed to be for all purposes one of the crew of the ship; and if he refuses to enter into such agreement he shall, notwithstanding such refusal, be liable to the same consequences, and be dealt with in all respects in the same manner, as if he had voluntarily entered into the same; and for every lascar or other person in respect of whom such certificate is applied for the person applying for the same shall pay to such officer as aforesaid such fee as the governor of the colony may appoint.

Act not to affect Passenger Acts, 15 & 16 Vict. c. 44, 16 & 17 Vict. c. 84 (b).

545. Nothing in this Act contained shall be taken to repeal or alter any of the provisions of the "Passengers Act, 1852," or of the Act of the seventeenth year of her present majesty, chapter eighty-four.

(a) See 18 & 19 Vict. c. 91, ss. 22, 23, post.

(b) The Passengers Act of 1852 is now repealed by the 18 & 19 Vict. c. 119, which makes other provisions in lieu of it, post.

546. The municipal corporation of any borough, being a seaport in the united kingdom, and any body corporate, association, or trustees in any such seaport, existing or constituted for any public purposes relating to the government or benefit of persons engaged in the British merchant service, or to the management of docks and harbours, or for any other public purposes connected with shipping or navigation, may, with the consent of her majesty's secretary of state for the home department, appropriate any lands vested in them or in trustees for them as a site or sites for a sailors' home or sailors' homes, and may for that purpose either retain and apply the same accordingly, or convey the same to trustees, with such powers for appointing new trustees and continuing the trust as they think fit.

17 & 18 Vict c. 104.

Corporations, &c, may grant site for sailors' homes

14 & 15 Vict. c. 93, s. 124

547. The legislative authority of any British possession shall have power by any Act or ordinance, confirmed by her majesty in council, to repeal, wholly or in part, any provisions of this Act relating to ships registered in such possession; but no such Act or ordinance shall take effect until such approval has been proclaimed in such possession, or until such time thereafter as may be fixed by such Act or ordinance for the purpose.

Power of colonial legislatures to alter provisions of Act.

548. All expenses incurred by the commissioners of customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the revenue of customs, and shall be paid out of the consolidated customs; but the board of trade may, with the consent of the treasury, repay out of the mercantile marine fund all or any part of such of the expenses so paid as are by the provisions of this Act chargeable on the said fund.

Expenses incurred by commissioners of customs to be paid out of the consolidated customs

17 & 18 Vict. c. 104.

SCHEDULE TO WHICH THIS ACT REFERS.

FORM A. (See Section 36.)

CERTIFICATE OF SURVEYOR.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build . .	*Carvel or Clincher.*
Number of Masts .			
Rigging . . .	*Nature of, and whether Standing or Running Bowspril.*	Gallery . .	*Description of.*
		Head . . .	*Kind of.*
Stern	*Round, Square, or other Description.*	Framework.	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{11}{100}$ths or $\frac{14}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horse-power)		

* *Omit this part if she has no steam power.*

Register Tonnage (after making Deduction for Space for Propelling Power in Steamers)* .	

I, the undersigned *A. B.* of , having surveyed the above-named ship, hereby certify that the above particulars are true.

Dated at (Signed) _____

the day of 18

17 & 18 Vict. c 104.

FORM B. (See Section 38.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL OWNER.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks		Build	*Carvel or Clincher.*
Number of Masts		Gallery	*Description of.*
Rigging	*Nature of, and whether Standing or Running*	Head	*Kind of.*
Bowsprit			
Stern	*Round, Square, or other Description.*	Framework	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them	
Total	

* *Additional Particulars for Steamers.*	Tons.		
Deduction for Space required for Propelling Power (say whether $\frac{11}{100}$ths or $\frac{33}{100}$ths, or as measured)			
Length of Engine Room (if measured)	Feet.	Tenths.	
Engines	Number of Engines.		
Combined Power (estimated Horse-power)	No. of Horses-power.		
Register Tonnage (after making deduction for Space for Propelling Power in Steamers) *			

* *Omit this part if she has no steam power.*

I, the undersigned *A.B.* of in the county of declare as follows:

(1.) I am a natural-born British subject, born at [*naming birth-place*],

and have never taken the oath of allegiance to any foreign state. *or* and have since I took the oath of allegiance to a foreign state [*naming the state*], and on the day of , taken the oath of allegiance to her majesty, and am resident† at [*naming place*], being a place within her majesty's dominions.

† *If the declarant is a natural-born subject, who has taken the oath of allegiance to a foreign state, or a denizen or naturalized subject, and is resident in a country not within her majesty's dominions, he must declare in addition, that "he is a member of some British factory, or partner in some house actually carrying on business in the united kingdom, or in some British possession" [naming the house and also the place where it carries on its business].*

17 & 18 Vict. c. 104.

I am

a denizen by letters of denization dated the day of *or* naturalized by Act of parliament of the united kingdom of [*cite the year of the reign in which the Act was passed, its chapter and title.*] *or* naturalized by an ordinance of the proper legislative authority of [*naming British possession*], [*cite the year in which the ordinance was passed, its chapter and title.*]

and am resident at [*naming place*], being a place within her majesty's dominions,

And I have

since I so became a denizen, *or* since the passing of the said Act or ordinance

and on the day of taken the oath of allegiance to her majesty.

(2.) The ship, the description of which is prefixed to this my declaration, was built at [*naming the country and place*] on the day of , and her foreign name is [*these words to be added if the ship is foreign.*] *or* is foreign-built, and I do not know the time when or the place where she was built, and her foreign name is *or* was condemned by the court of [*naming court*] on the day of at

(3.) *C.D.* of is the master of the said ship.

(4.) I am entitled to be registered as owner of shares in the said ship.

(5.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1855, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

Dated at (Signed)_____

the day of 18

Made and subscribed by the above-named *A.B.* in the presence of me

(Signed)_____ [*Name of registrar or justice of the peace acting in and for* .]

If the declaration is made by a joint owner, add the word "joint" before owner.

17 & 18 Vict. c. 104.

FORM C. (See Section 39.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS OWNER.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build .	*Carvel or Clincher.*
Number of Masts .			
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Gallery .	*Description of.*
		Head . .	*Kind of.*
Stern . . .	*Round, square, or other Description.*	Framework.	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships . .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total	

* *Additional Particulars for Steamers*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{11}{100}$ths or $\frac{32}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horse-power)		

* *Omit this part if the has no steam power.*

Register Tonnage (after making Deduction for Space for Propelling Power in Steamers)* .	

I, the undersigned *A. B.* of in the county of [*secretary*], or [*duly appointed public officer*], of the company, declare as follows:

(1.) The said company was incorporated by or by virtue of

an Act of parliament of the united kingdom [*cite the year of the reign in which the Act was passed, its chapter and title*], *or* a charter granted by her majesty, and dated the day of , *or* an Act or ordinance of the legislature of [*cite the year in which the Act or ordinance was passed, its chapter and title*]. *or* the Act 7 & 8 Vict. c. 110, from the day of being the date of the certificate of complete registration.

17 & 18 Vict. c. 104.

(2. The said company is subject to the laws

of the united kingdom, } *or* { of the British possession of

and has its principal place of business at

(3.) The ship, the description of which is prefixed to this my declaration,

was built at [*naming the country and place*] on the day of , and her foreign name is [*these words to be added if the ship is foreign*]. } *or* { is foreign-built, and I do not know the time when or the place where she was built, and her foreign name is } *or* { was condemned by the court of [*naming court*] on the day of at

(4.) *C. D.* of is the master of the said ship.

(5.) The said company is entitled to be registered as owner of shares in the said ship.

(6.) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of 18.

Made and subscribed by the above-named *A. B.*
in the presence of me

(Signed) _____ { [*Name of registrar.*] }

17 & 18 Vict. c. 104.

FORM D. (See Section 44.)

CERTIFICATE OF REGISTRY.

No.———— *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build . .	*Carvel or Clincher.*
Number of Masts .			
Rigging	*Nature of, and whether standing or running Bowsprit.*	Gallery .	*Description of.*
		Head. .	*Kind of.*
Stern	*Round, square, or other Description.*	Framework	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships . .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{47}{100}$ths or $\frac{53}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horse-power)		

* *Omit this part if she has no steam power.*

Register tonnage (after making Deduction for Space for Propelling Power in Steamers)*.	

I, the undersigned *A.B.*, registrar of the port of hereby certify, that,

(1.) The ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true.

17 & 18 Vict. c. 104.

(2.) *C.D.* of is the master of the said ship.

(3.) The said ship was built at [*naming the country and place*] on the day of and her foreign name is [*these words to be added if her ship is foreign*]. *or* { is foreign-built, and the time when and the place where she was built is not known, and her foreign name is } *or* { was condemned by the court of [*naming court*] on the day of at }

(4.) The several persons and bodies corporate whose names are hereunder written [*or indorsed*] are owners [of the above ship, in the proportions set opposite their respective names.

(Signed) _____ Registrar.

Names of the several Owners above [*or* within] mentioned.	Number of Sixty-four Shares held by each Owner.
[*Name.*]	*Thirty-two.*
——	*Sixteen.*
——	*Eight.*
——	*Eight.*

(Signed) _____ Registrar.

Dated at

the day of 18

Notice.—A certificate of registry granted under the Merchant Shipping Act, 1854, is not a document of title. It does not necessarily contain notice of *all* changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

FORM E. (See Section 55.) 17 & 18 Vict. c. 104.

BILL OF SALE.

No. _____ *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build . .	*Carvel or Clincher.*
Number of Masts .		Gallery .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Head . .	*Kind of.*
Stern	*Round, square, or other Description.*	Framework	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{N}{100}$ths or $\frac{33}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horse-power)		
Register Tonnage, (after making Deduction for Space for Propelling Power in Steamers)* .		

* *Omit this part if she has no steam power.*

I, *A. B.* of in the county of , being owner† of shares in the ship above particularly described, in consideration of £ paid to me by *C. D.* of in the county of hereby transfer to the said *C. D.* the said shares.

Further I, *A. B.*, for myself and my heirs, covenant with the said *C. D.* and his assigns that I have power to transfer in manner aforesaid the said shares, and that the same are free from incumbrances‡ *save as appears by the registry of the said ship.*

In witness whereof I have hereunto subscribed my name and affixed my seal, this day of 18 .

(L. S.) Signed _____

Executed by the above-named in the presence of

_____ [*insert description and place of residence*].

† *Alter as necessary, if there be more than one owner.*

‡ *Omit, if no incumbrances, the words in italics.*

17 & 18 Vict. c. 104.

FORM F. (See Section 56.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL TRANSFERREE.

No. _____ *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks		Build	*Carvel or Clincher.*
Number of Masts		Gallery	*Description of.*
Rigging	*Nature of, and whether standing or running Bowsprit.*	Head	*Kind of.*
Stern	*Round, square, or other Description.*	Framework	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them	
Total	

Additional Particulars for Steamers.	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{47}{100}$ths or $\frac{33}{100}$ths, or as measured)		
Length of Engine Room (if measured)	Feet.	Tenths.
Engines	Number of Engines.	
Combined Power (estimated Horse-power)	No. of Horses-power.	

* *Omit this part if she has no steam power*

Register Tonnage, after making Deduction for Space for Propelling Power in Steamers)*	

I, the undersigned *A.B.*, of in the county of declare as follows:

(1.) I am a natural-born subject of her majesty, born at [*naming place of birth*],

and have never taken the oath of allegiance to any foreign state. *or* and have since I took the oath of allegiance to a foreign state [*naming state*] and on the day of taken the oath of allegiance to her majesty, and am resident† at [*naming place*] being a place within her majesty's dominions.

† *If the declarant is a natural-born subject, who has taken the oath of allegiance to a foreign state, or a denizen or a naturalized subject, and is resident in a country not within her majesty's dominions, he must declare in addition, that "he is a member of some British factory, partner in some house actually carrying on business in the united kingdom or in some British possession" [naming the house and also the place where it carries on its business].*

or 17 & 18 Vict. c. 104.

I am

a denizen by letters of denization dated the day of } *or* { naturalized by Act of parliament of the united kingdom [*cite the year in which the Act was passed, its chapter and title*], } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession*] [*cite the year in which the ordinance was passed, its chapter and title*],

and am resident at [*naming place*], being a place withing her majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance,

and on the day of , taken the oath of allegiance to her majesty.

(2.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of , 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me
(Signed) _____ { *Name of registrar or justice of the peace acting in and for*

17 & 18 Vict. c. 104.

FORM G. (See Section 56.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS TRANSFERREE.

No. _____ *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How Propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build . .	*Carvel or Clincher.*
Number of Masts .		Gallery .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Head . .	*Kind of.*
Stern . . .	*Round, square, or other Description.*	Framework.	*Wood or other Ma-*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the head of the Sternpost		
Main Breadth to outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
P'dop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total . . .	

Omit this part if she has no steam power.

* *Additional Particulars for Steamers.*	Tons.
Deduction for Space required for Propelling Power (say whether $\frac{31}{100}$ths or $\frac{32}{100}$ths, or as measured)	

	Feet.	Tenths.
Length of Engine Room (if measured)		

	Number of Engines.
Engines	

	No. of Horses-power.
Combined Power (estimated Horse-power)	

Register Tonnage, after making Deduction for Space for Propelling Power in Steamers* .	

I, the undersigned *A. B.*, of [*secretary*], or [*duly appointed public officer*], of the in the county of company, declare as follows :

7 & 18 Vict. c. 104.

(1.) The said company was incorporated by or by virtue of

an Act of parliament of the united kingdom [*cite the year in which the Act was passed, its chapter and title*]. *or* a charter granted by Her majesty, and dated the day of *or* an Act or ordinance of the legislature of [*cite the year in which the Act or ordinance was passed, its chapter and title*]. *or* the Act 7 & 8 Vict. c. 110, from the day of being the date of the certificate of complete registration.

(2.) The said company is subject to the laws

of the united kingdom, *or* of the British possession of _____

and has its principal place of business at

(3.) The said company is entitled to be registered as transferree of shares in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed _____

Dated at _____

the day of 18 .

Made and subscribed by the above-named *A. B.*

in the presence of me

(Signed) _____ [*Name of registrar.*]

17 & 18 Vict. c. 104.

FORM H. (See Section 58.)

DECLARATION BY OWNER TAKING BY TRANSMISSION.

No. _____ *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build. .	*Carvel or Clincher.*
Number of Masts .			
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Gallery . .	*Description of.*
		Head . .	*Kind of.*
Stern	*Round, square, or other Description.*	Framework	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total . . .	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{31}{100}$ths or $\frac{32}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horse-power)		

* *Omit this part if she has no steam power.*

Register Tonnage (after making Deduction for Space for Propelling Power in Steamers)* .	

I, † the undersigned *A.B.*, of in the county of declare as follows:

† *Alter accordingly if more than one person makes the declaration.*

(1.) I am a natural-born subject of her majesty, born at [*naming place of birth*] 17 & 18 Vict c. 104.

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*] and on the day of taken the oath of allegiance to her majesty, and am resident* at [*naming place*] being a place within her majesty's dominions.

or

I am

a denizen by letters of denization dated the day of } *or* { naturalized by Act of parliament of the united kingdom [*cite the year in which the Act was passed, its chapter and title*], } * *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession*] [*cite the year in which the ordinance was passed, its chapter and title*],

and am resident at [*naming place*], being a place within her majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance, and on the day of , taken the oath of allegiance to her majesty.

(2.) I declare that the person appearing by the register book to be the owner of shares in the ship above described† [*died at in the county of having first duly made his will dated the day of whereby he appointed me executor, and I proved his said will on the day of in the court of*] *or* [*died at in the county of on the day of intestate, and that letters of administration of his estate and effects were on the day of duly granted to me by the court of* .] *or* { We declare that *C.D.*, the person appearing on the register book to be the owner of shares in the ship above described, was on the day of † [*duly adjudged a bankrupt*] or [*declared insolvent*], and that we were on the day of appointed assignees of the said *C.D.*, and we are by law entitled to be registered as owners of the said shares of the said ship in place of the said *C.D.* } *or* { I declare that on the day of I intermarried with and am now the husband of *C.D.*, the person appearing on the register book to be the owner of shares in the said ship, and I declare that on such marriage the interest of the said *C.D.* became by law vested in me, and that I am entitled to be registered as owner of the said shares in place of the said *C.D.*

(3.) To the best of my knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me

(Signed) _____ { *Name of registrar or justice of the peace acting in and for*

* *If the declarant is a natural born subject who has taken the oath of allegiance to a foreign state, or a denizen or a naturalized subject, and is resident in a country not within her majesty's dominions, he must declare in addition, that "he is a member of some British factory, partner in some house actually carrying on business in the united kingdom or in some British possession"* [*naming the house and also the place where it carries on its business*].

† *Alter according to circumstances.*

17 & 18 Vict. c. 104.

FORM I. (See Section 66.)

FORM OF MORTGAGE.

No. _____			* *Date of Registry.*
Name of Ship.	British or Foreign Built.	Port of Registry.	How Propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.
Number of Decks .		Build . .	*Carvel or Clincher.*
Number of Masts .			
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Gallery .	*Description of.*
		Head .	*Kind of.*
Stern . . .	*Round, square, or other Description.*	Framework	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aft-side of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling, at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{37}{100}$ths or $\frac{42}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horse-power)		

* *Omit this part if she has no steam power.*

Register Tonnage, (after making Deduction for Space for Propelling Power in Steamers)* .	

I, the undersigned *A.B.* of in the county of in consideration of £ this day lent to me by *C.D.* of in the county of do hereby for myself and my heirs covenant † with the said *C.D.*, firstly, that I, or my heirs, executors, or administrators, will pay to the said *C.D.* the said sum of £ together with interest

† *Alter covenant as may be necessary, so as to secure a general balance of accounts or otherwise, as the case may require.*

thereon at the rate of £ by the £100 in the year; on the day of next; and, secondly, that if the said principal sum is not paid on the said day, I, or my heirs, executors, or administrators, will, during such time as the same or any part thereof remain unpaid, pay to the said *C. D.* interest on the whole or such part thereof as may for the time being remain unpaid at the rate of £ by the £100 in the year, by equal half-yearly payments, on the day of and day of in every year; and for better securing to the said *C. D.* the repayment in manner aforesaid of the said principal sum and interest I hereby mortgage to the said *C. D.* shares of which I am the owner in the ship above particularly described. 17 & 18 Vict. c. 104.

Lastly, I, *A. B.*, for myself and my heirs, covenant with the said *C. D.* and his assigns, that I have power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances* *save as appears by the registry of the said ship.*

In witness whereof I have hereto subscribed my name and affixed my seal, this day of .

(L. S.) (Signed) _____

Executed by the above-named *A. B.*
in the presence of *X. Y.*

FORM K. (See Section 73.)

TRANSFER OF MORTGAGE TO BE ENDORSED ON ORIGINAL MORTGAGE.

I, the within-mentioned *C. D.*, in consideration of £ this day paid to me by *X. Y.* of in the county of hereby transfer to him the benefit of the within-written security. In witness whereof I have hereunto subscribed my name and affixed my seal, this the day of .

(L. S.) (Signed) _____

Executed by the above-named *C. D.*
in the presence of *E. F.*

* *Omit, if no incumbrances, the words in italics.*

17 & 18 Vict. c. 104.

FORM L. (See Section 74.)

DECLARATION BY MORTGAGEE TAKING BY TRANSMISSION.

No. _____			*Date of Registry.*
Name of Ship.	British or Foreign Built.	Port of Registry.	How Propelled.
			By Steam, or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build . .	*Carvel or Clincher*
Number of Masts .		Gallery .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Head . .	*Kind of.*
Stern	*Round, square, or other Description.*	Framework.	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aftside of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships . .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them	
Total . . .	

Omit this part if she has no steam power.

* *Additonal Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{87}{100}$ths or $\frac{88}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horses-power)		

Register Tonnage (after making Deduction for Space for Propelling in Steamers)*	

I, the undersigned *A. B.* of in the county of declare as follows:

I declare that the person appearing by the register book to be the mortgagee of shares in the ship above described* [*died at in the county of having first duly made his will, dated the day of whereby he appointed me executor, and I proved his said will on the day of in the court of*], or [*died at in the county of on the day of intestate, and that letters of administration of his estate and effects were on the day of duly granted to me by the court of*].

or

We declare that *C. D.*, the person appearing on the register book to be the mortgagee of shares in the ship above described* [*was on the day of duly adjudged a bankrupt*], or [*was duly declared insolvent*], and that we were on the day of appointed assignees of the said *C. D.*, and we are by law entitled to be registered as mortgagees of the said shares of the said ship in place of the said *C. D.*

or

I declare that on the day of I intermarried with and am now the husband of *C. D.*, the person appearing on the register book to be the mortgagee of shares in the said ship, and I declare that on such marriage the interest of the said *C. D.* became by law vested in me, and that I am entitled to be registered as mortgagee of the said shares in the place of the said *C. D.*

And I made this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Made and subscribed by the above-named *A. B.* in the presence of me

(Signed) _____ *Registrar or Justice of the Peace.*

* *Alter according to circumstances.*

17 & 18 Vict. c. 104.

FORM M. (See Section 79.)

CERTIFICATE OF MORTGAGE.

No. _____ *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How Propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build .	*Carvel or Clincher.*
Number of Masts .		Gallery .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Head . .	*Kind of.*
Stern . . .	*Round, square, or other Description.*	Framework.	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aftside of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth of Hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any, viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them	
Total	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{21}{100}$ths or $\frac{33}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horses-power)		

* *Omit this part if she has no steam power.*

Register Tonnage (after making Deduction for Space for Propelling Power in Steamers) *	

17 & 18 Vict. c. 104.

ACCOUNT OF TITLE OF SUBSCRIBING OWNERS.		
Names of the several subscribing Owners.	Number of Sixty-fourth Shares held by each of the subscribing Owners.	Account of Mortgages or Certificates of Mortgage or Sale granted in respect of Shares of subscribing Owners.
(Name and Description of Owner.)		

(1.) We,* the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above account of title, *(but subject to the several mortgages above mentioned)*, hereby appoint *A. B.* of and *C. D.* of and each of them, our attorneys and attorney jointly or severally in our names and on our behalf to mortgage our shares in the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

(2.) We declare that the amount of money to be raised by mortgage under this power shall not exceed £ , and that the rate of interest at which the same is raised shall not exceed £ for every £100 by the year.

(3.) We declare that the power of mortgaging hereby given may be exercised at

(4.) We declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) *E. F.* of
(L.S.) *G. H.* of
&c.

I, *M. N.*, registrar of hereby certify, that the above-written particulars relating to the ship _____, and to the title of the several above-mentioned owners, are correct; and I further certify, that the said owners have executed this certificate in manner above appearing.

(Signed) _____, Registrar.

N. B. Mortgages created under this power must be endorsed on the certificate in the following form, or as near thereto as circumstances permit:—

The day of

The within-mentioned shares in the ship _____ were this day mortgaged to X. Y. of _____, to secure † £_____ and interest.

(Signed) _____ Registrar or Consular Officer.

* *Alter accordingly if there is only one appointor or one attorney.*

† *If the mortgage is to cover advances, insert "a sum not exceeding £ ," or "general balance of account," as the case may be.*

17 & 18 Vict. c. 104.

FORM N. (See Section 79.)

CERTIFICATE OF SALE.

No. _____ *Date of Registry.*

Name of Ship.	British or Foreign Built.	Port of Registry.	How Propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks .		Build .	*Carvel or Clincher.*
Number of Masts .			
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Gallery .	*Description of.*
		Head . .	*Kind of.*
Stern	*Round, square, or other Description.*	Framework.	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aftside of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them	
Total	

* *Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{21}{100}$ths or $\frac{32}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines.	
Engines		
	No. of Horses-power.	
Combined Power (estimated Horses-power)		

* *Omit this part if she has no steam power.*

Register Tonnage (after making Deduction for Space for Propelling Power in Steamers)*

N.B.—All the owners of the ship must be parties to this document.

17 & 18 Vict. c. 104.

ACCOUNT OF TITLE TO THE ABOVE-MENTIONED SHIP.		
Names of the Owners of the Ship above mentioned.	Number of Sixty-fourth Shares held by each Owner.	Account of Mortgages or Certificates of Mortgage or Sale, granted in respect of Ship.
(*Name.*)		

(1.) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above-mentioned account of title (*but subject to the several mortgages above mentioned,*) hereby appoint *A.B.** of , and *C.D.* of and each of them, our attorneys and attorney jointly or severally in our names and on our behalf to sell the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

(2.) We declare that the ship shall not be sold for a less sum than £

(3.) We declare that the ship may be sold at

(4.) We declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) *E.F.* of
(L.S.) *G.H.* of
&c.

I, *M.N.*, registrar of , hereby certify, that the above-written particulars relating to the ship and to the title of the several above-mentioned owners are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

(Signed) _____ Registrar.

* *Alter accordingly if only one appointor or one attorney.*

17 & 18 Vict c. 104

FORM O. (See Section 83.)

FORM OF REVOCATION.

No.			*Date of Registry.*
Name of Ship.	British or Foreign Built.	Port of Registry.	How Propelled.
			By Steam or Sails; and if by Steam, whether by Paddle or Screw.

Number of Decks . .		Build . .	*Carvel or Clincher.*
Number of Masts . .		Gallery . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running Bowsprit.*	Head . .	*Kind of.*
Stern	*Round, square, or other Description.*	Framework.	*Wood or other Material.*

Measurements.	Feet.	Tenths.
Length from the Forepart of Stem under the Bowsprit to the Aftside of the Head of the Sternpost		
Main Breadth to Outside of Plank		
Depth in Hold from Tonnage Deck to Ceiling at Midships .		

Tonnage.	Number of Tons.
Tonnage under Tonnage Deck	
Closed-in Spaces above the Tonnage Deck, if any; viz.	
Space or Spaces between Decks	
Poop	
Roundhouse	
Other inclosed Spaces, if any, naming them . . .	
Total	

** Additional Particulars for Steamers.*	Tons.	
Deduction for Space required for Propelling Power (say whether $\frac{11}{100}$ths or $\frac{35}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of Engine Room (if measured)		
	Number of Engines	
Engines		
Combined Power (estimated Horses-power)	No. of Horses-power.	

Omit this part if she has no steam power

Register Tonnage (after making Deduction for Space for Propelling Power in Steamers)*	

We, , † *Owners* of the ship above described, hereby revoke the power of mortgaging (or selling) the said ship given *by us* to ‡ by a certificate of mortgage (or sale) dated the day of .

In witness whereof, we have hereunto subscribed our names and affixed our seals, this day of .

(L.S.) *E F.* of
(L.S.) *G H.* of
&c.

I, *M N*, registrar of , hereby certify, that the said *owners* have executed this power of revocation in manner above appearing

(Signed) _____ Registrar.

† *Alter, according to circumstances, the words printed in italics.*
‡ *Insert names of attorneys.*

17 & 18 Vict c. 104.

TABLE P. (See Section 125.)

FEES TO BE CHARGED FOR MATTERS TRANSACTED AT SHIPPING OFFICES.

1. Engagement of Crews.

	£	s.	d.
In Ships under 60 Tons	0	4	0
60 to 100 ,,	0	7	0
100 to 200 ,,	0	15	0
200 to 300 ,,	1	0	0
300 to 400 ,,	1	5	0
400 to 500 ,,	1	10	0
500 to 600 ,,	1	15	0
600 to 700 ,,	2	0	0
700 to 800 ,,	2	5	0
800 to 900 ,,	2	10	0
900 to 1000 ,,	2	15	0
Above 1000 ,,	3	0	0

And so on for ships of larger tonnage, adding for every 100 tons above 1000, five shillings.

2. Engagement of Seamen separately.

Two shillings for each.

3. Discharge of Crews.

	£	s.	d.
In Ships under 60 Tons	0	4	0
60 to 100 ,,	0	7	0
100 to 200 ,,	0	15	0
200 to 300 ,,	1	0	0
300 to 400 ,,	1	5	0
400 to 500 ,,	1	10	0
500 to 600 ,,	1	15	0
600 to 700 ,,	2	0	0
700 to 800 ,,	2	5	0
800 to 900 ,,	2	10	0
900 to 1000 ,,	2	15	0
Above 1000 ,,	3	0	0

And so on for ships of larger tonnage, adding for every 100 tons above 1000, five shillings.

4. Discharge of Seamen separately.

Two shillings for each.

TABLE Q. (See Section 126.)

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF FEES IN TABLE P.

1. In respect of Engagements and Discharges of Crews, upon each Engagement and each Discharge.

	s.	d.
From Wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward	1	6
,, all others except Apprentices	1	0

2. In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge.

One Shilling.

TABLE R. (See Section 133).

FEES TO BE CHARGED ON EXAMINATIONS.

	£	s.	d.
For a Certificate as Master	2	0	0
For a Certificate as Mate	1	0	0

TABLE S. (See Section 292.)

Number and Dimensions of Boats with which Sea-going Ships are to be provided.

Registered Tonnage.		Column 1. To be carried by Sailing Ship and Steam Ships.								Column 2. To be carried by Sailing Ships and by Steam Ships, when they do not carry the Boats in Col. 3				Column 3. To be carried by Steam Ships which do not carry the Boat in Col. 2.								Total Number of Boats	
		Boats				Boats				Launches.				Boats.				Life Boats.					
Sailing Ships	Steam Ships.	Number.	Length	Breadth.	Depth.	Number	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number	Length.	Breadth.	Depth	Number.	Length.	Breadth.	Depth.	Sailing Ships.	Steam Ships.
Tons.	Tons.		Ft.	Ft In.	Ft. In.		Ft.	Ft In.	Ft. In.		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		
—	1000 and upwards.	1	18	5 6	2 3	2	24	5 6	2 6	1	27	8 6	3 8	2	22	5 6	2 6	2	28	8 6	3 6	—	7
—	800 to 1000	1	18	5 6	2 3	2	26	6 6	2 8	1	26	8 0	3 8	2	22	5 6	2 6	—	—	—	—	—	4 or 5
800 and upwards.	500 to 800	1	18	5 6	2 3	2	24	5 6	2 6	1	26	8 0	3 8	2	22	5 6	2 6	—	—	—	—	4	4 or 5
600 to 800	360 to 500	1	16	5 6	2 3	2	24	5 6	2 6	1	25	7 0	3 6	2	22	5 6	2 6	—	—	—	—	4	4 or 5
400 to 600	240 to 360	1	16	5 6	2 3	1	22	5 6	2 5	1	22	6 6	3 3	2	22	5 6	2 6	—	—	—	—	3	3 or 4
200 to 400	120 to 240	1	14	5 0	2 2	—	—	—	—	1	20	6 0	3 0	2	22	5 6	2 6	—	—	—	—	2	2 or 3
100 to 200	60 to 120	1	14	5 0	2 2	—	—	—	—	1	16	5 6	2 9	2	18	5 6	2 4	—	—	—	—	2	2 or 3
Under 100	Under 60	1	14	5 0	2 2	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	1

as the case may be.

Note.—In sailing ships carrying the number of boats above specified, and steam ships carrying the larger of the two numbers above specified, the boats are to be considered sufficient, if their aggregate cubic contents are equal to the aggregate cubic contents of the boats specified

In steam ships carrying the smaller of the two numbers above specified, one of the boats must be a launch of the capacity specified in Col. 2.

In sailing ships of 200 tons burden and under, not carrying passengers, a dingy may be substituted for the boat in Col. 1.

In sailing ships of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the crew may be substituted for those above specified.

In all steam ships, two paddle-box boats may be substituted for any two of the boats in Col. 3.

TABLE T. (See Section 314.)

Fees to be charged for the Survey of Passenger Steamers.

For steamers not exceeding 100 tons	£2 0 0	For steamers exceeding 300 and not exceeding 600 tons	£4 0 0
For steamers exceeding 100 and not exceeding 300 tons	3 0 0	And for every additional 300 tons an additional	1 0 0

TABLE U. (See Section 333.)

Rates of Pilotage to be Demanded and Received by Qualified Pilots for Piloting Ships within the under-mentioned Limits.

OUTWARDS.

From	To	7 Feet and under.	8 Feet.	9 Feet.	10 Feet.	11 Feet.	12 Feet.	13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	23 Feet and upwards.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
The Sea, Orfordness, the Downs, Hoseley Bay, and *vice versâ* ..	Nore Warps	3 13 6	4 2 9	4 12 0	5 1 3	5 5 9	6 5 0	6 13 6	7 7 3	7 16 6	8 14 9	9 8 6	10 17 0	11 10 0	12 17 6	14 5 3	16 11 3	18 8 0
	Gravesend, Chatham, Standgate Creek, or Blackstakes	4 12 0	5 7 9	6 3 3	6 18 0	7 11 9	8 5 6	8 19 6	9 13 3	10 7 0	11 0 9	11 14 6	14 1 6	16 13 0	19 6 6	21 5 0	23 3 9	25 2 3
	Long Reach	4 16 6	5 12 3	6 8 0	7 2 6	7 18 3	8 14 9	9 8 6	10 0 0	10 16 3	11 10 0	13 3 6	15 9 0	18 11 9	21 5 0	23 0 0	24 16 9	26 13 6
	Woolwich or Blackwall	5 5 9	6 1 6	6 17 0	7 11 9	8 10 3	9 4 0	10 2 6	11 0 9	11 14 6	12 8 6	14 3 6	16 5 9	19 11 0	22 1 6	24 16 9	27 12 0	—
	Moorings or London Docks	5 16 0	6 9 9	7 3 6	7 17 3	8 19 6	9 13 3	10 11 6	11 10 0	12 8 6	13 2 3	14 14 6	17 0 6	20 10 3	23 4 6	—	—	—
The Nore or Warps, and *vice versâ* ..	Gravesend, Standgate Creek, or Blackstakes	1 18 9	2 3 3	2 7 0	2 10 6	2 19 9	3 6 3	3 11 9	3 15 6	4 2 9	4 10 3	5 1 3	5 16 0	6 8 9	7 14 6	8 14 0	9 13 3	10 12 6
	Long Reach or Chatham	2 6 0	2 10 6	2 15 3	2 19 9	3 9 0	3 18 3	4 2 9	4 7 0	4 13 9	5 5 0	5 16 0	6 15 3	8 5 6	9 13 3	10 12 6	11 11 9	12 15 3
	Woolwich or Blackwall	2 15 3	3 1 9	3 8 0	3 13 6	4 2 9	4 10 3	4 19 0	5 8 6	5 16 0	6 4 3	7 2 6	8 3 9	9 4 0	11 11 9	12 11 3	13 16 0	—
	Moorings or London Docks	3 4 6	3 10 9	3 17 3	4 2 9	4 16 6	5 5 9	5 15 0	6 4 3	6 13 6	7 2 6	8 1 0	9 4 0	11 0 9	12 17 6	13 16 0	—	—
Gravesend Reach, and *vice versâ* ..	Long Reach	0 9 3	0 14 9	1 0 3	1 5 3	1 10 0	1 14 6	1 19 0	2 3 9	2 8 3	2 13 0	2 17 6	3 2 0	3 6 9	3 11 3	4 12 0	5 10 6	—
	Woolwich or Blackwall	1 3 0	1 7 6	1 12 3	1 16 9	2 4 3	2 13 6	3 2 6	3 11 9	3 18 3	4 5 6	4 13 9	5 1 2	6 4 3	7 11 9	8 19 6	9 13 3	—
	Moorings or London Docks	1 7 6	1 14 0	2 0 6	2 6 0	2 15 3	3 4 6	3 13 6	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	7 7 3	8 14 9	—	—	—
	Sheerness, Standgate Creek, or Blackstakes	2 15 3	2 19 0	3 1 9	3 4 6	3 13 6	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 5	—	—	—
	Chatham	3 4 6	3 8 0	3 10 9	3 13 6	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 5	8 5 6	—	—	—
Long Reach, and *vice versâ*	Woolwich or Blackwall	0 18 6	1 2 0	1 4 9	1 7 6	1 16 9	2 6 0	2 15 3	3 4 6	3 13 6	4 2 9	4 12 0	5 3 6	5 16 0	6 8 9	8 5 6	9 4 0	—
	Moorings or London Docks	1 7 6	1 11 3	1 14 0	1 16 9	2 6 0	2 15 3	3 4 6	3 13 6	4 2 9	4 12 0	5 3 6	5 16 0	6 8 9	7 7 3	9 4 0	—	—
	Sheerness, Standgate Creek, or Blackstakes	3 4 6	3 8 0	3 10 9	3 13 6	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 17 6	8 5 6	8 14 9	—	—
	Chatham	3 13 6	3 17 3	4 0 0	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 6	8 5 6	8 14 9	9 4 0	—	—
Woolwich or Blackwall, and *vice versâ*	Moorings or London Docks	0 18 6	1 2 0	1 4 9	1 7 6	1 10 0	1 12 3	1 16 9	2 1 6	2 6 0	2 10 6	2 15 3	2 19 9	3 4 6	3 9 0	—	—	—
	Sheerness, Standgate Creek, or Blackstakes	3 13 6	3 17 3	4 0 0	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 6	8 5 6	8 14 9	—	—	—
	Chatham	4 2 9	4 6 6	4 9 3	4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 17 6	8 5 6	8 14 9	9 4 0	—	—	—

TABLE U. (*continued.*)

INWARDS.

From	To	Under 7 Feet.	From 7 Feet to 10 Feet.	11 Feet.	12 Feet.	13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	23 Feet and upwards.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
The Downs	Nore, Sheerness, Standgate Creek, Gravesend	5 5 0	7 17 6	8 13 3	9 9 0	10 4 9	11 0 6	11 16 3	12 12 0	13 7 9	16 1 3	19 0 0	22 1 0	24 5 0	26 9 2	28 13 3
The Downs	Long Reach	5 16 0	8 8 6	9 9 0	10 4 10	11 8 0	11 18 10	12 18 3	13 14 0	15 0 9	17 14 4	21 4 2	24 5 1	26 9 2	28 13 3	30 17 4
The Downs	Blackwall or London	6 12 3	8 19 6	10 4 9	11 0 6	12 1 6	12 17 3	14 0 4	14 16 0	16 13 9	19 17 5	23 8 3	26 9 2	28 13 3	—	—
Standgate Creek	Gravesend	3 6 2	3 17 0	4 8 2	4 19 0	5 10 3	6 1 3	6 12 3	7 3 3	7 14 4	8 5 4	8 16 4	9 7 4	—	—	—

NOTE 1. Foreign ships are to pay one fourth more than British ships, except when privileged to enter the ports of the united kingdom upon paying the same duties of tonnage as are paid by British ships, in which cases such ships are to pay the same rates of pilotage only as are payable by British ships.

NOTE 2. For half a foot exceeding the above draughts of water, the medium price between the two limits.—For intermediate distances a proportionate rate.

For putting a Pilot on board, and for Pilotage of Ships to the Anchorage to the Downs.*	60 Tons, and under 150.	150 Tons, and under 250.	250 Tons, and under 400.	400 Tons, and under 600.	600 Tons, and upwards.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
From off Dungeness to off Folkestone; the Church bearing N.N.W. by compass	2 0 0	3 0 0	3 10 0	4 0 0	5 5 0
From off Folkestone to the South Foreland, the Lights in one	1 10 0	2 0 0	2 10 0	3 0 0	4 4 0
From off the South Foreland to the Downs	1 5 0	1 5 0	1 10 0	2 0 0	3 3 0

In the River Thames, above Gravesend.
- For a boat of a class carrying an anchor of above 4 cwt. with a corresponding tow line £2 2 0
- Do. Do. . . . . 2 cwt. 1 1 0
- Do. Do. . . under 2 cwt. 0 15 0

} Per trip for the whole distance, From Gravesend to London; and in proportion for any part of that distance.

And for each man's service in those boats, 8s. per tide.

For removing a ship from moorings into a dry or wet dock:

For a ship under 300 tons	£0 15 0
,, 300 to 600 ,,	1 1 0
,, 600 to 1000 ,,	1 11 6
,, above 1000 ,,	2 2 0

* When the pilot is put on board by a boat from the shore, one seventh to the pilot, and the remaining six sevenths to the boat and crew.

TABLE V. (See Section 455).

Fees and Remuneration of Receivers.

	£	s.	d.
For every examination on oath instituted by a receiver with respect to any ship or boat which may be or may have been in distress, a fee not exceeding	1	0	0
But so that in no case shall a larger fee than two pounds be charged for examinations taken in respect of the same ship and the same occurrence, whatever may be the number of the deponents.			
For every report required to be sent by the receiver to the secretary of the committee for managing the affairs of Lloyd's in London, the sum of	0	10	0
For wreck taken by the receiver into his custody, a per-centage of five per cent. upon the value thereof,			
But so that in no case shall the whole amount of per-centage so payable exceed twenty pounds.			
In cases where any services are rendered by a receiver, in respect of any ship or boat in distress, not being wreck, or in respect of the cargo or other articles belonging thereto, the following fees instead of a per-centage; that is to say,			
If such ship or boat with her cargo equals or exceeds in value six hundred pounds, the sum of two pounds for the first, and the sum of one pound for every subsequent day during which the receiver is employed on such service; but if such ship or boat with her cargo is less in value than six hundred pounds, one moiety of the above-mentioned sum.			

TABLE W. (See Section 486).

Salvage Bond.

[*N.B.—Any of the particulars not known or not required by reason of the claim being only against the cargo, &c., may be omitted.*]

Whereas certain salvage services are alleged to have been rendered by the ship [*insert names of ship and of commander*], commander, to the merchant ship [*insert names of ship and master*], master, belonging to [*name and place of business or residence of owner of ship*], freighted by [*the same of the freighter*], and to the cargo therein, consisting of [*state very shortly the descriptions and quantities of the goods, and the names and addresses of their owners and consignees*]:

And whereas the said ship and cargo have been brought into the port of [*insert name and situation of port*], and a statement of the salvage claim has been sent to [*insert the name of the consular officer or vice-admiralty judge, and of the office he fills*], and he has fixed the amount to be inserted in this bond at the sum of [*state the sum*]:

Now I, the said [*master's name*], do hereby, in pursuance of the Merchant Shipping Act, 1854, bind the several owners for the time being of the said ship and of the cargo therein, and of the freight payable in respect of such cargo, and their respective heirs, executors, and administrators, to pay among them such sum not exceeding the said sum of [*state the sum fixed*], in such proportions and to such persons as [*if the parties agree on any other court, substitute the name of it here,*] the high court of admiralty in England shall adjudge to be payable as salvage for the services so alleged to have been rendered as aforesaid.

In witness whereof I have hereunto set my hand and seal, this [*insert the date*] day of

Signed, sealed, and delivered by the said [*master's name*].

(L. S.)

In the presence of [*name of consular officer or vice-admiralty judge, and of the office he fills*].

17 & 18 Vict. c. 120.

17 & 18 Vict. c. 120. An Act to repeal certain Acts and Parts of Acts relating to Merchant Shipping, and to continue certain Provisions in the said Acts. [11th August, 1854.]

"Whereas by 'The Merchant Shipping Act, 1854,' the Acts relating to merchant shipping are amended and consolidated, and it is expedient to repeal certain Acts and parts of Acts relating to merchant shipping, and to make temporary provisions with respect to certain of the matters referred to in the said Acts:" BE IT THEREFORE ENACTED as follows:

Short title of Act.

1. This Act may be cited for all purposes as "The Merchant Shipping Repeal Act, 1854."

Interpretation of the terms of this Act.

2. In the construction and for the purposes of this Act the interpretation of terms contained in "The Merchant Shipping Act, 1854," shall be considered as incorporated with and forming part of this Act.

Commencement of Act.

3. With the exception of such provisions of this Act as are hereinafter expressly stated to be intended to come into operation immediately after the passing thereof, this Act shall come into operation at the same time as the Merchant Shipping Act, 1854.

Repeal of Acts mentioned in schedule

4. There shall be hereby repealed—

The several Acts and parts of Acts set forth in the first schedule hereto, to the extent to which such Acts or parts of Acts are therein expressed to be repealed, and all such provisions of any other Acts or of any charters, and all such laws, customs, and rules as are inconsistent with the provisions of the Merchant Shipping Act, 1854:

Provided that such repeal shall not affect—

(1.) Any provisions contained in the Act of the seventh year of his late majesty king William the fourth, chapter seventy-nine, as to title, application of purchase money, or borrowing money, and having relation to the power of purchasing lighthouses given to the trinity house by the same Act:

(2.) Any security duly given before this Act comes into operation:

(3.) Any thing duly done before this Act comes into operation:

(4.) Any liability accruing before this Act comes into operation:

(5.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation:

(6.) The institution of any investigation or legal proceeding or any other remedy for ascertaining, enforcing or recovering any such liability, penalty, forfeiture, or punishment as aforesaid:

(7.) Any appointment, byelaw, regulation, or licence duly made or granted under any enactment hereby repealed, and subsisting at the time when this Act comes into operation; and the same shall continue in force, but shall be subject to such provisions of the Merchant Shipping Act, 1854, as are applicable thereto respectively.

Continuation of local marine boards.

5. The local marine boards, the members of which have been appointed or elected under the Mercantile Marine Act, 1850, shall continue to act until the 4th day of February, 1857, or until other boards have been constituted in lieu thereof in pursuance of the provisions of the Merchant Shipping Act, 1854.

Construction of sections 4 & 9 of The Pilotage Law Amendment Act, 1853.

6. The fourth and ninth sections of "The Pilotage Law Amendment Act, 1853," shall be construed as if the fifth part of "The Merchant Shipping Act, 1854," were therein referred to, in lieu of the Act of the sixth year of king George the fourth, chapter one hundred and twenty-five.

Expenses of life boats, &c., may be charged on mercantile marine fund.

7. The board of trade may, out of the mercantile marine fund, direct payment to be made of such expenses for establishing and maintaining on the coasts of the united kingdom proper life boats, with the necessary crews and equipments, and for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, and for the granting rewards for the preservation of life in such cases, as it thinks fit; and this section shall come into operation immediately after the passing of this Act.

Existing liabilities on mercantile marine fund continued

8. "Nothing in the Merchant Shipping Act, 1854, or in this Act contained, shall operate to prevent the exercise of the powers contained in the twelfth and sixteenth sections of the Merchant Shipping Law Amendment Act, 1853, of paying the debts, liabilities, and expenses therein mentioned out of the mercantile marine fund: And whereas it was arranged that a sum to be ascertained by the calculation of actuaries should before the said last-mentioned Act came into operation be paid by the trinity house out of the cash balances then in their hands for the purpose of supplying a deficiency in the funds of the cinque ports pilots, and of indemnifying the funds of the trinity house pilots against any loss consequent upon the settlements to be made under the Pilotage Law Amendment Act, 1853: And whereas when the Merchant Shipping Law Amendment Act, 1853, came into operation, the said calculation was not completed:" BE IT ENACTED, That such payment may, with the consent of the board of trade, be made by the trinity house in the same manner as payment of the debts, liabilities, and expenses referred to in the said twelfth section of the said last-mentioned Act; and this section shall come into operation immediately after the passing of this Act.

9. All moneys arising from any wages and effects of deceased seamen or apprentices to the sea service which were received before the 1st day of January, 1852, shall be applied in the same manner as if the same had been received under the provisions of "The Merchant Shipping Act, 1854." 17 & 18 Vict. c. 120. Provisions as to wages, &c., received before 1852. 13 & 14 Vict. c. 102, s. 31.

10. The receiver general of droits of admiralty shall, as to all things to be done by him in virtue of his office, conform to all lawful directions given for that purpose by the board of trade; and on a vacancy occurring in his office no successor shall be appointed, but thereupon all powers and privileges vested in such receiver general shall be transferred to the board of trade; and this section shall come into operation immediately after the passing of this Act. Receiver general to conform to directions of board of trade.

11. Receivers appointed by the said receiver general under the Act of the tenth year of the reign of her present majesty, chapter ninety-nine, shall hold their offices only during the pleasure of the board of trade; and the serjeants of the admiralty of the cinque ports, their deputies or other officers, authorised to perform the duties and to exercise the powers within the jurisdiction of the cinque ports elsewhere performed and exercised by such receivers as aforesaid, shall perform and exercise the same only during the pleasure and subject to the directions of the board of trade; and all such receivers, serjeants, deputies, and other officers as aforesaid shall possess in the several districts within which they have hitherto exercised their duties the same powers, rights, and privileges, and perform the same duties, as are by the said Merchant Shipping Act, 1854, vested in and committed to the receivers therein mentioned, save only that they shall not be entitled to take the command in cases of ships or boats stranded or in distress, unless authorised so to do by the board of trade. Powers of board of trade as to appointment of receivers.

12. There shall be payable to such receivers, serjeants, deputies, and other officers as aforesaid such fees and other remuneration as are by the said Merchant Shipping Act, 1854, made payable to receivers appointed thereunder, and payment thereof shall be made by the same persons and in the same manner, and shall be capable of being enforced by the same means, as payment of the fees or other remuneration payable to the receivers appointed under "The Merchant Shipping Act, 1854," are payable or capable of being enforced, or as near thereto as circumstances permit; and, save as aforesaid, and saving also any expenses actually and properly incurred, no such receiver, serjeant, deputy, or other officer as aforesaid shall be entitled to demand or receive from any person any fees or other sums in respect of any services performed by him as receiver; and this section shall come into operation immediately after the passing of this Act. Payment of receivers.

13. All fees or other remuneration received by any such receiver, serjeant, deputy, or other officer as aforesaid may be applied by him to his own use. Application of fees.

14. The provisions contained in the ninth part of "The Merchant Shipping Act, 1854," shall come into operation at the same time as if the same were herein repeated, and were hereby expressed to be intended to come into operation immediately after the passing of this Act; and the following Acts, that is to say, the Act of the seventh year of king George the second, chapter fifteen, the Act of the twenty-sixth year of king George the third, chapter eighty-six, and the Act of the fifty-third year of king George the third, chapter one hundred and fifty-nine, shall be considered as repealed immediately after the passing of this Act. Ninth part of Merchant Shipping Act, 1854, to come into operation immediately.

15. All criminal proceedings under "The Seamen's Fund Winding-up Act, 1851," "The Pilotage Law Amendment Act, 1853," "The Merchant Shipping Law Amendment Act, 1853," or this Act, shall be carried on in the same manner as similar proceedings under "The Merchant Shipping Act, 1854;" and all rules of law, practice and evidence which are applicable to such last-mentioned proceedings shall be applicable to criminal proceedings under this Act. Mode of procedure in criminal cases.

16. If a native of any country in Asia, Africa, or of any of the islands in the South sea or the Pacific ocean, or of any other country not having any consul in the united kingdom, is brought to the united kingdom, in any ship, British or foreign, as a seaman, and is left in the united kingdom, and within six months of his being so left becomes chargeable upon the poor rate, or commits any act by reason of the committal whereof he is liable to be convicted as an idle and disorderly person, or any other act of vagrancy, the master or owner of the said ship, or in case of a foreign ship the person who is consignee of the ship at the time of the seaman being so left as aforesaid, shall incur a penalty not exceeding thirty pounds, unless he can show that the person so left as aforesaid quitted the ship without the consent of the master, or that due means have been afforded by such master, owner, or consignee, or one of them, to such person, of returning to his native country, or to the country in which he was shipped; and the court inflicting such penalty may order the whole or any part of such penalty to be applied towards the relief or sending home of such person. Penalty on masters of ships leaving certain seamen in distress in this country.

17 & 18 Vict. c. 120.

SCHEDULE TO WHICH THIS ACT REFERS.

ACTS AND PARTS OF ACTS TO BE REPEALED.

Reference to Act.	Title of Act.	Extent of Repeal.
8 Eliz. c. 13 . .	An Act touching Sea Marks and Mariners.	The whole Act, except section 5.
12 Anne, st. 2, c. 18.	An Act for the preserving all such Ships and Goods thereof which shall happen to be forced on Shore or stranded on the Coasts of this Kingdom or on any other of Her Majesty's Dominions.	So much as is not already repealed.
4 G. 1, c. 12 . .	An Act for enforcing and making perpetual an Act of the Twelfth Year of Her late Majesty, intituled "An Act for the preserving all such Ships and Goods thereof which shall happen to be forced on Shore or stranded upon the Coasts of this Kingdom or any other of Her Majesty's Dominions;" and for inflicting the Punishment of Death on such as shall wilfully burn or destroy Ships.	So much as is not already repealed.
7 G. 2, c. 15 . .	An Act to settle how far Owners of Ships shall be answerable for the Acts of the Masters or Mariners.	The whole Act.
20 G. 2, c. 38 . .	An Act for the Relief and Support of maimed disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service.	So much as is not already repealed.
26 G. 2, c. 19 . .	An Act for enforcing the Laws against Persons who shall steal or detain shipwrecked Goods, and for the Relief of Persons suffering Losses thereby.	So much as is not already repealed.
26 G. 3, c. 86 . .	An Act to explain and amend an Act made in the Seventh Year of His late Majesty's Reign, intituled "An Act to settle how far Owners of Ships shall be answerable for the Acts of the Masters or Mariners;" and for giving a further Relief to the Owners of Ships.	The whole Act.
26 G. 3, c. 101 . .	An Act for erecting certain Lighthouses in the Northern Parts of Great Britain.	The whole Act.
28 G. 3, c. 25 . .	An Act to render more effectual an Act passed in the Twenty-sixth Year of His present Majesty's Reign, intituled "An Act for erecting certain Lighthouses in the Northern Parts of Great Britain."	The whole Act.
29 G. 3, c. 52 . .	An Act to give further Powers to the Commissioners for erecting certain Lighthouses in the Northern Parts of Great Britain.	The whole Act.

Reference to Act.	Title of Act.	Extent of Repeal.
38 G. 3, c. 57 (local and personal) .	An Act for incorporating the Commissioners appointed for erecting certain Lighthouses in the Northern Parts of Great Britain.	The whole Act.
46 G. 3, c. 106 . .	An Act to provide for the better Execution of the several Acts relating to the Revenues, Matters, and Things under the Management of the Commissioners of Customs and Port Duties, and of the Commissioners of Inland Excise and Taxes in Ireland.	Sections 75 and 76.
46 G. 3, c. 132 . .	An Act for erecting a Lighthouse on the Bell or Cape Rock on the Eastern Coast of Scotland, and for enabling the Commissioners of the Treasury to advance a certain Sum of Money out of the Consolidated Fund of Great Britain towards that Purpose.	The whole Act.
48 G. 3, c. 130 . .	An Act for preventing the various Frauds and Depredations committed on Merchants, Shipowners, and Underwritors, by Boatmen and others, within the jurisdiction of the Cinque Ports, and also for remedying certain Defects relative to the adjustment of Salvage under a Statute made in the Twelfth Year of the Reign of Her late Majesty Queen Anne.	The whole Act.
50 G. 3, c. 95 . . .	An Act to enable the Corporation for preserving and improving the Port of Dublin to erect, repair, and maintain Lighthouses round the Coast of Ireland, and to raise a Fund for defraying the charge thereof.	The whole Act.
51 G. 3, c. 66 . .	An Act to amend and render more effectual several Acts for promoting the Trade of Dublin, by rendering its Port and Harbour more commodious, and for erecting, repairing, and maintaining Lighthouses round the Coast of Ireland, and to raise a Fund for defraying the Charge thereof.	The whole Act, so far as relates to lighthouses and light dues.
52 G. 3, c. 115 . .	An Act to make more effectual Provision for enabling the Corporation for preserving and improving the Port of Dublin to erect, repair, and maintain Lighthouses and Lights round the Coasts of Ireland, and to raise a Fund for defraying the charge thereof.	The whole Act.
53 G. 3, c. 159 . .	An Act to limit the Responsibility of Ship Owners in certain Cases.	The whole Act.
54 G. 3, c. 136 . .	An Act for enabling the Commissioners of the Northern Lighthouses to purchase the Island and Light of May at the entrance of the Frith of Forth, for enabling the Com-	The whole Act.

17 & 18 Vict. c. 120.

Reference to Act.	Title of Act.	Extent of Repeal.
	missioners of the Treasury to advance a certain Sum of Money towards that Purpose, and for amending several Acts in regard to the Northern Lighthouses.	
55 G. 3, c. lxvii. (local and personal).	An Act for enabling the Commissioners of the Northern Lighthouses to erect Lighthouses on the Isles of Man and Calf of Man.	The whole Act.
59 G. 3, c. 12	An Act to amend the Laws for Relief of the Poor.	Section 32.
1 & 2 G. 4, c. 76	An Act to continue and amend certain Acts for preventing the various Frauds and Depredations committed on Merchants, Shipowners, and Underwriters, by Boatmen and others, within the jurisdiction of the Cinque Ports, and also for remedying certain Defects relative to the Adjustment of Salvage under a Statute made in the Twelfth Year of the Reign of Her late Majesty Queen Anne.	The whole Act, except sections 1, 2, 3, 4, 5, 15, 16, and 18.
4 G. 4, c. 88	An Act for regulating Vessels carrying Passengers between Great Britain and Ireland.	The whole Act.
6 G. 4, c. 125	An Act for the Amendment of the Law respecting Pilots and Pilotage, and also for the better Preservation of Floating Lights, Buoys, and Beacons.	The whole Act.
9 G. 4, c. 86	An Act to amend an Act for the Amendment of the Law respecting Pilots and Pilotage, and also for the better Preservation of Floating Lights, Buoys, and Beacons.	The whole Act.
11 G. 4, c. 20	An Act to amend and consolidate the Laws relating to the Pay of the Royal Navy.	Section 82.
4 & 5 W. 4, c. 52	An Act to amend an Act of the Twentieth Year of His Majesty King George the Second, for the Relief and Support of sick, maimed, and disabled Seamen, and the Widows and Children of such as shall be killed, slain, or drowned in the Merchant Service, and for other Purposes.	So much as is not already repealed.
5 & 6 W. 4, c. 19	An Act to amend and consolidate the Laws relating to the Merchant Seamen of the United Kingdom, and for forming and maintaining a Register of all the Men engaged in that Service.	So much as is not already repealed.
6 & 7 W. 4, c. 79	An Act for vesting Lighthouses, Lights, and Seamarks on the Coasts of England in the Corporation of Trinity House of Deptford Strond; and for making Provisions respecting Lighthouses, Lights, Buoys, and Beacons, and Sea Marks, and the Tolls and Duties payable in respect thereof.	The whole Act.

Reference to Act.	Title of Act.	Extent of Repeal.
1 & 2 Vict. c. 66 .	An Act for maintaining a Lighthouse at Gibraltar, and respecting Lighthouses not within the United Kingdom.	The whole Act.
3 & 4 Vict. c. 68 .	An Act to enable Her Majesty in Council to authorise Ships and Vessels belonging to Countries having Treaties of Reciprocity with the United Kingdom to be piloted, in certain cases, without having a licensed Pilot on board; and also to regulate the Mode in which Pilot Boats shall be painted and distinguished.	The whole Act.
7 & 8 Vict. c. 112 .	An Act to amend and consolidate the Laws relating to Merchant Seamen; and for keeping a Register of Seamen.	The whole Act.
8 & 9 Vict. c. 86 .	An Act for the General Regulation of the Customs.	Sections 45, 51, 53, and 140.
8 & 9 Vict. c. 87 .	An Act for the Prevention of Smuggling.	Section 10.
8 & 9 Vict. c. 89 .	An Act for the registering of British Vessels.	The whole Act.
8 & 9 Vict. c. 116 .	An Act for the Protection of Seamen entering on board Merchant Ships.	The whole Act.
9 & 10 Vict. c. 99 .	An Act for consolidating and amending the Laws relating to Wreck and Salvage.	The whole Act.
12 & 13 Vict. c. 29 .	An Act to amend the Laws in force for the encouragement of British Shipping and Navigation.	The whole Act.
12 & 13 Vict. c. 88 .	An Act to amend the Laws relating to Pilotage.	The whole Act.
13 & 14 Vict. c. 93 .	An Act for improving the Condition of Masters, Mates, and Seamen, and maintaining Discipline in the Merchant Service.	The whole Act.
13 & 14 Vict. c. 95 .	An Act to amend the Laws relating to the Customs.	Section 14.
14 & 15 Vict. c. 35 .	An Act to extend the Benefits of certain Provisions of the General Merchant Seamen's Act relating to Apprentices bound to the Sea Service, to Apprentices bound to the Sea Service by Boards of Guardians of the Poor in Ireland, and to enable such Guardians to place out boys in the Naval Service.	The whole Act, except section 10.
14 & 15 Vict. c. 79 .	An Act to consolidate and amend the Laws relating to the Regulation of Steam Navigation, and to the Boats and Lights to be carried by sea-going Vessels.	The whole Act.
14 & 15 Vict. c. 96 .	An Act to amend the Mercantile Marine Act, 1850.	The whole Act.
14 & 15 Vict. c. 102 .	An Act to amend the Acts relating to the Merchant Seamen's Fund, and to provide for winding up the said Fund, and for the better Management thereof in the meantime.	Sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 61.
16 & 17 Vict. c. 129 .	An Act further to amend the	The whole Act, except

17 & 18 Vict c. 120

Reference to Act.	Title of Act.	Extent of Repeal.
	Law relating to Pilotage.	sections 3, 4, 5, 8, 10, 11, 12, 13, and so much of section 9 as relates to the recovery of pilotage rates by cinque ports pilots licensed before the Act came into operation.
16 & 17 Vict. c. 131 .	An Act to amend various Laws relating to Merchant Shipping.	The whole Act, except sections 12, 13, 24, 28, and 29.
17 & 18 Vict. c. 5 .	An Act to admit Foreign Ships to the Coasting trade.	Section 4.

MERCHANT SHIPPING ACT AMENDMENT, 1855.

18 & 19 Vict. c. 91.

18 & 19 Vict. c. 91. An Act to facilitate the Erection and Maintenance of Colonial Lighthouses, and otherwise to amend the Merchant Shipping Act, 1854. [14th August, 1855.]

"Whereas it is expedient to make provision for facilitating the erection and maintenance of lighthouses in the British possessions abroad, and otherwise to amend the Merchant Shipping Act, 1854:" BE IT THEREFORE ENACTED by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title of Act.

1. This Act may be cited as "THE MERCHANT SHIPPING ACT AMENDMENT ACT, 1855," and shall be taken to be part of the Merchant Shipping Act, 1854, and shall be construed accordingly.

17 & 18 Vict. c 104 (a)

Colonial Lighthouses.

Her majesty may by order in council fix dues for colonial lighthouses.

2. In any case in which any lighthouse, buoy or beacon has been or is hereafter erected or placed on or near the coasts of any British possession, by or with the consent of the legislative authority of such possession, her majesty may, by order in council, fix such dues in respect thereof, to be paid by the owner or master of every ship which passes the same or derives benefit therefrom, as her majesty may deem reasonable, and may in like manner from time to time increase, diminish or repeal such dues, and from the time specified in such order for the commencement of the dues thereby fixed, increased or diminished the same shall be leviable throughout her majesty's dominions in manner hereinafter mentioned.

No such dues to be levied in any colony without the consent of the colonial legislature

3. No such dues as aforesaid shall be levied in any colony unless and until the legislative authority in such colony has, either by address to the crown or by an act or ordinance duly passed, signified its opinion that the same ought to be levied in such colony.

Mode of collecting the said dues.

17 & 18 Vict c. 104, ss 399, 400, 401 (b).

4. The said dues shall in the united kingdom be collected by the same persons by whom, and by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in and subject to which the light dues leviable under the Merchant Shipping Act, 1854, are collected, and shall in each British possession abroad be collected by such persons as the governor of such possession abroad may appoint for the purpose, and shall be collected by the same means, in the same manner and subject to the same conditions, so far as circumstances permit, by, in and subject to which the light dues leviable under the Merchant Shipping Act, 1854, are paid and collected, or by such other means, in such other manner and subject to such other conditions as the legislative authority in such possession may direct.

Dues to be paid over to her majesty's paymaster general.

5. All dues levied under this Act shall be paid over to her majesty's paymaster-general at such times and in such manner as the board of trade may direct, and shall be applied, paid and dealt with by him, for the purposes hereinafter mentioned, in such manner as such board may direct.

Dues to be applied to

6. The dues levied under the authority of this Act in respect of any such lighthouse, buoy or beacon as aforesaid shall, after deducting any expenses incurred in collecting the

(a) Ante, p. 251. (b) Ante, p. 328.

same, be applied for the purpose of paying the expenses incurred in erecting and maintaining such lighthouse, buoy or beacon, and for no other purpose whatever. 18 & 19 Vict. c. 91.

expenses of lighthouse, &c., for which they are levied.

7. For the purpose of constructing or repairing any such lighthouse, buoy or beacon as aforesaid, the board of trade may raise, upon the security of the dues to be levied in respect thereof, such sums of money as they may deem fit; and the commissioners of her majesty's treasury, out of any moneys which may be provided by parliament, the public works loan commissioners or any other person or body of persons, may advance the same accordingly, such advances to be made in the same manner, with the same powers and subject to the same provisions, so far as circumstances permit, in, with and subject to which, under the Merchant Shipping Act, 1854, advances may be made upon the security of the mercantile marine fund for the construction and repair of lighthouses in the united kingdom. Power to borrow money on security of dues. 17 & 18 Vict. c. 104, ss 424, 425, 426 (a).

8. Accounts shall be kept of all sums expended in the construction, repair or maintenance of every lighthouse, buoy or beacon in the British possessions abroad for which dues are levied under the authority of this Act, and of the dues received in respect thereof, in such manner as the board of trade may direct, and shall be laid before parliament annually; and the said accounts shall be audited in such manner as her majesty may by order in council direct. Accounts for each lighthouse, &c., to be kept and laid before parliament and to be audited. 17 & 18 Vict. c. 104, s. 428 (b)

Registry of Ships.

PART II. of Merchant Shipping Act, 1854.

9. Any person who, in any declaration made in the presence of or produced to any registrar of shipping, in pursuance of the second part of the Merchant Shipping Act, 1854, or in any documents or other evidence produced to such registrar, wilfully makes or assists in making or procures to be made, any false statement concerning the title to or the ownership of or the interests existing in any ship or any share or shares in any ship, or who utters, produces or makes use of any declaration or document containing any such false statement, knowing the same to be false, shall be guilty of a misdemeanor. Penalty on false declarations under Part II of Merchant Shipping Act, 17 & 18 Vict. c. 104, s. 103 (c).

10. Shares in ships registered under the said Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock," as defined by the Trustee Act, 1850, and the provisions of such last-mentioned Act shall be applicable to such shares accordingly. Shares in shipping within the Trustee Act, 1850, 13 & 14 Vict. c. 60, ss 5, 22, 23, 24, 25, 26, 31, 32, 33, 35, 48 (d).

11. In any case in which any bill of sale, mortgage or other instrument for the disposal or transfer of any ship or any share or shares therein, or of any interest therein, is made in any form or contains any particulars other than the form and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no registrar shall be required to record the same without the express direction of the commissioners of her majesty's customs. Forms of instruments 17 & 18 Vict. c. 104, s. 96 (e).

12. Upon the transfer of the registry of a ship from one port to another, the certificate of registry required by the nineteenth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose, may be delivered up to the registrar of either of such ports. Delivery of certificate upon transfer of registry. 17 & 18 Vict. c. 104, s. 90 (f).

13. The commissioners of customs may, with the consent of the board of trade, exempt any pleasure yacht from the provision contained in the thirty-fourth section of the Merchant Shipping Act, 1854, which requires the name of every ship and the port to which she belongs to be painted on her stern. Exemption of certain ships from having name painted on stern 17 & 18 Vict. c. 104, s. 34 (g).

14. The owner of any ship which is measured under Rule II. contained in the twenty-second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the commissioners of customs to have the said ship remeasured under Rule I. contained in the twenty-first section of the same Act, and the said commissioners may thereupon and upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they may authorise, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly. Ships measured under Rule II may be measured under Rule I 17 & 18 Vict. c. 104, ss 21 and 22 (h)

15. The copy or transcript of the register of any British ship which is kept by the chief registrar of shipping at the custom house in London, or by the registrar-general of seamen, under the direction of her majesty's commissioners of customs or of the board of trade, shall have the same effect to all intents and purposes as the original register of which the same is a copy or transcript. General register (i) books in London. 17 & 18 Vict. c. 104, s 107 (k).

Masters and Seamen.

16. The board of trade may issue instructions concerning the relief to be administered to distressed seamen and apprentices, in pursuance of the two hundred and eleventh and two hundred and twelfth sections of the Merchant Shipping Act, 1854, and may by such

---

(a) Ante, p. 332.
(b) Ante, p. 332.
(c) Ante, p. 271.
(d) Post tit. "TRUSTEES."
(e) Ante, p. 270.
(f) Ante, p. 269.
(g) Ante, p. 258.
(h) Ante, p. 255.
(i) The register is no evidence of ownership, so as to fix the party, whose name appears thereon, for contracts entered into on behalf of the ship by the master (*Myers* v. *Willis*, 17 C. B. 77; see also *Brodie* v. *Howard*, ib. 109).
(k) Ante, p. 272.

18 & 19 Vict. c. 91.

PART III. of Merchant Shipping Act, 1854.

Extension of provisions concerning the relief of destitute seamen. 17 & 18 Vict. c. 104, ss. 211, 212, and 213 (a).

instructions determine in what cases and under what circumstances and conditions such relief is to be administered; and all powers of recovering expenses incurred with respect to distressed seamen and apprentices, which by the two hundred and thirteenth section of the said Act are given to the board of trade, shall extend to all expenses incurred by any foreign government for the purposes aforesaid, and repaid to such government by her majesty's government, and shall likewise extend to any expenses incurred by the conveying home such seamen or apprentices in foreign as well as British ships; and all provisions concerning the relief of distressed seamen and apprentices, being subjects of her majesty, which are contained in the said sections of the said Act, and in this section, shall extend to such seamen and apprentices, not being subjects of her majesty, as are reduced to distress in foreign parts by reason of their having been shipwrecked, discharged or left behind from any British ship; subject nevertheless to such modifications and directions concerning the cases in which relief is to be given to such foreigners and the country to which they are to be sent, as the board of trade may, under the circumstances, think fit to make and issue.

Enactment concerning savings banks extended to seamen in the navy. 17 & 18 Vict. c. 104, s. 180 (b).

17. The enactment of the Merchant Shipping Act, 1854, relating to savings banks shall apply to all seamen, and to their wives and families, whether such seamen belong to the royal navy or to the merchant service, or to any other sea service.

Additional powers of naval courts. 17 & 18 Vict. c. 104, ss. 260 to 266 (c).

18. Any naval court summoned, under the provisions of the Merchant Shipping Act, 1854, to hear any complaint touching the conduct of the master or any of the crew of any ship, shall, in addition to the powers given to it by the said Act, have power to try the said master or any of the said crew for any offences against the Merchant Shipping Act, 1854, in respect of which two justices would, if the case were tried in the united kingdom, have power to convict summarily, and by order duly made to inflict the same punishments for such offences which two justices might in the case aforesaid inflict upon summary conviction; provided, that in cases where an offender is sentenced to imprisonment the sentence shall be confirmed in writing by the senior naval or consular officer present at the place where the court is held, and the place of imprisonment, whether on land or on board ship, shall be approved by him as a proper place for the purpose, and copies of all sentences made by any naval court summoned to hear any such complaint as aforesaid shall be sent to the commander-in-chief or senior naval officer of the station.

Wrecks, Casualties, and Salvage.

PART VIII. of Merchant Shipping Act, 1854.

In case of wreck of foreign ships, consul general to be deemed agent of owner.

19. Whenever any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of the united kingdom, or belonging to or forming part of the cargo thereof, are found on or near such coasts, or are brought into any port in the united kingdom, the consul general of the country to which such ship, or, in the case of cargo, to which the owners of such cargo, may have belonged, or any consular officer of such country authorised in that behalf by any treaty or agreement with such country, shall, in the absence of the owner of such ship or articles, and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of such articles.

Remuneration for services by coast guard.

20. In cases where services are rendered by officers or men of the coast guard service in watching or protecting shipwrecked property, then, unless it can be shown that such services have been declined by the owner of such property or his agent at the time they were tendered, or that salvage has been claimed and awarded for such services, the owner of the shipwrecked property shall pay in respect of the said services remuneration according to a scale to be fixed by the board of trade, so, however, that such scale shall not exceed any scale by which payment to officers and men of the coast guard for extra duties in the ordinary service of the commissioners of customs is for the time being regulated; and such remuneration shall be recoverable by the same means and shall be paid to the same persons and accounted for and applied in the same manner as fees received by receivers appointed under the Merchant Shipping Act, 1854.

Legal Proceedings.

PART X. of Merchant Shipping Act, 1854.

Jurisdiction in case of offences on board ship. 12 & 13 Vict. c. 96 (d).

21. If any person, being a British subject, charged with having committed any crime or offence on board any British ship on the high seas or in any foreign port or harbour, or if any person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found (e) within the jurisdiction of any court of justice in her majesty's dominions which would have had cognisance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits: Provided, that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of her present majesty, chapter ninety-six.

Miscellaneous.

22. It shall be the duty of the East India Company to take charge of and send home or otherwise provide for all persons, being Lascars or other natives of the territories under

---

(a) Ante, p. 292, see 25 & 26 Vict. c. 63, s. 22, post.

(b) Ante, p. 284.

(c) Ante, pp. 302, 303.

(d) *Ante*, vol. i. p. 624, tit. "COLONIES."

(e) A man is found wherever he is actually present (*Reg.* v. *Lopez*, 1 Dears. & B. C. C. 525; 27 L. J. M. C. 48).

the government of the said company, who are found destitute in the united kingdom; and if any such person is relieved and maintained by any guardians, overseers or other persons administering the relief of the poor, such overseers, guardians or other persons may, by letter sent through the post or otherwise, give notice thereof in writing to the secretary of the court of directors of the East India Company, specifying, so far as is practicable, the following particulars; viz.,—

18 & 19 Vict. c. 91.

PART XI. of Merchant Shipping Act, 1854.

Relief of destitute Lascars.

(1.) The name of the person so relieved or maintained:
(2.) The presidency or district or part of the territories of the East India Company of which he professes to be a native:
(3.) The name of the ship in which he was brought to the united kingdom:
(4.) The port or place abroad from which such ship sailed, and the port or place in the united kingdom at which such ship arrived, when he was so brought to the united kingdom, and the time of such arrival:

And the said East India Company shall repay to the said overseers, guardians or other persons, out of the revenues of the said company, all moneys duly expended by them in relieving or maintaining such destitute person, after the time at which such notice aforesaid is sent or otherwise given.

Contracts may be made with natives in India, under certain conditions, binding them to go to the united kingdom, and then to serve in other ships back to India or elsewhere.

23. It shall be lawful for any master or owner of a ship or his agent to enter into agreements with Lascars or natives of the territories of the East India Company, binding them to proceed to any port or ports in the united kingdom, either as seamen or as passengers, and there to enter into a further agreement to serve as seamen in any ship which may happen to be there, and to be bound to any port in the territories of the East India Company; provided, that every such original agreement shall be made in such form, and shall contain such provisions, and shall be executed in such manner, and under such conditions for securing the return of such Lascars or natives to their own country, and for other purposes, as the governor-general of India in council or the governors of the respective presidencies in which the original agreement is made, in council may direct; and if any Lascar or other person who has bound himself by any such original agreement is, on arriving in the united kingdom, required to enter into a further agreement to serve as a seaman in any ship bound to any port in the territories of the East India Company, and if it is certified by some officer appointed for that purpose by the East India Company that such further agreement is a proper agreement in all respects for such Lascar or other person to enter into, and is in accordance with the original agreement, and that the ship to which such further agreement relates is in all respects a proper ship for such Lascar or other person to serve in, and that there is not, in the opinion of such officer, any objection to the full performance of the said original agreement, such Lascar or other person shall be deemed to be engaged under such further agreement, and to serve as a seaman in the ship to which it relates, and shall thereupon be deemed to be for all purposes one of the crew of the ship; and for every Lascar or other person in respect of whom such certificate is applied for, the person applying for the same shall pay to such officer as aforesaid such fee as the East India Company may appoint, not exceeding ten shillings.

Saving of former enactments. 4 Geo. 4, c. 80, ss. 25 to 34; 17 & 18 Vict. c. 120, s. 16.

24. Nothing herein contained shall be deemed to repeal or affect any provisions contained in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first or thirty-fourth sections of the Act of the fourth year of king George the fourth, chapter eighty, or in the sixteenth section of the Act of the eighteenth year of her present majesty, chapter one hundred and twenty.

18 & 19 Vict. c. 111. An Act to amend the Law relating to Bills of Lading. [14th August, 1855.]

18 & 19 Vict. c. 111.

THE PASSENGERS ACT, 1855.

18 & 19 Vict. c. 119. An Act to amend the Law relating to the Carriage of Passengers by Sea. [14th August, 1855.]

18 & 19 Vict. c. 119.

"Whereas it is expedient to amend 'THE PASSENGERS ACT, 1852:' BE IT THEREFORE ENACTED as follows:

Prefatory Clauses.

Commencement of this Act, and repeal of former Act except as to existing liabilities, and except as to an order in council dated 16th Oct. 1852.

1. On the 1st day of October next, when this Act shall commence and come into force, "The Passengers Act, 1852," SHALL BE REPEALED; except so far as the said Act repeals any former Act or enactment; and except as to existing passage brokers' licences, which shall continue in force as mentioned in section sixty-eight of this Act, and except as to any ship which shall have cleared out from any colonial port under the said Act, and before this Act shall have come into operation in such colony; and except so far as may be necessary for supporting or continuing any proceeding heretofore taken or hereafter to be taken upon any bond given under the said Act, or upon any other civil process; and except as to the recovery and application of any penalty for any offence committed against the said Act before the commencement of this Act; and except also as to an order in council made by her majesty, with the advice of her privy council, on the sixteenth day of October one thousand eight hundred and fifty-two, in pursuance of the powers given by the fifty-fifth section of the said Act, which said order in council shall

18 & 19 Vict. c. 119.

remain in force until altered or revoked by any order in council to be made under the provisions of this Act.

Short title of this Act; and in legal proceedings reference to sections of this Act by number to be sufficient.

2. In citing this Act in other Acts of parliament, or in any instrument, document or proceeding, it shall be sufficient to use the expression, "The Passengers Act, 1855;" and in any process for enforcing the remedies or penalties given or imposed by this Act, it shall be sufficient, without specifying more particularly the cause of complaint or offence, to refer by number, according to the copies of the Act printed by the queen's printer, to the section or sections under which the proceeding is taken.

Definition of terms used in this Act.

3. For the purposes of this Act, the following words and expressions, whenever they occur, shall respectively have the following significations, if not inconsistent with the context or subject-matter; (that is to say,) words of one number or gender shall import both numbers and all genders respectively; the expression "her majesty" shall include her heirs and successors; the expression "consular officer" shall signify and include her majesty's consul-general, consul, and vice-consul; the expression "United Kingdom" shall signify Great Britain and Ireland, and the islands of Guernsey, Jersey, Alderney, Sark, Scilly, and Man; the expression "North America" shall signify and include the Bermudas, and all ports and places on the eastern coast of the continent of North America, or in the islands adjacent or near thereto, or in the Gulf of Mexico north of the tropic of Cancer; the expression "West Indies" shall signify the West India islands, the Bahamas, British Guiana, and Honduras; the expression "governor" shall signify the person who for the time being shall be lawfully administering the government of any British colony in which he may be acting; the expression "statute adult" shall signify any person of the age of twelve years or upwards, or two persons between the ages of one and twelve years; the expression "passage" shall include all passages except cabin passages; the expression "passengers" (a) shall include all passengers except cabin passengers, and except labourers under indenture to the Hudson's Bay Company, and their families, conveyed in ships the property of or chartered by the said company, and no persons shall be deemed cabin passengers unless the space allotted to their exclusive use shall be in the proportion of at least thirty-six clear superficial feet to each statute adult, nor unless they shall be messed throughout the voyage at the same table with the master or first officer of the ship, nor unless the fare contracted to be paid by them respectively shall be in the proportion of at least thirty shillings for every week of the length of the voyage as computed under the provisions of this Act for sailing vessels proceeding from the united kingdom to any place south of the equator, and of twenty shillings for such vessels proceeding to any place north of the equator, nor unless they shall have been furnished with a duly signed contract ticket according to the form in schedule (K.) of this Act; the expression "upper passenger deck" shall signify and include the deck immediately beneath the upper deck, or the poop or round house and deck house when the number of passengers and cabin passengers carried in such poop, round house, or deck house shall exceed one-third of the total number of passengers which such ship can lawfully carry on the deck next below; the expression "lower passenger deck," the deck next beneath the upper passenger deck, not being an orlop deck; the expression "ship" shall signify any description of sea-going vessel, whether British or foreign; the expression "passenger ship" shall signify every description of such ship carrying upon any voyage to which the provisions of this Act shall extend more than thirty passengers, or a greater number of passengers than in the proportion of one statute adult to every fifty tons of the registered tonnage of such ship if propelled by sails, or of one statute adult to every twenty-five tons if propelled by steam; the expression "master" shall signify the person who shall be borne on the ship's articles as master, or who, other than a pilot, shall for the time being be in charge or command of any such ship or "passenger ship;" and the expression "emigrant runner" shall signify every person rather than a licensed passage broker or his *bonâ fide* salaried clerk, who within any port or place of shipping, or within five miles of the outer boundaries thereof, for hire or reward, or the expectation thereof, shall directly or indirectly conduct, solicit, influence or recommend any intending emigrant to or on behalf of any passage broker, owner, charterer or master of a ship, lodging-house or tavern or shopkeeper, money-changer, or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or shall give or pretend to give to such intending emigrant any information or assistance in any way relating to emigration.

To what vessels and voyages this Act extends.

4. This Act shall extend to every "passenger ship" proceeding on any voyage from the united kingdom to any place out of Europe, and not being within the Mediterranean sea, and on every colonial voyage as hereinafter described, and, in the particulars mentioned or referred to in section one hundred, one hundred and one, and one hundred and two, to every ship bringing passengers into the united kingdom from any place out of

(a) Persons, who are in every respect cabin passengers within this section, except that they have not been furnished with contract tickets according to the Form (K.), are not to be counted as passengers so as to make a ship a passenger ship which would not otherwise be a passenger ship within the meaning of the Act; and the provision in this section as to tickets must be taken to apply only in the case of a passenger ship (*Ellis* v. *Pearce*, E. B. & E. 431, 27 L. J. M. C. 227).

Europe and not being within the Mediterranean sea; but shall not extend to any of her majesty's ships of war, nor to any ships in the service of the commissioners for executing the office of lord high admiral of the united kingdom, nor to any ship of war or transport in the service of the East India Company, nor to any steam vessel regularly employed in the conveyance of the public mails under an existing contract with the government of the state or colony to which such steam vessel may belong, provided the master thereof shall, on demand, produce to the emigration officer at the port of clearance or port of departure a certificate of exemption, in the form given in schedule (A) hereto annexed, under the hand of the postmaster-general of the united kingdom, or of some person deputed by him for the purpose, or in the case of a colony, under the hand of the governor thereof, or in the case of a foreign state, under the hand of the postmaster-general or other competent government officer whose signature shall be authenticated by the signature of a British consular officer in such foreign state. 18 & 19 Vict. c. 119.

5. Such certificate of exemption shall be issuable at the discretion of the officer authorised to grant the same as hereinbefore mentioned, and shall remain in force for the period specified therein, unless sooner revoked, or unless the vessel for which it shall have been issued shall sooner cease to be employed in carrying the public mails; and if any person shall make or attempt to make any fraudulent use of any such certificate, or shall forge, counterfeit, alter or erase the whole or any part thereof, or shall use or attempt to use any spurious or fraudulent certificate, the person so offending, and every person aiding and abetting in such offence, shall be liable to a penalty not exceeding five hundred pounds sterling, and the vessel for which the exemption is claimed shall not be cleared out until all the requirements of this Act have been complied with. Penalty on fraudulently using certificates or using fraudulent certificates.

6. And whereas by a warrant under her majesty's sign manual, bearing date on the twenty-seventh day of November one thousand eight hundred and forty-seven, her majesty was pleased to appoint certain persons therein named under the style of "The Colonial Land and Emigration Commissioners," to be, during her majesty's pleasure, commissioners in the united kingdom for the sale of the waste lands of the crown of her majesty's colonies, and for superintending the emigration of the poorer classes of her majesty's subjects to such colonies: And whereas it is expedient that such commissioners should be empowered to carry this Act into execution: BE IT THEREFORE ENACTED, That the said commissioners, and their successors for the time being, shall, and they are hereby empowered to carry this Act into execution; and that for all legal and other purposes it shall be sufficient to describe such commissioners by the style of "The Emigration Commissioners." Commissioners of emigration to carry this Act into execution.

7. The said emigration commissioners for the time being may sue and be sued in the name of their secretary, or of any one of such commissioners for the time being, and legal or equitable proceedings taken by or against the said commissioners in the name of any one of them or of their secretary shall not abate nor be discontinued by the death or removal of such secretary or commissioner, but the secretary for the time being, or any one of such commissioners, shall always be deemed to be the plaintiff, or defendant (as the case may be) in any such proceedings: Provided always, that the said commissioners and their secretary, and the emigration officers hereinafter mentioned respectively, shall in no case be personally liable, nor shall the private estate and effects of any of them be liable, for the payment of any moneys or costs or otherwise in respect of any contract made or hereafter to be made by them or any of them, or in respect of any legal or equitable proceedings taken against them or any of them, or for any act, deed, or matter done or executed by them or any of them in their or his official capacity and on the public service. Emigration Commissioners may sue and be sued in the name of their secretary, &c. Commissioners, &c., exempt from liability.

8. In the united kingdom the said commissioners acting under the sanction of one of her majesty's principal secretaries of state, and in her majesty's possessions abroad the respective governors thereof, may from time to time appoint, and the said commissioners and governors may at pleasure from time to time remove, such emigration officers and assistant emigration officers as they may respectively think necessary, for the purpose of carrying this Act into execution, under the direction of the said commissioners or governors, as the same may be: Provided nevertheless, that all existing appointments of emigration officers or immigration agents and of their assistants, as well in the united kingdom as in her majesty's possessions abroad, shall continue in force under this Act until duly revoked. Emigration officers and assistants to act under the commissioners, &c., but existing appointments to continue until revoked.

9. All powers, functions and duties to be exercised or performed by any such emigration officer may be exercised and performed respectively by his assistant, or, at any port where there shall be no such emigration officer or assistant, or in their absence, by the chief officer of customs for the time being at such port. Duties of emigration officer may be performed by his assistant or by officer of customs.

10. The master of every ship, whether a "passenger ship" or otherwise, fitting, or intended for the carriage of passengers, or which shall carry passengers upon any voyage to which this Act extends, shall afford to such emigration officer as aforesaid, at any port or place in her majesty's dominions, and, in the case of British ships, to her majesty's consular officer at any foreign port or place at which such ship shall be or arrive, every facility for inspecting such ship, and for communicating with the passengers, and for ascertaining that the provisions of this Act, so far as the same may be applicable to such ships, have been duly complied with; the master of any ship who shall omit or fail to comply with any of the requirements of this section shall be liable to a penalty not exceeding fifty pounds. Facilities to be given to the proper officers for the inspection of all ships fitting for passengers. Penalty on master failing to comply, &c.

18 & 19 Vict. c. 119.

Arrangements for the Ships.

No passenger ship to clear without certificate from emigration officer, nor until bond be given to the crown (*a*).

11. No ship fitted or intended for the carriage of passengers as a "passenger ship" shall clear out or proceed to sea until the master thereof shall have obtained from the emigration officer at the port of clearance a certificate of clearance under his hand that all the requirements of this Act, so far as the same can be complied with, before the departure of such ship, have been duly complied with, and that such ship is, in his opinion, seaworthy, in safe trim, and in all respects fit for her intended voyage, and that her passengers and crew are in a fit state to proceed, nor until the master shall have joined in executing such bond to the crown as required by the sixty-third section of this Act: Provided, that if such emigration officer shall refuse to grant such certificate, and the owner or charterer of such ship shall appeal in writing to the emigration commissioners, such commissioners shall appoint any two other emigration officers, or any two competent persons, at the expense of the appellant, to examine into the matter, and if the persons so appointed shall grant a certificate under their joint hands to the purport hereinbefore required, such certificate shall be held to be of the same effect as if granted by the emigration officer of the port of clearance.

Forfeiture of ship if master proceeds to sea without certificate of clearance, &c.

Such ship to be dealt with as if seized under laws relating to customs.

12. If any "passenger ship" shall clear out or proceed to sea without the master's having first obtained such certificate of clearance, or without his having joined in executing such bond, as by this Act is required, or if such ship after having sailed shall put into any port or place in the united kingdom in a damaged state, and shall put to sea again without the master having first obtained such certificate of clearance as required by section fifty of this Act, such ship shall be forfeited to the use of her majesty, and may be seized by any officer of customs, if found, within two years from the commission of the offence, in any port or place in her majesty's dominions; and such ship shall thereupon be dealt with in the same manner as if she had been seized as forfeited under any of the laws relating to the customs for an offence incurring forfeiture under those laws.

Where passengers may be carried.

13. No ship shall carry passengers or cabin passengers on more than two decks; provided, that cabin passengers in a proportion not exceeding one cabin passenger for every one hundred tons of the ship's registered tonnage, or sick persons placed in a hospital, as hereinafter provided, may be carried in a poop or deck house, notwithstanding that passengers are carried on two other decks, and if passengers are carried under the poop or in any round house or deck house, such poop, round house or deck house shall be properly built and secured to the satisfaction of the emigration officer at the port of clearance: For any breach of this enactment the master of the ship shall for each offence be liable to a penalty not exceeding five hundred pounds nor less than twenty pounds sterling.

Rule for determining the number of passengers to be carried.

Tonnage check.

Space check.

14. For determining the number of passengers to be carried in any "passenger ship" the following rules shall be observed:

(1.) No ship propelled by sails only shall carry a greater number of persons (including every individual on board) than in the proportion of one statute (*b*) adult to every two tons of her registered tonnage:

(2.) No ship shall carry under the poop, or in the round house or deck house, or on the "upper passenger deck," a greater number of passengers than in the proportion of one statute adult to every fifteen clear superficial feet of deck allotted to their use:

(3.) No ship shall carry on her lower passenger deck a greater number of passengers than in the proportion of one statute adult to every eighteen clear superficial feet of deck allotted to their use: Provided nevertheless, that if the height between such lower passenger deck and the deck immediately above it shall be less than seven feet, or if the apertures (exclusive of side scuttles) through which light and air shall be admitted together to the lower passenger deck shall be less in size than in the proportion of three square feet to every one hundred superficial feet of the lower passenger deck, no greater number of passengers shall be carried on such deck than in the proportion of one statute adult to every twenty-five clear superficial feet thereof:

(4.) No ship, whatever be her tonnage or superficial space of "passenger decks," shall carry a greater number of passengers on the whole than in the proportion of one statute adult to every five superficial feet, clear for exercise, on the upper deck or poop, or (if secured and fitted on the top with a railing or guard to the satisfaction of the emigration officer at the port of clearance) on any round house or deck house:

(5.) In the measurement of the passenger decks, poop, round house or deck house, the

---

(*a*) An emigration officer is justified in refusing to certify that the requirements of the Act have been complied with, if he, acting *bonâ fide*, deems that the quantity of the cargo on board of a passenger ship is such as to endanger the safety of the ship, although none of the articles expressly prohibited are on board, and although his objection is not to any specific articles on board, but solely because the ship is too deep in the water; and if an action is brought against him for refusing his certificate under such circumstances, he is entitled to have the verdict entered for him (*Steel* v. *Schomberg*, 4 E. & B. 620, 24 L. J. Q. B. 87).

(*b*) See *Dobson* v. *Hudson*, 1 C. B. N. S. 652, 26 L. J. C. P. 153.

space for the hospital and that occupied by such portion of the personal luggage of the passengers as the emigration officer may permit to be carried there shall be included : 18 & 19 Vict. c. 119.

If there shall be on board of any ship at or after the time of clearance a greater number, either of persons or passengers (except by births at sea), than in the proportions respectively hereinbefore mentioned, the master of such ship shall be liable to a penalty not exceeding twenty pounds nor less than five pounds sterling for each passenger or person constituting such excess. Penalty.

15. Provided nevertheless, that nothing in this Act contained shall extend to repeal or vary an Act passed in the session of parliament holden in the sixteenth and seventeenth years of the reign of her present majesty, chapter eighty-four, intituled "An Act to amend the Passengers Act, 1852, so far as relates to the passages of natives of Asia or Africa, and also passages between the island of Ceylon and certain parts of the East Indies." Nothing to extend to repeal 16 & 17 Vict. c. 84.

16. The master of every ship, whether a "passenger ship" or otherwise, carrying passengers on any voyage to which this Act extends, shall, before demanding a clearance for such ship, sign two lists made out according to the form contained in schedule (B.) hereto annexed, correctly setting forth in the manner therein directed the name and other particulars of the ship and of every passenger on board thereof; and the said lists, when countersigned by the emigration officer, where there is one at the port, shall be delivered by the master to the officer of the customs from whom a clearance of the said ship shall be demanded, and such officer shall thereupon also countersign and return to the said master one of such lists, hereinafter called "the master's list;" and the said master shall note in writing on such last-mentioned list, and on any additional lists to be made out as next hereinafter provided, the date and supposed cause of death of any passenger who may die and the date of birth and sex of any child who may be born on the voyage, and shall exhibit such last-mentioned list, with any additions which may from time to time be made thereto, as hereinafter directed, to the chief officer of customs at any port or place in her majesty's possessions, or to her majesty's consular officer at any foreign port at which the said passengers or any of them shall be landed, and shall deposit the same with such chief officer of customs or such consular officer, as the case may be, at the final port or place of discharge, and such officer of customs or consular officer shall thereupon forthwith transmit the particulars respecting any passenger who may die or of any child who may be born on the voyage to the registrar-general of births, deaths and marriages in England, who shall file the same and enter a copy thereof under his hand, in the "marine register book," which entry shall be dealt with and be of the same value as evidence as any other entry made in such book under the provisions of an Act passed in the session of parliament held in the sixth and seventh years of the reign of her present majesty, intituled "An Act for registering Births, Deaths and Marriages in England:" In case of noncompliance with any of the requirements of this section on the part of the master, or if such lists shall be wilfully false, the master shall for each offence be liable to a penalty, not exceeding one hundred pounds nor less than five pounds sterling. Passengers' lists to be delivered in duplicate by the master before clearance (a). 6 & 7 Will. 4, c. 86.

17. If at any time after such lists shall have been signed and delivered as aforesaid any additional passenger shall be taken on board, in every such case the master shall, according to the form aforesaid, add to "the master's list" the names and other particulars of every such additional passenger, and shall also sign a separate list, made out according to the form aforesaid, containing the names and other particulars of every such additional passenger, and such last-mentioned list, when countersigned by the emigration officer, where there is one at the port, shall, together with "the master's list," to which such addition shall have been made, be delivered to the chief officer of customs as aforesaid, and thereupon such officer shall countersign "the master's list," and shall return the same to the said master and shall retain the separate list, and so on in like manner whenever any additional passenger or passengers may be taken on board; or if no officer of customs shall be stationed at the port or place where such additional passenger or passengers may be taken on board, the said lists shall be delivered to the officer of customs at the next port or place at which such vessel shall touch or arrive and where any such officer shall be stationed, to be dealt with as hereinbefore mentioned: Provided, that when any additional passengers shall be taken on board, the master shall obtain a fresh certificate from the emigration officer of the port that all the requirements of this Act have been duly complied with before the ship shall proceed to sea: In case of non-compliance with any of the requirements of this section, the master of such ship shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling. Lists of passengers embarked after clearance to be delivered by master. Penalty on noncompliance.

18. If any person shall be found on board any "passenger ship" with intent to obtain a passage therein without the consent of the owner, charterer or master thereof, such person and every person aiding and abetting him in such fraudulent intent shall respectively be liable to a penalty not exceeding five pounds, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding three calendar months; and such person so found on board may be taken before any justice of the peace, without warrant, and such justice may summarily hear the case and on proof of the offence convict such offender as aforesaid. Penalty on persons found on board ships without consent of owners, &c.

(a) See 25 & 26 Vict. c. 63, s. 56.

18 & 19 Vict. c. 119.

All passenger ships to be surveyed before clearing out.

19. No "passenger ship" shall clear out or proceed to sea unless she shall have been surveyed, under the direction of the emigration officer at the port of clearance, but at the expense of the owner or charterer thereof, by two or more competent surveyors to be appointed by the said emigration commissioners for each port at which there may be an emigration officer, and for other ports by the commissioners of customs, nor unless it shall be reported by such surveyors that such "passenger ship" is in their opinion seaworthy and fit for her intended voyage. The survey shall be made before any part of the cargo is taken on board, except so much as may be necessary for ballasting the ship, and such portion of cargo if laden on board shall be shifted, if required by the emigration officer or surveyors, so as to expose to view successively every part of the frame of the ship. In case of noncompliance with any of the requirements of this section, the owner, charterer, or master of the ship, or any of them, shall for each offence be liable to a penalty not exceeding one hundred pounds nor less than five pounds sterling: Provided always, that in case any "passenger ship" shall be reported by any such surveyors not to be seaworthy or not fit for her said intended voyage, the owner or charterer, if he shall think fit, may require, by writing under his hand, the emigration officer or in his absence the chief officer of customs, to appoint three other competent surveyors, of whom two at least shall be shipwrights, to survey the said ship at the expense of the said owner or charterer; and the said officer shall thereupon appoint such surveyors, who shall survey the said ship, and if they shall, by an unanimous report under their hands (but not otherwise), declare the said ship to be seaworthy and fit for her intended voyage, the said ship shall then, for the purposes of this Act, be deemed seaworthy for such voyage.

Penalty on noncompliance.

Power to owners to appeal against surveyors' report of ships not being seaworthy.

As to the construction of beams and decks.

20. In every "passenger ship" the beams supporting the "passenger decks" shall form part of the permanent structure of the ship: they shall be of adequate strength, in the judgment of the emigration officer at the port of clearance and shall be firmly secured to the ship to his satisfaction. The "passenger decks" shall be at least one inch and a half in thickness and shall be laid and firmly fastened upon the beams continuously from side to side of the compartment in which the passengers are berthed. The height between that part of any deck on which passengers are carried and the deck immediately above it shall not be less than six feet. In case of noncompliance with any of the requirements of this section, the owner, charterer or master of the ship, or any of them, shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

Arrangement and size of berths.

21. There shall not be more than two tiers of berths on any one deck in any "passenger ship," and the interval between the floor of the berths and the deck immediately beneath them shall not be less than six inches, nor the interval between each tier of berths and between the uppermost tier and the deck above it less than two feet six inches: the berths shall be securely constructed and of dimensions not less than six feet in length and eighteen inches in width for each statute adult, and shall be sufficient in number for the proper accommodation of all the passengers contained in the lists of passengers hereinbefore required to be delivered by the master of the ship. No part of any berth shall be placed within nine inches of any water-closet erected in the between-decks. In case of non-compliance with any of the requirements of this section, the owner, charterer or master of the ship, or any of them, shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

Single men to be berthed in a separate compartment.

As to numbers and sexes in one berth.

Penalty.

22. In every "passenger ship" all the male passengers of the age of fourteen years and upwards who shall not occupy berths with their wives shall, to the satisfaction of the emigration officer at the port of clearance, be berthed in the fore part of the ship, in a compartment divided off from the space appropriated to the other passengers by a substantial and well-secured bulk-head, without opening into or communicating with any adjoining passenger berth, or in separate rooms if the ship be fitted with enclosed berths: Not more than one passenger, unless husband and wife, or females or children under twelve years of age, shall be placed in or occupy the same berth. In case of noncompliance with any of the requirements of this section, the owner, charterer or master of the ship, or any of them, shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

Berths not to be removed till passengers landed.

23. No berths in a "passenger ship" occupied by passengers during the voyage shall be taken down until forty-eight hours after the arrival of such ship at the port of final discharge, unless all the passengers shall have voluntarily quitted the ship before the expiration of that time. In case of noncompliance with any of the requirements of this section, the master of such ship shall be liable for each offence to a penalty not exceeding fifty pounds nor less than five pounds sterling.

Space to be allotted as an hospital.

24. In every "passenger ship" there shall be a sufficient space properly divided off to the satisfaction of the emigration officer at the port of clearance, to be used exclusively as a hospital or hospitals for the passengers: this space shall be under the poop, or in the round house, or in any deck house which shall be properly built and secured to the satisfaction of such emigration officer, or on the upper passenger deck, and not elsewhere, and shall in no case be less than eighteen clear superficial feet for every fifty passengers which the ship shall carry. Such hospitals shall be fitted with bed-places, and supplied with proper beds, bedding and utensils, to the satisfaction of the emigration officer at the port of clearance, and throughout the voyage kept so fitted and supplied. In case of noncompliance with any of the requirements of this section, the owner, charterer or master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

Penalty.

25. No "passenger ship" shall clear out or proceed to sea unless fitted, to the satisfaction of the emigration officer at the port of clearance, with at least two privies, and with two additional privies on deck for every one hundred passengers on board, and in ships carrying as many as fifty female passengers, with at least two waterclosets under the poop, or elsewhere on the upper deck, to the satisfaction of such emigration officer, for the exclusive use of the women and young children; all of which privies and waterclosets shall be firmly constructed and maintained in a serviceable and cleanly condition throughout the voyage, and shall not be taken down until the expiration of forty-eight hours after the arrival of the ship at the port of final discharge, unless all the passengers sooner quit the ship; provided that such privies shall be placed in equal numbers on each side of the ship, and need not in any case exceed twelve in number. In case of noncompliance with any of the requirements of this section, the master shall be liable to a penalty for each offence not exceeding fifty pounds nor less than five pounds sterling.

18 & 19 Vict. c. 119.

Regulation as to construction of privies.

26. No "passenger ship" shall clear out or proceed to sea without such provision for affording light and air to the passenger decks as the circumstances of the case may, in the judgment of the emigration officer at the port of clearance, require; nor if there are as many as one hundred passengers on board, without having an adequate and proper ventilating apparatus, to be approved by such emigration officer and fitted to his satisfaction; the passengers shall, moreover, have the free and unimpeded use of the whole of each hatchway situated over the space appropriated to their use, and over each such hatchway there shall be erected such a boobyhatch or other substantial covering as shall, in the opinion of such emigration officer, afford the greatest amount of light and air, and of protection from wet, as the case will admit. In case of noncompliance with any of the requirements of this section, the owner, charterer or master of the ship, or any of them, shall for each offence be liable to a penalty not exceeding fifty pounds nor less than twenty pounds.

As to light and ventilation.

Penalty on noncompliance.

27. Every "passenger ship" shall carry throughout the voyage a number of boats according to the following scale; (that is to say,)

Regulations as to the carrying of boats;

Two boats for every ship of less than two hundred tons:
Three boats for every ship of two hundred and less than four hundred tons:
Four boats for every ship of four hundred and less than six hundred tons:
Five boats for every ship of six hundred and less than ten hundred tons:
Six boats for every ship of ten hundred and less than fifteen hundred tons:
Seven boats for every ship of fifteen hundred tons and upwards: Provided that no "passenger ship" shall be required to carry a greater number of boats than are sufficient, in the judgment of the emigration officer at the port of clearance, to carry all the persons on board of such ship.

One of such boats shall in all cases be a long boat, and one shall be a properly-fitted life boat, which shall be carried in such a manner as to be, in the opinion of the emigration officer, most available for immediate service: each of such boats shall be of a suitable size and description, to be approved by the emigration officer at the port of clearance, and shall be seaworthy, and properly supplied with all requisites, and kept clear at all times for immediate use at sea: there shall likewise be on board each "passenger ship," if proceeding to any place to the southward of the equator, at least two chronometers, and if to any place to the northward of the equator at least one chronometer, and on board of all "passenger ships" at least three steering and one azimuth compass, four properly-fitted life buoys, kept ready at all times for immediate use, and some adequate means, to be approved by the emigration officer at the port of clearance, of making signals by night and in fogs; also a fire engine, in proper working order, and of such description and power and either with or without such other apparatus for extinguishing fire as such officer may approve; and not less than three bower anchors of such weight, and with cables of such length, size and material, as in the judgment of such emigration officer shall be sufficient for the size of the ship. In case of noncompliance with any of the requirements of this section, the master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

of life boats

and of life buoys, anchors and fire-engines, &c.

28. Every "passenger ship" shall be manned with an efficient crew for her intended voyage, to the satisfaction of the emigration officer from whom a clearance of such ship may be demanded, and the strength of the crew shall not be diminished, nor any of the men changed when once passed by such emigration officer, without his consent in writing, or that of the shipping master of the port of clearance, as required by the laws then in force regulating the shipping of seamen on board merchant vessels. Where the consent of the shipping master is obtained, it shall, within twenty-four hours thereafter, be lodged with such emigration officer. In case of noncompliance with any of the requirements of this section, the master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds: Provided, that if the emigration officer shall consider the crew inefficient, and the owner or charterer of the ship shall thereupon appeal in writing to the said emigration commissioners, such commissioners shall, at the expense of the appellant, appoint two other emigration officers or two competent persons to examine into the matter, and the unanimous opinion of the persons so appointed, expressed under their hands, shall be conclusive on the point.

Regulations as to carrying an efficient crew.

29. No "passenger ship" shall clear out or proceed to sea if there shall be on board as cargo, horses, cattle, gunpowder, vitriol, lucifer matches, guano or green hides, nor if there shall be on board any other article or number of articles, whether as cargo, or

Certain articles prohibited as

18 & 19 Vict. c. 119.

cargo and ballast.

Stowage of cargo, stores and luggage to be approved by emigration officer.

ballast, which by reason of the nature or quantity (a) or mode of stowage thereof shall, either singly or collectively, be deemed by the emigration officer at the port of clearance likely to endanger the health or lives of the passengers or the safety of the ship; no part of the cargo, or of the passengers' luggage, or of the provisions, water or stores, whether for the use of the passengers or of the crew, shall be carried on the upper deck or on the "passenger decks," unless in the opinion of such emigration officer it shall be so placed as not to impede light or ventilation, nor interfere with the comfort of the passengers; nor unless the same be stowed and secured to the satisfaction of such emigration officer, and the space occupied thereby or rendered, in the opinion of such officer, unavailable for the accommodation of the passengers, shall (unless occupied by passengers' luggage) be deducted in calculating the space by which, under the provisions of this Act, the number of passengers is regulated. In case of noncompliance with any of the requirements of this section, the owner, charterer or master, or any of them, shall for each offence be liable to a penalty not exceeding three hundred pounds nor less than five pounds sterling.

Computation of voyages.

30. For the purposes of this Act, the length of the voyage for a "passenger ship" proceeding from the united kingdom to the under-mentioned places respectively shall be determined by the following scale; (that is to say,)

	If the Ship be propelled by Sails alone, or by Steam Power not sufficient, without the aid of Sails, to propel the Ship after the Rate of Five Statute Miles an Hour.	If the Ship be propelled either wholly or in aid of Sails by Steam Engines of not less Power than sufficient, without the aid of Sails, to propel the Ship after the rate of Five Statute Miles an Hour.
	Days.	Days.
To North America (except the west coast thereof):—		
For ships clearing out between the sixteenth day of January and the fourteenth day of October, both days inclusive . . .	70	40
For ships clearing out between the fifteenth day of October and the seventeenth day of January, both days inclusive . . .	80	45
To the West Indies, and any part of the east coast of Central or South America, north of the equator	70	40
To any part of the east coast of South America lying between the equator and the twenty-fifth degree of south latitude	84	50
To the west coast of Africa north of the equator . .	84	50
To the coast of Africa south of the equator, or to the Falkland Islands, or to any part of the east coast of South America southward of the twenty-fifth degree of south latitude . . .	105	65
To the Mauritius, and to the western coast of America south of the equator	126	75
To Ceylon	140	85
To Western Australia	120	85
To any other of the Australian Colonies . . .	140	90
To New Zealand and to the western coast of America between the equator and the fortieth degree of north latitude	150	90
To the western coast of America north of the fortieth degree of north latitude, and the islands adjacent thereto	182	96

For the like purposes, the said emigration commissioners, acting by and under the authority of one of her majesty's principal secretaries of state, from time to time, by any notice in writing issued under the hands of any two of such commissioners, and published in the London Gazette, may nevertheless declare what shall be deemed to be the length of voyage from the united kingdom to any of the said hereinbefore-mentioned places, or to any other port or place whatsoever, and may fix such different lengths of voyage as they may think reasonable for such different descriptions of vessels as aforesaid.

(a) See *Steel* v. *Schomberg*, 24 L. J. Q. B. 87; 4 E. & B. 620.

31. Before any "passenger ship" shall be cleared out, the emigration officer at the port of clearance shall survey or cause to be surveyed by some competent person the provisions and water by this Act required to be placed on board for the consumption of the passengers, and shall satisfy himself that the same are of a good and wholesome quality, and in a sweet and good condition, and are in quantities sufficient to secure throughout the voyage the issues hereinafter prescribed: in addition to the allowance of pure water for the use of each passenger there shall be shipped for cooking purposes an additional supply of pure water after the rate of at least ten gallons for every day of the prescribed length of voyage for every one hundred statute adults on board; and also for the use of the crew and all other persons on board an ample supply of wholesome provisions and pure water, which shall not be inferior in quality to the supply of the same articles provided for the consumption of the passengers: all such water, provisions, and stores shall be provided and properly stored away in accordance with the requirements of the twenty-ninth section of this Act, by and at the expense of the owner, charterer or master of the ship; and if a clearance be obtained for any "passenger ship" which shall not then be stored with the requisite quantities of such water, provisions and stores as are required by this Act, the owner, charterer or master of such ship, or any of them, shall for each offence be liable to a penalty not exceeding three hundred pounds sterling.

18 & 19 Vict. c. 119.

Before clearance, provisions and water to be surveyed (a).

Provisions for the crew not to be inferior to those for the passengers.

Penalty.

32. If such emigration officer shall consider that any of the provisions or stores or water are not of a good and wholesome quality, or are not in a sweet and good condition, it shall be lawful for him to reject and mark the same, or the packages or vessels in which they are contained, and to direct the same to be landed or emptied; and if such rejected provisions or stores or water shall not thereupon be forthwith landed or emptied, or if, after being landed, the same or any part thereof shall be reshipped in such ship, the owner, charterer or master thereof, or any of them, or if reshipped in any other "passenger ship," the person causing the same to be reshipped shall for each offence be liable to a penalty not exceeding one hundred pounds sterling.

Power to emigration officer to reject and mark bad provisions, and direct the same to be landed, and if reshipped, parties liable to a penalty (b).

33. In every "passenger ship" the water to be laden on board, as hereinbefore required, shall be carried in tanks or in casks to be approved by the emigration officer at the port of clearance. When casks are used, they shall be sweet and tight, of sufficient strength, and if of wood properly charred inside, and shall not be capable severally of containing more than three hundred gallons each: the staves of the water casks shall not be made of fir, pine or soft wood. In case of noncompliance with any of the requirements of this section, the owner, charterer or master of such ship, or any of them, shall for each offence be liable to a penalty not exceeding fifty pounds.

Water tanks or casks to be approved by emigration officer (c).

34. If any "passenger ship" shall be intended to call at any intermediate port or place during the voyage, for the purpose of taking in water, and if an engagement to that effect shall be inserted in the bond mentioned in the sixty-third section of this Act, then it shall be sufficient to place on board at the port of clearance such supply of water as may be requisite, according to the rate hereinafter mentioned, for the voyage of the said ship to such intermediate port or place, subject to the following conditions; (that is to say,)

Provisions for touching at intermediate ports to fill up water.

(1.) That the emigration officer signify his approval in writing of the arrangement, to be carried amongst the papers of the ship, and exhibited to the chief officer of customs, or to her majesty's consular officer, as the case may be at such intermediate port or place, and to be delivered to the chief officer of customs, or to her majesty's consular officer, as the case may be, on the arrival of the said ship at the final port or place of discharge:

(2.) That if the length of either portion of the voyage, whether to such intermediate port or place, or from such intermediate port or place to the final port or place of discharge, be not prescribed in or under the provisions of this Act, the emigration officer at the port of clearance shall in every such case declare the same in writing to be carried amongst the papers of the ship:

(3.) That the ship shall have on board at the time a clearance is demanded tanks or water casks, of the description hereinbefore mentioned, sufficient for stowing the quantity of water required for the longest of such portions of the voyage as aforesaid.

35. The master of every "passenger ship" shall, during the voyage, including the time of detention at any place before the termination (d) thereof, issue to each passenger, or, where the passengers are divided into messes, to the head man for the time being of each mess on behalf and for the use of all the members thereof, an allowance of pure water and sweet and wholesome provisions, of good quality, according to the following dietary scale; (that is to say,) if the length of the voyage, computed as hereinbefore mentioned, shall not exceed eighty-four days for ships propelled by sails only, or fifty days for ships propelled by steam, or steam in aid of sails, then according to the dietary

Dietary scales of provisions.

(a) See 15 & 16 Vict. c. 44, s. 28; 3 Chit. Stat. (last ed.) 1187.

(b) See 15 & 16 Vict. c. 44, s. 29; 3 Chit. Stat. (last ed.) 1187.

(c) See 15 & 16 Vict. c. 44, s. 30; 3 Chit. Stat. (last ed.) 1187.

(d) See *Willis* v. *Cooke*, 25 L. J. Q. B. 16; 5 E. & B. 641.

18 & 19 Vict. c. 119.

scale marked "A." ; but if the length of the voyage, computed as aforesaid, shall exceed eighty-four days for ships propelled by sails only, or fifty days for ships propelled by steam, or steam in aid of sails, then according to the dietary scale marked "B."

Water.

Three quarts of water daily to each statute adult, exclusive of the quantity herein-before specified as necessary for cooking the articles hereinafter required to be issued in a cooked state.

Provisions.

Weekly, *per* Statute Adult:

	Scale A. For Voyages not exceeding 84 Days for Sailing Vessels, or 50 Days for Steamers.	Scale B. For Voyages exceeding 84 Days for Sailing Vessels, or 50 Days for Steamers.
	lbs. oz.	lbs. oz.
Bread or biscuit, not inferior in quality to navy biscuit	3 8	3 8
Wheaten flour	1 0	2 0
Oatmeal	1 8	1 0
Rice	1 8	0 8
Peas	1 8	1 8
Potatoes	2 0	2 0
Beef	1 4	1 4
Pork	1 0	1 0
Tea	0 2	0 2
Sugar	1 0	1 0
Salt	0 2	0 2
Mustard	0 ½	0 ½
Black or white pepper, ground	0 ¼	0 ¼
Vinegar	One gill.	One gill.
Lime juice	...	0 6
Preserved meat	...	1 0
Suet	...	0 6
Raisins	...	0 8
Butter	...	0 4

Substitutions.

Substitutions at the following rates may, at the option of the master of any "passenger ship," be made in the above dietary scales; (that is to say,)

1 lb. of preserved meat	for	1 lb. of salt pork or beef.
1 lb. of flour or of bread or biscuit, or ½ lb. of beef or of pork	,,	1½ lb. of oatmeal or 1 lb. of rice or 1 lb. of peas.
1 lb. of rice	,,	1¼ lb. of oatmeal, or *vice versâ*.
¼ lb. of preserved potatoes	,,	1 lb. of potatoes.
10 oz. of currants	,,	8 oz. of raisins.
3½ oz. of cocoa or of coffee, roasted and ground	,,	2 oz. of tea.
¾ lb. of treacle	,,	½ lb. of sugar.
1 gill of mixed pickles	,,	1 gill of vinegar.

Penalty on noncompliance.

Provided, that the substituted articles be set forth in the contract tickets of the passengers. In case of non-compliance with any of the requirements of this section, the master of the ship shall be liable for each offence to a penalty not exceeding fifty pounds sterling.

Size of messes.

36. The messes into which the passengers in any "passenger ship" may be divided shall not consist of more than ten statute adults in each mess, and members of the same family, whereof one at least is a male adult, shall be allowed to form a separate mess.

Provisions to be issued daily, and articles which require cooking to be cooked.

The provisions according to the above scale shall be issued, such of them as require to be cooked, in a properly cooked state, daily before two o'clock in the afternoon, to the head person for the time being of each mess on behalf and for the use of the members thereof. The first of such issues shall be made before two o'clock in the afternoon of the day of embarkation to or for such passengers as shall be then on board. In case of non-compliance with any of the requirements of this section, the master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds.

Power to emigration commissioners to

37. The said emigration commissioners for the time being, acting under the authority of one of her majesty's principal secretaries of state, may from time to time, by any notice for that purpose, issued under the hands of any two of such commissioners, and

published in the London Gazette, authorise the issue of provisions in any "passenger ship" according to such other dietary scale (besides that hereinbefore prescribed) as shall in their opinion contain in the whole an equivalent amount of wholesome nutriment; and after the publication of such notice it shall be lawful for the master of any "passenger ship" to issue provisions to his passengers either according to the scale by this Act prescribed, or according to the scale authorised by the said commissioners, whichever may have been set forth in the contract tickets of the passengers: Provided always, that the said commissioners acting under such authority and by such notice as aforesaid may revoke or alter any such dietary scale authorised by them, as occasion may require.

18 & 19 Vict. c. 119.

authorise an alternative dietary scale.

Power to commissioners to alter dietary scale.

38. Every "passenger ship" carrying as many as one hundred passengers shall have on board a seafaring person, who shall be rated in the ship's articles as passengers' steward, and who shall be approved by the emigration officer at the port of clearance, and who shall be employed in messing and serving out the provisions to the passengers, and in assisting to maintain cleanliness, order, and good discipline among the passengers, and who shall not assist in any way in navigating or working the ship. In case of non-compliance with any of the requirements of this section, the master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

As to passengers' stewards.

Penalty on noncompliance.

39. Every "passenger ship" carrying as many as one hundred passengers shall also have on board a seafaring man, or if carrying more than three hundred "statute adults" two seafaring men, to be rated and approved as in the case of passengers' stewards, who shall be employed in cooking the food of the passengers: a convenient place for cooking shall also be set apart on deck; and a sufficient cooking apparatus, properly covered in and arranged, shall be provided, to the satisfaction of the said emigration officer, together with a proper supply of fuel adequate, in his opinion, for the intended voyage. In case of non-compliance with any of the requirements of this section, the master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

As to passenger cooks and cooking apparatus.

Penalty on noncompliance.

40. In every foreign "passenger ship" in which as many as one half of the passengers shall be British subjects, unless the master and officers or not less than three of them shall understand and speak intelligibly the English language, there shall be carried, where the number of passengers does not exceed two hundred and fifty, one person, and where it exceeds two hundred and fifty, two persons who understand and speak intelligibly the language spoken by the master and crew and also the English language, and such persons shall act as interpreters, and be employed exclusively in attendance on the passengers, and not in the working of the ship; and no such ship shall clear out or proceed to sea without having such interpreter or interpreters on board; and the master of any such foreign ship clearing out or proceeding to sea without having such interpreter or interpreters on board as aforesaid shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling.

In what cases interpreters to be carried.

Penalty.

41. Every "passenger ship" shall in the following cases carry a duly qualified medical practitioner, who shall be rated on the ship's articles:

(1.) When the duration of the intended voyage, as hereinbefore computed, exceeds eighty days in the case of ships propelled by sails, and forty-five days in the case of ships propelled by steam, and the number of passengers on board exceeds fifty:

(2.) Whenever the number of persons on board (including cabin passengers, officers and crew) exceeds three hundred:

In what cases a medical man must be carried.

In case of non-compliance with any of the requirements of this section, the master shall for each offence be liable to a penalty not exceeding one hundred pounds nor less than twenty pounds sterling.

Penalty.

42. No medical practitioner shall be considered to be duly qualified for the purposes of this Act unless authorised by law to practise in some part of her majesty's dominions, or, in the case of a foreign ship, in the country to which such ship may belong, as a physician, surgeon or apothecary, nor unless his name shall have been notified to the emigration officer at the port of clearance, and shall not be objected to by him, nor unless he shall be provided with proper surgical instruments to the satisfaction of such officer: Provided nevertheless, that where the majority of the passengers in any "passenger ship," or as many as three hundred, are foreigners, any medical practitioner who may be approved by such emigration officer may be carried therein. In case any person shall proceed or attempt to proceed as medical practitioner in any "passenger ship" without being duly qualified as aforesaid, or contrary to any of the requirements of this section, such person and all persons aiding or abetting therein shall for each offence be liable to a penalty not exceeding one hundred pounds nor less than ten pounds sterling.

Qualification of medical man.

Penalty.

43. The owner or charterer of every "passenger ship" shall provide for the use of the passengers a supply of medicines, medical comforts, instruments and other things proper and necessary for diseases and accidents incident to sea voyages, and for the medical treatment of the passengers during the voyage, including an adequate supply of disinfecting fluid or agent, together with printed or written directions for the use of the same respectively; and such medicines, medical comforts, instruments and other things shall, in the judgment of the emigration officer at the port of clearance, be good in quality, and sufficient in quantity, for the probable exigencies of the intended voyage,

Medicines and medical comforts.

18 & 19 Vict. c. 119.

and shall be properly packed and placed under the charge of the medical practitioner, when there is one on board, to be used at his discretion. In case of non-compliance with any of the requirements of this section, the master of the ship shall for each offence be liable to a penalty not exceeding fifty pounds, nor less than five pounds sterling.

Penalty.

Medical inspection of passenger and medicines, &c.

44 No "passenger ship," except as hereinafter provided, shall clear out or proceed to sea until some medical practitioner, to be appointed by the emigration officer at the port of clearance, shall have inspected such medicines, medical comforts, and other articles as are required to be supplied by the last preceding section, and also all the passengers and crew about to proceed in the ship, and shall have certified to the said emigration officer that the said ship contains a sufficient supply of medicines, medical comforts, disinfecting fluid or agent, instruments and other things requisite for the medical treatment of the passengers during the intended voyage, nor until such medical practitioner shall have certified and the said emigration officer shall be satisfied that none of the passengers or crew appear, by reason of any bodily or mental disease, unfit to proceed, or likely to endanger the health or safety of the other persons about to proceed in such vessel. Such medical inspection of the passengers shall take place either on board the vessel, or, at the discretion of the said emigration officer, at such convenient place on shore before embarkation as he may appoint; and the master, owner or charterer of the ship shall pay to such emigration officer a sum at the rate of twenty shillings for every hundred persons so examined: Provided also, that in case the emigration officer on any particular occasion shall be unable to obtain the attendance of a medical practitioner, it shall be lawful for the master of any such ship to clear out and proceed to sea, on receiving from the said emigration officer written permission for the purpose. In case any "passenger ship" shall clear out or proceed to sea without having complied with all the requirements of this section, the master of such ship shall for each offence be liable to a penalty not exceeding one hundred pounds, nor less than five pounds sterling.

Penalty.

Relanding of passengers on account of sickness or for purifying ships.

45. If the emigration officer at any port shall be satisfied that any person on board or about to proceed in any "passenger ship" is by reason of sickness unfit to proceed, or is for that or for any other reason likely to endanger the health or safety of the other persons on board, the said emigration officer shall prohibit the embarkation of such person, or if embarked shall require him to be relanded; and if such emigration officer shall be satisfied that it is necessary, for the purification of the ship or otherwise, that all or any of the passengers or persons on board should be relanded, the said emigration officer may require the master of the ship to reland all such passengers or persons, and the master shall thereupon reland such passengers or persons, with so much of their effects and with such members of their families as cannot in the judgment of such emigration officer be properly separated from them; and in case of non-compliance with any of the requirements of this section, the master, owner or charterer of the ship shall for each offence be liable to a penalty not exceeding two hundred pounds, nor less than ten pounds; and any passenger or person embarking after such prohibition, or refusing or neglecting to leave the ship when so directed to be relanded, shall be liable to be summarily removed, and to a penalty not exceeding forty shillings for each day which he shall remain on board after the giving of such prohibition or direction.

Penalty.

Passengers' Rights.

As to return of passage money to passengers relanded on account of sickness, &c.

46. Any passenger so relanded on account of the sickness of himself or of any member of his family who may not be re-embarked and finally sail in such ship, or any emigration officer on his behalf, shall be entitled to recover, by summary process, the whole of the moneys which may have been paid by or on account of such passenger for his passage, and that of the members of his family so relanded, from the party to whom the same may have been paid, or from the owner, charterer or master of such ship, or any of them, at the option of such passenger or emigration officer.

Subsistence money to be paid to passengers relanded.

47. The master of any "passenger ship," from which the whole or any part of the passengers shall be relanded on account of any of the reasons mentioned in section 45, shall pay to each passenger so relanded (or if he shall be lodged and maintained in any hulk or establishment under the superintendence of the said emigration commissioners, then to the emigration officer at the port), subsistence money at the rate of one shilling and sixpence a day for each statute adult until he shall be re-embarked or decline or neglect to proceed, or until his passage money, if recoverable under the forty-sixth section of this Act, be returned to him.

Return of passage money and compensation to passengers where passages not provided for them according to contract.

48. If any person by whom or on whose behalf any contract shall have been made for a passage in any ship proceeding on any voyage to which this Act extends, shall be at the place of embarkation before six o'clock in the afternoon of the day of embarkation appointed in such contract, and shall, if required, pay the stipulated passage money or the unpaid balance thereof, and if from any cause whatever, other than his own refusal, neglect or default, or the prohibition of an emigration officer, as hereinbefore mentioned, or the requirements of any order in council, such passenger shall not be received on board before that hour, or if from any such cause as aforesaid any passenger who shall have been received on board shall not either obtain a passage in such ship to the port at which he may have contracted to land, or, together with all the immediate members of his family who may be included in such contract, obtain a passage to the same port in some other equally eligible ship, to sail within ten days from the expiration of the said day of embarkation, and in the meantime be paid subsistence money from the time and at the rate hereinafter mentioned, such passenger, or any emigration officer on his behalf, shall

be entitled to recover either from the party to whom or on whose account the same may have been paid, or (in case such contract shall have been made with the owner, charterer or master of such ship, or with any person acting on behalf or by the authority of any of them respectively) from such owner, charterer or master of such ship, or any of them, at the option of such passenger or emigration officer, all moneys which shall have been paid by or on account of such passengers for such passage, and also such further sum, not exceeding ten pounds in respect of each such passage, as shall, in the opinion of the justices of the peace who shall adjudicate on the complaint, be a reasonable compensation for the loss or inconvenience occasioned to such passenger by the loss of such passage. 18 & 19 Vict. c. 119.

Subsistence in case of detention.

49. If any ship, whether a "passenger ship" or otherwise, shall not actually put to sea, and proceed on her intended voyage before three o'clock in the afternoon of the day next after the said day of embarkation, the owner, charterer or master of such ship, or his or their agent, or any of them, at the option of such passenger or emigration officer, shall pay to every passenger entitled to a passage (or if such passenger shall be lodged and maintained in any establishment under the superintendence of the said emigration commissioners, then to the emigration officer at the port of embarkation), subsistence money after the rate of one shilling and sixpence for each statute adult in respect of each day of delay for the first ten days, and afterwards three shillings a day for each statute adult, until the final departure of such ship on such voyage, and the same may be recovered in manner hereinafter mentioned; provided that if the passengers be maintained on board in the same manner as if the voyage had commenced, no such subsistence money shall be payable for the first two days next after the said day of embarkation, nor if they shall be maintained shall such subsistence money be payable if the ship be unavoidably detained by wind or weather, or by any cause not attributable in the opinion of the emigration officer to the act or default of the owner, charterer or master.

Ships putting back to replenish provisions, &c.

50. If any "passenger ship" shall, after clearance, be detained in port for more than seven days, or shall put into or touch at any port or place in the united kingdom, she shall not put to sea again until there shall have been laden on board, at the expense of the owner, charterer or master of such ship, such further supply of pure water, wholesome provisions of the requisite kinds and qualities, and medical comforts and stores, as may be necessary to make up the full quantities of those articles hereinbefore required to be laden on board for the intended voyage, nor until any damage she may have sustained shall have been effectually repaired, nor until the master of the said ship shall have obtained from the emigration officer or his assistant, or, where there is no such officer, or in his absence, from the officer of customs at such port or place, a certificate to the same effect as the certificate hereinbefore required to enable the ship to be cleared out; and in case of any default herein the said master shall be liable, on conviction, as hereinafter mentioned, to a penalty not exceeding one hundred pounds nor less than fifty pounds sterling: And if the master of any "passenger ship" so putting into or touching at any port or place as aforesaid shall not within twelve hours thereafter report, in writing, his arrival, and the cause of his putting back, and the condition of his ship, and of her stores and provisions, to the emigration officer, or, as the case may be, to the officer of customs at the port, and shall not produce to such officer the official or "master's list" of passengers, such master shall for each offence be liable to a penalty not exceeding twenty pounds nor less than two pounds sterling.

Penalty on master for default.

Ships putting back to be reported to emigration officer.

Penalty on master for neglect.

In case of wreck or damage, passengers to be provided with a passage by some other vessel, and maintained in the mean time (a).

51. If any "passenger ship" shall put into any port or place in the united kingdom in a damaged state, and the master, charterer or owner shall not give a written undertaking that the said ship shall be made sound and seaworthy, and shall within six weeks from the day of her so putting into such port or place again proceed with her passengers on her intended voyage, and if the said ship shall not accordingly be made seaworthy and proceed on her intended voyage within that period, or if any such ship shall after the commencement of her voyage be wrecked, sunk or otherwise destroyed, or shall from any cause whatsoever not land her passengers at the place where they may have respectively contracted to land, the owner, charterer or master thereof shall provide the passengers with a passage in some other eligible ship to sail within six weeks to the port or place at which they respectively may have originally contracted to land, and shall in the meantime, if the passengers be not lodged and maintained on board in the same manner as if the ship were at sea, pay to such passengers (or if such passengers shall be lodged or maintained in any hulk or establishment under the superintendence of the said emigration commissioners, then to the emigration officer at such port or place) subsistence money after the rate of one shilling and sixpence sterling for each statute adult in respect of each day of delay until such passengers are duly forwarded to their destination; and if default shall be made in any of the requirements of this section, such passengers respectively, or any emigration officer on their behalf, shall be entitled to recover, by summary process, as hereinafter mentioned, all moneys which shall have been paid by or on account of such passengers or any of them for such passage, from the party to whom or on whose account the same may have been paid, or from the owner, charterer

(a) See *Gibson* v. *Bradford*, 4 E. & B. 586, 24 L. J. Q. B. 159; and *Ellis* v. *Pearce*, 27 L. J. M. C. 257, E. B. & E. 431, ante, p. 392, n. (a).

18 & 19 Vict. c. 119.

or master of such ship, or any of them, at the option of such passenger or emigration officer: Provided that the said emigration officer may, if he shall think it necessary, direct that the passengers shall be removed from such "passenger ship" at the expense of the master thereof; and if after such direction any passenger shall refuse to leave such ship, he shall be liable to a penalty not exceeding forty shillings or to imprisonment not exceeding one calendar month.

Power to remove passengers from ship; penalty on passengers refusing.

Secretary of state, &c. may pay expenses of taking off passengers at sea.

52. If the passengers or cabin passengers of any "passenger ship" shall be taken off from any such "passenger ship," or shall be picked up at sea from any boat, raft, or otherwise, it shall be lawful, if the port or place to which they shall be conveyed shall be in the united kingdom, for one of her majesty's principal secretaries of state, or if in any of her majesty's colonial possessions, for the governor of such colony, or for any person authorised by him for the purpose, or if in any foreign country, for her majesty's consular officer, at such port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or consuls may send on passengers if the master of the ship fail to do so.

53. If any passenger or cabin passenger of any "passenger ship" shall, without any neglect or default of his own, find himself within any colonial or foreign port or place other than that at which he may have contracted to land, it shall be lawful for the governor of such colony, or for any person authorised by him for the purpose, or for her majesty's consular officer at such foreign port or place, as the case may be, to forward such passenger to his intended destination, unless the master of such ship shall, within forty-eight hours of the arrival of such passenger, give to the governor or consular officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such passenger or cabin passenger to his original destination, and unless such master shall accordingly forward or carry him on within that period.

Expenses incurred under the two preceding sections to be a crown debt.

54. All expenses incurred under the last two preceding sections or either of them, by or by the authority of such secretary of state, governor, consular officer, as aforesaid, including the cost of maintaining the passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to her majesty and her successors from the owner, charterer and master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of her majesty, in like manner as in the case of other crown debts; and a certificate purporting to be under the hand of any such secretary of state, governor or consular officer (as the case may be), stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the handwriting or of the official character of such secretary of state, governor or consular officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred: Provided nevertheless, that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received by the owner, charterer or master of such passenger ship, or any of them, from or on account of the whole number of passengers and cabin passengers who may have embarked in such ship; which total amount of passage money shall be proved by the defendant, if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage under the provisions of this Act.

Passengers forwarded by governor, &c. not entitled to return of passage money.

Insurance of passage money not to be void on account of the nature of the risk.

55. No policy of assurance effected in respect of any passages, or of any passage or compensation moneys, by any person by this Act made liable, in the events aforesaid, to provide such passages or to pay such moneys, or in respect of any other risk under this Act, shall be deemed to be invalid by reason of the nature of the risk or interest sought to be covered by such policy of assurance.

Penalty on wrongfully landing passengers.

56. If any passenger in any ship, whether a "passenger ship" or otherwise, shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing shall be rendered necessary by perils of the sea, or other unavoidable accident, the master shall for each offence be liable to a penalty not exceeding fifty pounds nor less than ten pounds sterling.

Passengers to be maintained for forty-eight hours after arrival.

Penalty.

57. Every passenger in a "passenger ship," shall be entitled for at least forty-eight hours next after his arrival at the end of his voyage, to sleep in the ship, and to be provided for and maintained on board thereof, in the same manner as during the voyage, unless within that period the ship shall quit such port or place in the further prosecution of her voyage. In case of noncompliance with any of the requirements of this section, the master shall for each offence be liable to a penalty not exceeding five pounds sterling.

Passengers' right of action preserved.

58. Nothing herein contained shall take away or abridge any right of action which may accrue to any passenger in any ship, or to any other person, in respect of the breach or nonperformance of any contract made or entered into between or on behalf of any such passenger or other person, and the master, charterer or owner of any such ship, or his or their agent, or any passage broker.

Miscellaneous.

Her majesty

59. It shall be lawful for her majesty, by an order in council, to prescribe such rules and regulations as to her majesty may seem fit, for the following purposes; (that is to say,)

(1.) For preserving order, promoting health, and securing cleanliness and ventilation on board of "passenger ships" proceeding from the united kingdom to any port or place in her majesty's possessions abroad. 18 & 19 Vict. c. 119.

(2.) For permitting the use on board of "passenger ships" of an apparatus for distilling water, and for defining in such case the quantity of fresh water to be carried in tanks or casks for the passengers.

(3.) For prohibiting emigration from any port or ports at any time when choleraic or any epidemic disease may be generally prevalent in the united kingdom or any part thereof, or for reducing the number of passengers allowed to be carried in "passenger ships" generally, or from any particular ports under the provisions of this Act.

(4.) For requiring duly qualified medical practitioners to be carried in "passenger ships" in cases where they would not be required to be carried under the provisions of this Act.

may, by orders in council, prescribe rules for purposes herein described.

Any such order in council may from time to time in like manner be altered, amended and revoked, as occasion may require. Any copy of such order in council contained in the London Gazette, or purporting to be printed by the queen's printer, shall throughout her majesty's dominions be received in all legal proceedings as good and sufficient evidence of the making and contents of any such order in council.

Gazette and copies printed by queen's printer to be evidence of orders, &c.

60. In every such "passenger ship" the medical practitioner on board, aided by the master thereof, or, in the absence of such medical practitioner, the master of such ship, is hereby empowered to exact obedience to all rules and regulations which may be prescribed by any such order in council to be observed on board passenger ships as aforesaid; and any person on board who shall neglect or refuse to obey any such rule or regulation, or who shall obstruct the medical practitioner or master of such ship in the execution of any duty imposed upon him by any such rule or regulation, or who shall offend against any of the provisions of this Act, or who shall be guilty of riotous or insubordinate conduct, shall be liable for each offence to a penalty not exceeding two pounds sterling, and in addition thereto, to be confined in the common gaol for any period not exceeding one month, at the discretion of the justices who shall adjudicate on the complaint.

Surgeon or master to exact obedience to rules and regulations.

Penalty on refusal.

61. The said emigration commissioners shall from time to time prepare such abstracts as they may think proper of the whole or any part of this Act, and of any such order in council as aforesaid; and four copies of such abstracts, together with a copy of this Act, shall, on demand, be supplied by the principal officer of customs at the port of clearance to the master of every "passenger ship" proceeding from the united kingdom to any port or place in her majesty's possessions abroad; and such master shall, on request made to him, produce a copy of this Act to any passenger on board, for his perusal, and, further, shall post, previous to the embarkation of the passengers, and shall keep posted so long as any passenger shall be entitled to remain in the ship, in at least two conspicuous places between the decks on which passengers may be carried, copies of such abstracts; and such master shall be liable to a penalty not exceeding forty shillings sterling for every day during any part of which by his act or default such abstracts shall fail to be so posted; and any person displacing or defacing such abstracts so posted shall be liable to a penalty not exceeding forty shillings sterling.

Emigration commissioners to prepare an abstract of Act and orders in council.

Such abstract to be posted up in each ship.

Penalty on master for neglect; and on person defacing abstract.

62. If in any "passenger ship" any person shall during the voyage, directly or indirectly, sell or cause to be sold any spirits or strong waters to any passenger, he shall be liable for every such offence to a penalty not exceeding twenty pounds nor less than five pounds sterling.

Sale of spirits prohibited on board passenger ships. Penalty.

63. Before any "passenger ship" shall clear out or proceed to sea, the master, together with the owner or charterer of the ship, or, in the event of the absence of such owner or charterer, or if the master be the owner or charterer, one other good and sufficient person, to be approved by the chief officer of customs at the port of clearance, shall enter into a joint and several bond, in the sum of two thousand pounds to her majesty, her heirs and successors, according to the form contained in schedule (C.) hereto annexed. Such bond shall not be liable to stamp duty, and shall be executed in duplicate.

Bond to be given by masters of British and foreign passenger ships.

64. It shall be the duty of the chief officer of customs at the port of clearance of any "passenger ship," bound to any of her majesty's possessions abroad, to certify on one part of such bond that it has been duly executed by the said master of such ship and the other obligor, and to forward the same by post to the colonial secretary of the colony to which such "passenger ship" may be bound; and such certificate shall, in any colonial court of judicature in which the bond may be put in suit, be deemed conclusive evidence of the due execution of the bond by the said master and the other obligor, and it shall not be necessary to prove the handwriting of the officer of customs who may have signed such certificate, nor that he was at the time of signing it chief officer of customs at the port of clearance; provided that no such bond shall be put in suit in any of her majesty's possessions abroad after the expiration of three calendar months next after the arrival therein of the said ship, nor in the united kingdom after the expiration of twelve calendar months next after the return of the said ship and of the said master to the united kingdom.

Counterpart of bond to be certified and sent to the colony to which ship bound, and to be received in evidence without further proof of execution.

65. In the absence of any agreement to the contrary, the owner shall be the party ultimately responsible, as between himself and the other persons hereby made liable in

In the absence of

18 & 19 Vict. c. 119.

respect of any default in complying with the requirements of this Act; and that if any such last-mentioned person shall pay any moneys hereby made payable to or on behalf of any such passengers as aforesaid, the person so paying the same shall be entitled, in the absence of any such agreement as aforesaid, to sue for and recover from the owner the amount so paid, together with costs of suit.

agreement to the contrary the owner to be responsible in respect of default.

Passage Brokers.

No person to act as a passage broker without a licence.

66. No person whatever shall directly or indirectly act as a passage broker in respect of passages from the united kingdom to any place out of Europe, and not being within the Mediterranean sea, or shall sell or let, or agree to sell or let, or be in anywise concerned in the sale or letting of passages in any ship, whether a "passenger ship" or otherwise, proceeding from the united kingdom to any such place as aforesaid, unless such person, with two good and sufficient sureties to be approved by the emigration officer at the port nearest to the place of business of such person, shall have previously entered into a joint and several bond, in the sum of one thousand pounds to her majesty, her heirs and successors, according to form contained in schedule (D.) hereto annexed, which bond shall be renewed on each occasion of obtaining such licence as hereinafter mentioned, and shall be in duplicate, without stamps, and one part thereof shall be deposited at the office in London of the said emigration commissioners, and the other part thereof with the emigration officer at the port nearest to the place of business of such person; nor unless such person shall have obtained a licence, as hereinafter mentioned, to let or sell passages, nor unless such licence shall then be in force; and if any person shall offend in any particular against this enactment, every person so offending shall for each offence be liable to a penalty not exceeding fifty pounds nor less than twenty pounds, to be sued for and recovered as hereinafter mentioned: Provided that such bond shall not be required of any person who shall be one of the sworn brokers of the city of London: Provided also, that there shall be excepted from the operation of this section the said emigration commissioners, and any persons contracting with them or acting under their authority, and also any person acting as the agent of any passage broker in pursuance of an appointment made in the form prescribed by schedule (I.) hereto annexed, signed by such passage broker and countersigned by such emigration officer as aforesaid: Provided further, that the acts and defaults of any person acting under the authority or as agent of any passage broker shall, for the purposes of this Act, be deemed to be also the acts and defaults of such passage broker: Provided also, that nothing hereinbefore contained shall be held or construed to prevent the said emigration officer from accepting the bond of a guarantee society, such bond and such guarantee society as shall have been approved by the lords commissioners of her majesty's treasury, in lieu of the bond of two good and sufficient securities as aforesaid.

Emigration commissioners and agents of passage brokers exempted from this section.

Passage brokers to be responsible for their agents.

How passage brokers' licences may be obtained.

67. Any person wishing to obtain a licence to act as a passage broker in respect of passages from the united kingdom to any place out of Europe and not being in the Mediterranean sea, shall make application for the same to the justices at the petty sessions held for the district or place in which such person shall have his place of business; and such justices are hereby authorised (if they shall think fit) to grant a licence for that purpose, according to the form in the schedule (E.) hereunto annexed, which licence shall continue in force until the thirty-first day of December in the year in which such licence shall be granted, and for thirty-one days afterwards, unless sooner forfeited, as herein mentioned; and upon granting such licence the justices shall cause a notice thereof according to the form in schedule (F.) hereto annexed, to be transmitted forthwith by the post to the said emigration commissioners at their office in London: Provided always, that no such licence shall be granted unless the party applying for the same shall show to the satisfaction of the justices that he has given such bond to her majesty, her heirs and successors, as hereinbefore required, and has deposited one part thereof at the office in London of the said commissioners, or is a sworn broker of the city of London, and has in either case given notice to the said commissioners fourteen clear days at least before such application of his intention to apply for the same, which notice shall be transmitted by the post to the office in London of the said commissioners, and shall be according to the form contained in the schedule (G.) hereto annexed: Provided also, that any justices of the peace who shall adjudicate on any offence against this act or on any breach on non-performance of any of the requirements thereof, are hereby authorised, if they shall think fit, and the offender is a passage broker, to order his licence to be forfeited, and the same shall thereupon be forfeited accordingly; and the said justices making such order shall forthwith cause notice of such forfeiture, in the form contained in the schedule (H.) hereunto annexed, to be transmitted by the post to the said commissioners at their office in London: In Scotland, where any person wishing to obtain such licence shall make application for the same to the sheriff or steward or sheriff substitute or steward substitute, in place of to such justices of the peace as aforesaid, the forms given in the said schedules (D.), (E.), (F.), (G.) and (H.) respectively, shall still be adhered to, with such alterations as may be necessary.

Justices to give notice to emigration commissioners of licence granted.

Notice to be given to emigration commissioners of intended application for licences.

Power to justices to order licences to be forfeited, who shall give notice of the same to emigration commissioners.

As to application for licences in Scotland.

Existing licences to continue in force until 1st Feb., 1856.

68. Every passenger broker's licence in force at the commencement of this Act shall, unless adjudged to be forfeited, continue in force until the first day of February one thousand eight hundred and fifty-six, but no longer; and all acts done under such licence while in force shall be as valid as if done under any licence granted under this Act.

Passage

69. No passage broker shall employ as an agent in his business of passage broker any

person not holding from him the appointment of agent as hereinbefore mentioned; and every person holding such appointment shall produce the same, on the demand of any emigration officer, or of any person treating for a passage under this Act: For any breach or violation of this enactment in any particular, the offender shall be liable for each offence to a penalty not exceeding fifty pounds nor less than twenty pounds.

18 & 19 Vict. c. 119.

brokers to employ no agents except those expressly appointed by them. Agents to produce their appointments on demand.

70. If any person shall by false representation as to the size of a ship, or otherwise, or by any false pretence or fraud whatsoever, induce any person to engage a passage in any ship, the person so offending shall for each offence be liable to a penalty not exceeding twenty pounds nor less than five pounds sterling.

Penalty on persons fraudulently inducing others to engage passages.

71. Every person whatever, except the said emigration commissioners and persons acting for them and under their direct authority, who shall receive money from any person for or in respect of a passage in any ship, or of a cabin passage in any "passenger ship" proceeding from the united kingdom to any place out of Europe, and not being within the Mediterranean sea, shall give to the person paying such money a contract ticket, signed by the owner, charterer or master of the ship or "passenger ship" (as the case may be) in which the passage is to be provided, or by some person in their or his name, and on their or his behalf: Such contract ticket shall be made out in plain and legible characters on a printed form, which in the case of cabin passengers shall be according to the form contained in schedule (K.) hereto annexed, and in the case of all other passengers in the form contained in schedule (L.) hereto annexed, or according to such other form as in either case may from time to time be prescribed by the said emigration commissioners in any notice issued under their hands, or the hands of any two of them, and published in the London Gazette: And any directions contained on the face of such form of contract ticket shall be obeyed in the same manner as if herein set forth. In case of noncompliance with any of the requirements of this section, or of any of the directions on such form of contract ticket not inconsistent with this Act, the person so offending shall for each offence be liable to a penalty not exceeding fifty pounds nor less than five pounds sterling: Provided always, that such contract tickets shall not be liable to any stamp duty.

Contract tickets for cabin and other passengers (*a*).

72. Any person who shall alter or cause to be altered, after it is once issued, or shall induce any person to part with, render useless, or destroy any such contract ticket, during the continuance of the contract which it is intended to evidence (except in the case of cabin passengers who may have consented thereto), shall be liable in each case to a penalty not exceeding twenty pounds sterling.

Penalty for inducing any one to part with contract ticket.

73. Any question which may arise respecting the breach or nonperformance of any of the stipulations in any such contract ticket, may, at the option of any passenger or cabin passenger interested therein, be heard and determined in a summary way by the justices of the peace, magistrates, sheriffs or other officers hereinafter authorised to adjudicate on offences and complaints under the Act, who are hereby authorised to try such questions, and if they shall find that a breach of contract has been committed, to award to the complainant such damages and costs as they may think fit, not exceeding in any case the amount of the passage money specified in such contract ticket and twenty pounds; and if such damages and costs be not at once paid, payment thereof shall thereupon be enforced, in the same manner and by the same processes as the payment of subsistence money, or the return of passage money, may be enforced under this Act; Provided that if any passenger shall have obtained compensation or redress, under any of the other provisions of this Act, he shall not be entitled to sue under this section for damages for the same matter or cause of complaint.

Summary remedy for breach of contract.

74. If any cabin or other passenger shall, on demand of any emigration officer, refuse or omit to produce his contract ticket, or if any owner, charterer or master of a ship, shall on like demand refuse or omit to produce to any emigration officer in the united kingdom the counterpart of any contract ticket issued by them, or on their behalf, for the inspection of such emigration officer, and for the purposes of this Act, every person so offending against the requirements of this section shall for each offence be liable summarily to a penalty not exceeding ten pounds.

Penalty on cabin passengers and on masters, &c. omitting to produce contract tickets.

75. Any person who shall act as an "emigrant runner" without having previously been licensed and registered as hereinafter mentioned, or who while so acting shall omit to wear conspicuously on his breast such badge as hereinafter mentioned, or who shall employ as an "emigrant runner" any person not duly licensed and registered, shall for each offence be liable to a penalty not exceeding five pounds nor less than twenty shillings.

Penalty on persons acting as runners without licence and badge, and on passage brokers employing them.

76. The justices of the peace at any petty sessions held for the district or place within which any person wishing to act as an "emigrant runner" is to carry on his business, may, upon the recommendation in writing of an emigrant officer or of the chief constable or other head officer of police of such district or place (but not otherwise), grant, if they shall think fit, to such person wishing to act as runner a licence for that purpose according to the form in schedule (M.) hereto annexed, and such runner shall within forty-eight hours thereafter (under a penalty not exceeding forty shillings for any default) lodge such

Mode of licensing and registering runners.

(*a*) See *Ellis* v. *Pearce*, E. B. & E. 431, 27 L. J. M. C. 257, ante, p. 292, n. (*a*).

18 & 19 Vict. c. 119.

licence with the nearest emigration officer, who shall register the name and abode of such runner in a book to be kept for that purpose, and shall number each name registered in arithmetical progression, and shall supply to such runner, on his paying a sum not exceeding seven shillings for the same, a badge of such form and description as shall be approved by the said emigration commissioners.

Emigrant runner's licence to be renewed annually.

77. Every such "emigrant runner's" licence shall continue in force until the thirty-first day of December in the year in which it shall be granted, unless sooner revoked by any justice of the peace, for any offence against this Act or for any other misconduct committed by the holder of such licence. In case of any renewed licence it shall be sufficient for the emigration officer to note the fact, and the date of the renewal, in his registry book against the original entry therein of the name of the runner holding such renewed licence.

Penalty on runner for certain acts of misconduct.

78. If any "emigrant runner" shall refuse or fail to produce, on demand, his badge for inspection, or to permit any person to take the number thereof, or if he shall fail within forty-eight hours to give to the emigration officer of the port or place within which he is licensed to act notice in writing of any change in his place of abode, in order that his new abode may be registered, or of the loss of his badge, or if he shall mutilate or deface his badge or wear the same while unlicensed, or wear any other than the one delivered to him by such emigration officer as aforesaid, or permit any other person to use his badge, he shall for each such offence be liable to a penalty not exceeding forty shillings and to the forfeiture of his licence, if the convicting justices or magistrate shall so determine; and any person retaining or using any "emigrant runner's" badge not issued to him under the provisions of this Act, or counterfeiting or forging any such badge, shall for each such offence be liable to a penalty not exceeding five pounds.

Penalty on persons using badges not lawfully issued to them.

How fresh badges may be obtained in case the old ones are lost or mutilated.

79. Such emigration officer as last aforesaid may, if he thinks fit, on payment to him of the sum of five shillings, deliver a new badge to any licensed "emigrant runner" who shall satisfy such officer that he has lost his original badge, or who shall deliver up the same in a mutilated or defaced state.

Runners not entitled to commission from any passage broker unless acting with his authority, nor from emigrants for procuring their passage.

80. No "emigrant runner" shall be entitled to recover from any passage broker any fee, commission or reward for or in consideration of any service connected with emigration, unless he shall be acting under the written authority of such passage broker, nor, under a penalty for each offence not exceeding five pounds, shall take or demand from any person about to emigrate any fee or reward for the procuring of his passage, or in any way relating thereto.

List of runners to be exhibited by brokers and sent to emigration officers.

81. Every passage broker shall exhibit and keep constantly exhibited in some conspicuous place in his office or place of business a correct list, in plain and legible characters, containing the names and addresses in full of every person for the time being holding such authority to act as his agent or as an emigrant runner for him as aforesaid, and shall on or before the fifth day, or if that day be a Sunday, on or before the fourth day in every month, transmit a true copy of such list, duly signed by him, to the emigration officer stationed nearest to the place of business of such licensed passage broker, and shall report to such emigration officer every discharge or fresh engagement of an agent or of an "emigrant runner" within twenty-four hours of the same taking place. In case of non-compliance with any of the requirements of this section, the person so offending shall be liable for each offence to a penalty not exceeding five pounds nor less than two pounds.

Trustees of docks may pass bye-laws for regulating the landing and embarkation of intending emigrants, and for licensing emigrant porters.

82. It shall be lawful for the trustees or other persons charged with the management of any docks or basins in any port within the united kingdom from which "passenger ships" are despatched, to make, and from time to time to alter, amend or repeal such rules and bye-laws as may be necessary for prescribing the docks, basins or other places at which persons arriving by sea at such ports for the purpose of emigrating, or actually emigrating therefrom, shall be landed and embarked, and the mode of their landing and embarkation, and for licensing porters to carry their luggage and otherwise to attend upon them, and for the storing and safe custody of their luggage, and for admitting persons to and excluding persons from access to such docks or basins, and for attaching a penalty not exceeding five pounds for the breach of any of such rules or bye-laws, such penalty to be sued for and recovered as other penalties are by this Act directed to be recovered, except that, instead of an emigration officer, such trustees or other persons, as aforesaid shall sue for and recover the same: And it shall further be lawful for such trustees, by their officers or servants, or by any police officer, to arrest and detain any person charged with the breach of any such rule or bye-law until brought before any justice of the peace, who is hereby authorised to adjudicate on the offence in a summary way: Provided that no such rules or bye-laws shall take effect until they shall have been approved by one of her majesty's principal secretaries of state, and published by his authority in the London Gazette, which publication shall for all purposes be deemed conclusive evidence of such rules and bye-laws, and of the approval thereof by such secretary of state.

Bye-laws to be approved by secretary of state, and published in the London Gazette.

Penalty for falsifying documents to obtain

83. And whereas the said emigration commissioners and persons acting under their authority issue from time to time certain forms of application and other papers for the use of persons desirous of emigrating by their assistance: And whereas it is expedient

to afford additional security against the falsification or misuse of such forms and papers and of any certificate of marriage or of birth or baptism or other document or statement adduced in support of any application to the said commissioners for such assistance: BE IT THEREFORE ENACTED, That if any person shall falsely represent himself to be or falsely assume to act as the agent of the said commissioners, or shall sell any such form of application, paper or embarkation order, or shall wilfully make any false representation in any such form of application, paper, certificate or document as aforesaid, or shall forge or fraudulently alter any signature or statement contained therein respectively, or shall personate any person named therein respectively, or shall aid or in any way abet any person in any such false representation, forgery, alteration or personation, the person so offending shall be liable for each such offence to a penalty not exceeding fifty pounds nor less than two pounds sterling.

18 & 19 Vict. c. 119.

passages from emigration commissioners, and for personation.

84. All penalties and forfeitures imposed by this Act shall be sued for in the united kingdom by any emigration officer or his assistant, or by any person authorised thereto by the said emigration commissioners under the hands of any two of them, or by any collector or comptroller of her majesty's customs, or by any other officer of her majesty's customs authorised thereto in writing by the commissioners of her majesty's customs, and in any of her majesty's possessions abroad by any government emigration officer or agent, or by any such collector or comptroller of customs or other officer of customs so authorised as aforesaid, or by any officer authorised to sue for penalties and forfeitures under this Act by writing under the hand and seal of the governor of any such possession; and the said emigration commissioners and the commissioners of her majesty's customs and every such governor are hereby respectively empowered to grant such authority as aforesaid: And all sums of money made recoverable by this Act as return of passage money, subsistence money, damages or compensation, may be sued for and recovered by and for the use of any passenger entitled thereto under this Act, or by any such officer as aforesaid, for and on behalf and to the use of any such passenger or any number of such passengers respectively, and in any case either by one or several informations or complaints.

Procedure for Penalties, &c.

By whom penalties are to be recovered.

By whom passage, subsistence and compensation moneys may be recovered.

85. All penalties imposed and all sums of money made recoverable under this Act, by way of passage money, subsistence money, compensation or damages for the breach of any stipulation in any contract ticket, shall and may be sued for and recovered before any two or more justices of the peace acting in any part of her majesty's dominions or possessions in which the offence shall have been committed or the cause of complaint shall have arisen, or in which the offender or party complained against shall happen to be, or acting in any county or borough or place adjacent to any navigable river or inlet of the sea on which such offence shall have been committed or cause of complaint have arisen; and upon information or complaint made before any one justice of the peace acting as aforesaid, he shall issue a summons, according to the form in the schedule (N.) hereto annexed, requiring the party offending or complained against to appear at a time and place to be named therein; and every such summons shall be served on the party offending or complained against, or shall be left at his last known place of abode or of business or on board any ship to which he may belong; and if such party shall not appear accordingly, then (upon proof of the due service of the summons by delivering the summons or a copy thereof to the party, or at his last known place of abode or of business, or on board any ship to which he may belong to the person in charge of any such ship) any two of such justices so acting as aforesaid may either hear and determine the case in the absence of the party, or either of them may issue his warrant for apprehending and bringing such party before them or any two justices so acting as aforesaid; or the justice before whom the charge shall be made, if he shall have reason to suspect, from information upon oath, that the party is likely to abscond, may issue such warrant in the first instance without any previous summons; and either upon the appearance of the party offending or complained against, or in his absence as aforesaid, any two of such justices so acting as aforesaid may hear and determine the case, either with or without any written information or complaint; and upon proof of the offence or of the complainant's claim (as the case may be), either by confession of the party offending or complained against, or upon the oath of one or more credible witness or witnesses (and the justices are hereby authorised to summon and swear any witnesses who may be deemed necessary), it shall be lawful for such justices so acting as aforesaid to convict the offender or to adjudicate upon the complaint (such conviction or adjudication to be drawn up according to one of the forms of conviction or adjudication contained in schedule (O.) hereto annexed or as near thereto as the circumstances of the case will admit), and upon every such conviction to order the offender to pay such penalty as they may think proper, not exceeding the penalties hereinbefore imposed, and upon every such adjudication to order the party complained against to pay to the party suing for the same the sum of money or damages sued for, or so much thereof as such justices shall think the complainant justly entitled to, together with, in every case, the costs of the proceedings; and if the moneys and costs mentioned in such conviction or adjudication be not paid immediately or within the time limited in the order, it shall be lawful for any two of such justices so acting as aforesaid, by warrant (and although the written order of conviction or adjudication, or any minute thereof, may not have been served), to cause the party offending to be committed to gaol, there to be imprisoned, with or without hard labour, according to the discretion of such justices, for any term not exceeding three calendar months, unless such moneys and costs be sooner paid and

Tribunal for adjudicating on offences and complaints under this Act.

18 & 19 Vict. c. 119.

Proviso where no forms of proceeding are prescribed by this Act.

satisfied: Provided always, that in all proceedings taken under this Act for which no form is herein expressly provided it shall be lawful to use forms similar, as nearly as circumstances will admit, to those contained in the schedule to an Act passed in the session of parliament holden in the eleventh and twelfth years of the reign of her present majesty, chapter forty-three.

Police and stipendiary magistrate, and in Scotland sheriff, &c. to have the same powers as justices of the peace.

86. Every police or stipendiary magistrate, and in Scotland every sheriff or steward and sheriff substitute or steward substitute of a county or stewartry within his own county or stewartry, shall have such and the like powers, privileges and functions, and be entitled to exercise such and the like jurisdiction under this Act, as any justice or two justices, or justices at petty sessions, have or is or are entitled to exercise under the provisions of this Act; and all acts, matters and things competent to be done under the provisions of this Act by or before any justice or two justices of the peace, or justices at petty sessions or otherwise, may be done by and before any police or stipendiary magistrate, and in Scotland by and before any sheriff or steward or sheriff substitute or steward substitute within his own county or stewarty.

No objection to be allowed, nor convictions to be quashed, for want of form.

87. No objection shall be taken or allowed to any complaint, information, summons or warrant under this Act, for any alleged defect therein, either in substance or in form, or for any variance between such complaint or information and the evidence adduced on the hearing thereof; but if any variance shall appear to the justice or justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the defendant to such safe custody as the said justice or justices may think fit, or to discharge him upon his recognisance, with or without sureties, to appear at such time and place as may be appointed: No conviction, order, adjudication or other proceeding under or in pursuance of this Act shall be quashed or vacated for want of form.

Application of penalties.

88. All penalties imposed by this Act shall, when recovered, and notwithstanding any local Act of parliament to the contrary, be paid to the emigration officer or officer of customs at whose suit the same shall have been recovered, for the use of her majesty and her successors, and if recovered in the colonies shall be paid over by the party receiving the same into the colonial treasury and shall form part of the general revenue of the colony, and if recovered in the united kingdom shall be paid over to the said emigration commissioners if the party at whose suit the same shall have been recovered be an emigration officer or his assistant, and to her majesty's commissioners of customs if the party at whose suit the same shall have been recovered be an officer of customs, to be by such emigration commissioners and commissioners of customs respectively duly accounted for; and all such penalties as may be recovered in the united kingdom shall be appropriated to such purposes and in such manner as the lord high treasurer or the commissioners of her majesty's treasury may from time to time direct and appoint: Provided always, that it shall be lawful for the justices of the peace who shall impose any such penalty at the same time to direct, if they shall think fit, that a part, not exceeding one moiety thereof, be applied to compensate any passenger for any wrong or damage which he may have sustained by the act or default in respect of which such penalty or forfeiture shall have been imposed.

Justices may award compensation out of penalties to party aggrieved.

Burden of proof to be on persons claiming exemption from Act.

Proof of negatives.

89. If in any suit, action, prosecution or other legal proceeding under this Act any question shall arise whether any ship was or was not exempted from the provisions of this Act or any of them, the burden of proving that such ship was so exempted shall lie on the party claiming the benefit of the exemption, and failing such proof it shall for any such purpose as aforesaid be taken and adjudged that the ship did come within the provisions of this Act; and it shall not be necessary, in any information, complaint or other process or proceeding, to negative any exemption, proviso or condition contained in any section of this Act on which such information, complaint or other process or proceeding shall be framed, neither shall it be necessary for the complainant to prove the negative, but the defendant may prove the affirmative thereof, if he will have advantage of the same.

Proof of a party being an emigration officer.

90. If in any proceeding before any justice or justices of the peace under this Act, or upon any action, suit or other proceeding whatsoever, against any person, for anything done either contrary to or in pursuance of this Act, a question should arise whether any person is an emigration officer or assistant emigration officer, or an officer of customs, *vivâ voce* evidence may be given of such fact by the officer himself, and shall be deemed legal and sufficient evidence.

Passengers suing not incompetent witnesses.

91. Any passenger suing under this Act for any sum of money made recoverable by this Act as passage money, subsistence money, or compensation or damages, shall not be deemed an incompetent witness in any proceeding for the recovery thereof, notwithstanding the same, if recovered, shall be applicable to his own use and benefit.

Tender of amends.

92. No plaintiff shall recover in any action against any emigration officer, his assistant, government emigration agent, or officer of customs, or other person, for anything done in pursuance of this Act, if tender of sufficient amends shall have been made before such action brought, or if, after action brought, a sufficient sum of money shall have been paid into court, by or on behalf of the defendant.

Limitation of actions

93. No action or suit shall be commenced against any emigration officer, his assistant, government emigration agent, officer of customs, or other person, for anything done in

pursuance of or under the authority of this Act, until ten clear days' notice in writing, specifying distinctly the cause of action, has been given to the officer, agent, or person as aforesaid against whom such action or suit is intended to be brought, nor after three calendar months next after the act committed and mentioned in such notice for which such action or suit shall be so brought; and every such action shall be brought, laid and tried where the cause of action shall have arisen, and not in any other place; and the defendant in such action or suit may plead the general issue, and give this Act and any special matter in evidence, at any trial which shall be had thereupon; and if the matter or thing shall appear to have been done under or by virtue of this Act, or if it shall appear that such action or suit was brought before ten clear days' notice thereof given as aforesaid, or if any action or suit shall not be commenced within the time hereinbefore limited, or shall be brought or laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant therein (a); and if a verdict shall be found for such defendant, or if the plaintiff in such action or suit shall become nonsuited, or suffer a discontinuance of such action, or if upon any demurrer in such action, judgment shall be given for the defendant thereon, then and in any of the cases aforesaid such defendant shall recover full costs of suit as between solicitor and client, and shall have such remedy for recovering the same as any defendant may have for his costs in any other case by law.

18 & 19 Vict. c. 119.

against officers executing the Act.

Defendant may plead the general issue, &c.

Costs.

94. Where no time is expressly limited within which any complaint or information is to be made or laid for any breach or non-performance of any of the requirements of this Act, the complaint shall be made or the information laid within twelve calendar months from the time when the matter of such complaint or information respectively arose, or in case the master of any ship is the offender or party complained against, within twelve calendar months next after his return to the country in which the matter of complaint or information arose.

Limitation of legal proceedings generally.

Colonial Voyages.

95. And whereas it is expedient to provide in certain cases for the carriage of passengers by sea from her majesty's possessions abroad: BE IT THEREFORE ENACTED as follows: For the purposes of this Act the term "colonial voyage" shall signify any voyage from any place within any of such possessions (except the territories under the government of the East India Company and the island of Hong Kong) to any place whatever, where the distance between such places shall exceed four hundred miles, or the duration of the voyage, to be prescribed as hereinafter mentioned, shall exceed three days.

Colonial voyages defined.

96. This Act shall apply, so far as the same is applicable, to all ships carrying passengers on any such "colonial voyage," except as to such parts of the Act as relate to the following matters; (that is to say,)

This Act to apply to all colonial voyages, except as relates to matters herein named.

(1.) To passage brokers and their licences:
(2.) To passengers' contract tickets:
(3.) To emigrant runners:
(4.) To the giving bond to her majesty:
(5.) To the keeping on board a copy of this Act:
(6.) To orders in council regulating emigration from the United Kingdom, or prescribing rules for promoting health, cleanliness, order, and ventilation:

Provided that if the prescribed duration of any "colonial voyage" be less than three weeks, then, in addition to the matters lastly hereinbefore excepted, the provisions of this Act shall not extend or apply, so far as they relate to the following subjects; (namely,)

If any colonial voyage be less than three weeks, this Act not to apply to subjects herein named.

The construction or thickness of the decks:
The berths and berthing:
The height between decks:
Privies:
Hospitals:
Light and ventilation:
Manning:
Passengers' stewards:
Passengers' cooks and cooking apparatus:
The surgeon and medicine chest:
The maintenance of passengers for forty-eight hours after arrival:

Provided also, that in the case of such "colonial voyages" whereof the prescribed duration is less than three weeks, the requirements of this Act respecting the issue of provisions shall not, except as to the issue of water, be applicable to any passenger who may have contracted to furnish his own provisions.

97. It shall be lawful for the governor of each of her majesty's possessions abroad, by any proclamation to be made by him from time to time issued for that purpose (which shall take effect from the issuing thereof), to declare what shall be deemed for the purposes of this Act to be the length of the voyage of any ship carrying passengers from such possession to any other place whatsoever, and to prescribe such scale of diet for

Governor of colonies may, by proclamation, declare length of

(a) See *Steel* v. *Schomberg*, 1 E. & B. 620, 24 L. J. Q. B. 87, ante, p. 394, n. (a).

18 & 19 Vict. c. 119.

voyage, and prescribe scale of diet, medicines and medical comforts.

Copies of proclamations to be received as evidence.

the use of the passengers during the voyage as he shall think proper, and also to declare what medicines, medical comforts, medical instruments, and other matters shall be deemed necessary for the medical treatment of the passengers during such "colonial voyage;" and the provisions and requirements of every such proclamation shall be enforced in all her majesty's dominions as if they were incorporated in this Act, and in like manner as the provisions of this Act may be enforced; and a copy of any such proclamation, purporting to be under the hand of the governor of the colony wherein the same may have been issued, and under the public seal of such colony, shall in any part of her majesty's dominions wherein the same shall be produced be received as good and sufficient evidence of the due issuing and of the contents of such proclamation, unless it shall be proved that such copy is not genuine.

Provision for survey of ships in the colonies, and for appointing surgeons thereto.

98. It shall be lawful for the governors of any such possessions respectively to authorise such person or persons as they may think fit to make the like survey and examination of "passenger ships" sailing from such possessions respectively as is hereinbefore required to be made by two or more competent surveyors in respect of "passenger ships" sailing from the united kingdom, and also to authorise in such cases, as to such governors may seem proper, any competent person to act as medical practitioner on board any "passenger ship" proceeding on a "colonial voyage."

Power to the governor-general of India in council, by any Act to be passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, surgeons, &c.

and to declare in what manner penalties, &c. may be sued for and recovered.

Indian Act may be enforced in the colonies in like manner as this Act.

99. This Act shall not apply to any of the territories or places under the government of the East India Company: It shall, however, be lawful for the governor-general of India in council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorise the substitution, as respects such voyages, of other articles of food and provisions for those hereinbefore enumerated; and to declare the rule of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions or duties hereinbefore given to or imposed upon the emigration officers and officers of customs in the united kingdom; and to authorise the employment on board any ship of a medical practitioner duly qualified by law to practise as a physician, surgeon or apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner, and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all her majesty's possessions in like manner as the provisions of this Act may be enforced: Every such Indian Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to England, to be laid before both houses of parliament, as in the case of any other law made by the governor-general in council.

Voyages to the United Kingdom.

List of passengers brought into the United Kingdom to be delivered by the master of the ship to the emigration officer.

Penalty for neglect.

Returns of births and deaths at sea to be made to the registrar-general (a).

100. The master of every ship bringing passengers into the united kingdom from any place out of Europe, and not within the Mediterranean sea, shall, within twenty-four hours after arrival, deliver to the emigration officer or his assistant, or in their absence to the chief officer of customs at the port of arrival, a correct list, signed by such master, and specifying the names, ages and callings of all the passengers embarked, and also the port or ports at which they respectively may have embarked, and showing which, if any of them, may have died, with the supposed cause of death, or been born on the voyage; and if any master shall fail so to deliver such list, or if the same shall be wilfully false, he shall, on conviction, as hereinbefore mentioned, be liable to a penalty not exceeding fifty pounds. Such emigration or customs officer shall, upon receipt of such list, transmit the particulars respecting any passenger named therein who may have died, with the supposed cause of death, or been born on the voyage, to the registrar-general of births, deaths and marriages, who shall file the same, and enter a copy thereof under his hand in the "marine register book," which entry shall be dealt with and be of the same value as evidence as any other entry made in such book under the provisions of an Act passed in the session of parliament held in the sixth and seventh years of the reign of her present majesty, intituled "An Act for registering Births, Deaths and Marriages in England."

6 & 7 Will. 4, c. 86.

Penalty on master for having on board a greater number of

101. If any ship bringing passengers into the united kingdom from any place out of Europe shall have on board a greater number of passengers or persons than in the proportions respectively prescribed in the fourteenth section of this Act for ships carrying passengers from the united kingdom, the master of such ship shall be liable, on such conviction as hereinbefore mentioned, to a penalty not exceeding ten pounds

(a) See 15 & 16 Vict. c. 44, ss 88.

nor less than five pounds for each such person or statute adult constituting any such excess.

18 & 19 Vict. c. 119.

persons than prescribed by section 14 of this Act.

102. The master of every "passenger ship" bringing passengers into the united kingdom from any place out of Europe shall make to each statute adult during the voyage, including the time of detention, if any, at any port or place before the termination thereof, issues of pure water and of good and wholesome provisions in a sweet condition, in quantities not less in amount than is prescribed in the thirty-fifth section of this Act for passengers proceeding from the united kingdom; and in case of non-compliance with any of the requirements of this section the master of such ship shall, on such conviction as hereinbefore mentioned, be liable for each offence to a penalty not exceeding fifty pounds.

Provisions and water to be issued to passengers brought into the United Kingdom the same as in ships carrying passengers from the United Kingdom. Penalty for default.

103. The schedules to this Act shall be deemed to be part of this Act, and all the directions therein contained shall be duly followed and enforced, under a penalty not exceeding ten pounds on the person failing to obey the same respectively.

Schedules to be part of the Act.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A).

Form of Certificate exempting a Mail Steamer from the Provisions of the British Passengers Act, 1855.

N.B.—This certificate must be produced, on demand, to the emigration officer or his assistant, or if there be no such officer, to the chief officer of customs at the port of clearance or port of departure, by the master of any steam vessel claiming exemption from the Passengers Act, otherwise the exemption will not be allowed.

This is to certify that the steam vessel of tons, *registered* (*a*) tonnage, belonging to the port of , is duly authorised to carry mails under a contract with the government of (*b*) between (*b*) and (*b*) , and is therefore exempt from the operations of the "Passengers Act, 1855," from the date hereof to the day of 18 .

Given under my hand at , this day of , 18 .

(Signature) { Postmaster-general of the united kingdom *or his deputy* (*or* governor *or* postmaster-general, &c. or [*name the colony or foreign state*], *as the case may be*).

British Consul's Certificate in the Case of a Foreign Steam Vessel.

The above signature is, to the best of my belief, the signature of the [*here insert the title of the officer signing the preceding certificate*], the officer duly authorised by the government of to grant the same.

(Signature) { Her Britannic majesty's consul-general, consul, *or* vice-consul of (*as the case may be*).

(*a*) Omit this word if inapplicable in the case of a foreign vessel.

(*b*) Insert here the name of the state.

18 & 19 Vict.
c. 119.

SCHEDULE (B).

Form of Passengers' List.

Ship's Name.	Master's Name.	Tons per Register.	Aggregate Number of Superficial Feet in the several Compartments set apart for Passengers other than Cabin Passengers.	Total Number of Statute Adults, exclusive of Master, Crew, and Cabin Passengers, which the Ship can legally carry.	Where bound.

I hereby certify, that the provisions actually laden on board this ship are sufficient, according to the requirements of the Passengers Act, for statute adults for a voyage of days.

(Signature) _____ Master.

Date _____ 185 .

Names and Descriptions of Passengers.

Ports of Embarkation.	Names of Passengers.	Age of each Adult of 12 Years and upwards.				Children between 1 and 12 years.		Infants.		Profession, Occupation, or Calling of Passenger.	State whether English, Scotch, or Irish.	Port at which Passengers have contracted to land.
		Married.		Single.								
		M.	F.	M.	F.	M.	F.	M.	F.			

Summary.

	Number of Souls.				Equal to Statute Adults.
	English.	Scotch.	Irish.	Total.	
Adults					
Children between 1 and 12					
Infants					
Total . .					

We hereby certify, that the above is a correct list of the names and descriptions of all the Passengers who embarked at the port of _____.

(Signed) _____ Master.

_____ Emigration Officer.

(Countersigned) _____ Officer of Customs at _____.

Date _____ 185 .

N.B.—Lines should be ruled in the same form for any additions to the list after the ship first clears out; and similar certificates be subjoined to such additions, according to the requirements of the Act.

SCHEDULE (C).

Form of Bond to be given by the Master and by the Owner or Charterer of a "Passenger Ship."

Know all men by these presents, that we (*a*), are held and firmly bound unto our sovereign , by the grace of God of the United Kingdom of Great Britain and Ireland defender of the faith, in the sum of two thousand pounds of good and lawful money of Great Britain, to be paid to our said , the heirs and successors; to which payment well and truly to be made we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors, and administrators, and every of them, firmly by these presents. Sealed with our seals. Dated this day of , one thousand eight hundred and fifty

Whereas by the "Passengers Act, 1855," it is amongst other things enacted, that before any "passenger ship" shall clear out or proceed to sea, the master, together with the owner or charterer of the ship, or in the absence of such owner or charterer, or if the master be the owner or charterer, one other good and sufficient person, to be approved by the chief officer of customs at the port of clearance, shall enter into a bond to majesty, heirs and successors, in the sum of two thousand pounds:

Now the condition of this obligation is such, that if the ship whereof the above-bounden is master, bound to , is in all respects seaworthy (*b*) [and if the said ship shall call at the port of and there shall be shipped on board at such port pure water for the use of the passengers, sufficient in quantity to afford an allowance of three quarts daily to each statute adult for the period of days on the voyage from such port to the final port or place of discharge of such vessel], and if (notwithstanding any penalty by the said Act imposed, and whether the same may have been sued for and recovered or not) all and every the requirements of the said Passengers Act, 1855 (except such of them as relate exclusively to passage brokers and runners), and of the emigration commissioners acting in the manner prescribed by the said Act, and of any order passed by her majesty in council relating to "passenger ships" and now in force, shall in all respects be well and truly performed (*c*) [and if the master for the time being of the said ship shall submit himself, in like manner as a British subject being the master of a British passenger ship, to the jurisdiction of the tribunals in majesty's possessions abroad empowered by the said Act to adjudicate on offences committed against the said Act], and if, moreover, all penalties, fines and forfeitures which the master of such ship may be adjudged to pay for or in respect of the breach or nonfulfilment of any of such requirements as aforesaid shall be well and truly paid, and if all expenses incurred by the secretary of state or any governor or British consular officer under the provisions of this Act shall also be well and truly paid, then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered by the above-bounden and in the presence of (*d*).

(*e*) [I hereby certify, that the above bond was duly signed, sealed and delivered according to the law of Great Britain by the said master of the said ship and by the said (*other obligor*)].

(Signature) { Chief Officer of Customs for the Port of

(Date) 185 .

SCHEDULE (D).

Form of Passage Broker's Annual Bond, with Two Sureties, to be approved by the Emigration Officer at the nearest Port.

Know all men by these presents, that we, *A. B.* (*f*) of , *C. D.* of, *&c.* and *E. F.* of, *&c.* of , are held and firmly bound unto our sovereign by the grace of God of the united kingdom of Great Britain and Ireland

---

(*a*) Insert here the christian and surnames in full, with occupations and addresses of each of the two obligors.

(*b*) The clause within brackets is to be inserted only when the ship is to call at an intermediate port to take in water, as provided by sect. 34 of the Act.

(*c*) This clause to be inserted only in the case of a foreign passenger ship proceeding to any of the British colonies.

(*d*) Insert names and addresses in full of the witnesses.

(*e*) Certificate to be signed by the chief officer of customs and forwarded with the bond to the colony, according to sect. 64 of the Act.

(*f*) Insert christian and surnames in full, with occupations and address of each of the parties.

defender of the faith, in the sum of one thousand pounds of good and lawful money of Great Britain, to be paid to our said the heirs and successors; to which payment well and truly to be made we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors and administrators, and every of them, firmly by these presents. Sealed with our seals. Dated this day of , one thousand eight hundred and fifty

Whereas by the "Passengers Act, 1855," it is amongst other things enacted, that no person whatever, save as therein excepted, shall directly or indirectly act as a passage broker in respect of passages from the united kingdom to any place out of Europe, and not being within the Mediterranean sea, or shall sell or let, or agree to sell or let, or be in anywise concerned in the sale or letting of passages in any ship, whether a "passenger ship" or otherwise, proceeding from the united kingdom to any such place as aforesaid, unless such person, with two good and sufficient sureties, to be approved by the emigration officer at the port nearest the place of business of such person, shall have previously entered into a joint and several bond to her majesty, her heirs and successors, in the sum of one thousand pounds; and whereas the said *C. D.* and *E. F.* have been duly approved by the proper emigration officer as sureties for the said *A. B.*:

Now the condition of this obligation is such, that if the above-bounden *A. B.*, and every agent whom he may employ in his business of a passage broker, shall well and truly observe and comply with all the requirements of the said recited Act, so far as the same relate to passage brokers, and further shall well and truly pay all fines, forfeitures and penalties, and also all sums of money, by way of subsistence money, or of return of passage money and compensation to any passenger, or on his account, together with all costs which the above-bounden *A. B.*, or any of his agents as aforesaid, may at any time be adjudged to pay under or by virtue of any of the provisions of the said recited Act, then and in such case this obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered by the above-bounden *A. B.*, *C. D.* and *E. F.*, in the presence of (*a*).

N.B.—This bond is to be executed in duplicate, in the presence of and to be attested by an emigration officer or his assistant, or an officer of customs, or a magistrate, or a notary public. One part is to be deposited with the emigration commissioners in London, and the other part with the emigration officer at the port nearest to the place of business of the broker. Each member of a firm or partnership who acts as a passage broker must give a separate bond with two sureties.

[The bond is exempt from stamp duty, but must be renewed annually with licence.]

SCHEDULE (E).

Form of Passage Broker's Licence (*).

A. B. (*b*) of in the having shown to the satisfaction of me (*or* us) the undersigned, that he hath given bond to majesty, as by the "Passengers Act, 1855," required, and also given fourteen days' previous notice to the emigration commissioners of his intention to make application for a licence to carry on the business of a passage broker in respect of passages from the united kingdom to any place out of Europe, and not being within the Mediterranean sea, I (*or* we), the undersigned, having had no sufficient cause shown to me (*or* us), and seeing no valid reason why the said *A. B.* should not receive such licence, do hereby licence and authorise the said *A. B.* to carry on the business of a passage broker as aforesaid until the end of the present year and thirty-one days afterwards, unless this licence shall be sooner determined by forfeiture for misconduct on the part of the said *A. B.* as in the "Passengers Act, 1855," is provided.

Given under my hand and seal (*or* our respective hands and seals), this day of , 185 , at

(Signature) (L. S.) { Justices of the peace, police *or* stipendiary magistrate, *or* sheriff, *or* steward, *or* sheriff *or* steward substitute, *as the case may be.*

(*) *N.B.*—Each member of a firm or partnership who acts as a passage broker must have a separate licence.

(*a*) Insert the names and addresses in full of the witnesses.

(*b*) The christian and surnames in full, with the address and trade or occupation of the party applying for the licence, must be correctly inserted. If a member of a firm, the christian and surnames of all the members must be given.

SCHEDULE (F).

Form of Notice to be given to the Emigration Commissioners by Justices granting a Licence.

Gentlemen,

This is to give you notice, that we (*or* I), the undersigned, did on the day of 185 , license *A. B.* (*a*), of to carry on the business of a passage broker under the provisions of the "Passenger Act, 1855."

(Signatures) { Justices of the peace, *or as the case may be.*

Place

Date

To the Emigration Commissioners, London. }

SCHEDULE (G).

Form of Notice to be given to the Emigration Commissioners by any Applicant for a Broker's Licence.

Gentlemen,

I, *A. B.* (*b*), of , in , do hereby give you notice, that it is my intention to apply, after the expiration of fourteen clear days from the putting of this notice into the post, to the justices to be assembled in petty sessions to be held (*c*) (*or* to the police or stipendiary magistrate for the city *or* borough *or* district of , *or*, if in Scotland, to the sheriff *or* steward of , *as the case may be*), for a licence to carry on the business of a passage broker under the provisions of "The Passengers Act, 1855."

Signature

Date

To the Emigration Commissioners, London. }

SCHEDULE (H).

Form of Notice to be given by the Justices to the Emigration Commissioners of Forfeiture of a Passage Broker's Licence.

Gentlemen,

This is to give you notice, that the licence granted on the day of , 185 , to *A. B.* (*d*), of , in , to act as a passage broker, was on the day of now last past, duly declared by me (*or* us) the undersigned justices of the peace in petty sessions assembled, to be forfeited (*e*).

Signatures {

Place and date , 185 .

To the Emigration Commissioners, London. }

SCHEDULE (I).

Form of Appointment of Passage Broker's Agent.

I, *A. B.* (*f*), *&c.*, (*or as the case may be*), one of the partners and on behalf of the firm of, *&c.* (*name all the partners and the style of the firm*) carrying on the business of , at , do hereby nominate and appoint you, *C. D.*, of, *&c.*, to act as my agent and on my behalf in the sale or letting of passages and otherwise in the business of a passage broker, according to the provisions of "The Passengers Act, 1855."

Signature in full

Place and date , 185 .

Emigration Officer at the port of

Counter signature

(*a*) Insert the christian and surnames in full, with the address and occupation of the party.

(*b*) The christian names and surname in full, with the address and trade or occupation of the party applying for a licence, must be here correctly inserted.

(*c*) The place or district in which the party giving the notice has his place of business.

(*d*) The christian and surnames in full, with the address and trade or occupation of the party, to be here inserted.

(*e*) Here state generally the reason of forfeiture.

(*f*) Insert in the proper places the christian and surnames in full, with the correct addresses and designations of the constituent and agent respectively.

SCHEDULE (K).

Counterpart of Cabin Passenger's Contract Ticket.

This counterpart is to be produced by the owner, charterer or master of the ship to the emigration officer at the port of embarkation (or, if no such officer, to the officer of customs), or to anyone appointed by him to receive it, under a penalty for default not exceeding £10.

These directions form part of, and must appear on, each contract ticket.

1. A contract ticket in this form must be given to every cabin passenger engaging a passage in a "passenger ship" from the United Kingdom to any place out of Europe, and not being within the Mediterranean sea, under a penalty not exceeding £50.
2. Unless the passengers are to have a free table, the victualling scale for the voyage must be appended to the contract ticket.
3. All the blanks must be correctly and legibly filled in, and the ticket must be legibly signed with the christian names and surname and address in full of the party issuing the same.
4. The day of the month on which the ship is to sail must be inserted in words and not in figures only.
5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration or erasure made in it, unless with his consent.

Ship of tons register, to sail from for on the day of 18

Names.	No. of Persons.	
	Adults above 12 Years.	Children 12 Years & under.
Total No. of Persons.		

In consideration of the sum of £ , I hereby agree with the person named in the margin hereof that such person shall be provided with class cabin passage in the above-named ship, to sail from the port of for the port of , in , with not less than cubical feet of luggage for each person, and that such person shall be victualled as class cabin passenger during the voyage, and the time of detention at any place before its termination; and I further engage to land the person aforesaid, with luggage, at the last mentioned port, free of any charge beyond the passage money aforesaid; and I hereby acknowledge to have received the sum of £ in { full / part } payment of such passage money.

Signature in full
Place and date

[If signed by a broker or agent, state on whose behalf].

Deposit £
Balance £ to be paid at
Total £

N.B.—This contract ticket is exempt from stamp duty.

Cabin Passenger's Contract Ticket

These directions, and the "notices to passengers" below, form part of, and must appear on, each contract ticket.

1. A contract ticket in this form must be given to every cabin passenger engaging a passage in a "passenger ship" from the United Kingdom to any place out of Europe, and not being within the Mediterranean sea, under a penalty not exceeding £50.
2. Unless the passengers are to have a free table, the victualling scale for the voyage must be appended to the contract ticket.
3. All the blanks must be correctly and legibly filled in, and the ticket must be legibly signed with the christian names and surname and address in full of the party issuing the same.
4. The day of the month on which the ship is to sail must be inserted in words and not in figures only.
5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration or erasure made in it, unless with his consent.

Ship of tons register, to sail from for on the day of 18 .

Names.	No. of Persons.	
	Adults above 12 Years.	Children 12 Years & under.
Total No. of Persons.		

In consideration of the sum of £ , I hereby agree with the person named in the margin hereof that such person shall be provided with class cabin passage in the above-named ship, to sail from the port of for the port of , in , with not less than cubical feet of luggage for each person, and that such person shall be victualled as class cabin passenger during the voyage, and the time of detention at any place before its termination; and I further engage to land the person aforesaid, with luggage, at the last-mentioned port, free of any charge beyond the passage money aforesaid; and I hereby acknowledge to have received the sum of £ in { full / part } payment of such passage money.

Signature in full
Place and date

[If signed by a broker or agent, state on whose behalf.]

Deposit £
Balance £ to be paid at
Total £

Notice to Cabin Passengers.

1. If cabin passengers, through no default of their own, fail to obtain a passage in the ship and on the day named in this contract ticket, they may obtain redress for breach of contract by summary process under the 73rd section of the "Passengers Act, 1855."
2. Cabin passengers must produce on demand their contract tickets to the government emigration officer under a penalty not exceeding £10. This ticket should therefore be preserved and kept in readiness to be produced on board the ship.

N.B.—This contract ticket is exempt from stamp duty.

SCHEDULE (L).

Ship.

Counterpart of passenger's contract ticket.

This part of the contract ticket is to be separated from the other, and to be delivered by the passenger to the emigration officer at the port of embarkation (or, if no such officer, to the officer of customs), or to any one appointed by him to receive it, under a penalty not exceeding £10.

Contract Ticket.

I engage that the persons mentioned below shall be provided with a steerage passage to and be landed at the port of in in the ship of tons with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the whole voyage according to the dietary scale prescribed by law. The ship to receive her passengers at on the day of 185 . Passage money, including government dues, if any, and all charges of landing, £

Names.	Ages.

souls, equal to statute adults.

To be signed in full by the party issuing the ticket.

* Insert number of souls and of statute adults respectively.

These directions, and the "notices to passengers" below, form part of, and must appear on, each contract ticket.

Passenger's Contract Ticket.

1. A contract ticket in this form must be given to every passenger engaging a passage from the United Kingdom to any place out of Europe, and not being within the Mediterranean sea.
2. The victualling scale for the voyage must be printed in the body of the ticket
3. All the blanks must be correctly filled in, and the ticket must be legibly signed with the christian names and surname and address in full of the party issuing the same.
4. The day of the month on which the passengers are to embark must be inserted in words and not in figures.
5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration, addition, or erasure made in it.

Ship of tons register, to take in passengers at for on the day of 185 .

Names.	Ages.	Equal to Statute Adults.

I engage that the person named in the margin hereof shall be provided with a steerage passage to, and shall be landed at, the port of in in the ship with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the voyage and the time of detention at any place before its termination, according to the subjoined scale, for the sum of £ , including government dues before embarkation and head money, if any, at the place of landing, and every other charge, except freight for excess of luggage beyond the quantity above specified, and I hereby acknowledge to have received the sum of £ in { full / part } payment.

The following quantities, at least, of water and provisions (to be issued daily) will be supplied by the master of the ship, as required by law: viz., to each statute adult three quarts of water daily, exclusive of what is necessary for cooking the articles required by the Passengers Act to be issued in a cooked state; and a weekly allowance of provisions according to the following scale:—

[Here insert the victualling scale intended to be used on the voyage. This must be either the scale prescribed in the 35th section of the Passengers Act, 1855, or that scale modified by the introduction of articles authorised by the Act to be sustituted for oatmeal, rice, and potatoes.

N.B.—If mess utensils and bedding are to be provided by the ship, the stipulation must be inserted here.]

Signature in full
Place and date

[If signed by a broker or agent, state on whose behalf.]

Deposit £
Balance £ to be paid at
Total £

Notices to Passengers.

1. If passengers, through no default of their own, are not received on board on the day named in their contract tickets, or fail to obtain a passage in the ship, they should apply to the government emigration officer at the port, who will assist them in obtaining redress under the Passengers Act.
2. Passengers should carefully keep this part of their contract ticket till after the end of the voyage.

N.B.—This contract ticket is exempt from stamp duty.

18 & 19 Vict. c. 119.

SCHEDULE (M).

Form of Emigrant Runner's Annual Licence.

A. B. (*a*) of in the having made application in writing to us, the undersigned justices of the peace assembled in petty sessions, for the (*b*) of to grant to him a licence to enable him to be registered as an emigrant runner in and for (*b*) , and the said [*A. B.*] having also been recommended as a proper person to receive such licence by an emigration officer, *or* by the chief constable [*or other head officer of police, as the case may be*] of [*the district, town, or place in which the said A. B. is to carry on his business*]: We, the under-mentioned justices, having no sufficient cause shown to us, and seeing of ourselves no valid reason why the said *A. B.* should not receive such licence, do hereby grant to him this licence for the purposes aforesaid, subject nevertheless to be revoked for misconduct on the part of the said *A. B.*, as in the Passengers Act, 1855, is provided.

SCHEDULE (N).

Form of Summons for a Defendant or a Witness.

A. B. complainant.
C. D. defendant.

County, *or* city, *or* borough, *or* police district of (*as the case may be*).

This is to command you to appear without fail on the day of instant (*or* next) at o'clock in the noon at before me, or other the magistrate or justices of the peace then and there present (*c*) [to answer the complaint of (an emigration officer, *or* assistant emigration officer, *or* officer of customs, (*or in the colonies* a government emigration *or* immigration agent, *as the case may be*,) for a breach of the section (*or* sections, *as the case may be*,) of the Passengers Act, 1855] (*d*), [*or* to give evidence in the complaint of *A. B.* against *C. D.* for breach of the Passengers Act, 1855].

(Signed) Justice of the peace, *or* police, *or* stipendiary magistrate, *or* sheriff, *or* steward, *or* sheriff substitute, *or* steward substitute, *as the case may be*.

Dated this day of , one thousand eight hundred and .

To .

SCHEDULE (O).

Form of Conviction and Order of Adjudication under the Passengers Act, 1855, when the Defendant appears.

A. B. complainant.
C. D. defendant.

County, *or* city, *or* borough, *or* police district, *or* stewartry of (*as the case may be*).

Be it remembered, that on the day of instant, *C. D.*, of , personally came before me (*or* us, *as the case may be*), at to answer the complaint of *A. B.* (*e*) for a breach of the section (*or* sections, *as the case may be*), of the Passengers Act, 1855, in that *&c.* (*f*) *or* (*as the case may be*), for a breach of the contract contained in a certain contract ticket, dated , and issued by , to , for a passage to , in the ship .

Whereupon I (*or* we) did proceed to examine into the complaint so made against the said *C. D.*, and the same having been (admitted to be true by the said *C. D.*, *or as the case may be*) fully proved to my (*or* our) satisfaction by the testimony on oath of *E. F.* (*g*), a credible witness (*or* witnesses), I (*or* we) (*h*) [do convict him the said *C. D.* of the offence (*or* offences) aforesaid ; and I (*or* we)] do adjudge and order that he shall pay to the said *A. B.* as such emigration officer (*or* government emigration agent, *or* officer of customs, *or* passenger of the ship , *as the case may be*), the sum of *l.* by way of penalty (*or* by way of subsistence money, *or* of return of passage money, *or*

(*a*) The christian and surnames in full, with the address of the party applying for the licence, must be here correctly inserted.

(*b*) City, town or district in which the emigrant runner is to carry on his business.

(*c*) Insert this when the defendant is summoned.

(*d*) Insert this in case a witness is summoned.

(*e*) State whether emigration officer, or officer of customs, or government emigration agent, or passenger of the ship , as the case may be.

(*f*) Here describe briefly and in general terms the requirement (or requirements) of the Act which has not been fulfilled.

(*g*) Name the witness, or witnesses if more than one.

(*h*) Omit these words where there is no conviction, but only an order of adjudication.

as damages for breach of such contract as aforesaid, *as the case may be*), [(*a*) and shall also pay to the said *A. B.* the further sum of *l.* as compensation for the loss and inconvenience occasioned to (*b*) by the loss of passage in the ship .] 18 & 19 Vict. c. 119.

(*c*) [And I (*or* we) do also adjudge and order that the licence granted to the said *C. D.* to act as a passage broker be forfeited.]

(*d*) And I (*or* we) do hereby also adjudge and order that the sum of *l.*, being a part not exceeding one moiety of the said penalty of *l.*, be applied to compensate (*e*) for the wrong or damage which he (she *or* they) has (*or* have) sustained in this matter.

And I (*or* we) do further adjudge and order, that the said *C. D.* shall forthwith pay to the said *A. B.* the further sum of *l.* for the costs and charges by him the said *A. B.* incurred in the prosecution of this matter.

Given under my hand and seal (*or* our hands and seal), this day of , one thousand eight hundred and .

(Signature) { Justice of the peace, police, *or* stipendiary magistrate, *or* sheriff, *or* steward, *or* sheriff *or* steward substitute, *as the case may be*, for (*f*).

Form of Conviction and Order of Adjudication where the Defendant does not appear.

A. B. complainant.
C. D. defendant.

County, *or* city, *or* borough, *or* police district, *or* stewartry of , *as the case may be.*

Be it remembered, that *C. D.* of , being duly summoned to answer the complaint of *A. B.* (*g*) for a breach of the (section *or* sections) of the Passengers Act, 1855, in that, *&c.* (*h*) *or* (*as the case may be*), for a breach of the contract contained in a certain contract ticket, dated , and issued by , to , for a passage to , in the ship , did not appear before me (*or* us), pursuant to the said summons. Nevertheless, I (*or* we) did proceed to examine into the complaint so preferred against the said *C. D.*, and the same having been duly proved to my (*or* our) satisfaction by the testimony on oath of *E. F.* (*i*) a credible witness (*or* witnesses, I (*or* we) do, *&c.* (*proceed as in preceding form of conviction according to the circumstances of the case.*)

22 & 23 Vict. c. 37. An Act for the Amendment of the Laws relating to the Customs. [13th August, 1859.]

22 & 23 Vict. c. 37.

25 & 26 Vict. c. 63. An Act to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853." [29th July, 1862.]

25 & 26 Vict. c. 63.

"Whereas it is expedient further to amend 'The Merchant Shipping Act, 1854,' 'The Merchant Shipping Act Amendment Act, 1855,' and 'The Customs Consolidation Act, 1853:'" BE IT ENACTED as follows: 17 & 18 Vict. c. 104. 18 & 19 Vict. c. 91. 16 & 17 Vict. c. 107.

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1862," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the principal Act. Short title.

2. The enactments described in table (A.) in the schedule to this Act shall be repealed as therein mentioned, except as to any liabilities incurred before such repeal. Enactments in Table (A.) repealed.

Registry and Measurement of Tonnage (*Part II. of Merchant Shipping Act*, 1854.)

3. It is hereby declared that the expression "beneficial interest," whenever used in the second part of the principal Act, includes interests arising under contract and other equitable interests; and the intention of the said Act is that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and Equities not excluded by Merchant Shipping Act.

(*a*) Insert this in cases where compensation is awarded.

(*b*) Name the passenger or passengers by or on whose behalf the compensation is awarded.

(*c*) Insert this where the offender is a passage broker, and his licence is declared forfeited.

(*d*) Insert this where compensation out of the penalty is awarded to any aggrieved passenger.

(*e*) Name the passenger or passengers.

(*f*) State county or district, &c., as the case may be.

(*g*) State whether emigration officer, or officer of customs, or government emigration agent, or passenger of the ship , as the case may be.

(*h*) Describe briefly and in general terms the requirement (or requirements) of the Act which has not been fulfilled.

(*i*) Name the witness or witnesses.

25 & 26 Vict. c. 63.

mortgagees, and without prejudice to the provisions contained in the said Act relating to the exclusion of unqualified persons from the ownership of British ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property (a).

Tonnage rates under local Acts may be levied on the registered tonnage.

4. Any body corporate or persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the board of trade, levy such tonnage rates upon the registered tonnage of ships as determined by the rules for the measurement of tonnage for the time being in force under the principal Act, notwithstanding that the local Act or Acts under which such rates are levied provides for levying the same upon some different system of tonnage measurement.

Certificates for Engineers (Part III. of Merchant Shipping Act, 1854.)

Steam ships to carry certificated engineers.

5. On and after the first day of June one thousand eight hundred and sixty-three, every steamship which is required by the principal Act to have a master possessing a certificate from the board of trade shall also have an engineer or engineers possessing a certificate or certificates from the board of trade as follows; that is to say,

(1.) Engineer's certificate shall be of two grades, viz. "first-class engineers' certificates," and "second-class engineers' certificates:"

(2.) Every foreign-going steamship of one hundred nominal horse power or upwards shall have as its first and second engineers two certificated engineers, the first possessing a "first-class engineer's certificate," and the second possessing a "second-class engineer's certificate," or a certificate of the higher grade:

(3.) Every foreign-going steamship of less than one hundred nominal horse-power shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate" or a certificate of the higher grade:

(4.) Every sea-going home trade passenger steamship shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate" or a certificate of the higher grade:

(5.) Every person who, having been engaged to serve in any of the above capacities in any such steamship as aforesaid, goes to sea in that capacity without being at the time entitled to and possessed of such certificate as is required by this section, and every person who employs any person in any of the above capacities in such ship without ascertaining that he is at the time entitled to and possessed of such certificate as is required by this section, shall for each such offence incur a penalty not exceeding fifty pounds.

Examinations for engineers' certificates of competency.

6. The board of trade shall from time to time cause examinations to be held of persons who may be desirous of obtaining certificates of competency as engineers: for the purpose of such examinations the board of trade shall from time to time appoint and remove examiners, and award the remuneration to be paid to them; lay down rules as to the qualifications of applicants, and as to the times and places of examination; and generally do all such Acts as it thinks expedient in order to carry into effect the examination of such engineers as aforesaid.

Fees to be paid by applicants for examination.

7. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked (B.) in the schedule hereto, as the board of trade directs; and such fees shall be paid to such persons as the said board appoints for that purpose, and shall be carried to the account of the mercantile marine fund.

Certificates of competency to be granted to those who pass.

8. The board of trade shall deliver to every applicant who is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency, as first-class engineer or as second-class engineer, as the case may be.

Engineers' certificates of service to be delivered on proof of certain service.

9. Certificates of service for engineers, differing in form from certificates of competency, shall be granted as follows; that is to say,

(1.) Every person who before the first day of April one thousand eight hundred and sixty-two has served as first-class engineer in any foreign-going steamship of one hundred nominal horse-power or upwards, or who has attained or attains the rank of engineer in the service of her majesty or of the East India company, shall be entitled to a "first-class engineer's certificate" of service:

(2.) Every person who before the first day of April one thousand eight hundred and sixty-two has served as second engineer in any foreign-going steamship of one hundred nominal horse-power or upwards, or as first or only engineer in any other steamship, or who has attained or attains the rank of first-class assistant-engineer in the service of her majesty, shall be entitled to a "second-class engineer's certificate" of service:

Each of such certificates of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered; and the board of trade shall deliver such certificates of service to the

(a) See 17 & 18 Vict. c. 104, s. 66, ante p. 265; *The Liverpool Borough Bank* v. *Turner*, 29 L. J. Ch. 827; and *Ward* v. *Beck*, 32 L. J. C. P. 113.

various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid. 25 & 26 Vict. c. 63.

10. The provisions of the principal Act, with respect to the certificates of competency or service of master and mates, contained in the 138th, 139, 140th, 161st, and 162nd sections of the said Act, shall apply to certificates of competency or service granted under this Act in the same manner as if certificates of competency and service to be granted to engineers under this Act were specially mentioned and included in the said sections. Certain provisions of Merchant Shipping Act to apply to engineers' certificates.

11. The power by the 241st section of the principal Act given to the board of trade or to any local marine board of instituting investigations into the conduct of any master or mate whom it has reason to believe to be from incompetency or misconduct unfit to discharge his duties, shall extend to any certificated engineer whom the board of trade or any local marine board has reason to believe to be from incompetency or misconduct unfit to discharge his duties, in the same manner as if in the said section the words "certificated engineer" had been inserted after "master" wherever "master" occurs in such section. Power of board of trade and local marine board to investigate conduct of certificated engineers.

12. The declaration required to be given by the engineer surveyor under section 309 of the principal Act shall, in the case of a ship by this Act required to have a certificated engineer, contain, in addition to the statements in the said section mentioned, a statement that the certificate or certificates of the engineer or engineers of such ship is or are such and in such condition as is required by this Act. Declaration of engineer surveyor to contain statement concerning engineer's certificate.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

13. The following vessels; that is to say, Third part of Act to apply to fishing boats, lighthouse vessels, and pleasure-yachts, with certain exceptions.

(1.) Registered seagoing ships exclusively employed in fishing on the coasts of the united kingdom;
(2.) Seagoing ships belonging to any of the three general lighthouse boards;
(3.) Seagoing ships being pleasure-yachts;

shall be subject to the whole of the third part of the principal Act; except,—sections 136, 143, 145, 147, 149, 150, 151, 152, 153, 154, 155, 157, 158, 161, 162, 166, 170, 171, 231, 256, 279, 280, 281, 282, 283, 284, 285, 286 and 287.

14. Whereas doubts have been entertained whether local marine boards have the power of determining a quorum; it is hereby declared, that the power by the 119th section of the principal Act given to every local marine board of regulating the mode in which its meetings are to be held and its business conducted includes the power of determining a quorum; nevertheless, after the passing of this Act such quorum shall never consist of less than three members. Local marine board may determine number of quorum.

15. The offices termed shipping offices in the principal Act shall be termed mercantile marine offices, and the officers termed shipping masters and deputy shipping masters in the principal Act shall be termed superintendents and deputy superintendents of such offices; but nothing in this section contained shall invalidate or affect any act which may be done at any such office under the title of a shipping office, or any act which may be done by, with or to any of the said officers under the title of shipping master or deputy shipping master. Titles of shipping masters.

16. Any person appointed to any office or service by or under any local marine board shall be deemed to be a clerk or servant within the meaning of the sixty-eighth section of the Act of the twenty-fifth year of the reign of her present majesty, chapter ninety-six: Punishment for embezzlement in shipping offices.

If any such person fraudulently applies or disposes of any chattel, money or valuable security received by him whilst employed in such office or service for or on account of any such local marine board, or for or on account of any other public board or department, to his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him, or fraudulently withholds, retains, or keeps back the same or any part thereof contrary to any lawful directions or instructions which he is required to obey in relation to such office or service, he shall be deemed guilty of embezzlement within the meaning of the said section:

Any such person shall, on conviction of such offence as aforesaid, be liable to the same pains and penalties as are thereby imposed upon any clerk or servant for embezzlement:

In any indictment against such person for such offence, it shall be sufficient to charge any such chattel, money or valuable security as the property either of the board by which he was appointed, or or the board or department for or on account of which he may have received the same; and no greater particularity in the description of the property shall be required in such indictment in order to sustain the same, or in proof of the offence alleged, than is required in respect of an indictment or the subject matter thereof by the seventy-first section of the said last-mentioned Act.

17. Whereas it is expedient to make provision in certain cases for holding examinations of applicants for certificates of competency at places where there are no local marine boards: BE IT ENACTED, that the board of trade, if satisfied that serious inconvenience exists at any port in consequence of the distance which applicants for certificates have to travel in order to be examined, may, with the concurrence of any local marine board, send the examiner or examiners of that local marine board to the port where such incon- Examinations of masters and mates at ports where there are no local marine boards.

25 & 26 Vict. c. 63.

venience exists; and thereupon the said examiner or examiners shall proceed to such port, and shall there examine the applicants in the presence of such person or persons (if any) as the board of trade may appoint for the purpose; and such examinations shall be conducted in the same manner and shall have the same effect as other examinations under the said Act.

Construction of sect. 182 of principal Act. Stipulations concerning salvage.

18. It is hereby declared that the 182nd section of the principal Act does not apply to the case of any stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.

Payment of wages to seamen abroad under sect. 209 of principal Act.

19. The payment of seamen's wages required by the 209th section of the principal Act shall, whenever it is practicable so to do, be made in money and not by bill; and in cases where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of the said section, and to be indorsed as therein required, if produced out of the custody of the board of trade or of the registrar general of seamen, or of any superintendent of any mercantile marine office, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of the said section, and to be signed by one of the functionaries therein mentioned, shall also be received in evidence, and shall be deemed to be *primâ facie* evidence of the facts stated in such indorsement.

Wages and effects of deceased seamen.

20. The 197th section of the principal Act shall extend to seamen or apprentices who within the six months immediately preceding their death have belonged to a British ship; and such section shall be construed as if there were inserted in the first line thereof after the words "such seaman or apprentice as last aforesaid" the words "or if any seaman or apprentice who has within the six months immediately preceding his death belonged to a British ship."

Recovery of wages, &c., of seamen lost with their ship.

21. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows; (that is to say),

(1.) The board of trade may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:

(2.) In any proceedings for the recovery of such wages, if it is shown by some official return produced out of the custody of the registrar general of seamen or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board, either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable.

(3.) The production out of the custody of the registrar general of seamen or of the board of trade of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the united kingdom, or of a certificate purporting to be a certificate from a consular or other public officer at any port abroad, stating that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss:

(4.) The board of trade shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under the principal Act.

Relief of distressed seamen to be regulated by board of trade.

22. Whereas under the 211th and 212th sections of the principal Act, and the 16th section of "The Merchant Shipping Act Amendment Act, 1855," provision is made for relieving and sending home seamen found in distress abroad: and whereas doubts are entertained whether power exists under the said sections of making regulations and imposing conditions which are necessary for the prevention of desertion and misconduct and the undue expenditure of public money: BE IT ENACTED, and it is hereby declared, that the claims of seamen to be relieved or sent home in pursuance of the said sections or any of them shall be subject to such regulations and dependent on such conditions as the board of trade may from time to time make or impose; and no seaman shall have any right to demand to be relieved or sent home except in the cases and to the extent provided for by such regulations and conditions.

Power of cancelling certificate to rest with the court which hears the case.

23. The following rules shall be observed with respect to the cancellation and suspension of certificates, that is to say:

(1.) The power of cancelling or suspending the certificate of master or mate by the 242nd section of the principal Act conferred on the board of trade, shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, admiralty court, or other court or tribunal by which the case is investigated or tried, and shall not in future vest in or be exercised by the board of trade:

(2.) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout such station after "master" or "masters:"

(3.) Every such board, court or tribunal shall at the conclusion of the case, or as soon afterwards as possible, state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the board of trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the board of trade with their report: 25 & 26 Vict. c. 63.

(4.) It shall be lawful for the board of trade, if they think the justice of the case require it, to reissue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended:

(5.) The 434th and 437th sections of the principal Act shall be read as if for the word "nautical" were substituted the words "nautical or engineering," and as if for the word "person" and "assessor" respectively were substituted the words "person or persons" and "assessor or assessors" respectively:

(6.) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor, in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.

24. Every master or mate or engineer whose certificate is or is to be suspended or cancelled in pursuance of this Act shall, upon demand of the board, court or tribunal by which the case is investigated or tried, deliver his certificate to them, or, if it is not demanded by such board, court or tribunal, shall, upon demand, deliver it to the board of trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds. Certificate to be delivered up.

Safety (Part IV. of Merchant Shipping Act, 1854).

25. On and after the first day of June, one thousand eight hundred and sixty-three, or such later day as may be fixed for the purpose by order in council, the regulations contained in the table marked (C.) in the schedule hereto shall come into operation and be of the same force as if they were enacted in the body of this Act; but her majesty may from time to time, on the joint recommendation of the admiralty and the board of trade, by order in council, annul or modify any of the said regulations, or make new regulations in addition thereto or in substitution therefor; and any alterations in or additions to such regulations made in manner aforesaid shall be of the same force as the regulations in the said schedule. Enactment of regulations concerning lights, fog signals and sailing rules in schedule, Table (C.)

26. The board of trade shall cause the said regulations and any alterations therein or additions thereto hereafter to be made to be printed, and shall furnish a copy thereof to any owner or master of a ship who applies for the same; and production of the Gazette in which any order in council containing such regulations or any alterations therein or additions thereto is published, or of a copy of such regulations, alterations or additions, signed or purporting to be signed by one of the secretaries or assistant secretaries of the board of trade, or sealed or purporting to be sealed with the seal of the board of trade, shall be sufficient evidence of the due making and purport of such regulations, alterations, or additions. Regulations to be published.

27. All owners and masters of ships shall be bound to take notice of all such regulations as aforesaid, and shall, so long as the same continue in force, be bound to obey them, and to carry and exhibit no other lights, and to use no other fog signals than such as are required by the said regulations; and in case of wilful default, the master or the owner of the ship if it appear that he was in such fault, shall, for each occasion upon which such regulations are infringed, be deemed to be guilty of a misdemeanor. Owners and masters bound to obey them.

28. In case any damage to person or property arises from the non-observance by any ship of any regulation made by or in pursuance of this Act, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of such ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary. Breaches of regulations to imply wilful default of person in charge.

29. If in any case of collision it appears to the court before which the case is tried that such collision was occasioned by the non-observance of any regulation made by or in pursuance of this Act, the ship by which such regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary. If collision ensues from breach of the regulations, ship to be deemed in fault.

30. The following steps may be taken in order to enforce compliance with the said regulations; that is to say, Inspection for enforcing regulations.

(1.) The surveyors appointed under the third part of the principal Act, or such other persons as the board of trade may appoint for the purpose, may inspect any ships for the purpose of seeing that such ships are properly provided with lights and with the means of making fog signals in pursuance of the said regulations, and shall for that purpose have the powers given to inspectors by the 14th section of the principal Act:

(2.) If any such surveyor or person finds that any ship is not so provided, he shall

25 & 26 Vict. c. 63.

give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same:

(3.) Every notice so given shall be communicated in such manner as the board of trade may direct to the collector or collectors of customs at any port or ports from which such ship may seek to clear, or at which her transire is to be obtained; and no collector to whom such communication is made shall clear such ship outwards or grant her a transire, or allow her to proceed to sea, without a certificate under the hand of one of the said surveyors or other persons appointed by the board of trade as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog signals in pursuance of the said regulations.

Rules for harbours under local Acts to continue in force.

31. Any rules concerning the lights or signals to be carried by vessels navigating the waters of any harbour, river, or other inland navigation, or concerning the steps for avoiding collision to be taken by such vessels, which have been or are hereafter made by or under the authority of any local Act, shall continue and be of full force and effect notwithstanding anything in this Act or in the schedule thereto contained.

In harbours and rivers where no such rules exist they may be made.

32. In the case of any harbour, river, or other inland navigation for which such rules are not and cannot be made by or under the authority of any local Act, it shall be lawful for her majesty in council, upon application from the harbour trust or body corporate, if any, owning or exercising jurisdiction upon the waters of such harbour, river, or inland navigation, or, if there is no such harbour trust or body corporate, upon application from persons interested in the navigation of such waters, to make rules concerning the lights or signals to be carried, and concerning the steps for avoiding collision to be taken by vessels navigating such waters; and such rules, when so made, shall, so far as regards vessels navigating such waters, have the same effect as if they were regulations contained in table (C.) in the schedule to this Act, notwithstanding anything in this Act or in the schedule thereto contained.

In case of collision one ship shall assist the other.

33. In every case of collision between two ships it shall be the duty of the person in charge of each ship, if and so far as he can do so without danger to his own ship and crew, to render to the other ship, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision:

In case he fails so to do, and no reasonable excuse for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default; and such failure shall also, if proved upon any investigation held under the third or the eighth part of the principal Act, be deemed to be an act of misconduct or a default for which his certificate (if any) may be cancelled or suspended.

Surveys of steamers.

34. Notwithstanding anything in the 311th section of the principal Act contained, it shall not be necessary for the surveys of passenger steamers to be made in the months of April and October; but no declaration shall be given by any surveyor under the fourth part of the said Act for a period exceeding six months, and no certificate issued by the board of trade shall remain in force more than six months from the date thereof.

Penalties on drunken or disorderly passengers.

35. The following offenders, that is to say,

(1.) Any person who, being drunken or disorderly, has been on that account refused admission into any duly surveyed passenger steamer by the owner or any person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamer;

(2.) Any person who being drunken or disorderly on board any such steamer is requested by the owner or any person in his employ to leave the same at any place in the united kingdom at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

On persons molesting passengers.

(3.) Any person on board any such steamer who after warning by the master or any other officer of the steamer molests or continues to molest any passenger;

Penalties on persons forcing way on board the ship when full;

(4.) Any person who, after having been refused admission into any such steamer by the owner or any person in his employ on account of such steamer being full, and who after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same;

and on persons refusing to quit the ship when full.

(5.) Any person, having got on board any such steamer, who, upon being requested on the like account by the owner or any person in his employ to leave such steamer before the same has quitted the place at which such person got on board, and who upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

Penalties for avoiding payment of fares.

(6.) Any person who travels or attempts to travel in any such steamer without having previously paid his fare, and with intent to avoid payment thereof;

(7.) Any person who, having paid his fare for a certain district, knowingly and wilfully proceeds in any such steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof;

(8.) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer; and 25 & 26 Vict. c. 63.

(9.) Any person on board any such steamer who does not when required by the master or other officer of such steamer either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamer;

shall for every such offence be liable to a penalty not exceeding forty shillings; but such liability shall not prejudice the recovery of any fare payable by him.

Penalty for injuring steamer or molesting crew.

36. Any person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of such steamer, or to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamer, or otherwise in the execution of their duty upon or about such steamer, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Manner of apprehending offenders.

37. It shall be lawful for the master or other officer of any duly surveyed passenger steamer, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Provisions as to carrying dangerous goods.

38. The provisions of the 329th section of the principal Act shall extend to foreign ships when within the limits of the united kingdom.

Pilotage (Part V. of Merchant Shipping Act, 1854).

Power of pilotage authorities to exempt from compulsory pilotage.

39. Whereas it is enacted by the principal Act that every pilotage authority shall have power, in manner and subject to the conditions therein mentioned, to do the following things; (that is to say,)

To exempt the masters of any ships or of any classes of ships from being compelled to employ qualified pilots:

To alter and reduce rates of pilotage.

To lower and modify the rates and prices or other remuneration to be demanded and received for the time being by pilots licensed by such authority:

To arrange the limits of pilotage districts.

To make arrangements with any other pilotage authority for altering the limits of their respective districts, and for extending the powers of such other authority, and transferring its own powers to such last-mentioned authority:

And whereas it is expedient that increased facilities should be given for effecting the objects contemplated by the said recited enactments, and for further amending the law concerning pilotage, and that in so doing means should be afforded for paying due regard to existing interests and to the circumstances of particular cases: BE IT ENACTED, That it shall be lawful for the board of trade, by provisional order, to do the following things; that is to say,

Power by provisional order,—

to transfer pilotage jurisdiction;

(1.) Whenever any pilotage authority residing or having its place of business at one port has or exercises jurisdiction in matters of pilotage in any other port, to transfer so much of the said jurisdiction as concerns such last-mentioned port to any harbour trust or other body exercising any local jurisdiction in maritime matters at the last-mentioned port or to any body to be constituted for the purpose by the provisional order, or, in cases where the said pilotage authority is not the Trinity house of Deptford Strond, to the said Trinity house; or to transfer the whole or any part of the jurisdiction of the said pilotage authority to a new body corporate or body of persons to be constituted for the purpose by the provisional order, so as to represent the interests of the several ports concerned:

and to make consequent arrangements;

(2.) To make the body corporate or persons to whom the said transfer is made a pilotage authority within the meaning of the principal Act, with such powers for the purpose as may be in the provisional order in that behalf mentioned:

To determine the limits of the district of the pilotage authority to which the transfer of jurisdiction is made:

To sanction a scale of pilotage rates to be taken by the pilots to be licensed by the last-mentioned pilotage authority:

To determine to what extent and under what conditions any pilots already licensed by the former pilotage authority shall continue to act under the new pilotage authority:

To sanction arrangements for the apportionment of any pilotage funds belonging to the pilots licensed by the former pilotage authority between the pilots remaining under the jurisdiction of that authority and the pilots who are transferred to the jurisdiction of the new authority:

To provide for such compensation or superannuation as may be just to officers employed by the forme. pilotage authority and not continued by the new authority:

to consti-

(3.) To constitute a pilotage authority and to fix the limits of its district in any place

25 & 26 Vict. c. 63.

tute new authorities;

in the united kingdom where there is no such authority; so, however, that in the new pilotage districts so constituted there shall be no compulsory pilotage, and no restriction on the power of duly qualified persons to obtain licences as pilots:

to exempt from compulsory pilotage in any district;

(4.) To exempt the masters and owners of all ships, or of any classes of ships, from being obliged to employ pilots in any pilotage district or in any part of any pilotage district, or from being obliged to pay for pilots when not employing them in any district or in any part of any pilotage district, and to annex any terms and conditions to such exemptions:

to enable existing authorities to grant licences and fix rates;

(5.) In cases where the pilotage is not compulsory, and where there is no restriction of the power of duly qualified persons to obtain licences as pilots, to enable any pilotage authority to license pilots and fix pilotage rates for any part of the district within the jurisdiction of such authority for which no such licences or rates now exist:

to raise rates;

(6.) In cases where the pilotage is not compulsory, and where there is no restriction on the power of duly qualified persons to obtain licences as pilots, to enable any pilotage authority to raise all or any of the pilotage rates now in force in the district or any part of the district within the jurisdiction of such authority:

to facilitate recovery of rates in certain cases;

(7.) In cases where the pilotage is not compulsory, and where there is no restriction on the number of pilots, or on the power of duly qualified persons to obtain licences as pilots, to give additional facilities for the recovery of pilotage rates and for the prevention of the employment of unqualified pilots:

to facilitate grants of licences.

(8.) To give facilities for enabling duly qualified persons, after proper examination as to their qualifications, to obtain licences as pilots.

Regulations with respect to manner of making and confirming provisional orders.

40. The following rules shall be observed with respect to provisional orders made in pursuance of this Act:

1. Application in writing for such order shall be made to the board of trade by some persons interested in the pilotage of the district or in the operation of the laws or regulations relating to such pilotage:
2. Notice of such application having been made shall be published once at the least in each of two successive weeks in the month immediately succeeding the time of such application in the Shipping Gazette, and in some newspaper or newspapers circulating in the county, or, if there are more than one, in the counties adjacent to the pilotage district to be affected by the order:
3. The notice so published shall state the objects which it is proposed to effect by the provisional order:
4. The board of trade on receiving the application shall refer the same to the pilotage authority or authorities of the district, and shall receive and consider any objections which may be made to the proposed provisional order, and shall for that purpose allow at least six weeks to elapse between the time of referring the application to the pilotage authority and the time of making the provisional order:
5. The board of trade shall, after considering all objections, determine whether to proceed with the provisional order or not; and shall, if they determine to proceed with it, settle it in such manner and with such terms and conditions, not being inconsistent with the provisions of this Act, as they may think fit; and shall, when they have settled the same, forward copies thereof to the persons making the application and to the pilotage authority or authorities of the district or districts to which it refers:
6. No such provisional order shall take effect unless and until the same is confirmed by parliament; and for the purpose of procuring such confirmation the board of trade shall introduce into parliament a public general bill, or public general bills, in which, or in the schedule to which, the provisional order or provisional orders to be thereby confirmed shall be set out at length:
7. If any petition is presented to either house of parliament against any such provisional order as aforesaid in the progress through parliament of the bill confirming the same, so much of the bill as relates to the order so petitioned against may be referred to a select committee, and the petitioner shall in such case be allowed to appear and oppose as in the case of private bills.

Extension of exemptions from compulsory pilotage.

41. The masters and owners of ships passing through the limits of any pilotage district in the united kingdom on their voyages between two places both situate out of such districts shall be exempted from any obligation to employ a pilot within such district, or to pay pilotage rates when not employing a pilot within such district: provided that the exemption contained in this section shall not apply to ships loading or discharging at any place situate within such district, or at any place situate above such district on the same river or its tributaries.

Arrangement of pilot funds for Bristol Channel pilots.

42. Whereas under the provisions of "The Bristol Channel Pilotage Act, 1861," pilotage authorities have been established at the ports of Newport and Gloucester, and the pilots theretofore licensed by the Trinity House of Deptford Strond for those parts have ceased to be so licensed: and whereas no provision has been made by the said Act for dealing with such interests as the said pilots may have in the Trinity house pilot fund mentioned in the principal Act: BE IT THEREFORE ENACTED, That notwithstanding the

said pilots have ceased to be licensed by the Trinity house, the Trinity house may make such an equitable arrangement in the administration of the Trinity house pilot fund mentioned in the principal Act with reference to the interests of the pilots so ceasing to be licensed by them as aforesaid as they may in their discretion think fit. 25 & 26 Vict. c. 63.

Lighthouses (Part VI. of Merchant Shipping Act, 1854).

43. The following rules shall be observed with respect to the inspection of local lighthouses, buoys, and beacons; that is to say, Lights, &c., under local authorities to be inspected, &c., by Trinity House and other general authorities.

(1.) It shall be the duty of each of the general lighthouse authorities, or of such persons as may be authorised by such authority for the purpose, to inspect all lights, buoys, and beacons situate within the limits of the jurisdiction of such general authority, but belonging to or under the jurisdiction of any local authorities, and to make such inquiries in respect thereof and of the management thereof as they may think fit:

(2.) All officers and others having the care of such lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish all such information and explanations concerning the same as they may require:

(3.) All such local authorities and their respective officers shall at all times give to the inspecting authority all such returns, explanations, or information concerning the lighthouses, buoys, and beacons within their jurisdiction, and the management thereof, as the said authority may from time to time require:

(4.) The inspecting authority shall communicate to each local authority the results of its inspection of the lighthouses, buoys, and beacons within its jurisdiction, and shall also make general reports of the results of its inspection of local lighthouses, buoys, and beacons to the board of trade; and such reports shall be laid before parliament:

(5.) The powers given by the 394th section of the principal Act to the general lighthouse authorities shall, so far as the same are applicable, extend and apply to the case of local buoys and beacons, other than local buoys and beacons placed or erected for temporary purposes, as well as to the case of local lighthouses.

44. The following persons shall be liable to pay light dues for any ship in respect of which light dues are payable; (that is to say,) the owner or master, or such consignees or agents thereof as have paid or made themselves liable to pay any other charge on account of such ship in the port of her arrival or discharge, and in default of payment such light dues may be recovered in the same manner as penalties of the like amount may be recovered by virtue of the principal Act. Liability for and recovery of light dues.

45. Every consignee and agent (not being the owner or master) hereby made liable for the payment of light dues in respect of any ship may, out of any monies in his hands received on account of such ship, or belonging to the owner thereof, retain the amount of all dues so paid by him, together with any reasonable expenses he may have incurred by reason of such payment or liability. Powers of consignees to retain light dues paid by them.

46. If any lighthouse, buoy, or beacon is erected or placed, or reconstructed, repaired, or replaced by any local authority having jurisdiction in the matter of lighthouses, buoys, or beacons, her majesty may, on the application of the said local authority, by order in council fix such dues to be paid to the said local authority in respect of every ship which enters the port or harbour under the jurisdiction of such local authority or the estuary wherein such lighthouse, buoy, or beacon, is situate, and which passes the said lighthouse, buoy, or beacon, and derives benefit therefrom, as her majesty may deem reasonable: Dues may be levied for local lights.

The dues for the time being fixed by any such order in council as aforesaid shall be paid accordingly by the master of the said ship or other person or persons by whom the said light dues, if levied by one of the general lighthouse authorities, would be payable, and shall be recoverable in the same manner as light dues payable to such general authorities are recoverable.

47. All light dues leviable by any local authority under this Act shall be applied for the purposes of the construction, placing, maintenance, and improvement of the lighthouses, buoys, and beacons in respect of which the same are levied, and for no other purpose: Application of and accounts of such dues.

The local authority to whom the same are paid shall keep a separate account of the receipt and expenditure of such dues, and shall once in every year, or at such other time as the board of trade may determine, send a copy of such account to the board of trade, and shall send the same in such form and shall give such particulars in relation thereto as the board of trade may require:

Her majesty may by order in council from time to time reduce, alter, or increase all or any of such dues, so that the same may, so far as it is practicable, be sufficient and not more than sufficient for the payment of the expenses incurred by the local authority in respect of the lighthouses, buoys, or beacons for which the dues are levied.

48. The 431st section of the principal Act shall be read as if after the word "ships" there were inserted the words "and boats." Construction of sect. 431 of principal Act.

Wreck and Salvage (Part VIII. of Merchant Shipping Act, 1854).

49. The provisions contained in the eighth part of the principal Act for giving summary Extension

25 & 26 Vict. c. 63. and amendment of summary jurisdiction in small salvage cases.

jurisdiction to two justices in salvage cases, and for preventing unnecessary appeals and litigation in such cases, shall be amended as follows; (that is to say,)

(1.) Such provision shall extend to all cases in which the value of the property saved does not exceed one thousand pounds, as well to the cases provided for by the principal Act:

(2.) Such provisions shall be held to apply whether the salvage service has been rendered within the limits of the united kingdom or not:

(3.) It shall be lawful for one of her majesty's principal secretaries of state, or in Ireland for the lord lieutenant or other chief governor or governors, to appoint out of the justices for any borough or county a rota of justices by whom jurisdiction in salvage cases shall be exercised:

(4.) When no such rota is appointed, it shall be lawful for the salvors, by writing addressed to the justice's clerk, to name one justice, and for the owner of the property saved in like manner to name the other:

(5.) If either party fails to name a justice within a reasonable time, the case may be tried by two or more justices at petty sessions:

(6.) It shall be competent for any stipendiary magistrate, and also in England for any county court judge, in Scotland for the sheriff or sheriff substitute of any county, and in Ireland for the recorder of any borough in which there is a recorder, or for the chairman of quarter sessions in any county, to exercise the same jurisdiction in salvage cases as is given to two justices:

(7.) It shall be lawful for one of her majesty's principal secretaries of state to determine a scale of costs to be awarded in salvage cases by any such justices or court as aforesaid:

(8.) All the provisions of the principal Act relating to summary proceedings in salvage cases, and to the prevention of unnecessary appeals in such cases, shall, except so far as the same are altered by this Act, extend and apply to all such proceedings, whether under the principal Act or this Act, or both of such Acts.

Receiver may appoint a valuer in salvage cases.

50. Whenever any salvage question arises the receiver of wreck for the district may, upon application from either of the parties, appoint a valuer to value the property in respect of which the salvage claim is made, and shall, when the valuation has been returned to him, give a copy of the valuation to both parties: and any copy of such valuation, purporting to be signed by the valuer, and to be attested by the receiver, shall be received in evidence in any subsequent proceeding; and there shall be paid in respect of such valuation, by the party applying for the same, such fee as the board of trade may direct.

Jurisdiction of court of session in salvage cases.

51. The words "court of session" in the four hundred and sixty-eighth section of the principal Act shall be deemed to mean and include either division of the court of session or the lord ordinary officiating on the bills during vacation.

Delivery of wreck by receiver not to prejudice title.

52. Upon delivery of wreck or of the proceeds of wreck by any receiver to any person in pursuance of the provisions of the eighth part of the principal Act such receiver shall be discharged from all liability in respect thereof, but such delivery shall not be deemed to prejudice or affect any question concerning the right or title to the said wreck which may be raised by third parties, nor shall any such delivery prejudice or affect any question concerning the title to the soil on which the wreck may have been found.

Crown rights to wreck.

53. Whereas by the principal Act it is provided that the proceeds of wreck, if the same is not claimed by the owner within a year, and if no person other than her majesty, her heirs and successors, is proved to be entitled thereto, shall, subject to certain deductions, be paid into the receipt of her majesty's exchequer in such manner as the commissioners of the treasury may direct, and that the same shall be carried to and form part of the consolidated fund of the united kingdom.

And whereas doubts have been entertained whether the said last-recited provision is consistent with the arrangements concerning the hereditary revenues of the crown effected by the Act of the first year of her present majesty, chapter two: and whereas doubts have also been entertained whether due provision is made by the said Act for paying to the revenues of the duchies of Lancaster and Cornwall respectively such of the said proceeds as may belong to those duchies:

1 Vict. c. 2.

It is hereby declared, that such of the said proceeds of wreck as belong to her majesty in right of her crown shall, during the life of her present majesty (whom God long preserve), be carried to and form part of the consolidated fund of the united kingdom, and shall after the decease of her present majesty (whom God long preserve) be payable and paid to her majesty's heirs and successors:

And it is hereby further declared, that such of the said proceeds of wreck as belong to her majesty in right of her duchy of Lancaster shall be paid to the receiver-general of the said duchy or his sufficient deputy or deputies as part of the revenues of the said duchy and be dealt with accordingly:

And it is hereby further declared and enacted, that the provision in the principal Act contained regarding the sale of unclaimed wreck to which no owner establishes his claim within the period of one year, and to which no admiral, vice-admiral, lord of any manor, or person other than her majesty, her heirs and successors, is proved to be entitled, is intended and shall be construed to apply to wreck of the sea belonging to her majesty, her heirs and successors, in respect of the duchy of Cornwall, or to the duke of Cornwall for the time being in respect of his duchy of Cornwall: but that the

proceeds of such wreck shall, subject to such deductions as are in the same Act mentioned, form part of the revenues of the duchy of Cornwall, and be dealt with accordingly. 25 & 26 Vict. c. 63.

Liability of Shipowners (Part IX. of Merchant Shipping Act, 1854).

54. The owners of any ship, whether British or foreign, shall not, in cases where all or any of the following events occur without their actual fault or privity, that is to say, Shipowners' liability limited.

(1.) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2.) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship;

(3.) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person carried in any other ship or boat;

(4.) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever on board any other ship or boat;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise, or other things, to an aggregate amount exceeding fifteen pounds for each ton of their ship's tonnage; nor in respect of loss or damage to ships, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding eight pounds for each ton of the ship's tonnage; such tonnage to be the registered tonnage in the case of sailing ships, and in the case of steam ships the gross tonnage without deduction on account of engine room:

In the case of any foreign ship which has been or can be measured according to British law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship:

In the case of any foreign ship which has not been and cannot be measured under British law, the surveyor general of tonnage in the united kingdom, and the chief measuring officer in any British possession abroad, shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as it may be found practicable to furnish, give a certificate under his hand, stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to British law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

55. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk. Limitation of invalidity of insurances.

56. In any proceeding under the 506th section of the principal Act or any Act amending the same against the owner of any ship or share therein in respect of loss of life, the master's list or the duplicate list of passengers delivered to the proper officer of customs under the 16th section of "The Passengers Act, 1855," shall, in the absence of proof to the contrary, be sufficient proof that the persons in respect of whose death any such prosecution or proceeding is instituted were passengers on board such ship at the time of their deaths. Proof of passengers on board lost ship.

Arrangements concerning Lights, Sailing Rules, Salvage, and Measurement of Tonnage in the case of Foreign Ships.

57. Whenever foreign ships are within British jurisdiction, the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, and all provisions of this Act relating to such regulations, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any British court of justice concerning matters happening within British jurisdiction, foreign ships shall, so far as regards such regulations and provisions, be treated as if they were British ships. Foreign ships in British jurisdiction to be subject to regulations in Table (C.) in schedule.

58. Whenever it is made to appear to her majesty that the government of any foreign country is willing that the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, or any of the said regulations, or any provisions of this Act relating to collisions, should apply to the ships of such country when beyond the limits of British jurisdiction, her majesty may, by order in council, direct that such regulations, and all provisions of this Act which relate to such regulations, and all such other provisions as aforesaid shall apply to the ships of the said foreign country, whether within British jurisdiction or not. Regulations when adopted by a foreign country, may be applied to its ships on the high seas.

59. Whenever it is made to appear to her majesty that the government of any foreign country is willing that salvage shall be awarded by British courts for services rendered in saving life from any ship belonging to such country when such ship is beyond the limits of British jurisdiction, her majesty may by order in council direct that the provisions of the principal Act and of this Act, with respect to salvage for services rendered in saving life from British ships, shall in all British courts be held to apply to services rendered in saving life from the ships of such foreign country, whether such services are rendered within British jurisdiction or not. Provisions concerning salvage of life may, with the consent of any foreign country, be applied to its ships on the high seas.

25 & 26 Vict. c. 63.

Ships of foreign countries adopting the rule for measurement of tonnage need not be re-measured in this country.

60. Whenever it is made to appear to her majesty that the rules concerning the measurement of tonnage of merchant ships for the time being in force under the principal Act have been adopted by the government of any foreign country, and are in force in that country, it shall be lawful for her majesty by order in council to direct that the ships of such foreign country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and thereupon it shall no longer be necessary for such ships to be re-measured in any port or place in her majesty's dominions, but such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other papers, in the same manner, to the same extent, and for the same purposes in, to, and for which the tonnage denoted in the certificates of registry of British ships is deemed to be the tonnage of such ships.

Effect of order in council.

61. Whenever an order in council has been issued under this Act, applying any provision of this Act, or any regulation made by or in pursuance of this Act, to the ships of any foreign country, such ships shall in all cases arising in any British court be deemed to be subject to such provision or regulation, and shall for the purpose of such provision or regulation be treated as if they were British ships.

Orders in council may be limited as to time and qualified.

62. In issuing any order in council under this Act her majesty may limit the time during which it is to remain in operation, and may make the same subject to such conditions and qualifications, if any, as may be deemed expedient, and thereupon the operation of the said order shall be limited and modified accordingly.

Orders in council may be revoked and altered.

63. Her majesty may by order in council from time to time revoke or alter any order previously made under this Act.

Orders in council to be published in London Gazette.

64. Every order in council to be made under this Act shall be published in the London Gazette as soon as may be after the making thereof; and the production of a copy of the London Gazette containing such order shall be received in evidence, and shall be proof that the order therein published has been duly made and issued; and it shall not be necessary to plead such order specially.

Legal Procedure.

20 & 21 Vict. c. 43, s. 8(a), not to apply to proceedings under board of trade or this Act, &c.

65. Nothing in the third section of the Act passed in the twentieth and twenty-first years of the reign of her present majesty, chapter forty-three, except so much thereof as provides for the payment of any fees that may be due to the clerk of the justices, shall be deemed to apply to extend to any proceeding under the direction of the board of trade, or under or by virtue of the provisions of the principal Act or this Act, or any Act amending the same.

Delivery of Goods and Lien for Freight.

Interpretation of terms:

66. The following terms used in the sections of this Act hereinafter contained shall have the respective meanings hereby assigned to them, if not inconsistent with the context or subject matter; that is to say,

"report;" — The word "report" shall mean the report required by the customs laws to be made by the master of any importing ship:

"entry;" — The word "entry" shall mean the entry required by the customs laws to be made for the landing or discharge of goods from an importing ship:

"goods;" — The word "goods" shall include every description of wares and merchandise:

"wharf;" — The word "wharf" shall include all wharves, quays, docks, and premises in or upon which any goods when landed from ships may be lawfully placed:

"warehouse;" — The word "warehouse" shall include all warehouses, buildings, and premises in which goods when landed from ships may be lawfully placed:

"wharf-owner;" — The expression "wharf owner" shall mean the occupier of any wharf, as hereinbefore defined:

"warehouse owner;" — The expression "warehouse owner" shall mean the occupier of any warehouse, as hereinbefore defined:

"ship-owner;" — The word "shipowner" shall include the master of the ship and every other person authorised to act as agent for the owner, or entitled to receive the freight, demurrage, or other charges payable in respect of such ship:

"owner of goods." — The expression "owner of goods" shall include every person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien, if any, to such lien.

Power to shipowner to enter and land goods in default of entry and landing by owner of goods.

67. Where the owner of any goods imported in any ship from foreign parts into the united kingdom fails to make entry thereof, or having made entry thereof to land the same or take delivery thereof and to proceed therewith with all convenient speed, by the times severally hereinafter mentioned, the shipowner may make entry of and land or unship the said goods at the times, in the manner, and subject to the conditions following; (that is to say,)

(a) Ante, Vol. ii. p. 996, tit. "JUSTICES OF THE PEACE."

(1.) If a time for the delivery of the goods is expressed in the charter-party, bill of lading, or agreement, then at any time after the time so expressed: 25 & 26 Vict. c. 63.

(2.) If no time for the delivery of the goods is expressed in the charter-party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, after the report of the ship:

(3.) If any wharf or warehouse is named in the charter-party, bill of lading, or agreement, as the wharf or warehouse where the goods are to be placed, and if they can be conveniently there received, the shipowner in landing them by virtue of this enactment shall cause them to be placed on such wharf or in such warehouse:

(4.) In other cases the shipowner in landing goods by virtue of this enactment shall place them in or on some wharf or warehouse on or in which goods of a like nature are usually placed; such wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the commissioners of customs for the landing of dutiable goods:

(5.) If at any time before the goods are landed or unshipped the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed so to do, and his entry shall in such case be preferred to any entry which may have been made by the shipowner:

(6.) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, and the owner of the goods at the time of such landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, such goods shall be assorted at landing, and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment; and the expense of and consequent on such landing and assortment shall be borne by the shipowner:

(7.) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and warehousing thereof at any particular wharf or warehouse other than that at which the ship is discharging, and has offered and been ready to take delivery thereof, and the shipowner has failed to make such delivery and has also failed at the time of such offer to give the owner of the goods correct information of the time at which such goods can be delivered, then the shipowner shall, before landing or unshipping such goods under the power hereby given to him, give to the owner of the goods or of such wharf or warehouse as last aforesaid twenty-four hours' notice in writing of his readiness to deliver the goods, and shall, if he lands or unships the same without such notice, do so at his own risk and expense.

If, when goods are landed, the shipowner give notice for that purpose, the lien for freight is to continue.

68. If, at the time when any goods are landed from any ship, and placed in the custody of any person as a wharf or warehouse owner, the shipowner gives to the wharf or warehouse owner notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount to be mentioned in such notice, the goods so landed shall, in the hands of the wharf or warehouse owner, continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof; and the wharf or warehouse owner receiving such goods shall retain them until the lien is discharged as hereinafter mentioned, and shall, if he fail so to do, make good to the shipowner any loss thereby occasioned to him.

Lien to be discharged on proof of payment.

69. Upon the production to the wharf or warehouse owner of a receipt for the amount claimed as due, and delivery to the wharf or warehouse owner of a copy thereof or of a release of freight from the shipowner, the said lien shall be discharged.

Lien to be discharged on deposit with warehouse owner.

70. The owner of the goods may deposit with the wharf or warehouse owner a sum of money equal in amount to the sum so claimed as aforesaid by the shipowner, and thereupon the lien shall be discharged; but without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

Warehouse owner may at the end of fifteen days, if no notice is given, pay deposit to shipowner.

71. If such deposit as aforesaid is made with the wharf or warehouse owner, and the person making the same does not within fifteen days after making it give to the wharf or warehouse owner notice in writing to retain it, stating in such notice the sum, if any, which he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, the wharf or warehouse owner may, at the expiration of such fifteen days, pay the sum so deposited over to the shipowner, and shall by such payment be discharged from all liability in respect thereof.

Course to be taken if notice to retain is given.

72. If such deposit as aforesaid is made with the wharf or warehouse owner, and the person making the same does within fifteen days after making it give to the wharf or warehouse owner such notice in writing as aforesaid, the wharf or warehouse owner shall immediately apprize the shipowner of such notice, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by such notice to be payable, and shall retain the remainder or balance, or, if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the said notice; and at the expiration of such thirty days, unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum or otherwise for the settlement of any disputes which may have arisen between them concerning such freight or other charges as aforesaid, and notice in writing of such proceedings has been served on him, the wharf or warehouse owner shall pay the said balance or sum over to

25 & 26 Vict. c. 63.

the owner of the goods, and shall by such payment be discharged from all liability in respect thereof.

After ninety days, warehouse owner may sell goods by public auction.

73. If the lien is not discharged, and no deposit is made as hereinbefore mentioned, the wharf or warehouse owner may, and, if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as he in his discretion thinks fit, sell by public auction, either for home use or exportation, the said goods or so much thereof as may be necessary to satisfy the charges hereinafter mentioned.

Notices of sale to be given.

74. Before making such sale the wharf or warehouse owner shall give notice thereof by advertisement in two newspapers circulating in the neighbourhood, or in one daily newspaper published in London and in one local newspaper, and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the wharf or warehouse owner, or is otherwise known to him, give notice of the sale to the owner of the goods by letter sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send notice as hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Monies arising from sale, how to be applied.

75. In every case of any such sale as aforesaid the wharf or warehouse owner shall apply the monies received from the sale as follows, and in the following order:

1. If the goods are sold for home use in payment of any customs or excise duties owing in respect thereof:
2. In payment of the expenses of the sale:
3. In the absence of any agreement between the wharf or warehouse owner and the shipowner concerning the priority of their respective charges, in payment of the rent, rates, and other charges due to the wharf or warehouse owner in respect of the said goods:
4. In payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods:
5. But in case of any agreement between the wharf or warehouse owner and the shipowner concerning the priority of their respective charges, then such charges shall have priority according to the terms of such agreement:

And the surplus, if any, shall be paid to the owner of the goods.

Warehouse owner's rent and expenses.

76. Whenever goods are placed in the custody of a wharf or warehouse owner under the authority of this Act, the said wharf or warehouse owner shall be entitled to rent in respect of the same, and shall also have power from time to time, at the expense of the owner of the goods, to do all such reasonable acts as in the judgment of the said wharf or warehouse owner are necessary for the proper custody and preservation of the said goods, and shall have a lien on the said goods for the said rent and expenses.

Warehouse owner's protection.

77. Nothing in this Act contained shall compel any wharf or warehouse owner to take charge of any goods which he would not be liable to take charge of if this Act had not passed; nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Act.

Saving powers under local Acts.

78. Nothing in this Act contained shall take away or abridge any powers given by any local Act to any harbour trust, body corporate, or persons whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor shall anything in this Act contained take away or diminish any rights or remedies given to any shipowner or wharf or warehouse owner by any local Act.

The SCHEDULE referred to in this Act.

TABLE (A.) See Sect. 2.

Enactments to be repealed.

Reference to Act.	Title of Act.	Extent of Repeal.
8 & 9 Vict. c. 91 .	An Act for the Warehousing of Goods.	Section 51 to be repealed immediately on the passing of this Act.
16 & 17 Vict. c. 107 .	Customs Consolidation Act, 1853.	The last proviso in section 74, and sections 170, 171 and 172 to be repealed immediately on the passing of this Act.
17 & 18 Vict. c. 104 .	Merchant Shipping Act, 1854.	Sections 295, 296, 297, 298, 299 to be repealed from the date at which the regulations contained in Table (C.) in this schedule come into operation. Sections 300, 322, 323, 504 and 505 to be repealed immediately on the passing of this Act.
19 & 20 Vict. c. 75 .	An Act for the further Alteration and Amendment of the Laws and Duties of Customs.	Section 8 to be repealed immediately on the passing of this Act.

TABLE (B.) See Sect. 6.

Fees to be charged on Examination of Engineers.

For a first-class engineer's certificate	£2	0	0
For a second-class engineer's certificate	1	0	0

TABLE (C.) See Sect. 25.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.

CONTENTS.

Article 1. Preliminary.

Rules concerning Lights.

2. Lights to be carried as follows :—
3. Lights for steamships.
4. Lights for steam tugs.
5. Lights for sailing ships.
6. Exceptional lights for small sailing vessels.
7. Lights for ships at anchor.
8. Lights for pilot vessels.
9. Lights for fishing vessels and boats.

Rules concerning Fog Signals.

10. Fog signals.

Steering and Sailing Rules.

11. Two sailing ships meeting.
12. Two sailing ships crossing.
13. Two ships under steam meeting.
14. Two ships under steam crossing.
15. Sailing ship and ship under steam.
16. Ships under steam to slacken speed.
17. Vessels overtaking other vessels.
18. Construction of articles 12, 14, 15, and 17.
19. Proviso to save special cases.
20. No ship under any circumstances to neglect proper precautions.

Preliminary.

Art. 1. In the following rules every steam ship which is under sail and not under steam is to be considered a sailing ship; and every steam ship which is under steam, whether under sail or not, is to be considered a ship under steam.

25 & 26 Vict.
c. 63.

Rules concerning Lights.

Art. 2. The lights mentioned in the following articles, and no others, shall be carried in all weathers between sunset and sunrise.

Art. 3. Seagoing steam ships when under weigh shall carry :

(*a.*) *At the Foremast Head*, a bright white light so fixed as to show an uniform and unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the ship, viz., from right ahead to two points abaft the beam on either side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least five miles :

(*b.*) *On the Starboard Side*, a green light so constructed as to throw an uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles :

(*c.*) *On the Port Side*, a red light, so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles :

(*d.*) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Art. 4. Steam ships when towing other ships shall carry two bright white mast-head lights vertically, in addition to their side lights, so as to distinguish them from other steam ships. Each of these mast-head lights shall be of the same construction and character as the mast-head lights which other steam ships are required to carry.

Art. 5. Sailing ships under weigh or being towed shall carry the same lights as steam ships under weigh, with the exception of the white mast-head lights, which they shall never carry.

Art. 6. Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck on their respective sides of the vessel ready for instant exhibition, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, they shall each be painted outside with the colour of the light they respectively contain, and shall be provided with suitable screens.

Art. 7. Ships, whether steam ships or sailing ships, when at anchor in roadsteads or fairways, shall between sunrise and sunset exhibit, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all round the horizon, and at a distance of at least one mile.

Art. 8. Sailing pilot vessels shall not carry the lights required for other sailing vessels, but shall carry a white light at the mast head visible all round the horizon,—and shall also exhibit a flare-up light every fifteen minutes.

Art. 9. Open fishing boats and other open boats shall not be required to carry side lights required for other vessels ; but shall, if they do not carry such lights, carry a lantern having a green slide on the one side and a red slide on the other side ; and on the approach of or to other vessels such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

Fishing vessels and open boats when at anchor or attached to their nets and stationary shall exhibit a bright white light.

Fishing vessels and open boats shall, however, not be prevented from using a flare-up in addition if considered expedient.

Rules concerning Fog Signals.

Art. 10. Whenever there is fog, whether by day or night, the fog signals described below shall be carried and used, and shall be sounded at least every five minutes ; viz :—

(*a.*) Steam ships under weigh shall use a steam whistle placed before the funnel not less than eight feet from the deck.

(*b.*) Sailing ships under weigh shall use a fog horn.

(*c.*) Steam ships and sailing ships when not under weigh shall use a bell.

Steering and Sailing Rules.

Art. 11. If two sailing ships are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Art. 12. When two sailing ships are crossing so as to involve risk of collision, then if they have the wind on different sides, the ship with the wind on the port side shall keep

out of the way of the ship with the wind on the starboard side, except in the case in which the ship with the wind on the port side is close hauled and the other ship free, in which case the latter ship shall keep out of the way; but if they have the wind on the same side, or if one of them has the wind aft, the ship which is to windward shall keep out of the way of the ship which is to leeward. 25 & 26 Vict. c. 63.

Art. 13. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port so that each may pass on the port side of the other.

Art. 14. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 15. If two ships, one of which is a sailing ship and the other a steam ship, are proceeding in such directions as to involve risk of collision, the steam ship shall keep out of the way of the sailing ship.

Art. 16. Every steam ship, when approaching another ship so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse; and every steam ship shall, when in a fog, go at a moderate speed.

Art. 17. Every vessel overtaking any other vessel shall keep out of the way of the said last-mentioned vessel.

Art. 18. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course, subject to the qualifications contained in the following article.

Art. 19. In obeying and construing these rules due regard must be had to all dangers of navigation; and due regard must also be had to any special circumstances which may exist in any particular case rendering a departure from the above rules necessary in order to avoid immediate danger.

Art. 20. Nothing in these rules shall exonerate any ship or the owner or master or crew, therefore, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look out, or of the neglect of any precaution which may be required by the ordinary practice of seamen or by the special circumstances of the case.

26 & 27 Vict. c. 30. An Act to authorize further Harbour Regulations for the Protection of Her Majesty's Ships, Dockyards, and Naval Stations. [22nd June, 1863]. 26 & 27 Vict. c. 30.

"Whereas an Act, to which the term The Dockyards Protection Act when hereinafter used refers, was passed in the fifty-fourth year of king George the third (chapter one hundred and fifty-nine), 'For the better Regulation of the several Ports, &c.:' And whereas by the said Act (among other things) authority was given for the making of rules, orders and regulations for the preservation of his majesty's moorings, and for the mooring, anchoring, and placing of private ships and craft in the ports, harbours, havens, roadsteads, sounds, channels, creeks, bays and navigable rivers of the united kingdom, so far as the tide flows and reflows, where or near to which his majesty then had, or where his majesty, his heirs, or successors, might thereafter have any docks, dockyards, arsenals, wharfs or mooring, for the purpose of ensuring free and safe ingress, egress, and regress unto, into and from those ports and waters, and to and from his majesty's docks and other property aforesaid therein, and for the ordering and marking out of such spaces near the same as should be judged necessary to be kept free and open, and for the appropriation of mooring places for his majesty's ships, and for the specifying of distances from his majesty's ships, hulks, docks, and other property aforesaid, within which no private ship or craft should be moored, anchored or placed, and for the altering from time to time of such rules, orders, and regulations, as occasion should require for the purposes aforesaid; all which rules, orders and regulations it was thereby enacted should, upon the making thereof, and also whenever altered, be published in the London Gazette, and, being printed and put upon pasteboard, should be constantly kept hung up in some open and conspicuous part of the custom house or other place of public resort for business in the port, harbour or haven affected: And whereas in the same Act provision was also made, by the imposition of pecuniary penalties and otherwise, for (among other things) the preventing of private ships or craft from being moored, anchored or placed in the fairway or channel or across the stream in any such port, harbour, haven or navigable river, so as to obstruct the passage or entrance into the same, and for the removal of private ships and craft from prohibited positions, and for confining the breaming of ships to particular parts of the shore, and for restricting the carrying of gunpowder, and the keeping of fire on board ship, and the heating of pitch or other combustible matter on board ship within the specified distances of his majesty's ships, dockyards and other property, and the keeping of shotted guns and the firing of guns on board ship in such waters as aforesaid: And whereas it may in some instances be also desirable, with a view to the better protection of her majesty's ships and property in her dockyards and naval stations, and to the interests of her majesty's naval service, that there should be authority for the making of rules, orders and regulations in manner directed by the Dockyards Protection Act, for restricting the speed of steamers within harbours under particular circumstances or in particular positions, and for enforcing the constant attendance of shipkeepers on 54 Geo. 3, c. 159.

26 & 27 Vict. c. 30.

board vessels within harbours near her majesty's dockyards and naval stations:" BE IT THEREFORE ENACTED as follows:

Rules, &c., made under recited Act may be extended for purposes herein named.

1. Any rules, orders and regulations, from time to time made under the Dockyards Protection Act may, where it seems expedient with a view to the better protection of her majesty's ships, dockyards or property, or to the requirements of her majesty's naval service, extend, in addition to the purposes in that Act mentioned, to the following purposes, or either of them; namely,

(1.) To prohibit the navigating of steam vessels at a greater speed than five nautical miles an hour in any specified part of any port, harbour, haven, or navigable river for which under the Dockyards Protection Act, rules, orders and regulations may be made:

(2.) To require the presence of at least one person at all hours of the day and night on board every ship or vessel, lighter, barge or other craft above a specified size, anchored, moored or placed in any specified part of any such port, harbour, haven or navigable river.

Reasonable pecuniary penalties may be imposed for breach of rules.

2. And such rules, orders and regulations, may impose such reasonable pecuniary penalties as may seem fit, not exceeding five pounds for each breach thereof, but they shall be so framed as to allow the justices or other authority before whom any such penalty is sought to be recovered to order part only of the penalty to be paid.

Penalties to be recoverable under this Act.

This Act and recited Act, &c., to be construed together.

3. Every such penalty shall be recoverable and applicable as pecuniary penalties under the Dockyards Protection Act, and any Act amending the same, are recoverable and applicable. The provisions of the Dockyards Protection Act respecting the indemnity of persons acting in pursuance thereof shall apply to persons acting in pursuance of rules, orders and regulations, made under the authority of this Act; and generally, as far as may be, this Act shall be construed together with the Dockyards Protection Act, and any Act amending the same, as one Act.

26 & 27 Vict. c. 51.

26 & 27 Vict. c. 51. An Act to amend the Passengers Act. 1855.

[13th July, 1863].

18 & 19 Vict. c. 119.

"Whereas it is expedient to amend 'The Passengers Act, 1855,' in the particulars hereinafter mentioned:" BE IT THEREFORE ENACTED as follows:

Short title.

1. This Act may be cited for all purposes as "The Passengers Act Amendment Act, 1863."

Commencement of Act.

2. This Act shall come into operation on the first day of October, one thousand eight hundred and sixty-three.

Definition of "passenger ship" in section 3 of recited Act repealed, and other provisions made.

3. The definition in the third section (a) of "The Passengers Act, 1855," of the term "passenger ship," is hereby repealed, and for the purposes of the said Act and of this Act the term "passenger ship" shall signify every description of sea-going vessel, whether British or foreign, carrying, upon any voyage to which the provisions of the said "Passengers Act, 1855," shall extend, more than fifty passengers, or a greater number of passengers than in the proportion of one statute adult to every thirty-three tons of the registered tonnage of such ships, if propelled by sails, or than one statute adult to every twenty tons, if propelled by steam.

Mail steamers carrying other than cabin passengers to be subject to the Act.

4. So much of the fourth (b) section of the said "Passengers Act, 1855," as exempts from the operation of the Act any steam vessel carrying mails under contract with the government of the state or colony to which such vessel may belong, is hereby repealed, and every steam vessel, whether British, foreign or colonial, which shall carry passengers other than cabin passengers in sufficient number to bring such vessel within the definition of a passenger ship, as set forth in the third section of this Act, shall be subject to the provisions of the said Act and of this Act in like manner as any passenger ship not carrying a mail.

Repeal of tonnage check on number of passengers to be carried in a passenger ship.

5. The first rule of the fourteenth (c) section of the said "Passengers Act, 1855," which limits the number of persons to be carried in a passenger ship by her registered tonnage, together with so much of the concluding portion of the same section as relates to such rule, is hereby repealed, except so far as relates to any penalty incurred or legal proceedings taken thereunder.

Cabin passengers to be included in passenger lists.

6. In the passenger lists required by the sixteenth (d) and seventeenth sections of "The Passengers Act, 1855," to be delivered by the master of every ship before demanding a clearance, there shall be set forth in addition to the other particulars required by "The Passengers Act, 1855," the names of all cabin passengers on board such ships, specifying whether they respectively are under or over twelve years of age, and at what place the passengers and cabin passengers respectively are to be landed, and the schedule B. to the said Act shall be altered accordingly.

(a) Ante, p. 392.
(b) Ibid.
(c) Ante, p. 394.
(d) Ante, p. 395.

7. The limit of the penalty imposed by the eighteenth (a) section of the said "Passengers Act, 1855," on persons convicted of getting on board any passenger ship with intent to obtain a passage therein without the consent of the owner, charterer, or master thereof, and on persons aiding or abetting in such fraudulent attempt, shall be extended from five pounds to twenty pounds.

26 & 27 Vict. c. 51. Limit of penalty on stowaway extended from 5l. to 20l.

8. Notwithstanding the prohibition contained in the twenty-ninth (b) section of the said "Passengers Act, 1855," horses and cattle may be carried as cargo in passenger ships, subject to the following conditions:

Horses and cattle may be carried in passenger ships, under conditions herein named.

(1.) That the animals be not carried on any deck below the deck on which passengers are berthed, nor in any compartment in which passengers are berthed, nor in any adjoining compartment, except in a ship built of iron, and of which the compartments are divided off by water-tight bulkheads extending to the upper deck:

(2.) That clear space on the spar or weather deck be left for the use and exercise of the passengers, at the rate of at least ten superficial feet for each statute adult:

(3.) That no greater number of passengers be carried than in the proportion of fifteen to every one hundred tons of the ship's registered tonnage:

(4.) That in passenger ships of less than five hundred tons registered tonnage not more than two head of large cattle be carried, nor in passenger ships of larger tonnage more than one additional head of such cattle for every additional two hundred tons of the ship's registered tonnage, nor more in all in any passenger ship than ten head of such cattle: the term "large cattle" shall include both sexes of horned cattle, deer, horses, and asses; four sheep of either sex, or four female goats, shall be equivalent to, and may, subject to the same conditions, be carried in lieu of one head of large cattle:

Definition of the term "large cattle."

(5.) That proper arrangements be made, to the satisfaction of the emigration officer at the port of clearance, for the housing, maintenance, and cleanliness of the animals, and for the stowage of their fodder:

(6.) Not more than six dogs, and no pigs or male goats, shall be conveyed as cargo in any passenger ship: for any breach of this prohibition, or of any of the above conditions, the owner, charterer, and master of the ship, or any of them, shall be liable for each offence to a penalty not exceeding three hundred pounds nor less than five pounds.

Dogs and pigs.

9. The requirements of the thirty-fifth section (c) of the said "Passengers Act, 1855," that six ounces of lime juice should be issued weekly to each statute adult on voyages exceeding eighty-four days in duration for sailing vessels, or fifty days for steamers, shall be confined to the period when the ship shall be within the tropics; during the other portions of the voyage the issue of lime juice shall be at the discretion of the medical practitioner on board; or, if there be no such practitioner on board, at the discretion of the master of the ship.

Issue of lime juice.

10. In addition to the substitutions in the dietary scales specified in the thirty-fifth section (d) of the said "Passengers Act, 1855," soft bread baked on board may be issued, at the option of the master of any passenger ship, in lieu of the following articles, and in the following proportions; (that is to say,) one pound and a quarter of a pound of such soft bread may be issued in lieu of one pound of flour, or of one pound of biscuit, or of one pound and a quarter of a pound of oatmeal, or of one pound of rice, or of one pound of peas.

Substitution of soft bread for other bread stuffs.

11. The forty-sixth section (d) of the said "Passengers Act, 1855," shall be applicable to cabin as well as to other passengers landed on account of sickness; and the passage money of all cabin or other passengers so landed may be recovered in the manner pointed out in the said Act, upon the delivery up of their contract tickets, and notwithstanding that the ship may not have sailed: provided always, that in the case of cabin passengers so landed one half only of their passage money shall be recoverable.

Sect. 46 of recited Act to apply to cabin passengers, and passage money made recoverable immediately on relanding.

12. The twelfth, fifty-first, fifty-third, and fifty-fourth sections (e) of the said "Passengers Act, 1855," shall be and the same are hereby repealed, except as to the recovery and application of any penalty for any offence committed against the said Act, and except so far as may be necessary for supporting or continuing any proceedings heretofore taken or hereafter to be taken thereunder; and in lieu of the enactments contained in such sections the enactments in the four next following sections shall respectively be substituted; (that is to say,)

Sections 12, 51, 53, and 54, of recited Act repealed, and other provisions substituted.

13. If any passenger ship shall clear out or proceed to sea without the master having first obtained such certificate of clearance, or without his having joined in executing such bond to the crown as by the said "Passengers Act, 1855," are required, or if such ship, after having put to sea, shall put into any port or place in the united kingdom in a damaged state, and shall leave or attempt to leave such port or place with passengers on board without the master having first obtained such certificate of clearance as is re-

Forfeiture of ship if master proceeds to sea without certificate of clearance, &c.

(a) Ante, p. 395.
(b) Ante, p. 397.
(c) Ante, p. 399.
(d) Ante, p. 402.
(e) Ante, p. 404.

26 & 27 Vict. c. 51.

Such ship to be dealt with as if seized under customs laws.

Power to secretary of state to release ships on payment of a sum of money.

quired by section fifty of the said "Passengers Act, 1855," such ship shall be forfeited to the use of her majesty, and may be seized by any officer of customs, if found, within two years from the commission of the offence, in any port or place in her majesty's dominions; and such ship shall thereupon be dealt with in the same manner as if she had been seized as forfeited for an offence incurring forfeiture under any of the laws relating to the customs: provided that it shall be lawful for one of her majesty's principal secretaries of state to release, if he shall think fit, any such forfeited ship from seizure and forfeiture, on payment by the owner, charterer, or master thereof, to the use of her majesty, of such sum not exceeding two thousand pounds as such secretary of state may by any writing under his hand specify.

In case of wreck or damage in or near united kingdom, passengers to be provided with a passage by some other vessel, and maintained in the meantime.

14. If any passenger ship shall be wrecked, or otherwise rendered unfit to proceed on her intended voyage, while in any port of the united kingdom, or after the commencement of the voyage, and if the passengers, or any of them, shall be brought back to the united kingdom, or if any passenger ship shall put into any port or place in the united kingdom in a damaged state, the master, charterer, or owner shall, within forty-eight hours thereafter, give to the nearest emigration officer, or in the absence of such officer to chief officer of customs, a written undertaking to the following effect; that is to say, if the ship shall have been wrecked, or rendered unfit as aforesaid to proceed on her voyage, that the owner, charterer, or master thereof shall embark and convey the passengers in some other eligible ship, to sail within six weeks from the date thereof, to the port or place for which their passages respectively had been previously taken; and if the ship shall have put into port in a damaged state, then that she shall be made seaworthy, and fit in all respects for her intended voyage, and shall, within six weeks from the date of such undertaking, sail again with her passengers; in either of the above cases the owner, charterer, or master shall, until the passengers proceed on their voyage, either lodge and maintain them on board in the same manner as if they were at sea, or pay to them subsistence money after the rate of one shilling and sixpence a day for each statute adult, unless the passengers shall be maintained in any hulk or establishment under the superintendence of the emigration commissioners mentioned in the said "Passengers Act, 1855," in which case the subsistence money shall be paid to the emigration officer at such port or place. If the substituted ship or damaged ship, as the case may be, shall not sail within the time prescribed as aforesaid, or if default shall be made in any of the requirements of this section, such passengers respectively, or any emigration officer on their behalf, shall be entitled to recover by summary process, as in the said "Passengers Act, 1855," is mentioned, all moneys which shall have been paid by or on account of such passengers or any of them for such passage, from the party to whom or on whose account the same may have been paid, or from the owner, charterer, or master of such ship, or any of them, at the option of such passenger or emigration officer: provided that the said emigration officer may, if he shall think it necessary, direct that the passengers shall be removed from such damaged "passenger ship," at the expense of the master thereof; and if after such direction any passenger shall refuse to leave such ship, he shall be liable to a penalty not exceeding forty shillings, or to imprisonment not exceeding one calendar month.

Power to remove passengers from damaged ship;

Penalty on passengers refusing.

Governors or consuls may send on passengers if the master of the ship fail to do so.

15. If any passenger or cabin passenger of any passenger ship shall, without any neglect or default of his own, find himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he or the emigration commissioners, or any public officer or other person on his behalf, may have contracted that he should land, it shall be lawful for the governor of such colony, or for any person authorised by him for the purpose, or for her majesty's consular officer at such foreign port or place as the case may be, to forward such passenger to his intended destination, unless the master of such ship shall, within forty-eight hours of the arrival of such passenger, give to the governor or consular officer, as the case may be, a written undertaking to forward or carry on, within six weeks thereafter, such passenger or cabin passenger to his original destination, and unless such master shall accordingly forward or carry him on within that period.

Expenses incurred under the two preceding sections to be a debt due to the crown.

16. All expenses incurred under the last preceding section or under the fifty-second section (*a*) of "The Passengers Act, 1855," or either of them, by or by the authority of such secretary of state, governor, or consular officer, or other person, as therein respectively mentioned, including the cost of maintaining the passengers until forwarded to their destination, and of all necessary bedding, provisions, and stores, shall become a debt to her majesty and her successors from the owner, charterer, and master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of her majesty, in like manner as in the case of other crown debts; and a certificate in the form in schedule (A) hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such secretary of state, governor, or consular officer, (as the case may be,) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the handwriting or of the official character of such secretary of state, governor, or consular officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred, nor shall it be necessary to adduce on behalf of her majesty any other evidence in support of the claim, but

(*a*) Ante, p. 404.

judgment shall pass for the crown, with costs of suit, unless the defendant shall specially plead and duly prove that such certificate is false or fraudulent, or shall specially plead and prove any facts showing that such expenses were not duly incurred under the provisions of this Act, and of the said "Passengers Act, 1855," or either of them: provided nevertheless, that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received or due to and recoverable by or on account of the owner, charterer, or master of such passenger ship, or any of them, for or in respect of the whole number of passenger and cabin passengers who may have embarked in such ship, which total amount of passage money shall be proved by the defendant, if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage under the provisions of the said "Passengers Act, 1855."

26 & 27 Vict. c. 51.

Passengers forwarded by governor, &c., not entitled to return of passage money.

17. In the case of a passenger ship, of which neither the owners nor charterers reside in the united kingdom, the bond required to be given to the crown by the sixty-third section of the "Passengers Act, 1855," shall be for the sum of five thousand pounds instead of two thousand pounds; and an additional condition shall be inserted in such bond to the effect that the obligors therein shall, subject to the provisions and limitations hereinbefore contained, be liable for and shall pay to her majesty and her successors, as a crown debt, all expenses which may be incurred under the provisions hereinbefore and in the "Passengers Act, 1855," contained, in rescuing, maintaining, and forwarding to their destination any passengers of such ships who by reason of shipwreck or any other cause, except their own neglect or default, may not be conveyed to their intended destination by or on behalf of the owner, charterer, or master of such ship.

Bond to repay expenses of rescuing and forwarding shipwrecked passengers, where owners and charterers of vessel reside abroad.

18. The said "Passengers Act, 1855," and this Act, shall be construed together as one Act.

Recited Act and this to be as one.

SCHEDULE (A).

Form of Governor's or Consul's Certificate of Expenditure in the Case of Passengers shipwrecked, &c.

I hereby certify, that, acting under and in conformity with the provisions of the British "Passengers Act, 1855," and of the "Passengers Act Amendment Act, 1863," I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions, and stores (*a*), and in forwarding to their destination passengers [including cabin passengers (*b*)], who were proceeding from to in the passenger ship , which was wrecked at sea, &c. (*c*).

And I further certify, for the purposes of the tenth section of the said "Passengers Amendment Act, 1863," that the total amount of such expenses is pounds, and that such expenses were duly incurred by me under the said Acts or one of them.

Given under my hand, this day of 18 .

{ *Governor of, &c.* (or as the case may be,) *her Britannic Majesty's Consul at*

(*a*) N.B.—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(*b*) N.B.—2. Omit words in brackets when necessary.

(*c*) N.B.—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind, without any default of their own, state the fact accordingly.

SPIRITUOUS LIQUORS.

24 Geo. 2, c. 40, intituled (*inter alia*) And for the more effectually restraining the retailing of distilled spirituous Liquors. [A.D. 1751.]

24 G. 2, c. 40.

12. [That no person or persons whatsoever shall be entitled unto, or maintain any cause, action, or suit for, or recover either in law or equity, any sum or sums of money, debt or demands whatsoever, for or on account of any spirituous liquors (*a*), unless such debt shall have really been, and *bonâ fide* contracted at one time to the amount of twenty shillings and upwards, nor shall any particular article or item in any account or demand for distilled spirituous liquors be allowed or maintained, where the liquors delivered at one time, and mentioned in such article or item, shall not amount to the full value of twenty shillings at the least (*b*)], and that without fraud or covin, and where no part of the liquors so sold or delivered shall have been returned or agreed to be returned directly or indirectly (*c*); and in case any retailer of spirituous liquors, with

No debt under 20*s.* for spirituous liquors contracted at one time recoverable.

(*a*) The statute extends to spirits mixed with water (*Scott* v. *Gillmore*, 3 Taunt. 226).

(*b*) So much of this statute as is within brackets is repealed by 25 & 26 Vict. c. 38, post.

(*c*) In *Scott* v. *Gillmore*, 3 Taunt. 226, it was held that a bill of exchange, part of the consideration for which was spirituous liquors sold in less quantities than 20*s.* value, was totally void (see also *Gaitskill* v. *Greathead*, 1 Dowl. & R. 359). It was in one case held, that the Act only applied to selling in small quantities to the con-

24 G. 2, c. 40. Retailer taking a pledge for liquors to forfeit 40s.

or without a licence, shall take or receive any pawn or pledge from any person or persons whatsoever, by way of security for the payment of any sum or sums of money owing by such person or persons for such spirituous liquors or strong waters, every such person or persons offending herein shall forfeit and lose the sum of forty shillings for each and every pawn or pledge so taken in or received by him or them, to be levied and recovered by warrant under the hand and seal of one justice of the peace where the offence is committed, and that one moiety thereof shall be to the use of the poor of the parish where such offence is committed, and the other moiety to the informer or informers; and the person or persons to whom any such pawn or pledge doth or shall belong, shall have the same remedy for recovering such pawn, or the value thereof, as if it had never been pledged.

Owner may recover pledge.

25 & 26 Vict. c. 38.

25 & 26 Vict. c. 38. An Act to amend the Laws relating to the Sale of Spirits. [17th July, 1862.]

Section 12 of 24 Geo. 2, c. 40, enacting that no action should be brought to recover any debt for spirituous liquors, unless contracted at one time to the amount of 20s., repealed.

"Whereas by the twelfth section of 24 Geo. 2, c. 40, [reciting so much of the section as is within brackets (a)]; That so much of the said enactment as is hereinbefore recited shall be and the same is hereby repealed, so far only as relates to spirituous liquors sold to be consumed elsewhere than on the premises where sold, and delivered at the residence of the purchaser thereof in quantities not less at any one time than a reputed quart.

STAMPS (b).

1 Anne, st. 2, c. 22.

1 Anne, st. 2, c. 22. An Act for preventing Frauds in Her Majesty's Duties upon stamped Vellum, Parchment, and Paper. [A.D. 1702.]

All writings, &c., to be written either on or near the stamps, &c.

5. That all writings, matters, and things (in respect whereof any of the said duties shall be payable and which shall be engrossed or written, after the said 25th day of

---

sumer, and did not extend to a retailing to a dealer who was to sell again (*Jackson* v. *Attrill*, Peake, 181); but that case is now overruled (*Hughes* v. *Done*, 1 Q. B. 294). A bill of exchange accepted by an officer in the recruiting service, in payment of small quantities of spirits, each under the value of 20*s.*, supplied by a publican, to be used out of his house by recruits and others, under the command of the acceptor, was held to be valid (*Spencer* v. *Smith*, 3 Camp. 9).

The Act applies, it seems, to the sale, by an innkeeper, of spirits to a guest residing in his inn (*Burnyeat* v. *Hutchinson*, 5 B. & Ald. 241; *Gilpin* v. *Rendle*, 1 Selw. N. P. 55: see *Hughes* v. *Done*, supra); though the contrary was ruled in one case (*Preston* v. *Nicholson*, 7 Car. & P. 67). Where a publican took from a person who boarded and lodged in his house a bill and a note, both at one time, for his score, part of which consisted of a demand for spirits, but not to the amount of either bill or note, and money was also paid on account: it was held, in an action on the securities, that although they were given at the same time, the plaintiff might recover on one of them; and also that he might (in the absence of any appropriation by the defendant) apply the money paid on account in reduction of the demand for spirits (*Crookshank* v. *Rose*, 5 Car. & P. 19; see also *Philpott* v. *Jones*, 2 Ad. & E. 41; 4 Nev. & M. 14). So, where parties, having cross demands, settle and balance their accounts, it is no defence to an action brought for such balance that a great part of the amount was for spirituous liquors supplied in quantities under 20*s.* in value (*Dawson* v. *Remnant*, 6 Esp. 24). If a person sells two kinds of spirits at the same time to an amount above 20*s.* he may recover the price, though the amount of each kind was under 20*s.* (*Owens* v. *Porter*, 4 Car. & P. 367).

The replication de injuriâ was good to a plea under this statute (*Lansdale* v. *Clarke*, 5 D. & L. 95, 1 Exch. 78).

(a) So much of this statute as is within brackets is repealed by 25 & 26 Vict. c. 38, post.

(b) See in general, Collins on Stamps; Tilsley on Stamps; Chitty on Stamps; Stark. Ev. vol. iii. tit. Agreement and Stamps; Phill. Ev.; Rosc. Ev.; 3 Ch. Com. L.; and the Supplement to Bythewood's Conveyancing.

It is a well settled rule of law, that every charge on the subject must be imposed by clear unambiguous words (*Denn* v. *Damond*, 4 B. & C. 245; *Doe* v. *Snaith*, 8 Bing. 153; *Wroughton* v. *Turtle*, 11 M. & W. 561).

The stamp Acts affect almost all instruments made in England and Ireland, but not those really made abroad or at sea (*Ximenes* v. *Jaques*, 1 Esp. 311). Where a contract is made in England, though in relation to property abroad, it must be stamped with an English stamp (*Stonelake* v. *Babb*, 5 Burr. 2673; *Abraham* v. *Dubois*, 4 Camp. 269; *Amner* v. *Clark*, 2 C. M. & R. 468); and bills drawn in England on a foreign country must be stamped; even promissory notes made abroad must pay the same duty as on English notes, before they are negotiated or paid in Great Britain, with an exception of notes made and payable only in Ireland (55 Geo. 3, c. 184, s. 29;) and bills purporting to be drawn abroad, are to be

March, 1708), shall be written in such manner, that some part thereof shall be either upon, or as near as conveniently may be to the stamps or marks, which shall (in pur- 1 Anne, st. 2, c. 22.

deemed foreign bills as regards the stamp duty, notwithstanding that in fact they have been drawn within the united kingdom (17 & 18 Vict. c. 83, s. 4, post).

An agreement made in a British plantation cannot be sued upon here, if it appear that by the revenue laws of that country it would not have been available there without a stamp (*Alves* v. *Hodgson*, 7 T. R. 241; 2 Esp. 528; *Clegg* v. *Levy*, 3 Camp. 166; and see *Snaith* v. *Mingay*, 1 M. & Sel. 87). And by the 1 & 2 Geo. 4, c. 55, deeds executed in England relating to property in Ireland are to be stamped as deeds executed in that part of the united kingdom ought to be, although they contain covenants to pay obligatory in England, and so *vice versâ* (see also 1 & 2 Vict. c. 85, post).

But, in general, our courts take no notice of the revenue laws of a foreign independent country (*James* v. *Catherwood*, 3 D. & R. 190; see Tilsley on Stamps, 166); and unless by those laws the want of a stamp renders the contract *void*, they will not be regarded here (*Bristow* v. *Sequeville*, 5 Exch. 275).

The articles of a foreign ship made abroad, regulating the wages of the sailors, &c., even where the sailor had been hired in London, and which articles were lodged with the consul in London, may be given in evidence of the agreement for the hiring and wages to the sailor, without being stamped (*per* Eyre, J., *Winbled* v. *Malmberg*, 1 Esp. 454).

With respect to foreign bills, drawn abroad, it is clear that the legislature never intended to subject them to the local revenue law of this country (*Crutchley* v. *Mann*, 1 Marsh. 29; 5 Taunt. 529). And where a bill was drawn and indorsed in Ireland, and blanks left for the date, sum, time when payable, and the name of the drawee, and transmitted to England, where it was completed and negotiated, it was held that this was to be considered as a bill of exchange from the time of signing and indorsing it in Ireland, and that an English stamp was unnecessary (*Snaith* v. *Mingay*, 1 M. & Sel. 87; *Crutchley* v. *Mann*, 5 Taunt. 529; 1 Marsh. 29; *Holdsworth* v. *Hunter*, 10 B. & C. 449; see further, Tilsey on Stamps, 167).

A bond for foreign stock, signed in Paris but issued in England, does not require an English stamp (*Yrisarri* v. *Clement*, 2 Car. & P. 223).

An instrument must be stamped according to the manner in which it operates at the time of execution (*Weddall* v. *Capes*, 1 M. & W. 50); and if not duly stamped it cannot, in general, be received in evidence for any purpose whatever beneficial to the party producing it. But for collateral purposes, as to prove usury, or that a party has been guilty of a crime, it may be read in evidence (3 Stark. Ev. 1058), as to prove a forgery (*Rex* v. *Hawksworth*, 1 T. R. 450); for an unstamped instrument cannot, in general, be produced for a purpose which involves the assumption of its being operative, therefore an unstamped policy of insurance was formerly inadmissible on an indictment for arson (*Rex* v. *Gillson*, 1 Taunt. 95; *Rex* v. *Hall*, 3 Stark. 67); but now the want of a stamp does not affect the admissibility of any instrument in a criminal proceeding (17 & 18 Vict. c. 83, s. 27, post).

An agreement, which is part of a fraudulent or illegal transaction, may be read without a stamp to prove the fraud or illegality (as usury, bribery, fraud, &c.), for it is then used to show the intention of the parties, and is not assumed, in favour of the party producing it, to be valid or operative (*Rex* v. *Fowle*, 4 Car. & P. 592; *Holland* v. *Duffin*, Peake, 58; *Nash* v. *Duncomb*, 1 M. & Rob. 104; *Coppock* v. *Bower*, 4 M. & W. 361; *Keable* v. *Payne*, 8 Ad. & E. 555; *Reg.* v. *Gompertz*, 9 Q. B. 824, overruling as it seems *Whitwell* v. *Dimsdale*, Peake, 168): as where, in an action by the plaintiff against a stakeholder to recover a sum of money deposited as a wager on a trotting match by the plaintiff, whose horse was beaten, the plaintiff, for the purpose of proving fraud, which consisted in one horse having been substituted for another, tendered in evidence an unstamped agreement relating to the match: it was held to be admissible (*Holmes* v. *Sixsmith*, 8 Exch. 803, 21 L. J. Exch. 312). So, the handwriting of an unstamped note may be looked at for proof that the maker was drunk during the transaction in question (*Gregory* v. *Fraser*, 3 Camp. 454; see 7 Scott, N. R. 789, n.). And evidence of payment by a bill of exchange may be rebutted by producing the instrument without a stamp, and so showing that it was unavailable (*Smart* v. *Nokes*, 7 Scott, N. R. 786). On the trial of an issue as to the validity of an assignment of goods alleged to be fraudulent, a former unstamped and cancelled assignment of the same goods to the same person was rejected (*Williams* v. *Gerry*, 10 M. & W. 296). Where A. and B. verbally agreed for a tenancy on the same terms as were contained in a certain written agreement, between A. & C., it was held that that writing, which bore an agreement stamp but required a lease stamp, was inadmissible to prove the terms of B.'s tenancy (*Turner* v. *Power*, 7 B. & C. 625). But if, as appears to have been the case, the verbal agreement identified the writing, this decision seems to be erroneous, for the writing was not referred to as containing a valid contract, but the words written down in it were

1 Anne, st. 2, c. 22. Penalty.

sance of the said Acts, or any of them) be placed on the vellum, parchment, or paper whereupon the same shall be written or engrossed; upon pain that the person who shall write or engross, or cause to be written or engrossed, any such writing, matter, or thing,

---

incorporated by reference in the parol agreement, and that did not render it liable to a stamp. For the purpose of the reference, it was immaterial whether that agreement had been executed or not (*Drant* v. *Brown*, 3 B. & C. 665; see *Duck* v. *Braddyl*, M'Clel. 217, Jarm. Suppl., by Sweet, 62).

In *Walliss* v. *Broadbent* (4 Ad. & E. 877), where it was attempted to make out an implied contract of tenancy upon the terms of an expired lease, it was held, that the lease, not being properly stamped, was inadmissible, for it was required to prove, not merely the terms of the new parol contract, but the fact of the former existence of the old contract. But Coleridge, J., said: "I do not wish to be bound to an assertion, that if there had been an express promise to hold upon the terms contained in the original instrument, the mere production of the instrument, without proof of the execution or stamp, might not be sufficient."

An unstamped instrument may be produced as part of a chain of evidence to establish a fact; as a cheque drawn beyond the legal limit to prove the receipt of money by means of it, though not to discharge the banker, the drawing and presentment of the cheque being part of the *res gesta* (*Blair* v. *Bromley*, 11 Jur. 617).

An instrument which is capable of two distinct operations, or which may be used for two distinct purposes, one of which does and the other does not require a stamp, may be read for the latter purpose alone without a stamp. Thus, an unstamped agreement for a dissolution of partnership may be read as an admission of the existence of the partnership (*Wheldon* v. *Matthews*, 2 Chit. 399). So an admission of the possession of goods, in an unstamped agreement for making other goods, may be read (*Forsyth* v. *Jervis*, 1 Stark. 437; see *Keane* v. *Janes*, 2 Car. & K. 725, contra). So, a receipt indorsed on a mortgage deed, and containing matter of agreement, may be read as to the receipt without a stamp (*Odye* v. *Cookney*, 1 Moo. & R. 517; see *Grey* v. *Smith*, 1 Camp. 387). So, a bill of parcels having an unstamped receipt subscribed, to show to whom the goods were sold (*Millen* v. *Deal*, 10 Q. B. 846; *Hawkins* v. *Warre*, 3 B. & C. 690).

Where an unstamped document purports to be and is a receipt, but also purports to be something else, as in cases where debtor and creditor accounts appear set out between the parties, making a certain balance due, and the paper contains a receipt for the supposed balance, whether it was paid in money or only settled in account, if the object of the parties is not to prove the fact of that particular balance having been paid, but merely to show that the parties to the account acknowledged the state of the account at a particular moment, it may be produced for that purpose, whether the money has been paid or not (*per* Lord Cottenham, *Matheson* v. *Ross*, 2 H. L. Cas. 301); but such document cannot be used for the purpose of proving the receipt of money in any way (*Ib.* 286).

But if the stamp would be sufficient for either purpose, standing alone, and each requires a separate stamp, the instrument cannot be read as either, for there is no means of appropriating the stamp to either (see *Lovelock* v. *Franklyn*, 8 Q. B. 371; *Wharton* v. *Walton*, 7 Q. B. 474). It is on the same principle that an instrument, originally valid and duly stamped, but afterwards rendered either void or inadmissible as a continuing obligation, by alterations with or without consent or re-execution, and unstamped in respect of the alterations, may be read in evidence for any purpose consistent with the conclusion that it is no longer binding by way of covenant or obligation; for the purpose, for instance, of showing that an estate passed by it (*Doe* v. *Hirst*, 3 Stark. 60), or to prove any collateral circumstances (*Sutton* v. *Toomer*, 7 B. & C. 416; *Hutchins* v. *Scott*, 2 M. & W. 809).

A document containing all the requisites to make it a valid contract, and purporting to be a receipt, though by reason of its being insufficiently stamped inadmissible as such, cannot be received as evidence of the contract (*Evans* v. *Protheroe*, 2 Mac. & Gord. 319, 1 De Gex, M. & G. 572).

Where several parts of an instrument are executed, each part is not only an original operative instrument, but a copy of the other; and, on the principle of *Matheson* v. *Ross*, an unstamped counterpart may be read like any other copy as secondary evidence, the proper foundation for admitting secondary evidence having been laid: as by the holder of the stamped part refusing, after notice, to produce it; or by proof that the stamped part has been lost (*Garnons* v. *Swift*, 1 Taunt. 507; *Mann* v. *Godbold*, 11 Moore, 49).

It lies upon the party objecting to secondary evidence of the contents of a lost document, on the ground of the want of a stamp, to show that it was not stamped. If he shows that it was at one time unstamped, this raises a presumption that it remained in the same state. But such a presumption may be displaced by further evidence, making it altogether uncertain whether the document was stamped or not, and casting the burden of proof once more upon the objector. (*Closmadeuc* v. *Carrel*, 25 L. J. C. P. 216; 18 C. B. 36).

contrary to the tenor and true meaning hereof, shall for every such offence forfeit the sum of ten pounds, with full costs of suit." 1 Anne, st. 2, c. 22.

And where an agreement on unstamped paper has been destroyed, no parol evidence can be given of its contents, even if it has been destroyed by the wrongful act of the party who takes the objection (*Rippiner* v. *Wright*, 2 B. & Ald. 478; and see *Bousfield* v. *Godfrey*, 5 Bing. 418; *Travis* v. *Collins*, 2 C. & J. 625; *Rose* v. *Clarke*, 1 Y. & Col. C. C. 584; *Rex* v. *Castle Morton*, 3 B. & Ald. 588; *Rankin* v. *Hamilton*, 15 Q. B. 187, ante; *Smith* v. *Henley*, 1 Ph. 395; *Blair* v. *Ormond*, 1 De Gex & S. 428).

An original instrument, not duly stamped as such, may be read as a schedule to another instrument to which it is annexed, and which refers to it, and bears a stamp sufficient to cover its contents (*Duck* v. *Braddyl*, 13 Price, 455, M'Clel. 217; see *Pearce* v. *Cheslyn*, 5 Nev. & M. 652; and see the Supplement to Bythewood, by Sweet, p. 64).

A material alteration in a bill, note, or deed after it is complete and executed, renders a fresh stamp necessary, but not so if the alteration were immaterial, or according to the original intent of the parties (*Cole* v. *Parkin*, 12 East, 471; *Byrom* v. *Thompson*, 11 A. & E. 31; *Warrington* v. *Early*, 23 L. J. Q. B. 47; Tilsley on Stamps, 177, 357).

A party may frequently be precluded either by the pleadings (*per* Lord Eldon, *Huddleston* v. *Briscoe*, 11 Ves. 596; *Hiern* v. *Mill*, 13 Ves. 114; *Thynne* v. *Protheroe*, 2 M. & Sel. 553), or by paying money into court generally (*Israel* v. *Benjamin*, 3 Camp. 40), or by paying money on account of two bills, which is applied by the holder in payment of one not being properly stamped (*Biggs* v. *Dwight*, 1 Man. & R. 308), from objecting to the stamp.

It is incumbent on the party objecting to the sufficiency of the stamp to be prepared to prove the objection, and not on the party relying on the instrument to prove that the stamp is proper (see *Waddington* v. *Francis*, 5 Esp. 182; *Lord Dudley and Ward* v. *Robins*, 3 Car. & P. 26; *Doe* v. *Coombes*, 3 Q. B. 687). And if it be objected that an agreement stamped only with 1*l.* contains more than 1080 words, the party objecting must be prepared with a witness who has counted the counterpart (*Bowring* v. *Stevens*, 2 Car. & P. 337, post); and then, if necessary, the judge will direct the officer of the court to count the original; he will not call on another cause, so as to enable the party to send the instrument to the stamp office, to get a proper stamp affixed (*Lord Dudley and Ward* v. *Robins*, 3 Car. & P. 26).

An instrument has been properly stamped during the trial of a cause (*Beckwith* v. *Benner*, 6 Car. & P. 681), even where the instrument produced was the property of the party objecting (*Clements* v. *May*, 7 Car. & P. 678); for, being produced, it was in the custody of the court (*per* Tindal, C. J.). In that case an officer of the court accompanied the party desiring to stamp the agreement. See *Howard* v. *Price*, 10 Beav. 312.

It suffices if the instrument be properly stamped before the hearing, unless the statute declare that no action shall be brought before the instrument be stamped, and not merely that it shall not be receivable in evidence (*Huddlestone* v. *Briscoe*, 11 Ves. 595; *Coles* v. *Trecothick*, 9 Ves. 231, 291; *Christian* v. *Devereux*, 12 Sim. 264; see Tilsley on Stamps, 295).

A deed which is produced, stamped with the stamp required by law at the time it is offered in evidence, is admissible, although it has affixed a deed stamp of less value than required by the statutes in force, at the time when such deed was executed (*Doe* d. *Dyke* v. *Whittingham*, 4 Taunt. 20; *Buckworth* v. *Simpson*, 1 Cr. M. & R. 834; *Deakin* v. *Penniall*, 2 Exch. 320). But see 13 & 14 Vict. c. 97, post.

As to what instruments may be stamped after execution, or within a limited period thereafter, see post, p. 442, n. (*b*), and 13 & 14 Vict. c. 97, s. 12.

Where the plaintiff had lost his part of an agreement under seal, after it had been duly stamped; at the trial of an action on the agreement, the defendant, upon notice, produced his part unstamped, and the plaintiff the draft of the agreement: it was held, that the defendant's part unstamped might be received in evidence (*Munn* v. *Godbold*, 3 Bing. 292).

In an action founded upon a document in which both parties have an interest, and which was in the possession of one, but said by him to have been lost, a judge cannot order that if such party does not produce the document to be stamped, a copy duly stamped shall be read in evidence at the trial, and that the original shall not then be produced on the other side, nor objection taken to the want of a stamp on the original (*Rankin* v. *Hamilton*, 15 Q. B. 187). After notice to produce an instrument, a proper stamp will in general be presumed (*Crisp* v. *Anderson*, 1 Stark. 35). But where a document properly called for is not produced, and it is distinctly proved that it once existed without a stamp, the presumption that it is stamped at the time it is called for is rebutted (*Crowther* v. *Solomons*, 6 C. B. 758).

If a deed be produced purporting to have been sealed and delivered, "being first duly stamped," but the stamp has been obliterated, and it only appears by marks on the deed that some stamp

31 G. 3, c. 25. 31 Geo. 3, c. 25. An Act for repealing the Duties now charged on Bills of Exchange, Promissory Notes and other Notes, Drafts and Orders, and on Receipts; and for granting other Duties in lieu thereof. [A.D. 1791.]

Penalty on persons signing, &c., unstamped bills.

10. That all and every person or persons who shall write or sign, or cause to be written or signed, or who shall accept or pay, or cause to be accepted or paid any bill of exchange, promissory note, or other note, draft, or order liable to any of the duties by this Act imposed upon any piece of vellum, parchment, or paper, without the same being first duly stamped or marked with a proper stamp, or mark in the manner herein prescribed, or upon which there shall not be some stamp or mark resembling the same, shall for every such offence forfeit and pay the sum of twenty pounds, to be recovered as hereinafter is directed.

Bill or note not duly stamped inadmissible in evidence, &c.

Commissioners prohibited from stamping (a).

19. That all vellum, parchment, and paper, liable to any stamp duty by this Act, shall, before any of the matters or things hereby charged shall be engrossed, printed, or written thereupon, be brought to the head office for stamping or marking vellum, parchment, or paper; and the said commissioners by themselves, or by their officers employed under them, shall and may, from time to time, stamp and mark as this Act directs, any quantities or parcels of vellum, parchment, or paper, before any of the matters or things hereby charged shall be engrossed, printed, or written thereupon, upon payment of the several duties payable for the same by virtue of this Act; and no bill of exchange, promissory note, or other note, draft, or order, nor any receipt, discharge, acquittance, note, memorandum, or writing aforesaid, liable to the duties by this Act imposed, or any of them, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the vellum, parchment, or paper, on which such bill of exchange, promissory note, or other note, draft, or order, receipt, discharge, acquittance, note, memorandum, or writing as aforesaid, shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark, to denote the rate or duty as by this Act is directed, or some higher rate or duty in this Act contained; and it shall not be lawful for the said commissioners or their officers, to stamp or mark any vellum, parchment, or paper, with any stamp or mark directed to be used or provided by virtue of this Act, at any time after any bill of exchange, promissory note, or other note, draft, or order, or any receipt, discharge, or acquittance, except as herein is otherwise provided, shall be engrossed, written, or printed thereon, under any pretence whatever; anything in this Act contained, or any law or statute to the contrary thereof notwithstanding.

35 G. 3, c. 55. 35 Geo. 3, c. 55. An Act for granting to his Majesty certain additional Duties on Receipts. [5th May, 1795.]

Penalty on persons signing re-

8. That all and every person or persons who shall write or sign, or cause to be written or signed, any receipt, discharge, or acquittance, given for or upon the payment of money

---

was once impressed on it, the judge may decide whether or not the fact of stamping is sufficiently proved (*Doe* d. *Fryer* v. *Coombes*, 3. Q. B. 687).

It is now made the duty of the officer of the court, who has to read any document, to call the attention of the judge to the omission or insufficiency of the stamp. And the document, if capable of being stamped after execution, may be admitted in evidence on the payment of the proper duty and penalty, and an additional penalty of 1*l.*; 17 & 18 Vict. c. 125, ss. 28, 29, ante, tit. "PLEADING, PRACTICE, &c., AT LAW."

(*a*) The 55 Geo. 3, c. 184, s. 8, refers to this Act, and incorporates these provisions in it (*Field* v. *Woods*, 10 B. & C. 114; see *Smart* v. *Nokes*, 7 Scott, N. R. 794). In one case it was held, that if the commissioners exceeded the authority, and stamped the bill or note after it had been made, no defence could be established to an action founded upon the bill or note on that ground, because it would be injurious to paper credit, if it were necessary for an indorsee to ascertain, before he takes a bill, whether or not it was stamped previously to its having been made (*Wright* v. *Riley*, Peake, 173; see observations on that case in *Green* v. *Davies*, 4 B. & C. 242). Yet, according to more recent decisions, it seems that at least if the instrument be in the hands of the party in whose favour it was originally made, a subsequent stamping would not render it available against such positive enactment (*Roderick* v. *Hovil*, 3 Camp. 103; *Rapp* v. *Allnut*, *ib.* 106, n.). And in a more recent case it was considered, that an inquiry as to the time when the stamp was put on is admissible; and where upon the face of the bill or note it appeared to be re-stamped improperly after it was issued, the indorsee receiving it could not recover thereon (*Green* v. *Davies*, 4 B. & C. 235; see *Butts* v. *Swann*, 2 Bro. & B. 78; 4 Moore, 484; and Tilsley on Stamps, 174; Byles on Bills, 85).

liable to any stamp duty charged by the said recited Act or this Act, upon any piece of vellum, parchment, or paper without the same being first duly stamped or marked with a stamp or mark as herein is directed, or upon which there shall be a stamp or mark of lower denomination or value than is by the said recited Act and this Act charged in respect thereof, shall forfeit and pay the sum of ten pounds, in case the sum paid contained or expressed in such receipt, discharge, or acquittance shall not amount to the sum of one hundred pounds; and the sum of twenty pounds, in case such sum shall amount to one hundred pounds or upwards.

35 G. 3, c. 55. ceipts unstamped, &c.

9. That all and every person or persons who shall give any receipt, discharge, or acquittance, or any note, memorandum, or writing, acknowledging the payment of money, in which a less sum shall be expressed than the sum actually paid or received, or who shall separate or divide the sum demanded, or actually paid or received into divers sums, with intent to evade the said duties, or any of them, or shall with the like intent write off any part of any debt, claim or demand, or who shall be guilty of, or concerned in any fraudulent contrivance or device whatsoever, with intent or design to defraud his majesty, his heirs or successors of any of the said duties by the said Act or this Act imposed, shall for every such offence forfeit and pay the sum of fifty pounds, to be recovered in manner as hereinafter is directed.

Persons giving receipts for less than actually paid liable to penalty.

10. That all vellum, parchment, and paper liable to any stamp duty by the said recited Act or this Act, shall before any of the matters or things thereby or hereby charged shall be engrossed, printed or written thereupon, be brought to the head office for stamping or marking vellum, parchment or paper, and the said commissioners by themselves, or by their officers employed under them, shall and may from time to time stamp and mark, according to the directions of the said recited Act and this Act, any quantities or parcels of vellum, parchment or paper before any of the matters or things thereby or hereby charged, shall be engrossed, printed, or written thereupon, upon payment of the several duties payable for the same by virtue of the said recited Act and this Act, and no receipt, discharge, acquittance, note, or memorandum or writing aforesaid, liable to the duties by the said recited Act or this Act imposed, or any of them, shall be pleaded or given in evidence in any court or admitted in any court to be good, useful, or available in law or equity, unless the vellum, parchment, or paper, on which such receipt, discharge, acquittance, note, memorandum or writing, as aforesaid shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark, to denote the rate or duty as by the said recited Act or this Act is directed, or some higher rate or duty in the said recited Act or this Act contained; and it shall not be lawful for the said commissioners or their officers, to stamp or mark any vellum, parchment, or paper, with any stamp or mark directed to be used or provided by virtue of the said recited Act or this Act, at any time after any receipt, discharge, or acquittance shall be engrossed, written, or printed thereon, under any pretence whatever, except as herein is otherwise provided, anything in the said recited Act or this Act contained, or any law or statute to the contrary thereof notwithstanding (*a*).

Vellum, &c., to be stamped before written upon, &c.

Prohibits commissioners from stamping any receipt after the same has been made.

11. Provided always, That if any receipt, discharge, or acquittance given upon the payment of money, and written on vellum, parchment, or paper not stamped as by the said recited Act and this Act is directed, shall be brought to the said commissioners or their officers employed by them for that purpose, to be stamped according to the directions of the said recited Act and of this Act, within the space of fourteen days after such receipt, discharge, or acquittance shall be given or shall bear date, the same shall and may be permitted to be stamped on payment of the sum of five pounds, over and above the duty payable for the same by virtue of the said recited Act and this Act, and if any such receipt, discharge, or acquittance shall be brought to be stamped as aforesaid, after the expiration of such fourteen days, and within one calendar month after such receipt, discharge, or acquittance shall be given or shall bear date, the same shall and may be permitted to be stamped on payment of the sum of ten pounds, over and above the duty payable for the same by virtue of the said recited Act and this Act, and the proper officer or officers are hereby enjoined and required, upon such receipt, discharge, or acquittance being brought to them, within the respective times hereinbefore limited, and upon payment of the duty imposed thereon by the said recited Act or this Act, and the respective sums aforesaid, but not otherwise, to mark or stamp such receipt, discharge, or acquittance, with the proper mark or stamp by the said recited Act and this Act required for the same.

Receipts, &c., not stamped may be stamped within the times herein prescribed, upon payment of the sums herein mentioned.

36 Geo. 3, c. 52. An Act for repealing certain Duties on Legacies and Shares of Personal Estates, and for granting other Duties thereon in certain Cases. [April 26, 1796.]

36 G. 3, c. 52.

2. That upon every legacy, specific or pecuniary, or of any other description, of the amount or value of twenty pounds or more, given by any will or testamentary instrument of any person who shall die after the passing of this Act, out of the personal estate of the person so dying, and also upon the clear residue and upon every part of the clear

New duties on legacies.

(*a*) See *Lucas* v. *Jones*, 6 Q. B. 949.

36 G. 3, c. 52. residue of the personal estate of every person who shall so die, whether testate or intestate, and leave personal estate of the clear value of one hundred pounds or upwards, which shall remain after deducting debts, funeral expenses, and other charges, and specific and pecuniary legacies (if any), whether the title to such residue or to any part thereof shall accrue by virtue of any testamentary disposition or upon intestacy, there shall be raised, levied, collected, and paid unto and for the use of his majesty, his heirs and successors, the several duties after the rates and in manner following; (that is to say,) where any such legacy or any residue or part of residue of any such personal estate shall be given or shall pass to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased, there shall be charged a duty of two pounds for every one hundred pounds of the value of any such legacy or residue or part of residue, and so after the same rate for any greater or less sum; where any such legacy or any residue or part of residue of any such personal estate shall be given or shall pass to or for the benefit of a brother or sister of a father or mother of the deceased, or any descendant of a brother or sister of a father or mother of the deceased, there shall be charged three pounds for every one hundred pounds of the value of such legacy or residue or part of residue, and so after the same rate for any greater or less sum; and where any such legacy or any residue or part of residue of any such personal estate shall be given or shall pass to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased, there shall be charged a duty of four pounds for every one hundred pounds of the value of such legacy or residue or part of residue, and so after the same rate for any greater or less sum; and where any such legacy, or residue or part of residue of any such personal estate, shall be given or shall pass to or for the benefit of any person in any other degree of collateral consanguinity to the deceased than is hereinbefore described, or any stranger in blood to the deceased, there shall be charged a duty of six pounds for every one hundred pounds of the value of such legacy, or residue or part of residue, and so after the same rate for any greater or less sum: Provided always, that nothing herein contained shall extend to charge with any duty any legacy, or any residue or part of residue, of any personal estate, which shall be given or shall pass to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.

Duties not to extend to bequests to husbands or wives of the royal family.

Duties to be under the management of the commissioners for stamps.

3. That the said duties shall be under the care, management, and direction of the commissioners for the time being appointed to manage the duties on stamped vellum, parchment, and paper; who, or the major part of them, are hereby empowered and required to employ the necessary officers under them for that purpose, and to cause four new stamps to be provided to denote the several rates of duty hereby imposed, that is to say, one stamp to denote the rate of two pounds per centum, one other stamp to denote the rate of three pounds per centum, one other stamp to denote the rate of four pounds per centum, and one other stamp to denote the rate of six pounds per centum, and the same to alter or renew whenever it shall be requisite, and to do all things necessary for carrying this Act into execution, according to the rules, methods, and directions herein contained, in as full and ample a manner as they, or the major part of them are authorised and empowered to put in execution any law concerning stamped vellum, parchment, or paper.

Commissioners to appoint receivers of the duties, and to keep accounts, showing the personal estates in respect of which the duties have been paid.

4. That the said commissioners shall, by writing under their hands and seals, or the hands and seals of the major part of them, appoint proper persons in the several counties, shires, stewartries, ridings, and divisions in Great Britain, as occasion shall require, to collect and receive the duties hereby imposed, and to keep proper accounts thereof to be transmitted to the head office of the said commissioners; and upon payment of any such duty, if paid at the head office of the said commissioners, the said commissioners shall cause the same to be duly entered in their books, and to be set down therein to the account of the personal estate in respect whereof the said duty shall be paid, and shall make like entries in their books, upon transmission of the proper accounts for that purpose from the several officers to be appointed by the said commissioners in the different counties, shires, stewartries, ridings, and divisions aforesaid, to whom they shall from time to time give proper orders for such purpose; and the accounts of such payments shall be kept, with proper references, in alphabetical order, according to the surname of the testator, testatrix, or intestate, in respect of whose personal estate such payments shall have been made respectively, so that it may at all times appear upon the books of the said commissioners what payments have been made in respect of the personal estate of any testator, testatrix, or intestate.

Commissioners may provide printed receipts, which may be used, or others of the like forms.

5. And in order that all persons may be enabled to take receipts and discharges on the payment or satisfactory of any legacy, or residue of any personal estate, or any part thereof, according to the directions prescribed by this Act, BE IT FURTHER ENACTED, That it shall be lawful for the said commissioners of stamp duties from time to time to provide sufficient quantities of paper adapted for such receipts or discharges as aforesaid, and to cause to be printed thereon the form of words in the schedule hereunto annexed; and it shall also be lawful for any of his majesty's subjects requiring such receipts or discharges to cause the same to be duly filled up with sums, names, and date according to the provisions before mentioned, and also upon any vellum or parchment or upon any other paper not provided by the said commissioners to use the like form whenever there shall be occasion.

Duties to be paid by exe-

6. That the duties hereby imposed shall, in all cases in which it is not hereby otherwise provided, be accounted for, answered, and paid by the person or persons having or

taking the burden of the execution of the will or other testamentary instrument or the administration of the personal estate of any person deceased, upon retainer for his, her, or their own benefit, or for the benefit of any other person or persons, of any legacy, or any part of any legacy, or of the residue of any personal estate, or any part of such residue, which he, she, or they shall be entitled so to retain either in his, her, or their own right or in the right or for the benefit of any other person or persons, and also upon delivery, payment, or other satisfaction or discharge whatsoever of any legacy, or any part of any legacy, or of the residue of any personal estate, or any part of such residue, to which any other person or persons shall be entitled; and in case any person or persons having or taking the burden of such execution or administration as aforesaid shall retain, for his, her, or their own benefit, or for the benefit of any other person or persons, any legacy, or any part of any legacy, or the residue of any personal estate, or any part of such residue, which such person or persons shall be entitled so to retain, either in his, her, or their own right, or in the right or for the benefit of any other person or persons, and upon which any duty shall be chargeable by virtue of this Act, not having first paid such duty, or shall deliver, pay, or otherwise howsoever satisfy or discharge any legacy, or any part of any legacy, or the residue of any personal estate, or any part thereof, to which any other person or persons shall be entitled, and upon which any duty shall be chargeable by virtue of this Act, having received or deducted the duty so chargeable, then and in every of such cases the duty which shall be due and payable upon every such legacy and part of legacy, and residue and part of residue respectively, and which shall not have been duly paid and satisfied to his majesty, his heirs and successors, according to the provisions of this Act, shall be a debt of such person or persons having or taking the burthen of such execution or administration as aforesaid, to his majesty, his heirs and successors; and in case any such person or persons so having or taking the burthen of such execution or administration as aforesaid shall deliver, pay, or otherwise howsoever satisfy or discharge any such legacy or residue, or any part of any such legacy or residue, to or for the benefit of any person or persons entitled thereto, without having received or deducted the duty chargeable thereon (such duty not having been first duly paid to his majesty, his heirs or successors, according to the provisions herein contained), then and in every such case such duty shall be a debt to his majesty, his heirs and successors, both of the person or persons who shall make such delivery, payment, satisfaction, or discharge, and of the person or persons to whom the same shall be made.

36 G. 3, c. 52. cutors or administrators, on retaining or paying legacies (a).

If duty be not paid before legacies are retained by executors, or discharged, they having deducted it, the amount to be a debt from them to his majesty; and if they pay legacies without deducting the duty it shall be a debt from both parties.

7. That any gift by any will or testamentary instrument of any person dying after the passing of this Act, which shall by virtue of such will or testamentary instrument have effect or be satisfied out of the personal estate of such person so dying, or out of any personal estate which such person shall have power to dispose of as he or she shall think fit, shall be deemed and taken to be a legacy within the intent and meaning of this Act, whether the same shall be given by way of annuity or in any other form, and whether the same shall be charged only on such personal estate, or charged also on real estate of the testator or testatrix who shall give the same, except so far as the same shall be paid or satisfied out of such real estate in a due execution of the will or testamentary

What shall be deemed legacies within the intent of this Act (b).

(a) The executor of a will, in every instance, made the half-yearly payments due to the tenant for life of the residuary estate through the solicitor employed by him in the administration of the trusts of the will. The solicitor having neglected to retain the legacy duty out of several such payments, applied to the tenant for life for a return of the amount of such duty. Having accordingly received the amount from the tenant for life, the solicitor, instead of paying the same to the crown, retained it for his own purposes, and soon afterwards absconded. The executor subsequently paid the duty to the crown: it was held, that he was not entitled to retain out of the life interest of the tenant for life what he had so paid (*Horn* v. *Coleman*, 26 L. J. Ch. 213; 2 Jur. N. S. 1127; See *Bate* v. *Payne*, 13 Q. B. 900).

(b) A testator, having large sums of stock invested in the joint names of himself and his wife, made a will, by which he gave several specific legacies to his wife, to whom he also devised certain real estates. He also made several devises and bequests of real and personal estates to trustees, upon trust for his wife for life, and after her decease for the benefit of other persons. He also gave a legacy of 10,000*l.* to his daughter for life, with remainder to her children, and he appointed his wife sole executrix. Upon the decease of the testator, his personal estate was found wholly insufficient to pay several specialty debts and the legacies given by his will, and under a deed executed by his wife reciting those facts, she transferred 36,000*l.* and 10,000*l.* stock, part of the funds which had been invested in the joint names of herself and her husband, to the trustees of his will, for the purpose of being applied to satisfy the debts, among others the legacy of 10,000*l.* The commissioners claimed legacy duty in respect of this payment, but upon a petition by the executors of the testator and his wife, who had since died, to obtain the opinion of the court, it was held that no claim for legacy duty had arisen under this section or the 45 Geo. 3, c. 28, s. 4, post, p. 458 (*Lawrie* v. *Clutton*, 15 Beav. 131; 21 L. J. Ch. 226; and see *Matson* v. *Swift*, 8 Beav. 368; *Custance* v. *Bradshaw*, 4 Hare, 315; *The Att.-Gen.* v. *Metcalf*, 6 Ex. 26).

36 G. 3, c. 52.

instrument by which the same shall be given; and every gift which shall have effect as a donation *mortis causâ* shall also be deemed a legacy within the intent and meaning of this Act.

The value of annuities, and the duty, to be calculated according to the annexed tables, and the duty paid by instalments, &c.

8. That the value of any legacy given by way of annuity, whether payable annually or otherwise for any life or lives (*a*), or for years determinable on any life or lives, or for years or other period of time, shall be calculated, and the duty chargeable thereon shall be charged, according to the tables in the schedule hereunto annexed (*b*); and the duty chargeable on such annuity shall be paid by four equal payments, the first of which payments of duty shall be made before or on completing the payment of the first year's annuity, and the three others of such payments of duty shall be made in like manner successively before or on completing the respective payments of the three succeeding years annuity respectively; and the value of any such annuity, if determinable upon any contingency besides the death of any person or persons, shall be calculated without regard to such contingency: Provided always, that if any such annuity shall determine by the death of any person, before four years payment of such annuity shall become due and payable, then and in such case the duty shall be payable in proportion only to so many of the payments of the said annuity as actually accrued and became due and payable; and in case any such annuity shall at any time determine upon any other contingency than the death of any person or persons, then and in such case, not only all payments of duty which would otherwise become due after the happening of such contingency, if any such would become due, shall cease, but it shall be lawful for the person or persons who shall have paid any duties which shall have previously become due to apply for and obtain a return of so much of the duty so paid as will reduce the same to the like duty as would have been payable by such person or persons for such annuity calculated according to the term for which the same shall have endured; which abatement the said commissioners for management of the stamp duties shall settle and determine according to the tables in the schedule hereunto annexed, and shall cause the amount of such abatement to be paid to the person or persons entitled to the same out of any moneys in their hands arising from the duties imposed by this Act (*c*).

The value of annuities payable out of legacies, and the duty, to be calculated according to the annexed tables, and the duty to be charged on the value of such legacies after deducting such annuities, &c.

9. That the value of any legacy given by way of annuity for any life or lives, or for years determinable on any life or lives, or for years or other period of time, and charged on and made payable out of any other legacy or legacies, shall be calculated and the duty shall be charged thereon in the same manner as hereinbefore directed with respect to other annuities; and the duty on the legacy charged with such annuity, if any duty shall be payable for such legacy, shall be calculated on the value of such legacy after deducting the value of such annuity; and the duty for such annuity shall be paid by the person or persons entitled to the legacy or legacies charged with such annuity by four equal payments, in the same manner as the same would be payable according to the provisions hereinbefore contained if such annuity had been a direct gift to the annuitant, and subject to the like proviso in case such annuity shall determine before four years payment shall become due; and the payment which shall be made for such duty shall be retained by the person or persons paying the same, out of the first four years

---

J. by will, devised real and personal property to trustees, upon trust to convert into money, and to pay the income to his daughter H. for her life; and afterwards upon such trusts as she should by her will appoint; and in default of any such appointment in trust for devisor's brother R. and his sister. H. survived her father, and died, leaving the property by will (subject the payment of her debts, &c.) between the said R. and his sister. It was held, that H., by making the fund in question liable to her debts, legacies, &c., dealt with it as her own, and exercised her power of appointment, and that R. and his sister could not reject the appointment and elect to take under the gift from their brother J.; and that they were therefore liable to legacy duty according to their relationship to H. (*Att.-Gen.* v. *Brackenbury*, 32 L. J. Ex. 108).

(*a*) See *The Attorney-General* v. *Lord Wynford*, 23 L. J. Ex. 223; 9 Ex. 746.

(*b*) The value of annuities, &c., is now to be calculated according to the tables annexed to 16 & 17 Vict. c. 51; see sect. 31 of that Act, post, tit. "SUCCESSION DUTY."

(*c*) A testator bequeathed several annuities to relations in equal degree, and therefore subject to the same rate of legacy duty under the above Act. He then gave all his real and personal estate to certain trustees for conversion and investment, and payment of the annuities out of the yearly produce, and for accumulation of the remainder. He directed that upon the death of any of the annuitants the trustees should pay, after making provision for the payment of the remaining annuities, the capital among a class of persons in the same degree of relationship as the annuitants, and therefore subject to the same rate of legacy duty under the above Act. In an administration suit a question arose as to the manner in which the legacy duty was payable. The Master of the Rolls was of opinion that the duty was payable at once upon the whole capital of the fund in respect of all the bequests; but, upon appeal, the Lords Justices held, that the duty was payable on the annuities, as annuities, within this section, by four equal payments of which the first instalment was to be made at the end of the first year of the annuity, and not payable upon the whole capital under section 12 (*Crow* v. *Robinson*, 31 L. J. Ch. 516).

payments of such annuity, if so many shall become due, or out of so many of such payments as shall become due, by equal portions. 36 G. 3, c. 52.

10. That the duty payable upon any legacy given by direction to purchase with any personal estate of the testator or testatrix, or any part thereof, an annuity of a certain amount for the life or lives of any person or persons, or any other term, shall be calculated upon the sum necessary to purchase such annuity according to the tables before mentioned, and shall be deducted from such sum and paid as in the case of other pecuniary legacies; and the person or persons paying or satisfying such legacy, and the person or persons for whose benefit the same shall be paid or satisfied, shall be discharged, by payment of such duty so calculated as aforesaid, from all other demands in respect of the duty payable on such legacy; and the annuity to be purchased for the benefit of the person or persons entitled to the benefit of such legacy shall be reduced in proportion to the amount of the duty payable thereon as aforesaid, such reduction to be calculated in the same manner as the duty so payable as hereinbefore directed to be calculated; and the purchase of such reduced annuity, together with the payment of such duty, shall satisfy and discharge such legacy as fully as if an annuity had been purchased equal in amount to the annuity so directed to be purchased.

Duty on legacies given to purchase annuities to be calculated on the sums necessary to purchase them.

11. That if any benefit shall be given by any will or testamentary instrument in such terms that the amount or value of such benefit can only be ascertained from time to time by the actual application for that purpose of the fund allotted for such purpose, or made chargeable therewith, or if the amount or value of any benefit given by any will or testamentary instrument cannot, by reason of the form and manner of the gift, be so ascertained that the duty can be charged thereon under any other of the directions herein contained, then and in every such case such duty shall be charged upon the several sums of money or effects which shall be applied from time to time for the purposes directed by such will or testamentary instrument as separate and distinct legacies or bequests, and shall be paid out of the fund applicable for such purposes, or charged with answering the same (*b*).

Duty on legacies whose value can only be ascertained by application of the allotted fund to be charged on the money as applied (*a*).

12. That the duty payable on a legacy or residue or part of residue of any personal estate, given to or for the benefit of or so that the same shall be enjoyed by different persons in succession, who shall be chargeable with the duties hereby imposed at one and the same rate, shall be charged upon and paid out of the legacy or residue or part of residue so given, as in the case of a legacy to one person; and where any legacy or residue or part of residue shall be given to or for the benefit of or so that the same shall be enjoyed by different persons in succession, some or one of whom shall be chargeable with no duty, or some of whom shall be chargeable with different rates of duty, so that one rate of duty cannot be immediately charged thereon, all persons who, under or in consequence of any such bequest, shall be entitled for life only or any other temporary

How duty on legacies enjoyed by persons in succession, or having partial interests therein, shall be charged (*c*).

(*a*) This section does not apply when the whole value of the legacy must be taken in solido at once (*per* V.-C., *Att.-Gen.* v. *Fitzgerald*, 13 Sim. 83).

(*b*) It was at one time held that no duty was payable on charitable legacies to trustees, where the benefit to each recipient was under 20*l.*, the aggregate being more (*In re Wilkinson*, 1 C. M. & R. 142; *Att.-Gen.* v. *Nash*, 1 M. & W. 257); but these cases appear to be no longer law (*In re Pearce*, 24 Beav. 491; *in re Parker*, 4 H. & Nor. 666). A legacy of 50*l.* a year to be laid out in bread for the poor of a parish is liable to legacy duty (*Re Franklin's Charity*, 3 Y. & J. 544, 3 Sim. 147). Where a testator gave his residuary estate to his executors, to be by them appropriated to the education of the children of the poor in Ireland, principally by those in and about Limerick, it was held to be liable to legacy duty (*Att.-Gen.* v. *Fitzgerald*, 13 Sim. 83). So, where a testator bequeathed to trustees a sum in the Three per Cent. Consols, in trust as to 1700*l.* part thereof, to pay and apply the dividends in establishing and supporting a daily school at N. for the instruction of twenty boys, on the principle of a national school; and as to 400*l.*, other part of the said stock, the testator directed that the dividends should be paid by the trustees to and applied by the schoolmaster for the time being of the said school in providing the boys with pinafores, caps, &c.: it was held that these bequests were subject to legacy duty (*Re John Griffiths*, 14 M. & W. 510). So a bequest to trustees for the building and endowing a church, is subject to legacy duty (*In re Parker*, 4 Hurl. & Nor. 666).

(*c*) A testator, who died in 1820, by his will directed his estate to be divided into two moieties, in one of which 4300*l.*, 3*l.* per Cent. Consols, standing in his name, were to be included; and as to this moiety he directed that (after payment of certain debts) the surplus beyond the 4300*l.* consols should be invested in the funds in the names of his executors, in trust to pay the dividends thereon, and also on the 4300*l.* Consols to his wife for life; and upon her death he bequeathed this moiety to A., save and except the 4300*l.* Consols, the dividend upon which, amounting to 129*l.* a year, he directed to be paid to three annuitants of 20*l.* a year each, and the remainder to a nephew during his life. He then bequeathed the annuities of 20*l.* to three other annuitants, and after the death of the survivor of them, he bequeathed the 4300*l.* Consols to A. absolutely. The executors realised the property, and it was ascertained that 5099*l.* was the

36 G. 3, c. 52. interest, shall be chargeable with the duty in respect of such bequest in the same manner as if the annual produce thereof had been given by way of annuity; and such persons respectively shall be so chargeable with such duty, and the same shall be payable when they shall respectively become entitled to and begin to receive such produce, and shall be paid by equal portions during the aforesaid term of four years, if they shall so long continue to receive such produce; and where any other partial interest shall be given or shall arise out of such property so to be enjoyed in succession, the duty on such partial interest shall be charged and paid in the same manner as the duty is hereinbefore directed to be charged and paid in like cases of partial interests charged on any property given otherwise than to different persons in succession; and all and every person and persons who shall become absolutely entitled to any such legacy or residue or part of residue so to be enjoyed in succession shall, when and as such person or persons respectively shall receive the same, or begin to enjoy the benefit thereof, be chargeable with and pay the duty for the same or such part thereof as shall be so received, or of which the benefit shall be so enjoyed, in the same manner as if the same had come to such person or persons immediately on the death of the person by whom such property shall have been given to be enjoyed, or in such manner that the same shall be enjoyed in succession.

and by whom payable.

13. That the duty payable on any legacy or residue or part of residue so given to or so to be enjoyed by different persons in succession, upon whom the duty shall be chargeable at one and the same rate, shall be deducted and paid by the person or persons having or taking the burden of the execution of the will or testamentary instrument under which the title thereto shall arise, upon payment or other satisfaction or discharge of every or any part of such legacy or residue or part of residue to any trustee or trustees or other person or persons to whom the same shall be payable or paid, in trust or for the benefit of the persons so entitled thereto in succession; and if the same shall not be so paid or satisfied to any such trustee or trustees, then such duty shall be deducted and paid out of the capital of the property so given, upon receipt by any of the persons so entitled in succession of any produce of such capital or any part thereof, according to the amount of the capital of which such produce shall be so received; and where the duty chargeable upon any such bequest for the benefit of or to be enjoyed by different persons in succession shall be chargeable at different rates, so that the same cannot be paid at one and the same time, but must be paid in succession as aforesaid, then and in such case all and every the person and persons having or taking the burden of the execution of the will or testamentary instrument in which such bequest shall be contained shall be chargeable with such duties in succession in the same manner as such persons would be chargeable with the like duties in case of immediate bequest (a), unless the property bequeathed shall have been paid or otherwise satisfied to or vested in any trustees or trustee as aforesaid, in which case such trustees or trustee, or his, her, or their representatives, shall be chargeable with the duties for and in respect of such property so vested in him, her, or them respectively, in such and the same manner as if he, she, or they had had or taken the burden of the execution of the will or testamentary instrument by which such bequest shall have been made; and in like manner, where any partial interest shall be given or shall arise out of any such property so to be enjoyed in succession, and such partial interest shall be satisfied or paid by the person or persons so enjoying such property, such person or persons shall be chargeable with the duties for and in respect of such partial interest, and shall retain and pay the same accordingly, in such and the same manner as if he, she, or they had had or taken the burden of the execution of the will or testamentary instrument by which such partial interest shall have been created; and in all such cases the person or persons so chargeable with duty shall be debtors to the king's majesty, his heirs and successors, in like manner, and shall be subject to the like penalties, as the person or persons having or taking the burden of the execution of such will or testamentary instrument are hereby made chargeable and subject to.

Plate, &c., while enjoyed in kind, not liable to duty till in possession of persons having

14. Provided always, that no duty shall be paid on any articles of plate, furniture, or other things not yielding any income, and given to or for the benefit of or so as that the same be enjoyed by different persons in succession, whilst the same shall be so enjoyed in kind only by any person or persons not having any power of selling or disposing thereof, so as to convert the same into money or other property yielding an income; but if the same shall be actually sold or disposed of, or shall come to any person or persons having power to sell or dispose thereof, or having an absolute interest therein, then and

---

amount to be invested to make up, together with the 4300*l.* Consols, the moiety of the dividends on which was to be paid to the wife for life. The executors entered into an arrangement with the widow, and A. and her husband, by which the 5099*l.* was paid over to the latter, but no legacy duty was paid upon it. The widow died in 1835; and, in 1837, A. sold and assigned to B. the 4300*l.* Consols, subject to the annuities then in existence, and legacy duty chargeable on A. in respect thereof: it was held, first, that the 5099*l.* and 4300*l.* were separate legacies, and that B. was not liable to legacy duty under this statute on more than the 4300*l.* stock assigned to him (*Att.-Gen.* v. *Giles*, 5 H. & N. 255, 29 L. J. Exch. 176).

(a) See *In re Jones' Trust*, 21 L. J. Ch. 566.

in each and every such case the same duty shall be chargeable and paid thereon as if the same had been originally given absolutely and with full power to sell or dispose thereof, and shall be chargeable upon and paid by the person or persons for whose benefit the same shall be sold, or who shall have power to sell or dispose thereof or an absolute interest therein, and shall become the debt of such person or persons, but shall not be a charge on any person or persons by reason of his, her or their having assented to such bequest, as the person or persons having or taking the burden of the execution of the will or testamentary instrument by which such bequest shall have been made.

36 G. 3, c. 52. power to dispose thereof.

15. Provided always, That where any legacy or any residue or part of residue shall be so given by any will or testamentary instrument that different persons shall become entitled thereto in succession, the duty shall be charged thereon as given to be enjoyed in succession, whether the person or persons entitled thereto shall take the same under or by virtue of such will or testamentary instrument and the dispositions therein contained, or in default of such dispositions and as entitled by intestacy.

Duty on legacies enjoyed in succession to be charged as such, whether taken under wills, or by intestacy.

16. That where any legacy or residue or part of residue shall be given to or for the benefit of any person or persons in joint tenancy, some or one of whom shall be chargeable with any duty hereby imposed, and some or one of whom shall not be so chargeable, the person or persons chargeable with duty shall pay such duty in proportion to the interest of such person or persons respectively in such bequest; and if any person or persons chargeable with duty and entitled in joint tenancy as aforesaid shall become entitled by survivorship, or by severance of the joint tenancy, to any larger interest in the property bequeathed than that in respect of which such duty shall have been paid, then and in such case all and every such person or persons so becoming entitled by survivorship or by severance shall be charged with the same duty as if the property to which such joint tenant or joint tenants shall so become entitled had been originally given to or for the benefit of such person or persons only.

Duty on legacies in joint tenancy to be paid in proportion to the interest of the parties.

17. That when any legacy or any residue or part of residue shall be given subject to any contingency which may defeat such gift, and whereupon the same may go to some other person or persons, such bequest (unless chargeable as an annuity under the provisions herein contained) shall be charged with duty as an absolute bequest to the person or persons who shall take the same subject to such contingency, and such duty shall be paid out of the capital of such legacy or residue or part of residue, notwithstanding the same may, upon such contingency, go to some person not chargeable with the same duty, or with any duty; and if such contingency shall afterwards happen, and the property so bequeathed shall thereupon go in such manner that the same, if taken immediately after the death of the testator or testatrix, under the same title, would have been chargeable with a higher rate of duty than the duty so paid, the person or persons becoming entitled thereto shall be charged with and shall pay the difference between the duty so paid and such higher rate of duty.

Duty on legacies subject to contingencies, to be charged as for absolute bequests, &c.

18. That where any legacy or the residue or any part of the residue of any personal estate shall be subjected to any power of appointment to or for the benefit of any person or persons specially named or described as objects of such power, such property shall be charged with duty as property given to different persons in succession, and in so charging such duty not only the person and persons who shall take previous or subject to such power of appointment, but also any person and persons who shall take under or in default of any such appointment, when and as they shall so take respectively, shall, in respect of their several interests, whether previous or subject to or under or in default of such appointment, be charged with the same duty and in the same manner as if the same interests had been given to him, her, or them respectively in and by the will or testamentary disposition containing such power, in the same order and course of succession as shall take place under and by virtue of such power of appointment (*a*), or in default of execution thereof, as the case may happen to be; and where any property shall be given for any limited interest, and a general and absolute power of appointment shall also be given to any person or persons to whom the property would not belong in default of such appointment, such property, upon the execution of such power, shall be charged with the same duty and in the same manner as if the property had been immediately given to the person or persons having and executing such power, after allowing any duty before paid in respect thereof; and where any property shall be given with any such general power of appointment, which property in default of appointment will belong to the person or persons to whom such power shall also be given, such property shall be charged with and shall pay the duty by this Act imposed, in the same manner as if such property had been given to such person or persons absolutely in the first instance, without such power of appointment.

How duty on legacies subjected to power of appointment shall be charged (*a*);

19. That any sum of money or personal estate directed to be applied in the purchase of real estate shall be charged with and pay duty as personal estate, unless the same shall be so given as to be enjoyed by different persons in succession, and then each person entitled thereto in succession shall pay duty for the same in the same manner as if the same had not been directed to be applied in the purchase of real estate before such duty accrued; but no duty shall accrue in respect thereof after the same shall have been actually applied in the purchase of real estate for so much thereof as shall have been so

and how on personal estates directed to be applied in purchase of real estates.

(*a*) See *Platt* v. *Routh*, 6 M. & W. 756, 3 Beav. 257, 10 Cl. & Fin. 257.

36 G. 3, c. 52.

applied; Provided nevertheless, that in case before the same or some part thereof shall be actually so applied any person or persons shall become entitled to an estate of inheritance in possession in the real estate to be purchased therewith, or with so much thereof as shall not have been applied in the purchase of real estate, the same duty which ought to be paid by such person or persons if absolutely entitled thereto as personal estate by virtue of any bequest thereof as such shall be charged on such person or persons, and raised and paid out of the fund remaining to be applied in such purchase.

Estates *pur auter vie* applicable as personal estates, to be charged as such.

20. That estates *pur auter vie*, applicable by law in the same manner as personal estate, shall be charged with the duties hereby imposed as personal estate.

Money left to pay duty not chargeable as a legacy.

21. Provided always, That if any direction shall be given by any will or testamentary instrument for payment of the duty chargeable upon any legacy or bequest out of some other fund, so that such legacy or bequest may pass to the person or persons to whom or for whose benefit the same shall be given, free of duty, no duty shall be chargeable upon the money to be applied for the payment of such duty, notwithstanding the same may be deemed a legacy, to or for the benefit of the person or persons who would otherwise pay such duty.

Mode of ascertaining duty on property not reduced into money.

22. That in cases of specific legacies, and where the residue of any personal estate shall consist of property which shall not be reduced into money, it shall be lawful for the person or persons having or taking the burden of the administration of such effects, or the person or persons by whom the duty thereon ought to be paid, to set a value thereon, and offer to pay the duty according to such value, or to require the commissioners for management of the stamp duties to appoint a person to set such value, at the expense of the person or persons by whom such duty ought to be paid; and it shall be lawful for the commissioners to accept the duty offered to be paid, upon the value set by the person or persons having or taking the administration of such effects, or by whom the duty for the same shall be payable, without such appraisement, if the said commissioners shall think fit so to do; but if the said commissioners shall not be satisfied with the value so set, on which the duty shall be so offered, it shall be lawful for the said commissioners, notwithstanding such offer, to appoint a person to appraise such effects, and to set the value thereon, on which value so set the said commissioners shall assess the duty payable in respect thereof, and require the same to be paid; but if the person or persons by whom such duty shall be payable shall not be satisfied with the valuation made under the authority of the said commissioners and pay the duty accordingly, it shall be lawful for such person or persons to cause the valuation so made under the authority of the said commissioners to be reviewed by the commissioners of the land tax for the time being of the district or place where such effects shall be, at their next meeting, after the said commissioners for management of the stamp duties shall have assessed and required payment of such duty as aforesaid, if fourteen days shall have elapsed between such time and the meeting of the said commissioners of land tax, and if not, then at the next succeeding meeting of the said commissioners, of which appeal six days' notice shall be given to the said commissioners of stamp duties; and the said commissioners of the land tax shall and may (if they think fit) appoint a person to appraise such effects, and set a value thereon, and shall and may hear and determine such appeal, in the same manner as in any other cases of appeal to them, and with the like authorities, and their judgment shall be final; and if the valuation made under the authority of the said commissioners of the stamp duties in the case last mentioned shall not be duly appealed from within the time aforesaid, or shall be affirmed upon appeal, the duty shall be paid according to such valuation, and if any variation shall be made on such appeal the duty shall be paid according to such variation; and if the duty assessed in manner aforesaid shall exceed the duty offered to and refused by the said commissioners of stamp duties, the expense of such appraisement and other proceedings in assessing such duty shall be borne by the person or persons by whom such duty shall be payable; and if any dispute shall arise between any person or persons entitled to any such legacy or residue or part of residue and any person or persons having or taking the burden of the administration of such effects, with respect to the value thereof, or with respect to the duty to be paid thereon, the duty shall be assessed by the said commissioners of stamp duties, on reference to them by either party for that purpose; and if the value of any property on which such duty ought to be paid shall be in dispute, the said commissioners of the stamp duties shall cause an appraisement to be made thereof, at the expense of the person or persons by whom such duty ought to be paid, in the manner hereinbefore directed in other cases, and assess the duty thereon accordingly; and if such person or persons by whom such duty ought to be paid shall be dissatisfied with such valuation, or with the assessment of duty made upon such valuation by the said commissioners of the stamp duties, the same shall be reviewed and finally determined by the said commissioners of the land tax, upon appeal to them within the time and under the restrictions and in the manner hereinbefore directed in other cases; but if such valuation or assessment shall not be duly appealed from within the time limited for that purpose, or shall be affirmed upon appeal, the duty shall be paid according thereto; and if any variation shall be made therein on such appeal, the duty shall be paid according to such variation; and in case the effects whereon any such duty shall be payable shall be at the distance of ten miles from London, then and in such case it shall be lawful to make the like application to such person as shall be deputed for that purpose by the said commissioners to act

in their stead in such cases within the county or district in which such effects shall be; and such person so deputed shall act in such cases in all respects in the same manner as the said commissioners are hereby authorised to act, subject nevertheless to the instructions and control of the said commissioners. 36 G. 3, c. 52.

23. That where any legacy or part of any legacy or residue or part of residue, whereon any duty shall be chargeable by this Act, shall be satisfied otherwise than by payment of money or application of specific effects for that purpose, or shall be released for consideration, or compounded for less than the amount or value thereof, then and in such case the duty shall be charged and paid in respect to such legacy or part of legacy or residue or part of residue according to the amount or value of the property taken in satisfaction thereof, or as the consideration for release thereof or composition for the same: Provided always, that if any legacy or bequest shall be made in satisfaction of any other legacy, or bequest, or title to any residue or part of residue of any personal estate remaining unpaid, the duty shall not be paid on both subjects, although both may be chargeable with duty, but shall be paid on the subject yielding the largest duty. Duty on legacies not satisfied in money, &c., to be paid according to the value of the satisfaction.

24. That if any person or persons having or taking the burden of the execution of the will or other testamentary instrument or the administration of the personal estate of any person deceased, or any person or persons hereby made chargeable with duty, shall declare himself, herself, or themselves ready and willing and shall accordingly offer to pay any pecuniary legacy or residue or part of residue, deducting the duty payable thereon, or shall in like manner offer to deliver or otherwise dispose of any specific legacy, or any specific property, part of any residue of any personal estate, to or for the benefit of the person or persons entitled thereto, or to any trustee or trustees for such person or persons, upon payment of the duty payable in respect thereof, and the person or persons entitled to such legacy or residue or part of residue, or the trustee or trustees for such person or persons, shall refuse to accept such offer, and to give a proper release and discharge for such legacy or residue, or so much thereof as shall be offered to be paid, delivered, or otherwise disposed of as aforesaid, then and in such case, although no actual tender shall be made, if any suit shall be afterwards instituted for such legacy or effects, respecting which such offer shall have been made, it shall be lawful for the court in which such suit shall be instituted to order all costs, charges, and expenses attending the same to be paid by the person or persons who shall have refused to accept such offer, and to give or join in such release or discharge, or to order such costs, charges, and expenses to be deducted and retained out of such legacy or effects, together with the duty payable thereon, as the said court shall see fit; and in case any suit shall be instituted for payment of any legacy, or residue, or part of residue of any personal estate and the person or persons sued for the same shall be desirous of staying proceedings in such suit on payment of the money due, or delivering or otherwise disposing of the specific effects demanded, after deducting or receiving the duty payable thereon, it shall be lawful for the court in which such suit shall be instituted, if it shall see fit, on application in a summary way, to make such order for payment of such legacy or residue or part of residue, or for delivering or otherwise disposing of such effects, and for payment of the duty payable thereon, and all such costs, charges, and expenses attending such suit as shall be just. If legatees refuse to accept legacies, duty deducted, the court in case of suit may order them to pay costs; and in suits where the party sued may wish to stop proceedings on payment of bequests, deducting duty, the court may make order therein.

25. That if any suit shall be instituted concerning the administration of the personal estate of any person dying testate or intestate, or any part of such estate in which any direction shall be given touching the payment of any legacies or legacy of such person, or the residue of his or her personal estate, or any part thereof, the court wherein such suit shall be instituted shall, in giving directions concerning the same, provide for the due payment of the duties hereby imposed; and in taking any account of any personal estate or otherwise acting concerning the same, such court shall take care that no allowance shall be made in respect of any legacy or part of legacy, or of any residue or part of residue, in any manner whatsoever, without due proof of the payment of the duties hereby imposed. If suit be instituted concerning administration, the court to provide for payment of the duty (a).

26. Provided always, that any person or persons having or taking the burden of the execution of any will or other testamentary instrument, or the administration of the personal estate of any person deceased, may from time to time pay, deliver, or otherwise dispose of any legacy or any part of any legacy, or make distribution of any part of the residue of any personal estate, on payment from time to time of such proportions of the duty hereby imposed as shall accrue in respect of such part of such personal estate as shall be so administered. Executors may discharge legacies on payment of the duty accrued.

27. That no person or persons having or taking the burden of the execution of any will or testamentary instrument, or the administration of the personal estate of any person deceased, nor any trustee or trustees or other person or persons hereby directed and required to account for any duty, shall, from and after the passing of this Act, pay, deliver, or otherwise dispose of, or in any manner satisfy, discharge, or compound for any legacy whatsoever, or any part thereof, or the residue of any personal estate, or any part thereof, in respect whereof any duty is hereby imposed, without taking a receipt or discharge in writing for the same, expressing the date of such receipt or discharge, and No legacy liable to duty, to be paid without a receipt containing certain particulars.

(a) See *Foster* v. *Ley*, 2 Bing. N. C. 269; *Hicks* v. *Keat*, 3 Beav. 141; *In re Sammon*, 2 M. & W. 391.

36 G. 3, c. 52.

the names of the testator, testatrix, or intestate under whose will or testamentary disposition or upon whose intestacy the title to such legacy or part of legacy, or to such residue or part of residue, shall accrue, and of the person or persons to whom such receipt or discharge shall be given, and of the person or persons to whom such legacy or residue or part of residue shall have been given or shall have belonged in consequence of intestacy, and the amount or value of the legacy or part of legacy, or residue or part of residue, for which such receipt or discharge shall be given, and also the amount and rate of the duty payable and allowed thereon; and that no written receipt or discharge for any legacy or part of any legacy, or for the residue of any personal estate, or any part of such residue, in respect whereof any duty is hereby imposed, shall be received in evidence or be available in any manner whatever unless the same shall be stamped as required by this Act; and no evidence whatsoever shall be given of any payment, satisfaction, or discharge whatsoever, or of any release or composition of such legacy or any part thereof, or of such residue or any part thereof, without producing such receipt or discharge, duly stamped as aforesaid, unless the actual payment of the duty hereby imposed shall first be given in evidence: Provided always, that a copy of the entry in the books of the commissioners of the stamps of the payment of such duty shall be admitted as evidence thereof; (a) Provided also, that payment of any annuity shall not be deemed a payment for which such stamped receipt shall be required, under the directions of this Act, except the several payments which shall complete the payments for each of the first four years during which such annuity shall be payable; and in like manner any payment in respect of any legacy or bequest hereby directed to be charged with the duty in the same manner as annuities are hereby made chargeable with duty shall not be deemed a payment for which such stamped receipt shall be required, except the several payments which shall complete the payments for each of the first four years in respect of which such legacy or bequest shall be chargeable with duty as an annuity.

no receipt available unless duly stamped, &c.

Copy of entry at stamp office of payment of duty, evidence.

Stamped receipts for annuities not required but on completing payments for each of the first four years.

Penalty of 10*l.* per cent. for paying or receiving legacies without stamped receipts.

28. That any person having or taking the burden of the execution of any will or testamentary instrument, or the administration of the personal estate of any person deceased, and any trustee or trustees or other person or persons hereby directed and required to account for any duty, who shall pay, deliver, or otherwise dispose of or in any manner satisfy or discharge, or compound for any legacy given by such will or testamentary instrument, or the residue or any part of the residue of such personal estate, to or for the benefit of any person or persons entitled to such legacy, or any part thereof, or to such residue, or any part thereof, without taking such receipt or discharge in writing as aforesaid, and causing the same to be stamped, within the time hereby allowed for stamping the same, shall forfeit and lose the sum of ten pounds per centum on the sum of money, or the value of the property if not money, for which such receipt or discharge ought to have been given in pursuance of this Act; and all and every person and persons receiving or taking the benefit of any such money or other property, without giving a written receipt or discharge for the same, in which the duty payable in respect thereof shall be expressed to have been allowed or paid to the person or persons to whom such receipt or discharge shall be given, and which shall bear date on the day of signing the same, shall forfeit and lose the sum of ten pounds per centum on the sum of money, or on the value of the property so received or taken.

Receipts to be stamped within 21 days after date, on which an acknowledgment of payment of the duty shall be written, &c.

29. That every such receipt or discharge shall be brought, within the space of twenty-one days after the date thereof, to the said head office of the said commissioners, or to some other office to be appointed by the said commissioners for such purpose, to be stamped, paying the duty for the same, and upon such payment either at the said head office or at any other office to be appointed as aforesaid, the receiver-general or other proper officer to be appointed for that purpose by the said commissioners, as the case shall require, shall write upon such receipt or discharge an acknowledgment of the payment of the duty so paid in words at length, and bearing date the day on which such payment shall be made, and shall subscribe his name thereto, and enter an account thereof in a book or books to be provided for that purpose, to the intent that he may be thereby charged with the sum so paid; and in case the duty shall be so paid at the said head office, then the receipt or discharge so brought to be stamped shall be forthwith stamped with one of the said four stamps as the case shall require; and in case the duty shall be so paid at any other office to be appointed by the said commissioners as aforesaid, the receipt or discharge whereon such acknowledgment of the payment of duty shall be so written and subscribed shall be transmitted, within the space of twenty-one days from the day of payment of such duty, to the said head office to be stamped, and the same shall be stamped accordingly with one of the said four stamps as the case shall require; and in case the person or persons paying such duty at any such office to be appointed as aforesaid, shall be desirous that the same should be transmitted to the said head office by the officer to whom such duty shall be paid, and shall leave the same with such officer for such purpose, such officer shall thereupon sign and deliver an acknowledgment that such receipt or discharge has been left with him for such purpose, and shall transmit such receipt or discharge to such head office to be stamped as aforesaid, and the same

---

(a) A copy of an entry in the stamp office books of payment of the duty on a legacy is evidence of the payment of the legacy. *Harrison* v. *Borwell*, 10 Sim. 380.

shall be sent again to such officer as soon as conveniently may be after the stamping thereof; and such officer shall deliver back the same to the person or persons entitled thereto, upon re-delivery to him of the acknowledgment which he shall have given for the same: Provided always, that if any such receipt or discharge shall not be so brought to any such office as aforesaid, within such space of twenty-one days as aforesaid, it shall nevertheless be lawful to carry such receipt or discharge to the said head office to be stamped in like manner, within three calendar months after the date thereof, paying the duty for the same, and also the further sum of ten pounds per centum on such duty, by way of penalty for not having before paid such duty, on payment of which duty and penalty the said commissioners are hereby authorised and required to stamp such receipt or discharge, in the same manner as if the same had been brought to the said office within the space of twenty-one days from the date thereof; but the said commissioners or any of their officers shall not on any pretence whatever, except as hereinafter directed, stamp any vellum, parchment, or paper upon which any receipt or discharge for any legacy or part of legacy, or any residue of any personal estate, or any part thereof, shall be written or signed, with the said new stamps or any of them, unless the duty for the same shall be paid, and such receipt or discharge shall be produced to be so stamped in manner aforesaid, within the times and in the manner hereinbefore respectively limited and appointed.

36 G. 3, c. 52.

Receipts may be stamped within three months after date, on payment of duty, and 10*l.* per cent. penalty; but none to be stamped unless the duty be paid, and they are brought to be stamped within the limited time.

30. That if it shall appear to the satisfaction of the said commissioners of stamp duties, upon oath or affirmation, to be administered by a justice of the peace, or master or masters extraordinary in chancery, which oath or affirmation such persons are hereby empowered to administer, that less duty has been paid for any legacy or residue or part of residue than ought to have been paid for the same, by mistake, without any intention to defraud; and if application shall be made to the said commissioners to rectify such mistake, and accept the duty really due before any suit shall be instituted concerning the same, and within three calendar months after payment of the money actually paid instead of the just duty, it shall be lawful for the said commissioners to accept the difference between the money paid and the just duty, together with the sum of ten pounds per centum on such difference, by way of penalty, in full for the just duty, and which shall be in discharge of all penalties incurred by nonpayment of such duty, and to cause an acknowledgment of the payment of the just duty to be written on the receipt or discharge given for such legacy or residue or part of residue, and to be subscribed by the proper officer, and also to cause such receipt or discharge to be properly stamped if necessary, in the same manner as would have been done if the just duty had been originally paid.

Mistakes in paying duty may be rectified, if no suit be instituted, on payment of the difference within three months, and 10*l.* per cent.

31. Provided always, That the party or parties paying or satisfying any legacy or any residue of any personal estate, or any part of such residue, or receiving the same contrary to the provisions of this Act, who shall, within the space of twelve calendar months after the offence committed, discover the other party or parties offending therein, so that such party or parties so discovered be thereupon convicted, such person so discovering shall be indemnified and discharged from all penalties incurred for any offence against this Act.

Persons paying or receiving money contrary to this Act, indemnified on discovering the other offender.

32. Provided always, That where, by reason of the infancy or absence beyond the seas of any person entitled to any legacy, or to the residue of any personal estate, or any part thereof, chargeable with duty by virtue of this Act, the person or persons having or taking the burden of any will or testamentary instrument, or the administration of such personal estate, cannot pay such legacy or some part thereof, although he, she, or they may have effects for that purpose, or cannot pay such residue or some part thereof, although he, she, or they may have the same or some part thereof in his, her, or their hands, it shall be lawful for such person or persons to pay such legacy or residue, or any part or parts thereof respectively, or any sum or sums of money on account thereof, after deducting the duty chargeable thereon, into the bank of England, with the privity of the accountant-general of the court of chancery, to be placed to the account of the person or persons for whose benefit the same shall be so paid, for payment of which money the said accountant-general shall give his certificate as usual in such cases, on production of the certificate of the commissioners of stamps that the duty thereon has been duly paid; and such payment into the bank shall be a sufficient discharge for the money so paid in, provided the duty be also paid thereon as aforesaid; and such money when paid in shall be laid out by the said accountant-general, without any formal request for that purpose, in the purchase of three pounds per centum consolidated annuities, which, with the dividends thereon, shall be transferred and paid to the person or persons entitled thereto, or otherwise applied for his or their benefit, on application to the court of chancery, by petition or motion in a summary way: Provided always, that if it shall afterwards appear that such money or any part thereof has been improperly paid into the bank as aforesaid, it shall also be lawful for the said court of chancery, upon petition, in a summary way to dispose thereof, and of the annuities purchased therewith, and the dividends received thereon, in such manner as justice shall require. Provided also, that if it shall appear that the duty paid in respect of any such sum of money was more than ought to have been paid, it shall be lawful for the person or persons who shall have paid such duty, to apply to the said commissioners for management of the stamp duties, to repay such

If by infancy or absence legacies cannot be paid, the money may be paid into the bank, and laid out in the 3*l.* per cents. (*a*).

If such money be improperly paid in, the chancery may dispose thereof; if more than the proper duty has

(*a*) See Byth. Sup. 116.

36 G. 3, c. 52.

been paid, the commissioners for stamps may return the excess;

excess of duty; and the said commissioners are hereby authorised, upon such application, to repay such excess of duty to the person or persons who shall appear to them entitled to receive the same, or to pay such excess of duty into the bank, with the privity of the said accountant-general, for the benefit of the person or persons entitled, there to be placed to the same account and to be applied in the same manner as the same would have been applicable if paid together with the remainder of the legacy or sum of money in respect of which the same shall have been paid; and the said commissioners are hereby authorised to make such payments respectively out of the moneys in their hands arising from duties imposed by this Act; and if the duty paid to the said commissioners shall appear to be less than the duty which ought to have been paid, it shall be lawful for the person or persons who paid such money into the bank as aforesaid, upon payment of the full duty to the said commissioners, in such manner as the same ought to be paid, with such penalties, if any, as ought to be paid in respect thereof, to apply to the court of chancery, in a summary way, for the repayment of the further sum paid to the said commissioners for such duty out of the money in the bank so paid in by such person or persons, or the produce thereof, which payment the said court is hereby authorised to order.

and if less, on payment of the full duty, the chancery may order repayment to the party.

If it shall appear to the commissioners for stamps, at the end of two years after the death of any person, that it will require time to collect the effects, or be difficult to ascertain the residue of the personal estate, the duty may be compounded for.

33. That if at the end of two years after the death of any person deceased it shall appear to the satisfaction of the said commissioners of stamp duties that it will require time to collect the debts or effects of such person then outstanding, or that from circumstances it will be difficult to ascertain or adjust the amount of the clear residue of the personal estate of such person liable to duty, and the parties interested therein shall be desirous of compounding for the duty thereon, it shall be lawful for such parties respectively, with the consent of the commissioners of stamp duties, to make application to the court of exchequer at Westminster, if the deceased person resided in England or elsewhere, except in Scotland, and to the court of exchequer in Scotland, if the deceased resided in Scotland, for leave to compound such duty, stating upon oath the particulars of the personal estate for which such composition shall be proposed to be made, by affidavit to be filed in the said court, and declaring at the same time upon oath whether any other property of the deceased then outstanding besides the property for which such composition shall be proposed to be made hath come to the knowledge of the said parties or any of them, and the nature thereof, and the circumstances attending the same; and in such case it shall be lawful for the said court of exchequer in England or Scotland, as the case may be, to appoint a proper person to set a value on the personal estate, or such part thereof, for which no duty shall have been charged, and which shall be specified in such affidavit as the property for which such composition shall be desired, and to adjust and settle the duty which justly and equitably under all circumstances ought to be paid in respect of such personal estate so specified, and thereupon it shall be lawful for the said commissioners, and they are hereby required, if the said court of exchequer to which such application shall be made, shall confirm the said adjustment and settlement, and order the duty to be accepted accordingly, and by authority of such order to accept payment of the sum so adjusted and settled, in full discharge of the duty on so much of such personal estate as shall be so specified, and according to such order, and to enter the same in their books accordingly, and to grant certificates thereof, expressing the receipt of such duty by way of composition under such order; and every such person to whom such certificate shall be granted, and every future representative of the same estate, and all persons entitled to the benefit of the property for which such composition shall be so paid, shall be discharged from any further payment of duty on the same; and in all future payments of such property it shall be lawful for the persons having or taking the burden of the execution of any will or testamentary instrument disposing such property, or the administration thereof, to pay, apply, and dispose of the same, and for all persons entitled to the benefit thereof to receive the same, without having the receipts and discharges in writing hereby required to be given and taken for the same, stamped as hereinbefore directed, provided such receipts or discharges shall express the same to be given under the authority of such composition as aforesaid, and not liable to duty: Provided always, nevertheless, that the duty shall be charged and paid upon all and every part of the personal estate of such person deceased, other than that which shall be specified in such affidavit as aforesaid, and included in the valuation in which such composition shall have been made as aforesaid, and for which the said court of exchequer shall allow and order such composition to be taken as aforesaid, in the same manner as if no such composition had been made; and all and every person and persons shall be liable to all the like penalties and forfeitures for not duly paying the duty for such personal estate not compounded for, and subject to the like rules, methods, and directions for charging such duty, as such person and persons respectively would be liable to if such composition had not been made.

Duty to be paid on any part of personal estates not included in the composition.

If any legacy be refunded, the duty to be repaid.

34. That if at any time after payment of duty on any legacy, or residue or part of residue of the personal estate of any person deceased, any debt shall be recovered against the estate of such deceased person, or any loss shall happen by reason whereof or for any other just cause any legatee or other person by whom any legacy or part of legacy, or any residue of any personal estate hath been received or retained, shall be obliged to refund the same or any part thereof, then in every such case it shall be lawful for the said commissioners of stamp duties, and they are hereby required, on due proof made on oath as aforesaid to their satisfaction of the amount of such sums refunded, and that by reason thereof there hath been an overpayment of duty, to settle and adjust the amount of such overpayment, and to repay the same out of the money in their hands arising

from the duties by this Act imposed, or to allow the same in future payments, as the case may permit or require. 36 G. 3, c. 52.

35. That whenever any person or persons having or taking the burden of the execution of any will or testamentary instrument, or the administration of any personal estate as aforesaid, shall be entitled to any legacy, or the residue of any part of the residue of the personal estate of any testator, testatrix, or intestate, such person shall be chargeable with the duty whenever he, she, or they shall be entitled in the due course of administration to retain to his, her, or their own use any part of the said estate, in satisfaction of such legacy or residue or any part thereof; and every such person, before any such retainer, shall transmit to the said commissioners of stamp duties or their officers a note containing the particulars of such legacy, residue or part of residue, intended to be retained, and the amount or value thereof, and the duty which such person or persons shall offer to pay thereon; and the said commissioners shall charge and assess the duty thereon in such manner as the duty shall be chargeable thereon by virtue of the provisions in this Act contained, and such duty shall be paid accordingly; and on payment of the said duty the said receiver-general of the said duty, or officer appointed to receive the same, shall, at the foot of a duplicate of the said assessment duly stamped, in such manner as the said commissioners shall direct for such purpose, give a receipt for such duty in such form of words as the said commissioners shall direct, which receipt shall be a discharge for the duty expressed therein; and in case any such person or persons shall neglect to pay such duty as aforesaid, within fourteen days after the same ought to have been paid as aforesaid, every such person and persons shall forfeit and pay treble the value of the duty which ought to have been paid.

Executors previous to retaining their legacies to transmit the particulars, with the duty offered to the commissioners of stamps, who shall charge the same agreeable to this Act.

Penalty for neglect of payment of duty for 14 days.

36. "And whereas doubts have arisen upon the construction of the said Acts of the twentieth, twenty-third, and twenty-ninth years of his majesty's reign, whether the duties thereby imposed were intended to be imposed on all legacies, bequests, and dispositions by will or testamentary instrument whatsoever: BE IT ENACTED AND DECLARED, That all receipts and discharges whatsoever for legacies specific and pecuniary, and of any nature or kind whatsoever, and for all personal estate whatsoever, in any manner given or disposed of by will or testamentary instrument, whether by way of annuity or other particular bequest, or by way of residue, or share of residue, or otherwise howsoever, as well as on personal estate distributable upon intestacy, except such dispositions as shall be made by any will or testamentary instrument, with respect to which the duties imposed by the said former acts are hereby repealed, shall be deemed and taken to be receipts and discharges for legacies within the intent and meaning of the said former acts respectively; and all and every person and persons to whom any such legacy or any part of any such legacy shall be due and payable at the time of passing this Act, or who at the time of passing this Act shall be entitled to any residue or any share or part of any residue of any personal estate under any such will or testamentary instrument, or upon intestacy, and also all and every person and persons who shall become entitled to any legacy, or residue or part of residue of any such personal estate, after the passing of this Act, upon which no duty is imposed by this Act, and upon which the duties imposed by the said former Act remain in force and unrepealed, shall, upon receipt or other satisfaction or discharge of any such legacy or part of such legacy, or residue or part of such residue, sign and give a receipt or discharge in writing duly stamped as required by the said former acts respectively; and the person or persons having or taking the burden of the execution of any will or other testamentary instrument, or the administration of any personal estate, shall have the like powers to require such receipt or discharge in writing, and to retain the duty payable in respect thereof, and the person and persons paying or otherwise satisfying or discharging, and the person or persons receiving or being otherwise satisfied for such legacy, or residue, or part of residue, shall be in like manner debtors for the duty imposed on such receipt or discharge in case of nonpayment of such duty, and to the like penalties for enforcing due payment thereof, as by this Act are provided with respect to the duties hereby imposed on legacies and residue of personal estate of persons dying after the passing of this Act.

Receipts for legacies except those by wills, respecting which the duties imposed by acts mentioned in the preamble are repealed, to be deemed receipts within the meaning of those Acts; and such receipts to be given for legacies due at passing this Act, and for legacies becoming due afterwards on which no duty is hereby imposed.

37. That if the authority under or by colour of which any person shall have administered the estate or effects of any person deceased, or any part thereof, shall be void, or be repealed, or declared void, and such person shall before the avoidance, repeal, or declaration of avoidance, have paid any duty hereby imposed or any duty imposed by any of the said former Acts, which shall not be allowed to such person out of the estate or effects of such deceased person, by reason that the same duty was not really due or payable, the money paid for such duty shall, on proof thereof to the satisfaction of the said commissioners of stamp duties, be repaid to the person or persons who shall have paid the same, or his, her, or their representatives, by the said commissioners, out of any moneys in their hands arising from the duties imposed by this Act or the said former Acts; but in case such duty ought to have been paid by the rightful executor or executors, administrator or administrators of such deceased person, then and in such case the payment of such duty shall be valid and effectual, notwithstanding such avoidance, repeal, or declaration of avoidance as aforesaid; and no such person shall, by reason of the avoidance, repeal, or declaration of avoidance of such authority, be sued, molested, or troubled for or in respect of such payment, but all such payments, in respect of the said duty, shall be allowed in account with such rightful executor or executors, administrator or administrators; and the same shall be deemed payments in the due course of administration, as fully and effectually as if such payments had been made by

If administration be made void, and any duty shall have been improperly paid, it shall be repaid; but if it ought to have been paid, it shall be allowed in account with the rightful executor.

36 G. 3, c. 52. rightful executors or administrators, any law, usage, or custom to the contrary notwithstanding (a).

Persons swearing falsely guilty of perjury.

38. That if any person or persons, upon any oath or affirmation before the said commissioners of stamp duties or commissioners of land-tax, or any person or persons authorised by this Act to administer any such oath or affirmation, shall wilfully and corruptly swear, affirm, or allege any matter or thing which shall be false or untrue, with intent to defraud his majesty of any of the said duties hereby imposed, or with intent to charge any person or persons with any greater or other duty than such person or persons ought to be charged with, every such person or persons so offending, and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to such pains and penalties as by any law now in being any person convicted of wilful and corrupt perjury is subject and liable to.

Penalty of 500*l.* for altering receipts.

39. That if any person shall alter any word, letter, figure, or number in any assessment or receipt to be made or given in pursuance of this Act, for any of the said duties, after the same shall have been signed by the officer appointed to sign the same, according to the directions of this Act, or shall utter or publish as true any such altered assessment or receipt, with intent to defraud his majesty, his heirs or successors, or any other person or persons, then and in such case every person so altering, uttering, or publishing as aforesaid shall forfeit and pay the sum of five hundred pounds.

37 G. 3, c. 19.

37 Geo. 3, c. 19. An Act for the more effectually securing the Stamp Duties on Indentures, Leases, Bonds and other Deeds. [28th December, 1796.]

Persons not bringing indentures not duly stamped, to be so stamped, to forfeit 20*l.* No indenture available unless duly stamped.

3. That if any attorney, solicitor, clerk, officer, or other person shall engross, print, or write, or cause to be engrossed, printed, or written, any indenture, lease, bond, or other deed on vellum, parchment, or paper, not duly stamped according to the directions of this Act, and shall neglect to bring the same to be duly stamped in the manner, and within the time hereby directed and allowed for stamping the same, every such attorney, solicitor, clerk, officer, or other person shall forfeit and pay the sum of twenty pounds; and no such indenture, lease, bond, or other deed shall be pleaded or given in evidence, or be good, useful, or available in any manner whatever, unless the same shall be stamped as required by this Act.

37 G. 3, c. 136.

37 Geo. 3, c. 136. An Act to enable the Commissioners of Stamp Duties to stamp Deeds and other Instruments, Bills of Exchange, Promissory and other Notes in Cases therein mentioned. [20th July, 1797.]

31 G. 3, c. 25, prohibiting commissioners from stamping bills and notes after they are complete, recited.

Bills of exchange, &c. made after passing of this Act liable to stamp duty under recited act, if on stamps of an equal or superior value, though on different denominations than the legal stamp, may be pro-

5. "And whereas by an Act passed, &c. [31 Geo. 3, c. 25] certain stamp duties were imposed on bills of exchange, promissory notes and other notes respectively, and it was thereby enacted, that all vellum, parchment, and paper, before any bill of exchange, promissory note or other note liable to any stamp duty by the said Act imposed, should be engrossed, printed, or written thereon, should be brought to the head office for stamping such vellum, parchment, and paper; and that it should not be lawful for the commissioners for managing the duties on stamped vellum, parchment, and paper, or their officers, to stamp any vellum, parchment, or paper, at any time after any bill of exchange, promissory note, or other note, draft, or order, should be written thereon, under any pretence whatsoever:" BE IT FURTHER ENACTED, That it shall and may be lawful for any person or persons who shall be the holder or holders of any bill of exchange, promissory note or other note, draft, or order, made after the passing of this Act (b), and liable to any stamp duty by virtue of the said recited Act, which shall be stamped with a stamp of a different denomination than is required by the said Act, if the same shall be of equal or superior value to the stamp required, to produce the same, or cause the same to be produced within the respective times hereinafter mentioned to the commissioners appointed to manage the said duties at the head office of stamps in Middlesex, or to such officer or officers as the said commissioners or the major part of them shall, by writing under their hands, appoint for such purpose; and it shall and may be lawful for such commissioners to direct the proper officer or officers, and such officer or officers is and are hereby required, upon payment of the duty payable on such vellum, parchment, or paper, by the said recited Act, and such penalty as is hereinafter mentioned, over and above the said duty, to mark or stamp such bill of exchange, promissory note or other note, draft, or order, with the proper mark or stamp,

---

(a) See *Reg.* v. *Commissioners of Stamps*, &c., 6 Q. B. 657.

(b) This clause is still in force, and a promissory note drawn before the Act upon a receipt stamp, of equal value with that required for the promissory note, is unavailable; but one drawn since this Act may be restamped, and then it may be received in evidence (*Chamberlain* v. *Porter*, 1 N. R. 30; Tilsley on Stamps, 133).

and to give a receipt for the duty and penalty so paid on the back of such bill of exchange, promissory note or other note, draft or order so stamped; and every such bill of exchange, promissory note or other note, draft, or order so stamped, shall have and be deemed of the like force and validity in the law as if the same had been duly stamped according to the directions of the said recited Act; and all and every person or persons procuring such bill of exchange, promissory note, or other note, draft, or order to be stamped as directed by this Act, shall be and is and are hereby indemnified, freed, and discharged from and against all penalties and forfeitures incurred by reason of such bill of exchange, promissory note or other note, draft, or order, not having been duly stamped according to the directions of the said Act.

37 G. 3, c. 136.

perly stamped, on payment of the duty, and a penalty (a).

6. That if any such bill of exchange, promissory note or other note, draft, or order, shall be produced to the said commissioners before the same shall be payable, according to the tenor and effect thereof, the same shall be stamped on payment of the said duty, and the penalty of forty shillings; but in case such bill of exchange, promissory note or other note, draft, or order, shall be payable according to the tenor and effect thereof, before the production thereof to the said commissioners for the purpose before mentioned, then the same shall not be stamped, unless on payment of the duty, and the sum of ten pounds for the said penalty.

Penalty to be paid on stamping said bills; 40s. if before bill is payable; 10l. afterwards.

42 Geo. 3, c. 99. An Act for allowing the stamping of certain Deeds until the Thirty-first Day of December, One Thousand Eight Hundred and Two; for amending an Act, passed in the Thirty-sixth Year of the Reign of His present Majesty, relating to Duties on Legacies and Shares of Personal Estates; for exempting certain Legacies from the payment of Duty; for reducing the Allowances on present Payment of Stamp Duties; and for reducing certain Stamp Duties on Policies for Sea Insurances. [26th June, 1802.]

42 G. 3, c. 99

2. That in every case in which any executor or executors, or administrator or administrators, shall not have paid the duties granted and payable upon or in respect of any legacies, or any personal estate, or any share or shares of any personal estate, of any person dying intestate, by and in pursuance of an Act passed in the thirty-sixth year of the reign of his present majesty, or any other Act or Acts of Parliament relating to duties on legacies or shares of personal estates, within proper and reasonable time, it shall be lawful for his majesty's court of exchequer, upon application to be made for that purpose on behalf of the commissioners appointed for managing the duties on stamped vellum, parchment, or paper, on such affidavit or affidavits as to the said court may appear to be sufficient, to grant a rule, requiring such executor or executors, administrator or administrators, to show cause why he, she, or they should not deliver to the said commissioners an account, upon oath, of all the legacies, or of the personal property, respectively paid, or to be paid, or administered by him, her, or them, as the case may be, and why the duties on any such legacies, or any shares or residue of any such personal estate, have not been paid or should not be forthwith paid according to law, and to make any such rule of court absolute in every case in which the same may appear to the said court to be proper and necessary for the better enforcing the payment of any of the said duties.

Where executors, &c. shall not have paid the duties on legacies under 36 G. 3, c. 52 (s. 6, &c.), the court of exchequer, on application from the stamp-office, may grant a rule against such executors, to deliver in an account on oath of legacies paid, &c. (b).

43 Geo. 3, c. 126. An Act for granting to His Majesty certain Duties on Receipts. [11th August, 1803.]

43 G. 3, c. 126.

5. That it shall be lawful for any person or persons, or any agent or agents of any person or persons from whom any sum or sums of money shall be due or payable, or claimed to be due or payable, and who shall have paid such sum or sums of money to provide a piece of paper, vellum, or parchment duly stamped with the proper duty, and according to the amount of the sum or sums so paid as aforesaid, or some higher rate of duty in this Act contained, and to demand and require of the person or persons entitled to such sum or sums of money, or any agent or agents to whom the same shall have been paid, a receipt, discharge, and acquittance for such sum or sums of money, and also the amount of the duty thereon as aforesaid, and if any person to whom any sum or sums of money shall have been paid as aforesaid shall refuse to give such receipt, discharge, and acquittance upon demand thereof, or pay the amount thereof as aforesaid, every such

Persons requiring the receipt may provide the stamp and demand payment of the duty from the party giving the receipt, who shall pay it on

(a) See *Kaiser* v. *Grout*, 29 L. J. Ex. 20.

(b) See *In re Pigott*, 1 C. & M. 827; *in re Robitson*, 2 M. & W. 407; *in re Sammon*, 2 M. & W. 381; *in re Vivian*, 1 C. & J. 409; *in re Barwick*, 3 Dowl. 703; and Chitty on Stamps, 43; Tilsley on Stamps, 715.

43 G. 3, c. 126.

person shall forfeit and pay for every such offence the sum of ten pounds, to be recovered as any penalty may be recovered under the said recited Acts.

penalty of 10*l.* (*a*).

No receipt shall be given in evidence, unless stamped with a lawful stamp, or one of a higher rate of duty.

6. That no receipt, discharge, or acquittance aforesaid, liable to the duties by this Act granted or any of them, shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity, unless the vellum, parchment, or paper on which such receipt, discharge, or acquittance shall be engrossed, printed, written, or made, shall be stamped or marked with a lawful stamp or mark to denote the rate of duty as by this Act directed, or some higher rate of duty in this Act contained.

45 G. 3, c. 28.

45 Geo. 3, c. 28. An Act for granting to His Majesty additional Stamp Duties in Great Britain on certain Legacies.

[5th April, 1805.]

What shall be deemed a legacy under this Act (*b*).

4. That every gift by any will or testamentary instrument of any person dying after the passing of this Act, which by virtue of any such will or testamentary instrument shall have effect, or be satisfied out of the personal estate of such person so dying, or out of any personal estate which such person shall have power to dispose of, as he or she shall think fit, or which shall have been charged upon or made payable out of any real estate, or be directed to be satisfied out of any moneys to arise by the sale of any real estate, or the person so dying, or which such person may have the power to dispose of, whether the same shall be given by way of annuity, or in any other form, shall be deemed and taken to be a legacy within the true intent and meaning of this Act (*c*): Provided always, that nothing herein contained shall be construed to extend to the charging with the duties by this Act granted, any specific sum or sums of money, or any share or proportion thereof charged by any marriage settlement or deed or deeds upon any real estate, in any case in which any specific sum or sums, or share or proportion thereof, shall be appointed or apportioned by any will or testamentary instrument under any power given for that purpose by any such marriage settlement or deed or deeds (*c*).

Act shall not extend to appointment by will under settlements, &c.

Duties on legacies charged on real estates shall be paid by the trustees, or the persons entitled to such estate, and retained as under 36 G. 3, c. 52.

5. That the duties hereby granted upon legacies, or charges upon or made payable out of any real estate, or out of any moneys to arise by the sale of any real estate, or upon residues, or parts or shares of residues of any such moneys, shall be accounted for, answered, and paid by the trustee or trustees to whom the real estate shall be devised, out of which the legacy or legacies, or share or shares of any money arising out of the sale or mortgage, or other disposition of such real estate, shall be to be paid or satisfied; or if there shall be no trustees, then by the person or persons (*d*) entitled to such real estate, subject to any such legacy; or by the person or persons empowered or required to pay or satisfy any such legacy; and the said duties shall be retained (*e*) by the person paying or satisfying any such legacy or share of money, in like manner, and according to such rules and regulations, and under and subject to such penalties, as far as the same can be made applicable, as are contained in an Act passed in the thirty-sixth year of the reign of his present majesty, intituled "An Act for repealing certain Duties on Legacies and Shares of Personal Estates, and for granting other Duties thereon in certain Cases."

Duties on legacies granted by 44 G. 3, c. 98, and this Act, to be levied according to the provisions of 36 G. 3, c. 52.

7. That the duties on legacies, granted by an Act of the last session of parliament, and by this Act, shall be raised, levied, accounted for, and paid, under and according to the provisions of the said recited Act of the thirty-sixth year aforesaid, and all the provisions, clauses, regulations, penalties, forfeitures, matters, and things in the said Act contained in relation to legacies out of personal estates, or to the collecting any duties thereon, or valuation of any annuities, or periods of paying the duties thereon by instalments or otherwise, shall, so far as the same can be made applicable, and in all cases not expressly provided for by this Act, extend to and be put in force in relation to legacies, annuities, and shares of money arising or to arise out of any real estate, and all directions, provisions, forfeitures, and penalties in the said Act contained, as to executors and administrators, shall be applied to all trustees and owners of any real estates, chargeable with legacies, annuities, or shares of money, or out of which, or any money to arise therefrom, against any such legacies, annuities, or shares of money, shall be to be

---

(*a*) See *Laing* v. *Meader*, 1 Car. & P. 257; *Richardson* v. *Jackson*, 8 M. & W. 298; and the notes to 55 Geo. 3, c. 184, sch. pt. 1, tit. "RECEIPT."

(*b*) See *Att.-Gen.* v. *Marquis of Hertford*, 14 M. & W. 284; but see S. C. 3 Exch. 670; and 8 & 9 Vict. c. 76, s. 4, post.

(*c*) A testator gave to his sons certain real estates, with power to appoint to any woman they might respectively marry, a jointure in bar of dower:—It was held, that an appointment under this power was a gift within this statute. *Sweeting* v. *Sweeting*, 1 Drew. 331, 22 L. J. Ch. 441. See *Att.-Gen.* v. *Pickard*, 3 M. & W. 552, 6 M. & W. 848; *Lord Henniker* v. *Att.-Gen.*, 7 Ex. 331, 8 ib. 257, 22 L. J. Ex. 41.

(*d*) See *Att.-Gen.* v. *Jackson*, 2 C. & J. 101.

(*e*) See *Hales* v. *Freeman*, 1 Bro. & B. 391; *Stow* v. *Davenport*, 5 B. & Ad. 366.

satisfied, as fully and amply as if all such provisions, clauses, regulations, penalties, forfeitures, matters, and things, had been repeated and re-enacted in this Act, in relation to legacies, annuities, and shares of money arising or to arise out of any real estate. 45 G. 3, c. 28.

46 Geo. 3, c. 43. An Act for granting to his Majesty certain Stamp Duties on Appraisements and on Licences to Appraisers in Great Britain. [5th May, 1806.] (a).

46 G. 3, c. 43.

4. That every person who shall value or appraise any estate or property real or personal or any interest in possession or reversion, remainder or contingency in any estate or property real or personal, or any goods, merchandise, or effects of whatsoever kind or description the same may be, for or in expectation of any hire, gain, fee or reward, or valuable consideration to be therefore paid him, shall be deemed and taken to be an appraiser (b) within the provisions of this Act to all intents and purposes. Persons appraising property for hire to be deemed appraisers.

5. That no person shall exercise the calling or occupation of an appraiser, or act as such within the intent and meaning of this Act, without taking out a licence in manner hereinafter mentioned, and every such licence shall state the true name and place of abode of the person taking out the same, and it shall be lawful for any two or more of his majesty's commissioners appointed for managing the duties arising by stamps on vellum, parchment and paper, or for any person duly authorised by such commissioners or the major part of them, to grant such licences, and every such licence issued between the 5th day of July and the 5th day of August in any year, shall bear date on the 6th day of July; and every such licence issued at any other time shall bear date the day on which the same shall be issued; and every such licence shall continue in force from the day of the date thereof until the 5th day of July then next following. Appraisers shall take out annual licences from 5th July, to be granted by commissioners of stamps, &c. (c).

6. That from and after the 5th day of July, 1806, no person shall appraise or value any estate or property or effects, real or personal, or any interest in possession or reversion, remainder or expectancy in any estate or property real or personal, for or in expectation of hire or reward, without being so licensed as aforesaid, on pain of forfeiting for every such offence the sum of fifty pounds. Penalty on unlicensed persons appraising, 50*l.*

7. Provided always, That all persons who shall be duly licensed according to law to act as auctioneers, shall and may act as appraisers, without taking out any other licence in pursuance of this Act, anything in this Act contained to the contrary notwithstanding. Auctioneers duly licensed may act as appraisers, without licence.

8. That every appraiser shall write or set down in words or figures, every valuation or appraisement made by him or any person for him, and the full amount thereof, and within fourteen days after the making thereof deliver the same to his employer so written or set down upon vellum, parchment, or paper, duly stamped according to the provisions of this Act, on pain of forfeiting for any neglect therein, or for delivering any valuation or appraisement, or the amount of any valuation or appraisement, on any vellum, parchment, or paper, not duly stamped as aforesaid, the sum of fifty pounds. Appraisers shall write appraisements on paper duly stamped. Penalty, 50*l.*

9. That no person who shall employ any appraiser to make any appraisement or valuation as aforesaid, shall receive, or take, or pay, or make any compensation for the making of any such appraisement or valuation as aforesaid, unless the same shall be written or set down in words or figures upon vellum, parchment, or paper duly stamped according to the provisions of this Act, on pain of forfeiting for every such offence the sum of twenty pounds. Persons shall not receive appraisements unless duly stamped. Penalty 20*l.*

10. Provided always, That nothing in this Act contained shall extend or be construed to require any stamp upon any piece of vellum, parchment, or paper, whereon shall be written or set down any valuation or appraisement extending to more than one piece of vellum, parchment, or paper, other than and except the piece upon which the aggregate amount of the value of the articles contained in such valuation or appraisement shall be written or set down. Appraisements extending to more than one piece of paper liable only to one stamp.

(a) See 55 Geo. 3, c. 184, sch. pt. 1 tit. "APPRAISEMENT;" and 8 & 9 Vict. c. 76, s. 1, post.

(b) That is, a person who bears the known character of appraiser (*Atkinson* v. *Felk*, 5 M. & Sel. 240; *Jackson* v. *Shepherd*, 2 C. & M. 361, 4 Tyr. 333; see Tilsley on Stamps, 66).

(c) Where, in assumpsit for work and labour, the defendant pleaded that the work consisted entirely of an appraisement of personal property, which the plaintiff appraised in expectation of reward, without being licensed according to this section: it was held, on special demurrer, that it was not necessary to allege, with reference to this section, that the plaintiff exercised the calling or occupation of an appraiser, or that he acted as such within the intent and meaning of the act, as the plea used the very words of this sect.; nor to negative the exceptions in sect. 7 (or in 55 Geo. 3, c. 184, sch. pt. 1, "APPRAISEMENT," exempting an appraisement made for the purpose of ascertaining legacy duty); and that the plea was good (*Palk* v. *Force*, 12 Q. B. 666).

48 G. 3, c. 149.

48 Geo. 3, c. 149. An Act for repealing the Stamp Duties on Deeds, Law Proceedings, and other written or printed Instruments, and the Duties on Legacies, and Successions to Personal Estate upon Intestacies now payable in Great Britain, and for granting new Duties in lieu thereof. [2nd July, 1808.]

On sale of any property real or personal, the purchase money or consideration shall be fully and truly set forth in the conveyance, &c. (a).

22. That in all cases of the sale (b) of any lands, tenements, rents, annuities or other property, real or personal, heritable or moveable, or of any right, title, interest, or claim, into, out of, or upon any lands, tenements, rents, annuities, or other property where a duty is imposed on the conveyance thereof, in the schedule hereunto annexed, in proportion to the amount of the purchase or consideration money therein or thereupon expressed, the full purchase or consideration money, which shall be directly or indirectly paid or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length, in or upon the principal or only deed or instrument, whereby the land or other thing sold shall be granted, assigned, transferred, released, renounced or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction; and also where upon the sale of any annuity, easement, servitude, or other right not before in existence, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or other security, the full purchase or consideration money which shall be directly or indirectly paid or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length, in or upon the bond or other instrument or instruments by which the same shall be secured; and if, in any of the said cases, the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, the purchaser or purchasers and also the seller or sellers shall forfeit the sum of fifty pounds, and shall also be charged and chargeable with, and be holden liable to the payment of five times the amount of the excess of duty which would have been payable for such deed, bond, or other instrument as aforesaid, in respect of the full purchase or consideration money, in case the same had been truly expressed and set forth in or upon the same, pursuant to the directions of this Act, and the schedule hereunto annexed, beyond the amount of the duty actually paid for the same; which quintuple duty shall be deemed and taken to be a debt to his majesty, his heirs and successors, of the party or parties respectively hereby made liable to pay the same, and shall and may be sued for and recovered accordingly.

Penalty on purchasers and sellers for default in setting forth consideration, quintuple duty.

Parties liable to such penalties informing against others shall be indemnified and rewarded.

23. Provided always, that if any or either of the parties hereby made liable to the payment of such penalty and quintuple duty, as aforesaid, shall give information to the commissioners of stamps, whereby such penalty or quintuple duty, or any part thereof shall be recovered from any other party or parties liable thereto, the party or parties giving the information shall not only be indemnified and discharged of such his, her, or their liability, but shall also be rewarded by the commissioners of stamps out of the penalty or quintuple duty so recovered, to such extent as the said commissioners or the major part of them shall think proper, but not exceeding one half of what shall be so recovered; and where any other person shall give information whereby any such penalty or quintuple duty shall be recovered, he or she shall be rewarded in the like manner.

Where the consideration shall not be truly set forth, purchaser may recover back so much thereof as shall not be stated (c).

24. That where the full purchase or consideration money shall not be truly expressed and set forth, in the manner hereby directed, it shall be lawful for the purchaser or purchasers, or any of them, or his, her, or their executors or administrators, to recover back from the seller or sellers, or his, her, or their executors or administrators, so much and such part of the purchase or consideration money as shall not be expressed and set forth as aforesaid, or the whole thereof, if no part of the same shall be so expressed and set forth, either in an action for money had and received for the use of the party or parties suing for the same, or by action for debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, wherein no essoin, protection, wager of law,

---

(a) See *Att.-Gen.* v. *Brown*, 3 Exch. 662; *Henniker* v. *Henniker*, 1 E. & B. 54.

The sale of a trade or goodwill having been held to be a sale within this section, contrary to the prevailing opinion (*Potter* v. *The Commissioners of Inland Revenue*, 10 Exch. 147; 23 L. J. Ex. 345), an indemnity against penalties incurred on or before the decision of that case was given by 17 & 18 Vict. c. 83, s. 19, post.

(b) This section, which is incorporated into 55 Geo. 3, c. 184, applies to sales properly so called, and an exchange upon which money is paid for equality of partition is not a sale (*Henniker* v. *Henniker*, 1 E. & B. 54).

(c) The effect of this section and 55 Geo. 3, c. 184, is to put leases for a premium on the same footing as conveyances upon a sale, so that where the consideration is not expressed in the lease, the sum paid may be recovered back; and where the consideration was for an amount due to the lessee on a settlement of accounts, it was held that this settlement amounted to a payment, and that as the defendant might recover back the premium, he might set it off as a debt (*Gingell* v. *Purkins*, 4 Exch. 720).

or more than one imparlance shall be allowed, or by ordinary action or summary complaint in the court of session, or in the sheriff or stewart court of the shire or stewartry where the person or persons sued or complained of shall reside in Scotland, as the case may require, together with double costs of suit. 48 G. 3, c. 149.

25. That if any attorney, solicitor, writer to the signet, or other person who shall be employed in or about the preparing of any such deed, bond, or other instrument in or upon which the full purchase or consideration money is hereby required to be truly expressed and set forth as aforesaid, or who shall be employed for any of the parties thereto, in anywise, about or relating to the transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon any such deed, bond, or other instrument, any other than the full and true purchase or consideration money directly or indirectly paid or secured, or agreed to be paid for the same, or shall in anywise aid or assist in the doing thereof respectively, every such attorney, solicitor, writer to the signet, or other person so offending, shall for every such offence forfeit the sum of five hundred pounds; and every attorney, solicitor, and writer to the signet so offending, and being thereof lawfully convicted, shall also be from thenceforth disabled to practice as an attorney, solicitor, or writer to the signet, and any other person being entitled or entrusted to prepare any such deed or other instrument in virtue of any public office or employment, and being guilty of such offence in the execution of his office or employment, and being thereof lawfully convicted, shall also forfeit and lose his office or employment, and be from thenceforth incapable of holding the same. Penalties on attorneys, &c. for not inserting the true consideration in any conveyance, &c. 500*l.* and incapacity.

26. Provided always, That no party, attorney, solicitor, writer to the signet, or other person whosoever shall be liable to any penalty, disability, or forfeiture whatsoever, by reason of the full purchase or consideration money not being truly expressed and set forth in or upon any such deed, bond, or other instrument as aforesaid, unless the duty or duties actually paid for the same shall be less than would have been payable for the same, in case the full purchase or consideration money had been truly expressed and set forth according to the directions of this Act. No penalty unless the duty paid be less than the duty payable.

27. That where upon the sale of any estate of inheritance or freehold in any lands or hereditaments in England, the same shall be conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, it shall be lawful for the said commissioners of stamps, and they are hereby required on the production of both conveyances, and on proof to their satisfaction that the full purchase or consideration money is truly expressed and set forth therein, in the manner hereby directed, and on its appearing that the release or feoffment is stamped with the *ad valorem* duty hereby charged thereon, and that the bargain and sale is stamped with the ordinary duty hereby charged thereon, to cause the deed of bargain and sale to be also stamped with some particular stamp for testifying the payment of the said *ad valorem* duty on the release or feoffment, and also where upon the sale of any such estate of inheritance or freehold, the same shall be conveyed by lease and release, and also by feoffment, it shall be lawful for the said commissioners, and they are hereby required on the production of both conveyances, and on proof to their satisfaction that the full purchase or consideration money is truly expressed and set forth therein in the manner hereby directed, and on its appearing that the release is stamped with the *ad valorem* duty hereby charged thereon, and that the feoffment is stamped with the ordinary duty hereby charged thereon, to cause the feoffment to be also stamped with some particular stamp for testifying the payment of the said *ad valorem* duty on the release, and thereupon the bargain and sale in the former case, and the feoffment in the latter case shall be as available in law, and of the like force and effect in all respects as if the same had been stamped with the *ad valorem* duty itself, but until the same shall be so stamped as aforesaid, the same shall not be given in evidence or be available in any manner whatsoever. Where lands are conveyed by bargain and sale enrolled, and also by lease and release, or feoffment, the former shall be specially stamped, to testify payment of the *ad valorem* duty on the latter.

28. That if any officer of any of his majesty's courts at Westminster, or any clerk of the peace, or other person intrusted to enrol deeds of bargain and sale of estates of freehold in England, shall enrol any deed of bargain and sale, made after the 10th day of October, 1808, whereby any freehold lands or hereditaments shall be conveyed to any purchaser or purchasers, or other person or persons by his, her, or their direction, unless such deed of bargain and sale shall appear to be stamped with the proper *ad valorem* duty hereby charged on conveyances upon the sale of lands, or other property, according to the amount of the purchase or consideration money therein expressed, or with such particular stamp as aforesaid, for testifying the payment of the said *ad valorem* duty on a deed of release or feoffment of the same lands or hereditaments, every such officer or clerk of the peace, or other person so offending, shall for every such offence forfeit and pay the sum of fifty pounds. Penalty on officers enrolling deeds of bargain and sale not duly stamped, 50*l.*

29. [Conveyances of property, contracted to be sold before 12th day of April, 1808, exempted from the *ad valorem* duty, though executed after 10th day of October, 1808.]

30. That where any copyhold or customary lands or hereditaments shall be proposed to be surrendered in court, the person or persons proposing to surrender the same shall deliver to the steward of the manor or honour, whereof such lands or hereditaments shall be holden, a note in writing, stating whether the surrender proposed is upon a sale, or not upon a sale, and in the former case specifying the amount of the purchase or consideration money agreed upon for such lands or hereditaments, to the intent that the same may be inserted and set forth in words at length, in or upon the copy of court roll, to be afterwards made out of such surrender, pursuant to the directions of this Act, and until such note in writing shall be delivered, the lord or lady, or steward of the manor or honour, shall not accept or take the proposed surrender, on pain of forfeiting for every On surrendering copyhold lands in court, the consideration of sale shall be stated, &c.

48 G. 3, c. 149.

Penalty on neglect: Steward 50*l.* Seller 100*l.*

such offence the sum of fifty pounds; and where the proposed surrender shall be upon a sale, if the steward shall neglect to insert the said purchase or consideration money, in or upon the copy of court roll to be afterwards made out of such surrender, in words at length, he shall for every such offence forfeit the sum of fifty pounds; and if upon the sale of any such lands or hereditaments, any person or persons shall, in the note so to be delivered as aforesaid, state the proposed surrender to be not upon a sale, he, she, or they shall for every such offence forfeit the sum of one hundred pounds.

Penalty on taking surrenders, or granting admissions, &c., out of court not duly stamped, 50*l.*

31. That where any copyhold or customary lands or hereditaments shall be intended to be conveyed to any person or persons (either upon the sale or mortgage thereof or otherwise) by means of a surrender made out of court, or by a deed of bargain and sale, or other deed by commissioners named in a commission of bankrupt, or by executors or others, by virtue of a power given by will or by Act of parliament, the lord or lady, or steward of the manor or honour whereof such lands or hereditaments should be parcel or be holden, shall not enrol any such surrender or deed, or accept any presentment thereof, or admit any person to be tenant of such lands or hereditaments under or by virtue of the same respectively, unless such deed or surrender, or the memorandum of such surrender, shall be duly stamped with the duty hereby charged thereon respectively, on pain of forfeiting for every such offence the sum of fifty pounds.

Penalty for enrolling surrenders out of court, or bargains and sales of copyholds, &c., not duly stamped, 50*l.*

32. That if any lord or lady, or steward of any manor or honour, shall after the said 10th day of October, accept or take any surrender, or admit any person tenant of any copyhold or customary lands or hereditaments out of court, or make any voluntary grant of any such lands or hereditaments out of court, or grant any licence to demise any such lands or hereditaments out of court, without causing the same or some memorandum thereof respectively to be put in writing on vellum, parchment or paper duly stamped with the proper duty hereby charged thereon respectively, then and in every such case he or she shall for every such offence forfeit the sum of fifty pounds.

Penalty on stewards of manors neglecting to make out and deliver copies of court roll within four months, duly stamped, 50*l.* (*a*).

33. That in all cases of surrenders, admittances and voluntary grants of or to any copyhold or customary lands or hereditaments, and in all cases of licences to demise any such lands or hereditaments, which shall be taken, made or granted in court, after the 10th day of October, 1808, the steward of the manor or honour whereof such lands or hereditaments shall be parcel or be holden, shall make out a copy of court roll of every such surrender, admittance, voluntary grant and licence to demise, on vellum, parchment or paper, duly stamped according to the directions of this Act, within four calendar months next after the surrender, admittance, voluntary grant or licence shall be made or granted, and shall deliver the same to the party or parties entitled thereto, or any other person authorised to receive the same whenever the same shall be called for, after the expiration of such four calendar months, and if the same shall not be called for, then the steward shall deliver the same to the bailiff of the manor or honour, or to the crier of the court, or to some copyhold or customary tenant of the manor or honour for the use of the party or parties entitled thereto, at the next general court to be holden for the said manor or honour, and if any such steward shall neglect to make out and deliver such copy or copies of court roll in the manner and within the time aforesaid, he shall forfeit the sum of fifty pounds for every such surrender, admittance, voluntary grant and licence to demise, of which he shall neglect to make out and deliver a copy of court roll in the manner and within the time aforesaid; and the stamp duty payable in respect of every such copy of court roll shall be a debt to his majesty, his heirs and successors, of the steward so neglecting to make out and deliver the same, whether he shall have received the duty or not; and if he shall not have received the duty, the same shall also be a debt to his majesty, his heirs and successors, of the party or parties entitled to such copy of court roll; and the said steward shall also be bound to make out and deliver such copy of court roll to the party or parties entitled thereto, whenever after the same shall be demanded without being paid any fees for the same, and if any fees shall have been previously paid to him for the same, such fees shall be deemed to have been paid without consideration, and the party or parties who paid such fees, his, her, or their executors or administrators, shall be entitled to recover back the same in an action for money had and received to his, her, or their use, with full costs of suit.

Stamp duty a debt to the king.

Fees.

Stewards of manors may insist on payment of fees and the stamp duty before accepting surrenders.

34. That it shall be lawful for the steward of any manor or honour, previously to the acceptance of any surrender or the granting or making of any admittance, voluntary grant, or licence to demise in court from and after the 10th day of October, 1808, to demand and insist on the payment of his lawful fees for the same, and for the copy of court roll to be made out thereof, together with the stamp duty payable on such copy of court roll, and in case of nonpayment of such fees and stamp duty, it shall be lawful for the lord or lady, or steward of the manor, to refuse to accept the surrender, or to grant the admittance or licence, or to make the voluntary grant which shall be proposed or have been contracted for, until such fees and stamp duties shall be paid.

54 G. 3, c. 133.

54 Geo. 3, c. 133. An Act for better enabling the Commissioners of Stamps to make Allowances for spoiled Stamps on Policies of

(*a*) See *Underwood* v. *Woodhouse*, 1 L. J. Q. B. 219.; *Doe* v. *Mee*, 4 B. & Ad. 617.

Insurance in Great Britain, and for preventing Frauds relating thereto. [25th July, 1814.]

54 G. 3, c. 133.

"Whereas it is expedient to repeal the existing provisions and make others for the allowance of spoiled stamps on policies of insurance in Great Britain, and for preventing frauds relating thereto:" BE IT ENACTED, That from and after the passing of this Act, all the provisions contained in an Act of the thirty-fifth year of his majesty's reign, intituled "An Act for granting to His Majesty certain Stamp Duties on Sea Insurances," and in any subsequent Act or Acts for the allowance and exchange of stamps on policies of insurance in Great Britain, as being spoiled or misused, shall be and the same are hereby repealed; and that it shall be lawful for the commissioners of stamps to allow a spoiled or misused and to cancel stamps on policies of insurance in Great Britain in the following cases, and upon the following terms and conditions only; that is to say:

35 G. 3, c. 63, s. 8. 39 & 40 G. 3, c. 72, s. 11, repealed.

Allowance made in following cases:

First, Where a policy shall be inadvertently filled up in an incorrect or improper manner, or be obliterated or otherwise spoiled and rendered unfit for use, or shall be filled up for some insurance which shall not be proceeded in, and the same shall not be signed by any underwriter, provided application shall be made for the allowance within six calendar months after the passing of this Act, or after such policy shall be spoiled or become useless:

1. Where policy is spoiled, without being underwritten.

Secondly, Where a policy shall be underwritten, but not to the full amount of the sum which the stamp duty thereon will cover, and another policy shall be produced underwritten in lieu thereof, by the same persons, to the same amount, on the same property or interest, and for the same risk in all respects, provided application shall be made for the allowance within six calendar months after the passing of this Act, or three calendar months after the date of the last subscription on the first policy:

2. Where policy is underwritten, but not to full extent of stamp duty.

Thirdly, Where a policy shall be underwritten, and there shall afterwards be found any error or mistake therein, so that the insurance intended shall not be thereby effected, and another policy shall be produced underwritten in lieu thereof by the same persons, in which the error or mistake shall be rectified, provided the underwriters shall sign a declaration that the insurance made by the first policy is cancelled, and the premium returned on that ground only, and provided satisfactory proof shall be given of the error or mistake, and that the new policy shall be underwritten before notice of the termination of the risk first insured, and provided application shall be made for the allowance within six calendar months after the passing of this Act, or three calendar months after the date of the last subscription on the first policy:

3. Where errors or mistake in policy.

Fourthly, Where a policy shall be underwritten, and the terms and conditions of the insurance shall afterwards be agreed to be altered and another policy shall be produced underwritten in lieu thereof, by the same persons, to the same amount on the same property or interest, and with such alteration in the terms and conditions of the insurance as may have been agreed upon; provided the underwriters shall sign a declaration that the insurance made by the first policy is cancelled, and the premium returned on that ground only, and provided the new policy shall be underwritten before notice of the termination of the risk originally insured, and the thing insured shall remain the property of the same person or persons, and provided application shall be made for the allowance within six calendar months after the passing of this Act, or three calendar months after the date of the last subscription on the first policy:

4. Where terms and conditions of policy agreed to be altered.

Fifthly, Where a policy shall be underwritten, and the insurance shall be made subject to the approbation of the insured, and such condition shall be expressed in the policy, and the insured shall signify his or their disapprobation thereof within the time to be prescribed for that purpose in and by the policy, provided all the underwriters on such policy (except such as may be deceased, or have become bankrupt or insane, or have departed out of the realm) shall sign a declaration that the insurance is cancelled and the premium returned on that ground only, and provided application shall be made for the allowance within six calendar months after the passing of this Act, or three calendar months after the time so prescribed for disapprobation:

5. Where policy is underwritten subject to approbation and disapproved.

Sixthly, Where insurance shall be made upon any ship or ships, or upon any goods or other property on board any ship or ships, or upon the freight of any ship or ships, or upon any other interest in or relating to any ship or ships, for a particular voyage, and the ship or ships shall not proceed at all upon the voyage specified, or shall not proceed thereon at or within the time specified, if any, and also where insurance shall be made upon goods or other property on board any ship or ships, or upon any interest in or relating to any ship or ships, for or upon a particular voyage, and the goods or property intended to be insured shall not be shipped at all, or not within the time specified, or not on board the ship or ships named or described, or it shall turn out that the insured had not the interest intended to be insured; provided in all these cases, that all the underwriters (except such as may be deceased, or have become bankrupt or insane, or have departed out of the realm) shall sign a declaration that the insurance is cancelled, and the premium returned for some or one of the reasons here specified, and provided application shall be made for the allowance within six calendar months after the passing of this Act, or three calendar months after the insured, if in Great Britain, or his or their broker or agent, if the insured be out of Great Britain, shall know the facts upon which the allowance is hereby authorised to be made; but no allowance of the duty shall be made in any of these cases, if the underwriters shall have run any risk whatever under the policy brought for allowance, unless another policy shall be produced, whereby

6. Where after insurance made, there turns out to be no risk or no interest.

Allowance when applied for.

54 G. 3, c. 133.

the same property or interest shall be insured to the same amount for or upon some other voyage, or for or upon the same voyage to be performed at some other time:

In foregoing cases other stamps given in lieu of those allowed.

And upon the allowance of any stamps or policies of insurance as spoiled or misused in the several cases aforesaid, the commissioners of stamps shall give the party delivering up such policies to be cancelled, other policy stamps of the same amount or value in lieu thereof.

2nd, 3rd, and 4th cases provided for.

2. Provided always, That if in the second, third, or fourth case, hereinbefore provided for, some only of the underwriters on the policy brought for allowance, shall have underwritten another policy in lieu thereof, it shall nevertheless be lawful for the said commissioners to make such allowance as aforesaid, for the amount of the stamp duty on the first policy, except so much thereof as shall be due for or in respect of the sum or sums not transferred to the second policy; and if it shall appear to the satisfaction of the said commissioners, that any legal proceedings are intended to be instituted by or on behalf of the insured, in respect of any sum or sums underwritten on the first policy, and not transferred to the second, which may require the production of the first policy, it shall be lawful for the said commissioners to cancel and expunge the stamp thereon, and to substitute another stamp for denoting only the duty payable in respect of the sum or sums not transferred as aforesaid, and thereupon to re-deliver the same to the insured or his or their broker or agent.

Case of a policy underwritten, but not to full extent of stamp duty, provided for.

3. That if in the case of a policy being underwritten, but not to the full amount of the sum, which the stamp duty thereon will cover, it shall be found inconvenient to get another policy underwritten in lieu thereof, and the same shall be brought to the said commissioners within six calendar months after the passing of this Act, or three calendar months after the date of the last subscription thereon, it shall be lawful for the said commissioners to cancel and expunge the stamp on such policy, and to substitute another stamp for denoting only the duty, payable in respect of the sum or sums underwritten thereon, and to give another policy stamp, or stamps of an amount or value equal to the difference between the stamp cancelled and the stamp substituted for the same.

Allowance made of proportion of stamp duty, in cases of short interest.

4. That where insurance shall be made on any ship or ships, or on goods or other property on board of any ship or ships, or on the freight of or other interest in or relating to any ship or ships, and the sum insured on the account of any one person, or on the joint account of two or more persons, shall be found to exceed the value of his, her, or their property or interest, by the sum of one thousand pounds, where the duty shall be at the rate of one shilling and threepence per centum, or by the sum of five hundred pounds, where the duty shall be at the rate of two shillings and sixpence per centum, or above, it shall be lawful for the commissioners of stamps to make an allowance for so much of the stamp duty on the policy whereby such insurance shall be made, as shall exceed the duty payable in respect of the value of the property or interest on which the risk shall have attached on the policy being delivered up to be cancelled, and proof being made to the satisfaction of the said commissioners, of the value of such property or interest, and provided all the underwriters (except such as may be deceased, or have become bankrupt or insane, or have departed out of the realm) shall sign a declaration that the premium is returned on account of short interest, in respect of their several proportions of the excess of the sum insured beyond the value of such property or interest, and provided application shall be made for the allowance, within six calendar months after the passing of this Act, or three calendar months after the value of such interest or property shall be known to the insured, if in Great Britain, or to his or their broker or agent, if out of Great Britain; and the said commissioners shall deliver other policy stamps for the amount of the duty so to be allowed as last mentioned; but no such allowance shall be made on account of short interest in any case where the property or interest insured shall be expressly valued at the sum insured thereon, in and by the policy whereby the insurance shall be made.

No allowance if policy underwritten beyond duty.

5. That no such allowance as aforesaid shall be made in any of the cases hereinbefore mentioned, if the policy brought for allowance shall appear to be underwriten to a greater amount than the stamp duty thereon will cover.

Allowance made for stamps on policies underwritten beyond duty, in certain cases and on certain conditions.

6. That it shall be lawful for the said commissioners to make such allowance as aforesaid, where a policy shall be underwritten to a greater amount than the stamp duty thereon will cover, after the expiration of six calendar months from the passing of this Act, provided the same shall be proved to have been done inadvertently, and provided another policy duly stamped shall be underwritten in lieu thereof, by the same persons to the same amount, on the same property or interest, and for the same risk in all respects, within three days afterwards, and application shall be made for the allowance within seven office days after the date of the last subscription on the policy on which too much shall have been underwritten; and in case only some of the underwriters can be procured to underwrite another policy in lieu thereof, within the time hereby limited, it shall be lawful for the said commissioners to make such allowance as aforesaid, for the amount of the stamp duty on the first policy, except so much thereof as shall be due for or in respect of the sum or sums not transferred to the policy underwritten in lieu thereof (provided application be made within the said seven days), and to cancel and expunge the stamp thereon, and to substitute another stamp, for denoting only the duty payable in respect of the sum or sums not transferred as aforesaid, and thereupon to re-deliver the same to the insured, or his or their broker or agent: and if it shall be deemed inconvenient to get another policy underwritten in lieu of any policy which shall be underwritten to a greater amount than the stamp duty thereon will cover, and the same shall be brought to the said

commissioners within three office days after the date of the last subscription thereon, and the proper duty shall be then paid in respect of the sum or sums underwritten beyond what shall be covered by the stamp duty thereon, it shall be lawful for the said commissioners to put an additional stamp on such policy, for denoting the duty then to be paid, which additional stamp shall render the same valid: and where any policy shall have been underwritten to a greater amount than the stamp duty thereon will cover, at any time before the passing of this Act, or within six calendar months afterwards, it shall be lawful for the said commissioners to make such allowance in respect thereof, as they are authorised to make in such cases by any Act or Acts now in force. 54 G. 3, c. 133.

That no such allowance of stamp duty as aforesaid shall be made, in any case, where it is to depend on the condition of the underwriters signing a declaration of the return of premium, unless the underwriters shall sign such declaration with their surnames at length, and not with their initials only as heretofore accustomed; and if any underwriter shall agree to return the premium on any policy of insurance, and shall refuse to sign such declaration in the manner hereby required, he shall, for every such offence, forfeit the sum of fifty pounds, to be paid to his majesty, his heirs or successors, and to be recovered in the same manner as other penalties imposed by any of the laws now in force relating to stamp duties. Underwriters to sign return of premium with surnames at length. Penalty.

8. That where the allowance of stamp duty, in any of the cases aforesaid, shall depend upon the condition of the underwriters signing a declaration of the return of premium, it shall be sufficient if the declaration shall certify the return of the same, with an exception of one shilling in the pound or guinea, for the broker's commission, and of any further sum, not exceeding one-half per centum on the sum insured, which may be agreed to be retained in consideration only of the trouble given to the underwriters, and not of any risk actually incurred by them. Allowances made, through part of premium retained for brokerage or trouble.

9. That if any underwriter shall knowingly and wilfully sign any false declaration of the grounds on which the premium on any policy of insurance, or any part thereof, shall be returned, or any false declaration of the quantity of premium returned, in any of the cases hereinbefore mentioned, he shall, for every such offence, forfeit the sum of one hundred pounds, to be paid to his majesty, his heirs or successors, and to be recovered in the same manner as other penalties imposed by any of the laws now in force relating to stamp duties. Underwriters signing false declaration of return of premium. Penalty.

10. That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or willingly aid or assist in the forging or counterfeiting of the name or handwriting of any underwriter or any policy of insurance, to any declaration of any return of the premium on such policy or any part thereof, or shall fraudulently alter, or cause or procure to be altered, or aid or assist in altering any such declaration, after the same shall have been signed by any underwriter, or shall utter or make use of any such declaration, knowing the same to have been fraudulently altered, or the name or handwriting of any underwriter to have been forged or counterfeited thereon, for the purpose of obtaining any such allowance as aforesaid, and with intent to defraud his majesty, his heirs or successors; every person so offending shall, for the first offence, forfeit the sum of five hundred pounds, to be paid to his majesty, his heirs or successors, and to be recovered in the same manner as other penalties imposed by any of the laws now in force relating to stamp duties; and for the second and every other offence shall be judged guilty of felony, and shall be transported for seven years to parts beyond the seas. Forging, &c., or altering, &c., declaration of return of premium. First offence. Second offence.

11. That it shall be lawful for the commissioners of stamps to make such rules and regulations, and to require affidavits, or solemn affirmations in the case of quakers, of all such facts and circumstances, in regard to the allowance of spoiled or misused stamps, in the several cases provided for by this Act, as they shall in their discretion judge necessary or expedient, for the purpose of preventing frauds and evasions; such affidavits or affirmations to be made before the said commissioners, or any one or more of them, or before any person authorised by them or the major part of them in that behalf, or before a master in chancery, ordinary or extraordinary, in England, or before any person duly commissioned to take affidavits by the court of session, or the court of exchequer in Scotland, who are hereby respectively authorised to take the same and administer the proper oath or affirmation for that purpose; and it shall also be lawful for the said commissioners of stamps to call for such written documents and other evidence as shall appear to them to be necessary for substantiating the claims which shall be made for any such allowances as aforesaid. Commissioners of stamps may make regulations, and require affidavits and written documents in support of claims;

12. And, for facilitating such allowances, be it further enacted, that it shall be lawful for the commissioners of stamps, or the major part of them, to authorise any of their officers to receive and examine the claims made for such allowances, and to take affidavits and affirmations relating thereto, and to administer the proper oaths or affirmations for that purpose, and to do all or any other act or acts respecting such claims which the said commissioners themselves are hereby authorised to do. and may authorise officers to receive and examine claims, &c.

13. That if any person making any such affidavit or affirmation as aforesaid, shall knowingly and wilfully make a false oath or affirmation, of or concerning any of the matters to be therein specified or set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force persons convicted of wilful and corrupt perjury are subject and liable to. Perjury.

54 G. 3, c. 144.

54 Geo. 3, c. 144. An Act for better securing the Stamp Duties on Sea Insurances made in London; and for altering the Period for taking out Stamp Office Certificates by Attorneys and others in England. [27th July, 1814.]

Contracts dated when signed by underwriters.

3. That every contract of insurance to be made on such blank stamped paper as aforesaid, shall be dated on the day on which the same shall be signed by the underwriters: and if the same shall be signed on different days by different underwriters then the same shall be dated so as to show what underwriters signed on each day; and in default thereof the broker or other person effecting the insurance, and also every underwriter signing any such contract without the proper date, shall forfeit the sum of one hundred pounds, to be paid to his majesty, his heirs and successors, and to be recovered in the same manner as other penalties imposed by any of the laws now in force relating to stamp duties.

Penalty.

Contracts to contain particulars or be void.

4. That every contract of insurance to be made on such blank stamped paper as aforesaid, shall contain and specify (besides the date or dates when signed as aforesaid) the name of the ship with reference to which the insurance shall be made (unless it shall be upon "ship or ships"), the voyage or risk to be insured against, the premium or consideration for the insurance, the thing insured, and also the name or names, or the usual style and firm of dealing of one or more of the persons interested in the insurance, or in lieu thereof the name or names, or usual style and firm of dealing of the consignor or consignors, consignee or consignees, of the goods or property to be insured, or the name or names, or usual style and firm of dealing of the person or persons residing in Great Britain, who shall receive the order for and effect such insurance, or of the person or persons who shall give the order or directions to the agent or agents immediately employed to negotiate or effect such insurance; and in default thereof the same shall be null and void to all intents and purposes.

Contracts to bind underwriters to subscribe policies for same insurance, and available if no policy in lieu.

5. That every such contract of insurance being duly stamped, and containing the particulars aforesaid, shall not only be obligatory on the underwriters to subscribe a regular stamped policy of insurance in lieu thereof to the same amount on the same property or interest, and for the same voyage or risk, when thereunto required, by or on the behalf of the insured, and also to date their respective subscriptions on the same day as the contract before signed by them, but shall also be available as a competent instrument of insurance, in case a regular policy shall not be underwritten in lieu thereof.

Commissioners to allow for stamps on contracts, on production of policies in lieu thereof, within a month,

6. That whenever any broker or other person having effected a contract of insurance on such blank stamped paper as aforesaid shall deliver up the same to the commissioners of stamps to be cancelled within one calendar month after the date of the last subscription thereon, and shall at the same time produce to them a regular stamped policy of insurance underwritten in lieu thereof by the same persons to the same amount on the same property or interest, and for the same voyage or risk in all respects, the said commissioners shall allow to the broker or other person so delivering up the contract to be cancelled, the amount of the stamp duty thereon, in other stamps for contracts or policies of insurance.

although policies may vary from contracts in certain respects.

7. That such allowance of the stamp duty shall be made, notwithstanding the policy underwritten, in lieu of any such stamped contract as aforesaid, shall contain matter explanatory of the contract, or shall vary therefrom in consequence of any error or mistake in the contract, whereby the insurance really intended shall not have been effected, or in consequence of the terms and conditions of the insurance having been afterwards agreed to be altered; provided in the case of error or mistake, that satisfactory proof shall be given thereof, and of the nature and circumstances of the same; and provided in the case of any alteration in the terms and conditions of the insurance, that the policy shall have been underwritten before notice of the termination of the risk specified in the contract, and that the thing insured shall remain the property of the same person or persons.

If policies in lieu of contracts are not subscribed by all the underwriters, stamp duty allowed in part.

8. Provided always, that if a regular stamped policy of insurance shall be underwritten, in lieu of any such contract as aforesaid, by some only of the persons who shall have underwritten the contract, by reason of the refusal, or of the death, bankruptcy, insanity, or absence of the others or other of them, then upon the contract being delivered up as aforesaid, and on the production of the policy underwritten in lieu thereof, within the said one calendar month, it shall be lawful for the said commissioners to make an allowance in the manner aforesaid, for the amount of the stamp duty on the contract, except so much thereof as shall be due for or in respect of the sum or sums underwritten on the contract, and not transferred to the policy; and if it shall appear to the satisfaction of the said commissioners, that any legal proceedings are intended to be instituted, by or on behalf of the insured, in respect of any sum or sums underwritten on the contract, but not transferred to the policy, which may require the production of the contract, it shall be lawful for the said commissioners to cancel and expunge the stamp on the contract, and to substitute another stamp, for denoting only the duty payable in respect of the sum or sums not transferred to the policy, and thereupon to re-deliver the contract to the insured, or his or their broker or agent.

In what case no allowance

9. Provided always, That no such allowance as aforesaid shall be made in respect of any contract of insurance, which shall be underwritten to a greater amount than the

stamp duty thereon will cover, unless it shall be proved to have been done inadvertently, and a regular stamped policy shall be made out, and be underwritten in full, or in part, in lieu thereof, within three days afterwards, and application shall be made for the allowance within seven office days after the date of the last subscription on the contract. 54 G. 3, c. 144. made on contracts underwritten beyond duty.

10. That it shall also be lawful for the said commissioners of stamps to make such and the like allowances of or for or in respect of the stamp duty, on such blank stamped paper as aforesaid, where the same shall happen to be spoiled, without being signed by any underwriter, and also where regular stamped policies shall not be underwritten in lieu thereof, in the cases of greater or less sums being underwritten thereon than the stamp duty will cover, and in the cases of insurances made conditionally subject to the approbation of the insured, and in the cases of no risk, no interest and short interest, respectively, as in and by an Act of the present session of parliament, for better enabling the commissioners of stamps to make allowances for spoiled stamps on policies of insurance in Great Britain, and for preventing frauds relating thereto, they the said commissioners are or shall be authorised to make, of or for or in respect of the stamp duty on regular policies of insurance, in the like cases respectively, and upon such and the like terms and conditions in all respects and not otherwise. Commissioners to make such allowances for stamps on contracts in other cases, as they are authorised to do on policies, by c. 133.

11. That all the powers, provisions, and regulations, fines, forfeitures, pains, and penalties contained in and imposed by the Act of the present session of parliament above referred to for facilitating the allowance of stamp duty on policies of insurance in the cases therein mentioned, and for examining and substantiating the claims to such allowances, and for preventing frauds and punishing offences relating thereto, shall be exercised, observed, applied, enforced, and put in execution, with regard to such contracts of insurance as aforesaid, and to the allowance of the stamp duty thereon in the cases herein specified, as fully and effectually to all intents and purposes as if the same had been herein inserted at length and specially enacted, with reference to such contracts of insurance. Provisions o c. 133, respecting policies, extended to contracts.

12. That if any person to whom any allowance of stamp duty on contracts or policies of insurance shall be to be made, either as principal, or agent, or broker, in pursuance of this or any other Act, shall stand indebted to his majesty for stamps supplied on credit in pursuance of this Act, or of the aforesaid Act of the thirty-fifth year of his majesty's reign, it shall be lawful for the said commissioners of stamps to write off the amount of such allowance from the sum then due and owing from him, instead of delivering stamps for the same. Allowances to persons supplied on credit, deducted from debts.

55 Geo. 3, c. 184. An Act for repealing the Stamp Duties on Deeds, Law Proceedings, and other written or printed Instruments, and the Duties on Fire Insurances, and on Legacies and Successions to Personal Estate upon Intestacies, now payable in Great Britain; and for granting other Duties in lieu thereof. [11th July, 1815.]

55 G. 3, c. 184.

"Whereas it is expedient to grant certain additional stamp duties towards raising the necessary supplies to defray your majesty's public expenses, and making such permanent addition to the public revenue as shall be equal to the increased annual charge, occasioned by the funding of exchequer bills, and by any loan made pursuant to any Act or Acts passed or to be passed for that purpose, in this session of parliament; and it is also expedient to consolidate the additional with the existing duties:" IT IS ENACTED, That all the duties granted by the Act passed in the forty-eighth year of his majesty's reign; and also the duties on licences for using and exercising the trade or business of a pawnbroker, granted by the Act passed in the forty-fourth year of his majesty's reign; and also the duties granted by an Act passed in the fiftieth year of his majesty's reign, on policies of insurance of property in the West Indies or elsewhere beyond the seas, from loss by fire, shall cease and determine from and after the 31st day of August, 1815; and that the yearly per-centage duty on insurances from loss by fire, granted by the said Act, passed in the forty-fourth year of his majesty's reign, shall cease and determine from and after the 28th day of September, 1815; save and except such of the said respective duties, or so much and such part or parts thereof respectively, as shall have become due or payable before or upon those days, and remain in arrear or unpaid afterwards; and also save and except so much and such part or parts as shall remain to be paid of any duties in respect of legacies given by way of annuity, or so that the value thereof cannot be ascertained at once where part of such duties shall have been paid, or have become payable before or upon the said 31st day of August; all which duties or parts of duties so in arrear or remaining to be paid as aforesaid, shall be recoverable by the same ways and means, and with such and the same penalties, and in such and the same manner in all respects, as if this Act had not been made. Repeal of duties granted by 48 G. 3, c. 149, and 44 G. 3, c. 98; and of duties on pawnbrokers' licences, and of duties on policies of insurance against fire in West Indies, &c., 50 G. 3, and of the per-centage duty on insurances against fire granted by 44 G. 3, c. 98, except all arrears.

2. That there shall be raised, levied, and paid unto and for the use of his majesty, his Duties spe-

55 G. 3, c. 184.

cified in schedule annexed to be levied.

heirs and successors, in and throughout the whole of Great Britain, for and in respect of the several instruments, matters, and things mentioned and described in the schedule hereunto annexed (except those standing under the head of exemptions), or for or in respect of the vellum, parchment, or paper, upon which such instruments, matters, and things, or any of them, shall be written or printed, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the same schedule; and that the yearly per centage duty on insurances from loss by fire, therein mentioned, shall commence and take place from and after the 28th day of September, 1815; and that all the other duties therein mentioned, shall commence and take place from and after the 31st day of August, 1815; and that the said schedule, and all the provisions, regulations, and directions therein contained, with respect to the said duties, and the instruments, matters, and things charged therewith, shall be deemed and taken to be part of this Act, and shall be read and construed as if the same had been inserted herein at this place, and shall be applied, observed and put in execution accordingly.

3. [Duties to be under the management of commissioners of stamps, who are to provide stamps, &c. (*a*).]

4. [Old stamps may be used to denote new duties; and two or more stamps to denote one duty, till single stamp provided. Stamps bearing the name of any instrument not to be used for any other.]

Paper, &c., stamped with former duties may be used for instruments charged with new duties of same amount.

5. That it shall be lawful for the said commissioners to issue, for the supply of the country, any vellum, parchment, or paper, which shall have been stamped for denoting any duties hereby repealed, to be used for any of the instruments hereby charged with duties of the same amount, and also, if deemed expedient, to cause any such vellum, parchment or paper, to be stamped with any additional stamp or stamps, in order to make up the amount of the increased duty hereby charged on any of the instruments for which such vellum, parchment, or paper shall have been originally intended, and thereupon to issue the same to be used for such instruments, or for any other instruments charged with the same amount of duty; and it shall also be lawful for any persons having in their possession any vellum, parchment, or paper, stamped with any of the duties repealed by this Act, or by the aforesaid Act of the forty-fourth or forty-eighth year of his majesty's reign, and not already made use of, to use the same for any of the instruments hereby charged with duties of the same amount: Provided always, that no vellum, parchment, or paper, bearing a stamp appropriated by name to any particular instrument, shall be used for any other purpose, or if so used, the same shall be of no avail.

Except stamps bearing the name of the instrument (*b*).

6. [Stamped paper, &c., rendered useless by this Act may be exchanged or have additional stamps.]

7. [Forgery of stamps, &c., felony.]

Powers and provisions of former Acts to extend to this Act (*c*).

8. That all the powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties, contained in and imposed by the several Acts of parliament relating to the duties hereby repealed, and the several Acts of parliament relating to any prior duties of the same kind or description, shall be of full force and effect with respect to the duties hereby granted, and to the vellum, parchment, and paper, instruments, matters, and things charged or chargeable therewith, as far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, enforced, and put in execution for the raising, levying, collecting, and securing of the said duties hereby granted and otherwise relating thereto, so far as the same shall not be superseded by, and shall be consistent with, the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and especially enacted with reference to the said duties hereby granted.

Provisions of former Acts respecting agreements to be applied only to those charged with 1*l.*

9. That the provisions and regulations of former Acts relating to agreements shall be applied only to such agreements as are hereby charged with a duty of one pound; and that the agreements hereby charged with a duty of one pound fifteen shillings shall be subject and liable to the same provisions and regulations as deeds hereby charged with a like duty.

Instruments having wrong stamps, but of sufficient value, to be valid. Exception, where the stamp on face of it appropriated to a different description of instrument.

10. That from and after the passing of this Act, all instruments for or upon which any stamp or stamps shall have been used of an improper denomination or rate of duty, but of equal or greater value in the whole with or than the stamp or stamps which ought regularly to have been used thereon, shall nevertheless be deemed valid and effectual in the law; except in cases where the stamp or stamps used on such instruments shall have been specially appropriated to any other instrument by having its name on the face thereof (*d*).

(*a*) By 12 & 13 Vict. c. 1, the commissioners of stamps and taxes, &c., &c., are consolidated into one board of commissioners of inland revenue.

(*b*) See *Kaiser* v. *Crout*, 29 L. J. Ex. 20; 5 Hurl. & N. 35.

(*c*) See *Att.-Gen.* v. *Cleobury*, 4 Exch. 65.

(*d*) See *Lucas* v. *Jones*, 5 Q. B. 949, and post, tit. "RECEIPT," in notes; *Wheatley* v. *Williams*, 1 M. & W. 533.

11. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause or permit to be accepted or paid, any bill of exchange, draft or order, or promissory note for the payment of money, liable to any of the duties imposed by this Act, without the same being duly stamped for denoting the duty hereby charged thereon, he, she or they shall, for every such bill, draft, order or note, forfeit the sum of fifty pounds. 55 G. 3, c. 184. Penalty for making, accepting, or paying bills of exchange, &c., not duly stamped, 50*l.*

12. That if any person or persons shall make and issue, or cause to be made and issued, any bill of exchange, draft or order, or promissory note for the payment of money, at any time after date or sight, which shall bear date subsequent to the day on which it shall be issued, so that it shall not in fact become payable in two months, if made payable after date, or in sixty days, if made payable after sight, next after the day on which it shall be issued, unless the same shall be stamped for denoting the duty hereby imposed on a bill of exchange and promissory note for the payment of money at any time exceeding two months after date, or sixty days after sight, he, she or they shall, for every such bill, draft, order or note, forfeit the sum of one hundred pounds (*a*). For post-dating bills of exchange, &c., 100*l.*

13. [For issuing unstamped drafts on bankers, without specifying the place where issued, or if post-dated, 100*l.* For receiving such drafts, 20*l.*; and on bankers for paying them, 100*l.* &c.]

14. That from and after the 31st day of August, 1815, it shall be lawful for any banker or bankers, or other person or persons who shall have made and issued any promissory notes for the payment to the bearer on demand, of any sum of money not exceeding one hundred pounds each, duly stamped according to the directions of this Act, to re-issue the same from time to time, after payment thereof, as often as he, she, or they shall think fit, without being liable to pay any further duty in respect thereof; and that all promissory notes so to be re-issued as aforesaid, shall be good and valid and as available in the law to all intents and purposes as they were upon the first issuing thereof. Promissory notes to bearer on demand, not exceeding 100*l.* may be issued by the original makers, without further duty.

15. That no promissory note for the payment to the bearer on demand, of any sum of money not exceeding one hundred pounds, which shall have been made and issued by any bankers or other persons in partnership, and for which the proper stamp duty shall have been once paid according to the provisions of this Act, shall be deemed liable to the payment of any further duty, although the same shall be re-issued by and as the note of some only of the persons who originally made and issued the same, or by and as the note of any one or more of the persons who originally made and issued the same, and any other person or persons in partnership with him or them jointly; nor although such note, if made payable at any other than the place where drawn, shall be re-issued with any alteration therein only of the house or place at which the same shall have been at first made payable. Such notes not liable to further duty though re-issued by certain persons not strictly the original makers.

16. [Notes re-issuable under 48 or 53 Geo. 3 to continue re-issuable till end of three years from the date. Penalty on frauds 50*l.*]

17. [Notes with printed dates prior to August 31, 1813, to be re-issuable till August 31, 1816. Issuing notes with such printed dates for the first time after August 31, 1815. Penalty 50*l.*]

18. [Penalty on issuing notes in future with printed dates, 50*l.* (*b*).]

19. That all promissory notes hereby allowed to continue re-issuable for a limited period, but not afterwards, shall upon the payment thereof (*c*) at any time after the expiration of such period, and all promissory notes, bills of exchange, drafts or orders for money, not hereby allowed to be re-issued, shall, upon any payment thereof, be deemed and taken respectively to be thereupon wholly discharged, vacated and satisfied, and shall be no longer negotiable or available in any manner whatsoever, but shall be forthwith cancelled by the person or persons paying the same; and if any person or persons shall re-issue, or cause or permit to be re-issued, any promissory note hereby allowed to be re-issued for a limited period as aforesaid, at any time after the expiration of the term or period allowed for that purpose; or if any person or persons shall re-issue, or cause or permit to be re-issued, any promissory note, bill of exchange, draft or order for money, not hereby allowed to be re-issued at any time after the payment thereof; or if any person or persons paying or causing to be paid any such note, bill, draft or order as aforesaid, shall refuse or neglect to cancel the same, according to the directions of this Act, then and in either of those cases, the person or persons so offending shall, for every such note, bill, draft or order, as aforesaid, forfeit the sum of fifty pounds; and in case of any such note, bill, draft or order, being re-issued contrary to the intent and meaning of this Act, the person or persons re-issuing the same, or causing or permitting the same to be re-issued, shall also be answerable and accountable to his majesty, his heirs and successors, for a further duty in respect of every such note, bill, draft or order, of such and the same amount as would have been chargeable thereon, in case the same had been then issued for the first time, and so from time to time as Notes re-issuable for a limited period to be cancelled on payment afterwards; and notes not re-issuable, to be cancelled immediately on payment. Penalty for re-issuing notes, &c., contrary to law, and for not cancelling them, 50*l.*

(*a*) See *Williams* v. *Jarrett*, 5 B. & Ad. 32; *Williamson* v. *Garratt*, 2 N. & M. 49.

(*b*) Repealed by 23 & 24 Vict. c. 111, s. 19, post.

(*c*) See *Morley* v. *Culverwell*, 7 M. & W. 174; *Bartrum* v. *Caddy*, 9 Ad. & E. 275; *Lazarus* v. *Cowie*, 3 Q. B. 459; Bayley on Bills, 113.

55 G. 3, c. 184.

For taking notes, &c., re-issued, contrary to law, 20*l.*

often as the same shall be so re-issued; which further duty shall and may be sued for and recovered accordingly, as a debt to his majesty, his heirs and successors; and if any person or persons shall receive or take any such note, bill, draft or order, in payment of or as security for the sum therein expressed, knowing the same to be re-issued contrary to the intent and meaning of this Act, he, she or they shall, for every such note, bill, draft or order, forfeit the sum of twenty pounds.

Notes and bills of the Bank of England exempted from stamp duty.

20. That all promissory notes and bank post bills, which shall be issued by the governor and company of the bank of England, from and after the said 31st day of August, 1815, shall be freed and exempted from all the duties hereby granted; and that it shall be lawful for the said governor and company to re-issue any of their notes after payment thereof, as often as they shall think fit.

21. [Bank of England to pay a composition for the duties on their bills and notes (*a*).]

22. [A new composition to be made when the bank resumes cash payments.]

The bank and royal bank of Scotland, and British linen company, may issue small notes on unstamped paper, accounting for the duties.

23. That from and after the 31st day of August, 1815, it shall be lawful for the governor and company of the bank of Scotland, and the royal bank of Scotland, and the British linen company in Scotland respectively, to issue their promissory notes for the sums of one pound, one guinea, two pounds, and two guineas, payable to the bearer on demand, on unstamped paper, in the same manner as they were authorised to do by the aforesaid Act of the forty-eighth year of his majesty's reign; they the said governor and company of the bank of Scotland, and the royal bank of Scotland, and British linen company, respectively giving such security, and keeping and producing true accounts of all the notes so to be issued by them respectively, and accounting for and paying the several duties payable in respect of such notes, in such and the same manner, in all respects, as is and are prescribed and required by the said last-mentioned Act, with regard to the notes thereby allowed to be issued by them on unstamped paper, and also to re-issue such promissory notes respectively, from time to time after the payment thereof, as often as they shall think fit.

Re-issuable notes not to be issued by bankers or others, without a licence.

Regulation respecting licences.

24. That from and after the 10th day of October, 1815, it shall not be lawful for any banker or bankers, or other person or persons (except the governor and company of the bank of England), to issue any promissory notes for money payable to the bearer on demand, hereby charged with a duty and allowed to be re-issued as aforesaid, without taking out a licence yearly for that purpose; which licence shall be granted by two or more of the said commissioners (*b*) of stamps for the time being, or by some person authorised in that behalf by the said commissioners, or the major part of them, on payment of the duty charged thereon in the schedule hereunto annexed; and a separate and distinct licence shall be taken out for or in respect of every town or place where any such promissory notes shall be issued by, or by any agent or agents for or on account of, any banker or bankers or other person or persons; and every such licence shall specify the proper name or names and place or places of abode of the person or persons, or the proper name and description of any body corporate to whom the same shall be granted, and also the name of the town or place where, and the name of the bank, as well as the partnership, or other name, style, or firm under which such notes are to be issued; and where any such licence shall be granted to persons in partnership, the same shall specify and set forth the names and places of abode of all the persons concerned in the partnership, whether all their names shall appear on the promissory notes to be issued by them or not; and in default thereof such licence shall be absolutely void; and every such licence which shall be granted between the 10th day of October and the 11th day of November in any year, shall be dated on the 11th day of October; and every such licence which shall be granted at any other time, shall be dated on the day on which the same shall be granted; and every such licence respectively shall have effect and continue in force from the day of the date thereof until the 10th day of October following, both inclusive.

No banker to take out more than four licences for any number of towns in Scotland.

25. Provided always, that no banker or bankers, person or persons, shall be obliged to take out more than four licences in all for any number of towns or places in Scotland; and in case any banker or bankers, person or persons shall issue such promissory notes as aforesaid, by themselves or their agents, at more than four different towns or places in Scotland, then, after taking out three distinct licences for three of such towns or places, such banker or bankers, person or persons shall be entitled to have all the rest of such towns or places included in a fourth licence.

Several towns in England may be included in one licence, in certain cases.

26. Provided also, that where any banker or bankers, person or persons applying for a licence under this Act, would under the said Act of the forty-eighth year of his majesty's reign, have been entitled to have two or more towns or places in England, included in one licence, if this Act had not been made, such banker or bankers, person or persons, shall have and be entitled to the like privilege under this Act.

Persons applying for licences to deliver specimens of their notes.

27. That the banker or bankers, or other person or persons applying for any such licence as aforesaid, shall produce and leave with the proper officer, a specimen of the promissory notes proposed to be issued by him or them, to the intent that the licence may be framed accordingly; and if any banker or bankers, or other person or persons (except the said governor and company of the bank of England), shall issue or cause to

(*a*) See 7 & 8 Vict. c. 32, ante, Vol. I. p. 214, tit. "BANKERS." (*b*) See 12 & 13 Vict. c. 1.

be issued by any agent, any promissory note for money payable to the bearer on demand, hereby charged with a duty, and allowed to be re-issued as aforesaid, without being licensed so to do in the manner aforesaid, or at any other town or place, or under any other name, style, or firm than shall be specified in his or their licence, the banker or bankers, or other person or persons so offending, shall, for every such offence, forfeit the sum of one hundred pounds.

55 G. 3, c. 184.

Penalty for issuing notes without a licence, 100*l.*

28 That where any such licence as aforesaid shall be granted to any persons in partnership, the same shall continue in force for the issuing of promissory notes duly stamped, under the name, style, or firm therein specified, until the 10th day of October inclusive following the date thereof, notwithstanding any alteration in the partnership.

Licences to continue in force notwithstanding alteration in partnerships.

29. That from and after the passing of this Act promissory notes for the payment of money to the bearer on demand, made out of Great Britain, or purporting to be made out of Great Britain, or purporting to be made by or on behalf of any person or persons resident out of Great Britain, shall not be negotiable or be negotiated, or circulated or paid in Great Britain, whether the same shall be made payable in Great Britain or not, unless the same shall have paid such duty, and be stamped in such manner as the law requires for promissory notes of the like tenor and value made in Great Britain; and if any person or persons shall circulate or negotiate, or offer in payment, or shall receive or take in payment any such promissory note, or shall demand or receive payment of the whole or any part of the money mentioned in such promissory note from or on account of the drawer thereof, in Great Britain, the same not being duly stamped as aforesaid; or if any person or persons in Great Britain shall pay or cause to be paid the sum of money expressed in any such note, not being duly stamped as aforesaid, or any part thereof, either as drawer thereof, or in pursuance of any nomination or appointment for that purpose therein contained, the person or persons so offending shall, for every such promissory note, forfeit the sum of twenty pounds: Provided always, that this clause shall not extend to promissory notes made and payable only in Ireland.

Promissory notes made out of Great Britain, not to be negotiable, unless stamped.

Penalty on circulating such notes, &c., 20*l.* for each (*a*).

30. That any conveyances to be made after the 31st day of August, 1815, of lands or other property contracted to be sold prior to the 12th day of April, 1808, which under the provisions of the said Act of the forty-eighth year of his majesty's reign, would have been exempted from the *ad valorem* duty thereby granted, shall be exempted from the *ad valorem* duty imposed by this Act, and shall be charged with the ordinary duty of one pound fifteen shillings in lieu thereof, together with the progressive duty of one pound five shillings, if any progressive duty shall be chargeable thereon, under and subject nevertheless to the conditions and regulations prescribed by the said last-mentioned Act.

Conveyances of property contracted to be sold before April 12, 1808, exempted from *ad valorem* duty.

31. Provided always, That the releases and other conveyances of annuities or rent-charges made in the original grant thereof, subject to be redeemed or repurchased, shall, on the repurchase thereof, be exempted from the *ad valorem* duty hereby imposed on conveyances on the sale of any property, and shall be charged only with the ordinary duty on deeds or instruments of the like kind not upon a sale.

Releases and conveyances of annuities, &c., exempted from *ad valorem* duty on the repurchase.

32. That the per centage duty on insurances against loss by fire granted by this Act shall be collected and received of and from the persons whose property shall be insured, for the use of his majesty, his heirs and successors, by the public companies or other person or persons licensed or who ought to be licensed by the said commissioners of stamps, pursuant to the Act of the twenty-second year of his majesty's reign, intituled "An Act for charging a Duty on Persons whose Property shall be insured against Loss by Fire," and by the Royal Exchange and London Assurance Corporations respectively at the time of their making, renewing, or continuing of or receiving the premium for the insurances in respect of which the duty shall be payable, and for the whole term or period for which the insurances shall be made, renewed, or continued; and such duty shall be accounted for and paid over in the manner directed by this and the said last-mentioned Act: and the Royal Exchange and London Assurance Corporations shall be subject to all the provisions and regulations of this and the said last-mentioned Act, in the same manner as any other public companies, except only as to the taking out of a licence from the said commissioners of stamps.

The duty on fire insurances to be collected by the companies undertaking same.

33. That every quarterly account to be delivered to the said commissioners of stamps or their officers by the corporations or companies, or others insuring against fire, pursuant to the directions of the said Act of the twenty-second year of his majesty's reign, shall contain a true and faithful account of all the policies and insurances which shall have been issued and made or renewed or continued by them, whether for a year or for more years than one, or for any period exceeding or falling short of a year, from the first to the last day of the quarter (both inclusive) for which such account shall be rendered; together with the numbers and dates of the policies, the names and places of abode of the persons whose property shall be insured, the sum or amount of the sums insured by each policy, the time for which each insurance shall be made or renewed or continued, and the duty which shall have been received for the same; and there shall be annexed to and delivered with every such quarterly account an affidavit, or solemn affirmation in the case of quakers, made by the secretary, or if no secretary, by the chief clerk of the

Quarterly accounts to be rendered by insurance companies, containing certain particulars.

(*a*) See Tilsley on Stamps, 165.

55 G. 3, c. 184.

corporation or company by whom it shall be delivered, stating that he has examined and checked the same with the books of such corporation or company, and that, to the best of his knowledge, information and belief, it does contain a true and faithful account of the several matters and things required by this Act, and also of any allowances or returns of duty, in respect of time unexpired on polices surrendered, which may be therein stated to have been made pursuant to the said Act of the twenty-second year of his majesty's reign; and for any default in the delivery of such account, with such affidavit or affirmation thereto annexed as aforesaid, the corporation or company, or person or persons making such default, shall forfeit the sum of five hundred pounds.

Insurance companies may make up the accounts to their own quarter days.

34. That any public companies who shall use any other quarter days than those mentioned in the said Act of the twenty-second year of his majesty's reign, as the period of the commencement or termination of their insurances, shall be at liberty to make up their quarterly accounts to the quarter-days used by them, and to deliver the same to the said commissioners of stamps or their officers, within two calendar months after the expiration of the quarter for which they shall be made up.

Country insurance companies to transmit accounts immediately to the commissioners of stamps, if required.

35. That all companies and persons having offices or carrying on the business of fire insurance at a greater distance than five miles from London or Westminster, shall, if required by the said commissioners of stamps, transmit their quarterly accounts, with such affidavits or affirmations as aforesaid thereto annexed, immediately to the said commissioners at their head office, and pay the amount of the duties due on such quarterly accounts, immediately to the receiver-general of the duties under the management of the said commissioners; and in default thereof, shall be subject to the same penalties as they would have been under the said Act of the twenty-second year of his majesty's reign, for not delivering their accounts and paying the moneys due thereon, conformably to the provisions of that Act.

Allowance to the insurance companies for collecting duties.

36. That an allowance shall be made to the corporations or companies, and others collecting and receiving the said duties hereby imposed on insurances against loss by fire, and accounting for and paying over the same as required by this and the said Act of the twenty-second year of his majesty's reign, that is to say, to those having their head office in London or Westminster, an allowance at and after the rate of four pounds per centum on the amount of the duties collected and received at such head office, and at and after the rate of five pounds per centum on the amount of the duties collected by their agents out of London and Westminster; and to those not having their head office in London or Westminster, an allowance at and after the rate of five pounds per centum on the amount of the duties collected by them; provided they shall deliver their quarterly accounts, containing all the requisite particulars, and make payment of the said duties, within the time prescribed by this or the said last-mentioned Act.

Penalty for not proving wills, or taking letters of administration, within a given time, 100*l.* and 10 per cent. on the duty.

37. And for better securing the duties on probates of wills and letters of administration, IT IS ENACTED, That from and after the 31st day of August, 1815, if any person shall take possession of, and in any manner administer, any part of the personal estate and effects of any person deceased, without obtaining probate of the will or letters of administration of the estate and effects of the deceased, within six calendar months after his or her decease, or within two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration, if there shall be any such, which shall not be ended within four calendar months after the death of the deceased; every person so offending shall forfeit the sum of one hundred pounds, and also a further sum, at and after the rate of ten pounds per centum on the amount of the stamp duty payable on the probate of the will or letters of administration of the estate and effects of the deceased.

Ecclesiastical courts not to grant probates or letters of administration, without affidavit of the value of effects (*a*).

38. That from and after the expiration of three calendar months from the passing of this Act (11th July, 1815), no ecclesiastical court or person shall grant probate of the will or letters of administration of the estate and effects of any person deceased, without first requiring and receiving from the person or persons applying for the probate or letters of administration, or from some other competent person or persons, an affidavit, or solemn affirmation in the case of quakers, that the estate and effects of the deceased, for or in respect of which the probate or letters of administration is or are to be granted, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially, but including the leasehold estates for

---

(*a*) It seems that doubtful and desperate debts need not be included (*Moses* v. *Crafter*, 4 C. & P. 524), or real estate used for partnership purposes (*Custance* v. *Bradshaw*, 4 Hare, 315), or surplus money remaining out of a sale of real estate conveyed upon trusts for sale after satisfaction of the specified purposes (*Matson* v. *Swift*, 8 Beav. 368).

Probate duty is payable in respect of the purchase-money of real estate on a contract for its purchase made before, but completed after, the death of the testator (*Attorney-General* v. *Brunning*, 8 Ho. of L. C.; 30 L. J. Ex. 379).

Where land has been improved in value by building, between the owner's death and the grant of administration to his estate, stamp duty on the letters of administration is payable on the improved value (*Doe* d. *Richards* v. *Evans*, 10 Q. B. 476; see *Attorney-General* v. *Partington*, Ex. June, 1862, 6 L. T. N. S. 900; see further, Williams on Ex. p. 515, and post, sched. part 3).

years of the deceased, whether absolute or determinable on lives, if any, and without deducting anything on account of the debts due and owing from the deceased (*a*), are under the value of a certain sum to be therein specified, to the best of the deponent's or affirmant's knowledge, information, and belief, in order that the proper and full stamp duty may be paid on such probate or letters of administration; which affidavit or affirmation shall be made before the surrogate or other person who shall administer the usual oath for the due administration of the estate and effects of the deceased. 55 G. 3, c. 184.

39. That every such affidavit or affirmation shall be exempt from stamp duty, and shall be transmitted to the said commissioners of stamps, together with the copy of the will, or extract or account of the letters of administration to which it shall relate, by the registrar or other officer of the court, whose duty it shall be to transmit copies of wills, and extracts or accounts of letters of administration to the said commissioners, for the better collection of the duties on legacies and successions to personal estate upon intestacy; and if any registrar or other officer whose duty it shall be, shall neglect to transmit such affidavit or affirmation to the said commissioners of stamps as hereby directed, every person so offending shall forfeit the sum of fifty pounds. Affidavits to be free of stamp duty, and to be transmitted to commissioners of stamps. Penalty for neglect, 50*l.*

40. That from and after the passing of this Act (11th July, 1815), where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of greater value than the same shall have afterwards proved to be, and shall in consequence have paid too high a stamp duty thereon, if such person shall produce the probate or letters of administration to the said commissioners of stamps within six calendar months after the true value of the estate and effects shall have been ascertained, and it shall be discovered that too high a duty was first paid on the probate or letters of administration, and shall deliver to them a particular inventory and account, and valuation of the estate and effects of the deceased, verified by an affidavit, or solemn affirmation in the case of quakers, and if it should thereupon satisfactorily appear to the said commissioners that a greater stamp duty was paid on the probate or letters of administration than the law required, it shall be lawful for the said commissioners to cancel and expunge the stamp on the probate or letters of administration, and to substitute another stamp for denoting the duty which ought to have been paid thereon, and to make an allowance for the difference between them, as in the cases of spoiled stamps, or if the difference be considerable, to repay the same in money, at the discretion of the said commissioners. Provision for the case of too high a stamp duty being paid on probates, &c.

41. That from and after the passing of this Act (11th July, 1815), where any person, on applying for the probate of a will or letters of administration, shall have estimated the estate and effects of the deceased to be of less value than the same shall have afterwards proved to be, and shall in consequence have paid too little stamp duty thereon, it shall be lawful for the said commissioners of stamps, on delivery to them of an affidavit or solemn affirmation of the value of the estate and effects of the deceased, to cause the probate or letters of administration to be duly stamped, on payment of the full duty which ought to have been originally paid thereon in respect of such value, and of the further sum or penalty payable by law for stamping deeds after the execution thereof, without any deduction or allowance of the stamp duty originally paid on such probate or letters of administration: Provided always, that if the application shall be made within six calendar months after the true value of the estate and effects shall be ascertained, and it shall be discovered that too little duty was at first paid on the probate or letters of administration, and if it shall appear by affidavit or solemn affirmation, to the satisfaction of the said commissioners, that such duty was paid in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, and without any intention of fraud, or to delay the payment of the full and proper duty, then it shall be lawful for the said commissioners to remit the before-mentioned penalty, and to cause the probate or letters of administration to be duly stamped, on payment only of the sum which shall be wanting to make up the duty which ought to have been first paid thereon. Provision for the case of too little stamp duty being paid on probates, &c

42. Provided always, that in cases of letters of administration, on which too little stamp duty shall have been paid at first, the said commissioners of stamps shall not cause the same to be duly stamped in the manner aforesaid, until the administrator shall have given such security to the ecclesiastical court or ordinary by whom the letters of administration shall have been granted, as ought by law to have been given on the granting thereof, in case the full value of the estate and effects of the deceased had been then ascertained, and also that the said commissioners of stamps shall yearly or oftener transmit an account of the probates and letters of administration, upon which the stamps shall have been rectified in pursuance of this Act, to the several ecclesiastical courts by which the same shall have been granted, together with the value of the estate and effects of the deceased, upon which such rectification shall have proceeded. Administrator to give the proper security before administration is duly stamped.

43. That where too little duty shall have been paid on any probate or letters of administration, in consequence of any mistake or misapprehension, or of its not being known at the time that some particular part of the estate and effects belonged to the deceased, if any executor or administrator acting under such probate or letters of administration shall not, within six calendar months after the passing of this Act (11th July, 1815), or after the discovery of the mistake or misapprehension, or of any estate or effects not Penalty on executors, &c., not paying the full duty on probates, &c. in a given time

(*a*) But see sect. 51, post, and 5 & 6 Vict. c. 79, s. 23.

55 G. 3, c. 184.

known at the time to have belonged to the deceased, apply to the said commissioners of stamps, and pay what shall be wanting to make up the duty which ought to have been paid at first on such probate or letters of administration, he or she shall forfeit the sum of one hundred pounds, and also a further sum, at and after the rate of ten pounds per centum on the amount of the sum wanting to make up the proper duty.

after discovery of too little paid at first, 100*l.* and 10 per cent. on the duty wanting.

Ecclesiastical courts not to take surrenders of probates, &c., on the ground only of wrong duty paid thereon.

44. That from and after the expiration of three calendar months from the passing of this Act (11th July, 1815), it shall not be lawful for any ecclesiastical court or person to call in and revoke, or to accept the surrender of any probate or letters of administration, on the ground only of too high or too low a stamp duty having been paid thereon, as heretofore hath been practised; and if any ecclesiastical court or person shall so do, the commissioners of stamps shall not make any allowance whatever for the stamp duty on the probate or letters of administration which shall be so annulled.

Commissioners of stamps may give credit for the duty on probates and letters of administration in certain cases.

45. "And whereas it has happened in the case of letters of administration on which the proper stamp duty hath not been paid at first, that certain debts, chattels real, or other effects due or belonging to the deceased, have been found to be of such great value, that the administrator hath not been possessed of money sufficient either of his own or of the deceased to pay the requisite stamp duty, in order to render such letters of administration available for the recovery thereof by law: and whereas the like may occur again, and it may also happen that executors or persons entitled to take out letters of administration may, before obtaining probate of the will or letters of administration of the estate and effects of the deceased, find some considerable part or parts of the estate and effects of the deceased so circumstanced as not to be immediately got possession of, and may not have money sufficient either of their own or of the deceased to pay the stamp duty on the probate or letters of administration which it shall be necessary to obtain:" IT IS ENACTED, That from and after the passing of this Act (11th July, 1815), it shall be lawful for the said commissioners of stamps, on satisfactory proof of the facts by affidavit or solemn affirmation, in any such case as aforesaid which may appear to them to require relief, to cause the probate or letters of administration to be duly stamped, for denoting the duty payable or which ought originally to have been paid thereon, and to give credit for the duty, either upon payment of the before-mentioned penalty, or without, in cases of probates or letters of administration, already obtained, and upon which too little duty shall have been paid, and either with or without allowance of the stamp duty already paid thereon, as the case may require, under the provisions of this Act; provided in all such cases of credit that security be first given by the executors or administrators, together with two or more sufficient sureties to be approved of by the said commissioners, by a bond to his majesty, his heirs or successors, in double the amount of the duty, for the due and full payment of the sum for which credit shall be given, within six calendar months, or any less period, and of the interest for the same, at the rate of ten pounds per centum per annum, from the expiration of such period until payment thereof, in case of any default of payment at the time appointed; and such probate or letters of administration being duly stamped in the manner aforesaid, shall be as valid and available as if the proper duty had been at first paid thereon, and the same had been stamped accordingly.

Commissioners may extend the credit, if necessary.

46. Provided always, that if at the expiration of the time to be allowed for the payment of the duty on such probate or letters of administration, it shall appear to the satisfaction of the said commissioners, that the executor or administrator to whom such credit shall be given as aforesaid, shall not have recovered effects of the deceased to an amount sufficient for the payment of the duty, it shall be lawful for the said commissioners to give such further time, for the payment thereof, and upon such terms and conditions as they shall think expedient.

Probate or letters of administration stamped on credit, to be deposited with the commissioners.

47. Provided also, that the probate or letters of administration so to be stamped on credit as aforesaid, shall be deposited with the said commissioners of stamps, and shall not be delivered up to the executor or administrator until payment of the duty, together with such interest as aforesaid, if any shall become due: but the same shall nevertheless be produced in evidence by some officer of the commissioners of stamps, at the expense of the executor or administrator, as occasion shall require.

Duty for which credit shall be given to be a debt to the crown.

48. That the duty for which credit shall be given as aforesaid, shall be a debt to his majesty, his heirs or successors, from the personal estate of the deceased, and shall be paid in preference to and before any other debt whatsoever due from the same estate; and if any executor or administrator of the estate of the deceased shall pay any other debt in preference thereto, he or she shall not only be charged with and be liable to pay the duty out of his or her own estate, but shall also forfeit the sum of five hundred pounds.

Provision for the case of letters of administration *de bonis non*, taken out before payment of the duty for which credit

49. That if before payment of the duty for which credit shall be given in any such case as aforesaid, it shall become necessary to take out letters of administration *de bonis non* of the deceased, it shall also be lawful for the said commissioners to cause such letters of administration *de bonis non*, to be duly stamped with the particular stamp provided to be used on letters of administration of that kind, for denoting the payment of the duty in respect of the effects of the deceased, on some prior probate or letters of administration of the same effects, in such and the same manner as if the duty had been actually paid, upon having the letters of administration *de bonis non* deposited with the

said commissioners, and upon having such further security for the payment of the duty as they shall think expedient; and such letters of administration shall be as valid and available as if the duty for which credit shall be given had been paid (a).

55 G. 3, c. 184. shall be given.

50. And be it further enacted, in regard to probate of wills and letters of administration, That where any part of the personal estate which the deceased was possessed of or entitled to, shall be alleged to have been trust property, if the person or persons who shall be required to make any affidavit or affirmation relating thereto, conformably to the provisions of the said Act of the forty-eighth year of his majesty's reign, shall reside out of England, such affidavit or affirmation shall and may be made before any person duly commissioned to take affidavits by the court of session or court of exchequer in Scotland, or before one of his majesty's justices of the peace in Scotland, or before a master in chancery, ordinary or extraordinary, in Ireland, or before any judge or civil magistrate of any other country or place where the party or parties shall happen to reside; and every such affidavit or affirmation shall be as effectual as if the same had been made before a master of chancery in England, pursuant to the directions of the said last-mentioned Act.

Directions concerning affidavits by executors, &c., residing out of England, relating to trust property.

51. Provided always, that where it shall be proved by oath or proper vouchers, to the satisfaction of the said commissioners of stamps, that an executor or administrator had paid debts due and owing from the deceased, and payable by law out of his or her personal or moveable estate, to such an amount as, being deducted from the amount or value of the estate and effects of the deceased, for or in respect of which a probate or letters of administration, or a confirmation of a testament, testamentary or dative, shall have been granted, after the 31st day of August, 1815, or which shall be included in any inventory exhibited and recorded in a commissary court in Scotland as the law requires, after that day, shall reduce the same to a sum, which, if it had been the whole gross amount or value of such estate and effects, would have occasioned a less stamp duty to be paid on such probate or letters of administration, or confirmation or inventory, than shall have been actually paid thereon under and by virtue of this Act, it shall be lawful for the said commissioners to return the difference, provided the same shall be claimed within three years after the date of such probate or letters of administration, or confirmation, or the recording of such confirmation as aforesaid; but where by reason of any proceeding at law or in equity, the debts due from the deceased shall not have been ascertained and paid, or the effects of the deceased shall not have been recovered and made available, and in consequence thereof the executor or administrator shall be prevented from claiming such return of duty as aforesaid within the said term of three years, it shall be lawful for the commissioners of the treasury (c) to allow such further time for making the claim as may appear to them to be reasonable under the circumstances of the case.

A return of duty on probates, &c., to be made in respect of debts, if claimed in three years (b).

52. That all affidavits and solemn affirmations in the case of quakers, required by this or any former or future Act of parliament, or which shall be required by the said commissioners of stamps, to be made for the satisfaction of the said commissioners, of and concerning any facts or circumstances upon which they are to execute the powers vested in them by this or any other Act, or for the verification of any accounts of or concerning the duties under their management, or for any other purpose relating to such duties, shall, in all cases not otherwise expressly provided for, be made before the said commissioners, or any one or more of them, or before a master in chancery, ordinary or extraordinary, in England, or before any person duly commissioned to take affidavits by the court of session or the court of exchequer in Scotland, or before one of his majesty's justices of the peace in Scotland.

Affidavits relating to stamp duties, if no express provision, to be made before commissioners, &c.

53. That all and every person and persons before whom any affidavit or solemn affirmation is or shall be required or directed to be made by this or any former or future Act of parliament relating to any stamp duties, shall be, and they are hereby authorised to take the same, and administer the proper oath or affirmation for that purpose; and if any person making any such affidavit or affirmation, shall knowingly and wilfully make a false oath or affirmation of or concerning any of the matters to be therein specified and set forth, every person so offending, and being thereof lawfully convicted, shall be subject and liable to such pains and penalties as by any law now in force, persons convicted of wilful and corrupt perjury are subject and liable to.

Penalty for perjury.

54. Provided always, That nothing contained in this or any other Act shall extend, or be construed to extend, to charge with any stamp duties, ginger and peppermint lozenges, or any other article of confectionery, unless the person vending the same shall vend the same as medicines, or as beneficial for the prevention, cure, or relief of any distemper, malady, ailment, or disorder incident to or in anywise affecting the human body, nor to compel the person or persons vending the same to take out the licence required by persons vending medicines.

Exempting ginger and peppermint lozenges, and other confectionary, from stamps, unless avowedly sold as medicines.

(a) Under this section the commissioners are authorised to stamp letters of administration *de bonis non*, on security given, and without payment of the duty, as well in cases where the duty has been paid on the original letters of administration, as where such letters of administration have been originally stamped on credit (*Doe* d. *Hanley* v. *Wood*, 2 B. & Ad. 724).

(b) See 5 & 6 Vict. c. 79, s. 23, post.

(c) The power to grant further time is now transferred to the commissioners, 5 & 6 Vict. c. 79, s. 23, post.

55 G. 3, c. 184.

The duties to be paid to the receiver-general, and by him into the exchequer (a).

55. That all the moneys to arise from the duties granted by this Act, and from the several other duties under the management of the said commissioners of stamps, shall be paid into the hands of the receiver-general of the stamp duties in Great Britain, who shall from time to time pay the same into the bank of England, for safe custody, pursuant to the Act in that case made and provided; and shall thereafter pay the same (after deducting the charges of raising, collecting, and accounting for the same, and all other charges first payable thereout, and with the exception of any duties on lottery licences and shares of tickets) into the receipt of his majesty's exchequer at Westminster, in one sum, at such times and in such manner as the present stamp duties are by the laws in force directed to be paid; and that the moneys so paid into the said receipt shall be carried to and made part of the consolidated fund of Great Britain; and the same shall be apportioned in the accounts of the consolidated fund and of the public debt of Great Britain, in such manner as shall be directed by any Act of the present session of parliament.

SCHEDULE TO WHICH THIS ACT REFERS.

PART THE FIRST.

Containing the duties on admissions to offices, &c.; on instruments of conveyance, contract, obligation, and security for money; on deeds in general; and on other instruments, matters, and things not falling under either of the following heads.

PART THE SECOND.

Containing the duties on law proceedings, or proceedings in the admiralty and ecclesiastical courts, and in the several courts of law and equity at Westminster, and other courts in Great Britain, and in the offices belonging thereto, and before the lord high chancellor, or the lord keeper, or commissioners for the custody of the great seal, in matters of bankruptcy and lunacy.* [Repealed by 5 Geo. 4, c. 41, post, as to all the items, except those not erased, post.]

PART THE THIRD.

Containing the duties on probates of wills and letters of administration; on confirmations of testaments, testamentary and dative; on inventories to be exhibited in the commissary courts of Scotland; on legacies out of real or personal, heritable or moveable estate; and on successions to personal or moveable estates upon intestacy.

PART THE FIRST.

	DUTY. £	s.	d.
ADMISSION (b) of any person to act as an ADVOCATE in any of the ecclesiastical courts, or in the high court of admiralty in England (c); or in any of the courts of justice in Scotland	50	0	0
Exemptions from the preceding and all other Stamp Duties.			
Where an advocate, admitted in one court in England, shall be admitted as an advocate in any other court in England (d); or being admitted in one court in Scotland, shall be admitted as an advocate in any other court in Scotland; his latter admission shall be free of duty, provided he shall have paid the proper stamp duty on his former admission, according to the laws then in force.			
ADMISSION of any person to the degree of a BARRISTER-AT-LAW, in either of the inns of court in England (e); for the register or entry thereof . .	50	0	0
ADMISSION of any person to act as an ATTORNEY, SOLICITOR, or PROCTOR, in any court in England (f); or as a sworn clerk, side clerk, clerk in court, or other clerk or officer, in any court in England, whose business and emoluments (like those of an attorney or solicitor) shall depend upon his being retained and employed by clients or suitors, and shall therefore be wholly uncertain in amount	25	0	0

(a) See 12 & 13 Vict. c. 1.

(b) See as to proctors, 20 & 21 Vict. c. 85, s. 63, post.

(c) Or in Ireland under 5 & 6 Vict. c. 82, continued and made perpetual by 16 & 17 Vict. c. 59, s. 20, which assimilates the stamp duties in England and Ireland.

(d) Or in Ireland, see note (c), supra.

(e) Ibid.

(f) Ibid.

Exemptions from the preceding and all other Stamp Duties.

55 G. 3, c. 184.

	£	s.	d.
Where any person duly admitted an attorney in either of his majesty's courts at Westminster (*a*), or in either of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster, and Durham, shall be also admitted to act as an attorney in any other of the said courts, or in any inferior court of law, or as a solicitor in any court of equity in England, the latter admission shall be free of duty.			
And where any person duly admitted a solicitor in the court of chancery or exchequer at Westminster, or in either of the courts of the great sessions in Wales, or of the duchy of Lancaster, or of the counties palatine of Chester, Lancaster, and Durham, shall be also admitted to act as a solicitor in any other of the said courts, or in any inferior court of equity, or as an attorney in any court of law in England, the latter admission shall be free of duty (*b*).			
Provided such attorney or solicitor shall have paid the proper stamp duty on his former admission, according to the laws then in force.			
But in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.			
ADMISSION of any person to act as WRITER TO THE SIGNET, or as a SOLICITOR, AGENT, ATTORNEY, or procurator, in any court in Scotland, or as a clerk or officer in any court in Scotland, whose business and emoluments (like those of a solicitor) shall depend upon his being retained and employed by clients or suitors, and shall therefore be wholly uncertain in amount	25	0	0
And where any person shall be admitted to act as a solicitor, or agent, in the court of session, justiciary, or commission of teinds in Scotland, who shall not have served a clerkship or apprenticeship of five years, to a writer to the signet, or to a solicitor or agent, under regular articles or indentures of clerkship or apprenticeship, which shall have paid the stamp duty payable by law for the same at the date thereof; his admission shall be charged with a further duty of	60	0	0
And where any person shall be admitted to act as a PROCURATOR or SOLICITOR in the high court of admiralty in Scotland, the commissary court at Edinburgh, or any inferior court in Scotland, who shall not have served a clerkship or apprenticeship for five years to a writer to the signet, or to a solicitor, agent, or procurator, under regular articles or indentures of clerkship or apprenticeship, which shall have paid the stamp duty payable by law for the same at the date thereof; his admission shall be charged with a further duty of	30	0	0

Exemptions from the preceding and all other Stamp Duties.

Where any person duly admitted a writer to the signet, or a solicitor, agent, or attorney, in either of the courts of session, justiciary, exchequer, or commission of teinds, shall be also admitted to act in either of those capacities in any other or others of the same courts, his latter admission shall be free of duty.

Where any person duly admitted as a solicitor or procurator in the high court of admiralty, or in the commissary court at Edinburgh, shall be also admitted a solicitor or procurator in the other of those courts, his latter admission shall be free of duty.

And where any person, duly admitted a solicitor or procurator in any of the inferior courts in Scotland, shall be also admitted a solicitor or procurator in any other or others of the same courts, his latter admission shall be free of duty.

Provided in each of the foregoing cases the proper stamp duty shall have been paid on the former admission of such person, according to the laws then in force.

But in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.

ADMISSION of any person as a MASTER IN ORDINARY IN CHANCERY, or as one of the six clerks, or one of the cursitors, of the court of chancery in England, or as a sworn clerk, side clerk, clerk in court, or other clerk or officer whatsoever, in any court in Great Britain, who must necessarily be employed to do certain official business, and whose emoluments shall therefore be so far fixed and certain (*c*);			
Where the salary, fees, and emoluments of the office or appointment shall not amount to 50*l.* per annum	2	0	0

(*a*) Applies also to Ireland.
(*b*) Ibid.
(*c*) Includes Ireland. See note *c*, p. 476.

55 G. 3, c. 184.

	£	s.	d.
And where the same shall amount to 50*l.*, and not amount to 100*l.*, per annum	4	0	0
And where the same shall amount to 100*l.*, and not amount to 200*l.*, per annum	6	0	0
And where the same shall amount to 200*l.*, and not amount to 300*l.*, per annum	12	0	0
And where the same shall amount to 300*l.*, and not amount to 500*l.*, per annum	25	0	0
And where the same shall amount to 500*l.*, and not amount to 750*l.*, per annum	35	0	0
And where the same shall amount to 750*l.*, and not amount to 1000*l.*, per annum	50	0	0
And where the same shall amount to 1000*l.*, and not amount to 1500*l.*, per annum	75	0	0
And where the same shall amount to 1500*l.*, and not amount to 2000*l.*, per annum	100	0	0
And where the same shall amount to 2000*l.*, and not amount to 3000*l.*, per annum	150	0	0
And where the same shall amount to 3000*l.* or upwards, per annum	200	0	0

The said fees and emoluments to be estimated according to the average amount thereof for three years preceding, if practicable; and if not, according to the best information that can be obtained.

Exemptions from the preceding and all other Stamp Duties.

Where any officer shall be admitted annually, every admission after the first shall be free of duty, provided the proper duty shall have been paid on his first admission.

All admissions of officers, proceeding upon any grants of or appointments to offices, which shall be charged with the duties hereinafter mentioned.

But in all cases not expressly exempted, the proper duty is to be paid on every admission of the same person.

ADMISSION of any person to act as a NOTARY PUBLIC. See *Faculty*.			
ADMISSION of any person to be a member of either of the four INNS OF COURT in England (*a*)	25	0	0
ADMISSION of any person to be a member of either of the societies commonly called INNS OF CHANCERY in England	3	0	0
ADMISSION of any person to be a fellow of the COLLEGE OF PHYSICIANS in England or Scotland	25	0	0
ADMISSION or licence of any person by the COLLEGE OF PHYSICIANS in England or Scotland, to exercise the faculty of physic, or practice as a licentiate (*b*)	[15	0	0]
ADMISSION or matriculation of any person in either of the UNIVERSITIES in England (*c*)	0	0	0
ADMISSION of any person to the degree of DOCTOR OF MEDICINE, in either of the universities of Scotland	10	0	0

Note.—The said hereinbefore mentioned duties on admissions are, in all cases not expressly provided for, to be charged on the instruments of admission, delivered to the persons admitted, by whatsoever name the same may be called, if there be any such, or if not, on the register, entry, or memorandum of each admission, in the rolls, books, or records of the court, college, inn, or society, in which the admission shall be made; or for want thereof, on the rescript or warrant for such admission.

ADMISSION (*d*) of any person into any corporation or company in any city, borough, burgh, or town corporate in Great Britain; for the register, entry,

---

(*a*) By 5 & 6 Will. 4, c. 64, s. 7, "Where any person who is or shall be admitted a member of any one of the said inns of court shall afterwards be admitted a member of any other of the said inns of court, the latter admission shall be free of duty, provided he shall have paid the proper stamp duty on his former admission, according to the laws then in force." And by 5 & 6 Vict. c. 79, s. 22, where any person is admitted a member of any inns of court in England, and also of the king's inns in Dublin, the duty on the former admission may be returned.

(*b*) The duty on this admission is repealed, 22 & 23 Vict. c. 36.

(*c*) The duties on matriculation and on degrees at Oxford are repealed by 18 & 19 Vict. c. 36, post; at Cambridge, 21 Vict. c. 11; at Dublin, 18 & 19 Vict. c. 82.

(*d*) The 5 & 6 Will. 4, c. 76, s. 22, ante, Vol. I. p. 970, tit. "CORPORATIONS," enacts, "that no stamp duty shall be payable in respect of the admission, registry, or enrolment of any burgess, according to the provisions of this Act." By 1 & 2 Vict. c. 35, ante, Vol. I., p. 1070, tit. "CORPORATIONS" (see the Irish Act, 3 & 4 Vict. c. 108, s. 48), this exemption is extended to the

	£	s.	d.
or memorandum thereof, in the court book, roll, or record of such corporation or company;			55 G. 3, c. 184.
Where the admission shall be in respect of birth, apprenticeship, or marriage	1	0	0
And where the same shall be upon any other ground (*a*) . . .	3	0	0

Exemptions from the preceding and all other Stamp Duties.

The admissions of craftsmen or others entering in any corporation, within any royal burgh, burgh of regality, or burgh of barony, in Scotland, incorporated by the magistrates and council of such burgh; provided such craftsmen or others shall have been previously admitted freemen or burgesses of the burgh, and have paid the proper stamp duty on such admission, according to the laws then in force.

ADMISSION to ecclesiastical benefices in Scotland.—See *Collation.*

ADMISSION or admittance to copyhold lands.—See *Copyhold.*

AFFIDAVIT (*b*)	0	2	6

AGREEMENT, or contract, accompanied with a deposit of title deeds, for making a mortgage, wadset, or other security on any estate or property therein comprised.—See *Mortgage.*

AGREEMENT (*c*), or any minute or memorandum of an *agreement*, made in

---

admission of any person entitled to take up his freedom by *birth* or servitude in any city or borough in England returning a member or members to serve in Parliament. Admissions to the freedom of the City by "redemption" are also exempted by 18 & 19 Vict. c. 81, s. 4, post. By 9 Vict. c. 17, s. 1, a duty of 5*s.* is imposed on the admission of any person as a burgess, or into any corporation or company in any burgh in Scotland, for the enrolment, entry, or memorandum thereof in the court books, &c., of such corporation or company.

(*a*) Where several persons had been admitted to the freedom of a corporation upon *one* stamp, the admission of the person first named was held to be good, and that of all the others void (*per* Ashurst, J., cited in *Gilby* v. *Lockyer*, Doug. 218; *Rex* v. *Reeks*, 2 Lord Raym. 1445; *Powell* v. *Edmunds*, 12 East, 6; *Perry* v. *Bouchier*, 4 Camp. 80; and see 6 Geo. 4, c. 3, s. 6).

(*b*) There are so many exemptions from this duty that this part of the statute has become practically obsolete. See 5 Geo. 4, c. 41, and 4 & 5 Vict. c. 34; Chitty's Stamps, 462; Tilsley on Stamps, 16.

(*c*) For the duties now payable on *agreements* see 13 & 14 Vict. c. 97, sched. tit. "AGREEMENT," post.

Every instrument should be stamped according to its legal operation; and therefore where an instrument not under seal, which in terms purported to be a conveyance of land, but which, not being by deed, could not operate as such, contained a stipulation not to disturb the party intended to take the premises, in the enjoyment of them, it was holden that this instrument operated only as an agreement, and must be stamped accordingly (*Rex* v. *Ridgwell*, 6 B. & C. 665).

The document need not be a formal agreement. The Act extends to all cases in which recourse is had to any writing as evidence of a contract (*Glover* v. *Hackett*, 2 H. & Nor. 490; 26 L. J. Ex. 416). The document, however, must still come within the words "minute" or "memorandum" of an agreement (*per* Tindal, C. J., *Vaughton* v. *Brine*, 1 Man. & G. 364; and see *Lucas* v. *Beach*, 1 Man. & G. 417); and be obligatory as such (*Marshall* v. *Powell*, 9 Q. B. 779; *Beeching* v. *Westbrook*, 8 M. & W. 411); though not signed (*Chadwick* v. *Clarke*, 1 C. B. 700).

The defendant verbally agreed to purchase of the plaintiff fifty scrip certificates of shares in a railway company, at a stated price; subsequently, on the same day, the defendant signed a memorandum setting forth the terms of the agreement, and caused it to be delivered to the plaintiff: it was held, that this memorandum was the contract of sale, and required an agreement (*Knight* v. *Barber*, 16 M. & W. 66).

There is a great difference between a memorandum of agreement on which an action may be maintained, and a document which merely amounts to an acknowledgment of the debt, and upon which the law will imply a promise to pay. That is the ground upon which an I. O. U. is admitted in evidence without a stamp, as being a mere acknowledgment (*per* Lord Abinger, *Beeching* v. *Westbrook*, 8 M. & W. 411). So, a mere acknowledgment of having received money, or a bill for a particular purpose, and which when paid would exonerate the party paying, does not require an agreement stamp (*Watkins* v. *Hewlett*, 2 B. Moore, 211; 1 Bro. & B. 1; Tilsley on Stamps, 20).

And where the plaintiff, having deposited money in the hands of the defendant, received

from him the following memorandum: "Mr. T. has left in my hands 200*l.*" In an action to recover that money, it was held that no stamp was necessary (*Tomkins* v. *Ashby*, 6 B. & C. 541; *Levy* v. *Alexander*, 4 Exch. 485). So a paper signed by the defendant in the following form: "Mr. H. (plaintiff) has advanced me 12*l.* on furniture, &c., delivered to him at Stratford" (*Huxley* v. *O'Connor*, 8 Car. & P. 204). So "I have received a bill of exchange, which I hold, as your attorney, to recover the value of from the parties, or to make such other arrangements for your benefit as may appear to me in my professional character reasonable and proper" (*Langden* v. *Wilson*, 7 B. & C. 640, n.; 2 Man. & Ry. 10; see *Catt* v. *Howard*, 3 Stark. 3). And an indorsement on the back of a draft agreement, "We approve of this draft" (*Doe* d. *Lambourne* v. *Pedgriph*, 4 Car. & P. 312); "I have in my hands three bills which amount to 120*l.* 10*s.* 6*d.*, which I have to get discounted or return on demand" (*Mullett* v. *Huchison*, 7 B. & C. 639, 3 Car. & P. 92), do not require agreement stamps; but the last case has been disapproved of (see *per* Coleridge, *Doe* v. *Frankis*, 11 A. & E. 795). So in an action against the acceptor of an accommodation bill, the following memorandum, with reference to the bill declared on, was held admissible in evidence without a stamp: "I hereby acknowledge that you have, for my accommodation, accepted a bill of even date herewith, for 25*l.* payable, &c.; and I agree to provide for the same when due" (*Notley* v. *Webb*, 5 C. B. 834). So, "I certify that I remain in Mr. G.'s house upon sufferance, and agree to give immediate possession to G. at any time he may require" (*Barry* v. *Goodman*, 2 M. & W. 768). So "I have this day received of E. P. a bill for 27*l.* 10*s.*, at eighteen months' date, on condition that S. D. accepts the partnership beyond two years; but should S. D. give notice at the expiration of eighteen months, and not afterwards rescind the same, the bill to be null and void," was held admissible without a stamp; first, because it was only evidence of the contract as a subsequent admission; and secondly, because it only expressed the same consequence which the law would imply (*De Porquet* v. *Page*, 15 Q. B. 1073; *Marshall* v. *Powell*, 9 Q. B. 779).

The following documents have been holden not to be a mere acknowledgment, but to be evidence of contracts: "I acknowledge that I have held the estate as tenant to F. at a yearly rent of 60*l.* from 1837, the rent to be paid quarterly, and I further acknowledge to stand indebted to the said F. in 60*l.* for the first year's rent, which was due 4th July instant" (*Doe* v. *Frankis*, 11 A. & E. 792; *Blackwell* v. *McNaughtan*, 1 Q. B. 127). An I. O. U. which contains special terms that the sum to be paid shall be reduced in a certain event, and that part of the sum shall be disposed in a particular manner (*Evans* v. *Phillpotts*, 9 Car. & P. 270). "11th October, 1831, I. O. U. 20*l.* to be paid on the 22nd inst. W. B." (*Brooks* v. *Elkins*, 2 M. & W. 74; *Beeching* v. *Westbrook*, 8 M. & W. 411; *Moffat* v. *Edwards*, 1 Car. & M. 16; *Graham* v. *Cox*, 2 Car. & K. 702).

A note sent by a broker to his principal, of a purchase he has made of shares, does not require a stamp, as it is not a memorandum between party and party of an agreement (*Josephs* v. *Pebrer*, 1 Car. & P. 341; *Tomkins* v. *Savory*, 9 B. & C. 704).

An attornment is not liable to stamp duty (*Doe* d. *Linsey* v. *Edwards*, 5 Ad. & E. 95; *Doe* v. *Smith*, 8 Ad. & E. 255), unless it contains special terms (*Cornish* v. *Searell*, 8 B. & C. 471; *Doe* d. *Frankis* v. *Frankis*, 11 Ad. & E. 792).

A *cognovit* containing any matter of agreement, as to take the debt by instalments, must be stamped as an agreement (*Reardon* v. *Swaby*, 4 East, 188; *Ames* v. *Hill*, 2 Bos. & P. 150; *Bray* v. *Manson*, 8 M. & W. 668; see *Jay* v. *Warren*, 1 Car. & P. 532). But a mere *cognovit* without any matter of agreement does not (*Ibid.*; *Morley* v. *Hall*, 2 Dowl. 494; *Green* v. *Grey*, 1 Dowl. 350).

A copy of the manuscript of an advertisement inserted in the Gazette, "that J. S. and M. P. had agreed to dissolve their partnership," and signed by them, must have an agreement stamp (*May* v. *Smith*, 1 Esp. 283); but a mere notice of dissolution without the words of agreement need not (*Jenkins* v. *Blizard*, 1 Stark. 418), even to prove the existence of a former partnership (*Wheldon* v. *Matthews*, 2 Chit. 399).

A written paper signed by the auctioneer, and delivered to the bidder, to whom lands were let by auction, containing the description of the lands, the terms and rent, but not the name of the lessor, must be stamped as an agreement, for though it may not be evidence of the whole contract, it is of a material part (*Ramsbottom* v. *Mortley*, 2 M. & Sel. 445; acc. *Glover* v. *Hackett*, 2 H. & Nor. 490; 26 L. J. Ex. 416); *aliter* if not signed (*Ramsbottom* v. *Tunbridge*, *Ibid.* 431). But a mere proposal need not be stamped (*Doe* d. *Bingham* v. *Cartwright*, 3 B. & Ald. 326; *Hawkins* v. *Warre*, 3 B. & C. 690; *Bethell* v. *Blencowe*, 3 M. & G. 119); and therefore, in an action for work and labour, an estimate, in writing of the expense of building a wall not finally acceded to, may be read in evidence, although not stamped (*Penniford* v. *Hamilton*, 2 Stark. 475). And where the plaintiff, having signified by a printed prospectus the terms on which he was ready to engage to perform particular services, he may, in an action against a person who had employed him to render those services under a verbal agreement, read the printed prospectus to show what the terms were, although it be not stamped (*Edgar* v. *Blick*, 1 Stark. 464; *Clay* v. *Crofts*, 20 L. J. Exch. 361;

England (*a*) under hand only (*b*), or made in Scotland without any clause of registration (and not otherwise charged in this schedule nor expressly exempted from all stamp duty), where the matter thereof shall be of the value of 20*l.* or upwards (*c*), whether the same shall be only evidence of a

55 G. 3, c. 184.

Bowen v. *Fox*, 2 M. & R. 167; but see *Williams* v. *Stoughton*, 2 Stark. 292). And where A. entered into a written agreement with B. for the hire of a piece of land for the purpose of making bricks, and C. afterwards made an offer in writing to let another piece of land to A., upon the terms contained in such written agreement, and at a subsequent time A. verbally accepted this offer; in an action by C. for a breach of one of the terms of this contract, it was held that the written offer made by C. being a mere proposal, was admissible in evidence without being stamped (*Drant* v. *Brown*, 3 B. & C. 665; 5 D. & R. 582). So where to a letter in the ordinary form, applying for shares in a projected railway company, the plaintiff received in answer a letter of allotment, headed "not transferable," and requiring him to pay a deposit of 2*l.* 2*s.* per share; it was held, that the letter of allotment did not require a stamp, the words "not transferable" being a new term imposed (*Duke* v. *Andrews*, 2 Exch. 290; *Willey* v. *Parratt*, 3 Exch. 211; and see *Hudspeth* v. *Yarnold*, 19 L. J. C. P. 321; *Walker* v. *Rostron*, 9 M. & W. 411; *Clay* v. *Crofts*, 20 L. J. Exch. 361). So, a resolution of a committee appointing a secretary at a salary requires no stamp (*Vaughton* v. *Brine*, 1 M. & Gr. 359), unless it be assented to by the party employed (*Lucas* v. *Beach*, 1 M. & Gr. 417). Where the contract arises from an offer in writing and a parol acceptance, as by complying with the proposed terms, the entire contract is not in writing, and cannot be stamped (*Chaplin* v. *Clarke*, 4 Exch. 403; *Vollans* v. *Fletcher*, 1 Exch. 20; *Willey* v. *Parratt*, 3 Exch. 211; *Moore* v. *Garwood*, 4 Exch. 681; see *Lucas* v. *Beach*, 1 M. & G. 417; *Clay* v. *Crofts*, 20 L. J. Exch. 361; *Hudspeth* v. *Yarnold*, 9 C. B. 625). An instrument between the parties referred to as the basis of a subsequent contract need not be stamped (*Turner* v. *Power*, 7 B. & C. 625; M. & Malk. 131).

A document signed by a tenant, requesting the bailiff in possession to go out for a certain time and forbear to sell, and if the rent should not be paid agreeing to let him resume possession, and deal with the goods as if then distrained, was held not to require a stamp, being a mere licence (*Pishwick* v. *Milnes*, 4 Exch. 825; *Hill* v. *Ram*, 5 M. & G. 789; *Pyle* v. *Partridge*, 16 M. & W. 20).

A bill of exchange, expressing the terms of an agreement between a landlord and in-coming tenant, is not admissible without an agreement stamp (*Nicholson* v. *Smith*, 3 Stark. 128).

An instrument by which the party promises to pay the sum of 65*l.*, and also such other sums as by reference to his books he owed to another with interest, is an agreement and must be stamped as such, and is not to be considered as a promissory note even as to the 65*l.* (*Smith* v. *Nightingale*, 2 Stark. 375). So, "Received and borrowed of A. B. 30*l.*, which I promise to pay with interest at the rate of 5*l.* per cent. I also promise to pay the demands of the sick club at H. in part of interest, and the remaining stock and interest to be paid on demand to the said A. B.," is properly stamped as an agreement (*Bolton* v. *Dugdale*, 4 B. & Ad. 619). So, "I have received the sum of 20*l.* which I borrowed of you, and I have to be accountable for the said sum with interest" (*Horne* v. *Redfearn*, 4 Bing. N. C. 433).

Where W. & S., being indebted to the plaintiff's testator in 6000*l.* for money lent, and being applied to by the plaintiff for payment, delivered to him the following order, signed by them, and directed to the defendant: "We hereby authorise you to pay on our account, to the order of G., 6000*l.*, at the following periods, deducting the amount from the quarterly accounts of type furnished by you, and to Messrs. E. & S., *viz.* 11 November, 1843, 1000*l.*," &c.; and the defendant, on receiving this order, wrote underneath—"Having received the foregoing authority from Messrs. W. & S., I undertake to make you the payments as above stated." It was held, that the above documents did not require to be stamped either as a promissory note or a bill of exchange, but only as an agreement (*Hamilton* v. *Spottiswoode*, 4 Exch. 200).

(*a*) Or Ireland, 16 & 17 Vict. c. 59, s. 20.

An agreement in England to accept a bill of exchange drawn abroad requires a stamp (*Crutchley* v. *Mann*, 1 Marsh. 29; 5 Taunt. 529. See ante, p. 439, n. (*b*), as to instruments executed abroad).

(*b*) "Under hand only" means, not under seal (*Chadwick* v. *Clarke*, 1 C. B. 700). An instrument which is sealed, but merely amounts to an agreement for a lease, requires a stamp, as a deed not otherwise charged by this schedule (*Clayton* v. *Burtenshaw*, 7 D. & R. 800; 5 B. & C. 41).

(*c*) Five pounds, 23 Vict. c. 15, post.

This clause is not an exception, but a substantive part of the enactment, which is not to operate unless the matter of the agreement be of the value of 20*l.* or upwards. This supposes that the value of the contract is measurable. Therefore a contract of marriage need not be stamped (*per* Bayley, J., *Orford* v. *Cole*, 2 Stark. 351; see *Rex* v. *Enderby*, 2 B. & Ad. 205; *Browne* v. *Dawson*, 12 Ad. & El. 624). And the contract must be measurable at the time of making the

55 G. 3, c. 184.

contract, or obligatory upon the parties from its being a written instru-

contract (*Liddiard* v. *Gale*, 4 Exch. 816; *Cox* v. *Bailey*, 6 M. & G. 193); and if at that time it *may not* be of the value of 20*l.*, it will be exempt (*Burton* v. *Revell*, 16 M. & W. 307; see *Mayfield* v. *Robinson*, 7 Q. B. 486; *Hikey* v. *Browne*, 4 Ir. Law R. 277). As where the plaintiff agreed, in writing, with the defendant, to do the brick work of a building for 1*l.* 14*s.* per rod, the defendant to find all materials: it was held, that the agreement did not require a stamp, it not appearing *at the time of making it*, that its value amounted to 20*l.*, though the work done ultimately exceeded that amount (*Liddiard* v. *Gale*, 4 Exch. 816; 19 L. J. Exch. 160; *Simple* v. *Steinau*, 8 Exch. 622).

An agreement to confess a judgment for a sum exceeding 20*l.* to secure a sum under that amount, is not of that value (*Ames* v. *Hill*, 2 Bos. & P. 150).

If at a sale by auctioneer, the same person is declared the highest bidder for several lots, a distinct contract arises for each lot; and although all the lots together amount to a greater value than 20*l.* no stamp was required if the lots were separately of less value than 20*l.* (*Emmerson* v. *Heelis*, 2 Taunt. 38; see *Chambers* v. *Griffiths*, 1 Esp. Rep. 151; and *Baldey* v. *Parker*, 2 B. & C. 37; 3 D. & R. 220; *Roots* v. *Lord Dormer*, 4 B. & Ad. 77).

It was held that the following memorandum: "Received of L. & Co. a paper parcel directed to Messrs. A. B. & Co., 62, Lombard-street, value 260*l.* which we agree to deliver to them tomorrow, fire and robbery excepted, carriage paid here," given by a carrier on the receipt of goods, was an agreement, the subject-matter of which did not exceed 20*l.*, the subject-matter of the agreement being the price of the carriage, and not the value of the parcel (*Latham* v. *Rutley*, 2 B. & C. 20; 1 R. & M. 13). On the same ground, a memorandum by a wharfinger of the receipt of goods to be shipped in a particular manner, might be given in evidence to show the terms on which they were received, without a stamp, although the value of the goods was above 20*l.* the wharfage being of a less amount (*Chadwick* v. *Sills*, 1 Ry. & M. 15). A memorandum that "Mr. W. B. has left in the cellar at, &c., 72 barrels of ale, &c., which I agree to allow Mr. H. to take from my cellar at any time within three months from this date by receiving one day's notice, and if left in the cellar beyond that time Mr. B. or Mr. H. to pay rent for the same," was held to be receivable in evidence without a stamp, although the value of the goods exceeded 20*l.*, the amount of rent being less (*Baldwin* v. *Alsager*, 13 M. & W. 365; *Doe* d. *Marlow* v. *Wiggins*, 4 Q. B. 367; *Mayfield* v. *Robinson*, 7 Q. B. 486). So, in the case of *Fishwick* v. *Milnes*, 4 Exch. 825 (ante, p. 481), if the document had contained terms of agreement, and the rent had exceeded 20*l.*, a stamp would not have been necessary, for neither the amount of rent nor the value of the goods distrained would be the subject-matter of the agreement, but the indemnity against an action for a second entry, the value of which would not necessarily be 20*l.* (*Hill* v. *Ram*, 5 M. & G. 789).

So, in *Doe* v. *Avis*, 24th April, 1828, sittings before Lord Tenterden, M. S., it was holden, that an agreement signed by a tenant, to hold premises with scheduled fixtures at 2*s.* 6*d.* per annum, determinable at six months' notice, need not be stamped; the subject-matter of the contract, *viz.* the right to occupy, not being shown to be above the value of 20*l.*; and Lord Tenterden said the words of the Act are so ambiguous, that the party objecting ought to make out the affirmative, which is not shown. If it had been a lease, it would have been otherwise (see 2 M. & Ry. 180).

An "I. O. U. 45*l.* 13*s.* which I borrowed of Mrs. M. and to pay 5*l.* per cent. till paid, R. T.," does not require a stamp, the first part of the document being a mere acknowledgment, and the latter part not being necessarily of the value of 20*l.* (*Melanotte* v. *Teasdale*, 13 M. & W. 216; *Taylor* v. *Steele*, 16 M. & W. 665).

So, an agreement to give up a house and goodwill of a business for 7*l.*, and not to open a shop in the same line of business, under a forfeiture of 20*l.*, is not necessarily of the value of 20*l.* (*Pemberton* v. *Vaughan*, 10 Q. B. 87).

Where the son of J. S. having been arrested, and one W. becoming his bail, J. S. signed an agreement to indemnify W. from all liability which he might incur in consequence: it was held, that as one of the liabilities to which J. S. thereby subjected himself was to pay the debt for which the son of J. S. had been arrested, and as that must have amounted to 20*l.*, the subject-matter of the agreement must have been of that value (*Wrigley* v. *Smith*, 5 B. & Ad. 1117; *Shepherd* v. *Wheble*, 8 Car. & P. 534; *Hill* v. *Ramm*, 6 Scott, N. R. 571; *Remon* v. *Hayward*, 2 A. & E. 666).

If it cannot be ascertained on inspection whether the subject-matter is of the required value, evidence may be given on that point (*Reg.* v. *Overton*, 23 L. J. M. C. 30; 18 Jur. 134).

An agreement of reference may be made a rule of court, without being stamped, where the sum awarded is less than 20*l.* (*Lloyd* v. *Mansell*, 1 L. M. & P. 130).

Letters containing promises to remit money, and making excuses for not having done so, do not require to be stamped as evidence of the contract (*Beeching* v. *Westbrook*, 8 M. & W. 411; *Fishmongers' Company* v. *Dimsdale*, 22 L. J. C. P. 44).

	£	s.	d.	55 G. 3, c. 184.
ment (*a*), together with every schedule, *receipt* or other matter put or indorsed thereon or annexed (*b*) thereto;				
Where the same shall not contain more than 1080 words (being the amount of fifteen common law folios or sheets of seventy-two words each) . . . . . (*c*)	[1	0	0]	
And where the same shall contain more than 1080 words . . .	[1	15	0]	
And for every entire quantity of 1080 words contained therein, over and above the first 1080 words a further *progressive* (*d*) duty of .	[1	5	0]	

Provided always, that where *divers letters* shall be offered in evidence to prove any agreement between the parties (*e*) who shall have written such letters, it shall be sufficient if any one of such letters shall be stamped with a duty of 1*l.* 15*s.* although the same shall in the whole contain twice the number of 1080 words or upwards (*f*)

(*a*) These words are used to exclude the excuse that the agreement, of which some memorandum is given in evidence, need not have been in writing; which would in every case not within the Statute of Frauds enable a party to give in evidence a written contract without its being stamped (*per* Maule, J., *Vaughton* v. *Brine*, 1 M. & G. 365).

(*b*) Where an agreement contained by itself less than 1080 words, but there was in it a stipulation that a clause in a previous agreement, which was duly stamped, should be taken as part of the new agreement; it was held that that clause ought not to be reckoned as being annexed to the agreement (*Attwood* v. *Small*, 3 Car. & P. 208; 7 B. & C. 390; *Ashwell* v. *Lake*, 3 East, 326). So where it was provided that the agreement should be subject to the covenants set forth "in the draft lease recovered this day" (*Sneezum* v. *Marshall*, 7 M. & W. 417; *The Fishmongers' Company* v. *Dimsdale*, 22 L. J. C. P. 44).

(*c*) Sixpence. See the schedule of the 23 Vict. c. 15, by which these duties are altered and reduced.

It was doubted whether an agreement in a series of letters containing less than 1080 words, required more than a stamp of 1*l.* (*Parkins* v. *Moravia*, 1 Car. & P. 376; *Schultz* v. *Astley*, 2 Bing. N. C. 544).

When it is objected that an agreement contains more than 1080 words, the objector must be prepared with a witness who can prove that he has counted the words, and can positively state their number (see ante, p. 441, n.). The receipt for the penalty put on an agreement at the stamp office, when it is stamped there on payment of the penalty, is not to be reckoned in counting whether the agreement, "with every receipt, &c., indorsed thereon," contains 1080 words, although the agreement cannot be read without such receipt for the penalty indorsed on it (*Bowring* v. *Stevens*, 2 Car. & P. 337).

If, when a written agreement is put in, the opposite party objects that it contains a greater number of words than the stamp is proper for, and calls a witness who has counted the words in the counterpart, the judge will direct the officer of the court to count the words in the original (*Lord Dudley & Ward* v. *Robins*, 3 Car. & P. 26).

The signatures are to be reckoned (*Linley* v. *Clarkson*, 1 C. & M. 436), but not the indorsement (*Winder* v. *Fearon*, 4 B. & C. 663; *Lord Dudley* v. *Robins*, 3 Car. & P. 26), unless it forms part of the agreement (*Fishmongers' Company* v. *Dimsdale*, 22 L. J. C. P. 44; *Attwood* v. *Small*, 7 B. & C. 390; *Weedon* v. *Woodbridge*, 13 Jur. 630).

Figures are to be counted as words; but an indorsement on the back, and a page of the particulars of sale, containing mere repetition of the description of the property, which was described in another page of the same particulars, are not to be counted (*Lord Dudley & Ward* v. *Robins*, 3 Car. & P. 26).

Except in equity (*Howard* v. *Prince*, 10 Beav. 312; *Christian* v. *Dovereux*, 12 Sim. 264; *Jones* v. *Howells*, 12 L. J. Ch. 365), the judge will not call on another cause to allow the agreement to be properly stamped (*Ib.*; see *Attwood* v. *Small*, 3 East, 326; and *Sneezum* v. *Marshall*, 7 M. & W. 417, ante, p. 441, n.).

(*d*) See 13 & 14 Vict. c. 97, sched., tit. "PROGRESSIVE DUTY," post.

(*e*) Or their agents (*Grant* v. *Maddox*, 15 M. & W. 739, n.; *Hemming* v. *Perry*, 2 M. & P. 375).

(*f*) It seems clear that one stamp suffices for an agreement in a series of letters, and it is immaterial whether or not the letters were all written by the same person or by several persons; and therefore where A. by letter entered into an agreement with B., who became a party to the engagement by writing a memorandum at the bottom of the copy of the letter, and C. afterwards became guarantee for B. to A. by an indorsement on the back of the copy of the same letter, in which reference was made to the terms of the agreement on the other side of such copy; it was held, in an action on the guarantee, that only one stamp was necessary (*Stead* v. *Liddard*, 1 Bing. 196; 8 Moore, 2; *Hemming* v. *Perry*, 2 M. & P. 375).

In general there must be distinct stamps for each distinct agreement. If several things requiring distinct stamps are written on the same paper with only one stamp, they cannot be made avail-

55 G. 3, c. 184.

Exemptions from the preceding and all other Stamp Duties.

Label, slip, or memorandum, containing the heads of insurances to be made by the corporations of the Royal Exchange Assurance, and London Assurance; or by the corporations of the Royal Exchange

---

able by annexing distinct stamps on separate papers (*Rex* v. *Reeks*, 2 Lord Raym. 1445; 2 Stra. 716). It was held, that a lease containing several distinct demises at distinct rents, must be stamped according to the aggregate of the stamps required for the several demises (*Bouse* v. *Jackson*, 3 Bro. & B. 185; *Doe* v. *Day*, 13 East, 241; *Lovelock* v. *Cox*, 8 Q. B. 371). So, a contract for the purchase of several lots of goods at separate prices requires several stamps (*Watling* v. *Horwood*, 12 Jur. 48). And on the same principle, if there be a written agreement for a wager, and then by another agreement indorsed on the first the parties consent that the bet shall be doubled, two stamps are necessary (*Robson* v. *Hall*, Peake, 128); but if there be one stamp only, the instrument will be evidence of the first wager (*Ib.*; *Evans* v. *Pratt*, 3 M. & G. 759).

A by written contract agreed to take a public-house of S. at a certain rent, and to buy of S. all the beer which should be sold and consumed on the premises, under a penalty of 30*l.* for every barrel bought of any other person; and to quit on six months' notice, under a penalty of 30*l.* per month for holding over. At the end of this instrument was written: "And it is further agreed by O." (who was not previously made party to the contract), "that he will hold himself responsible for any amount of money which may become due from A. to S.; that is to say, to the amount of 36*l.*" The names of S., O., and A. were subscribed. It was held, in an action by S. against O. on the guarantee, that a lease stamp was not sufficient, but that an agreement stamp was necessary in respect of O.'s guarantee for the payment of penalties (*Wharton* v. *Walton*, 7 Q. B. 474; and see *Watling* v. *Horwood*, 12 Jur. 48; *Rushbrook* v. *Hood*, 5 C. B. R. 131; *Lovelock* v. *Cox*, 8 Q. B. 371).

If a paper be produced with a single stamp, and it appear to have contained originally two distinct agreements, one of which is erased, the stamp is *primâ facie* sufficient, and it lies upon the opposite party to show that both the agreements were on the paper at the time the stamp was affixed (*Waddington* v. *Francis*, 5 Esp. 182; *Ramsbottom* v. *Davis*, 4 M. & W. 584; *Peate* v. *Dicken*, 1 C. M. & R. 422). But if parties enter into a written agreement which is duly stamped, and indorse terms on the back of it varying the original agreement, such new terms will not be admissible in evidence without a fresh stamp; and the indorsement of such terms must be considered as putting an end to the original agreement, and therefore the plaintiff cannot recover upon either (*Reed* v. *Deere*, 2 Car. & P. 624; 7 B. & C. 261; *Sweeting* v. *Halse*, 9 B. & C. 365; *Bacon* v. *Simpson*, 3 M. & W. 78); if, however, the alteration took place whilst the agreement was *in fieri*, a second stamp would not be necessary (*Spicer* v. *Burgess*, 1 C. M. & R. 129; *Peate* v. *Dicken*, 1 C. M. & R. 422). And where a contract was entered into for the sale of premises and furniture, possession to be given at a stated time, and by indorsement the parties agreed to postpone the completion, this indorsement was held to be a separate agreement (*Bacon* v. *Simpson*, 3 M. & W. 78; *Thomas* v. *Bird*, 9 M. & W. 68; *Carpenter* v. *Buller*, 2 M. & Rob. 298).

An agreement by several persons for a subscription to one common fund, or for one common purpose, in which each is interested, though not jointly, and although several as to each, requires only one stamp (*Davis* v. *Williams*, 13 East, 232; *Bowen* v. *Ashley*, 1 New Rep. 274; *Cook* v. *Jones*, 15 East, 237). So, in the case of an agreement relative to prize shares, though several as to each person, one stamp only is required (*Baker* v. *Jardine*, 13 East, 235, n. (*b*); *ib.* 238, n. (*a*)). So, where several underwriters on a policy enter into an agreement to refer the cause to arbitration, the agreement and award require but one stamp each, there being a community of interest between the parties in the subject-matter (*Goodson* v. *Forbes*, 6 Taunt. 171; 1 Marsh. 525; *Allen* v. *Morrison*, 8 B. & C. 565; *Shipton* v. *Thornton*, 9 A. & E. 314; *Ramsbottom* v. *Davis*, 4 M. & W. 584).

A paper containing contracts by several persons relative to different things, and stamped with only one stamp, may be read as to that part to which it is exclusively applicable, if the circumstance of the *juxta* position of the stamp to the defendant's signature, &c., will justify the supposition that the stamp was applicable to his signature, and in general the stamp will be considered as applicable to the party first executing the instrument (*Powell* v. *Edmunds*, 12 East, 6; see *Doe* v. *Day*, 13 East, 241; *Perry* v. *Bouchier*, 4 Camp. 80; *Ramsbottom* v. *Davis*, 4 M. & W. 584; *Watling* v. *Horwood*, 12 Jur. 48).

A written agreement, though coming out of the possession of the opposite party, cannot be read in evidence as an agreement between such party and a stranger, unless it be stamped (*Doe* v. *Hore*, 2 Esp. 724). If an unstamped agreement in writing for the letting a tenement at a certain rent be lost, parol evidence of its contents is not admissible for the purpose of ascertaining

Assurance of houses and goods from fire; and London Assurance of houses and goods from fire. 55 G. 3, c. 184.

Memorandum or agreement for granting a lease or tack at rack-rent, of any messuage, land, or tenement, under the yearly rent of 5*l.* (*a*).

Memorandum or agreement for the hire of any labourer, artificer, manufacturer, or menial servant (*b*).

Memorandum, letter, or agreement, made for or relating to the sale of any *goods, wares,* or *merchandise* (*c*).

---

thereby the value of the tenement (*Rex* v. *Castle Morton*, 3 B. & Ald. 588). And where an agreement unstamped has been destroyed, no parol evidence can be given of its contents if it require a stamp, even though it was destroyed by the wrongful act of the party who takes the objection (*Rippiner* v. *Wright*, 2 B. & Ald. 478; see ante, p. 441, n.; Tilsley on St. 316).

Where it appears on cross-examination of the plaintiff's witness, that there was an unstamped agreement in writing, a landlord was not allowed in an action for use and occupation to enter into parol evidence, or recover for use and occupation (*Brewer* v. *Palmer*, 3 Esp. 213; *Hodges* v. *Drakeford*, 1 N. R. 270; *Hughes* v. *Budd*, 8 Dowl. 478). But in practice it suffices, in an action for use and occupation, to prove the defendant's occupation and payment of prior rent, and in that case the non-production of the written agreement is immaterial.

(*a*) An agreement for a lease of premises, though under 5*l.* per annum, is not within this exception as to rack-rent, if the interest agreed for be a beneficial one (*Doe* v. *Boulcot*, 2 Esp. 595; *Mayfield* v. *Robinson*, 7 Q. B. 486; *Doe* d. *Marlow* v. *Wiggins*, 4 Q. B. 367).

(*b*) Agreements for services in the colonies are also exempted by 17 & 18 Vict. c. 83, s. 21, post.

An agreement for an assignment of an apprentice does not come within this exemption (*Rex* v. *St. Paul's, Bedford*, 6 T. R. 452).

A stoker and fireman on board a steam-ship is a labourer or artificer within this exemption (*Wilson* v. *Julueta*, 14 Q. B. 405; 19 L. J. Q. B. 49; see *Reg.* v. *Wortley*, 21 L. J. M. C. 44); but a clerk is not (*Dakin* v. *Watson*, 2 Cr. & Dix. Ir. R. 224).

(*c*) This exemption is for the purpose of protecting commerce, and ought therefore to receive a liberal construction (*per* Parke, B., *Sadler* v. *Johnson*, 16 M. & W. 177).

An agreement by a broker to indemnify his principal on the re-sale of goods purchased by him is a contract relating to the sale of goods (*Curry* v. *Edensor*, 3 T. R. 524). So is an undertaking to guarantee the payment of goods to be furnished to third persons (*Warrington* v. *Furbor*, 6 Esp. 89; 8 East, 242; *Watkins* v. *Vince*, 2 Stark. 368; see *Waddington* v. *Bristow*, 2 Bos. & P. 452; *Sadler* v. *Johnson*, 16 M. & W. 775; *Chatfield* v. *Cox*, 19 L. J. Q. B. 279). So is an agreement to share in goods purchased by the other party on their joint account, though it constitutes a partnership (*Venning* v. *Leckie*, 13 East, 7; *Marson* v. *Short*, 2 Bing. N. C. 118), or contains stipulations concerning the mode of payment and other things (*Heron* v. *Granger*, 5 Esp. 269). So is a stipulation for rescinding a former agreement for the sale of goods after the breach (*Whitworth* v. *Crockett*, 2 Stark. 431). So is an agreement to sell oil, although not then ready made, the raw materials being ready for making it (*Wilks* v. *Atkinson*, 1 Marsh. 412, 6 Taunt. 11; *Ingram* v. *Lea*, 2 Camp. 521; *Hughes* v. *Breeds*, 2 Car. & P. 159), or to make a machine (*Pinner* v. *Arnold*, 2 C. M. & R. 613; *Garbutt* v. *Watson*, 5 B. & Ald. 613), or a contract to supply premises with water (*West Middlesex W. C.* v. *Suwerkrop*, 4 Car. & P. 87).

And an unstamped agreement may be valid so far as it relates to the sale of goods, though it contain stipulations unconnected with the contract of sale (*Heron* v. *Granger*, 5 Esp. 269; *Forsyth* v. *Jervis*, 1 Stark. 437; *Meering* v. *Duke*, 2 Man. & Ry. 121; *Marson* v. *Short*, 2 Bing. N. C. 118), and the receipt for the price, containing a warrant of soundness, may be read in evidence without a stamp (*Skrine* v. *Elmore*, 2 Camp. 407).

It was at one time thought that where the subject-matter did not at the time of the contract exist in the state of goods, as in growing hops, turnips, or potatoes, &c., it was not considered a contract relating to the sale of goods (*Waddington* v. *Bristow*, 2 B. & P. 452; *Boydell* v. *Drummond*, 11 East, 150, 151; but see *Wilkes* v. *Atkinson*, 6 Taunt. 11, 12; *Garbutt* v. *Watson*, 5 B. & Ald. 613; *Hughes* v. *Breeds*, 2 Car. & P. 159, supra). This seems to be overruled; and a contract for the sale of the manure of forty-five horses by the year, has been held to be a sale of goods within this exception (*Gurr* v. *Scudds*, 11 Ex. 190; *Pinner* v. *Arnold*, 2 C. M. & R. 613).

It has been held that *fixtures* are not "goods" within the meaning of this exemption (*Wick* v. *Hodgson*, 12 Moore, 213; *Dalton* v. *Whittern*, 3 Q. B. 961; *Darby* v. *Harris*, 1 G. & D. 234); scrip certificates of railway shares are not (*Knight* v. *Barber*, 16 M. & W. 66), nor are shares (*Heseltine* v. *Siggers*, 1 Exch. 856; *Bowlby* v. *Bell*, 3 C. B. 284).

It has been doubted whether a contract for the

	£	s.	d.
55 G. 3, c. 184. Memorandum or agreement made between the master and mariners of any ship or vessel, for wages on any voyage coastwise from port to port in Great Britain (*a*).			
Letters containing any agreement (not before exempted) in respect of ANY MERCHANDISE, or evidence of such an agreement, which shall pass by the post, between merchants or other persons carrying on trade or commerce in Great Britain, and residing and actually being, at the time of sending such letters, at the distance of fifty miles from each other (*b*).			
See also the general exemptions at the end of this part of the schedule (*c*).			
APPOINTMENT in execution of a POWER, of land or other property, real or personal, or of any use or interest therein, where made by any writing, not being a deed or will	1	15	0
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words (being the amount of thirty common law folios or sheets of seventy-two words each) or upwards, then for every entire quantity of 1080 words (or fifteen common law folios or sheets) contained therein, over and above the first 1080 words, a further progressive (*d*) duty of	1	5	0
If made by deed.—See *Deed*.			

---

sale of goods to be fixed to a house is within the exemption (*Pinner* v. *Arnold*, 2 C. M. & R. 616, *per* Parke, B.; see *Chanter* v. *Dickinson*, 5 Man. & G. 262, *per* Erskine); a contract to do work, as to raise stone, is not (*Hughes* v. *Budd*, 8 Dowl. 478).

If the agreement be for the sale of something besides goods, as goods and goodwill (*South* v. *Finch*, 3 Bing. N. C. 506), or a patent furnace, and a *licence* to exercise and enjoy the patent right (*Chanter* v. *Dickinson*, 6 Sco. N. R. 182; 5 Man. & G. 253), it will not be within the exemption.

An agreement between merchants, that one shall take a share in the outfit of a ship and the adventure, is not an agreement for the sale of goods within the exception (*Leigh* v. *Banner*, 1 Esp. 403). But an agreement that the plaintiff will sell a ship to the defendant, that part of the price shall be secured by mortgage of the ship, that the plaintiff will procure the ship to be chartered on a voyage, that the earnings of the voyage shall be paid to the plaintiff as part of the price, and that at the end of the voyage the mortgage shall close, is an agreement for the sale of goods (*Meering* v. *Duke*, 2 M. & R. 121).

A letter from a principal to his factor, containing bills of exchange drawn upon the latter, and in which the principal promised to provide for the bills, if certain goods, then either in the factor's possession or about to be placed in his hands, should remain unsold at the time of the bills falling due, does not come within this exception, the primary object of such letter not being the sale of goods, but the obtaining an advance of money on the goods (*Smith* v. *Cator*, 2 B. & Ald. 778).

The following memorandum was handed by the defendant, a trader, to the plaintiff, an auctioneer: "Memorandum of 107*l.* had by me of S. (plaintiff), being an advance on books sent in for sale by auction;" signed by the defendant. The books were sold, and an action having been brought by the auctioneer for a balance due to him on the sale, the above memorandum was held to relate to the sale of goods; Parke, B., distinguishing this case from *Smith* v. *Cator*, supra (*Southgate* v. *Bohn*, 16 M. & W. 35).

An agreement thus: "In consideration of the consigning to A. a cask of sherry, and paying me one per cent. on amount of proceeds, I guarantee the sale of the wines, and payment of the proceeds," is within this exemption (*Sadler* v. *Johnson*, 16 M. & W. 775; and see *Martin* v. *Wright*, 6 Q. B. 917).

A contract under seal relating to the sale of goods is not exempt from the stamp duty on deeds (*Clayton* v. *Burtenshaw*, 5 B. & C. 41, 7 D. & R. 800, note).

(*a*) See *Wilson* v. *Zulueta*, 14 Q. B. 405; 19 L. J. Q. B. 49, ante p. 485, n. (*b*).

(*b*) A letter written by one who manages another's trade, binding himself to pay a debt contracted therein, need not be stamped. The Act meant that the correspondence of merchants and tradesmen at a distance from each other, on the faith of which they had considerable dealings, should not be fettered with stamps (*Mackenzie* v. *Banks*, 5 T. R. 176).

(*c*) Further exemptions:—memorandums or agreements made necessary by the 9th of Geo. 4, c. 14 (Lord Tenterden's Act, for rendering a written memorandum necessary to the validity of certain promises and engagements, &c.).

Agreements in Ireland to submit any matter in dispute, the amount or value whereof shall be under 20*l.*, to arbitration, 5 & 6 W. 4, c. 64, s. 1, 5 & 6 Vict. c. 82, s. 5.

(*d*) The progressive duty now payable is regulated by the schedule of 13 & 14 Vict. c. 97, post.

	£	s.	d.	
APPOINTMENT of a chaplain, operating as a qualification to hold TWO ecclesiastical BENEFICES in England	2	0	0	55 G. 3, c. 184.
APPOINTMENT of a gamekeeper.—See *Deputation.*				
APPOINTMENT to offices.—See *Admission, Grant.*				
APPRAISEMENT or valuation of any estate or effects, real or personal, heritable or moveable; or of any interest therein; or of the annual value thereof; or of any dilapidations; or of any repairs wanted; or of the materials and labour used or to be used in any buildings; or of any artificers' work whatsoever (*a*);				
Where the amount of such appraisement or valuation shall not exceed 50*l.*	0	2	6	
And where it shall exceed 50*l.* and not exceed 100*l.*	0	5	0	
And where it shall exceed 100*l.* and not exceed 200*l.*	0	10	0	
And where it shall exceed 200*l.* and not exceed 500*l.*	0	15	0	
And where it shall exceed 500*l.*	1	0	0	

Exemptions.

Appraisements or valuations made in pursuance of the order of any court of admiralty or vice-admiralty, or of any court of appeal from any sentence, adjudication, or judgment of any court of admiralty or vice-admiralty.

Appraisements or valuations of any property, made for the purpose of ascertaining the legacy duty payable in respect thereof.

APPRAISER, licence to act as such.—See *Licence.*

APPRENTICESHIP and CLERKSHIP (*b*). Indenture or other instrument or writing containing the covenants, articles or agreements for or relating to the service of any apprentice, clerk, or servant, who shall be put or placed to or with any master or mistress, to learn any profession, trade, or employment whatsoever (*c*); *except articles of clerkship to attorneys and others, hereinafter specifically charged;*

If the sum of money, or the value of any other matter or thing which

---

(*a*) As to the duty of appraisers, see 46 Geo. 3, c. 43, ante, p. 459. Where persons are appointed under an agreement to value the goods and repairs of a farm, an appraisement stamp, upon the written valuation, is sufficient, and an award stamp is not necessary (*Leeds* v. *Burrows*, 12 East, 1; *Perkins* v. *Potts*, 2 Chit. Rep. 399).

A valuation of parish lands by two resident parishioners, appointed for that purpose by parish officers, for the purpose of equalising a rate for the relief of the poor, does not require an appraisement stamp, it being merely for the information of the parties employing the valuers (*Atkinson* v. *Fell*, 5 M. & Sel. 210). If a broker is called to prove the value of goods, he need not produce an inventory written on an appraisement stamp (*Stafford* v. *Clark*, 1 Car. & P. 25).

(*b*) See 5 & 6 Vict. c. 82, s. 3, post.

A printed indenture of apprenticeship, executed on one day but bearing date on another, is not void (*Rex* v. *Harrington*, 4 Ad. & E. 618).

(*c*) If the friends of an apprentice covenant to maintain him, and to provide him with clothes, it is not such a benefit as is liable to the duty imposed by 8 Anne, c. 9, s. 45, which enacts, "That where anything not being money shall, directly or indirectly, be given, assigned, conveyed, delivered, contracted for, or secured to or for the use or benefit of any master, with or in respect of any such clerk, apprentice or servant, for whom a duty is chargeable by this Act, the duties hereby granted shall be paid for the full value of such thing or things," &c. (*Rex* v. *Leighton*, 4 T. R. 732; *Rex* v. *Walton in le Dale*, 3 T. R. 515).

In an indenture of apprenticeship, a covenant by the apprentice to allow his master two shillings per week, and to have wages, and to provide for himself during the term, was held not to require the additional stamp required by 44 Geo. 3, c. 98, Sched. (A), upon an indenture, where a sum of money is contracted for with the apprentice (*Rex* v. *Bradford*, 1 M. & Sel. 151; see also *Rex* v. *Wantage*, 1 East, 601).

The 8 Anne, c. 9, s. 35, requires "That the full sum of money received, or in any wise, directly or indiretly, given, paid, agreed or contracted for with the apprentice, shall be duly inserted in words at length;" and sect. 39 avoids the indenture "if the sum paid, secured or contracted for, be not truly inserted" (see *Rex* v. *Amersham*, 4 A. & E. 508). Therefore where a sum agreed to be given with an apprentice was five guineas, which was inserted in the indenture, and the duty paid accordingly, it was held to be sufficient, though in fact only four guineas were paid for the full sum received, given, paid, agreed, or contracted for, as required by that Act, was inserted, and the duty paid for it, and the stamp used was of the same description, and the duty appropriated to the same fund as if four guineas only had been inserted and paid for, supposing that would have sufficed (*Rex* v. *Keynsham*, 5 East, 309).

An indenture of apprenticeship, executed

55 G. 3, c. 184.

	£	s.	d.
shall be paid, given, assigned or conveyed, or be secured (*a*) to be paid, given, assigned or conveyed, to or for the use or benefit of the master or mistress, with or in respect of such apprentice, clerk, or servant, or both, the money and value of such other matter or thing shall not amount to 30*l.*	1	0	0
If the same shall amount to 30*l.*, and not amount to 50*l.*	2	0	0
If the same shall amount to 50*l.*, and not amount to 100*l.*	3	0	0
If the same shall amount to 100*l.*, and not amount to 200*l.*	6	0	0
If the same shall amount to 200*l.*, and not amount to 300*l.*	12	0	0
If the same shall amount to 300*l.*, and not amount to 400*l.*	20	0	0
If the same shall amount to 400*l.*, and not amount to 500*l.*	25	0	0
If the same shall amount to 500*l.*, and not amount to 600*l.*	30	0	0
If the same shall amount to 600*l.*, and not amount to 800*l.*	40	0	0
If the same shall amount to 800*l.*, and not amount to 1000*l.*	50	0	0
And if the same shall amount to 1000*l.* or upwards	60	0	0
And where there shall be no such consideration as aforesaid, moving to the master or mistress; if the indenture or other instrument shall not contain more than 1080 words (*b*)	1	0	0
And if the same shall contain more than that quantity	1	15	0

APPRENTICESHIP and CLERKSHIP (*c*).—Indenture, or other instrument or writing, containing the covenants, articles, or agreements for or relating to the service of any such apprentice, clerk, or servant, as aforesaid, who shall be put or placed to or with a new master or mistress, either by assignment, transfer or turnover, or upon the death, absence, or incapacity of the former master or mistress, or otherwise, or any writing whatever, whereby any such assignment, transfer, or turnover, may be effectuated or ascertained.

Where there shall be any such valuable consideration as aforesaid, moving to the new master or mistress, exclusive of any part of the consideration to the former master or mistress, which may be returned, or given, or transferred to the new master or mistress	*Such and the like duty in proportion to the amount or value of such new consideration only, as is before charged on any original indenture of apprenticeship*

	£	s.	d.
And where there shall be no such new consideration; if the indenture or other instrument or writing shall not contain more than 1080 words	1	0	0
And if the same shall contain more than that quantity	1	15	0

And where there shall be duplicates (*d*) or two parts, of any such indenture or other instrument or writing, relating to any such apprentice, clerk, or servant as aforesaid; each part shall be charged with the duty before mentioned, in all cases where the same shall not exceed thirty-five shillings; and where the same shall exceed that sum, only one part shall be charged with the said *ad valorem* duty, or duty in

---

before the passing of the 44 Geo. 3, c. 98, must be stamped with the premium stamp, within the time prescribed by the statute 8 Anne, c. 9, s. 39 (if within fifty miles from the limits of the weekly bills of mortality, within three months; if at a greater distance, within six months from the date or making thereof): and where such indenture was stamped at the time of its being produced with the stamp required by this Act, but not within the time prescribed by the statute of Anne; it was held, that the indenture was wholly void (*Rex* v. *Chipping Norton*, 5 B. & Ald. 412).

The sessions presumed, that an indenture of apprenticeship, executed thirty years before, and under which the apprentice had regularly served his time for seven years, when the indenture was given up to him, and proved to be lost, and the parish in which he was settled under such indenture had relieved him for the last twelve years, was properly stamped, in proportion to the apprentice fee of 12*l.* received by the master, although the deputy register and comptroller of the stamp duties proved that it did not appear in the office that any such indenture had been stamped or enrolled during that period (*Rex* v. *Long Buckby*, 7 East, 45).

(*a*) See *Shepherd* v. *Hall*, 3 Camp. 180; *Rex* v. *Low*, 3 Car. & P. 620.

(*b*) See 5 & 6 Vict. c. 82, s. 3, and 16 & 17 Vict. c. 59. Reduced to 2*s.* 6*d.*, note (*c*), infra.

(*c*) See 8 Anne, c. 9, s. 39; and *Jackson* v. *Warwick*, 7 T. R. 121; *Rex* v. *Baildon*, 3 B. & Ad. 427; *Hankins* v. *Clutterbuck*, 2 C. & K. 810.

An assignment of an indenture of apprenticeship on which only a 1*l.* stamp was affixed was held to be receivable in evidence, though the indenture of assignment contained covenants for supplying the apprentice with food, &c., and even for extending the period of apprenticeship (*Morris* v. *Cox*, 2 Man. & G. 659).

Where there is no consideration moving to the master or mistress, to whom the apprentice, &c., is bound or transferred, the duty is now 2*s.* 6*d.* (16 & 17 Vict. c. 59, schedule, post).

(*d*) The duties on duplicates and counterparts are now repealed by 13 & 14 Vict. c. 97. See schedule to this Act, post.

	£	s.	d.	
proportion to the consideration, and the other part shall be charged with a duty of	1	15	0	55 G. 3, c. 184.

Note.—And *the part* bearing the *ad valorem* or higher duty shall belong to and be kept by the apprentice, clerk, or servant, or some person on his or her behalf, upon his or her being first placed out; and in case of any subsequent placing out, by assignment or otherwise, *the part* bearing the *ad valorem* duty on that occasion (if any) shall belong to and be kept by the former master or mistress, or his or her representatives, or by the apprentice, clerk, or servant, or some person on his or her behalf; and in each of the said cases, *the other part*, bearing the lower duty hereby charged thereon, shall belong to and be kept by the original master or mistress, or the new master or mistress, as the case may be; and the same shall be respectively received in evidence accordingly.

Exemptions from the preceding and all other Stamp Duties.

Indentures or other instruments for placing out poor children apprentices (*a*) by or at the sole charge of any parish or township, or by or at the sole charge (*b*) of any public charity (*c*), or pursuant to the Act of the 32nd year of his majesty's reign, for the further regulation of parish apprentices.

And all assignments of such poor apprentices, provided there shall be no such valuable consideration as aforesaid given to the new master or mistress, other than what may have been or shall be given by any parish or township, or by any public charity (*d*).

ARTICLES of CLERKSHIP (*e*) or contract, whereby any person shall first become bound to serve as a clerk; in order to his admission as an attorney or solicitor.

In any of his majesty's courts at Westminster (*f*) . . . (*g*) [120 0 0]

(*a*) Indentures of apprenticeship for services in the colonies, 17 & 18 Vict. c. 83, s. 21, post; or to the sea service, 17 & 18 Vict. c. 104, s. 143, ante, p. 278, tit. "SHIPS."

(*b*) Where a pauper was bound apprentice by the trustees of a public charity, the master covenanted to find him meat, drink, apparel, washing, &c. Before the execution of the indenture, the father of the pauper, who was not a party to it, agreed with the master to find the pauper clothing and washing during the term, and he did so. It did not appear that the trustees were privy to this engagement. It was held, that the indenture did not require to be stamped, because the agreement by the father to provide clothes was not a thing secured to be given to or for the benefit of the master within this statute; or assuming that it was, then it was void as being a fraud on the trustees, who had bound out the apprentice on the faith that the master was to provide clothes (*Rex* v. *Aylesbury*, 3 B. & Ad. 569; and see *Rex* v. *Baildon*, 3 B. & Ad. 427; *Rex* v. *Fakenham*, 2 Ad. & E. 528).

(*c*) A public annual charitable subscription is a "public charity" (*Rex* v. *St. Matthew's Bethnal Green*, Burr. S. C. 574). So a bequest of money to put out children apprentices (*Rex* v. *Clifton-upon-Dunsmore*, Burr. S. C. 697; see ante, p. 447, n. (*b*); *Rex* v. *Skeffington*, infra).

Where an unstamped indenture of apprenticeship recited that a premium had been paid with the apprentice, but added that it was paid out of a charitable fund belonging to the parish; the master also proved that the premium had been paid by the parish officers, who informed him at the time that it came out of such fund: it was holden, that the fact of payment being proved, the recital in the indenture and the declaration of the parish officers could not be admitted in evidence, so as to bring the case within the exception (44 Geo. 3, c. 98, schedule (A)), and that the indenture, being unstamped, was void (*Rex* v. *Skeffington*, 3 B. & Ald. 382).

A. placing out an apprentice with the consent of trustees of certain funds bequeathed for the binding out of poor apprentices, though the trustees do not execute the indenture, is exempt from the duty (*Rex* v. *Quainton*, 2 M. & Sel. 338).

(*d*) See *Rex* v. *Fakenham*, 2 Ad. & E. 528. An assignment of a parish apprentice is not subject to the regulations imposed by the stat. of 8 Anne, c. 9, and need not therefore be stamped within two months, nor need the consideration paid for such assignment be set forth in it (*Rex* v. *Ide*, 2 B. & Ad. 866; and see *Rex* v. *Llangunnor*, 2 B. & Ad. 616). Further exemption: apprenticeship in Ireland, 5 & 6 Vict. c. 2, s. 3.

(*e*) 80*l.* is now substituted for 120*l.*, 16 & 17 Vict. c. 63, schedule, post.

(*f*) Or in Ireland, 16 & 17 Vict. c. 59, s. 20.

(*g*) 80*l.*, 16 & 17 Vict. c. 63; see, 16 & 17 Vict. c. 59, s. 7, post.

Under stat. 9 Geo. 4, c. 49, s. 4 (ante, Vol. I. p. 129, tit. "ATTORNEYS"), and this schedule, an attorney who has paid 60*l.* stamp duty on his articles in order to be admitted to the Court of Common Pleas at Lancaster, must, in order to his admission to the Courts at Westminster, pay

55 G. 3, c. 184.

	£	s.	d.
In any of the courts of the great sessions in Wales, or of the counties Palatine of Chester, Lancaster, and Durham; or in any other court of record in England holding pleas, where the debt or damage amounts to forty shillings . . . . . (a)	60	0	0
And for any counterpart or duplicate of any such articles or contract of clerkship	1	15	0
ARTICLES of CLERKSHIP, or contract, whereby any person (*not being an attorney of one of the courts at Westminster* (b) shall first become bound to serve as a clerk, in order to his admission as a sworn clerk, in the office of the six clerks of the court of chancery, or as a sworn clerk, clerk in court, or side clerk, in the office of pleas, or the office of his majesty's remembrancer in the court of exchequer in England	120	0	0
And for any counterpart or duplicate thereof . . . . . (c)	1	15	0
ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to any such admission as aforesaid for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated by consent, or by rule of court, or in any other event . . .	1	15	0
And for any counterpart or duplicate thereof	1	15	0
And where any person, having entered into any articles of clerkship or contract, duly stamped according to the law in force at the date thereof, in order to his admission as a sworn clerk, clerk in court, or side clerk, in the court of chancery, or court of exchequer, or in order to his admission as an attorney or solicitor in any of the courts at Westminster (d), shall afterwards enter into any such articles or contract as aforesaid, for any other of those purposes; the said last-mentioned articles or contract shall be charged only with a duty of .	1	15	0
And the counterpart or duplicate thereof . . . . . (e)	1	15	0
And where the same articles of clerkship shall be a qualification to any person to be admitted, not only as an attorney or solicitor in any of the courts at Westminster (f), but also as a sworn clerk, clerk in court, or side clerk, in the court of chancery or court of exchequer (g), or as an attorney or solicitor in any of the inferior courts aforesaid; such articles shall not be charged with more than one duty of 120*l.* (h) .			
ARTICLES of CLERKSHIP, or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as a proctor in the high court of admiralty in England (i), or in any of the ecclesiastical courts in Doctors' Commons . . . . . (k)	[120	0	0]
And for any counterpart thereof . . . . . (l)	1	15	0
ARTICLES of CLERKSHIP, or contract, whereby any person shall become bound to serve as a clerk, in order to his admission as a proctor in any of the courts aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated, or in any other event . .	1	15	0
And for any counterpart or duplicate thereof (m)	1	15	0
ARTICLES, or indenture of clerkship or apprenticeship, whereby any person shall first become bound to serve as a clerk or apprentice, in order to his admission as a writer to the signet, or as a solicitor, agent, or attorney, in any of the courts of session, justiciary, exchequer, and commission of teinds in Scotland	60	0	0
And for any part or duplicate thereof (n)	1	15	0
ARTICLES or indenture of clerkship or apprenticeship, whereby any person shall first become bound to serve as a clerk or apprentice, in order to his admission to act as a procurator or solicitor in the high court of admiralty, the commissary court at Edinburgh, or any other inferior court in Scotland	30	0	0
And for any counterpart or duplicate thereof . . . . . (o)	1	15	0

an additional duty of 120*l.* (*In re Myers*, 8 Q. B. 515). But see 16 & 17 Vict. c. 59, s. 7, which requires payment of the additional duty only.

(a) See 16 & 17 Vict. c. 59, s. 7.

(b) Or in Ireland.

(c) See 13 & 14 Vict. c. 97, schedule, tit. "DUPLICATE."

(d) Or in Ireland.

(e) See 13 & 14 Vict. c. 97, schedule, tit. "DUPLICATE."

(f) Or in Ireland.

(g) In England or in Ireland respectively.

(h) *Quære* for 120*l.*, or at 80*l.*, in reference to inferior courts.

(i) Or in Ireland.

(k) 80*l.*, 16 & 17 Vict. c. 63.

(l) See infra, note (o).

(m) See infra, note (o).

(n) See infra, note (o)

(o) See 13 & 14 Vict. c. 97, schedule, tit. "DUPLICATE."

	£	s.	d.	55 G. 3, c. 184.
ARTICLES, or indenture of clerkship or apprenticeship, whereby any person shall become bound to serve as a clerk or apprentice, in order to any such admission in Scotland as aforesaid, for the residue of the term for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated, or in any other event .	1	15	0	
And for any counterpart or duplicate thereof . . . . (a)	1	15	0	
ARTICLES of CLERKSHIP, or contract or indenture of apprenticeship whereby any person, having been before bound to serve as a clerk or apprentice, in order to any such admission as aforesaid, either in England or Scotland, and not having completed or perfected his service so as to entitle him to such admission, shall become bound afresh, for a new term of years for the same purpose	*The same duty as would be payable on any original articles, contract or indenture for such purpose.*			
And for any counterpart or duplicate thereof . . . . (a)	1	15	0	
But in this case the stamp used on the articles, contract or indenture, first entered into for the said purpose, shall be allowed as a spoiled stamp, on being delivered up to the commissioners of stamps to be cancelled, within six calendar months after the execution of the new articles, contract, or indenture.				
ASSIGNATION or assignment, upon the sale of any property.—See *Conveyance.*				
ASSIGNATION in security.—See *Mortgage.*				
ASSIGNATION of any wadset, heritable bond, &c.—See *Mortgage.*				
ASSIGNATION or assignment (b) of any property, real or personal, heritable or moveable, NOT OTHERWISE CHARGED in this schedule, not expressly exempted from all stamp duty	1	15	0	
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (c).	1	5	0	
ASSIGNMENT of any mortgage, or other similar security.—See *Mortgage.*				
AWARD in England, and award or decreet-arbitral in Scotland . . (d)	[1	15	0]	
And where the same together with any schedule, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or				

(a) See 13 & 14 Vict. c. 97, schedule, tit. "DUPLICATE."

(b) The assignment of a lease in writing, without seal, did not require a stamp before the statute 44 Geo. 3, c. 98, schedule (A) (*Hodges* v. *Drakeford*, 1 N. R. 270).

(c) Progressive duties are now regulated by 13 & 14 Vict. c. 97, post.

(d) These duties are now regulated by 23 & 24 Vict. c. 111, post. An award stamp is only to be imposed on those instruments which on their face purport to be awards. If two persons agree to refer a case to counsel and to be bound by his opinion, if the opinion does not contain the evidence of the agreement it is not liable to an award stamp (*per* Parke, B., *Sylvay* v. *White*, 1 M. & W. 441; see *Boyd* v. *Emmerson*, 2 Ad. & E. 184; Bythewood, Sup. by Sweet, 89). An adjudication by an engineer of a sum proper to be paid as a penalty for the nonperformance of a contract is not in the nature of an award by an arbitrator (*Northampton Gaslight Company* v. *Parnell*, 15 C. B. 630; 24 L. J. C. P. 60). A balance of accounts between partners, drawn out by an accountant, and by which the parties are guided in their settlement, unless binding on them (*Jebb* v. *M'Kurnan*, M. & Malk. 340), is not an award (*Goodyear* v. *Simpson*, 15 M. & W. 16; *Carr* v. *Smith*, 5 Q. B. 128). Where several persons enter into an agreement to refer a cause to arbitration, such agreement and the award require each but one stamp (*Goodson* v. *Forbes*, 1 Marsh. 525; 6 Taunt. 171).

An award in writing under seal need not have a deep stamp, unless delivered as a deed; but being only delivered as an award, it is sufficient if it have an award stamp (*Brown* v. *Vawser*, 4 East, 584). If an award be made on an improper stamp, and no application be made to enforce it, the court will not set it aside (*Preston* v. *Eastwood*, 7 T. R. 95); and if on obtaining a rule to set aside an award the objection to the stamp be not alleged as a ground for obtaining the rule, it cannot be relied upon afterwards when cause is shown (*Liddell* v. *Johnstone*, 2 Tidd. Pr. 844; see Chit. Stamps, 262; Tilsley on Stamps, 69).

Where an inclosure Act gave the commissioners power to award lands in exchange for others in an adjoining parish, and also to award lands to those who bought them of persons entitled to allotments; it was held that they might award land given in exchange partly for other lands, and partly for money, and that the award need not have an *ad valorem* stamp upon the money consideration (*Doe* d. *Suffield* v. *Preston*, 7 B. & C. 392).

The appointment of an umpire, made in writing, by two arbitrators, requires no stamp (*Routledge* v. *Thornton*, 4 Taunt. 704).

Awards under 7 & 8 Vict. c. 83, s. 14, ante, p. 131, "SAVINGS BANKS," are exempt from stamp duty.

55 G. 3, c. 184.

	£	s.	d.
upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (a)	1	5	0
BARGAIN and SALE (or lease) for a year (b), for vesting the possession of lands or other hereditaments in England, and enabling the bargainee to take a release of the freehold or inheritance, upon the sale or mortgage thereof:			
Where the purchase or consideration money expressed in the release shall not amount to 20*l.* (c).	[0	10	0]
BARGAIN and SALE (to be enrolled) of any estate of freehold, in lands or other hereditaments in England, upon the sale thereof, or by way of mortgage.—See *Conveyance; Mortgage.*			
BARGAIN and SALE (to be enrolled) of any estate of freehold, in lands or other hereditaments in England, upon any other occasion than the mortgage or sale thereof	5	0	0
And where any such bargain and sale as aforesaid, together with any schedule, receipt or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . . . (d)	[1	5	0]

Exemptions from the preceding Duty.

Bargains and sales, made by commissioners to the assignees of bankrupts, which are to pay a duty, only as deeds in general.

Inland BILL of EXCHANGE, draft or order (e), to the bearer, or to order,

---

(a) 13 & 14 Vict. c. 97, schedule, tit. "PROGRESSIVE DUTY."

(b) See 13 & 14 Vict. c. 97, s. 6, post.

(c) Repealed 13 & 14 Vict. c. 97.

(d) See 13 & 14 Vict. c. 97, sched., tit. "PROGRESSIVE DUTY."

(e) See, now, 17 & 18 Vict. c. 83, schedule, post; 23 Vict. c. 15; and also Chitty on Bills; Bayley on Bills; Byles on Bills; Stark. on Evid. tit. Stamp; Tilsley on Stamps, Chitty on Stamps.

An unstamped bill is a nullity, and therefore imposes no obligation to present it (*Wilson* v. *Vysar*, 4 Taunt. 288; and see, *per* Lord Tenterden, C. J., in *Holdsworth* v. *Hunter*, 10 B. & C. 449, 454).

A bill *drawn* and *payable in London* is an inland bill, and must be stamped as such, though it be drawn upon and *accepted* by a party resident abroad (*Amner* v. *Clark*, 2 C. M. & R. 468). But it requires strict proof that the bill was drawn in England, and mere proof that at the day of the date the drawer was in England will not suffice (*Birè* v. *Moreau*, 2 Car. & P. 376). A person resident at Antwerp desired his correspondent in *England* to fill up a bill of exchange and accept it, which was done, and he signed it as a *drawer* at *Antwerp;* it was held, that the bill was virtually drawn there, and required no *English* stamp (*Bochm* v. *Campbell*, Gow, 55; see *Steadman* v. *Duhamel*, 1 C. B. 888; *Hamelin* v. *Bruck*, 9 Q. B. 306; Byles on Bills, 297).

A. being indebted to B., and B. to C.; B. by letter requested A. to pay to C. the balance due to him, and stated that C.'s receipt should be a sufficient discharge; this was held not to be a bill of exchange within this Act (*Crowfoot* v. *Gurney*, 2 Moore & S. 473; *Jones* v. *Simpson*, post; *Hutchinson* v. *Heyworth*, 1 P. & D. 266; *Humphreys* v. *Bryant*, 4 Car. & P. 157).

A request not amounting to an order, binding in terms as between the parties, is not a bill; as where an account of goods delivered contained a request to pay the amount to A. B., a collector (*Norris* v. *Solomon*, 2 M. & Rob. 266; *Hamilton* v. *Spottiswoode*, 4 Exch. 200, ante, p. 481, n.). And where the order was "To the executors of T. H., deceased, '*Powell* v. *Norwood*.' Gentlemen,—We do hereby authorise and require you to pay to Mr. George Powell, or his order, the sum of 250*l.*, being the amount directed by the order of the 29th of July last to be paid to our order.—We are, gentlemen, &c., J. M., December 16, 1842." This document was signed by J. M. only, and was unstamped. It was held (Rolfe, B., *dissentiente*) not to be a bill of exchange, at least until indorsed by P. (*Russell* v. *Powell*, 14 M. & W. 418).

Where the interest of a sum secured by the mortgage of tithes being in arrear, the mortgagor wrote and gave to the mortgagee a letter to the lessee of the tithes, desiring him to pay the sum in arrear to the mortgagee, and to charge it to the mortgagor in settling for the tithes of the current year. The mortgagor sent the letter to the lessee, who undertook to pay the amount within a certain time. The payment however was never made. The V.-C. of England held, that the letter was not an assignment in equity to the mortgagee of a debt due from the lessee to the mortgagor, but was an order for payment of money which could not be enforced, because it was not stamped (*Lord Braybrooke* v. *Meredith*, 13 Sim. 271; *Butts* v. *Swan*, 2 Bro. & B. 73, post, p. 494, n. (b)). So was the following

	£	s.	d.	55 G. 3, c. 184.
either on demand (a) or otherwise, not exceeding two months after date (b), or sixty days after sight, of any sum of money,				
Amounting to 40s. and not exceeding 5l. 5s. (c)	[0	1	0]	

paper, which was delivered to the payee: "27th March, 1844. Messrs. H. M. and C., Gentlemen,—Out of any balance which may be due to me after final arrangement of the account, I will thank you to pay to J. P., Esq., 1977*l.* I remain, &c. J. M." (*Parsons* v. *Middleton*, 6 Hare, 261).

Where a bill of exchange is put in circulation by indorsement, though it want the words "or order," the insertion of those words by the drawer, with the consent of the parties, neither vitiates the instrument nor makes a new stamp necessary, if according to the original intent (*Kershaw* v. *Cox*, 3 Esp. 246; *Byrom* v. *Thompson*, 11 Ad. & E. 31; *Cariss* v. *Tattersall*, 2 Man. & G. 890). So a bill altered from three to four months *before acceptance*, with the consent of the drawer, does not require a new stamp (*Kennerley* v. *Nash*, 1 Stark. 452). But if, *after a bill of exchange is delivered by the drawer to the payee*, its date is altered by an agreement between the payee and drawee before acceptance, it requires a new stamp (*Walton* v. *Hastings*, 4 Camp. 223; 1 Stark. 215). So if the date of a bill be altered after it is due, but before it is negotiated, it is invalid without a new stamp (*Bowman* v. *Nicoll*, 1 Esp. 81; 5 T. R. 537).

An accommodation bill may be altered before it has been negotiated (*Downes* v. *Richardson*, 5 B. & Ald. 674; *Atwood* v. *Griffin*, 2 Car. & P. 368). But where A. and B. exchanged their acceptances by bills drawn by each on the other, at so many days' date: it was held, that the delivery of the respective bills for acceptance, and the redelivery of the same by the acceptors to the respective drawers, was a negotiation of the bills, and that such bills could not, after they had been so exchanged for valuable consideration (as the exchange of acceptance) be post-dated without a new stamp, as upon new bills although during all that time each had remained in the hands of the original drawer (*Cardwell* v. *Martin*, 9 East, 190; 1 Camp. 79; *Calvert* v. *Roberts*, 3 Camp. 343).

It has been determined that a bill drawn on the 1st of August at two months, by A. on B., payable to the order of the drawer, and accepted and redelivered by B. as a security for a debt, and kept by A. for twenty days, cannot be altered in its legal effect, by altering the date from the 1st to the 21st, without a new stamp, though with the consent of the acceptor (*Bathe* v. *Taylor*, 15 East, 412; *Outhwaite* v. *Luntley*, 4 Camp. 179).

A. and B., for a debt due to C., agree to give him a bill of exchange to be drawn by A. and accepted by B., instead of this they send him a promissory note drawn by the one, and indorsed by the other, which he immediately returns to be altered into a bill of exchange according to the agreement. The instrument so altered is a valid bill of exchange without a fresh stamp, as it had not been negotiated in the shape of a promissory note, and the alteration may be considered as the mere correction of a mistake (*Webber* v. *Maddocks*, 3 Camp. 1).

According to the revenue law, there can be no alteration of a stamped instrument after it has been used for one purpose (*per* Le Blanc. J., *Bathe* v. *Taylor*, 15 East, 416; *Sloman* v. *Cox*, 1 C. M. & R. 471; *Atkinson* v. *Hawdon*, 2 Ad. & E. 628; see *Hamelin* v. *Bruck*, 9 Q. B. 306; *Knight* v. *Clements*, 8 Ad. & E. 215).

All questions respecting the admissibility of evidence are to be determined by the judge, who ought to receive that evidence and decide upon it without any reference to the jury. In all cases where an objection is made to the competency of witnesses, any evidence to show their incompetency must be received by the judge, and adjudicated on by him alone. So the evidence offered to impeach the admissibility of a bill, on the ground that it was improperly stamped, should be received by the judge, and determined by him before the bill is allowed to be read to the jury. When an objection is made that the bill has a wrong stamp, the judge ought to receive the evidence to impeach it before he allows the bill to be read; and it is for him to say whether the evidence adduced for the purpose is such as to satisfy him or not (*per* Lord Abinger, C. B., *Bartlett* v. *Smith*, 11 M. & W. 485; *Sweeting* v. *Halse*, 9 B. & C. 365).

(a) If payable generally, it will in law be payable on demand (*Whitlock* v. *Underwood*, 2 B. & C. 157; *East* v. ———, 2 Man. & R. 8).

Drafts or orders payable on demand, are now only subject to a duty of one penny; 16 & 17 Vict. c. 59, schedule.

(b) The value of a stamp on a bill of exchange under this statute depends upon the date on the face of the bill (*Peacock* v. *Murrell*, 2 Stark. 558; *Upstone* v. *Marchant*, 2 B. & C. 10; *Williams* v. *Jarrett*, 5 B. & Ad. 32).

(c) The object of the legislature was to impose a *pro rata* stamp duty upon the sum actually due at the time of making the security: therefore a bill of exchange for 50*l.*, with all legal interest, is to be considered as far as respects the stamp as for 50*l.* only (*Pruessing* v. *Ing*, 4 B. & Ald. 204; *Israel* v. *Benjamin*, 3 Camp. 40). So, where a note reserves interest from a day *prior* to the date, a stamp applicable to the principal is sufficient (*Wills* v. *Noot*, 4 Tyrr. 726; *Foreman* v.

55 G. 3, c. 184.

	£	s.	d.
Exceeding 5*l.* 5*s.* and not exceeding 20*l.* . . . . . (*a*).	0	1	6
Exceeding 20*l.* and not exceeding 30*l.*	0	2	0
Exceeding 30*l.* and not exceeding 50*l.*	0	2	6
Exceeding 50*l.* and not exceeding 100*l.*	0	3	6
Exceeding 100*l.* and not exceeding 200*l.*	0	4	6
Exceeding 200*l.* and not exceeding 300*l.*	0	5	0
Exceeding 300*l.* and not exceeding 500*l.*	0	6	0
Exceeding 500*l.* and not exceeding 1000*l.*	0	8	6
Exceeding 1000*l.* and not exceeding 2000*l.*	0	12	6
Exceeding 2000*l.* and not exceeding 3000*l.*	0	15	0
Exceeding 3000*l.*	1	5	0

Inland BILL of EXCHANGE, draft, or order for the payment of the bearer, or to order, at any time EXCEEDING TWO MONTHS after date, or sixty days *after sight*, of any sum of money(*a*).

Inland BILL, draft, or order for the payment of any sum of money, though not made payable to the bearer, or to order, if the same shall be delivered to the payee, or some person on his or her behalf . . . . . } *The same duty as on a bill of exchange, for the like sum payable to bearer or order.*

Inland BILL, draft, or order for the payment of any sum of money WEEKLY, MONTHLY, or AT ANY OTHER STATED PERIODS, if made payable to the bearer or to order, or if delivered to the payee, or some person on his or her behalf where the total amount thereby made payable, shall be specified therein, or can be ascertained therefrom . . . } *The same duty as on bill payable to bearer or order on demand, for a sum equal to such total amount.*

And where the total amount of the money thereby made payable shall be indefinite } *The same duty as on a bill on demand for the sum therein expressed only.*

And the following instruments shall be deemed and taken to be INLAND BILLS, DRAFTS OR ORDERS, for the payment of money within the intent and meaning of the schedule; *videlicet*,

All drafts or orders for the payment of any sum of money by a bill or promissory note, or for the delivery of any such bill or note in payment or satisfaction of any sum of money; where such drafts or orders shall require the payment or delivery to be made to the bearer, or to order, or shall be delivered to the payee, or some person on his or her behalf.

All receipts given by any banker or bankers, or other person or persons for money received, which shall entitle, or be intended to entitle, the person or persons paying the money, or the bearer of such receipts, to receive the like sum from any third person or persons.

And all bills, drafts or orders, for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, if the same shall be made payable to the bearer, or to order, or if the same shall be delivered to the payee or some person on his or her behalf (*b*).

Foreign BILL OF EXCHANGE (*c*) (or bill of exchange drawn in but payable out of Great Britain) if drawn singly and not in a set . . . . . } *The same duty as on an inland bill of the same amount and tenor.*

Jeys, 5 Car. & P. 419; *Dixon* v. *Robinson*, *ib.* 96.

(*a*) These duties are now regulated by 17 & 18 Vict. c. 83, and 23 Vict. c. 15, post.

(*b*) It was the object of the legislature, in framing this provision, to treat as promissory notes and bills of exchange, and to subject to a stamp duty such instruments as, being payable on a contingency, or out of a particular fund, could not in strictness fall under that denomination (*per* Lord Ellenborough, *Firbank* v. *Bell*, 1 B. & Ald. 36).

As to letters of credit, see 16 & 17 Vict. c. 59, post.

As to drafts, orders, and cheques upon bankers, see 16 & 17 Vict. c. 59, sch.; 21 Vict. c. 20; 23 Vict. c. 15; 23 & 24 Vict. c. 111, s. 17; ante, Vol. I. p. 236, tit. "BANKERS' DRAFTS."

A letter from F. & Co. to their correspondents, S. & Co., requesting them to pay to Messrs. H. C. & Co. or their order, out of the first proceeds that should become due of their stock of gunpowder, then in their hands, 600*l.*, and charge the same to their account, is an order for the payment of money, and liable to be stamped as a bill of exchange, and not with an agreement stamp, although the letter form part of a subsequent correspondence between the three houses (*Butts* v. *Swann*, 2 Bro. & B. 78; see also *Firbank* v. *Bell*, 1 B. & Ald. 36).

And in a case where A. having consigned goods to B. sent him the following order: "Pay to A. B. the proceeds of a shipment of goods, value about 2000*l.*, consigned by me to you;" and C. by writing consented to pay over the full amount of the net proceeds of the goods: it was held, that neither of these instruments required such a stamp as this Act requires on drafts, bills, or orders for the payment of money, because no particular sum was named (*Jones* v. *Simpson*, 2 B. & C. 318).

(*c*) See, now, 16 & 17 Vict. c. 59; 17 & 18 Vict.

	£	s.	d.
Foreign BILLS OF EXCHANGE (*a*), drawn in sets according to the custom of merchants, for every bill of each set, where the sum made payable thereby shall not exceed 100*l.*	0	1	6
And where it shall exceed 100*l.* and not exceed 200*l.*	0	3	0
And where it shall exceed 200*l.* and not exceed 500*l.*	0	4	0
And where it shall exceed 500*l.* and not exceed 1000*l.*	0	5	0
And where it shall exceed 1000*l.* and not exceed 2000*l.*	0	7	6
And where it shall exceed 2000*l.* and not exceed 3000*l.*	0	10	0
And where it shall exceed 3000*l.*	0	15	0

55 Geo. 3, c. 184.

Exemption from the preceding and all other Stamp Duties.

All bills of exchange, or bank post bills, issued by the governor and company of the bank of England.

All bills, orders, remittance bills, and remittance certificates, drawn by commissioned officers, masters and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the Act passed in the thirty-fifth year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

All bills drawn pursuant to any former Act or Acts of parliament by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and for taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

All drafts or orders for the payment of any sum of money to the bearer on demand (*b*), and drawn upon any banker or bankers, or any person or persons acting as a banker (*c*), who shall reside or transact the business of a banker, within ten miles (*d*) of the place where such drafts or orders shall be issued, provided such place shall be specified in such drafts or orders; and provided the same shall bear date on or before the day on which the same shall be issued (*e*); and provided the same do not direct the payment to be made by bills or promissory notes.

All bills, for the pay and allowances of his majesty's land forces, or for

---

c. 83, s. 4, and schedule; 23 Vict. c. 15; and 24 & 25 Vict. c. 21, post.

(*a*) Where a bill was drawn in Ireland, and blanks left for the date, sum, time when payable, and the name of the drawee, and transmitted to England, where it was completed and negotiated, it was held that this was to be considered a bill of exchange from the time of signing and indorsing it in Ireland, and that an English stamp was not necessary (*Smith* v. *Mingay*, 1 M. & Sel. 87). So, where a bill of exchange was drawn in Jamaica upon a stamp of that island, with a blank for the payee's name, and transmitted to England, where a *bonâ fide* holder filled in his own name as payee, it was considered that no English stamp was necessary (*Crutchley* v. *Mann*, 1 Marsh, 29).

If a bill be drawn in England, though dated in some foreign place, such bill cannot be enforced here without an English stamp (*Jordaine* v. *Lashbrooke*, 7 T. R. 601; *Steadman* v. *Duhamel*, 1 C. B. 888; *Hamelin* v. *Bruck*, 9 Q. B. 306; see Byles on Bills, 296; Bayley on Bills, 27; ante, p. 439, n. (*b*)).

(*b*) A cheque payable "at sight" is not within the exemption (*D'Anson* v. *Thomas*, Bayl. on B. 42).

(*c*) It has been holden that the person on whom the cheque is drawn must be *bonâ fide* a banker; the words "acting as a banker" are to be taken in their proper sense (*Castleman* v. *Ray*, 2 Bos. & P. 383; and see *Ex parte Wilson*, 1 Atk. 218).

A draft on a banker post-dated, and delivered before the day of the date, though not intended to be used till that day, must be stamped, otherwise it will be void (*Allen* v. *Keeves*, 1 East, 435; *Whitwell* v. *Bennett*, 3 Bos. & P. 359; *Bond* v. *Warden*, 1 Coll. 583; ante, Vol. I. p. 253, n. (*b*)).

(*d*) Fifteen miles (9 Geo. 4, c. 49, s. 15; *Swan* v. *The Bank of Scotland*, 10 Bligh. N. R. 627; 3 Cl. & Fin. 610; see ante, Vol. I. p. 235, tit. "BANKERS' DRAFTS").

(*e*) A cheque is not issued till it is in the hands of a third party entitled to demand cash for it; and therefore where a person having credit with a banker received money from the agent of that bank, and every week gave him an unstamped cheque on the bank for the amount advanced during the week, which the agent sent to the bank as a voucher for himself, and this cheque was drawn more than the limited distance from the bank, and post-dated, it was held to come within the exception (*Ex parte Bignold*, 1 Deac. 735; 2 Mont. & Ayr. 633). And in order to subject a banker to the penalty imposed by sect. 13 (ante, p. 469), it must be proved that the banker paid the cheque with the full knowledge of the fact of its being so issued (*Ib.*).

55 G. 3, c. 184.

other expenditures liable to be charged in the public regimental or district accounts which shall be drawn according to the forms now prescribed or hereafter to be prescribed by his majesty's orders, by the paymasters of regiments or corps, or by the chief paymaster, or deputy paymaster, and accountant of the army depôt, or by the paymasters of recruiting districts, or by the paymasters of detachments, or by the officer or officers authorised to perform the duties of the paymastership during a vacancy, or the absence, suspension, or incapacity of any such paymaster as aforesaid; save and except such bills as shall be drawn in favour of contractors or others, who furnish bread or forage to his majesty's troops, and who by their contracts or agreements shall be liable to pay the stamp duties on the bills given in payment for the articles supplied by them.

	£	s.	d.
BILL OF LADING, of or for any goods, merchandise, or effects, to be exported *or carried coastwise* (*a*) . . . . . (*b*)	[0	3	0]
BILL OF SALE absolute (*c*)—See *Conveyance*.			
BILL OF SALE as a security.—See *Mortgage*.			
BOND (*d*) in England and personal bond in Scotland, given as a security for the payment of *any definitive and certain sum of money* (*e*).			
BOND in England and personal bond in Scotland, given as a security for the repayment of any sum or sums of money to be thereafter lent, advanced, or paid, or which MAY BECOME DUE UPON AN ACCOUNT CURRENT, together with any sum already advanced or due, or without, as the case may be;			
Where the total amount of the money secured (*f*), or to be ultimately recoverable thereupon, *shall be uncertain and without any limit* (*g*) .	25	0	0

(*a*) See, now, 5 & 6 Vict. cc. 79 and 82.

Before this Act, it was held that goods carried from a port in Scotland to a port in England were not to be considered as exported, so as to make it necessary, under 48 Geo. 3, c. 141, sched. part 1, to have the bill of lading stamped (*Scotland* v. *Wilson*, 1 Marsh. 204; 5 Taunt. 533). But the above Act expressly says "*or carried coastwise.*" If a bill of lading be improperly stamped, the plaintiff may in trover prove his title by parol evidence (*Davis* v. *Reynolds*, 1 Stark. 115).

(*b*) Now reduced to 6*d.*, 5 & 6 Vict. c. 79, schedule, see sect. 21.

(*c*) A bill of sale of a ship was not void although it omitted to set out the true consideration, and was not stamped with an *ad valorem* stamp, but the parties thereto were liable to a penalty (*Robinson* v. *Macdonnell*, 5 M. & Sel. 228; and see *Cole* v. *Parkin*, 12 East, 471).

(*d*) These duties are repealed by 13 & 14 Vict. c. 97, sect. 1, and see sched. tit. "BOND."

(*e*) That is, the sum ascertained by the bond itself, in other words, the principal sum (*Barker* v. *Smark*, 7 M. & W. 590; *Doe* d. *Merceron* v. *Bragg*, 8 Ad. & E. 620; *Frith* v. *Rotheram*, 15 M. & W. 39), notwithstanding it be made to secure interest as well (*Dixon* v. *Robinson*, 5 Car. & P. 96; *Foreman* v. *Jeys*, *ib.* 419; *Deardon* v. *Binns*, 1 M. & R. 131; *Scott* v. *Allsop*, 2 Price, 20; *The Prudential Association* v. *Curzon*, 22 L. J. Exch. 85).

Parties may purposely stipulate for the loan, &c., of a less sum in order to avoid the higher duty (*Shepherd* v. *Hall*, 3 Camp. 180). If a number of persons severally bind themselves in a penalty by one bond, conditioned for the performance by each and every of them of the same matters, such bond requires only one stamp (*Bowen* v. *Ashley*, 1 N. R. 274; *Goodson* v. *Forbes*, 1 Marsh. 525; and see *Burdiss* v. *Mann*, 14 L. T. 351; see ante, p. 484).

It was at one time considered that a bond conditioned for the payment by quarterly payments, of an annual rent, was within the 48 Geo. 3, c. 149, sched. 1, which imposed a duty on bonds given as a security for the payment of any definite and certain sums of money, and must be stamped accordingly (*Attree* v. *Anscomb*, 2 M. & Sel. 88; but see *The Proprietors of Winchester Corn Ex.* v. *Gillingham*, 4 Q. B. 475.

A bond conditioned to secure the plaintiffs to the extent of 5000*l.*, which was held to guarantee a running account the plaintiffs had with a third person, and not to be discharged by the first payment of 5000*l.* only requires a 9*l.* stamp, and not a 25*l.*, as a security of an unlimited extent under this stat. (*Williams* v. *Rawlinson*, 3 Bing. 71; 1 R. & M. 233; and see *Simson* v. *Cooke*, 1 Bing. 452).

A bond conditioned for not converting a house to a particular purpose does not require an *ad valorem* stamp (*Hughes* v. *King*, 1 Stark. 119, and see post.

(*f*) Secured as money (*per* Alderson, B., *Frith* v. *Rotheram*, 15 M. & W. 47; see *Lord Canning* v. *Raper*, 22 L. J. Q. B. 87).

(*g*) A bond for securing money advanced, and to be advanced (although under a penalty in a sum certain, less than 20,000*l.*), must, under the 48 Geo. 3, c. 149, have borne a 20*l.* stamp. These words are to be construed as applying to the effect of the condition of the bond, without regard to the amount of the penalty, which is to

And where the money secured or to be ultimately recoverable thereupon, shall be limited not to exceed a given sum . .	*The same duty as on a bond for such limited sum.*	55 G. 3, c. 184.
BOND in England, and personal bond in Scotland, given as a security for the transfer, or RE-TRANSFER, OF ANY SHARE in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England (*a*), or the East India Company, or of the South Sea Company . . .	*The same duty as on a bond for a sum of money equal to the value of the stock or fund secured, according to the average price thereof, on the day of the date of the bond, or on either of the ten days preceding* (*b*).	
Heritable BOND in Scotland for any of the purposes aforesaid.—See *Mortgage.*		
BOND in England, and personal bond in Scotland, given as a SECURITY for the payment of any sum of money, or for the TRANSFER OR RE-TRANSFER OF ANY SHARE in any of the stocks or funds before mentioned, which shall be in PART SECURED BY A MORTGAGE or wadset, or other instrument or writing hereinafter charged with the same duty as a mortgage or wadset, bearing even date (*c*) with such bond, or for the performance of covenants contained in such mortgage or other instrument or writing; or for both those purposes	£1 0 0	
BOND in England, and personal or heritable bond in Scotland, given as the only or principal security for the payment of any annuity, upon the original creation and sale thereof.—See *Conveyance upon the sale of lands, &c.* (*d*).		
BOND in England, and personal bond in Scotland, given as a COLLATERAL or auxiliary SECURITY for the payment of any annuity, upon the original creation and sale thereof, where the same shall be granted or conveyed, or secured, by any other deed or instrument, liable to and charged with the *ad valorem* duty hereinafter imposed on conveyances upon the sale of any property	1 0 0	
BOND in England, and personal or heritable bond in Scotland, given as a security for the payment of any ANNUITY (except upon the original creation and sale thereof), or of any sum or sums of money at stated periods (not being interest for any principal sum, nor rent reserved or payable upon any lease or tack) for any definite and certain term, so that the total amount of the money to be paid can be previously ascertained	*The same duty as on a bond of the like nature for the payment of a sum of money equal to such total amount.*	
BOND in England, and personal and heritable bond in Scotland, given as a security for the payment of any ANNUITY (except as aforesaid), or of any sum or sums of money at stated periods (not being interest for any principal sum, nor rent reserved or payable upon any lease or tack) for the term of life or any other indefinite period, so that the whole money to be paid cannot be previously ascertained;		

be considered as limiting the extent of the security where such bond is given, to secure the payment of a final balance on account current (*Scott* v. *Allsop*, 2 Price, 20); consequently such a bond should under this Act be stamped with a 25*l.* stamp. But where a bond was given conditioned to secure a London banker from the balance arising from paying bills, &c., for a country banker, and a stipulation was inserted in the condition that the whole amount to be ultimately recoverable under the obligation should not exceed the sum of 1000*l.*, it was held that the bond did not require a 25*l.* stamp (*Lloyd* v. *Heathcote*, 1 Cr. & M. 336).

A bond conditioned for the payment to bankers of all such sums of money, not exceeding in the whole 1000*l.*, which from time to time should be and remain due from the obligor to the bankers on the balance of his account current, *together with such interest and commission* as should be due to the said bankers, and all *customary and incidental charges* for stamps, &c., requires a stamp only on the principal sum of 1000*l.* (*Frith* v. *Rotheram*, 15 M. & W. 39, overruling *Dickson* v. *Cass*, 1 B. & Ad. 343; see *Doe d. Merceron* v. *Bragg*, 8 A. & E. 620; *Lawrence* v. *Boston*, 7 Ex. 28, post, p. 524).

(*a*) Or Ireland, and of any other company or corporation (13 & 14 Vict. c. 97, tit. "BOND").

(*b*) See *Blair* v. *Ormond*, 14 Q. B. 732; 19 L. J. Q. B. 228.

(*c*) A bond accompanying a mortgage, unless bearing even date with the mortgage deed, must have an *ad valorem* stamp (*Wood* v. *Norton*, 9 B. & C. 885). It is not essential that the bond should be between the same parties, nor is it necessary that the mortgage should be produced to show that the *ad valorem* duty has been paid (*Quain* v. *King*, 1 M. & W. 42); but it must appear by the recital or production of the indenture that it is such an indenture as requires an *ad valorem* stamp (*Walmsley* v. *Brierly*, 1 M. & Rob. 529).

(*d*) See *Maestayer* v. *Biggs*, 1 C. M. & R. 110.

55 G. 3, c. 184.

Where the annuity, or sum secured, shall not amount to 10*l.* per annum	£1	0	0
And where the same shall amount to 10*l.* and not amount to 50*l.* per annum	2	0	0
And where the same shall amount to 50*l.* and not amount to 100*l.* per annum	3	0	0
And where the same shall amount to 100*l.* and not amount to 200*l.* per annum	4	0	0
And where the same shall amount to 200*l.* and not amount to 300*l.* per annum	5	0	0
And where the same shall amount to 300*l.* and not amount to 400*l.* per annum	6	0	0
And where the same shall amount to 400*l.* and not amount to 500*l.* per annum	7	0	0
And where the same shall amount to 500*l.* and not amount to 750*l.* per annum	9	0	0
And where the same shall amount to 750*l.* and not amount to 1000*l.* per annum	12	0	0
And where the same shall amount to 1000*l.* and not amount to 1500*l.* per annum	15	0	0
And where the same shall amount to 1500*l.* and not amount to 2000*l.* per annum	20	0	0
And where the same shall amount to 2000*l.* per annum or upwards	25	0	0
But where there shall be both a personal and heritable bond in Scotland, in separate deeds of the same date, for securing any such annuity, or sums payable at stated periods, and the *ad valorem* duty above charged thereon shall amount to 2*l.* or upwards, the heritable bond only shall be charged with the *ad valorem* duty, and the personal bond shall be charged only with the duty of	1	0	0
BOND, commonly called counterbond in England, and personal bond of relief in Scotland, FOR INDEMNIFYING any person who shall have become bound or engaged as surety or cautioner for the payment of any sum of money or annuity, or for the transfer of any share in any of the stocks or funds before mentioned	1	15	0
BOND in England, and personal bond in Scotland, for the DUE EXECUTION OF an OFFICE, and to account for money received by virtue thereof	1	15	0
BOND given pursuant to the DIRECTIONS OF AN ACT OF PARLIAMENT, or by the direction of the commissioners of customs or excise, or any of their officers, for or in respect of any of the duties of customs or excise, or for preventing frauds or evasions thereof, or for any other matter or thing relating thereto	1	0	0
BOND, entered into by any person, on obtaining a MARRIAGE licence	1	0	0
BOND, on obtaining letters of ADMINISTRATION in England, or a confirmation of testament in Scotland	1	0	0
BOND, accompanied with a deposit of title deeds, for making a mortgage, wadset, or other security, on any estate or property therein comprised.—See *Mortgage*.			
Back BOND, declaration, or other deed or writing, for making redeemable any disposition, assignation or tack, apparently absolute, but intended only as a security.—See *Mortgage*.			
BOND in England, and personal bond in Scotland, of any kind whatever, NOT OTHERWISE CHARGED in this schedule, nor expressly exempted from all stamp duty (*a*)	1	15	0

(*a*) A bond to secure the damages to be recovered upon a new trial, and the costs of the action, in the event of the result of a second action proving similar to that of the first action, is under this Act properly stamped with a 35*s.* stamp (*Lopes* v. *De Tastet*, 8 Taunt. 712). So is a bond in 500*l.* penalty, conditioned not to convert a public-house into wine vaults (*Hughes* v. *King*, 1 Stark. 119; *Dearden* v. *Binns*, 1 M. & Ry. 130).

A bond conditioned for the due periodical payment of the rent reserved by a lease for one year payable quarterly is not liable to stamp duty as a bond for securing payment of "any sum or sums of money at stated periods," so that the total amount be previously ascertained; but is properly stamped as a "bond" not otherwise charged (*Winchester Corn Exchange Company* v. *Gillingham*, 4 Q. B. R. 475, overruling *Attree* v. *Anscomb*, 2 M. & S. 88; *Toovey* v. *Simons*, 3 Jur. 1173). So is a bastardy bond in 100*l.*, conditioned to indemnify the parish against expenses of maintenance, from time to time, of an expected bastard child (*Bownes* v. *Marsh*, 10 Q. B. 787). So are articles of agreement under seal, whereby the plaintiff agreed to pay the defendant a salary of 35*l.* a year. The defendant agreeing not to set up a chemist's shop within one mile of the plaintiff's, and the plaintiff and defendant being mutually bound in a penalty of 600*l.* to perform the agreement (*Mounsey* v. *Stephenson*, 7 B. & C. 403).

Heritable BOND in Scotland, or any kind whatever, *not otherwise charged in this schedule, nor expressly exempted from all stamp duty* . . . . . £1 15 0 — 55 G. 3, c. 184.

General Directions respecting Bonds.

Where any such bond as aforesaid, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards (*a*), there shall be charged for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of 1 5 0

And where any such bond as aforesaid shall be given as a security for the payment of a sum of money, and also of a share in any of the stocks or funds before mentioned, or an annuity, or both, or for the payment of an annuity, and also of a share in any of the said stocks or funds, the proper *ad valorem* duty shall be charged in respect of each.

And where any such bond as aforesaid shall be given as a security for the payment or transfer to different persons of separate and distinct sums of money, or annuities or shares in any of the stocks or funds before mentioned, the proper *ad valorem* duty shall be charged in respect of each separate and distinct sum of money, or annuity, or share in any of the said stocks or funds therein specified and secured, and not upon the aggregate amount thereof.

And where any bond in England shall be given as a security for the performance of any covenant or agreement for the payment or transfer of any sum of money, or annuity, or any share in any of the stocks or funds before mentioned, such bond shall be charged with the same duty as if the same had been immediately given for the payment or transfer of such money, or annuity, or share of the said stocks or funds.

And where in England any bond for the payment or transfer, or for the performance of any covenant for the payment or transfer of any sum of money or annuity, or any share in any of the stocks or funds before mentioned, shall be contained in one and the same deed or writing, with any other matter or thing, in this schedule specifically charged with any duty (except any declaration of trust of the money, annuity, stock, or fund secured), such deed or writing shall be charged with the same duties as such bond and other matter or thing would have been charged with, if contained in separate deeds.

But where in England a bond for the performance of covenants or agreements (other than for the payment or transfer of any sum of money, or annuity, or any share in any of the said stocks or funds), shall be contained in the same deed or writing, with any other matter or thing, the same shall not be charged separately, but the whole shall be considered as one deed, and be charged accordingly under its proper denomination.

Exemptions from the preceding and all other Stamp Duties.

Bonds of the Royal Exchange and London Assurance Corporations, exempted from stamp duty by the Act of the sixth year of the reign of king George the first (*b*), under which they were incorporated.

Bonds and other securities, exempted from stamp duty by the Act of the twenty-sixth year of his present majesty's reign (*c*), or any other Act now in force for the encouragement of the British fisheries.

Bonds, exempted from stamp duty by the Act of the twenty-eighth year of his present majesty's reign (*d*), or any other Act now in

---

(*a*) See the cases as to agreements containing more than 1080 words, ante, pp. 441, n., and 483, n. (*c*).

(*b*) Cap. 18, s. 8. "That all such bills, bonds, or obligations, under the common seal of either of the said corporations, shall not be chargeable with any duties upon the stamped vellum, parchment, or paper."

(*c*) Cap. 81, s. 31. "That no bond or other security to be given by any taker or curer of fish, or the master or owner of any boat, buss, or vessel employed in the British fisheries, or in the exportation of fish, or in the conveyance of fish from one British fishery to another, for or in respect of such his occupation or employment, under or by force or virtue of any law or statute now in being, shall be charged or chargeable with any stamp duty whatever."

(*d*) Cap. 38, s. 59. "That all bonds taken or to be taken in pursuance of this Act, shall not be chargeable with any of the duties upon stamped vellum, parchment, or paper."

55 G. 3, c. 184.

force, relating to the exportation of wool, or any manufacture thereof, or fuller's earth, fulling clay, or tobacco-pipe clay; or by the Act of the twenty-ninth year of his majesty's reign (*a*), or any other Act now in force, relating to the exportation of tobacco from his majesty's warehouses.

Coast bonds, or bonds relative to the carrying of goods or merchandise coastwise, whether the same shall be given pursuant to the Act of the thirty-second year of his majesty's reign (*b*), or any other Act now in force, for the relief of the coast trade of Great Britain, or pursuant to the directions of any proclamation or order in council, by his majesty, his heirs or successors.

Bonds and other securities, exempted from stamp duty by the Act of the thirty-third year of his majesty's reign, or any other Act now in force, for the encouragement of friendly societies (*c*).

Bonds given by cardmakers, for securing the stamp duties on playing cards.

Bonds given by the proprietors, printers or publishers of newspapers, for securing the payment of the duties upon the advertisements therein contained.

Bonds given by stationers and others, who sell stamped paper for the printing of newspapers, for the due performance of the matters required of them by the Act passed in the thirty-eighth year of his majesty's reign, for regulating the printing and publication of newspapers (*d*).

Bonds given by collectors of assessed taxes and their sureties, for the due payment of monies collected by them, or otherwise relating to their offices.

Administration and confirmation bonds, given by the widow, child, father, mother, brother, or sister of any common seaman, marine or soldier, who shall be slain or die in the service of his majesty, his heirs or successors.

Administration bond in England given by any person, where the estate to be administered shall not exceed 20*l.* in value.

Confirmation bond in Scotland, where the whole personal estate of the deceased shall not exceed 20*l.* in value.

See also the general exemptions at the end of this part of the schedule.

CERTIFICATE (*e*) to be taken out *yearly*, by every person admitted as an ATTORNEY OR SOLICITOR in any of his majesty's courts at Westminster, or in any of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster and Durham, or in any other court in England, holding pleas, where the debt or damage amounts to 40*s.*; and by every person admitted as a PROCTOR in any of the ecclesiastical (*f*) or admiralty courts in England; and by every person admitted as a WRITER TO THE SIGNET, or as a solicitor, agent, attorney, or procurator, in any of the courts in Scotland; and by every person admitted or inrolled as a NOTARY PUBLIC in England or Scotland; and also by every SWORN CLERK, clerk in court, and other clerk or officer in any of the courts aforesaid, who, in his own name, or in the name of any other person, shall commence, prosecute, carry on, or defend any action, suit, prosecu-

---

(*a*) Cap. 68, s. 41. "That the penalty of any such bond shall not in any case exceed the sum of 3000*l.*, and that no such bond shall be charged any stamp duty whatever."

(*b*) Cap. 60, s. 11. "That from and after the 5th day of July, 1792, in all cases where a security remains, notwithstanding this Act, to be taken by any officer or officers of his majesty's customs in England or Scotland respectively, for any matter or cause relating to the carrying, conveying, or removing any goods, wares, or merchandise coastwise, within Great Britain, no bond or bonds for the delivery or discharge of such goods, wares, or merchandise, at any port or place in Great Britain, shall be charged or chargeable with or subject or liable to any of the duties on stamped vellum, parchment, or paper."

(*c*) A bond conditioned for the safe custody and production of a box containing the subscriptions of a benefit club was held to be within the exemption of 33 Geo. 3, c. 54, s. 4 (*Carter* v. *Bond*, 4 Esp. 253; *Walker* v. *Giles*, 6 C. B. 662). See ante, Vol. II. tit. "FRIENDLY SOCIETIES".

(*d*) Bonds by licensed dealers in stamps exempt (3 & 4 Will. 4, c. 97, s. 1).

(*e*) The duties payable by attorneys, &c., and conveyancers, &c., are reduced by 16 & 17 Vict. c. 63, schedule, post.

(*f*) See 20 & 21 Vict. c. 85, s. 63, post.

BENGAL LIBRARY

55 G. 3, c. 184.

tion or other proceeding, in any of the courts aforesaid, or do any notarial act whatever, for or in expectation of any fee, gain or reward, as an attorney, solicitor, agent, proctor, procurator, or notary public, although not admitted or inrolled as such

If he shall reside in the city of London, or city of Westminster, or within the limits of the twopenny post in England, or within the city or shire of Edinburgh;

And if he shall have been admitted, or been in possession of his office, for the space of three years or upwards (*a*) . . . [£12 0 0]

Or if he shall not have been admitted or been in possession so long . . . . . [6 0 0]

If he shall reside elsewhere;

And if he shall have been admitted, or been in possession of his office, for the space of three years or upwards . . . . [8 0 0]

Or if he shall not have been admitted or been in possession so long . . . . . [4 0 0]

But no one person is to be obliged to take out more than one certificate, although he may act in more than one of the capacities aforesaid, or in several of the courts aforesaid.

Exemptions.

All clerks and officers of any of the courts aforesaid, who shall act or be concerned in the conduct or management of any action, suit, prosecution, or other proceeding, by virtue and in the execution of their respective offices or appointments only, and shall not be also retained or employed by any party to such action, suit, prosecution, or other proceeding, or by any attorney, solicitor, agent, proctor, or procurator, on behalf of any party thereto, for or in expectation of any fee or reward, other than the established fees due and payable in respect of their offices and appointments.

CERTIFICATE to be taken out *yearly*, by every person, being a member of one of the four inns of court in England, who in the character of CONVEYANCER (*b*), SPECIAL PLEADER, DRAFTSMAN IN EQUITY, or otherwise, shall, for or in expectation of any fee, gain, or reward, draw or prepare any conveyance of, or deed or instrument relating to, any estate or property, real or personal, or any other deed or contract whatever, or any pleadings or proceedings in any court of law or equity;

If he shall reside in the city of London, or city of Westminster, or within the limits of the twopenny post in England . . . . [12 0 0]

And if he shall reside *elsewhere* . . . . . [8 0 0]

Exemptions.

Serjeants at law, and barristers:

Attornies, solicitors, proctors, and notaries public, and other persons acting as such by virtue of any office or appointment, who shall respectively take out certificates in those characters:

Public officers, drawing or preparing deeds or other instruments, by virtue of their offices, and in the course of their official duty only, and not otherwise.

CERTIFICATE of admission to degrees in the univerities.—See *Testimonial.*

CERTIFICATE of marriage, *except of any common Seaman, Marine or Soldier* (*c*) 0 5 0

CERTIFICATE of any person's having received the holy sacrament . (*c*) 0 5 0

CERTIFICATE of any goods, wares, or merchandise, having been duly entered inwards, which shall be entered outwards for exportation at the port of importation, or be removed from thence to any other port, for the more convenient exportation thereof from Great Britain; where such certificate shall be issued for enabling any person to obtain a debenture or certificate,

---

(*a*) Reduced to 9*l.*, 16 & 17 Vict. c. 63, sched., post.

(*b*) The duties payable by conveyancers are reduced by 16 & 17 Vict. c. 63, sched., post.

The persons required to take out certificates under the statute 44 Geo. 3, c. 98, s. 14, were only persons being members of one of the four inns of court. And the same words are used in the statute 48 Geo. 3, c. 149, sched. part 1, and in the present statute (*Edgar* v. *Hunter*, Holt, 528).

(*c*) Now 5*s.*, by 13 & 14 Vict. c. 97.

55 G. 3, c. 184.

entitling him to receive any drawback of any duty or duties of customs, or any part thereof (a) £0 4 0

See also *Debenture*.

CHARTER of resignation (b), or of confirmation, or of novodamus, or upon apprising, or upon a decreet of adjudication or sale of any lands, or other heritable subjects, in Scotland, holden of any subject superior . (c) [0 9 0]

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . . . . [0 9 0]

CHARTER-PARTY, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects, on board of such ship or vessel . . . . . [1 15 0]

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . . . . [1 5 0]

CLERKSHIP, articles or contract of.—See *Apprenticeship—Articles.*

COLLATION by any archbishop or bishop to any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of ten pounds or upwards in the king's books . . . . . (d) [20 0 0]

COLLATION by any archbishop or bishop to any other ecclesiastical benefice, dignity, or promotion whatsoever in England . . . . . [10 0 0]

COLLATION, institution or admission, by any presbytery or other competent authority, to any ecclesiastical benefice in Scotland . . . . . [2 0 0]

COMMISSION granted by his majesty, his heirs or successors, or by any person or persons duly authorised by him or them, to any officer in the army, or in the corps of royal marines 1 10 0

Exemptions from the preceding and all other Stamp Duties.

Commissions granted to officers of yeomanry cavalry, or volunteer infantry, and to officers of the local militia.

COMMISSION granted by the lord high admiral, or the commissioners for executing the office of lord high admiral of the united kingdom, to any officer in the navy 0 5 0

COMMISSION, or deputation, granted by the commissioners of excise . . 1 10 9

COMMISSION, appointing any person receiver-general of the land and other taxes, for any county or district in Great Britain 25 0 0

COMMISSION appointing any manager or director, managers or directors, of or concerning any lottery or lotteries to be drawn pursuant to Act of parliament . . . . . (e) 20 0 0

COMMISSION to act as a notary public in Scotland.—See *Faculty.*

COMMISSION, in the nature of a power of attorney in Scotland.—See *Letter of Attorney.*

COMPOSITION—Deed, or other instrument of composition between a debtor or debtors, and his, her, or their creditors (f) 1 15 0

And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . . . . (g) 1 5 0

CONDITIONAL surrender of any copyhold or customary estate by way of mortgage.—See *Mortgage.*

CONSTAT of letters patent.—See *Exemplification.*

(a) Certificate of Bankers; see 5 & 6 Vict. c. 82. See also "CERTIFICATE," post.

Certificate of the registration of a design issued under 6 & 7 Vict. c. 75; see 6 & 7 Vict. c. 72.

Certificate, scrip; see 16 & 17 Vict. c. 63, s. 8.

(b) See 13 & 14 Vict. c. 97.

(c) Now 5s., 13 & 14 Vict. c. 97.

(d) See 5 & 6 Vict. c. 79, and 6 & 7 Vict. c. 72, post, for the duties now payable.

(e) Foreign and other illegal lotteries are now prohibited (6 & 7 Will. 4, c. 66).

(f) Though a composition deed be signed by each creditor separately, only one stamp is requisite (*per* Sir J. Mansfield, C. J., in *Bowen* v. *Ashley*, 1 N. R. 228).

(g) Now regulated by 13 & 14 Vict. c. 97.

CONTRACT of excambion in Scotland.—See *Exchange*. 55 G. 3, c. 184.

CONVEYANCE (*a*), whether grant, disposition, lease, assignment, transfer, release, renunciation, or of any other kind or description whatsoever, *upon the sale* (*b*) of any lands (*c*), tenements, rents, annuities, *or other pro-*

(*a*) For the duties now payable, see 13 & 14 Vict. c. 97, post. See as to conveyances in consideration of an annual rent payable in perpetuity, 17 & 18 Vict. c. 83, schedule 1, post. Where property is sold in consideration of a redeemable annuity, the redemption money is to be deemed the purchase money; 16 & 17 Vict. c. 59, s. 11, post.

An agreement to convey, though under seal, when antecedent to an actual conveyance, does not require an *ad valorem* stamp; and therefore where by an instrument in writing (not under seal), A., in consideration of 7000*l.*, agreed to present to a rectory on the next avoidance such person as B. should nominate, and to furnish an abstract, and execute a conveyance of the next presentation to B.: it was held that this agreement did not operate as a grant of the next presentation, and therefore did not require an *ad valorem* stamp (*Wilmot* v. *Wilkinson*, 6 B. & C. 506).

(*c*) The duty is payable upon conveyances executed in this country of land situate abroad (*Wright* v. *Com. of Inland Revenue*, 25 L. J. Ex. 49, *S. C.*, 11 Ex. 458; see *Rodwell* v. *Phillips*, 9 M. & W. 501).

(*b*) The conveyance must be such as to vest the property in the purchaser (*Phillips* v. *Morrison*, 12 M. & W. 742). Where an Inclosure Act gave the commissioners power to award lands in exchange for others in an adjoining parish, and also to award lands to those who bought them of persons entitled to allotments, it was held that they might award lands given in exchange partly for other lands and partly for money, and that the award was not a conveyance, and need not have an *ad valorem* stamp upon the money consideration (*Doe d. Lord Suffield* v. *Preston*, 7 B. & C. 392).

Any instrument operating as a record of the transfer of property is a conveyance within this Act; therefore a memorandum, "That A. '*has sold*' to B. all the goods, stock in trade, and fixtures," in a certain shop, was held to require an *ad valorem* stamp as a conveyance (*Horsfall* v. *Hey*, 2 Exch. 779). But a document signed by a holder of nine shares, certifying to the secretary of the company that he had assigned his shares, to which was added a statement that the assignee accepted them, was held not to require a transfer stamp under this Act (*Toll* v. *Lee*, 4 Exch. 230).

At a sale by auction, a lot described as "herbage" of a certain close was purchased at 45*l.*, under conditions that the highest bidder should be entitled to possession on paying down a per centage, and giving a note for the remainder; to keep possession till the 29th September. The court held that the contract fell within the words of the schedule "CONVEYANCE," &c., and not under the head "LEASE" (*Cattle* v. *Gamble*, 5 Bing. N. C. 46).

A paper signed by the defendants, stating that the plaintiffs had "agreed to sell" two veins or beds of coal, and containing stipulations for the working of them, was held not to be a conveyance, as nothing passed by it, not being under seal (*Phillips* v. *Morrison*, 12 M. & W. 740).

H., being seised in fee of certain land, contracted with B. to execute to him a lease of the land, and a house to be built thereon by B., for ninety-nine years, at a rent of 9*l.* 5*s.* The house having been built, B. contracted with O. to sell him his (B.'s) interest in the land and house for 850*l.*, which was accordingly paid. In order to effect this contract, B. procured an indenture to be made between himself, H., and O., whereby H. demised to O. the house and land for ninety-nine years, at the same rent. No mention was made in this instrument of the purchase-money. It was held that the lease was a conveyance within this Act, and that B. was liable to the penalties imposed by the 48 Geo. 3, c. 149, s. 22, for omitting to set forth the purchase-money (*The Attorney-General* v. *Brown*, 3 Exch. 662).

A conveyance by father to son of a freehold estate, reciting "that he (the father) was minded and had resolved to give and assure the same to his son, as well in consideration of the natural love and affection which he entertained for his son, as also in consideration of the provision which his son had that day made by his bond or obligation in writing of 1500*l.* in augmentation of the portions or fortunes of his eight sisters," was holden not to be a sale to the son, and consequently that the conveyance did not require an *ad valorem* stamp under 48 Geo. 3, c. 149, 149, sched. 1 [(*Denn d. Manifold* v. *Diamond*, 6 D. & R. 328, 4 B. & C. 243; see *Henniker* v. *Henniker*, 22 L. J., Q. B. 84; *Belcher* v. *Sikes*, 6 B. & C. 134; *Blandy* v. *Herbert*, 9 B. & C. 396; *Coates* v. *Perry*, 6 Moore, 188; 3 Bro. & B. 48; and *Whitwell* v. *Dimsdale*, Peake, 168; see *Pooley* v. *Goodwin*, 4 Ad. & E. 94, post, tit. "MORTGAGE.")

And where by settlement of marriage the defendant, in consideration of 4000*l.* paid by the father of the intended wife as a marriage portion, and in consideration of the marriage, covenanted to pay an annuity of 800*l.* a year to the plaintiff, to the use of the intended husband and wife during their joint lives: it was held, that the deed did not require an *ad valorem* stamp, as upon the sale of an annuity [*Massy* v. *Nanney*,

55 G. 3, c. 184.

perty (*a*), real or personal, heritable or moveable, or of any right, title, interest, or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property; that is to say, for and in respect of *the principal or only deed, instrument, or writing*, whereby the lands or other things sold shall be granted, leased, assigned, transferred, released, renounced, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons, by his, her, or their direction;

Where the purchase or consideration money therein or thereupon expressed (*b*) shall not amount to 20*l.* (*c*)			£0	10	0
And where the same shall amount to	20*l.* and not amount to	50*l.*	1	0	0
And where the same shall amount to	50*l.* and not amount to	150*l.*	1	10	0
And where the same shall amount to	150*l.* and not amount to	300*l.*	2	0	0
And where the same shall amount to	300*l.* and not amount to	500*l.*	3	0	0
And where the same shall amount to	500*l.* and not amount to	750*l.*	6	0	0
And where the same shall amount to	750*l.* and not amount to	1,000*l.*	9	0	0
And where the same shall amount to	1,000*l.* and not amount to	2,000*l.*	12	0	0
And where the same shall amount to	2,000*l.* and not amount to	3,000*l.*	25	0	0

---

3 Bing. N. C. 478).

By a deed of assignment, five persons conveyed all their crops, goods, and effects to trustees, in trust to sell, and with the proceeds to be produced by such sale to discharge, first, debts due to the trustees with interest from the date of the deed, then debts due to other creditors, with a resulting trust as to the residue to the parties conveying: it was held that such deed did not require an *ad valorem* stamp, as upon a "conveyance" or "mortgage," under this schedule, as the former clause operates only on actual sales between vendor and vendee; and that it fell within the exception of the latter, viz., "where such conveyance shall be made for the benefit of creditors generally," and therefore that a common deed stamp was sufficient (*Coates* v. *Perry*, 6 Moore, 188; 3 Bro. & B. 48; and see *Whitwell* v. *Dimsdale*, Peake, 168).

(*a*) A policy of assurance may be considered as property (*Caldwell* v. *Dawes*, 5 Exch. 1; *Blandy* v. *Herbert*, 9 B. & C. 396). So may, it seems, a judgment debt (*Caldwell* v. *Dawes*, supra; *Warren* v. *Howe*, 2 B. & C. 281). A deed by which A. covenants to give up his trade to C., and to allow him to carry it on in his house for ten years, C. paying 1000*l.* for the fixtures, &c., at the time of executing the deed, and covenanting to pay 1000*l.* per annum for ten years, was held not to require an *ad valorem* stamp, the good-will of the trade not being considered as any distinct substantive property (*Lyburn* v. *Warrington*, 1 Stark. 162). But this case appears to be over-ruled, and the sale of the good-will of a trade is now considered to be a sale of property within this section (*Potter* v. *The Commissioners of Inland Revenue*, 23 L. J. Ex. 345, 10 Exch. 147; see 17 & 18 Vict. c. 83, s. 19, post).

Where two persons who had entered into certain contracts with the victualling office agreed to dissolve partnership, and to execute a deed whereby one agreed to resign to the other all his interest in those contracts, all debts due to the concern, and all his share of the partnership property, and the other agreed to pay him 50,000*l.*, at which sum his share and interest were valued; it was held, apparently upon the doubtful authority of *Warren* v. *Howe*, that this was not a sale of property within the meaning of the 49 Geo. 3, c. 149, and did not require an *ad valorem* stamp (*Belcher* v. *Sikes*, 6 B. & C. 234; see *Pooley* v. *Goodwin*, 4 Ad. & E. 94).

A lease for years, in consideration of a sum certain and a pepper-corn rent, is not considered a conveyance, and does not require an *ad valorem* stamp (*Roe* v. *Chexhalls*, 4 M. & Sel. 23). Dampier, J., in this case asked if the *ad valorem* duty was ever paid upon ecclesiastical leases? He said, that he believed it never was, and that the Act was drawn with a view to exempt them; if it were not so, the stamp office must have been negligent in all the numerous instances of ecclesiastical leases since the statute, in not requiring an *ad valorem* stamp (*Id.* 24). This Act, which requires the consideration to be set out, and imposes an *ad valorem* duty on the consideration, has been held to apply only to the case of consideration passing between the lessor and the lessee (*Boone* v. *Mitchell*, 1 B. & C. 18; but see *Att-Gen.* v. *Brown*, 3 Exch. 662, ante, p. 503, n. (*d*); *Doe d. Kettle* v. *Lewis*, 10 B. & C. 673; see sched. tit. "Leases," which differs from the sched. in 48 Geo. 3, c. 149).

A deed indorsed on a former deed, as a further security for advances made and to be made under the first deed, is exempted, by 48 Geo. 3, c. 149, from an *ad valorem* duty, provided the first deed be stamped with an *ad valorem* stamp (*Robinson* v. *Macdonnell*, 5 M. & Sel. 228). A deed of confirmation, indorsed on a prior deed which was intended to be a conveyance and duly stamped as such, but which was not proved to have been duly executed under a power of attorney, was held not to require an *ad valorem* stamp (*Doe* v. *Weston*, 2 Q. B. 249).

(*b*) Whether truly or not (*Doe d. Kettle* v. *Lewis*, 10 B. & C. 673; *Nicholls* v. *Cross*, 14 M. & W. 43; post, "Lease;" see *Coates* v. *Perry*, 3 Bro. & B. 48).

(*c*) See 13 & 14 Vict. c. 97, post.

And where the same shall amount to	3,000*l.* and not amount to	4,000*l.*	£35	0	0	55 G. 3, c. 184.
And where the same shall amount to	4,000*l.* and not amount to	5,000*l.*	45	0	0	
And where the same shall amount to	5,000*l.* and not amount to	6,000*l.*	55	0	0	
And where the same shall amount to	6,000*l.* and not amount to	7,000*l.*	65	0	0	
And where the same shall amount to	7,000*l.* and not amount to	8,000*l.*	75	0	0	
And where the same shall amount to	8,000*l.* and not amount to	9,000*l.*	85	0	0	
And where the same shall amount to	9,000*l.* and not amount to	10,000*l.*	95	0	0	
And where the same shall amount to	10,000*l.* and not amount to	12,500*l.*	110	0	0	
And where the same shall amount to	12,500*l.* and not amount to	15,000*l.*	130	0	0	
And where the same shall amount to	15,000*l.* and not amount to	20,000*l.*	170	0	0	
And where the same shall amount to	20,000*l.* and not amount to	30,000*l.*	240	0	0	
And where the same shall amount to	30,000*l.* and not amount to	40,000*l.*	350	0	0	
And where the same shall amount to	40,000*l.* and not amount to	50,000*l.*	450	0	0	
And where the same shall amount to	50,000*l.* and not amount to	60,000*l.*	550	0	0	
And where the same shall amount to	60,000*l.* and not amount to	80,000*l.*	650	0	0	
And where the same shall amount to	80,000*l.* and not amount to	100,000*l.*	800	0	0	
And where the same shall amount to 100,000*l.* or upwards			1000	0	0	

And where any freehold lands or hereditaments in England shall be conveyed by a deed of feoffment (*a*), with or without any letter or letters of attorney therein contained, to deliver or receive seisin, or by a deed of *bargain and sale inrolled;* such deed of feoffment or bargain and sale, unless accompanied with a lease and release, shall be charged with a *further* duty as follows:

If the purchase or consideration money therein or thereupon expressed, shall be under 20*l.*	0	10	0
If it shall amount to 20*l.* and not amount to 50*l.*	0	15	0
If it shall amount to 50*l.* and not amount to 150*l.*	1	0	0
If it shall amount to 150*l.* or upwards	1	15	0

But if there shall be both a feoffment and a bargain and sale inrolled, then the said further duty shall not attach on either.

Note.—The purchase or consideration money is to be truly expressed and set forth in words at length, in or upon every such principal or only deed or instrument of conveyance.

Property sold at one price conveyed by several deeds.

And where any lands or other property, of different tenures or holdings, or held under different titles, contracted to be sold at one entire price for the whole, shall be conveyed to the purchaser in separate parts or parcels, by different deeds or instruments, the purchase or consideration money shall be divided and apportioned in such manner as the parties shall think fit, so that a distinct price or consideration for each separate part or parcel may be set forth in or upon the principal or only deed or instrument of conveyance relating thereto; which shall be charged with the said *ad valorem* duty in respect of the price or consideration money therein set forth.

Where sold to several at one price, and conveyed in parts by separate deeds.

And where any lands or other property, contracted to be purchased by two or more persons jointly, or by any person for himself and others, or wholly for others, at one entire price for the whole, shall be conveyed in parts or parcels, by separate deeds or instruments, to the persons for whom the same shall be purchased, for distinct parts or shares of the purchase money; the principal or only deed or instrument of conveyance, of each separate part or parcel, shall be charged with the said *ad valorem* duty, in respect of the sum of money therein specified as the consideration for the same (*b*).

Where separate parts conveyed to different persons in same deed.

But if separate parts or parcels of such lands or other property shall be conveyed to, or to the use of, or in trust for different persons, in and by one and the same deed or instrument, then such deed or instrument shall be charged with the said *ad valorem* duty, in respect of the aggregate amount of the purchase or consideration moneys therein mentioned to be paid or agreed to be paid, for the lands or property thereby conveyed (*c*).

Sub-sales—Conveyance by original seller to sub-purchaser.

And where any person, having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell to any other person, and the same shall in consequence be conveyed immediately to the sub-purchaser; the principal or only deed or instrument of conveyance shall be charged with

---

(*a*) See *Doe* v. *Wheeler*, 2 Ad. & E. 28, post, p. 514, n. (*a*).

(*b*) Where several persons jointly conveyed their separate interests in certain shares in a company, it was held that one *ad valorem* stamp was sufficient (*Wills* v. *Bridge*, 4 Exch. 193).

(*c*) See *Hogarth* v. *Penny*, 14 M. & W. 494.

55 G. 3, c. 184.

the said *ad valorem* duty, in respect of the purchase or consideration money therein mentioned to be paid, or agreed to be paid by the sub-purchaser.

To several sub-purchasers in parts.

And where any person, having contracted for the purchase of any lands or other property, but not having obtained a conveyance thereof, shall contract to sell the whole or any part or parts thereof, to any other person or persons, and the same shall in consequence be conveyed, by the original seller, to different persons, in parts or parcels; the principal or only deed or instrument of conveyance, of each part or parcel thereof, shall be charged with the said *ad valorem* duty, in respect only of the purchase or consideration money which shall be therein mentioned to be paid or agreed to be paid for the same, by the person or persons to whom or to whose use or in trust for whom the conveyance shall be made, without regard to the amount of the original purchase-money.

Who to be deemed purchasers and sellers in sub-sales.

And in all cases of such sub-sales as aforesaid, the sub-purchasers, and the persons immediately selling to them, shall be deemed and taken to be the purchasers and sellers within the intent and meaning of the provisions and regulations of the aforesaid Act of the forty-eighth year of his majesty's reign, relating to the *ad valorem* duties on conveyances on the sale of property thereby imposed, and which are to be observed and enforced with regard to the said *ad valorem* duties hereby granted.

Conveyance by original seller to sub-purchaser—how charged.

But where any sub-purchaser shall take an actual conveyance of the interest of the person immediately selling to him, which shall be chargeable with the said *ad valorem* duty in respect of the purchase or consideration money paid or agreed to be paid by him, and shall be duly stamped accordingly; any deed or instrument of conveyance to be afterwards made to him, of the property in question by the original seller, shall be exempted from the said *ad valorem* duty, and be charged only with the ordinary duty on deeds or instruments of the same kind not upon a sale.

By different sellers charging in same deed.

And where any lands or other property, separately contracted to be purchased of different persons, at separate and distinct prices, shall be conveyed to the purchaser, or as he shall direct, in and by one and the same deed or instrument; such deed or instrument shall be charged with the said *ad valorem* duty, in respect of the aggregate amount of the purchase or consideration moneys, therein mentioned to be paid or agreed to be paid for the same.

Property sold subject to mortgage duty to be charged on mortgage money.

And where any lands, or other property, shall be sold and conveyed, in consideration, wholly or in part, of any sum of money charged thereon by way of mortgage, wadset, or otherwise, and then due and owing to the purchaser, or shall be sold and conveyed, subject to any mortgage, wadset, bond, or other debt, or to any gross or entire sum of money, to be afterwards paid by the purchaser, such sum of money or debt shall be deemed the purchase or consideration money, or part of the purchase or consideration money, as the case may be, in respect whereof the said *ad valorem* duty is to be paid (*a*).

Principal deed.

And to prevent doubts, respecting what shall be deemed the principal deed or instrument of conveyance, in certain cases, it is hereby declared:

Where by bargain and sale, and by lease and release or feoffment.

That where any lands or hereditaments, in England, shall be conveyed by bargain and sale inrolled, and also by lease and release, or feoffment with or without any such letter or letters of attorney therein contained as aforesaid; the release or feoffment shall be deemed the principal deed: and the bargain and sale shall be charged only with the duty hereby imposed on deeds in general.—(See *Deed.*)—But the same shall not be inrolled or be available, unless also stamped for testifying the payment of the *ad valorem* duty on the release or feoffment.

(*a*) This applies only to the case where the amount of mortgage is agreed to be paid by the purchaser as the consideration or price; as where a vendee agrees to pay the purchase-money in all or in part of the mortgage, and the vendor in consideration thereof conveys the estate; consequently, before 16 & 17 Vict. c. 59, a person might buy the equity of redemption of a mortgaged estate or an estate charged with a legacy for a certain sum, and pay an *ad valorem* duty only on the value, or rather the price of the estate, subject to the mortgage or legacy, and might afterwards pay off the mortgage money or charge without paying a further *ad valorem* duty on their account (*per* Pollock, C. B., *Marquis of Chandos* v. *Commissioners of Inland Revenue*, 6 Exch. 481).

But now the mortgage money is to be deemed part of the purchase-money, whether agreed to be paid by the purchaser or not, 16 & 17 Vict. c. 59, s. 10, post.

And where any lands or hereditaments shall be conveyed by lease and release, and also by feoffment, with or without any such letter or letters of attorney therein contained as aforesaid, the release shall be deemed the principal deed; and the feoffment shall be charged only with the duty hereby imposed on deeds in general.—(See *Deed.*)—But the same shall not be available, unless also stamped for testifying the payment of the *ad valorem* duty on the release. 55 G. 3, c. 184. Where by lease and release and also by feoffment.

And where any copyhold or customary estate shall be conveyed, by a deed of bargain and sale, by the commissioners named in a commission of bankrupt, or by executors or others, by virtue of a power given by will, or by Act of parliament, or otherwise, where a surrender shall not be necessary, the deed of bargain and sale shall be deemed the principal instrument. Copyhold—Where bargain and sale to be the principal.

And in other cases of copyhold or customary estates, the surrender or voluntary grant, or the memorandum thereof respectively, if made out of court, or the copy of court roll of the surrender or voluntary grant, if made in court, shall be deemed the principal instrument. Where surrender, memorandum grant or copy.

And copies of court roll, made after the 31st day of August, 1815, of surrenders and voluntary grants made in court before or upon that day, and subsequent to the 10th day of October, 1808, shall be charged with the said *ad valorem* duties. But copies of court roll, of surrenders and voluntary grants made before or upon the 10th day of October, 1808, shall not be liable thereto. Surrenders, &c., before 1808.

And grants, and copies of court roll of grants, of copyhold or customary estates for a life or lives, are to be charged, as well as those for any greater interest. Grants for life, &c., to be charged.

And where in Scotland there shall be a disposition or assignation, executed by the seller, and any other instrument or instruments, writing or writings, to complete the title, the disposition or assignation shall be deemed the principal instrument. Disposition or assignation, &c., in Scotland.

And where *upon the sale of any annuity or other right, not before in existence*, the same shall not be created by actual grant or conveyance, but shall only be secured by bond, warrant of attorney, covenant, contract, or otherwise; the bond or other instrument, by which the same shall be secured, or some one of such instruments, if there be more than one, shall be deemed and taken to be liable to the same duty, as an actual grant or conveyance. Annuities—Where secured by bond, &c.

And in the case of leases or tacks, where a yearly rent of 20*l.* or upwards shall be reserved, as part of the consideration for the same, there shall be charged a further duty;—for which see title *Lease.* Leases—Further duty on rent.

And where the principal or only deed or instrument of conveyance, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of (*a*) . £1 0 0

And where there shall be several deeds, instruments, or writings for completing the title to the property sold; such of them as are not liable to the said *ad valorem* duty shall be charged with the duty to which the same may be liable, under any general or particular description of such deeds, instruments, or writings contained in this schedule. Several deeds—Where not liable to *ad valorem* duty.

And where, *in any case not hereby expressly provided for*, of several deeds, instruments, or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to pay the said *ad valorem* duty thereon accordingly; and, if necessary, the other deeds, instruments, or writings, on which the doubt shall have arisen, shall be stamped with a particular stamp for denoting or testifying the payment of the *ad valorem* duty; upon all the deeds or instruments being produced, and appearing to be duly stamped in other respects. Where doubt, which of several is principal instrument.

And where there shall be duplicates (*b*) of any deed or instrument, chargeable with the said *ad valorem* duty exceeding 2*l.*, one of them only shall be charged therewith, and the other or others shall be charged with the ordinary duty on deeds or instruments of the same kind not upon a sale; and on the whole being produced duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

(*a*) The duties are now repealed by 13 & 14 Vict. c. 97. (*b*) See 13 & 14 Vict. c. 97.

55 G. 3, c. 184.

Deed operating as conveyance, &c., of other than property sold.

And where any deed or instrument, operating as a conveyance on the sale of any property shall operate also as a conveyance of any other than the property sold by way of settlement, or for any other purpose, or shall also contain any other matter or thing besides what shall be incident (a) to the sale and conveyance of the property sold, or relate to the title thereto; every such deed or instrument shall be charged, in addition to the duty to which it shall be liable as a conveyance on the sale of property, and to any progressive duty to which it may also be liable, with such further stamp duty as any separate deed, containing the other matter, would have been chargeable with, exclusive of the progressive duty.

Exemptions from the preceding duties on conveyances upon the sale of lands, &c.

All surrenders and other instruments, relating only to copyhold or customary estates, whose clear yearly value shall not exceed 20*s.*; but which are hereinafter otherwise charged.

All transfers of shares in the stock and funds of the governor and company of the bank of England, and of the South Sea and East India companies; but which are hereinafter otherwise charged.

All leases and tacks in consideration of a fine or grassum, for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted.

All leases in consideration of a fine for a term absolute, not exceeding 21 years, granted by ecclesiastical corporations, aggregate or sole.

And all voluntary grants made by the lord or lady of any manor of any copyhold or customary lands or hereditaments for a life or lives for a pecuniary consideration, and the copies of court roll of such voluntary grants.

All which leases, tacks, grants, and copies are hereinafter charged with ordinary duty.

Exemptions from the preceding and all other Stamp Duties, except the duty on the receipt for the consideration money.

Conveyances of rents purchased under the Act of the 34th year of his majesty's reign, c. 75,* for the better management of the land revenue of the crown, and for the sale of fee farm and other unimproveable rents, upon subsequent sales thereof by the purchasers or their heirs or assigns, to the owners of the lands or other hereditaments, out of which the same are payable; where the consideration money to be paid on such subsequent sales shall not exceed the sum of 10*l.*

Exemptions from the preceding and all other Stamp Duties.

All transfers of shares in any of the government or parliamentary stocks or funds.

For other exemptions, see the titles *Grant*, *Lease*, and at the end of this part of the schedule.

CONVEYANCE of lands and rents belonging to the crown (b).—See *Grant*.

CONVEYANCE of any estate or property, in trust for sale, which shall be intended only as a security for money or stock.—See *Mortgage*.

CONVEYANCE of the equity or right of redemption or reversion of lands or other property, to a purchaser, in the same deed with a mortgage, wadset, or other security made thereupon.—See *Mortgage*.

CONVEYANCE of any kind whatever, NOT OTHERWISE CHARGED in this schedule, nor expressly exempted from all stamp duty . . . (c) £1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . . . . . (d) 1 5 0

COPY (e), attested to be a true copy, in the form which hath been commonly used for that purpose, or in any other manner authenticated or declared to be a true copy, or made for the purpose of being given in evidence as a true copy, of any agreement, contract, bond, deed, or other instrument

(a) See *Wolseley* v. *Cox*, 2 Q. B. 321; *Doe* v. *Phillips*, 11 A. & E. 796.

(b) See also 17 & 18 Vict. c. 83.

(c) See *Doe* v. *Fereday*, 12 Ad. & E. 23.

(d) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(e) As to certified copies of parish register, see 23 Vict. c. 15, post.

of conveyance, or any other deed whatever, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, or of any part thereof respectively.

Where such a copy shall be made for the security or use of any person, being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument	*The same duty* or *duties as for the original instrument* (*a*).
And where any such copy shall be made, for the security or use of any person *not* being a party to, or taking any benefit or interest immediately under such agreement, contract, bond, deed, or other instrument	£0 1 0
And for every entire quantity of 720 words contained therein, over and above the first 720 words, a further *progressive* duty of . . .	0 1 0
And all copies which shall at any time be offered in evidence, shall be deemed to have been made for that purpose.	

Exemptions from the preceding and all other Stamp Duties.

All copies attested or authenticated as aforesaid, which shall be made for the private use only of any person having the custody of the original instrument, or of his or her counsel, attorney, or solicitor.

COPY, attested or authenticated as aforesaid, or made for the purpose of being given in evidence as a true copy of any original will, testament or codicil; or of the probate or probate copy of any will or codicil; or of any letters of administration; or of any confirmation of a testament, testamentary or dative; or of any part thereof respectively	0 1 0
And for every entire quantity of 720 words, contained in any such copy, over and above the first 720 words, a further *progressive* duty of .	0 1 0
And all copies which shall at any time be offered in evidence, shall be deemed to have been made for that purpose.	
Office COPY (*b*) or extract of any will or codicil, deposited in any ecclesiastical court in England	0 1 0
And for every entire quantity of 90 words, contained in any such copy or extract, over and above the first 90 words, a further *progressive* duty of	0 1 0
COPY or extract of any memorial, or of the register of any memorial, registered pursuant to any Act of parliament, made or to be made, for the public registering of deeds and conveyances (*c*) in England	0 5 0
And for every piece of vellum, parchment, or paper, upon which any such copy or extract shall be written, after the first, a further *progressive* duty of	0 5 0
COPY or extract of any deed, or of any other instrument *not falling under the description of law proceedings*, which shall be made or taken from the rolls or records of any of his majesty's courts at Westminster . . .	0 2 0
And for every piece of vellum, parchment, or paper, upon which any such copy or extract shall be written, after the first, a further *progressive* duty of	0 2 0
Attested COPY or extract of any deed, instrument, or writing, given out from any public register, or from the books or records of any court in Scotland, *and not otherwise charged under the head of law proceedings* . . .	0 2 6
And where the same shall contain more than 600 words, then for every entire quantity of 600 words contained therein, over and above the first 600 words, a further *progressive* duty of	0 2 6
And for any less quantity of words contained therein, over and above the first 600 words, or over and above any second, third, or other full quantity of 600 words, a further duty of	0 2 6

(*a*) These provisions relate only to such copies as are evidence *per se*, and the word "copy" means an authenticated copy receivable as evidence in the first instance; it does not apply where a copy of a document is produced as secondary evidence by a party who has compared it (*Braythwayte* v. *Hitchcock*, 10 M. & W. 494; *Ditcher* v. *Kenrick*, 1 Car. & P. 161; *Doe* v. *Freeman*, 12 M. & W. 844, post, p. 510, n. (*f*)).

(*b*) The duties on copies of wills were repealed by 5 Geo. 4, c. 41.

(*c*) By 5 & 6 Vict. c. 82, these duties were extended to Ireland; but by 8 & 9 Vict. c. 76, s. 2, post, they are repealed as to *Ireland*, and others substituted.

55 G. 3, c. 184.

Exemptions from the preceding and all other Stamp Duties.

Certified copies (*a*) of proceedings and interlocutors required or authorised in cases of appeal to the house of lords.

Copies or extracts of protests, upon bills or promissory notes, for any sum under forty shillings sterling.

Extracts of commissions of persons as delegates or representatives to the general assembly, or to any presbytery or church court, in Scotland; and of commissions of delegates to the convention of royal burghs; and of commissions of delegates from any royal burgh for the election of members of parliament.

COPYHOLD estates; and customary estates, passing by surrender and admittance (*b*), or by admittance only, and not by deed (*c*); instruments relating thereto, *not otherwise charged under the head of mortgage, or of conveyance upon the sale of lands*; viz.,			
Any surrender made out of court, or the memorandum thereof; where the clear yearly value of the estate shall exceed 20*s*.	£1	0	0
And where the same shall not exceed 20*s*.	0	5	0
See also *Conveyance* upon the Sale of Lands, &c., and *Mortgage*.			
ANY ADMITTANCE out of court, or the memorandum thereof; where the clear yearly value of the estate shall exceed 20*s*.	1	0	0
And where the same shall not exceed 20*s*.	0	5	0
And where both a surrender and admittance (*d*), or more than one surrender or admittance, or the memorandum thereof, shall be contained in the same piece of vellum, parchment or paper, whether upon a sale, mortgage or other occasion, the proper duty shall be paid, in respect to each surrender and each admittance.			
And where any surrender or admittance, or the memorandum thereof, together with any schedule, receipt or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*e*)	1	0	0
THE COPY OF COURT ROLL OF ANY SURRENDER made in court, where the clear yearly value of the estate shall exceed 20*s*. (*f*)	1	0	0
And where the same shall not exceed 20*s*.	0	5	0
See also *Conveyance* upon the Sale of Lands, &c., and *Mortgage*.			
THE COPY OF COURT ROLL OF ANY ADMITTANCE in court, where the clear yearly value of the estate shall exceed 20*s*.	1	0	0
And where the same shall not exceed 20*s*.	0	5	0
And where copies of both a surrender and admittance or of more than one surrender or admittance, shall be contained in the same piece of vellum, parchment or paper, whether upon a sale, mortgage, or other occasion, the proper duty shall be paid, in respect of each surrender and each admittance, except in the case of a recovery hereinafter provided for.			
And where the copy of any such surrender or admittance, together with any schedule, receipt or other matter, put or endorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*g*)	1	0	0

(*a*) From parish register, see 23 Vict. c. 15, s. 8, and schedule.

(*b*) For the duty now payable on such instruments on the sale *or* mortgage of such estates, see 13 & 14 Vict. c. 97, sched. tit. "COPYHOLDS."

Where copyhold land was devised to A. for life, remainder to five persons as tenants in common. A. was admitted: and after his death the five, having contracted to sell to B., severally surrendered to the use of B. in fee, which surrender was accepted by the lord: it was held that B. on claiming admittance must pay five fees, and that the admittance would require five stamps (*Reg.* v. *Eton College*, 8 Q. B. 526; but see on this case Jarm. Suppl. by Sweet, 75).

(*c*) See *Doe d. Earl of Carlisle* v. *Towns*, 2 B. & Ad. 585.

(*d*) See *Weddall* v. *Capes*, 1 M. & W. 50.

(*e*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*f*) The court rolls (*Doe* v. *Hall*, 16 East, 208), or examined copies, are admissible to prove a surrender without being stamped, this Act applying only to such copies as are given out and signed by the steward (*Doe* v. *Freeman*, 12 M. & W. 844; *Doe d. Cawthorn* v. *Mee*, 4 B. & Ad. 617, p. 509, n. (*a*)).

(*g*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

55 G. 3, c. 184.

THE COPY OF COURT ROLL OF THE SEVERAL SURRENDERS, admittances, and other acts, which shall take place in court, for the purposes of perfecting a common recovery of any entailed copyhold or customary estate or estates, tenement or tenements, from a surrender to make a tenant of the præcipe, down to the admittance of the tenant in tail, in fee, or to the admittance for life of the former tenant for life, with remainder to the tenant in tail, in fee, upon the surrender of the demandant, both inclusive; or from the surrender to make a tenant to the præcipe, inclusive, to the admittance of the tenant in tail, or tenant for life, otherwise than aforesaid, or to the admittance of any other person, upon the surrender of the demandant exclusive; where the clear yearly value of the estate shall exceed 20*s*. . . — Five times. £1 0 0

And where the same shall not exceed 20*s*. . . . . — Five times. 0 5 0

And if the copy of court roll of any other admittance or surrender, admittances or surrenders, shall be contained in the same piece of vellum, parchment or paper, with the copy of court roll of the several surrenders, admittances, and other acts for the purpose aforesaid; the same shall be charged with such and the same duty or duties, as if the same had been written upon a separate piece of vellum, parchment or paper, over and above the said duties hereby imposed on the copy of court roll of the recovery.

ANY VOLUNTARY GRANT by the lord or lady or steward of any manor, made out of court, or the memorandum thereof, with or without admittance thereon; where the clear yearly value of the estate shall exceed 20*s*. . . . . — Twice. 1 0 0

And where the same shall not exceed 20*s*. . . . . — Twice. 0 5 0

See also *Conveyance* upon the Sale of Lands, &c., and *Mortgage*.

THE COPY OF COURT ROLL of any voluntary grant made in court, by the lord or lady or steward of any manor, with or without admittance thereon; where the clear yearly value of the estate shall exceed 20*s*. . . . . — Twice. 1 0 0

And where the same shall not exceed 20*s*. . . . . — Twice. 0 5 0

See also *Conveyance* upon the Sale of Lands, &c., and *Mortgage*.

And where any voluntary grant, or the memorandum, or copy of court roll thereof, together with any schedule, receipt or other matter put or endorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*a*) 1 0 0

ANY LICENCE TO DEMISE (*b*), or the memorandum thereof, if granted out of court, and the copy of court roll of any licence to demise, if granted in court; where the clear yearly value of the estate shall exceed 20*s*. 1 0 0

And where the same shall not exceed 20*s*. 0 5 0

Exemptions from the preceding and all other Stamp Duties.

Original surrenders out of court, and copies of court roll of surrenders in court, to the uses of a will, or to a trustee for the uses or purposes of a will.

The court rolls or books of any manor, wherein the proceedings relating thereto shall be entered or minuted.

See also the general exemptions at the end of this part of the schedule.

DEBENTURE (*c*) or CERTIFICATE for entitling any person to receive any drawback of any duty or duties, or part of any duty or duties of customs or excise, or any bounty, payable out of the revenue of customs or excise, for or in respect of any goods, wares, or merchandise exported or shipped to be exported from Great Britain to any part beyond the seas.

If the same shall not exceed 100*l*. 0 5 0

If the same shall exceed 100*l*. and not exceed 200*l*. 0 10 0

If the same shall exceed 200*l*. and not exceed 500*l*. 1 0 0

If the same shall exceed 500*l*. 2 0 0

(*a*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*b*) See 17 & 18 Vict. c. 83, schedule, post.

(*c*) See 16 & 17 Vict. c. 59, schedule, post.

55 G. 3, c. 184.

Exemptions from the preceding and all other Stamp Duties.

All debentures or certificates for bounty which were heretofore exempted from stamp duty by any Act or Acts of parliament, granting a bounty on the exportation of linens or sail cloth.

DECLARATION of any use or trust, uses or trusts, of or concerning any estate or property, real or personal, where made by any writing not being a deed or will, nor otherwise charged in this schedule	£1	15	0
And where the same, together with any schedule, receipt or other matter put or indorsed thereon or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of (*a*)	1	5	0
If made by deed.—See *Deed.*			
DEED, whereby any real burden shall be declared or created on lands or heritable subjects in Scotland.—See *Mortgage, Disposition.*			
DEED, containing an obligation to infeft any person, in heritable subjects in Scotland, under a clause of reversion, as a security for money, but without any personal bond or obligation therein for payment of the money intended to be secured.—See *Mortgage.*			
DEED (*b*) of any kind whatever, NOT OTHERWISE CHARGED IN THIS SCHEDULE, nor expressly exempted from all stamp duty (*c*)	1	15	0
And where the same, together with any schedule (*d*), receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of (*e*)	1	5	0
DEFEASANCE.—Deed, or other instrument of defeasance, of any conveyance, disposition, assignation, or tack, apparently absolute, but intended only as a security for money or stock.—See *Mortgage.*			
DEPUTATION by the commissioners of excise.—See *Commission.*			
DEPUTATION or appointment of a gamekeeper	1	15	0
DISCHARGE for money.—See *Receipt.*			
DISPENSATION (*f*) for holding two ecclesiastical dignities or benefices, or a dignity and a benefice, in England, where either of them shall be above the yearly value of ten pounds in the king's books	40	0	0
And in all other cases	25	0	0
DISPENSATION of any other kind, from the Archbishop of Canterbury, or the master of the faculties, for the time being, or from the guardian of the spiritualties during a vacancy of the archbishop's see	40	0	0

(*a*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*b*) A licence under seal to use a patented article does not require a stamp, unless delivered as a deed (*Chanter* v. *Johnson*, 14 M. & W. 408). Sealing and delivery are necessary to make a deed; signing is not (*Cooch* v. *Goodman*, 2 Q. B. 580). An agreement which is sealed, but merely amounts to an agreement for a lease, requires a 1*l.* 15*s.* stamp as a deed not otherwise charged (*Clayton* v. *Burtenshaw*, 5 B. & C. 41; 7 D. & R. 800). So do articles of agreement under seal, whereby one party agrees to pay the other a fixed salary, and the other agrees not to set up a chemist's shop within a certain distance, and the parties are mutually bound in a penalty of 600*l.* to perform the agreement (*Mounsey* v. *Stephenson*, 7 B. & C. 403; see *Doe* v. *Fereday*, 12 Ad. & E. 23).

A deed which is produced stamped as required when the stamp is affixed is sufficient, although it has not affixed the stamp required by the statutes in force at the time when such deed was executed (*Doe d. Dyke* v. *Whittingham*, 4 Taunt. 20; *Deakin* v. *Penniall*, 2 Ex. 320; *Buckworth* v. *Simpson*, 1 C. M. & R. 834).

(*c*) See *Wilson* v. *Smith*, 12 M. & W. 401, post, p. 516, n. (*f*).

(*d*) It was held that a schedule of goods referred to by a deed, to which it was annexed, must have the proper deed stamp according to the number of words required by 37 Geo. 3, c. 90, s. 7, and not merely the single schedule stamp of 2*s.* 6*d.* imposed by the first section of the Act (*Lake* v. *Ashwell*, 3 East, 326; see *Attwood* v. *Small*, 7 B. & C. 190).

It has been held that an indorsement on a deed limiting the power of the trustee need not be stamped (*Herne* v. *Hale*, 3 Esp. 237, *sed quære*).

An indorsement on an annuity deed, containing a clause of redemption, if made subsequent to the execution of it, must be stamped, otherwise it cannot be received in evidence (*Schumann* v. *Whetherhead*, 1 East, 537).

(*e*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*f*) Dispensations in Ireland, see 5 & 6 Vict. c. 82.

DISPOSITION of lands or heritable subjects in Scotland to singular successors or purchasers.—See *Conveyance*.			55 G. 3, c. 184.
DISPOSITION of lands or other heritable subjects in Scotland, to a purchaser, containing a clause, declaring all or any part of the purchase money a real burden upon or affecting the lands or heritable subjects thereby disponed, or any part thereof;			
Such disposition shall be charged, not only with the *ad valorem and progressive duties* hereinbefore charged on a conveyance upon the sale of lands or heritable subjects in Scotland, but also with the *ad valorem* duty hereinafter charged on any deed creating a real burden on lands in Scotland (*a*).—See *Conveyance, Mortgage*.			
DISPOSITION in security, in Scotland.—See *Mortgage*.			
DISPOSITION of any wadset, heritable bond, &c.—See *Mortgage*.			
DISPOSITION of any lands or other property, heritable or moveable, in Scotland, or of any right or interest therein, *not otherwise charged in this schedule*	£1	15	0
And where the same, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* (*b*) duty of	1	5	0
DOCQUET, made on passing under the great seal of the united kingdom, any grant, letters patent, exemplification, constat, or other instrument, requiring a docquet	0	2	0
DONATION (*c*), by his majesty, his heirs or successors, or by any other patron,			
Of any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of ten pounds or upwards in the king's books . . .	20	0	0
Of any other ecclesiastical benefice, dignity, or promotion whatsoever in England	10	0	0
DRAFT for Money (*d*).—See *Bill of Exchange*.			
EIK to a reversion.—See *Mortgage*.			
EXCHANGE.—Any deed whereby any lands or other hereditaments or heritable subjects in England or Scotland shall be conveyed, or any copyhold or customary lands or hereditaments in England shall be covenanted to be surrendered *in exchange* for other lands or hereditaments, or heritable subjects;			
If no sum of money, or only a sum under 300*l.* shall be paid, or agreed to be paid, for equality of exchange, the ordinary duty of . . .	1	15	0
And if a sum of 300*l.* or upwards shall be paid, or agreed to be paid for equality of exchange,	*The same* ad valorem *duty as for a conveyance on the sale of lands for a sum of money equal to the sum so paid or agreed to be paid.*		
And where any such deed of exchange, together with any schedule, receipt, or other matter put or indorsed thereon (*e*), or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of,			
If the deed be liable, in the first instance, to a duty of 1*l.* 15*s.* . .	1	5	0
Or if liable to a higher duty in the first instance	1	0	0
And any duplicate of such deed of exchange shall be charged with the same duty or duties (*f*); and if the exchange shall be effected or secured by separate conveyances or covenants, by distinct deeds, each deed shall be charged with the same duty or duties.			
And in case there shall be more than one deed for completing the title to the lands or other hereditaments or heritable subjects conveyed by either party, the principal deed only shall be charged under this head of exchange; and any subordinate or collateral deed shall be charged with the duty to which it may be liable under any other description in this schedule.			

(*a*) See 23 Vict. c. 15, s. 7, post.

(*b*) See 13 & 14 Vict. c. 97.

(*c*) For the duties now payable, see post, 5 & 6 Vict. c. 79; 6 & 7 Vict. c. 72; and 5 & 6 Vict. c. 82, as to Ireland.

(*d*) See ante, p. 494, n. (*b*).

(*e*) The indorsement on a deed of exchange, of the executing parties, and the date, &c., is no part of the instrument itself, and therefore not to be taken into calculation, with a view to the progressive duty (*Winder* v. *Fearon*, 7 D. & R. 185; 4 B. & C. 663, see ante, p. 483, n. (*b*); and see now 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY").

(*f*) For the duties now payable, see 13 & 14 Vict. c. 97, sched. tit. "DUPLICATE."

55 G. 3, c. 184.

EXEMPLIFICATION or constat, under the great seal of the united kingdom of Great Britain and Ireland, of any letters patent or grant, made or to be made by his majesty, his heirs or successors, or by any of his royal predecessors, of any honour, dignity, promotion, franchise, liberty or privilege, or of any lands, office, or other thing whatsoever;

For every skin, sheet, or piece of vellum, parchment, or paper, upon which any such exemplification or constat shall be written . . £5 0 0

EXTRACTS from registers and records in England and Scotland.—See *Copy*.

FACTORY, in the nature of a power of attorney in Scotland.—See *Letter of Attorney*.

FACULTY, licence, or commission, for admitting or authorising any person to act as a notary public in England 30 0 0

FACULTY, licence, or commission, for admitting or authorising any person to act as a notary public in Scotland 20 0 0

FACULTY from the archbishop of Canterbury, or the master of the faculties for the time being, or from the guardian of the spiritualities during a vacancy of the archbishop's see, *not otherwise charged*. 30 0 0

FEOFFMENT of lands or other hereditaments in England upon the sale or mortgage thereof.—See *Conveyance—Mortgage*.

FEOFFMENT of lands or other hereditaments in England, NOT OTHERWISE CHARGED (*a*) 1 15 0

And where the same shall contain any letter or letters of attorney to deliver or receive seisin, a *further* duty of 1 15 0

And where the same, together with any such letter or letters of attorney, and any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of (*b*). . 1 5 0

FURTHER CHARGE.—See *Mortgage*.

GIFT of *ultimus hæres*, bastardy, escheat, or forfeiture in Scotland.—See *Grant*.

GIFT of the vacant stipend of any parish in Scotland, whereof the presentation to the church shall belong to the crown 1 10 0

GRANT, or letters patent under the great seal of the united kingdom of Great Britain and Ireland, or the seal of the duchy or county palatine of Lancaster, or under the seal kept and used in Scotland, in place of the great seal formerly used there (*c*);

Of the honour or dignity of a duke 350 0 0
" " of a marquis 300 0 0
" " of an earl 250 0 0
" " of a viscount 200 0 0
" " of a baron 150 0 0
" " of a baronet 100 0 0

Of a *congé d'élire*, to any dean and chapter, for the election of an archbishop or bishop 30 0 0

Of the royal assent to or signification of the election made by any dean and chapter, or of the nomination and presentation by his majesty, his heirs or successors, in default of such election, of any person to be an archbishop or bishop 30 0 0

Of or for the restitution of the temporalities to any archbishop or bishop 30 0 0

Of any other honour, dignity, or promotion whatsoever, or of any franchise, liberty, or privilege, to any person or persons, body or bodies politic or corporate 30 0 0

And where two or more honours or dignities shall be granted by the same letters patent to the same person, such letters patent shall be charged with the proper duty in respect of the highest in point of rank only.

And where any honour or dignity, honours or dignities, shall be granted to any person or persons, in remainder, the letters patent shall be charged with such further duty, in respect of every remainder, as would have been payable for an original grant of the same honour or dignity, honours or dignities.

And where any such grant or letters patent shall be contained in more than one skin, sheet, or piece of vellum, parchment or paper, then

---

(*a*) A feoffment for the consideration of natural love and affection and 10*s.* does not require two stamps under this title and tit. "CONVEYANCE" (*Doe* v. *Wheeler*, 2 Ad. & E. 28. See 13 & 14 Vict. c. 97, s. 7).

(*b*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*c*) See 16 Vict. c. 5, ante, tit. "PATENTS."

for every skin, sheet, or piece thereof, after the first, a further *progressive* duty of . . . . . £20 0 0 — 55 G. 3, c. 184.

Exemptions from the preceding and all other Stamp Duties.

Commissions of rebellion in process.
Letters patent or briefs for collecting charitable benevolences.
Letters patent for confirming any dispensation hereinbefore charged with a duty.
Letters patent appointing sheriffs in England, and the writs of assistance accompanying such letters patent.

GRANT, or warrant of precedence to take rank among nobility, under the sign manual of his majesty, his heirs or successors 100 0 0

GRANT or licence under the sign manual, to take and use a surname and arms, or a surname only, in compliance with the injunctions of any will or settlement 50 0 0

GRANT or licence under the sign manual, to take and use a surname and arms, or a surname only, upon any voluntary application . . . 10 0 0

GRANT of arms or armorial ensigns only, under the sign manual, or by any of the kings of arms of England or Scotland 10 0 0

GRANT, lease or tack, under the great seal of the united kingdom of Great Britain and Ireland, or the seal of the exchequer in England, or the seal of the duchy or county palatine of Lancaster, or the seal kept and used in Scotland, in place of the great seal formerly used there; or under the privy seal in England, or the quarter seal or privy seal in Scotland, unless directed to the great seal; or under the royal sign manual of his majesty, his heirs or successors, unless directed to any of the seals aforesaid;

Of any lands, tenements, hereditaments or heritable subjects, whatever the tenure thereof may be, which have or shall come to his majesty, his heirs or successors, by escheat or forfeiture, or as *ultimus hæres*, or by reason of the same being purchased by or for any alien; or which his majesty, his heirs or successors, is or shall be otherwise entitled to, in right of the crown, and be authorized to dispose of, *absolutely*, as he or they shall think fit; whether such grant, lease or tack shall be in fee or fee tail, or for term of life or years;

Or of any lands, tenements, hereditaments, or heritable subjects belonging to the duchy of Lancaster, or belonging to the crown in Scotland, whereof his majesty, his heirs or successors, is or shall be authorized to make only certain *limited* grants, leases or tacks; whether such grant, lease, or tack, shall be for term of life or years;

Or of any goods, chattels, or personal or moveable estate, or other profit, whereof the grant is not otherwise charged in this schedule;

Where such grant, lease, or tack, shall be intended to operate in any degree as a gift, *except in the cases next hereinafter mentioned*, then for every skin, sheet, or piece of vellum, parchment, or paper, upon which the same shall be written, a duty of 30 0 0

And where any such grant, lease, or tack, operating as a gift, shall be of lands or other hereditaments or heritable subjects, vested in his majesty, his heirs or successors, by escheat, or as *ultimus hæres*, for want of heirs of any person who was a *bare trustee* thereof (*a*), or seized into the hands of the crown upon any *outlawry*, in a civil action, at the suit of any of his majesty's subjects 1 15 0

And if any such grant, lease, or tack, charged with a duty of 1*l.* 15*s.*, together with any schedule, receipt or other matter put or endorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of . (*b*) 1 5 0

And where any such grant, lease, or tack, shall be made for what shall be deemed and intended as a *full and adequate consideration* for the same, either in money paid at once, or in rent, or in lands or hereditaments given in exchange or otherwise . . . — *The same duty as on a grant, lease, or tack of the like description, made by any of his majesty's subjects.*

GRANT, or conveyance, under the seal of the duchy of Lancaster, made in pursuance of the Act passed in the 19th year of his majesty's reign, c. 45, for enabling the chancellor and council of the duchy to sell certain rents, and to enfranchise copyhold and customary tenements within their survey . . . . . — *The same duty as for any other conveyance upon the sale of any property for a consideration of the like amount.* See *Conveyance*.

(*a*) There can now be no such escheat (4 & 5 Will. 4, c. 23; 13 & 14 Vict. c. 60, s. 46, post, tit. "TRUSTEE").

(*b*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

55 G. 3, c. 184.

Exemptions from the preceding and all other Stamp Duties, except the Duty on the Receipt for the Consideration Money.

All grants and conveyances under the seal of the duchy of Lancaster, made in pursuance of the said Act of the 19th year of his majesty's reign, where the consideration money paid for the same shall not exceed 10*l.*

GRANT, lease, or other conveyance, from his majesty, his heirs or successors, of any lands, tenements, or hereditaments, or of any personal estate, being respectively *the private property* of his majesty, his heirs, or successors, and subject to his or their absolute disposal, by virtue of the Act passed in the 40th year of his majesty's reign, concerning the disposition of certain real and personal property of his majesty, his heirs or successors . . . . . *The same duty as on a grant, lease, or conveyance of the like description, from any of his majesty's subjects.*

GRANT under the great seal of the united kingdom of Great Britain and Ireland, or the seal kept and used in Scotland, in place of the great seal formerly used there; or under the privy seal in England, or the quarter seal or privy seal in Scotland, unless directed to the great seal; or under the sign manual of his majesty, his heirs or successors, unless directed to any of the seals aforesaid; out of the civil list either of England or Scotland, or out of any other fund, not being part of the supplies of the year, or appropriated by parliament;

Of any definite and certain SUM OR SUMS OF MONEY,			
Not amounting to 100*l.*	£1	10	0
Amounting to 100*l.* and not amounting to 250*l.*	4	0	0
Amounting to 250*l.* and not amounting to 500*l.*	10	0	0
Amounting to 500*l.* and not amounting to 750*l.*	20	0	0
Amounting to 750*l.* and not amounting to 1000*l.*	30	0	0
Amounting to 1000*l.* or upwards; for every 100*l.* thereof . . .	5	0	0
Or of any ANNUITY OR PENSION,			
Not amounting to 100*l.* per annum	1	10	0
Amounting to 100*l.* and not amounting to 200*l.* per annum . . .	4	0	0
Amounting to 200*l.* and not amounting to 400*l.* per annum . . .	10	0	0
Amounting to 400*l.* and not amounting to 600*l.* per annum . . .	20	0	0
Amounting to 600*l.* and not amounting to 800*l.* per annum . . .	30	0	0
Amounting to 800*l.* and not amounting to 1000*l.* per annum . . .	40	0	0
Amounting to 1000*l.* per annum or upwards	50	0	0
But where any such grant of an annuity or pension shall be made in confirmation or by way of renewal only, of any former grant of the like amount and description, then only a duty of	1	10	0

And where several and distinct annuities or pensions shall be granted to or for the benefit of different persons by the same instrument, the proper duty shall be charged in respect of each annuity or pension; but where the grant shall be of any annuity or pension, to or for the benefit of two or more persons jointly, the duty shall be charged in respect of the whole.

GRANT, or appointment BY HIS MAJESTY, his heirs or successors, or by any other person or persons, body politic or corporate, of or to any OFFICE OR EMPLOYMENT, by letters patent, deed, or other writing (*a*);

Where the salary, fees, and emoluments appertaining thereto shall not amount to 50*l.* per annum	2	0	0
And where the same shall amount to 50*l.* and not amount to 100*l.* per annum	4	0	0
And where the same shall amount to 100*l.* and not amount to 200*l.* per annum	6	0	0
And where the same shall amount to 200*l.* and not amount to 300*l.* per annum	12	0	0
And where the same shall amount to 300*l.* and not amount to 500*l.* per annum	25	0	0

(*a*) This applies only to offices with salaries or emoluments; and where two persons, common keepers for a manor, appointed the defendant their deputy by a writing signed by them, which stated the rights of common, and in what manner the duties of common keeper should be exercised, &c., it was held that this was no grant of "an office or employment," but a mere authority to distrain, similar to that of a bailiff to execute a distress for rent (*Roberts* v. *Elliott*, 11 M. & W. 527). An assistant overseer is a parliamentary officer appointed by the magistrates, having a substantial office of his own; and such appointment requires a stamp (*Rex* v. *Lew*, 8 B. & C. 655; *see* 4 & 5 Will. 4, c. 76, s. 86, *ante*, tit. "POOR"). So does that of treasurer of the guardians (*Reg.* v. *Welch*, 2 C. & K. 296). The appointment of an umpire made in writing by two arbitrators does not (*Routledge* v. *Thornton*, 4 Taunt. 704).

55 G. 3, c. 184.

And where the same shall amount to 500*l.* and not amount to 750*l.* per annum	£35	0	0
And where the same shall amount to 750*l.* and not amount to 1000*l.* per annum	50	0	0
And where the same shall amount to 1000*l.* and not amount to 1500*l.* per annum	75	0	0
And where the same shall amount to 1500*l.* and not amount to 2000*l.* per annum	100	0	0
And where the same shall amount to 2000*l.* and not amount to 3000*l.* per annum	150	0	0
And where the same shall amount to 3000*l.* per annum or upwards	200	0	0

The said fees and emoluments to be estimated according to the average amount thereof for three years preceding, where practicable; and in other cases according to the best information that can be obtained.

And where any such grant or appointment shall be made to or of two or more persons jointly, with separate and distinct salaries, fees, or emoluments, the same shall be charged with a separate and distinct duty in respect of each person, according to the amount of the salary, fees, and emoluments appertaining to such person.

Provided always, that no duty shall be charged in respect of any person to whom any office or employment shall be granted anew, upon the revocation of any former grant or appointment thereof, and who shall have paid a stamp duty on such former grant or appointment, unless the salary, fees, and emoluments appertaining to such person shall be in any manner augmented; and in that case a duty shall be charged, in respect of such person, only in proportion to the amount of the augmentation.

GRANT by copy of court-roll.—See *Conveyance, Copyhold.*

GRANT (*a*) upon the sale of any property not belonging to the crown.—See *Conveyance.*

HERITABLE BOND.—See *Bond, Mortgage.*

INSTITUTION, granted by any archbishop, bishop, chancellor, or other ordinary, or by any ecclesiastical court, in and to any ecclesiastical benefice, dignity, or promotion, in England;

Where the same shall proceed upon a presentation		2	0	0
And where it shall proceed upon the petition of the patron to be himself admitted and instituted; if the benefice, dignity, or promotion shall be of the yearly value of 10*l.* or upwards in the king's books	(*b*)	[30	0	0]
Or if the same shall be of any other description	(*b*)	[15	0	0]

But such petition shall not be liable to any stamp duty.

INSTITUTION, by any presbytery or other competent authority, to ecclesiastical benefice in Scotland.—See *Collation.*

INVENTORY.—See *Schedule*, p. 13, post.

LAND-TAX.—Instruments relating to the redemption and sale thereof.—See the general exemptions at the end of this part of the schedule.

LEASES (*c*) or tacks of lands, &c., belonging to his majesty, in right of the crown, or otherwise.—See *Grant.*

(*a*) Exemptions:—Re-grant on demise of Crown of any office, &c., held during pleasure of Crown (1 W. 4, c. 43). Appointment of surveyor of highways (5 & 6 W. 4, c. 50, s. 9). Appointment of paid officer of poor laws (4 & 5 W. 4, c. 76, s. 87).

(*b*) Repealed, 5 & 6 Vict. c. 79, s. 1, post.

(*c*) See 13 & 14 Vict. c. 97, post.

Instruments in writing, though not under seal, containing words of immediate demise, except leases required by the Statute of Frauds to be in writing (*Shepherd* v. *Hodsman*, 18 Q. B. 316; 21 L. J., Q. B. 263), if signed by the lessor (*Doe d. Marlowe* v. *Wiggins*, 4 Q. B. 367), operate as leases, and require lease stamps, although they contain clauses for more formal instruments (*Poole* v. *Bentley*, 12 East, 168; *Doe d. Bailey* v. *Foster*, 3 C. B. 215; *Glen* v. *Dungey*, 4 Exch. 61; ante, Vol. I. p. 824, n. (c. *d*); tit. "CONVEYANCES").

A lease containing several demises at distinct rents, must be stamped according to the aggregate of the stamps required for the several demises (*Boase* v. *Jackson*, 3 Bro. & B. 185; *Blount* v. *Pearman*, 1 Bing. N. C. 408).

If a lease contain a contract for the purchase of goods, it cannot be given in evidence to prove the sale of the goods, unless it has a lease stamp, although it have an agreement stamp (*Cortler* v. *Drakeford*, 3 Taunt. 382; and see *Clayton* v. *Burtenshaw*, 5 B. & C. 41); and in that case, if the goods be accessory to the lease, the purchase-money must be calculated with the principal sum; and if distinct, it will fall within the description of a lease not otherwise charged (*Coster* v. *Cowling*, 7 Bing. 456).

By writing under seal, reciting that D. had purchased, for the residue of a term, four messuages, in one of which the plaintiff resided; it

55 G. 3, c. 184.	LEASES or tacks of lands, &c., not belonging to his majesty, viz.	
	LEASE (or bargain and sale) for a year.—See *Bargain and Sale.*	
	LEASE or tack of any lands, hereditaments, or heritable subjects, granted IN CONSIDERATION OF A SUM OF MONEY BY WAY OF FINE (*a*), premium, or grassum paid for the same, without any yearly rent, or with any yearly rent under 20*l.* (*b*)	*The same duty as for the conveyance on the sale of lands for a sum of money of the same amount.*
	(Save and except leases and tacks for a life or lives not exceeding three,	

was agreed that the plaintiff should continue to reside in that messuage during the residue of D.'s interest, if the plaintiff should so long live, at the yearly rent of 1*s.*; and D. further agreed to assign all his interest in the said premises, purchased by D. as aforesaid, to the plaintiff, on payment of 140*l.* within a stated period: it was held that this was a lease, and that it was also an agreement, and required an agreement as well as a lease stamp, inasmuch as the lease and the agreement comprehended distinct subject-matters (*Lovelock* v. *Franklyn*, 8 Q. B. 371; see *Wharton* v. *Walton*, 7 Q. B. 474; and ante, p. 484, n.).

And where the plaintiff demised a slate pit at S. and stone quarries at M. to the defendant under an indenture of lease, to hold the one from Lady-day, 1815, and the others from Michaelmas, 1817, for the several terms of fourteen years from the respective dates thereof, at the yearly rent of 70*l.* for the slate pit, and 130*l.* for the quarries: it was held that all the premises might be demised by one indenture of lease, and that one *ad valorem* stamp on the aggregate amount was sufficient, the letting being considered as one transaction, and there being no evidence of an intent by the parties to defraud the revenue (*Boase* v. *Jackson*, 6 Moore, 480; 3 Bro. & B. 185; and see *Coster* v. *Cowling*, 7 Bing. 456; *Blount* v. *Pearman*, 1 Bing. N. C. 408; *Parry* v. *Deere*, 5 Ad. & E. 551).

Where, by a memorandum of agreement (containing words of present demise), A. agreed to let certain premises to B. for two years, at a certain rent, B. was to have the right of purchasing the premises at the end of, or at any time during the term, for a given sum; "it being understood that A. was possessed of the same premises for his own life and the life of Mrs. M., and the survivor of them:" it was held, that a single lease stamp was sufficient (*Worthington* v. *Warrington*, 5 C. B. 635).

Where an instrument contains a written contract of demise in its general terms, with a several operation with respect to the different tenants who sign it for different estates at the different rents set against their signatures, and one stamp only appears upon the paper, it is matter of evidence to which contract such stamp applies (*Doe d. Copley* v. *Day*, 13 East, 241).

A lease for years, in consideration of a sum certain and at a peppercorn rent did not before this Act require an *ad valorem* stamp (*Roe d. Larkin* v. *Chenhalls*, 4 M. & Sel. 23). But now, where the lessor receives a consideration, it must be stated in the lease, and the *ad valorem* duty paid; but if the consideration were paid to a third party for procuring the lease, it was generally thought it would be otherwise (*Boone* v. *Mitchell*, 1 B. & C. 18; but see *Att.-Gen.* v. *Brown*, 3 Exch. 662, infra).

(*a*) The *ad valorem* stamp duty in this case is to be regulated by the consideration appearing on the face of it, and therein expressed (*Duck* v. *Braddyll*, M'Clel. 217, 235; *Doe* v. *Lewis*, 10 B. & C. 673; *Robinson* v. *Macdonnell*, 5 M. & Sel. 228; 13 Price, 455; see tit. "CONVEYANCE").

H., being seised in fee of lands, contracted with B. to execute to him a lease of them, and a house to be built thereon by B. for 99 years, at a rent of 9*l.* 5*s.* The house having been built, B. contracted with O. to sell him his (B.'s) interest in the land and house for 850*l.*, which was accordingly paid. In order to effect this contract, B. procured an indenture to be made between himself, H. and O., whereby H. demised to O. the house and land for 99 years at the same rent. No mention was made in this instrument of the purchase-money. The court held, that the lease was a conveyance within the stamp Act, and that B. was liable to the penalties imposed by the 48 Geo. 3, c. 149, s. 22 (ante, p. 460), for omitting to set forth the purchase-money (*Att.-Gen.* v. *Brown*, 3 Exch. 662; see *Boone* v. *Mitchell*, 1 B. & C. 18). The 13 & 14 Vict. c. 97, s. 10, post, relieves persons, however, from penalties as to past transactions.

If an instrument of demise in writing of apartments, for a period of three months certain, requires either an agreement or lease stamp within the provisions of this statute, it was not necessary that it should be stamped before the rule was granted under the statute 1 Geo. 4, c. 87, ante, Vol. II. p. 1133, tit. "LANDLORD AND TENANT," it being time enough to stamp it at any time before the trial of the ejectment; and such a tenancy is within the meaning of the latter statute (*Doe d. Phillips* v. *Roe*, 1 D. & R. 433; 5 B. & Ald. 766).

(*b*) Where the consideration is not by way of fine, premium, or grassum, but is something which relates to the improvement of the estate, the legislature has not thought proper to provide for such a case, on account of the difficulty of framing an equitable provision for it. They ap-

or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted, and leases for a term absolute not exceeding twenty-one years, granted by *ecclesiastical corporations, aggregate or sole.*)				55 G. 3, c. 184.
LEASE (*a*) or tack of any lands, hereditaments, or heritable subjects, at a YEARLY RENT, WITHOUT ANY SUM OF MONEY BY WAY OF FINE, premium, or grassum paid for the same (*b*);				
Where the yearly (*c*) rent shall not amount to 20*l.*	£[1	0	0]	
And where the same shall amount to 20*l.* and not amount to 100*l.* .	[1	10	0]	
And where the same shall amount to 100*l.* and not amount to 200*l.* .	[2	0	0]	
And where the same shall amount to 200*l.* and not amount to 400*l.* .	[3	0	0]	
And where the same shall amount to 400*l.* and not amount to 600*l.*	[4	0	0]	
And where the same shall amount to 600*l.* and not amount to 800*l.*	[5	0	0]	
And where the same shall amount to 800*l.* and not amount to 1000*l.*	6	0	0	
And where the same shall amount to 1000*l.* or upwards . . .	10	0	0	
LEASE or tack of any lands, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of FINE, PREMIUM, or grassum (*d*), AND ALSO OF A YEARLY RENT, amounting to 20*l.* or upwards . . . . . (*Save and except the leases and tacks hereinbefore excepted*).	*Both the* ad valorem *duties payable for a lease in consideration of a fine only, and for a lease in consideration of a rent only, of the same amount.*			
LEASE (*e*) or tack of any kind, NOT OTHERWISE CHARGED in this schedule (*f*)		1	15	0
And for the counterpart or duplicate of any lease or tack hereby charged with a duty not exceeding 1*l.* . . .	*The like duty as on the lease or tack*			
And for the counterpart or duplicate of any other lease or tack whatsoever (*g*)		1	10	0
And where any such lease or tack, counterpart or duplicate as aforesaid, together with any schedule, receipt, or other matter, put or indorsed *thereon or annexed thereto*, shall contain 2160 words or upwards, then for every entire quantity of 1080 words *contained therein* (*h*)				

---

pear to have intended that a stamp should be necessary only in cases where either a rent was reserved or a fine or premium was given, and not to make any other arrangement between the landlord and tenant liable to any duty at all (*per* Pollock, C.B., *Nicholls* v. *Cross*, 14 M. & W. 43).

(*a*) See the duties now payable, 13 & 14 Vict. c. 97, schedule, post. As to leases for more than thirty-five years, see 17 & 18 Vict. c. 83, schedule; not exceeding seven years, see 23 Vict. c. 15. As to leases of furnished houses, see 24 & 25 Vict. c. 21, s. 14, post.

(*b*) See *Gingell* v. *Purkins*, 4 Exch. 720, ante, p. 460, n. (*c*).

(*c*) The *ad valorem* duty on this statute was only chargeable on *yearly* rents; and a lease for a shorter term seems to have been liable as a lease not otherwise charged (see *Doe d. Phillips* v. *Roe*, 5 B. & Ald. 766; *Burton* v. *Reevell*, 16 M. & W. 307; but see now 17 & 18 Vict. c. 83, s. 23, post).

(*d*) See *Nicholls* v. *Cross*, 14 M. & W. 42, *Parry* v. *Deere*, 5 Ad. & E. 551; *Phillipps* v. *Phillipps*, 11 Ad. & E. 796.

(*e*) As to lease exceeding 35 years, see 17 & 18 Vict. c. 83, schedule.

(*f*) An instrument which operated as a lease reserved a rent of 50*l.*, but contained a stipulation that the landlord should insure the premises for 1000*l.*, and that the premiums of insurance should be added to the rent of 50*l.*, and become due and payable in like manner as the rent: it was held, that this was not "a deed not otherwise charged" within the meaning of this Act, sched. tit. "DEED;" but was properly stamped with an *ad valorem* lease stamp of 1*l.* 10*s.* as on a rent exceeding 20*l.* and not amounting to 100*l.* (*Wilson* v. *Smith*, 12 M. & W. 401; see *Parry* v. *Dere*, 5 B. & A. 551).

(*g*) In debt for rent or an indenture, the plaintiff is entitled to recover on production of a deed bearing a counterpart stamp, and on proof of its execution by the defendant, without going on to prove the execution of a lease by himself (*Hughes* v. *Clark*, 10 C. B. 905); and a lessee who has executed a counterpart of a lease cannot object to its being read on the ground that the lease itself is unstamped (*Paul* v. *Meek*, 2 Y. & J. 116).

Where a parol agreement was made between A. and B. that the former should let, and the latter take, certain premises, upon the terms and conditions contained in a lease of the same premises granted by A. to C.: it was held, in an action by A. against B. for rent and non-repair, that the lease could not be read in evidence, unless duly stamped (*Turner* v. *Power*, 7 B. & C. 625; Moo. & M. 131; but see *Drant* v. *Brown*, 3 B. & C. 665; *Pearce* v. *Cheslyn*, 4 Ad. & E. 225, ante, p. 441, n.).

Leases for less than a year are made chargeable with the same duty as leases at a yearly rent of the same amount, 17 & 18 Vict. c. 83, s. 23.

As to the duty upon assignments or surrender of leases, see 13 & 14 Vict. c. 97, and 23 & 24 Vict. c. 111, post.

(*h*) Where inventories are merely referred to by the lease, and not contained therein nor annexed, this clause respecting the excess of 1080 words does not apply, though perhaps they, not being

55 G. 3, c. 184.

over and above the first 1080 words, a further progressive duty of (*a*)	£1 0 0

Exemptions from the preceding and all other Stamp Duties.

Leases or tacks of waste or uncultivated lands to any poor or labouring persons for any term not exceeding three lives, or ninety-nine years, where the fine shall not exceed 5*s.* nor the reserved rent one guinea per annum; and the counterparts or duplicates of all such leases.

LETTER, or power of attorney, made by any petty officer, seaman, marine, or soldier serving as a marine, or by the executors or administrators of any such person, for receiving prize money	0 1 0
——— and for receiving wages	1 0 0
LETTER of attorney for the sale, transfer, acceptance, or receipt of dividends, of any of the government or parliamentary stocks, or funds (*b*)	1 0 0
LETTER or power of attorney of any other kind, or commission or factory in the nature thereof (*c*)	[1 10 0]
And where the same, together with any schedule, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words, a further progressive duty of (*d*)	1 0 0

Exemptions from the preceding and all other Stamp Duties.

Letters of attorney for the receipt of dividends of any definite and certain share of the government or parliamentary stock or funds, producing a yearly dividend of less than 3*l.*

LETTER of licence from creditors to a debtor	1 15 0
And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*d*)	1 5 0
LETTERS of marque and reprisal	5 0 0
LETTERS Patent (*e*).—See *Grant.*	
LETTER of REVERSION in Scotland.—See *Mortgage.*	
LICENCE for MARRIAGE in England, if special	5 0 0
,, ,, ,, ,, if not special	0 10 0
LICENCE to be granted by any archbishop, bishop, vicar-general, or other competent authority, in England, for the NON-RESIDENCE OF ANY CLERGYMAN upon his living, pursuant to the Act of the forty-third year of his majesty's reign	1 0 0

---

stamped, cannot be read (*per* Alexander, L. C. B., in *Duck* v. *Braddyle*, 1 M'Cle. 235; 13 Price, 455).

(*a*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*b*) For sale, &c., of stock under 20*l.* or receipt of dividend under 10*l.*, see 23 Vict. c. 15, superseding 16 & 17 Vict. c. 98, sec. 5, post.

(*c*) See 7 Vict. c. 21; 19 & 20 Vict. c. 81, ss. 1 & 2; 23 Vict. c. 15; 24 & 25 Vict. c. 91, s. 26, post.

A paper authorizing A. to sell certain property, and thereout pay rent and expenses, and his own commission, signed by B., does not require any stamp (*per* Ld. Tenterden, in *Case* v. *Barnard*, 8th January, 1827, G. H.).

A proxy given by a proprietor of canal shares, as authorized by Act of Parliament, to vote at a meeting of the company, is liable to stamp duty (see *Monmouthshire Canal Company* v. *Kendall*, 4 B. & Ald. 453; *Reg.* v. *Kelk*, 12 Ad. & E. 559). So a written authority in the following terms: "I authorize you to endorse my name to three several bills of exchange now in your possession," is a letter of attorney, although it goes on to say, "and which indorsement I undertake shall be binding upon me, and I undertake to pay you the amount of the several bills as they respectively become due, should they not be duly honoured when mature" (*Walker* v. *Remmett*, 2 C. B. 850).

The duty imposed by this schedule on a letter of attorney is repealed by 7 Vict. c. 21, so far as regards proxies whereon the duty of 2*s.* 6*d.* is granted; that is, on proxies to vote at one meeting only (Tilsley on Stamps, 61; *Trinity House* v. *Beadle*, 13 Q. B. 175); the duty is now 6*d.*, 19 & 20 Vict. c. 81, ss. 1 & 2.

By 5 & 6 Will. 4, c. 64, s. 6, all letters or powers of attorney for voting on any election of a director or directors of the East India Company are exempted from stamp duties.

(*d*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*e*) See 16 & 17 Vict. c. 5, post.

LICENCE (*a*) of any kind, not otherwise charged in this schedule, which shall pass the SEAL OF ANY ARCHBISHOP, BISHOP, chancellor, or other ordinary, or of any ecclesiastical court in England, or which shall be granted by any presbytery, or other ecclesiastical power in Scotland . . . . (*b*)	£2 0 0	55 G. 3, c. 184.
Exemptions (c) from the preceding and all other Stamp Duties.		
Licences to stipendiary curates in England, wherein the annual amount of the stipend shall be specified; and licences for the non-residence of clergymen upon their livings; where granted on the ground of there being no house or no fit house of residence thereon.		
LICENCE to use and exercise the calling or occupation of an APPRAISER (*d*) To be taken out *yearly*, by every person who shall exercise the said calling or occupation, or make any appraisement or valuation, hereinbefore charged with a duty, for or in expectation of any gain, fee, or reward, except licensed auctioneers.	0 10 0	
LICENCE to be taken out yearly by any BANKER or bankers, or other person or persons who shall issue any promissory notes for money payable to the bearer on demand, and allowed to be re-issued	30 0 0	
LICENCE to be taken out yearly for using or exercising the trade or business of a PAWNBROKER within the cities of London and Westminster, or within the limits of the twopenny post	15 0 0	
And for using or exercising the trade or business of a pawnbroker elsewhere . . . . . (*e*)	7 10 0	
LICENCE to exercise the faculty of physic (*f*).—See *Admission*.		
LICENCE to act as a notary public.—See *Faculty*.		
LICENCE to demise copyhold lands.—See *Copyhold*.		
MARRIAGE LICENCE.—See *Licence*.		
MATRICULATION in the universities.—See *Admission*.		
MEMORIAL to be registered pursuant to any Act of parliament, made or to be made for the public registering of deeds and conveyances in England . . . . . (*g*)	[0 10 0]	
And for every piece of vellum, parchment or paper, upon which any such memorial shall be written, after the first, a further progressive duty of	[0 10 0]	
MEMORIAL to be registered or inrolled pursuant to Act of parliament, of any deed or instrument, deeds or instruments, whereby any annuity shall be granted or secured in England	1 0 0	
And for every piece of vellum, parchment or paper, upon which any such memorial shall be written, after the first, a further progressive duty of	1 0 0	
MORTGAGE (*h*), conditional surrender by way of mortgage, further charge (*i*), wadset and heritable bond; disposition (*k*), assignation or tack, in security; and eik to a reversion; of or affecting any lands, estate or property (*l*), real or personal, heritable or moveable whatsoever (*m*);		

(*a*) To hold a perpetual curacy, 5 & 6 Vict. c. 79, England; 5 & 6 Vict. c. 82, Ireland.

(*b*) See 5 & 6 Vict. c. 79, s. 1, post.

(*c*) Licences to perform divine service in certain cases, 16 & 17 Vict. c. 59, s. 9.

(*d*) See *Pathe* v. *Force*, 12 Q. B. 666, ante, p. 459, n. (*c*).

As to licences to house agents, see 24 & 25 Vict. c. 21, post. As to appraisers, see ante, pp. 459, 487, and 8 & 9 Vict. c. 76, post.

(*e*) See ante, tit. "PAWNBROKERS;" 17 & 18 Vict. c. 83, Ireland.

(*f*) To sell medicines, 44 Geo. 3, c. 98; see also 52 Geo. 3, c. 150.

(*g*) See 13 & 14 Vict. c. 97, sched. tit. "MEMORIAL."

(*h*) See, now, 13 & 14 Vict. c. 97, sched. tit. "MORTGAGE."

(*i*) See *Rushbrook* v. *Hood*, 5 C. B. 131, post, p. 526, n. (*c*).

(*k*) This word has reference to Scotch instruments (*per* Parke, B., *Harris* v. *Birch*, 9 M. & W. 594).

(*l*) A "goodwill" is property (*Lyburn* v. *Warrington*, 1 Stark. 162; *Potter* v. *The Commissioners of Inland Revenue*, 23 L. J. Ex. 345, 10 Ex. 147. See 17 & 18 Vict. c. 83, s. 19, post). As to judgment debts, see *Warren* v. *Howe*, 2 B. & C. 281; *Master* v. *Miller*, 4 T. R. 320; *Caldwell* v. *Dawson*, 5 Exch. 1.

(*m*) An assignment of a policy of assurance as security for a debt, with a proviso for redemption, is a mortgage, and liable to an *ad valorem* stamp (*Caldwell* v. *Dawson*, 5 Exch. 1; *Warren* v. *Howe*, 2 B. & C. 281). An equitable mortgage, as by deposit of a bill of lading, does not fall within the definition of the word mortgage as used in this clause (*Harris* v. *Birch*, 9 M. & W. 591; *Wrench* v. *Lord*, 3 Bing. N. C. 672). A document stating goods to have been deposited as a security, and containing a power of sale in default of payment, does not require a mortgage stamp (*Attenborough* v. *The Commissioners of Inland Revenue*, 25 L. J. Exch. 22; 11 Exch. 461).

55 G. 3, c. 184

Also any deed containing an obligation to infeft any person in an annual rent, or in lands or other heritable subjects in Scotland, under a clause of reversion, but without any personal bond or obligation therein contained, for payment of the money or stock intended to be secured.

Also any conveyance of any lands, estate or property whatsoever, in trust, to be sold or otherwise converted into money, which shall be intended only as a security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; except where such conveyance shall be made for the BENEFIT OF CREDITORS GENERALLY (*a*), or for the benefit of creditors specified, who shall accept the provision made for payment of their debts in full satisfaction thereof, or who shall exceed five in number;

Also any defeazance (*b*), letter of reversion, back bond, declaration, or other deed or writing for defeating or making redeemable, or explaining or qualifying any conveyance, disposition, assignation or tack of any lands, estate or property whatsoever, which shall be apparently absolute, but intended only as a security;

Also any agreement, contract or bond, accompanied with a deposit of title deeds for making a mortgage, wadset or any such other security (*b*) or conveyance as aforesaid, of any lands, estate or property, comprised in such title deeds, or for pledging or charging the same as a security;

And also any deed, whereby a real burden shall be declared or created on lands or heritable subjects in Scotland;

Where the same respectively shall be made, as a security for the payment of any definite and certain sum of money, advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable (*c*),

Not exceeding	50*l.*				(*d*)	[£1 0 0]
Exceeding	50*l.*	and not exceeding	100*l.*			[1 10 0]
Exceeding	100*l.*	and not exceeding	200*l.*			[2 0 0]
Exceeding	200*l.*	and not exceeding	300*l.*			[3 0 0]
Exceeding	300*l.*	and not exceeding	500*l.*			[4 0 0]
Exceeding	500*l.*	and not exceeding	1,000*l.*			[5 0 0]
Exceeding	1,000*l.*	and not exceeding	2,000*l.*			[6 0 0]
Exceeding	2,000*l.*	and not exceeding	3,000*l.*			[7 0 0]
Exceeding	3,000*l.*	and not exceeding	4,000*l.*			[8 0 0]
Exceeding	4,000*l.*	and not exceeding	5,000*l.*			[9 0 0]
Exceeding	5,000*l.*	and not exceeding	10,000*l.*			[12 0 0]
Exceeding	10,000*l.*	and not exceeding	15,000*l.*			[15 0 0]
Exceeding	15,000*l.*	and not exceeding	20,000*l.*			[20 0 0]
Exceeding	20,000*l.*					[25 0 0]

And where the same respectively shall be made as a security for the repayment of money, to be THEREAFTER LENT, ADVANCED OR PAID (*e*), or

---

(*a*) Where the primary object of the deed was the payment of trustees' debts due to them, but there was also a trust after they were satisfied to pay all the other creditors, with a resulting trust for the original debtor it was held to fall within this exception (*Coates* v. *Perry*, 3 Bro. & B. 48, ante, p. 504, n.; see *Hudson* v. *Revett*, 2 Moo. & P. 663).

(*b*) This only applies to cases where the agreement is accompanied with a deposit of title deeds, not where the deposit has taken place previously (*Pyle* v. *Partridge*, 15 M. & W. 20; see *Harris* v. *Birch*, 9 M. & W. 591).

(*c*) Arrears of interest owing upon a subsisting debt constitute a definite and certain sum of money within this clause; but they are not chargeable with an *ad valorem* duty (*Doe* v. *Maple*, 3 Bing. N. C. 832; 6 L. J., C. P. 271; *Daines* v. *Heath*, 3 C. B. 938; *Pierpoint* v. *Gower*, 4 M. & Gr. 795).

The mortgage stamp is regulated exclusively by the effect of that part of the instrument which constitutes the mortgage security; and therefore, where a mortgage deed authorised the mortgagee on the mortgagor's default to renew the lease of the mortgaged premises as often as might be necessary, and charged the expenses of renewal, not exceeding 70*l.*, on the mortgaged premises, and the mortgagor by the same deed covenanted to renew without any limitation as to the amount of expenses, it was held that a stamp covering the 70*l.* and the mortgage debt was sufficient (*Doe* d. *Jarman* v. *Larder*, 3 Bing. N. C. 92; 3 Scott, 407). But now, a covenant in a mortgage deed for paying money beyond the amount secured by the mortgage is subject to *ad valorem* duty.

(*d*) These duties are now regulated by 13 & 14 Vict. c. 97, sched. tit. "MORTGAGE," post.

(*e*) By holding that the word "paid" means so paid as to constitute a debt, and the repayment of which the mortgage is to secure, the whole enactment is rendered reasonable and consistent (*per* Parke, B., *Wroughton* v. *Turtle*, 11 M. & W. 568).

which may become due (*a*) upon an account current, together with any sum already advanced or due, or without, as the case may be; other than and except any sum or sums of money to be advanced for the insurance of any property comprised in such mortgage or security against damage by fire, or to be advanced for the insurance of any life or lives, pursuant to any agreement in any deed, whereby any annuity shall be granted or secured for such life or lives; 55 G. 3, c. 184.

If the total amount of the money secured, or to be ultimately recoverable thereupon, shall be UNCERTAIN AND WITHOUT ANY LIMIT . . . . (*b*) £25 0 0

(*a*) An indemnity given to a surety for a debt, to secure to him the repayment of any moneys he may be obliged to pay, with interest, by an assignment of goods with a power of sale, does not require an *ad valorem* mortgage stamp (*Watson* v. *Macquire*, 5 C. B. 836). And where A. entered into a bond as a surety for B., and B. by deed assigned personal property to A. for the purpose of indemnifying him against any liability by reason of his having become surety for B. in the bond; the deed was holden to require an *ad valorem* stamp as a "security for the repayment of money to be thereafter lent, advanced or paid" (*Lord Canning* v. *Raper*, 1 E. & B. 164; 22 L. J., Q. B. 87).

(*b*) That is, where the land or other subject of the mortgage has an additional burden cast upon it (*Doe* d. *Jarman* v. *Larder*, 3 Bing. N. C. 92).

It has been laid down, that a security by which advances thereafter to be made are constituted, when made a debt recoverable at law between the parties, required under this statute, in case those debts were not limited in amount, a stamp of 25*l.*; but where those advances were only charges on the property mortgaged, but not debts recoverable at law, the amount of the stamp was limited by the amount of the original debt secured. And if the charges expressly laid on the property by the deed were such as, without express words, would fall on the property mortgaged, the same consequence followed, that they were not to be added, in considering the amount of the stamp requisite, to the original debt secured (*Lawrence* v. *Boston*, 7 Exch. 35; *Wroughton* v. *Turtle*, 11 M. & W. 561).

A mortgage deed for 3000*l.* contained a power of sale and leasing to secure the principal and all expenses with interest. There was also a covenant to pay principal and interest, and all expenses with interest on the amount of them. It was held not to be a security for an uncertain and indefinite amount, and that a 2*l.* stamp was sufficient (*Doe* d. *Scruton* v. *Snaith*, 8 Bing. 146). So, where land was mortgaged with a proviso for redemption on payment of principal and interest, and the mortgagor covenanted by the deed to pay all the taxes, rates, or assessments upon the premises; and the proviso for redemption was made subject to the performance of this covenant; it was held that such a mortgage was not a security for payment of money to an amount "uncertain and without any limit" for as to the taxes and rates the mortgagee was entitled to and required no stipulation in respect of them, and the stamp is regulated by the amount advanced or agreed to be paid (*Doe* d. *Merceron* v. *Bragg*, 8 Ad. & E. 620, overruling *Halse* v. *Peters*, 2 B. & Ad. 807; see *Doe* d. *Scruton* v. *Snaith*, 8 Bing. 146). So, where on a mortgage for a term of years determinable on lives, 130*l.* was advanced, with a power for the mortgagee to pay 70*l.* for renewal in case a life should drop; a 2*l.* stamp was held sufficient, notwithstanding there was a covenant by the mortgagor to procure a renewal without any limit of the sum to be paid by him for that purpose (*Doe* d. *Jarman* v. *Larder*, 3 Bing. N. C. 92). And where by indenture, dated 17th November, 1845, reciting that A. was indebted to B. in 100*l.*, A. assigned to B. all the goods, fixtures, tools, &c., which then were, or at any time during the continuance of that security should be, in and upon certain premises, to have, receive, and take the said goods, &c., thereby assigned, as per schedule, unto B., &c.: the deed contained a covenant by A. for payment of the 100*l.* on the 8th February, 1846, with interest thereon from the 8th August preceding; a mortgage stamp applicable to a sum not exceding 100*l.* was held sufficient (*Daines* v. *Heath*, 3 C. B. 938; *Barker* v. *Smark*, 7 M. & W. 590).

Where premises were mortgaged to trustees for the purpose of securing 1137*l.*, and the trustees were authorized to sell, and out of the proceeds in the first place to pay the costs of putting the deed in execution, and also a reasonable sum of money by way of satisfaction to themselves for their trouble in executing the trusts; the deed had the stamp of 5*l.* required by the statute for mortgages to secure any sum exceeding 1000*l.* and not exceeding 2000*l.* The stamp was held sufficient, no proof being given that the sum to be raised, including a reasonable satisfaction to the trustees, would exceed 2000*l.* (*Paddon* v. *Bartlett*, 2 Ad. & E. 9).

Where a mortgage of certain leasehold premises, subject to a proviso for redemption on payment of the principal money and interest, contained covenants by the lessee (the mortgagor) to procure at his own cost renewals of the lease (under the power contained in the original lease), and in case the mortgagor refused or neglected to do so, then it should be lawful for the mortgagee

55 G. 3, c. 184.

But if the total amount of the money secured, or to be ultimately recoverable thereupon, shall be limited not to exceed a given sum . . . . . } *The same duty as on a mortgage or wadset for such limited sum.*

And where the same respectively shall be made as a security for the transfer or re-transfer of any share in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the Bank of England, or of the East India Company, or of the South Sea Company, in consideration of stock or money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable . . . . . } *The same duty as on a mortgage or wadset for a sum of money, equal to the value of the stock or fund secured, according to the average price thereof, on the day of the date of the mortgage or other instrument aforesaid, or on either of the ten days preceding.*

And where the same respectively shall be made, as a security for the payment of a sum of money, and also for the transfer or re-transfer of a share in any of the said stocks or funds, the said *ad valorem* duty shall be charged in respect of each.

And in case the same respectively shall be made, as a security for the payment or transfer, to different persons, of separate and distinct sums of money, or shares in any of the said stocks or funds: the said *ad valorem* duty shall be charged for and in respect of each separate and distinct sum of money, or share in any of the said stocks or funds therein specified and secured, and not upon the aggregate amount thereof (*a*).

And where any such mortgage or wadset, or other instrument hereby charged with the same duty as a mortgage or wadset, together with any schedule, receipt or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words, a further progressive duty of . . . . . (*b*) £1 0 0

MORTGAGE, &c. ANY TRANSFER or assignment, disposition or assignation, of any mortgage or wadset, or of any such other security as aforesaid, or of the benefit thereof, and of the money or stock thereby secured, in all cases where the person entitled to the right of redemption or reversion shall not be made a party to such transfer or assignment, disposition or assignation; and also where the person who originally made the mortgage, wadset, or other security, shall continue entitled to the right of redemption or reversion, and shall be made a party to such transfer or assign-

---

to procure such renewals, and a covenant that all the fines, costs, and expenses of the mortgage in procuring such renewals, should be a charge on the mortgaged premises, and the same should not be redeemed or redeemable until payment of such costs, charges, and expenses, an *ad valorem* duty of 4*l.* was held sufficient, and that the deed did not require a stamp of 25*l.* as being a security for the repayment of money to be thereafter advanced or paid, the amount of which was uncertain and without limit (*Wroughton* v. *Turtle*, 11 M. & W. 561). And where A., being indebted to the defendant in the sum of 184*l.* 7*s.* 6*d.*, by indenture assigned to him certain furniture, and also a policy of assurance, with a proviso for redemption on payment of principal money and interest, and a further proviso that, in default of payment, it should be lawful for the defendant to take and sell the furniture and policy, and, out of the proceeds, to reimburse himself all costs and expenses, and all sums he might expend in keeping on foot the policy; then followed a covenant by A. for payment to the defendant of 184*l.* 7*s.* 6*d.*, and for payment to the insurance office of the premiums; and that in case of the avoidance of the policy or the insolvency of the insurance company, A. would insure in another office, and assign the new policy to the defendant; and that if A. should neglect to pay the premium or insure in some other office, the defendant might do so, and the sums so advanced by the defendant for continuing the insurance or making a fresh policy should be considered as principal monies, and bear interest, and the policy should be a security for the repayment thereof, and should not be redeemed without payment to the defendant of the sums so advanced, and interest, as well as the 184*l.* 7*s.* 6*d.*: it was held, that such mortgage was not a security for the payment of money "uncertain and without limit" (*Lawrance* v. *Boston*, 7 Exch. 28; see *Frith* v. *Rotherham*, 15 M. & W. 39, ante, p. 407, n. (*g*); *Doe* d. *Young* v. *Warren*, 15 L. T. 89).

A 25*l.* stamp is not necessary for a mortgage to secure an indefinite sum, where a subsequent proviso limits the principal sum to be secured (*Doe* v. *Warner*, 2 Carr. & K. 1014).

If a limit be fixed to the amount to be ultimately recovered, for the purpose of saving the stamp duty, the court cannot make the security available for a sum beyond that amount (*Richards* v. *Macclesfield*, 10 L. J., Ch. 329).

(*a*) In order to justify a stamp for each of the separate debts, it should appear by the deed that it was given as a security for the payment of separate and distinct sums (*Reed* v. *Wilmot*, 7 Bing. 577).

(*b*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

ment, disposition or assignation; provided no further sum of money or stock be added to the principal money or stock already secured . (a) [£1 15 0] 55 G. 3, c. 184.

And in all other cases such transfer or assignment, disposition or assignation, shall be charged with (b). . . { *The same duty or duties as an original mortgage, wadset, or other security.*

And where any such transfer or assignment, disposition or assignation, hereby charged with a duty of 1*l.* 15*s.*, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further and progressive duty of . . . . . [1 5 0]

Provided always, that where several distinct deeds or instruments falling within the description of any of the instruments hereby charged with the said *ad valorem* duty on mortgages and wadsets, shall be made at the same time (c), for securing the payment or transfer of one and the same sum of money; or one and the same share of any of the stocks or funds before-mentioned; the said *ad valorem* duty, if exceeding 2*l.*, shall be charged only on one of such deeds or instruments; and all the rest shall be charged with the duty to which the same may be liable under any more general description of such deeds or instruments contained in this schedule; and if required for the sake of evidence, all the rest of such deeds or instruments shall be also stamped with some particular stamp, for denoting or testifying the payment of the said *ad valorem* duty, on all the said deeds or instruments being produced, duly stamped with the duties hereby charged thereon.

And where any copyhold or customary lands or hereditaments shall be mortgaged, by means of a conditional surrender or grant; the said *ad valorem* duty shall be charged on the surrender or grant, or the memorandum thereof, if made out of court; or on the copy of court roll of the surrender or grant, if made in court. And copies of court roll, made after the 31st day of August, 1815, of surrenders and grants made in court, before or upon that day, and subsequent to the 10th day of October, 1808, shall be charged with the said *ad valorem* duties. But copies of court roll, of surrenders and grants made before or upon the 10th day of October, 1808, shall not be liable thereto.

And where any copyhold or customary lands or hereditaments shall be mortgaged, or charged, together with other property, for securing one and the same sum of money, or one and the same share of any of the stocks or funds before mentioned, the said *ad valorem* duty shall be charged on the deed or instrument relating to the other property.

And where there shall be duplicates of any deed or instrument, chargeable with the said *ad valorem* duty on mortgages and wadsets, exceeding 2*l.*, one of them only shall be charged therewith, and the other or others shall be charged with the duty to which the same may be liable, under any more general description in this schedule; and on the whole being produced, duly stamped as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

Exemptions from the said ad valorem duty on mortgages, &c., but not from any other duty to which the same may be liable.

Any deed or other instrument made in pursuance of and conformably to any agreement, contract, or bond, charged with, and which shall actually have paid the said *ad valorem* duty, or the *ad valorem* duty on mortgages granted by the Act of the forty-eighth year of his majesty's reign before mentioned.

(a) This is repealed as regards transfers of mortgages (3 Geo. 4, c. 117, post). A transfer of a mortgage to which the mortgagor is a party, reciting the mortgage, is admissible in evidence upon a transfer stamp, without the production of the original mortgage (*Doe* d. *Brame* v. *Maple*, 3 Bing. 832; 5 Scott, 35; *Doe* v. *Brooks*, 3 Ad. & E. 513; *Quin* v. *King*, 1 M. & W. 42).

Where a memorandum of the deposit of deeds was also a promissory note, and as such was duly stamped, and also as a mortgage: it was held that an indorsee might sue upon it without a transfer stamp (*Wise* v. *Charlton*, 4 Ad. & E. 786; see *Doe* v. *Tom*, 4 Q. B. 615). Upon a transfer of a mortgage a transfer stamp will be sufficient, though the deed contain a further charge for costs and arrears of interest paid by the transferee to the transferor (*Doe* d. *Brame* v. *Maple*, 6 L. J., C. P. 271).

(b) See *Doe* d. *Bouman* v. *Lewis*, 13 M. & W. 241.

(c) See *Sellick* v. *Trevor*, 11 M. & W. 722.

55 G. 3, c. 184.

Any deed (*a*) or other instrument, made for *the further assurance only* of any estate or property, already mortgaged, pledged, or charged as a security, by any deed or instrument, which shall have paid the said *ad valorem* duty hereby charged, or the *ad valorem* duty on mortgages or heritable bonds, imposed by the Act of the forty-fourth or the Act of the forty-eighth year of his majesty's reign before mentioned.

Any deed (*a*) or other instrument, *made as an additional or further security* for any sum or sums of money, or any share or shares of any of the stocks or funds before mentioned, already secured by any deed or instrument, which shall have paid the said *ad valorem* duty hereby charged, or the *ad valorem* duty on mortgages or heritable bonds, charged by the said Act of the forty-fourth, or the said Act of the forty-eighth year of his majesty's reign, to be exempt from the said *ad valorem* duty hereby charged, so far as regards such sum or sums of money, or such share or shares of any of the said stocks or funds before secured, in case such additional or further security shall be made by the same person or persons who made the original security (*b*); but if any further sum of money or stock shall be added to the principal money or stock already secured, or shall be thereby secured to any other person, the said *ad valorem* duty shall be charged in respect of such further sum of money or stock (*c*).

And if necessary, for the sake of evidence, the deeds and instruments hereby exempted from the said *ad valorem* duty shall be stamped with a particular stamp, for denoting or testifying the payment of the *ad valorem* duty, upon all the deeds and instruments relating to the particular transaction being produced, and appearing to be duly stamped with the duties to which they were liable.

For general exemptions from the preceding and all other stamp duties, see the end of this part of the schedule.

MORTGAGE, wadset, &c., with a CONVEYANCE OF THE EQUITY OR RIGHT OF REDEMPTION or reversion, or other matter IN THE SAME DEED, viz.:

Where any deed or writing shall operate as a mortgage or other instrument hereby charged with the *ad valorem* duty on mortgages, and also as a conveyance of the equity or right of redemption or reversion of any lands, estate, or property therein comprised, to or in trust for, or according to the direction of a purchaser, such deed or writing shall be charged not only with the said *ad valorem* duty on mortgages, but also with the *ad valorem* duty hereinbefore charged on a conveyance upon the sale of any property; but where the equity or right of redemption or reversion shall be thereby conveyed or limited in any other manner, such deed or writing shall be charged only as a mortgage;

And in all other cases where a mortgage or other instrument hereby charged with the *ad valorem* duty on mortgages shall be contained in one and the same deed or writing with any other matter or thing (except what shall be incident to such mortgage or other instrument), such deed or writing shall be charged with the same duties (except the progressive duty), as such mortgage or other instrument and such other matter or thing would have been separately charged with if contained in separate deeds or writings.

And where any such deed or writing, as is mentioned in the two pre-

---

(*a*) But as to deeds made subsequent to 11th October, 1850, see 13 & 14 Vict. c. 97.

(*b*) *Robinson* v. *Macdonnell*, 5 M. & Sel. 228; *Doe* v. *Gray*, 3 Ad. & E. 89; *Lant* v. *Pearce*, 8 Ad. & E. 249; see *Brown* v. *Pegg*, 6 Q. B.; 3 Geo. 4, c. 117, s. 1, post.

(*c*) By an indenture between A. and B., reciting a former mortgage from B. to A., default in payment, and that B. had occasion for a further sum, which A. agreed to advance; B. covenanted with A. that the premises comprised in the first mortgage should remain further charged with this sum and interest, and there was the usual covenant to pay the same. The deed was stamped with a 30*s.* stamp, being the proper mortgage stamp for the sum lent. It was objected, in an action on the latter covenant, that there should have been a 53*s.* stamp, and not a mortgage stamp only, the deed operating not as a further charge, but as a covenant: it was however held to be rightly stamped (*Rushbrook* v. *Hood*, 5 C. B. 131; see also *Haywood* v. *Bibby*, 11 M. & W. 812). Where P. mortgaged land to L. for 400*l.*, afterwards he borrowed 1000*l.* more from L., and mortgaged other land as a security for the whole, it was held that the last mortgage required an *ad valorem* mortgage stamp, with progressive duty on the 1000*l.*, and also a deed stamp on the fresh security upon the 400*l.* as a deed not otherwise charged (*Lant* v. *Peace*, 8 Ad. & E. 249; *Doe* d. *Bartley* v. *Gray*, 3 Ad. & E. 89).

ceding clauses, together with any schedule, receipt, or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . . . (a) £1 0 0

MUTUAL DISPOSITION or conveyance in Scotland.—See *Exchange and Partition.*

NOMINATION by his majesty, his heirs or successors, or by any other patron, to any perpetual curacy in England 1 10 0

NOTARIAL Act; any whatsoever not otherwise charged in this schedule . [0 5 0]

And for every sheet or piece of paper, parchment, or vellum, upon which the same shall be written, after the first, a further progressive (b) duty of . . . . . [0 5 0]

ORDER for the payment of money.—See *Bill of Exchange.*

PARTITION (c).—Any deed, whereby any lands or other hereditaments, or heritable subjects in England or Scotland, shall be conveyed, or any copyhold or customary lands or hereditaments in England, shall be covenanted to be surrendered, in order to effect a partition or division thereof, among coparceners, joint-tenants, or tenants in common, heirs-portioners, conjuxfiars, or joint-proprietors of any sort;

If no sum of money, or only a sum under 300*l.* shall be paid, or agreed to be paid, for equality of partition or division; the ordinary duty of 1 15 0

And if any sum or sums of money, amounting to 300*l.* or upwards, shall be paid, or agreed to be paid for equality . . . . . *The same* ad valorem *duty as for a conveyance on the sale of lands, for a sum of money equal to the amount of the sum or sums so paid or agreed to be paid.*

And where any such deed of partition or division, together with any schedule, receipt or other matter, put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (d),

If the deed be liable, in the first instance, to a duty of 1*l.* 15*s.* . 1 5 0

Or if liable to a higher duty in the first instance 1 0 0

And any duplicate (e) of any such deed of partition or division shall be charged with the same duty or duties.

And in case there shall be more than one deed, for completing the title to the estate or interest conveyed by either party, the principal deed only shall be charged under this head of partition; and any subordinate or collateral deed shall be charged with the duty to which it may be liable, under any other description in this schedule.

PASSPORT . . . . . (f) [0 5 0]

PAWNBROKER'S Licence.—See *Licence.*

POLICY (g) of assurance or insurance, or other instrument, by whatever name the same shall be called; whereby any insurance shall be made upon ANY LIFE OR LIVES, or upon any event or contingency relating to or depending upon any life or lives,

Where the sum insured shall not amount to 500*l.* . . . . (h) [1 0 0]

And where it shall amount to 500*l.* and not to 1000*l.* . . . . [2 0 0]

And where it shall amount to 1000*l.* and not to 3000*l.* . . . . [3 0 0]

And where it shall amount to 3000*l.* and not to 5000*l.* . . . . [4 0 0]

And where it shall amount to 5000*l.* or upwards . . . . . [5 0 0]

(a) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(b) See note (a), supra.

(c) See *Henniker* v. *Henniker*, 1 E. & B. 54.

(d) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(e) See 13 & 14 Vict. c. 97, sched. tit. "DUPLICATE."

(f) The duty is now sixpence (see 21 Vict. c. 24, post).

(g) By 5 & 6 Will. 4, c. 64, the duties payable under this head, where the sum assessed did not exceed 100*l.*, were repealed (s. 2), and in lieu thereof the following duties were imposed (s. 3); that is to say,

Where the sum shall exceed 50*l.*, 2*s.* 6*d.*

And where it shall exceed 50*l.* and not exceed 100*l.*, 5*s.* (see post).

The duties on life policies are regulated by 16 & 17 Vict. c. 59, schedule, and 23 & 24 Vict. c. 111, post. The stamps by which these duties are denoted may be impressed or affixed, &c., 16 & 17 Vict. c. 63, ss. 10 & 11. Policies of insurance are not chargeable with progressive duty.

(h) Now regulated by 23 & 24 Vict. c. 111, s. 10, and 16 & 17 Vict. c. 59.

55 G. 3, c. 184.

POLICY (*a*) of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made of or upon any BUILDING, GOODS, WARES, MERCHANDIZE, OR OTHER PROPERTY (*b*), FROM LOSS OR DAMAGE BY FIRE ONLY, by any public company, or other person or persons, duly licensed, or who ought to be licensed, by the commissioners of stamps, pursuant to the Act of the twenty-second year of his majesty's reign, c. 48, or by the Royal Exchange or London Assurance corporation £0 1 0

And for and in respect of every insurance from loss or damage by fire only, which shall at any time after the 28th day of September, 1815, be made or renewed, or continued by any public company, or other person or persons, licensed, or who ought to be licensed, as above mentioned, or by the Royal Exchange or London Assurance corporation, a duty of 3*s.* for every 100*l.* insured for a year, and at and after that rate for any fractional part of 100*l.* insured, and for any fractional part of a year, as well as for any number of years for which the insurance shall be made or renewed, or continued; but no fraction of a penny shall be charged . . . . . *per centum per annum.* 0 3 0

Exemptions (*c*).

Insurances on public hospitals, and on property in any foreign kingdom or state in amity with his majesty, his heirs or successors.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made, pursuant to the Act of the 50th year of his majesty's reign, c. 35, by any person or persons, not being licensed pursuant to the said Act of the 22nd year of his majesty's reign, of or upon any BUILDING, GOODS, WARES, merchandize, or other property, situated and being in any of the islands, settlements, or territories belonging to or under the dominion of his Majesty, his heirs or successors, in the West Indies, or elsewhere BEYOND THE SEAS, from loss or damage by FIRE, for any period of time not exceeding twelve calendar months 0 2 6

And also the further or additional duty following, viz.

If the whole sum insured shall not exceed 100*l.* 0 5 0

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist 0 5 0

POLICY of assurance or insurance (*d*), or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon ANY SHIP OR VESSEL, or upon any goods, merchandize, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, for or upon any voyage from any port or place in the united kingdom of Great Britain and Ireland, or in the islands of Guernsey, Jersey, Alderney, or Sark, or the Isle of Man, to any other port or place in the said kingdom or islands, or Isle of Man (*e*);

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20*s.* per centum on the sum insured;

If the whole sum insured shall not exceed 100*l.* . . . . . [0 1 3]

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist . . . . . [0 1 3]

(*a*) See 9 Geo. 4, c. 13, post.

Insurances against fire of property within the united kingdom though made abroad, are liable to duty (19 Vict. c. 22, post).

Re-assurances are now only chargeable with the 1*s.* duty (*Ib.* s. 6).

(*b*) See *A.-G.* v. *Cleobury*, 4 Ex. 65, post, p. 531, n. (*a*).

(*c*) Farming stock, &c.—see 3 & 4 Will. 4, c. 23, ss. 5 & 6, post; on mechanics' tools, &c., see 23 & 24 Vict. c. 111, s. 11.

(*d*) The general regulation Act as to marine insurances is 35 Geo. 3, c. 63. Various other Acts have subsequently been passed and repealed, but the duties now payable were granted by 7 Vict. c. 21, post.

(*e*) Although a policy of insurance produced at the trial of an action has a sufficient stamp, evidence will be received that it had no such stamp when it was effected, in which case it is a mere nullity, though stamped afterwards by order of the commissioners; for it is forbidden by 35 Geo. 3, c. 63, ss. 14, 16, and not authorised by 37 Geo. 3, c. 136, s. 2, which extends only to such instruments as could before be legally stamped after they were executed (*Roderick* v. *Hovil*, 3 Camp. 103; *Green* v. *Davies*, 4 B. & C. 235).

55 G. 3, c. 184.

And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20*s.* per centum on the sum insured . . . . . [£0 2 6]

If the whole sum insured shall not exceed 100*l.* . . . . . [0 2 6]

And if the whole sum insured shall exceed 100*l.*, then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist . . . . . [0 2 6]

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 1*s.* 3*d.* or 2*s.* 6*d.* as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.* as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any GOODS, MERCHANDISE, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, for or upon any OTHER VOYAGE THAN IS HEREINBEFORE SPECIFIED, or for any certain term or period of time, not exceeding twelve calendar months (*a*).

(*a*) These duties are now regulated by 7 Vict. c. 21, post.

The 13th section, 35 Geo. 3, c. 63, which ought to receive a liberal construction (*per* Lord Tenterden, C. J., *Brocklebank* v. *Sugrue*, 1 B. & Ad. 88), provides, "that nothing in this Act contained shall extend, or be construed to extend, to prohibit the making of any alteration which may lawfully be made in the terms or conditions of any policy of insurance, duly stamped as aforesaid, after the same shall have been underwritten, or to require an additional stamp duty by reason of such alteration, so that such alteration be made before notice of the determination of the risk originally insured, and the premium or consideration originally paid or contracted for, shall exceed the rate of 10*s.* per cent. on the sum insured, and so that the thing insured shall remain the property of the same person or persons, and so that such alteration shall not prolong the term insured beyond the period allowed by this Act, and so that no additional or further sum shall be insured, by reason or means of such alteration."

A policy effected on "ship and outfit," on a voyage from the southern whale fishery, out and home, cannot be altered by consent after the ship sails, and the risk attaches to an insurance on "ship and goods," without a new stamp; outfit, the subject-matter of insurance, being essentially different in such a voyage from goods, and therefore not within the exception of the statute 35 Geo. 3, c. 63, s. 13 (*Hill* v. *Patten*, 8 East, 373; see *French* v. *Patton*, 9 East, 351).

A policy was effected at four guineas per cent. on hemp marked R., and valued with certain returns of premium, upon arrival at certain ports, and warranted to sail before the 20th of August, which was a summer risk and premium. By a memorandum indorsed, the underwriter, for four guineas additional and the return of five shillings for arrival, absolved the assured from the warranty of sailing before the 20th of August, so making it a winter risk, and withdrew the mark on the hemp: it was holden, that these were not such alterations of the subject-matter insured, and of the terms of the policy, but that they might be made by stat. 35 Geo. 3, c. 63, s. 13, without any new stamp (*Hubbard* v. *Jackson*, 4 Taunt. 169).

A mistake made by the agent, in declaring the interest in the margin of the policy to be on a ship by a wrong name, may be rectified by inserting the true name, without a fresh stamp (*Robinson* v. *Touray*, 1 M. & Sel. 217). And if the declaration of interest in a policy of insurance be altered, by striking out the words "on ship, and inserting the words "on goods, as interest may appear," and the assured have no interest in the ship, a new stamp will not be necessary (*Sawtell* v. *Loudon*, 1 Marsh. 99).

A vessel was insured from Liverpool to Africa, and during her stay there, and back, with liberty to sell, barter, exchange, load and reload goods. After the execution of the policy, the assured inserted the words "and trade" in the risk, without the consent of the defendant (an underwriter) although others had assented thereto: it was holden an immaterial alteration, as the ship had liberty to trade without the introduction of these words (*Sanderson* v. *Symons*, 4 B. Moore, 42; *Sanderson* v. *M'Cullom*, 4 B. Moore, 5; *Langhorn* v. *Cologan*, 4 Taunt. 330; *Forshaw* v. *Chabert*, 6 Moore, 369).

Where the policy of insurance was on goods at and from A. to B., and the ship being driven into C. and detained, the assured afterwards wrote to their agents at D. "that the captain had been ordered to proceed to E., as they were not certain whether an enemy might not be at B., and that as the passage to E. was nearly the same, they desired the agents to arrange the matter with the underwriters;" on receiving which letter the agents applied to the underwriters for their consent to alter the policy, by adding the words "E. or F." after "B.," which consent was obtained, and the ship and

55 G. 3, c. 184.

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20*s.* *per centum* on the sum insured;

If the whole sum insured shall not exceed 100*l.*	[£0 2 6]
And if the whole sum insured shall exceed 100*l.* then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist	[0 2 6]
And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20*s.* *per centum* on the sum insured;	
If the whole sum insured shall not exceed 100*l.*	[0 5 0]
And if the whole sum insured shall exceed 100*l.* then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist	[0 5 0]

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 2*s.* 6*d.* or 5*s.*, as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.* as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest (*b*).

---

goods were afterwards lost on the voyage to E.; it was holden that the policy with this alteration did not require a new stamp within 35 Geo. 3, c. 63, s. 13 (*Ramstrom* v. *Bell*, 5 M. & Sel. 267).

Goods and specie to a certain amount having been insured by a policy on ship or ships, which should sail on the voyage insured between the 1st of October, 1799, and the 1st of June, 1800, a memorandum written on the policy on the 11th of June, extending the time of sailing to the 1st of August, 1800, was held not to require a new stamp, being within the 13th section of the statute 35 Geo. 3, c. 63 (*Kensington* v. *Inglis*, in error, 8 East, 273; *Ridsdale* v. *Shedden*, 4 Camp. 107).

A policy containing a warranty that the ship shall sail on or before a given day may be altered pending the risk, by a memorandum whereby the underwriters, in consideration of a further premium, agree to cancel the warranty, and to make a return of premium (*Ridsdale* v. *Shedden*, 4 Camp. 107; *Failie* v. *Christian*, Holt, N. P. C. 331).

A vessel having sailed and put back to the Downs, and then sailed again, and laboured and strained much from being overloaded, then put back a second time; and upon an application to the underwriters for liberty for the ship to go into port to discharge part of her cargo, it was only communicated to them that the ship was too deep in the water: it was held, that the memorandum giving such liberty did not require a new stamp (*Weir* v. *Aberdeen*, 2 B. & Ald. 320). A policy duly stamped was effected on a ship on a voyage at and from Liverpool to Quebec. The ship being detained beyond the intended time of sailing, the following memorandum was indorsed on the policy: "The Hebe being unavoidably detained beyond the intended time of sailing to Quebec, the voyage is changed and the vessel proceeds from Liverpool to St. John's, New Brunswick, at and from thence back to London; and in consideration of one guinea per cent. additional, the underwriters agree to continue on the risk until the vessel should be arrived back to London, or her port of discharge in the United Kingdom." The change of destination of the ship, provided for by the memorandum, was held to be an alteration in the terms and conditions of the policy within the meaning of the 35 Geo. 3, c. 63, s. 13, and therefore the policy so altered by the memorandum did not require a new stamp (*Brocklebank* v. *Sugrue*, 1 B. & Ad. 81; *Campbell* v. *Christie*, 2 Stark. 64; see *Attorney-General* v. *Cleobury*, 4 Exch. 65).

The 37 Geo. 3, c. 136, s. 2, enacts, "That where any skin or piece of vellum or parchment, or sheet or piece of paper, on which any matter or thing (except bills of exchange, promissory notes, or other notes, drafts, or orders) shall have been engrossed, printed, or written, shall be brought to the commissioners to be stamped, after the same shall have been executed, the same not having been stamped with any stamp, or having been stamped with a stamp of less value than is by law required, and the person producing the same is desirous of having the same duly stamped, but the same cannot, according to the laws in force, be stamped without payment of accumulated penalties exceeding ten pounds, besides the duty, that then, and in every such case, it shall and may be lawful for the said commissioners, or the major part of them, to direct the proper officer or officers, and such officer or officers is and are hereby required to stamp the same, on payment of the duty by law payable for such vellum, parchment, or paper, in respect of the instrument, matter, or thing engrossed, printed, or written thereon, and one penalty of ten pounds only for every such skin or piece of vellum or parchment, or sheet or piece of paper" (see *Rapp* v. *Allnutt*, 15 East, 601, infra, n. (*b*). Whilst the policy is *in fieri* it may be altered in any respect (*Robinson* v. *Tobin*, 1 Stark. 336).

(*b*) Where the distinct interests of several are insured under one entire sum "on goods, to be thereafter declared and valued," and it appears,

55 G. 3, c. 184.

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance, commonly called a MUTUAL INSURANCE (a), shall be made, or whereby divers persons shall insure, or agree to insure one another, without any premium or pecuniary consideration, from any loss, damage, or misfortune, that may happen of or to any ship or vessel, or any goods, merchandise, or other property on board of any ship or vessel, or the freight of any ship or vessel, or any other interest in or relating to any ship or vessel which may lawfully be insured;

Upon any voyage from any port or place in the united kingdom of Great Britain and Ireland, or in the islands of Guernsey, Jersey, Alderney, or Sark, or the Isle of Man, to any other port or place in the said kingdom or islands, or Isle of Man;

For every sum of 100*l.* and also for each and every fractional part of 100*l.* thereby insured to any person or persons . . . . . [£0 2 6]

Upon any other voyage whatsoever, or for any certain term or period of time not exceeding twelve calendar months;

For every sum of 100*l.* and also for each and every fractional part of 100*l.* thereby insured to any person or persons . . . . . [0 5 0]

POLICY of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any other lawful insurance whatsoever, NOT HEREINBEFORE CHARGED, shall be made upon any property or interest whatever, from loss or damage of any kind (b);

Where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall not exceed the rate of 20*s.* *per centum* on the sum insured;

If the whole sum insured shall not exceed 100*l.* 0 2 6

And if the whole sum insured shall exceed 100*l.* then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist 0 2 6

And where the premium or consideration for such insurance, actually and *bonâ fide* paid, given, or contracted for, shall exceed the rate of 20*s.* *per centum* on the sum insured; and also where the insurance shall be made for any other than a pecuniary consideration;

If the whole sum insured shall not exceed 100*l.* 0 5 0

And if the whole sum insured shall exceed 100*l.* then for every 100*l.* and also for any fractional part of 100*l.* whereof the same shall consist 0 5 0

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said duty of 2*s.* 6*d.* or 5*s.*, as the case may require, shall be charged thereon, in respect of each and every fractional part of 100*l.* as well as in respect of every full sum of 100*l.* which shall be thereby insured upon any separate and distinct interest.

POWER OF ATTORNEY.—See *Letter of Attorney.*

PRECEPT of clare constat, to give seisin of lands or other heritable subjects in Scotland . . . . . (c) [0 9 0]

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . [0 9 0]

PRESENTATION (d) by his majesty, his heirs or successors, or by any other patron;

To any ecclesiastical benefice, dignity, or promotion in England, of the yearly value of 10*l.* or upwards, in the king's books 20 0 0

To any other ecclesiastical benefice, dignity, or promotion whatsoever in England 10 0 0

PROCURATION, deed, or other instrument of 1 10 0

And where the same, together with any schedule or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained

---

in fact, that the several interests included fractional parts of 100*l.*, which interests were afterwards declared, and indorsed on the policy, such policy cannot be given in evidence, nor is available in law to any extent, unless stamped with a stamp of sufficient value to cover all such fractional parts, though it were sufficient to cover the entire sum (*Rapp* v. *Allnutt*, 15 East, 601).

(a) For the duties now payable, see 7 Vict. c. 21, post.

(b) A policy of insurance on the lives of cattle is an insurance within this clause (*Att.-Gen.* v. *Cleobury*, 4 Exch. 65).

(c) For the duties now payable, see 13 & 14 Vict. c. 97, sched. tit. "PRECEPT."

(d) For the duties now payable, see 5 & 6 Vict. c. 79, 6 & 7 Vict. c. 72; and 5 & 6 Vict. c. 32, for Ireland.

55 G. 3, c. 184.

therein, over and above the first 1080 words, a further progressive duty of . . . . . (a)	£1	0	0
PROMISSORY NOTE (b) for the payment, to the BEARER (c) ON DEMAND of any sum of money (d),			
Not exceeding one pound and one shilling	0	0	5
Exceeding 1*l.* 1*s.* and not exceeding 2*l.* 2*s.*	0	0	10
Exceeding 2*l.* 2*s.* and not exceeding 5*l.* 5*s.*	0	1	3
Exceeding 5*l.* 5*s.* and not exceeding 10*l.*	0	1	9
Exceeding 10*l.* and not exceeding 20*l.*	0	2	0
Exceeding 20*l.* and not exceeding 30*l.*	0	3	0
Exceeding 30*l.* and not exceeding 50*l.*	0	5	0
Exceeding 50*l.* and not exceeding 100*l.*	0	8	6
Which said notes may be re-issued, after payment thereof, as often as shall be thought fit.			
PROMISSORY NOTE (e) for the payment, in any OTHER MANNER THAN TO THE BEARER ON DEMAND, but NOT EXCEEDING TWO MONTHS AFTER DATE, OR SIXTY DAYS AFTER SIGHT, of any sum of money (f)			
Amounting to 40*s.* and not exceeding 5*l.* 5*s.*	[0	1	0]
Exceeding 5*l.* 5*s.* and not exceeding 20*l.*	[0	1	6]
Exceeding 20*l.* and not exceeding 30*l.*	[0	2	0]
Exceeding 30*l.* and not exceeding 50*l.*	[0	2	6]
Exceeding 50*l.* and not exceeding 100*l.*	[0	3	6]
These notes are not to be re-issued after being once paid.			
PROMISSORY NOTE for the payment, EITHER TO THE BEARER ON DEMAND, OR IN ANY OTHER MANNER than to the bearer on demand, *but not exceeding two months after date*, or sixty days after sight, of any sum of money.			
Exceeding 100*l.* and not exceeding 200*l.*	[0	4	6]
Exceeding 200*l.* and not exceeding 300*l.*	[0	5	0]

(*a*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*b*) As to foreign promissory note, see 23 & 24 Vict. c. 111, sched. post.

The duties on promissory notes (except those for the payment to the bearer on demand of any sum not exceeding 100*l.*) are regulated by 17 & 18 Vict. c. 83, sched., and 23 & 24 Vict. c. 111, post.

(*c*) A promissory note, payable to A. B. *or order*, on demand (*Moyser* v. *Whitaker*, 9 B. & C. 409; *Armitage* v. *Berry*, 5 Bing. 501; *Bartrum* v. *Caddy*, 9 Ad. & E. 275), or to A. B. on demand (*Dixon* v. *Chambers*, 1 C. M. & R. 845), or to A. B. generally (*Cheetham* v. *Butler*, 5 B. & Ad. 837, overruling *Keates* v. *Whieldon*, 8 B. & C. 7), is not one payable to *bearer* on demand, and re-issuable within this class, but a note payable *otherwise* than to the bearer on demand, within the next class. A note, making payable to "W. or bearer the sum of 40*l.* value received with interest," is in law a note payable on demand within this class (*Whitlock* v. *Underwood*, 3 D. & R. 356; 2 B. & C. 157; *East* v. ———, 2 Man. & Ry. 8).

(*d*) The words "sum of money" mean the principal sum mentioned in the note, and not a sum compounded of principal and interest. A contrary decision would be most mischievous, and have the effect of avoiding many securities, for it has been the constant practice, under similar provisions applicable to bonds in this and former stamp Acts, to measure the stamp duty by the principal sum secured, although interest is always payable from the date of the bond (*per* Abbott, C. J., *Pruessing* v. *Ing*, 4 B. & Ald. 204; *Peacock* v. *Murrell*, 2 Stark. 558; *Dearden* v. *Binns*, 1 Man. & Ry. 130); see ante, p. 493, n. (*c*), 496, n. (*e*).

(*e*) For the duties now payable see 17 & 18 Vict. c. 83, and 23 & 24 Vict. c. 111, post. As to what are promissory notes, see Vol. I., p. 402, n. (*a*), tit. "BILLS OF EXCHANGE," &c.

A promissory note payable to the plaintiff or order, and originally expressed to be for value received generally, being altered the next day upon the suggestion of one of the partners, by the addition of the words "for the goodwill of the lease and trade," requires a new stamp, such words being material, and not having been originally intended to be inserted, and omitted by mistake (*Knill* v. *Williams*, 10 East, 431; see also *Wright* v. *Inshaw*, 1 Dowl. N. S. 802; Byles on Bills, 241; Bayley on Bills, 126; *Cardwell* v. *Martin*, 9 East, 190, ante, p. 493, n. (*e*)).

A promissory note signed by A., and subsequently by B., whilst in the hands of the payee, as surety for A., unless such signature of B. is in virtue of an agreement subsisting at the time of making the note, will be void without an additional stamp (*Clark* v. *Blackstock*, 1 Holt, N. P. C. 474).

(*f*) A note payable two months after sight requires a stamp appropriated to a note payable more than sixty days after sight, or two months after date, as the two months begin to run, not from the day of the date, but from the presentment for sight (*Sturdy* v. *Henderson*, 4 B. & Ald. 592).

Exceeding 300*l.* and not exceeding 500*l.*	£0	6	0	55 G. 3, c. 184.
Exceeding 500*l.* and not exceeding 1000*l.*	0	8	6	
Exceeding 1000*l.* and not exceeding 2000*l.*	0	12	6	
Exceeding 2000*l.* and not exceeding 3000*l.*	0	15	0	
Exceeding 3000*l.*	1	5	0	

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment TO THE BEARER OR OTHERWISE, at any time *exceeding two months after date*, or sixty days after sight (*a*), of any sum of money,

Amounting to 40*s.* and not exceeding 5*l.* 5*s.*	0	1	6
Exceeding 5*l.* 5*s.* and not exceeding 20*l.*	0	2	0
Exceeding 20*l.* and not exceeding 30*l.*	0	2	6
Exceeding 30*l.* and not exceeding 50*l.*	0	3	6
Exceeding 50*l.* and not exceeding 100*l.*	0	4	6
Exceeding 100*l.* and not exceeding 200*l.*	0	5	0
Exceeding 200*l.* and not exceeding 300*l.*	0	6	0
Exceeding 300*l.* and not exceeding 500*l.*	0	8	6
Exceeding 500*l.* and not exceeding 1000*l.*	0	12	6
Exceeding 1000*l.* and not exceeding 2000*l.*	0	15	0
Exceeding 2000*l.* and not exceeding 3000*l.*	1	5	0
Exceeding 3000*l.*	1	10	0

These notes are not to be re-issued after being once paid.

PROMISSORY NOTE for the payment of any sum of money by INSTALMENTS, or for the payment of several sums of money *at different days* or times, so that the whole of the money to be paid shall be definite and certain . . . . . } *The same duty as on a promissory note, payable in less than two months after date for a sum equal to the whole amount of the money to be paid.*

And the following instruments shall be deemed and taken to be promissory notes, within the intent and meaning of this schedule; viz.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; if the same shall be made payable to the bearer, or to order, and if the same shall be definite and certain, and not amount in the whole to twenty pounds.

And all receipts for money deposited in any bank, or in the hands of any banker or bankers, which shall contain any agreement or memorandum, importing that interest shall be paid for the money so deposited.

Exemptions from the duties on promissory notes.

All notes, promising the payment of any sum or sums of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; where the same shall not be made payable to the bearer or to order, and also where the same shall be made payable to the bearer or to order, if the same shall amount to twenty pounds, or be indefinite.

And all other instruments, bearing in any degree the former style of promissory notes, but which in law shall be deemed special agreements, except those hereby expressly directed to be deemed promissory notes.

But such of the notes and instruments here exempted from the duty on promissory notes shall nevertheless be liable to the duty which may attach thereon, as agreements or otherwise.

Exemptions from the preceding and all other Stamp Duties.

All promissory notes for the payment of money, issued by the governor and company of the bank of England.

PROTEST (*b*).

PURCHASE DEED.—See *Conveyance* on the sale of lands, &c.

REAL BURDEN on lands in Scotland, deed creating.—See *Mortgage, Disposition.*

RECEIPT or discharge (*c*), given for or upon the payment of money—

[Here follows the table which is repealed by 16 & 17 Vict. c. 59.]

(*a*) See ante, p. 532, note (*b*).

(*b*) These duties are now regulated by 24 & 25 Vict. c. 91, s. 25, post.

(*c*) Receipt stamps appear to be first imposed by 23 Geo. 3, c. 49 (1783).

An uniform duty of 1*d.* upon all sums amounting to 2*l.* and upwards is substituted by 16 & 17 Vict. c. 59, sched., post; see 17 & 18 Vict. c.

83, ss. 10, 13, post. The stamp may be impressed or affixed, &c.; if affixed, it must be cancelled. 16 & 17 Vict. c. 59, ss. 3—5, post.

Where a paper purports to be a receipt, and as such requires a stamp, but also purports to be an agreed statement of accounts, which does not require a stamp, it may be given in evidence to show the agreed state of accounts only, though it has not been previously stamped (*Matheson* v. *Ross*, 2 Ho. L. C. 286). But its admissibility under such circumstances is restricted to this extent, so far as it relates simply to proving the statement of account, and is not produced for the purpose of proving the receipt of money in any way (*Ib.*). If a document, which is unstamped, but requires a stamp, is offered in evidence, and if stamped would be evidence to establish any point litigated between the parties, it cannot be received. If it would be of no benefit stamped, it may, though unstamped, be received in evidence (*Ib.*). In an action for work and labour, there was tendered in evidence a paper containing a statement of accounts, which declared a balance of 68*l.* 9*s.* 4*d.*, and at the end was an acknowledgment of the payment of that sum. This paper was offered in evidence by the defendant, not for the purpose of proving that the sum of 68*l.* 9*s.* 4*d.* had been paid, for that was not in contest between the parties, but in order to show what was the admitted state of accounts at a particular time: it was held that it was admissible for that purpose (*Ib.*).

A document containing all the requisites of a contract, but purporting to be a receipt, though by reason of its being insufficiently stamped is inadmissible as such, cannot be received as evidence of the contract (*Evans* v. *Prothero*, 2 Mac. & Gord. 319).

A bill of parcels, on which was written "settled by one bill at three and another at nine months," is not admissible in evidence unless it be stamped (*Smith* v. *Kelby*, 4 Esp. 249). Nor is an acknowledgment of having received the acceptance of a bill of exchange in payment (*Sholey* v. *Walsby*, Peake, 34; *Watkins* v. *Hewlett*, 3 B. Moore, 211; 1 Bro. & B. 1).

A receipt given on a receipt stamp is not invalidated by the addition of matter which requires an agreement stamp, where the words added do not control or qualify the terms of the receipt (*Grey* v. *Smith*, 1 Camp. 387; see *Fancourt* v. *Thorne*, 9 Q. B. 312). A receipt for the price of a horse, containing a warranty of soundness, may be read in evidence to prove the warranty, without an agreement stamp (*Skrine* v. *Elmore*, 2 Camp. 407).

A written acknowledgment at the foot of an account, stating that such account is correct, may be given in evidence without a receipt stamp (*Wellard* v. *Moss*, 1 Bing. 134). But a receipt stamp is necessary where it appears from the paper that the acknowledgments were made at successive times, upon the receipt of the money (*Wright* v. *Shawcross*, 2 B. & Ald. 501, n.; *Jacob* v. *Lindsay*, 1 East, 460). However, the case of a *bonâ fide* account current is different; there the sums stated to be received are not written into the account, at and upon the receipt of the money, but long after, and only amount to admissions of money received at an antecedent time (*per cur. Ib.*).

In an action by F. against his clerk, to recover money received and not accounted for, the plaintiff having proved an admission by the defendant on the 15th of August, that a sum was due, the latter offered in evidence an unstamped receipt, of a subsequent date, for a larger amount. This being rejected, the defendant gave in evidence a memorandum on the back of the same paper, written and signed by the plaintiff, as follows:—"Balanced up to this day, as per cash book. S. F. 19 Nov." It was held that this memorandum was admissible without a receipt stamp (*Finney* v. *Tootell*, 5 C. B. 504).

So "settled all accounts of business up to this day" is admissible without a stamp (*Tebbut* v. *Ambler*, 9 Car. & P. 60; *Wellard* v. *Moss*, 7 Moore, 503).

And where, in an action by the indorsee of a bill of exchange for 9*l.* 5*s.* against the drawer, the defendant pleaded payment by the acceptor, and in support of that plea offered in evidence the following document, without a receipt stamp, signed by the plaintiff:—"Myself v. Marks—Mr. Marks has this day left with me 10*l.* on account of the debt, interest, and costs in this action:" it was held to be admissible without a receipt stamp (*Levy* v. *Alexander*, 4 Exch. 485; *Von Dadelszen* v. *Swann*, 5 Exch. 825; post, p. 537, n. (*b*)).

Where, in an action for goods sold and delivered, in which the defendant had pleaded payment, the only evidence offered in support of the plea was a document in the following form, signed by the plaintiff:—"Memorandum.—That any demand we may have against Mr. G. W. for ironwork, &c., is this day discharged, in consideration of services rendered by him to us.—N.B. Particulars of our account shall be delivered, with stamp receipt:" it was held, that since the document was offered in evidence of a transaction amounting to a payment of money, it was offered in evidence as a receipt or discharge for or upon the payment of money, and therefore required a receipt stamp (*Livingstone* v. *Whiting*, 15 Q. B. 722).

A bill of parcels delivered by the plaintiff, having at the foot a receipt, written at the same time with the bill, is admissible without a receipt stamp, for the purpose of proving that the goods mentioned were sold to a third person and not to the defendant (*Millen* v. *Dent*, 10 Q. B. 846; and see *Perry* v. *Bouchier*, 4 Camp. 80).

A party who on payment of his bill writes the word "settled" by way of receipt, is liable to the penalty for giving a receipt without a stamp

And where any sum of money whatever shall be therein expressed or acknowledged to be received IN FULL OF ALL DEMANDS (*a*) . .	[£0 10 0]	55 G. 3, c. 184.
And any note, memorandum, or writing whatsoever, given to any person for or upon payment of money, whereby any sum of money, debt, or demand, or any part of any debt or demand therein specified, and amounting to two pounds or upwards, shall be expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged or satisfied (*b*), or which shall import or signify any such acknowledgment, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken TO BE A RECEIPT for a sum of money, of equal amount with the sum, debt, or demand so expressed or acknowledged to have been paid, settled,		

(*Sparsforth, qui tam* v. *Alexander*, 2 Esp. 621; 35 Geo. 3, c. 55, ante, p. 442; see 43 Geo. 3, c. 126, ante, p. 457); if intended as a receipt (see *Tebbutt* v. *Alexander*, 9 Car. & P. 60).

It seems that an indorsement of the bailiff on a warrant upon a *fi. fa.* to this effect, "Discharge the defendant in this action, I have received the within levy money," is not such an acknowledgment as to require a receipt stamp (*London (Sheriffs)* v. *Tindall*, 1 Esp. 394; see *Levy* v. *Alexander*, supra).

Where a receipt is given on unstamped paper, it may be used by a witness who saw it given, to refresh his memory (*Rambert* v. *Cohen*, 4 Esp. 213); or if he be blind it may be read over to him (*Catt* v. *Howard*, 3 Stark. 3; *Maugham* v. *Hubbard*, 8 B. & C. 14; *Jacob* v. *Lindsay*, 1 East, 460).

Where a defendant, in support of a plea that he had paid five quarters' rent to M., tendered in evidence the following paper, signed by M.:—"Mr. Jones (defendant), having written off the sum of 72*l.* from his mortgage, being five quarters' rent of his house, I hereby discharge the same rent till the 24th day of July, 1841." M. had delivered the paper to the defendant, being then indebted to him on a mortgage debt exceeding 72*l.* The only stamp on the paper was a 1*l.*, with no denomination on its face, and had been affixed more than one month after the signing and delivery of the paper. The instrument was held to be a receipt, and inadmissible for want of a proper stamp, though a receipt stamp would have cost less than 1*l.*; sect. 10 of this statute not protecting receipts which have not been stamped within a month after execution (see 35 Geo. 3, c. 55, s. 11, ante, p. 443; *Lucas* v. *Jones*, 5 Q. B. 949; *Clarke* v. *Chaplin*, 4 Exch. 403).

The writing off a debt may by agreement be considered as money (*Lucas* v. *Jones*, supra; see *Livingstone* v. *Whiting*, 15 Q. B. 722).

(*a*) A receipt in the following form: "Received of W. C. the sum of 9*l.* in full of what I have done for him," is not a receipt in full of all demands, so as to require a 10*s.* stamp (*Law* v. *Gunby*, 4 Car. & P. 149; *Livingstone* v. *Whiting*, 15 Q. B. 722). The following paper, with a receipt stamp as upon a sum of 10*l.*, was held admissible: "Received of Mr. B. the sum of 10*l.*, in addition to the various moneys received of him at different times, in full satisfaction and discharge of any favours conferred or services rendered to him by either of us at any time during our acquaintance, and which sum we hereby acknowledge to be ample remuneration" (*Boyle* v. *Brandon*, 13 M. & W. 738).

A receipt for 52*l.* 10*s.* requires only a stamp for that amount, though it mentions 100*l.* paid before (*Dibden* v. *Morris*, 2 Car. & P. 44). The defendant having employed the plaintiff to do some plasterer's work for him, the latter required the former to pay him money on account for it weekly as the work was done, which the defendant accordingly did, and receipts were given for the account so paid; and the following receipt was given by the plaintiff to the defendant when the work was completed:—"1843, July 8. Received of Mr. G. L. the sum of 2*l.* 2*s.*, being the balance of account up to this day for houses in Wellington Road:" it was held, that this was an acknowledgment of a sum therein mentioned being received in satisfaction of a debt whereof the amount was not specified, within the meaning of this clause, and required a 10*s.* stamp (*Birt* v. *Leigh*, 14 M. & W. 177; *Dibdin* v. *Morris*, 2 Car. & P. 44).

(*b*) A bare acknowledgment of the receipt of money, not in discharge of a subsisting debt, requires no stamp; as, "Received from T. 170*l.* for value received, which I promise to pay her at the rate of 5 per cent." (*Taylor* v. *Steele*, 16 M. & W. 665; *Huxley* v. *O'Connor*, 8 Car. & P. 204).

So, where the plaintiff, having deposited money in the hands of the defendant, received from him the following memorandum:—"Mr. T. has left in my hands 20*l.*;" in an action to recover that money, the memorandum was held admissible in evidence without a stamp (*Tomkins* v. *Ashby*, 6 B. & C. 541; *Boyle* v. *Brandon*, supra).

"I have received a bill, &c., to recover the value from the parties," &c., is not a receipt or agreement (*Langdon* v. *Wilson*, 2 Man. & Ry. 10).

A memorandum importing that one party had paid money, but containing no acknowledgment by the other of receiving it, is not a receipt (*Rex* v. *Harvey*, Russ. & Ry. 227).

55 G. 3, c. 184.

balanced, or otherwise discharged or satisfied, within the intent and meaning of this schedule, and shall be charged with a duty accordingly.

And any receipt or discharge, note, memorandum, or writing whatever, given to any person for or upon the payment of money, which shall contain, import, or signify any general acknowledgment of any debt, account, claim, or demand, debts, accounts, claims, or demands, whereof the amount shall not be therein specified, having been paid, settled, balanced, or otherwise discharged or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be received in full, or in discharge or satisfaction of any such debt, account, claim, or demand, debts, accounts, claims, or demands, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for the sum of 1000*l.* or upwards, within the intent and meaning of this schedule, and shall be charged with the duty of ten shillings accordingly.

And all receipts, discharges, and acknowledgments of the description aforesaid, which shall be given for or upon payments made by or with any bills of exchange, drafts, promissory notes, or other securities for money, shall be deemed and taken to be receipts given upon the payment of money within the intent and meaning of this schedule.

Exemptions from the preceding Duties on Receipts (*a*).

Receipts exempted from stamp duty by any Act or Acts relating to the assessed taxes (*b*).

Receipts or discharges given by the treasurer of the navy, for any money imprested to or received by him, for the service of the navy.

Receipts or discharges given by any agent, for money imprested to him, on account of the pay of the army or ordnance.

Receipts or discharges given by any officer, seaman, marine or soldier, or their representatives respectively, for or on account of any wages, pay, or pension, due from the navy office, army pay office, or ordnance office.

Receipts or discharges given for the consideration money, for the purchase of any share in any of the government or parliamentary stocks or funds, or in the stocks and funds of the governor and company of the bank of England, or of the East India company, or South Sea company, and for any dividend paid on any share of the said stocks or funds respectively.

Receipts or discharges given for any principal money or interest due on exchequer bills.

Receipts given for money deposited in the bank of England, or in the bank of Scotland, or royal bank of Scotland, or in the bank of the British linen company in Scotland, or in the hands of any banker or bankers, to be accounted for on demand (*c*); provided the same be not expressed to be received of or by the hands of any other than the person or persons to whom the same is to be accounted for. But if with interest (*d*)—See *Promissory Note.*

Receipts or discharges written upon promissory notes, bills of exchange, drafts or orders for the payment of money, duly stamped according to the laws in force at the date thereof; or upon bills of exchange drawn out of but payable in Great Britain.

Receipts or discharges given upon bills or notes of the governor and company of the bank of England.

(*a*) Deposits with bankers, 16 & 17 Vict. c. 59. Land, assessed, and income tax, 16 & 17 Vict. c. 63, s. 9.

(*b*) A receipt for taxes, signed by the clerk of the deputy receivers general of a county in their name, requires no stamp (*Edden* v. *Read*, 3 Camp. 338).

(*c*) An allottee of shares in a company paid his deposit to the company's bankers, and received from them the following receipt:—"Received 100*l.*, to be placed to the account of W. C., &c.; for Messrs. Jones Loyd & Co. 100*l.* signed) A. Palmer.—This receipt not transferable. The party to whom these shares are allotted is requested to attend immediately at the offices of the company, with this receipt, to sign the parliamentary contract, when the receipt will be exchanged for the shares." In an action by the allottee to recover back the deposit, the scheme having been abandoned, it was held that this document was a receipt for money deposited in the hands of a banker, to be accounted for on demand, within this exemption (*Clarke* v. *Chaplin*, 1 Exch. 26; 4 Exch. 403).

(*d*) These receipts with or without interest are equally exempt; 16 & 17 Vict. c. 59, schedule, post.

Letters by the general post acknowledging the safe arrival of any bills of exchange, promissory notes, or other securities for money (*a*). — 55 G. 3, c. 184.

Receipts or discharges indorsed or otherwise written upon or contained in any bond, mortgage or other security, or any conveyance, deed or instrument whatever, duly stamped according to the laws in force at the date thereof, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity thereby secured (*b*).

Releases or discharges for money, by deeds duly stamped according to the laws in force at the date thereof.

Receipts or discharges given for drawbacks or bounties upon the exportation of any goods or merchandise from Great Britain.

Receipts or discharges for the return of any duties of customs upon certificates of over entry.

Receipts or acknowledgments of payment indorsed upon any bills, orders, remittance bills or remittance certificates, drawn by commissioned officers, masters and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the Act passed in the thirty-fifth year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

Receipts or acknowledgments of payment indorsed upon any bills, drawn pursuant to any former Act or Acts of parliament, by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

Receipts given solely for the duty on insurances against fire; and receipts given for the premium and duty on such insurances, to be liable only to the receipt duty in respect of the premium.

See also the general exemptions at the end of this part of the schedule (*c*).

RECOGNIZANCE, statute merchant, and statute staple, entered into as a security for the payment of any sum or sums of money, annuity or annuities, or for the transfer of any share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the East India company, or of the South Sea company.

Where such payment or transfer shall not be already secured by a bond or mortgage, or by some other instrument hereby charged with the same duty as a bond or mortgage . . . . . — *The same duty or duties as on a bond given for the like purpose in England.*

And where such payment or transfer shall be already secured as above mentioned £1 0 0

RECOGNIZANCE, statute merchant, and statute staple, entered into as a security for the performance of any covenant, contract or agreement; or for the due execution of any office or trust; or for rendering a due account of money received or to be received; or for indemnifying any person or persons against any matter or thing 1 15 0

And where any such recognizance or statute as aforesaid, together with any schedule or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*d*) . . . . . [1 5 0]

REGISTER, or entry of the degree of a barrister at law, taken in either of the inns of court in England.—See *Admission*.

REGISTER, or entry of degrees taken in the universities of Great Britain.—See *Admission*.

RELEASE upon the sale of any property.—See *Conveyance*.

(*a*) Such letters are made liable to the duty by 17 & 18 Vict. c. 83, s. 13, post.

(*b*) A document acknowledging the receipt of a cheque in payment of an overdue bill, and undertaking to procure and hand over the bill stamped as an agreement, is within this exemption, and admissible without a receipt stamp (*Van Dadelszen* v. *Swann*, 5 Ex. 825). Where, from the number of receipts endorsed, there is no room left on the back of a bond, receipts for subsequent payments written on unstamped paper, annexed to the bond, may be read in evidence (*Orme* v. *Young*, 4 Camp. 336). A receipt indorsed on the back of a stamped deed may be separately read in evidence, though it be part of an indorsement requiring another stamp (*Odye* v. *Cookney*, 1 M. & Rob. 517).

(*c*) Receipts for land tax, assessed taxes, and income tax, are exempted by 16 & 17 Vict. c. 63, s. 9, post. So also are receipts for money paid to the Crown by 17 & 18 Vict. c. 83, s. 14, post.

(*d*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

55 G. 3, c. 184.

RELEASE (*a*) and renunciation of lands or other property, real or personal, heritable or moveable, or of any right or interest therein; any deed or instrument of, not otherwise charged in this schedule, nor expressly exempted from all stamp duty £1 15 0

And where the same, together with any schedule, receipt or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . . . (*b*) [1 5 0]

RENUNCIATION upon the sale of any property.—See *Conveyance*.

RENUNCIATION of any right or interest in any property, otherwise than upon a sale.—See *Release*.

RESIGNATION (*c*): principal or original instrument of resignation, or service or cognition of heirs, or charter or seisin of any houses, lands, or other heritable subjects in Scotland, holding burgage, or of burgage tenure . [0 9 0]

RESIGNATION (*c*): instrument of resignation of any lands or other heritable subjects in Scotland, not of burgage tenure . . . . . [0 9 0]

And where any of the said instruments shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*d*) [0 9 0]

REVOCATION of any use or trust, uses or trusts, of or concerning any estate or property, real or personal, where made by any writing, not being a deed or will 1 15 0

And where the same, together with any schedule, receipt or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of 1 5 0

If made by deed.—See *Deed*.

SCHEDULE (*e*): inventory, or catalogue of any lands, hereditaments, or heritable subjects, or of any furniture, fixtures, or other goods or effects; or containing the terms and conditions of any proposed sale, lease, or tack, or the conditions and regulations for the cultivation or management of any farm, lands, or other property leased or agreed to be leased: or containing any other matter or matters of contract or stipulation whatsoever; which shall be referred to in or by, and be intended to be used or given in evidence as part of, or as material to, any agreement, lease, tack, bond, deed, or other instrument, charged with any duty in this schedule, but which shall be *separate* and distinct from, and not indorsed on or *annexed* to such agreement, lease, tack, bond, deed, or other instrument . . . . . [1 5 0]

And if the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . . . [1 5 0]

Exemptions from the preceding and all other Stamp Duties.

Printed proposals, published by any corporation or company, respecting insurances, and which shall be referred to in or by any policy or instrument of insurance issued by such corporation or company.

SEISIN (*f*).—Instrument of seisin given upon any charter, precept of *clare constat*, or precept from chancery, or upon any wadset, heritable bond, disposition, apprising, adjudication, or otherwise, of any lands or heritable subjects in Scotland not of burgage tenure . . . . . (*f*) [0 9 0]

(*a*) A release to two joint acceptors of a bill requires but one stamp (*Rex* v. *Bayley*, 1 Car. & P. 435, ante, p. 482, n.

(*b*) See now 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*c*) For the duties now payable, see 13 & 14 Vict. c. 97, sched. tit. "RESIGNATION."

(*d*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*e*) See now 13 & 14 Vict. c. 97, sched. tit. "SCHEDULE."

See *Lake* v. *Ashwell*, 3 T. R. 326. An expired lease referred to in an agreement of demise has been held not to be a schedule, inventory, or catalogue (*Strutt* v. *Robinson*, 3 B. & Ad. 395).

Where inventories are merely *referred to* by the lease, and not contained therein or annexed, the clause respecting the excess of 1080 words does not apply, though perhaps they not being stamped cannot be read (*per* Alexander, L. C. B., in *Duck* v. *Braddyll*, M'Cle. 235; *Weeks* v. *Maillardet*, 14 East, 568).

The want of a stamp on a detached schedule does not render the principal instrument inadmissible (*Dyer* v. *Green*, 1 Exch. 71; *Daines* v. *Heath*, 3 C. B. 938).

Public maps and documents are declared not to be liable to duty by reason of their being referred to in deeds or writings; 17 & 18 Vict. c. 83, s. 22, post.

(*f*) See now 13 & 14 Vict. c. 97, sched. tit "SEISIN."

55 G. 3, c. 184.

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . . . [£0 9 0]

SETTLEMENT (*a*). Any deed or instrument, whether voluntary or gratuitous, or upon any good or valuable consideration, other than a *bonâ fide* pecuniary consideration, whereby any definite and certain principal sum or sums of money (whether charged or chargeable on lands or other hereditaments or heritable subjects or not, or to be laid out in the purchase of lands or other hereditaments or heritable subjects or not, and if charged or chargeable on lands or other hereditaments or heritable subjects, whether to be raised at all events or not), or any definite and certain share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the East India company, or of the South Sea company, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, either in possession or reversion, either absolutely or *conditionally*, or *contingently* (*b*), or for life, or other partial interest, or in any other manner whatsoever;

If such sum or sums of money, or the value of such share or shares in all or any of the said stocks or funds, or both, shall not amount to 1000*l.* . . . . . [1 15 0]

And if the same shall amount to 1,000*l.* and not amount to 2,000*l.* . [2 0 0]

And if the same shall amount to 2,000*l.* and not amount to 3,000*l.* . [3 0 0]

And if the same shall amount to 3,000*l.* and not amount to 4,000*l.* . [4 0 0]

And if the same shall amount to 4,000*l.* and not amount to 5,000*l.* . [5 0 0]

And if the same shall amount to 5,000*l.* and not amount to 7,000*l.* . [7 0 0]

And if the same shall amount to 7,000*l.* and not amount to 9,000*l.* . [9 0 0]

And if the same shall amount to 9,000*l.* and not amount to 12,000*l.* . [12 0 0]

And if the same shall amount to 12,000*l.* and not amount to 15,000*l.* . [15 0 0]

And if the same shall amount to 15,000*l.* and not amount to 20,000*l.* . [20 0 0]

And if the same shall amount to 20,000*l.* or upwards . . . . [25 0 0]

And where any such deed or instrument as last-mentioned, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of (*c*) . . . [1 5 0]

And for any duplicate (*d*) of any such deed or instrument as last-mentioned . . . . . } *The same duty or duties.*

Exemptions from the preceding ad valorem *duties on settlements.*

Bonds, mortgages, and other securities operating as settlements, if chargeable with the *ad valorem* duties on bonds and mortgages hereinbefore granted.

Deeds or instruments of appointment or apportionment, in execution of powers given by any previous settlement, deed, or will, to or in favour of persons specially named or described as the objects of such powers.

Deeds or instruments, merely declaring the trusts of any money or stock, pursuant to any previous settlement, deed or will, or for securing any gifts or dispositions made by any previous settlement, deed, or will.

Wills, testaments, and testamentary instruments, and dispositions *mortis causâ* of every description.

SPECIFICATION (*e*), to be inrolled or recorded, of any discovery or invention for which a patent shall be obtained . . . . . [5 0 0]

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . (*f*) [1 0 0]

SURRENDER upon the sale of lands or other property.—See *Conveyance*.

SURRENDER (not otherwise charged in this schedule nor expressly exempted from all stamp duty) of any term *or terms of years* (*g*), or of any freehold or

---

(*a*) See now 13 & 14 Vict. c. 97, tit. "SETTLEMENT," post; and *Sanville* v. *Coms. of Inland Revenue*, 23 L. J. Ex. 270; 10 Ex. 159.

(*b*) In 13 & 14 Vict. c. 97, sched. tit. "SETTLEMENT," these words are omitted.

(*c*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*d*) See 13 & 14 Vict. c. 97, sched. tit. "DUPLICATE."

(*e*) See now 16 Vict. c. 5, post.

(*f*) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(*g*) An agreement between landlord and tenant, for the latter to give up the principal part of a farm to the former, who was to purchase the

55 G. 3, c. 184.

uncertain interest, in any lands, hereditaments, or heritable subjects, not being of copyhold or customary tenure £1 15 0

And where the same, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of . . . . . (a) [1 5 0]

SURRENDER of copyhold lands or tenements.—See *Copyhold* and *Mortgage*.

TACK of LANDS, &c. in Scotland, belonging to the crown.—See *Grant*.

TACK of LANDS, &c. in Scotland, not belonging to the crown.—See *Lease*.

TACK in security.—See *Mortgage*.

TESTIMONIAL or certificate of the admission of any person, to the degree of a bachelor of arts, in either of the universities in England 3 0 0

TESTIMONIAL or certificate of the admission of any person, to any other degree, in either of the said universities 10 0 0

TRANSFER of any share in the stock and funds of the governor and company of the bank of England, or of the South Sea company, whether upon a sale or otherwise 0 7 9

TRANSFER of any share in the stock and funds of the East India company, whether upon a sale or otherwise . . . . . (b) 1 10 0

TRANSFER of any share or shares in the stock and funds of any other corporation company or society whatever, upon the sale thereof, or by way of mortgage or security.—See *Conveyance—Mortgage*.

TRANSFER of any share or shares in the stock and funds of any other corporation, company or society whatever, not otherwise charged under the head of mortgage, or of conveyance upon the sale of any property . . 1 10 0

TRANSFER upon the sale of any other property.—See *Conveyance*.

TRANSFER of mortgage, wadset, or other security.—See *Mortgage*.

WADSET.—See *Mortgage*.

WARRANT of ATTORNEY (c) (with or without a release of errors) to confess and enter up a judgment in any of his majesty's courts at Westminster, or in any of the courts of the great sessions in Wales, or of the counties palatine of Chester, Lancaster and Durham; which shall be given as a security for the payment of any sum or sums of money, or for the transfer of any share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the East India company, or of the South Sea company . . *The same duty as on a bond for the like purpose.*

Save and except where such payment or transfer shall be already secured by a bond, mortgage, or other security, which shall have paid the *ad valorem* duty on bonds or mortgages imposed in this schedule, or by the Act of the forty-fourth or the Act of the forty-eighth year of his majesty's reign before mentioned; and also except where the warrant of attorney shall be given for securing any sum or sums of money, for which the person giving the same shall be in custody under an arrest (d); and in those cases a duty of . . . . . [1 0 0]

---

stock thereon at a valuation, and the tenant was to hold over half the house without paying rent, and deliver up the same at a subsequent day, requires a surrender stamp, as such agreement operates as a surrender of the term (*Williams* v. *Sawyer*, 6 Moo. 226, 3 Bro. & B. 70; see *Farmer* v. *Rogers*, 2 Wils. 26): but as an instrument must be stamped according to the manner in which it operates at the time of its execution, an agreement to give up possession on a certain event does not (*Weddall* v. *Capes*, 1 M. & W. 50; see *Doe d. Wyatt* v. *Stagg*, 9 L. J. C. P. 73).

(a) See 13 & 14 Vict. c. 97, sched. tit. "PROGRESSIVE DUTY."

(b) See 5 & 6 Will. 4, c. 64, s. 5. The duty of 1*l.* 10*s.* thereby imposed on the transfer in the company's books in England of any part of the territorial debt of the company was repealed by the 23rd Vict. c. 5.

(c) For the duties now payable, see 13 & 14 Vict. c. 97, sched. tit. "WARRANT OF ATTORNEY."

It was held that a warrant of attorney to confess judgment, being liable as a deed to a stamp duty of 10*s.* by various statutes, prior to the 37 Geo. 3, c. 111, which imposed an additional duty of 10*s.* on all deeds, with an exception of bonds and letters of attorney, was within such exception, and therefore liable only to a duty of 10*s.*, as before that statute (*Barrow* v. *Mashiter*, 4 East, 431).

A defeasance upon a warrant of attorney does not require a separate stamp from that upon the warrant of attorney (*Cawthorne* v. *Holben*, 1 N. R. 279; see *Pierpoint* v. *Gower*, 2 Dowl. N. S. 652; Chitty's Stamps, 3rd ed. 266).

(d) Where a party executing a warrant of attorney is in fact a prisoner, it is not invalidated by reason of that fact not being recited therein

WARRANT OR ORDER beneficial, under the sign manual of his majesty, his heirs or successors, except where the same shall be for the service of the navy, army, or ordnance	£1	10	0
And where the same shall be for the service of the navy, army, or ordnance	0	12	6
And where several persons shall be separately and distinctly (and not jointly) benefited by one warrant, the proper duty shall be charged in respect of each such person.			

55 G. 3, c. 184.

General Exemptions from ALL *Stamp Duties* (*a*).

All bonds, contracts, mortgages, conveyances, deeds, and instruments whatever exempted from stamp duty by the Act of the seventeenth year of his majesty's reign, c. 53, or any other Act or Acts of parliament now in force, for promoting the residence of the parochial clergy, by making provision for building, repairing, or purchasing houses and other buildings, for the use of their benefices.

All affidavits, contracts, mortgages, conveyances, deeds and instruments whatever, exempted from stamp duty by the Act of the forty-second year of his majesty's reign, c. 116, or any other Act or Acts of parliament now in force relating to the redemption and sale of the land-tax.

All transfers of shares in the government or parliamentary stocks or funds.

All grants, leases, and other conveyances and instruments, exempted from stamp duty by any Act or Acts of parliament now in force relating to the land revenues of the crown.

All bonds, contracts, and assignments relating to the transportation of convicts.

PART THE SECOND.

Containing the Duties on Law Proceedings.

Which duties are to be paid and payable in England, for and in respect of every skin, sheet or piece of vellum, parchment or paper, upon which the several instruments, matters and things herein charged, shall be respectively written or printed; except where the duties are imposed according to the number of words therein contained, or are expressly charged in any other manner.

And all the instruments, matters, and things therein charged with a duty in respect of every skin, sheet or piece of vellum, parchment, or paper, upon which the same shall be written or printed, shall respectively be written or printed upon vellum, parchment or paper, and in such and the same manner and form, as the like instruments, matters or things, have been heretofore accustomed to be, or are now usually written or printed.

(*Hartley* v. *Manson*, 4 M. & Gr. 172; 1 Dowl. N. S. 711).

A warrant of attorney for a sum above 50*l.* requires a 1*l.* 10*s.* stamp, although one of two parties giving it was in custody at the time of its execution; and if it has a 1*l.* stamp only, it cannot be enforced by judgment, even against him singly, although it is a joint and several warrant (*Solari* v. *Yorston*, 2 P. & Dav. 338).

(*a*) To these general exemptions are to be added the following deeds, &c.: under the bankrupt Acts (12 & 13 Vict. c. 106, s. 138, and sched. (C)); the insolvent debtors Act (1 & 2 Vict. c. 110, s. 116; and 19 & 20 Vict. c. 79, 20 & 21 Vict. c. 60); under the church building Acts, all deeds of gifts, grants, securities, contracts, agreements, deeds, and conveyances made for any of the purposes of the said Acts (3 Geo. 4, c. 72, s. 38); under the poor law Act (4 & 5 Will. 4, c. 76, ss. 86, 87; and 1 & 2 Vict. c. 5, s. 96; see the guardians of the *Banbury Union* v. *Robinson*, 4 A. & E. N. S. 919, where it was held that a contract for sale of land by the union under 5 & 6 W. 4, c. 69, s. 9, was within this exemption); under the tithe commutation Act (6 & 7 Will. 4, c. 71, s. 91), deeds or declarations authorised by 1 Vict. c. 69, s. 12; and 1 & 2 Vict. c. 64, s. 2, for merging of tithes; inclosure Act (8 & 9 Vict. c. 118, s. 163); under the friendly societies Acts (10 Geo. 4, c. 56, s. 37; 3 & 4 Vict. c. 73, s. 1, ante, Vol. II., p. 200; 13 & 14 Vict. c. 115, s. 39; 18 & 19 Vict. c. 63, s. 37); under the building societies Act (6 & 7 Will. 4, c. 32, ss. 4, 8); under the loan societies Act for England (5 & 6 Will. 4, c. 23, s. 7); 3 & 4 Vict. c. 110, ss. 9, 12, 14; 6 & 7 Vict. c. 91, s. 16 (Ireland); bonds and securities given to the commissioners under the drainage Act in Ireland, and all certificates and other instruments made under 9 & 10 Vict. c. 101; conveyances, &c. by the commissioners of woods and forests (10 Geo. 4, c. 50, s. 77); advertisements inserted by the board of health under 11 & 12 Vict. c. 63, s. 151; instruments required by the mercantile marine Act (13 & 14 Vict. c. 93, s. 22); and certificates under the seamen's fund winding-up Act (14 & 15 Vict. c. 102, s. 54); merchant shipping Act (17 & 18 Vict. c. 104).

55 G. 3, c. 184.

And where a court of law or equity is mentioned generally, the same shall be taken to mean not only the courts at Westminster, but also the several courts of law or equity of the great sessions in Wales, and in the counties palatine of Chester, Lancaster, and Durham, or elsewhere in England.

[N.B. *The matters in this schedule are repealed by 5 Geo. 4, c. 41, in the schedule to that Act, excepting the items following.*]

I. PROCEEDINGS in the high court of admiralty and in the courts of the cinque ports, exercising admiralty jurisdiction, the high court of appeals in prize causes, and the high court of delegates in admiralty matters in England (*a*).

EXEMPLIFICATION, under the seal of any of the said courts, of any record or proceeding therein	£3	0	0

II. PROCEEDINGS in the ecclesiastical courts, and in the high court of delegates, in ecclesiastical matters in England.

EXEMPLIFICATION under the seal of any of the said courts, of any record or proceeding therein (*b*)	3	0	0

III. PROCEEDINGS in the courts of law and equity at Westminster, including the court of the duchy of Lancaster, and in other courts in England, and the offices belonging thereto, and also before the lord high chancellor, or the lord keeper, or commissioners for the custody of the great seal, in matters of bankruptcy and lunacy.

EXEMPLIFICATION, under the seal of any court of law or equity whatever, of any record or proceeding therein (except exemplifications under the great seal charged in the first part of this schedule)	3	0	0
GRANT (*a*) of the custody of the person or estate of any lunatic	2	0	0
INDENTURES or chirograph of a fine levied in any court, for each part or indenture	0	10	0
WARRANT of attorney (*c*), not otherwise charged in the first part of this schedule	1	0	0
WRIT of covenant for levying a fine	2	0	0
WRIT of entry for suffering a common recovery	2	0	0
WRIT of error	1	0	0

General Exemptions from all Stamp Duties.

Warrants, mandates, or authorities to commence, carry on, or to defend any actions, suits, or prosecutions in any court, where the debt, damage, or thing claimed or demanded, shall not amount to or be of the value of forty shillings.

Warrants, mandates, or authorities to commence, carry on, or defend any prosecutions or proceedings upon indictments, or upon any information, suit, writ, or process, in the name of his majesty, his heirs or successors, or at the instance of the attorney-general of England, lord advocate of Scotland, or other officer legally authorised to prosecute or sue in the name or for the interest of his majesty, his heirs or successors.

But these exemptions are not to extend to informations in the nature of *quo warranto*, filed by his majesty's coroner and attorney in the court of king's bench; nor to informations in courts of equity, at the relation of private persons; nor to informations where any other person than his majesty, his heirs or successors, shall be entitled to any penalty or forfeiture, or any share thereof.

All proceedings for or on behalf of any person legally admitted to sue or defend in *formâ pauperis*; and all proceedings of courts martial; and all proceedings in criminal suits and prosecutions whatsoever.

All orders, decrees, and proceedings of or before any commissioners of sewers, and of or in the stannary courts in England.

All summonses, attachments, executions, and other proceedings in or issuing out of any of the courts established for the recovery of debts not exceeding five pounds, commonly called courts of requests, in England.

All warrants to sue and defend in the courts baron of any honours or manors in England, which hold pleas in actions or suits for any debt or damages not exceeding five pounds; and all plaints, summonses, executions, writs, and other proceedings in or issuing out of such courts.

All proceedings in the courts called, or commonly known by the name of, small debts courts in Scotland.

And all proceedings under the Scotch statute relative to the aliment of poor prisoners, or under the Act of sederunt of the court of session in Scotland, relative to the liberation of prisoners on account of sickness.

All petitions, proceedings, and copies, exempted from stamp duty by any Act or Acts of parliament, relating to abuses of trusts for charitable purposes.

(*a*) Ireland, 5 & 6 Vict. c. 82.

(*b*) An exemplification of letters of administration *de bonis non*, reciting the former grant of administration, requires to be stamped only as an exemplification of a single proceeding (*Doe d. Edwards* v. *Gunning*, 7 Ad. & E. 243).

(*c*) See ante, p. 540, n. (*c*).

55 G. 3, c. 184.

PART THE THIRD.

Containing the Duties on Probates of WILLS AND LETTERS OF ADMINISTRATION; on Confirmations of Testaments, testamentary and dative; on Inventories to be exhibited in the Commissary Courts in Scotland; and on Legacies out of real or personal, heritable or moveable Estate; and on Successions to personal or moveable Estates upon Intestacy.

PROBATE of a will, and letters of administration with a will annexed, to be granted in England (*a*).

(*a*) As to the duty of an executor or administrator to prove or obtain letters of administration within six months after the death of the deceased, see 37 Geo. 3, c. 90, s. 10. See section 38, ante, p. 472; see 21 & 22 Vict. c. 56, s. 9–16, ante, p., Vol. I., p. 1433, tit. "EXECUTORS;" 23 & 24 Vict. c. 15, s. 4, post; *ib.* c. 80, post.

Probate duty is granted in respect of such part only of the assets as the administrator can recover by virtue of the probate, being in fact that property which, but for the will, the ordinary would in early times have been entitled to apply to pious uses (*per* Lord Abinger, *Platt* v. *Routh*, 6 M. & W. 791). It is not therefore payable in respect of property which is not situate locally within the jurisdiction of the court of probate, as in respect of French *rentes* (*Att.-Gen.* v. *Dimond*, 1 C. & J. 356), or of property in America (*Att.-Gen.* v. *Hope*, 1 C. M. & R. 530; 8 Bli. 44); as French *rentes* and American stock are part of the national debts of France and America respectively, and are transferable there only: nor in respect of bills payable in India (*Pearse* v. *Pearse*, 9 Sim. 430); but it is payable on Russian and Danish bonds, the dividends of which are payable in London, and the bonds themselves saleable and transferable by delivery merely, where it is not necessary for the holder to do any act out of the kingdom to render the transfer valid (*per* Lord Abinger, C. B., *Att.-Gen.* v. *Bouwens*, 4 M. & W. 171; *Reg.* v. *Balby, &c.*, 22 L. J. Q. B. 164). Shares in railway companies in Scotland are assets there, if the holders of them must be registered at the offices situated in that country; and they must be inventoried and the duty on them paid there, even although the probate duty paid in England would be sufficient to cover the duty payable on such shares, if they could be included in the English probate (*Att.-Gen.* v. *Higgins*, 26 L. J. Exch. 403, 2 H. & Nor. 339; *Att.-Gen.* v. *Bunning*, 28 L. J. Exch. 125; 4 H. & Nor. 94; 8 H. L. C. 243).

Simple contract debts, not owing on securities, transferable by delivery without indorsement (*Att.-Gen.* v. *Bouwens*, supra), are *bona notabilia* where the debtor resided at the time of his death (*Northampton* v. *St. John*, 2 Leon. 56; *Nicholl* v. *Thomas*, 14 Jur. 227); specialty debts and simple contract debts or securities transferable by delivery (as bank notes, Dutch bonds, &c.), where the instrument is at the death (*Gurney* v. *Rawlins*, 2 M. & W. 87); judgments and statutes where they are recorded (*Daniel* v. *Luker*, Dyer, 305, *a*; 1 Saund. 275); leaseholds and rent-charges for years, where the land lies (*Ib.*); mortgages under the general turnpike Act, where the road or toll-houses are (*Reg.* v. *Balby, &c.*, 22 L. J. Q. B. 164); and stock in the public funds, in the province of Canterbury or diocese of London (*Scarth* v. *Bishop of London*, 1 Hagg. 625; *Rex* v. *Capper*, 5 Price, 217, 262; see Jarm. Suppl. 160). Shares in railway companies are assets in the country in which the holders must be registered (*Att.-Gen.* v. *Higgins*, 2 H. & Nor. 339; 26 L. J. Exch. 403).

It was formerly considered that property the subject of a power of appointment by will was subject to probate duty (*Palmer* v. *Whitmore*, 5 Sim. 178; *Nail* v. *Punter*, *ib.* 555; *Att.-Gen.* v. *Staff*, 2 C. & M. 124); but it is now settled that no probate duty is in such case payable (*Platt* v. *Routh*, 6 M. & W. 756; 3 Beav. 257; *Drake* v. *Att.-Gen.*, 10 Cl. & Fin. 257; and see *Vandiest* v. *Pynmore*, 6 Sim. 570).

All moneys recoverable by virtue of a probate, in whatever form recovered, whether through the agency of a court of equity, or of a court of law, are part of the estate and effects of the testator, and are liable to probate duty (*Att.-Gen.* v. *Bunning*, 8 H. L. Cas. 243; 4 H. & Nor. 94; 30 L. J. Exch. 379).

Real estate used for partnership purposes, though considered as personal estate as between the partners and their respective representatives, real and personal, is not liable to probate duty (*Custance* v. *Bradshaw*, 4 Hare, 315).

Real estate conveyed upon trust for sale is not so converted as to let in probate duty upon any surplus that may remain after satisfying the specified purposes (*Matson* v. *Swift*, 8 Beav. 368).

A. sued out a commission of bankrupt against B. upon a debt due to him as executor, but the probate of the will had an insufficient stamp; afterwards, however, a sufficient stamp being affixed, it was held that it was sufficient to support the petitioning creditor's debt, in an action by the assignees (*Rogers* v. *James*, 2 Marsh. 425 7 Taunt. 147).

But if an administrator shows that he sues in trover on his own possession, for a greater value than is covered by the *ad valorem* stamp on his

55 G. 3, c. 184.

CONFIRMATION of any testament testamentary, or eik thereto, to be expeded in any commissary court in Scotland, where the deceased shall have died before or upon the 10th day of October, 1808, and subsequent to the 10th day of October, 1804;

INVENTORY to be exhibited and recorded in any commissary court in Scotland, of the estate and effects of any person deceased, who shall have died after the 10th day of October, 1808, and have left any testament or testamentary disposition of his or her personal or moveable estate and effects, or any part thereof;

Where the estate and effects for or in respect of which such probate, letters of administration, confirmation, or eik respectively shall be granted or expeded, or whereof such inventory shall be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as a trustee (*a*) for any other person or persons, and not beneficially, shall be

				Duty.
above the value of	20*l.*	and under the value of	100*l.*	£0 10
of the value of	100*l.*	and under the value of	200*l.*	2 0
of the value of	200*l.*	and under the value of	300*l.*	5 0
of the value of	300*l.*	and under the value of	450*l.*	8 0
of the value of	450*l.*	and under the value of	600*l.*	11 0
of the value of	600*l.*	and under the value of	800*l.*	15 0
of the value of	800*l.*	and under the value of	1,000*l.*	22 0
of the value of	1,000*l.*	and under the value of	1,500*l.*	30 0
of the value of	1,500*l.*	and under the value of	2,000*l.*	40 0
of the value of	2,000*l.*	and under the value of	3,000*l.*	50 0
of the value of	3,000*l.*	and under the value of	4,000*l.*	60 0
of the value of	4,000*l.*	and under the value of	5,000*l.*	80 0
of the value of	5,000*l.*	and under the value of	6,000*l.*	100 0
of the value of	6,000*l.*	and under the value of	7,000*l.*	120 0
of the value of	7,000*l.*	and under the value of	8,000*l.*	140 0
of the value of	8,000*l.*	and under the value of	9,000*l.*	160 0
of the value of	9,000*l.*	and under the value of	10,000*l.*	180 0
of the value of	10,000*l.*	and under the value of	12,000*l.*	200 0
of the value of	12,000*l.*	and under the value of	14,000*l.*	220 0
of the value of	14,000*l.*	and under the value of	16,000*l.*	250 0
of the value of	16,000*l.*	and under the value of	18,000*l.*	280 0
of the value of	18,000*l.*	and under the value of	20,000*l.*	310 0
of the value of	20,000*l.*	and under the value of	25,000*l.*	350 0
of the value of	25,000*l.*	and under the value of	30,000*l.*	400 0
of the value of	30,000*l.*	and under the value of	35,000*l.*	450 0
of the value of	35,000*l.*	and under the value of	40,000*l.*	525 0
of the value of	40,000*l.*	and under the value of	45,000*l.*	600 0
of the value of	45,000*l.*	and under the value of	50,000*l.*	675 0
of the value of	50,000*l.*	and under the value of	60,000*l.*	750 0
of the value of	60,000*l.*	and under the value of	70,000*l.*	900 0
of the value of	70,000*l.*	and under the value of	80,000*l.*	1,050 0
of the value of	80,000*l.*	and under the value of	90,000*l.*	1,200 0
of the value of	90,000*l.*	and under the value of	100,000*l.*	1,350 0
of the value of	100,000*l.*	and under the value of	120,000*l.*	1,500 0
of the value of	120,000*l.*	and under the value of	140,000*l.*	1,800 0
of the value of	140,000*l.*	and under the value of	160,000*l.*	2,100 0
of the value of	160,000*l.*	and under the value of	180,000*l.*	2,400 0
of the value of	180,000*l.*	and under the value of	200,000*l.*	2,700 0

---

letters of administration, he shows his administration to be void, and cannot recover, although he sues for a doubtful claim (*Hunt* v. *Stevens*, 3 Taunt. 113). He must prove his administration, for that constitutes his title to recover. And it will not suffice to sue out new letters of administration on a larger stamp, after he has obtained judgment (*Ib.*; see *Carr* v. *Roberts*, 2 B. & Ad. 905; *Jones* v. *Howells*, 2 Hare, 342). Where a plaintiff sued to recover a large unliquidated sum due to her testatrix, but the stamp on the probate did not cover the amount claimed, it was held that the plaintiff could not obtain a decree, even for accounts and inquiries, until the probate had been properly stamped; and the cause stood over for that purpose (*Howard* v. *Prince*, 10 Beav. 312; *Christian* v. *Devereux*, 12 Sim. 264; *Roberts* v. *Madocks*, 16 Sim. 55).

It seems that the defendant will not be allowed to enter into evidence as to the value of property not in question in the action (see *per* Lord Abinger, *Whyte* v. *Rose*, 3 Q. B. 499; Jarm. Suppl. by Sweet, 163).

(*a*) This provision was made for the exemption of mere trustees, as where property is mortgaged in trust (see *Carr* v. *Roberts*, 2 B. & Ad. 905).

of the value of	200,000*l.*	and under the value of	250,000*l.*	£3,000	0	55 G. 3, c. 184.
of the value of	250,000*l.*	and under the value of	300,000*l.*	3,750	0	
of the value of	300,000*l.*	and under the value of	350,000*l.*	4,500	0	
of the value of	350,000*l.*	and under the value of	400,000*l.*	5,250	0	
of the value of	400,000*l.*	and under the value of	500,000*l.*	6,000	0	
of the value of	500,000*l.*	and under the value of	600,000*l.*	7,500	0	
of the value of	600,000*l.*	and under the value of	700,000*l.*	9,000	0	
of the value of	700,000*l.*	and under the value of	800,000*l.*	10,500	0	
of the value of	800,000*l.*	and under the value of	900,000*l.*	12,000	0	
of the value of	900,000*l.*	and under the value of	1,000,000*l.*	13,500	0	
of the value of	1,000,000*l.*	and upwards (*a*)		[15,000	0]	

LETTERS OF ADMINISTRATION, without a will annexed, to be granted in England;

CONFIRMATION of any TESTAMENT dative, to be expeded in any commissary court in Scotland, where the deceased shall have died before or upon the 10th day of October, 1808, and subsequent to the 10th day of October, 1804;

INVENTORY to be exhibited and recorded in any commissary court in Scotland, of the estate and effects of any person deceased, who shall have died after the 10th day of October, 1808, without leaving any testament or testamentary disposition of his or her personal or moveable estate or effects, or any part thereof;

Where the estate and effects of or in respect of which such letters of administration or confirmation respectively shall be granted or expeded, or whereof such inventory shall be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially (*b*), shall be

above the value of	20*l.*	and under the value of	50*l.*	£0	10
of the value of	50*l.*	and under the value of	100*l.*	1	0
of the value of	100*l.*	and under the value of	200*l.*	3	0
of the value of	200*l.*	and under the value of	300*l.*	8	0
of the value of	300*l.*	and under the value of	450*l.*	11	0
of the value of	450*l.*	and under the value of	600*l.*	15	0
of the value of	600*l.*	and under the value of	800*l.*	22	0
of the value of	800*l.*	and under the value of	1,000*l.*	30	0
of the value of	1,000*l.*	and under the value of	1,500*l.*	45	0
of the value of	1,500*l.*	and under the value of	2,000*l.*	60	0
of the value of	2,000*l.*	and under the value of	3,000*l.*	75	0
of the value of	3,000*l.*	and under the value of	4,000*l.*	90	0
of the value of	4,000*l.*	and under the value of	5,000*l.*	120	0
of the value of	5,000*l.*	and under the value of	6,000*l.*	150	0
of the value of	6,000*l.*	and under the value of	7,000*l.*	180	0
of the value of	7,000*l.*	and under the value of	8,000*l.*	210	0
of the value of	8,000*l.*	and under the value of	9,000*l.*	240	0
of the value of	9,000*l.*	and under the value of	10,000*l.*	270	0
of the value of	10,000*l.*	and under the value of	12,000*l.*	300	0
of the value of	12,000*l.*	and under the value of	14,000*l.*	330	0
of the value of	14,000*l.*	and under the value of	16,000*l.*	375	0
of the value of	16,000*l.*	and under the value of	18,000*l.*	420	0
of the value of	18,000*l.*	and under the value of	20,000*l.*	465	0
of the value of	20,000*l.*	and under the value of	25,000*l.*	525	0
of the value of	25,000*l.*	and under the value of	30,000*l.*	600	0
of the value of	30,000*l.*	and under the value of	35,000*l.*	675	0
of the value of	35,000*l.*	and under the value of	40,000*l.*	785	0
of the value of	40,000*l.*	and under the value of	45,000*l.*	900	0
of the value of	45,000*l.*	and under the value of	50,000*l.*	1010	0
of the value of	50,000*l.*	and under the value of	60,000*l.*	1125	0
of the value of	60,000*l.*	and under the value of	70,000*l.*	1350	0
of the value of	70,000*l.*	and under the value of	80,000*l.*	1575	0
of the value of	80,000*l.*	and under the value of	90,000*l.*	1800	0
of the value of	90,000*l.*	and under the value of	100,000*l.*	2025	0
of the value of	100,000*l.*	and under the value of	120,000*l.*	2250	0
of the value of	120,000*l.*	and under the value of	140,000*l.*	2700	0
of the value of	140,000*l.*	and under the value of	160,000*l.*	3150	0
of the value of	160,000*l.*	and under the value of	180,000*l.*	3600	0
of the value of	180,000*l.*	and under the value of	200,000*l.*	4050	0
of the value of	200,000*l.*	and under the value of	250,000*l.*	4500	0
of the value of	250,000*l.*	and under the value of	300,000*l.*	5625	0
of the value of	300,000*l.*	and under the value of	350,000*l.*	6750	0
of the value of	350,000*l.*	and under the value of	400,000*l.*	7875	0

(*a*) In lieu of this duty, for every 100,000*l.*, and any fractional part thereof, 1,500*l.*, 22 & 23 Vict. c. 36, post.

(*b*) See *Carr* v. *Roberts*, 2 B. & Ad. 905, ante, p. 544, n. (*q*), and 23 Vict. c. 15, s. 6, and 23 & 24 Vict. c. 80.

55 G. 3 c. 184.

of the value of	400,000*l.* and under the value of	500,000*l.*	. .	£9000	0
of the value of	500,000*l.* and under the value of	600,000*l.*	. .	11,250	0
of the value of	600,000*l.* and under the value of	700,000*l.*	. .	13,500	0
of the value of	700,000*l.* and under the value of	800,000*l.*	. .	15,750	0
of the value of	800,000*l.* and under the value of	900,000*l.*	. .	18,000	0
of the value of	900,000*l.* and under the value of	1,000,000*l.*	. .	22,250	0
of the value of	1,000,000*l.* and upwards (*a*).	. . . .	.	22,500	0

Exemptions from all Stamp Duties.

Probate of will, letters of administration, confirmation of testament, and eik thereto, and inventory of the effects of any common seaman, marine, or soldier, who shall be slain or die in the service of his majesty, his heirs or successors.

Additional inventory (*b*) to be exhibited and recorded in any commissary court in Scotland; where the same shall not be liable to a duty of greater amount than the duty already paid upon any former inventory exhibited and recorded of the estate and effects of the same person (*c*).

LEGACIES (*d*) and SUCCESSIONS to personal or moveable estate upon intestacy. I. Where the testator, testatrix, or intestate died before or upon the 5th day of April, 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount (*e*) or value of 20*l.* or upwards, given by any will or TESTAMENTARY INSTRUMENT (*f*) OF ANY PERSON who died before or

---

(*a*) For every 100,000*l.*, and any fractional part of 100,000*l.*, 2,250*l.*, 22 & 23 Vict. c. 36.

(*b*) See as to additional inventories, 16 & 17 Vict. c. 59, s. 8, post.

(*c*) As to deceased depositor in Savings Bank whose estate does not exceed 50*l.*, see 9 Geo. IV. c. 92, s. 40.

(*d*) See Roper on Legacies; Wms. on Executors; Jarm. Supplement; Tilsley on Stamps; and Chitty's Stamps, 3rd ed. 389.

The forgiveness of a bond debt by will is a legacy, and as such liable to the payment of duty (*Att.-Gen.* v. *Holbrook*, 3 Y. & J. 114). A direction to pay the debts of another is a legacy to the creditors (*Foster* v. *Ley*, 2 Scott, 438). But a direction to apply a certain fund in payment of particular creditors of the testator himself, whose debts are specified in the will, is no legacy (*Williamson* v. *Naylor*, 3 Y. & C. 208.)

(*e*) A testator devised real estates to W. T. for life, with remainder to his first and other sons in tail, with remainder to T. P. for life, remainder to his first and other sons in tail, remainder to G. P. for life with remainders over; and gave a power to the several persons, who by virtue of the limitations in the will should be in actual possession of the estates, by deed or will to appoint to any woman or women they should marry, by way of jointure or rent-charge, not exceeding 750*l.* per annum for life, to be issuing out of and chargeable upon the devised estates, clear of all taxes and deductions whatsoever. W. T. died without issue, and T. P. entered into possession of the estates and by his will charged them with 750*l.* per annum by way of jointure to his wife under the power, and died without issue male, whereupon G. P. entered into possession. It was held that G. P. was chargeable with legacy duty after the rate of 10*l.* per cent. on the value of the rent-charge of 752*l.* per annum (*Att.-Gen.* v. *Pickard*, 3 M. & W. 552; 9 M. & W. 348; see *Att.-Gen.* v. *Lord Henniker*, 7 Exch. 331; 22 L. J., Exch. 41).

A rent-charge issuing out of land is liable to the payment of legacy duty (*Att.-Gen.* v. *Jackson*, 2 C. & J. 101; *Stow* v. *Davenport*, 5 B. & Ad. 359; *Shirley* v. *Earl of Ferrers*, 1 Phil. 167; *Att.-Gen.* v. *Jackson*, 2 C. & J. 101; *Att.-Gen.* v. *Pickard*, 3 M. & W. 552; 6 M. & W. 348).

(*f*) The legacy duty may attach upon gifts *by deed*, if its nature be testamentary (*Att.-Gen.* v. *Jones*, 3 Price, 368; *Tompson* v. *Brown*, 3 Myl. & K. 32; and see *Fletcher* v. *Fletcher*, 4 Hare, 67; Wms. on Exors. 85).

A bequest of real property to trustees to be sold, and the profits to be deemed part of the residue of the testator's estate, or to go in aid (if necessary) of the rest of his property, in discharge of his pecuniary legacies given either by his will or any codicil thereto, was liable to the legacy duty imposed by the 48 Geo. 3, c. 149, although the residuary legatee took the property *in statu quo*, and the trustees did not convert it into money by sale, according to the directions of the will, there being no claim to render such sale necessary (*Att.-Gen.* v. *Holford*, 1 Price, 426; *Williamson* v. *The Advocate-General*, 10 Cl. & Fin. 1; *Att.-Gen.* v. *Metcalf*, 6 Exch. 26).

So a jointure, or other rent, limited under a power given by a will, is also liable to duty as a legacy given by that will (*Att.-Gen.* v. *Pickard*, 3 M. & W. 552; 6 M. & W. 348; *Stow* v. *Davenport*, 5 B. & Ad. 359; see 8 & 9 Vict. c. 76, s. 4, post). Where a testator who had been bankrupt in 1822, by his will, dated in 1851, directed his just debts to be paid, in which he included "the unpaid in full debts" proved in the bankruptcy, and directed his executors to pay to the official assignee in trust to pay to the

upon the 5th day of April, 1805, out of his or her personal (*a*) or moveable estate, and which shall be paid, delivered, satisfied, or discharged, after the 31st day of August, 1815 (*b*). 55 G. 3, c. 184.

Also for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person who died before or upon the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies, and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied or discharged, after the 31st day of August, 1815.

	Per cent.
Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 2*l.* and 10*s.* per centum, on the amount or value thereof	£2 10 0
Where any such legacy, or residue, or share of such residue shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased; a duty at and after the rate of 4*l.* per centum on the amount or value thereof	4 0 0
Where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased; a duty at and after the rate of 5*l.* per centum on the amount or value thereof	5 0 0
And where any such legacy, or residue, or share of such residue, shall have been given, or have devolved, to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased; a duty at and after the rate of 8*l.* per centum on the amount or value thereof	8 0 0

II. Where the testator, testatrix, or intestate, shall have died after the 5th day April, 1805.

---

creditors under the bankruptcy, so much money as would make the dividend on the estate equal to 20*s.* in the pound: it was held, that the official assignee was entitled to receive a sum sufficient to pay all the creditors then living, and the representatives of those who were dead, 20*s.* in the pound, and that legacy duty must be paid on the amount by the executors out of the residue of the testator's estate (*Turner* v. *Martin*, 7 De Gex, M. & G. 429, 26 L. J. Ch. 216).

(*a*) The duty is payable not only upon a legacy payable out of the personal estate, strictly considered, of the testator, but out of any personal estate whatsoever which the testator had the power of disposing (*In re Cholmondeley*, 1 C. & M. 149; see *Att.-Gen.* v. *Marquis of Hertford*, 14 M. & W. 284; 3 Exch. 670). Personal property having no *situs* of its own, follows the domicile of its owner. And the law of the domicile of a testator or intestate decides whether his personal property is liable to legacy duty (*Thompson* v. *Advocate-General*, 13 Sim. 153; 12 Cl. & Fin. 1; *Commissioners of Charitable Donations* v. *Devereux*, 13 Sim. 14).

An officer on duty in India in her majesty's service does not acquire a domicile in that country; but an officer in the service of the East India Company does (*Att.-Gen.* v. *Napier*, 6 Exch. 217; *Bruce* v. *Bruce*, 2 Bos. & P. 229, n.; *Craigie* v. *Lewin*, 3 Curt. 435; *Munroe* v. *Douglas*, 5 Mad. 379; see *Att.-Gen.* v. *Metcalfe*, 6 Exch. 26; *Att.-Gen.* v. *Kent*, 31 L. J. Exch. 391; see 23 Vict. c. 5).

(*b*) Or after the 9th of October, 1842, in Ireland.

A legacy (bequeathed by will of a person dying in 1771) of a sum to an executor, to pay the interest thereon to the testator's natural child for his life, and on his death to pay over the principal to his children, the interest of which had accordingly been regularly paid to the legatee up to his death, which happened in 1812; his two sons (his only children) having died long before that time, and previously disposed of their interest in the bequest, was holden to be within 48 Geo. 3, c. 149, sched. 3, as being a legacy given by will of a person dying before 5th April, 1805, and not paid, retained, satisfied, or discharged till after the 10th October, 1808, and consequently liable (as to the interest taken by the representatives of the children) to the duty of eight per cent. imposed by that statute on such legacies, when given for the benefit of strangers in blood to the testator, and that notwithstanding the principal had, in 1794, been invested in the funds by their executors (in their own names) to answer the purposes of the will (*Att.-Gen.* v. *Manners*, 1 Price, 411).

55 G. 3, c. 184.

For every legacy, specific or pecuniary, or of any other description of the amount or value of 20*l.* or upwards, given by any *will or testamentary instrument of any person* who shall have died after the 5th day of April, 1805, either out of his or her personal or moveable estate (*a*), or out of or charged upon his or her real or heritable estate (*b*), or out of any moneys to arise by sale, mortgage, or other disposition of his or her real or heritable estate, or any part thereof, and which shall be paid, delivered, retained, satisfied, or discharged after the 31st day of August, 1815 (*c*).

Also, for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person, who shall have died after the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies, and other charges first payable thereout), whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of residue, shall be of the amount or value of 20*l.* or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged after the 31st day of August, 1815 (*d*).

And also for the clear residue (when given to one person) and for every share of the clear residue (when given to two or more persons) of the moneys to arise from the sale, mortgage, or other disposition, of any real or heritable estate directed to be sold (*e*), mortgaged, or otherwise disposed of, by any will or testamentary instrument, of any person, who shall have died after the 5th day of April, 1805 (after deducting debts, funeral expenses, legacies, and other charges first made payable thereout, if any), where such residue, or share of residue, shall amount to 20*l.* or upwards, and where the same shall be paid, retained, or discharged after the 31st day of August, 1815.

Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a child of the deceased, or any descendant of a child of the deceased, or to or for the benefit of the father or mother, or any lineal ancestor of the deceased; a duty at and after the rate of 1*l.* per centum on the amount or value thereof . . . . . (*f*)

	Per cent.
	£1 0 0

(*a*) *In re Cholmondeley*, 1 C. & M. 149.

(*b*) See *Att.-Gen.* v. *Marquis of Hertford*, 14 M. & W. 284; *In re Harris*, 7 Exch. 344; 8 & 9 Vict. c. 76, s. 4.

The profits arising from the tolls of a lighthouse are real estate, and not subject either to probate or legacy duty (*Att.-Gen.* v. *Jones*, 1 Mc. & Gord. 574).

(*c*) See *Att.-Gen.* v. *Wood*, 2 Y. & J. 290.

(*d*) See *Att.-Gen.* v. *Hancock*, 2 M. & W. 563; *Hill* v. *Atkinson*, 2 Mer. 45, 3 Pr.

(*e*) It is not necessary, to bring a case within the word "direct," that that word should be found in the will, but it is sufficient if it was the object of the will and the intention of the testator that a sale should be effected (*In re Evans*, 2 C. M. & R. 206). The duty attaches on money which is given to one or more legatees, and which has arisen from the sale of estates directed to be sold. There is nothing which in terms confines its operation to cases where the direction to sell is absolute. If a testator should direct his land to be sold, and the money to be divided among legatees on any given contingency, on the happening of the contingency and subsequent sales duty would attach: the land would then be land directed to be sold. So, in the case of a devise to trustees to sell if they shall think it expedient, duty would attach if they do think it expedient and sell (see *per* Pollock, C. B., *Att.-Gen.* v. *Sincox*, 1 Exch. 767; see the remarks on this case, Jarm. Supplement, p. 122; and see *Williamson* v. *Advocate-General*, 10 Cl. & Fin. 1; see also *Advocate-General* v. *Smith*, 1 Macq. H. L. C. 760).

Where real estate was devised to trustees, in trust to convey the same unto and among certain persons mentioned in the will, in equal proportions, in severalty; and for the purpose of such division and partition, the trustees were empowered from time to time to sell all or any part of the devised estates, and were to stand possessed of the money to arise from such sales, in trust for the same persons, share and share alike, and the trustees accordingly, for the purposes of the trust, sold the whole of the devised estates: it was held, that this was "real estate directed to be sold" within this schedule (*Att.-Gen.* v. *Sincox*, 1 Exch. 749; see *Att.-Gen.* v. *Metcalfe*, 20 L. J. Exch. 329; *Farwell* v. *Seale*, 3 De Gex & S. 359).

(*f*) A legacy of the residue of a testator's personal estate, bequeathed to B. his son-in-law, and P. the wife of B. (the testator's daughter), their executors, &c., for their absolute benefit, was held not to be liable to the duty of 1*l.* per cent. on the whole, as a bequest to or for the benefit of P. a daughter of the testator, nor to 10*l.* per cent. on the whole, as given to, or devolving on or for the benefit of B., a stranger in blood to the deceased, but to be liable to the payment of 1*l.* per cent. as to one moiety, and 10*l.* per cent. as

55 G. 3, c. 184.

	Per cent.
Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 3*l.* per centum on the amount or value thereof	£3 0 0
Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased; a duty at and after the rate of 5*l.* per centum on the amount or value thereof	5 0 0
Where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased; a duty at and after the rate of 6*l.* per centum on the amount or value thereof	6 0 0
And where any such legacy, or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased (*a*); a duty at and after the rate of 10*l.* per centum on the amount or value thereof	10 0 0

And all gifts of annuities, or by way of annuity (*b*), or of any other partial benefit or interest, out of any such estate or effects as aforesaid, shall be deemed legacies within the intent and meaning of this schedule.

And where any legatee shall take two or more distinct legacies or benefits, under any will or testamentary instrument, which shall together be of the amount or value of 20*l.*, each shall be charged with duty, though each or either may be separately under that amount or value.

Exemptions.

Legacies, and residues, or shares of residue, of any such estate or effects as aforesaid, given or devolving to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.

And all legacies which were exempted from duty by the Act passed in the thirty-ninth year of his majesty's reign, c. 73, for exempting certain specific legacies given to bodies corporate, or other public bodies, from the payment of duty (*c*).

1 & 2 Geo. 4, c. 55. An Act to remove Doubts as to the Amount of Stamp Duties to be paid on Deeds and other Instruments under the several Acts in force in Great Britain and Ireland respectively. [23rd June, 1821.]

1 & 2 G. 4, c. 55.

"Whereas by the laws now in force relating to the stamp duties payable in Great Britain and Ireland respectively, different rates of duty are payable in respect of deeds, agreements, and other instruments; and doubts have arisen as to the cases in which the same are chargeable with one or other or both of the said different rates of duty:" for the removal of such doubts, BE IT THEREFORE ENACTED, That from and after the passing of this Act, every deed, agreement, or other instrument, which shall relate wholly to any real or personal property in Ireland, or to any matter or thing (other than the payment of money) to be done in Ireland, shall be chargeable with such stamp duties as are or shall be payable by the laws in force for imposing and regulating the stamp duties in Ireland, and not with any other stamp duty; and that every deed, agreement, or other instrument, which shall relate to any real or personal property in Great Britain, or to any matter or thing (other than the payment of money) to be done in Great Britain, or elsewhere than in Ireland, shall be chargeable with such stamp duties as are or shall be payable by the laws in force for imposing and regulating the stamp duties in Great

Stamp duties on deeds relating to property in Ireland or in Great Britain respectively, to be charged with the duties chargeable on the

---

to the other (*Att.-Gen.* v. *Bacchus*, 9 Price, 30; affirmed on writ of error in the Exchequer Chamber, 11 Price, 547; *Att.-Gen.* v. *Burnie*, 3 Y. & J. 531).

(*a*) See preceding note.

(*b*) See *Att.-Gen.* v. *Jackson*, and *Stowe* v. *Davenport*, ante, p. 546, n. (*e*). The value of such annuities is to be calculated according to the tables given by "The Succession Duty Act, 1853," 16 & 17 Vict. c. 51, s. 31.

(*c*) Legacies out of estate of deceased depositor in savings' bank not exceeding 50*l.* are exempt, 9 Geo. 4.

1 & 2 G. 4, c. 55.

property in those places wherever the deed is executed, and though it contain a general covenant to pay, &c. (a).

Britain; and that every deed, agreement, or other instrument which shall relate to any real or personal property in Ireland, or to any matter or thing (other than the payment of money) to be done in Ireland, and also to any real or personal property in Great Britain, or elsewhere than in Ireland, or to any matter or thing (other than the payment of money) to be done in Great Britain, or elsewhere than in Ireland, shall be chargeable with such stamp duties as are or shall be payable by the laws in force for imposing and regulating the stamp duties in Great Britain, and not with any other stamp duty: Provided always, that every such deed, agreement, or other instrument shall be charged and chargeable with such stamp duties accordingly, and no more, whether the same shall be ingrossed and executed at any place or places within the united kingdom, or at any place or places not within the united kingdom, and whether any of the parties to such deed, agreement, or other instrument, shall be resident in or executing the same at any place either in Great Britain or Ireland or elsewhere; and [that any deed, agreement, or other instrument duly stamped pursuant to this Act, shall not be liable to any stamp duty by reason of the same also containing any covenant, agreement, or obligation, for the payment of any sum or sums of money, at whatever place such money may be made payable, or may by law be payable (b)].

As to charging stamp duty on bonds and covenants for payment of money.

2. That every bond, covenant, and agreement, for securing the payment of money only (where the money so secured shall not be also charged or secured upon or issuing out of any real or personal property), shall be liable to stamp duty in manner following; (that is to say,) where there shall be only one obligor or covenantor or person liable to pay such money, or where the obligors, covenantors, or persons liable shall be all resident in Great Britain, or shall be all resident in Ireland, such bond, covenant, or agreement shall be charged with the stamp duty payable in that part of the united kingdom of Great Britain and Ireland in which such obligor or obligors, covenantor or covenantors, or person or persons liable, shall *bonâ fide* reside at the time of the execution of such bond, covenant, or agreement; and where some or one of several obligors, covenantors, or persons liable to the payment of the money secured by any such bond, covenant, or agreement, shall at the time of the execution thereof be *bonâ fide* resident in Great Britain, or elsewhere not in Ireland, and some other or others shall be *bonâ fide* resident in Ireland, the residences of such persons shall be respectively truly described and expressed in such bond, covenant, or agreement; and such bond, covenant, or agreement shall be charged with the stamp duty payable in Great Britain, and not with any further or other stamp duty: Provided always, that the payment of any rent or of any annuity shall be deemed to be the payment of money within the meaning of this Act.

Proviso as to description of residence of obligor, &c. in such bond or covenant.

Proviso for stamp duties on bills of exchange.

3. Provided always, That nothing in this Act contained shall be construed to extend in any case to alter or affect the stamp duties payable in respect of bills of exchange or promissory notes, or to charge with stamp duty any cheques, drafts, or orders, which are not now liable to such duty.

Stamped deeds to be given in evidence.

4. That every deed, bond, covenant, agreement, or other instrument stamped according to the provisions of this Act shall and may, so far as may respect the stamp duties thereon, be given in evidence in any and every court of law or equity, either in Great Britain or Ireland.

3 G. 4, c. 117.

3 Geo. 4, c. 117. An Act to reduce the Stamp Duties on Reconveyances of Mortgages, and in certain other cases; and to amend an Act of the last Session of Parliament, for removing Doubts as to the Amount of certain Stamp Duties in Great Britain and Ireland respectively. [5th August, 1822.]

Duties under 55 G. 3, c. 184, sched. part 1, on transfer of mortgages in Great Britain.

Duties under 56 G. 3, c. 56, sched. part 1, on transfer of mortgages.

"Whereas by an Act passed in the fifty-fifth year of the reign of his late majesty king George the third, intituled, &c. [55 Geo. 3, c. 184]; and by an Act passed in the fifty-sixth year of the reign of his late majesty king George the third, intituled, &c. [56 Geo. 3, c. 56]: and by the schedules to the said Acts respectively annexed, certain *ad valorem* duties and other duties were imposed on any transfer, assignment, disposition, assignation, or reconveyance of any mortgage or wadset, or other such security as in the said Acts, and the schedules thereto annexed, are mentioned, specified and contained; and by the said Act of the fifty-sixth year aforesaid, and the said schedule thereto annexed, a duty of threepence was also imposed on every promissory note, whether in the form of a bank note, bank post bill, or otherwise, issued by the governor and company of the bank of Ireland, or by any registered banker or bankers in Ireland, where the sum therein expressed should not amount to five pounds: and whereas it is expedient that the said several duties should be repealed, and that other duties should be granted

(a) See 13 & 14 Vict. c. 97, s. 17.

(b) Repealed, so far as relates to any such covenant, agreement, or obligation for the payment of any money which, either by law or by the terms of such covenant, agreement, or obligation, shall be payable in Ireland (see 3 Geo. 4, c. 117, s. 5).

in lieu thereof, in manner hereinafter mentioned:" BE IT ENACTED, That from and after the expiration of ten days after the passing of this Act (5th August, 1822), the said several duties hereinbefore mentioned shall be and the same are hereby repealed; save as to the raising, receiving, allowing or paying any arrears of the said duties under the said Acts or either of them respectively; and save as to any proceedings commenced or to be commenced in any court, civil or criminal, or otherwise, against any person or persons for or by reason of any fine, penalty, or forfeiture, or punishment, for or in respect of any crime or offence committed or to be committed before the expiration of ten days next after the passing of this Act, in anywise relating to the collection or management of the said duties, repealed.

3 G. 4, c. 117. and bankers' notes in Ireland.

Duties hereinbefore mentioned, repealed, except as to recovery of arrears, &c.

2. That from and after the expiration of ten days next after the passing of this Act, in lieu and instead of the duties by this Act repealed, there shall be granted, raised, levied, collected and paid in Ireland, unto his majesty, his heirs, and successors, the several sums of money and duties following; that is to say, upon any transfer, assignment, disposition, assignation, or reconveyance of any mortgage, or of any other security in the said Acts, and the schedules thereto annexed, in that respect severally mentioned, or of the benefit thereof, or of the money or stock thereby secured, provided no further sum of money or stock be added to the principal money or stock already secured, there shall be paid in Great Britain a stamp duty of one pound fifteen shillings, and in Ireland a stamp duty of one pound British currency, for the first skin or piece of vellum or parchment, or sheet or piece of paper, upon which such transfer, assignment, disposition, assignation or reconveyance shall be ingrossed, written, or printed; and where any such transfer or assignment, disposition or assignation, in Great Britain, hereby charged with the duty of one pound fifteen shillings, together with any schedule, receipt, or other matter put or indorsed thereon, or annexed thereto, shall contain two thousand one hundred and sixty words or upwards, then for every entire quantity of one thousand and eighty words contained therein, over and above the first one thousand and eighty words, there shall be paid a further progressive duty of one pound five shillings; and for every skin or piece of vellum or parchment, or sheet or piece of paper beyond the first, upon which any such transfer, assignment, or reconveyance shall be ingrossed, written, or printed in Ireland, there shall be paid the sum of ten shillings British currency; and if any further sum of money or stock shall be added to the principal money or stock already secured, the *ad valorem* duty on mortgages, payable under the said recited Acts respectively, shall be charged only in respect of such further money or stock (*a*); and that upon every promissory note, whether in the form of a bank note, bank post bill, or otherwise, which shall be issued by the governor and company of the bank of Ireland, or by any banker or bankers in Ireland, who shall have registered his or their name or names, or firm, in manner directed by law, where the sum therein expressed

New duties:

On transfers of mortgages in Great Britain and Ireland.

On bank of Ireland and bankers' notes under 5*l.* in Ireland.

(*a*) See 13 & 14 Vict. c. 97, s. 9, and 16 & 17 Vict. c. 59, s. 14, post. It has been decided, that where a mortgage term is transferred upon a further advance, an *ad valorem* stamp upon such advance is sufficient, without the addition of a deed stamp in respect of the transfer (*Doe d. Bartley* v. *Gray*, 3 Ad. & E. 89; *Doe* v. *Lewis*, 13 M. & W. 241; *Doe d. Barnes* v. *Rowe*, 4 Bing. N. C. 737; but see the observations of Patteson, J., on this case, in *Doe* v. *Gutteridge*, infra; see also *Lant* v. *Peace*, 8 Ad. & E. 248; *Haywood* v. *Bibby*, 11 M. & W. 812).

If besides the transfer a fresh security is added for the sum originally lent, as where the first mortgage is of a term, and a second conveys the fee to secure the old and new advance in one aggregate sum, a further stamp is necessary; such a case not falling within this statute (*Humberston* v. *Jones*, 16 M. & W. 763; *Brown* v. *Pegg*, 6 Q. B. 1).

Where a mortgagor devised the premises to B. for life, remainder to C. in fee, who borrowed from Z. 165*l.* to pay off the principal and interest, and also 185*l.* more; and the original mortgagee assigned the mortgage to Z., B. and C. being parties, and covenanting to pay the whole 350*l.*: it was held, that the deed required, besides an *ad valorem* stamp on the 185*l.*, a deed stamp in respect of the covenant by B. and C., since they became by the deed absolutely liable to pay the 165*l.*; and the covenant as to such liability could not be considered as merely incident to the assignment in respect of the old loan, or the new security for the new loan (*Doe* v. *Gutteridge*, 11 Q. B. 409).

And where T. mortgaged to B. for 150*l.*; afterwards, by a deed purporting to be between B., T., and S., in consideration of S. paying B. the 150*l.*, and advancing 70*l.* to T., the mortgage was transferred to S., *but B. never executed*; it was held that this was a transfer of a mortgage, with an additional advance of 70*l.* (*Doe* d. *Snell* v. *Tom*, 4 Q. B. 615).

In Jarm. Supplement, p. 149, it is said, commenting on these cases, that though *Lant* v. *Peace* has been recognised and even relied on in some of the subsequent cases, it has not been confirmed by any actual decision, and has been wholly reversed by the 9th section of the new Act; that *Brown* v. *Pegg* was rightly decided, though the right reason was not given; and that *Humberston* v. *Jones* and *Doe* v. *Gutteridge* stand alone and unsupported by any authority or principle, are opposed by the decision in *Doe* v. *Rowe*, and have been wholly reversed by the new Act (13 & 14 Vict. c. 97), so far as concerns cases identical with them in circumstances.

3 G. 4, c. 117. shall not amount to five pounds, there shall be paid the sum of one penny halfpenny Irish currency, and no more.

Mortgages free from *ad valorem* stamps where *ad valorem* bond duty previously paid in Great Britain and Ireland.

3. That where any deed or other instrument already made or hereafter to be made as an additional or further security for any sum or sums of money, or any share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England or of the bank of Ireland, already or previously secured by any bond on which the *ad valorem* duty on bonds, charged by the said recited Acts of the fifty-fifth and fifty-sixth years of the reign of his said late majesty, and the schedules thereto respectively annexed, shall have been paid, such deed or other instrument shall be and be deemed to be and to have been exempt from the several *ad valorem* duties charged by the said Acts, and the said schedules respectively, on mortgages, and shall be charged and chargeable only with the ordinary duty payable on deeds in general, in Great Britain and Ireland respectively: but if any further sum of money or stock shall be added to the principal money or stock already secured, then said *ad valorem* duties respectively shall be charged in respect of such further sum of money or stock; and if necessary for the sake of evidence, the deeds and instruments hereby exempted from the said *ad valorem* duties shall be stamped with a particular stamp for denoting or testifying the payment of the *ad valorem* duty upon all the deeds and instruments relating to the particular transaction, provided such deeds and instruments shall be produced at the stamp office in London or Dublin (as the case may require), and shall appear to be duly stamped with the duties to which they are liable.

Proviso for additional sums secured.

5 G. 4, c. 41. 5 Geo. 4, c. 41. An Act to repeal certain Duties on Law Proceedings in the Courts in Great Britain and Ireland respectively; and for better protecting the Duties payable upon Stamped Vellum, Parchment, or Paper. [28th May, 1824.]

How suits for the protection of stamp duties may be brought.

3. "And whereas it is expedient to make provision for the better protecting the duties payable to his majesty, his heirs and successors, upon stamped vellum, parchment, or paper:" BE IT ENACTED, That in any suit, prosecution, or proceeding to be brought against any person or persons, or body or bodies politic or corporate, for the taking or retaining, or for the losing, damaging, or destroying of any vellum, parchment, or paper upon which any stamp or stamped mark or marks denoting any duty or duties imposed by law hath been impressed or put, or for any other cause of action or proceeding relating to the same respectively, such suit, prosecution, or proceeding shall and may be commenced, instituted and proceeded in in the name of his majesty, his heirs and successors, or in the name of the attorney or solicitor general in England or Ireland, or of the advocate or solicitor general in Scotland respectively for the time being, for and on behalf of his said majesty, his heirs and successors; and that in all such suits, prosecutions, or proceedings, the property in such vellum, parchment, or paper so stamped, marked, and impressed as aforesaid, shall be described to be and shall be deemed and taken to be in his majesty, his heirs and successors, and that the value of the same respectively shall be deemed and taken to be the amount of the value of the vellum, parchment, and paper, and of the stamp duty or stamp duties denoted by the stamp or stamps, mark or marks so impressed and put upon the same respectively; and further, that in every prosecution for embezzling or stealing such vellum, parchment, or paper so stamped, marked, and impressed as aforesaid, or for any other offence for or relating to the same respectively, it shall be sufficient in the indictment or information to state and describe the property in the same to be in his majesty, his heirs and successors, which property shall be deemed and taken to be vested in his said majesty, his heirs and successors accordingly.

What considered different description of property in indictment.

6 G. 4, c. 41. 6 Geo. 4, c. 41. An Act to repeal the Stamp Duties payable in Great Britain and Ireland upon the Transfer of Property in Ships and Vessels, and upon Bonds and Debentures required to be given in relation to the Duties, Drawbacks, and Bounties of Customs or Excise; and to grant other Duties of Stamps on such Bonds and Debentures. [10th June, 1825.]

Stamp duties on bills of sale, &c., of vessels to cease (a).

"Whereas it is expedient to repeal the several stamp duties now payable in Great Britain and Ireland respectively upon conveyances, so far as relates to any conveyance, assignment, or transfer of property of or in any *ship or vessel*; and also to reduce the stamp duties payable upon bonds given for or in respect of any of the duties of customs or excise, or for preventing frauds or evasions thereof, or for any other matter or thing relating thereto in Great Britain or Ireland respectively, or payable upon debentures or certificates for entitling any person to receive any drawback or bounty payable out of the

(a) See *Duke* v. *Meering*, 2 M. & Ry. 121, ante, 486, n.

revenue of customs or excise:" BE IT THEREFORE ENACTED, That from and after the passing of this Act all stamp duties now payable in Great Britain and Ireland respectively, upon or in respect of any bill of sale, or any conveyance, assignment, or other deed or instrument whatever, *for the sale, transfer, or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel*, or any part, interest, share, or property of or in any ship or vessel, shall wholly cease, determine, and be no longer paid or payable; anything in any Act or Acts of Parliament contained to the contrary thereof in anywise notwithstanding. 6 G. 4, c. 41.

9 Geo. 4, c. 49. An Act to amend the Laws in force relating to the Stamp Duties on Sea Insurances, on Articles of Clerkship, on Certificates of Writers to the Signet, and of Conveyancers and others, on Licences to Dealers in Gold and Silver Plate, and Pawnbrokers, on Drafts on Bankers, and on Licences for Stage Coaches in Great Britain; and on Receipts in Ireland.

[15th July, 1828.] 9 G. 4, c. 49.

"Whereas it is expedient to amend the laws in force relating to the stamp duties in certain particulars:" BE IT ENACTED, That from and after the passing of this Act it shall and may be lawful for the commissioners of stamps, or any of their officers (whenever they shall be thereto required), to stamp with any additional stamp or stamps any vellum, parchment, or paper which may have been previously stamped, upon which any policy of insurance, commonly called a mutual insurance, may have been ingrossed, printed, or written, whereby divers persons insure or agree to insure one another, without any premium or pecuniary consideration, from any loss, damage, or misfortune that may happen to any ship or vessel, or any goods, merchandise, or other property on board of any ship or vessel, or the freight of any ship or vessel, or any other interest in or relating to any ship or vessel which may lawfully be insured, although such policy may have been previously signed or underwritten by any person or number of persons; anything in an Act made in the thirty-fifth year of the reign of his late majesty king George the third, intituled "An Act for granting to his Majesty certain Stamp Duties on Sea Insurances," to the contrary in anywise notwithstanding: Provided always, that at the time when any such additional stamp or stamps shall be required, such policy shall not have been signed or underwritten to an amount exceeding the sum or sums which the stamp or stamps previously impressed thereon will warrant. Policies of mutual insurance at sea may be stamped with additional stamps, if not underwritten to an amount exceeding the sum warranted by the former stamps. 35 G. 3, c. 63.

4. [Articles of clerkship in the courts of great sessions, &c., may be stamped, on payment of the duty of one hundred and twenty pounds for admission of the parties in the courts at Westminster. See Vol. I. p. 129, and 6 & 7 Vict. c. 73, ss. 29, 45, Vol. I. tit. "ATTORNEYS."]

11. That every certificate which shall have been granted at any time before the passing of this Act, or which shall be granted at any time before the 31st day of October, 1828, to any person being a member of one of the four inns of court in England, who in the character of conveyancer, special pleader, draftsman in equity, or otherwise, shall, for or in expectation of any fee, gain, or reward, draw or prepare any conveyance of or any deed or instrument relating to any estate or property, real or personal, or any other deed or contract whatever, or any pleadings or proceedings in any court of law or equity, shall cease and determine from the said 31st day of October, 1828; and that any certificate which at any time after the 31st day of October and before the 1st day of December, 1828, or in any subsequent year, shall be granted by the commissioners of stamps, or their proper officer, to any person who, in any of the said characters, shall do or perform any act, matter, or thing hereinbefore mentioned, shall bear date on the 1st day of November in such year respectively; and that every such certificate which shall be granted at any other time in the year 1828, or in any subsequent year, shall be dated on the day on which such certificate shall be actually granted; and every such certificate, whatever may be the date thereof, shall have effect and be in force from the day of the date thereof, until and upon the 31st day of October then next following, and shall then cease and determine. Certificates to conveyancers, special pleaders, and draftsmen, in England, granted before the 31st Oct. 1828, shall cease on that day (a).

12. That every licence which shall have been granted at any time before the passing of this Act, or which shall be granted at any time before the 31st day of July, 1828, to any person trading in, vending, or selling any gold or silver plate, or any gold or silver goods or wares, or to any pawnbroker trading in, vending, or selling any gold or silver plate, or taking or delivering out pawns of such plate, goods, or wares, or to any refiner of gold or silver, in Great Britain, or to any person for using or exercising the trade or business of a pawnbroker in Great Britain, shall cease and determine from the said 31st day of July, 1828; and that every licence which at any time after the 31st day of July and before the 1st day of September, 1828, or in any subsequent year, shall be granted by the Plate and pawnbrokers' licences to expire annually on 31st July.

(a) See 16 & 17 Vict. c. 63, regulating certificates of conveyancers, &c.

9 G. 4, c. 49. commissioners of stamps, or their proper officer, to any person for any of the purposes aforesaid, shall bear date on the 1st day of August in such year respectively; and that every such licence which shall be granted at any other time in the year 1828, or in any subsequent year, shall be dated on the day on which such licence shall be actually granted; and every such licence, whatever may be the date thereof, shall have effect and be in force from the day of the date thereof, until and upon the 31st day of July then next following, and shall then cease and determine.

15. [Drafts on bankers in Great Britain, issued within fifteen miles of such banker's, exempted from stamp duty. See Vol. I. p. 235, tit. "BANKERS' DRAFTS."]

3 & 4 W. 4, c. 23. 3 & 4 Will. 4, c. 23. An Act to reduce the Stamp Duties on Advertisements and on certain Sea Insurances; to repeal the Stamp Duties on Pamphlets, and on Receipts for Sums under Five Pounds; and to exempt Insurances on Farming Stock from Stamp Duties. [28th June, 1833.]

Insurances on agricultural produce, farming stock, and implements of husbandry exempted from stamp duties.

5. "And whereas it is expedient to exempt from the duties imposed by law on insurances from loss by fire, all insurances on agricultural produce, farming stock, and implements of husbandry in Great Britain and Ireland respectively:" BE IT ENACTED, That no insurance from loss or damage by fire which shall be made, renewed or continued by any policy effected upon or after the 24th day of June, 1833, on any agricultural produce, farming stock (live or dead), or implements or utensils of husbandry, being upon any farm or farms in Great Britain or Ireland, shall be liable to the yearly per-centage duties or to any other stamp duty granted or imposed upon or in respect of insurances from loss or damage by fire by any Act or Acts in force in Great Britain or Ireland respectively, provided such insurance shall be effected by a separate and distinct policy relating solely to such agricultural produce, farming stock, implements or utensils.

Separate accounts of insurances on agricultural produce, &c. to be rendered quarterly to the commissioners of stamps.

6. "And whereas by certain Acts in force in Great Britain and Ireland respectively the corporations or companies or persons insuring against loss by fire are required to deliver to the commissioners of stamps or their officers certain quarterly accounts of all insurances made by such corporations, companies, or persons, and containing such particulars relating thereto as in the said Acts respectively are specified in that behalf:" BE IT ENACTED, That such corporations, or companies, or persons insuring as aforesaid, at the time of the delivery of every such quarterly account, shall also deliver to the said commissioners or their officers a separate and distinct account of all insurances of agricultural produce, farming stock, or implements or utensils of husbandry from loss or damage by fire, made, renewed, or continued by such corporations or companies or persons respectively during the quarter for which such last-mentioned account shall be rendered; and in every such last-mentioned account there shall be truly specified the number of every policy by which any such insurance shall be made, the sum or amount of the sums insured thereby, and the time for which such insurance shall be made or renewed or continued; and for any default in the delivery of such account containing and specifying the particulars required by this Act, the corporation or company, or person or persons making such default, shall forfeit the sum of one hundred pounds.

3 & 4 W. 4, c. 97. 3 & 4 Will. 4, c. 97. An Act to prevent the selling and uttering of forged Stamps, and to exempt from Stamp Duty artificial Mineral Waters in Great Britain, and to allow a Drawback on the Exportation of Gold and Silver Plate manufactured in Ireland. [29th August, 1833.]

4 & 5 W. 4, c. 57. 4 & 5 Will. 4, c. 57. An Act to repeal the Stamp Duties on Almanacks and Directories, and to give other Relief with Relation to the Stamp Duties in Great Britain and Ireland respectively. [13th August, 1834.]

4 & 5 W. 4, c. 60. 4 & 5 Will. 4, c. 60. An Act to amend the Laws relating to the Land and Assessed Taxes, and to Consolidate the Boards of Stamps and Taxes. [13th August, 1834.]

5 & 6 W. 4, c. 20. 5 & 6 Will. 4, c. 20. An Act to Consolidate certain Offices in the Collection of the Revenues of Stamps and Taxes, and to amend the Laws relating thereto. [30th July, 1835.]

5 & 6 Will. 4, c. 64. An Act to alter certain Duties of Stamps and Assessed Taxes, and to regulate the Collection thereof. [9th September, 1835.]

5 & 6 W. 4, c. 64.

2. "And whereas under and by virtue of the laws in force in Great Britain and Ireland respectively, policies of assurance or insurance, whereby insurances are made upon lives, are chargeable with certain stamp duties; and whereas it is expedient to reduce the stamp duties chargeable on all such policies where the sum insured shall not exceed one hundred pounds:" BE IT ENACTED, That from and after the passing of this Act all stamp duties now payable under any Act or Acts in force in Great Britain and Ireland respectively upon any policy of assurance or insurance or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives, where the sum insured shall not exceed one hundred pounds, shall respectively cease and determine, and shall be and the same are hereby repealed.

Stamp duty in Great Britain and Ireland on policies of insurance on lives not exceeding 100*l.* repealed.

3. That from and after the commencement of this Act, in lieu and instead of the duties upon policies of assurance or insurance, hereby repealed, there shall be raised, levied, collected, and paid in Great Britain and Ireland respectively, unto and for the use of his majesty, his heirs and successors, the several stamp duties or sums of money following; (that is to say,)

Reduced duties upon policies of insurance on lives not exceeding 100*l.*

For and upon every policy of assurance or insurance or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives:

Where the sum insured shall not exceed fifty pounds, the stamp duty or sum of two shillings and sixpence.

And where it shall exceed fifty pounds and not exceed one hundred pounds, the stamp duty or a sum of five shillings.

7. "And whereas under and by virtue of the laws in force every admission of any person to be a member of either of the four inns of court in England is chargeable with a stamp duty of twenty-five pounds, and it is expedient to exempt persons who may be admitted in more than one of the said inns of court from the stamp duty payable on the latter of such admissions:" BE IT ENACTED, That from and after the passing of this Act, where any person who is or shall be admitted a member of any one of the said inns of court shall afterwards be admitted a member of any other of the said inns of court, the latter admission shall be free of duty, provided he shall have paid the proper stamp duty on his former admission, according to the laws then in force.

Members of any one of the four inns of court may be admitted in any other of the said inns free of duty.

6 & 7 Will. 4, c. 76. An Act to reduce the Duties on Newspapers, and to amend the Laws relating to the Duties on Newspapers and Advertisements (*a*). [13th August, 1836.]

6 & 7 W. 4, c. 76.

1 & 2 Vict. c. 85. An Act to authorise the using in any Part of the United Kingdom Stamps denoting Duties payable in Great Britain and Ireland respectively. [10th August, 1838.]

1 & 2 Vict. c. 85.

"Whereas under and by virtue of the laws in force separate and distinct stamps are used for denoting the stamp duties payable in Great Britain and Ireland respectively, and it is expedient to permit stamps denoting the duties payable on deeds or instruments in either of the said parts of the united kingdom of Great Britain and Ireland to be used for deeds or instruments liable to stamp duties payable in the other part of the said united kingdom:" BE IT ENACTED, That from and after the passing of this Act, any deed or instrument liable to any stamp duty payable in either part of the said united kingdom, and for or upon which any stamp or stamps denoting a stamp duty or stamp duties payable in the other part of the united kingdom shall have been at any time heretofore or shall be at any time hereafter used, of equal or greater amount with or than the duty or duties chargeable by law upon or in respect of such deed or instrument, shall nevertheless be deemed valid and effectual in the law: Provided always, that nothing herein contained shall extend to authorise the using of any stamp denoting

Stamps denoting duties payable in one part of the united kingdom, may be used for instruments liable to stamp

(*a*) The duty on advertisements is repealed by 16 & 17 Vict. c. 63, s. 5, post.

Unstamped newspapers are legalised by 18 Vict. c. 27, post.

As to the regulations respecting stamped newspapers, see 16 & 17 Vict. c. 63; and c. 71, post; 18 Vict. c. 27, post. See *Attorney-General* v. *Bradbury*, 7 Exch. 97.

1 & 2 Vict. c. 85.

duties payable in any other part.

any of the law, chancery, or exchequer fund duties in Ireland for any instrument other than such as is or shall be liable to the duty denoted by such stamp, nor to authorise the using for any instrument liable to any of the said last-mentioned duties any stamp other than such as is or may be provided and appropriated for denoting the duty to which such last-mentioned instrument is or may be liable, nor to authorise the using for any instrument any stamp specially appropriated to any other instrument by having its name on the face thereof.

5 & 6 Vict. c. 79.

5 & 6 Vict. c. 79. An Act to repeal the Duties payable on Stage Carriages and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the Laws relating to the Stamp Duties (a). [5th August, 1842].

2 & 3 Vict. c. 66.

2 & 3 W. 4, c. 120.

55 G. 3, c. 184.

Duties repealed:—

On stage carriages;

Railway passengers;

Bills of lading;

Charter-party;

Collations, presentations, &c., to benefices.

"Whereas by an Act passed in the second and third years of the reign of her present majesty, intituled 'An Act to reduce certain of the Duties now payable on Stage Carriages,' certain duties contained in the schedule to the said Act annexed were granted and imposed,' and are now payable for and in respect of every mile which a stage carriage shall be licensed to travel: and whereas by an Act passed in the second and third years of the reign of his late majesty king William the fourth, intituled 'An Act to repeal the Duties under the Management of the Commissioners of Stamps, on Stage Carriages, and on Horses let for Hire in Great Britain, and to grant other Duties in lieu thereof; and also to consolidate and amend the Laws relating thereto,' certain duties contained in the schedule (A) to the last-mentioned Act annexed were granted for and in respect of every licence for keeping, using, and employing any stage carriage, and for and in respect of all passengers conveyed for hire along any railway in Great Britain in or upon carriages drawn or impelled by the power of steam or otherwise: and whereas by an Act passed in the fifty-fifth year of the reign of king George the third, intituled, 'An Act for repealing the Stamp Duties on Deeds, Law Proceedings, and other written or printed Instruments, and the Duties on Fire Insurances, and on Legacies and Successions to Personal Estate upon Intestacies, now payable in Great Britain; and for granting other Duties in lieu thereof,' certain stamp duties were granted and imposed, amongst others, upon bills of lading and charter-parties in Great Britain, and upon instruments of collation, donation, presentation, and institution of and to any ecclesiastical benefice, dignity, or promotion in England, and upon certain licences hereinafter mentioned; and it is expedient that all the said duties should be repealed, and others granted in lieu thereof:" BE IT THEREFORE ENACTED, That from and after the commencement of this Act the aforesaid duties granted and imposed by the said Act passed in the second and third years of her majesty's reign, for and in respect of every mile which any stage carriage shall be licensed to travel, and the aforesaid duties granted and imposed by the said Act passed in the second and third years of the reign of his late majesty king William the fourth, for and in respect of every licence for keeping, using, or employing any stage carriage, and for and in respect of passengers conveyed for hire along any railway in Great Britain, and the duties hereinafter mentioned, granted, and imposed by the said Act passed in the fifty-fifth year of the reign of king George the third (that is to say), the duty of three shillings upon any bill of lading of or for any goods, merchandise, or effects to be exported or carried coastwise, and the several duties of one pound fifteen shillings and one pound five shillings upon any charter-party, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such ship or vessel, and the several and respective duties of twenty pounds and ten pounds upon any collation, donation, or presentation of or to any ecclesiastical benefice, dignity, or promotion in England, and the several and respective duties of two pounds, thirty pounds, and fifteen pounds upon any institution in and to any ecclesiastical benefice, dignity, or promotion in England, and the duty of two pounds upon any licence which shall pass the seal of any archbishop, bishop, chancellor, or other ordinary, or of any ecclesiastical court in England, so far as relates to any licence to hold a perpetual curacy in England, not proceeding upon a nomination, shall severally cease and determine, and the same shall be and are hereby repealed, save and except such of the said respective duties, or so much and such part or parts thereof respectively, as shall have become due or payable or have been incurred before or upon the day appointed for the commencement of this Act with regard to such duties respectively, all which said duties or parts of duties so due or incurred, or remaining to be paid as aforesaid, shall be recoverable by the same ways and means, and with and under the same penalties, and in the same manner, in all respects, as if this Act had not been made.

(a) See 10 & 11 Vict. c. 42.

5 & 6 Vict. c. 79.

New duties to be levied as set forth in the schedule.

2. That in lieu of the duties by this Act repealed there shall be raised, levied, collected, and paid, unto and for the use of her majesty, her heirs and successors, in and throughout Great Britain, for and in respect of every licence for keeping, using, or employing any stage carriage in Great Britain, and for and in respect of every stage carriage, and for and in respect of the passengers conveyed upon any railway, and also for and in respect of the several instruments, matters, and things mentioned and described in the schedule to this Act annexed, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, and things, or any of them, shall be written or printed, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the same schedule; and that the said schedule shall be deemed and taken to be a part of this Act; and that all the said duties shall be under the care and management of the commissioners of stamps and taxes for the time being, and shall be denominated and deemed to be stamp duties.

To be under the commissioners of stamps and taxes.

Commissioners to provide dies, &c.

3. That the commissioners of stamps and taxes shall be and are hereby empowered and required to provide proper and sufficient stamps or dies for expressing and denoting the several duties hereby granted upon the vellum, parchment, or paper chargeable therewith, and to alter and renew the said stamps or dies from time to time as occasion shall require: Provided always, that it shall be lawful for the said commissioners to use any of the stamps or dies heretofore provided to denote any former stamp duties for the purpose of expressing and denoting any of the duties hereby granted, and to use two or more stamps or dies for denoting any one duty, as occasion may require: Provided also, that it shall be lawful for the said commissioners, at any time within twelve calendar months next after the passing of this Act, to cancel and allow, in the same manner as in the cases of stamps spoiled or rendered unfit for the purpose intended, all stamps for any of the instruments, matters, and things mentioned in the said schedule, which by the operation of this Act shall have been rendered useless or unfit for the purpose for which the same were originally designed, and to deliver out in lieu thereof other stamps of the same value, or otherwise, at their discretion, to cause any additional stamp or stamps to be impressed on the vellum, parchment, or paper having thereon the stamp or stamps so hereby rendered useless or unfit, on payment of the duty to be denoted by such additional stamp or stamps.

Commissioners may use old dies to denote the new duties.

Stamps rendered useless by this Act to be allowed.

Accounts to be kept of money received for the conveyance of passengers on railways;

4. That the proprietor or company of proprietors of every railway in Great Britain, and every other person who shall carry or convey, or cause to be carried or conveyed, any passenger for hire in or upon any railway in Great Britain, shall, from time to time and at all times, keep and enter or cause to be entered in a book or books to be kept for that purpose, in such manner and form as the commissioners of stamps and taxes shall direct or approve, a just and true account of all and every sum and sums of money which shall be received or charged daily by or for such proprietor or company or other person for the hire, fare, or conveyance of all such passengers as aforesaid, whether the same shall be received for the conveyance of passengers on the railway of such proprietor or company or other person only, or on such last-mentioned railway and any other railway, or on any such other railway only, and for or in respect of all which sums of money the duties charged by this Act shall, in manner hereinafter directed, be paid by the said proprietor or company or other person so receiving or charging the same as aforesaid, without any deduction or abatement thereout on any account or pretence whatever; and the proprietor or company of proprietors of any railway so receiving or charging any such sums of money as aforesaid shall also in like manner keep and enter or cause to be entered an account of all sums of money paid or accounted for, or to be paid or accounted for, by such proprietor or company to the proprietor or company of proprietors of any other railway (specifying the same) upon which any of such passengers shall be carried or conveyed, as his or their share or proportion of any of such sums of money so received or charged as aforesaid, or as or for or in the nature of toll or otherwise for the use of such last-mentioned railway, in the conveyance of such passengers; and the proprietor or company of proprietors of every such last-mentioned railway shall in like manner keep and enter or cause to be entered an account of all sums of money so paid or accounted for to him or them as last aforesaid, and for or in respect of which the duties shall or ought to have been paid as aforesaid by such first-mentioned proprietor or company; and every such proprietor and company and other person and persons respectively shall, within five days after the first Monday in every calendar month, deliver to the commissioners of stamps and taxes, or to the proper officer appointed for receiving the same, a true copy or true copies of the account or accounts by this Act directed to be kept, so far as the same shall relate to all sums of money received or charged and paid or accounted for as aforesaid during the preceding four or five weeks, as the case may be; (that is to say,) from and including the first Monday in the preceding month up to the first Monday of the month in which such account shall be rendered or ought to be rendered as aforesaid; and to and with every such account there shall be annexed and delivered an affidavit (to be taken before any one of her majesty's justices of the peace) of such proprietor or other person as aforesaid, or of the secretary, chief clerk, or accountant of such proprietor or company or other person, stating that the deponent is well acquainted with the books and accounts of the said proprietor, company, or other person, and that he has examined and checked the same, and also the account to which such affidavit is annexed, and that to the best of his knowledge, information, and belief such last-mentioned account doth contain and is a true and faithful account of all and every sum and sums of money received or charged by or for such proprietor or company or other person aforesaid for the hire, fare, or conveyance of passengers on any railway during the period

and of money paid by the persons carrying such passengers to the proprietors of railways, on account of fares received or for the use of the railway.

Copies of the accounts to be delivered to the commissioners of stamps and taxes, verified by affidavit, and duties paid thereon monthly.

5 & 6 Vict. c. 79.

comprised in such account, and of all other matters and things required by this Act to be contained in such account; and such proprietor or company or other person shall, at the time of delivering every such account, pay or cause to be paid to the receiver-general of stamps and taxes, or to the officer authorised by the said commissioners to receive the same, for the use of her majesty, the duties chargeable under this Act for or in respect of all and every the sum and sums of money so received or charged as aforesaid, and contained or which ought to be contained in such account.

Proprietors of railways to deduct the duty on the sums to be paid over to other proprietors.

5. Provided always, That it shall be lawful (where there shall be no express contract or agreement between the parties to the contrary) for any such proprietor or company to deduct from and retain out of the moneys to be paid over to any such other proprietor or company as aforesaid the amount of the duties by this Act chargeable thereon, and which such proprietor or company receiving such moneys shall have paid or be liable to pay.

Books containing any such accounts to be open to inspection of officers of stamps.

6. That all and every the book and books of every such proprietor or company or other person, in which any account relating to such passengers, or to the money received or charged for the hire, fare, or conveyance of the same, or to any money received from or paid or accounted for to any other proprietor or company for such hire, fare, or conveyance as aforesaid, or a proportion thereof, or as or for such toll as aforesaid, shall be entered or kept, shall be open for the inspection and examination at all seasonable times of any officer or officers of stamp duties authorised by the commissioners of stamps and taxes in that behalf; and every such officer shall be at liberty to take copies of or extracts from any such book or account as aforesaid; and if any such proprietor or other person, or the secretary or accountant or any clerk or officer of any such proprietor or company or person, having or keeping the custody or possession of any such book, or

Penalty for refusing to permit inspection.

having power to produce the same, shall, upon demand made by any such officer, and upon producing and showing his authority, refuse to permit such officer of stamp duties to inspect and examine such book or to take copies thereof or extracts therefrom, or of or from any account entered or contained therein, or shall refuse to produce such book to such officer of stamp duties for his inspection and examination, every such person so offending shall for every such offence forfeit the sum of fifty pounds.

Railway proprietors to give bond for securing the duties.

7. That the proprietor or company of proprietors of every such railway, and every other person, before any passengers shall be conveyed or caused to be conveyed by him or them on any railway as aforesaid, shall give security, by bond, to her majesty, her heirs and successors, with a condition that such proprietor or company, or other person as aforesaid, shall from time to time enter and keep, and cause to be kept and rendered, in the manner directed by this Act, the accounts by this Act required to be kept and rendered by such proprietor and company and persons respectively, containing and setting forth justly, truly, and faithfully all the several matters and things by this Act required to be contained and set forth therein; and that such proprietor or company or person, and his or their secretary, accountant, and clerk, and every other person under or subject to his or their order, direction, or control, having the custody or possession of any books or book of such proprietor or company or other person as aforesaid, in which any account relating to any passengers conveyed upon any railway, or the money received, charged, accounted for, or paid for the hire, fare, or conveyance of the same, shall be contained or entered, shall from time to time, upon every reasonable request of any officer of stamp duties authorised as aforesaid, produce and show to such officer, and permit him to inspect and examine the same, and to take copies thereof or extracts therefrom, and of and from any account entered or contained therein; and that such proprietor or company or other person aforesaid shall and will well and truly pay or cause to be paid, for the use of her majesty, her heirs and successors, at the times and in manner directed by this Act, all and every the duties which shall from time to time become chargeable under this Act, and payable by him or them upon or for or in respect of the passengers, or the hire or fare or conveyance of the passengers, which shall be so conveyed as aforesaid along any railway; and that such proprietor or company, or other person aforesaid, shall well and truly do and perform, and cause to be done and performed, all such acts, matters, and things as by this Act are required or directed to be done or performed by or on the part or behalf of such proprietors or company or other person; and every such bond shall be taken with sufficient sureties to the satisfaction of the commissioners of stamps and taxes, and in such sum as the said commissioners may judge to be reasonable and proper; and every such security shall be renewed from time to time, whenever and so often as such bond shall be forfeited, or as the parties to the same or any of them shall die, or become bankrupt or insolvent, or reside in parts beyond the seas, and also whenever and so often as the said commissioners shall in their discretion require the same to be renewed; and if any proprietor or company of proprietors of any such railway, or other person as aforesaid, shall convey or cause to be conveyed upon any railway any passengers for hire, without having first given such security by bond to her majesty, in manner hereinbefore directed, or if any proprietor or company of proprietors of any railway shall permit or suffer any passengers to be conveyed for hire upon such last-mentioned railway, by any other person or company, before such other person or company shall have given security as aforesaid, and before a certificate, signed by the proper officer of stamp duties in that behalf (which certificate such officer is hereby authorised and required to give), that such security hath been given, shall have been issued, or after notice in writing, signed by any authorised officer of stamp duties, and delivered to the secretary or chief clerk of the proprietor or company of proprietors of such railway, or left at the office of such railway with any clerk or officer there, that

any such security ought, in pursuance of this Act, to be renewed, or is required to be renewed, and before a certificate, signed as aforesaid, that the same has been renewed, shall have been issued; or if any such proprietor or company of proprietors, or other person, shall refuse or neglect to renew such security, whenever and so often as the same is or shall by or in pursuance of this Act be required to be renewed, such proprietor or company or person shall forfeit the sum of one hundred pounds, and the further sum of one hundred pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, or for every day on which any such passengers shall be permitted to be conveyed before such security shall be given or renewed, and a certificate thereof issued as aforesaid, according to the true intent and meaning of this Act. 5 & 6 Vict. c. 79.

Commencement of stage carriage licences.

8. "And whereas it is expedient to alter and amend the said Act passed in the second and third years of the reign of his late majesty king William the fourth in certain respects relating to licences for stage carriages;" BE IT THEREFORE ENACTED, That from and after the commencement of this Act every licence for keeping, using, or employing any stage carriage (except an original licence granted between the first Monday in October and the first day of November in any year) shall be dated on the day on which the same shall be granted, and shall commence and have effect upon the same day, or any subsequent day, to be specified in such licence as the day of the commencement thereof; provided that no supplementary licence shall be granted in lieu of any licence which shall have been previously granted before the time appointed for the commencement of such last-mentioned licence.

Supplementary licences may be granted to use same carriage on a different line of road.

9. That whenever any person to whom any licence in force to keep, use, or employ a stage carriage shall have been granted shall be desirous of using or employing the said stage carriage upon any line of road other than that specified in such licence, the commissioners of stamps and taxes, or their proper officer, upon application to them or him, as in other cases of supplementary licences is required in pursuance of the said Act passed in the second and third years of the reign of his late majesty king William the fourth, shall grant to such person a supplementary licence with such alteration or variation as aforesaid, as well as with any other alteration or variation, if required, as permitted by the last-mentioned Act, upon payment of the duty hereby granted upon any supplementary licence; and also whenever any person to whom a licence to keep, use, or employ a stage carriage shall have been granted, shall die during the existence of such licence in force, and shall leave a widow or a child of full age, and also whenever any woman to whom any such licence shall have been granted shall marry during the existence of such licence in force, and in any of such cases respectively such surviving widow, or the said child, or the husband of such woman, shall continue and carry on the business of such deceased person or of such woman respectively, it shall be lawful for the said commissioners, or their proper officer, if they or he shall think fit, upon the application of any such widow or child or husband, as the case may be, and on his or her signing a requisition for that purpose, in such form as the said commissioners shall approve, and in the case of such deceased person, with the consent of his or her executor or administrator, to grant to such widow, child, or husband respectively a supplementary licence in lieu of such pre-existing licence so granted to such deceased person or such woman respectively, in the same manner and for the same purposes as any such supplementary licence might have been or may be granted to such deceased person or such woman under the said Act or this Act in case he or she had not died or married respectively, upon payment of the duty by this Act granted thereon; and every such supplementary licence in any of the cases aforesaid, and the person to whom the same shall be granted, shall be under and subject to the same regulations and liabilities, and such person shall be entitled to the same advantages, as if this provision had been inserted and contained in the said Act of the second and third years of the reign of the said king William the fourth, and such supplementary licence had been granted under the authority thereof; provided that nothing herein contained shall extend or be construed to extend to authorise the granting of any such licence, whether original or supplementary, to any person who shall not have attained the full age of twenty-one years. Widow or child may continue to use licences granted to deceased parties. Licences not to be granted to minors.

Certified copies of licences to be evidence.

10. "And whereas by the said recited Act of the second and third years of the reign of king William the fourth it is enacted, that a copy of every licence to keep, use, or employ a stage carriage, and of every endorsement made thereon, shall be kept at the office or place from which such licence shall be issued, in order that every person may have a copy thereof, paying one shilling for the same; and it is expedient that such copies, certified as hereinafter mentioned, should be received as evidence of the granting and of the contents of such licences respectively, and of the endorsements thereon;" BE IT THEREFORE ENACTED, That the commissioners of stamps and taxes, or the officer by whom any such licence shall have been granted, or other officer of stamp duties authorised by the said commissioners in that behalf, shall, upon application made to them or him for that purpose, deliver to the person requiring the same a copy of any such licence, certified according to this Act, on payment of the sum of one shilling; and in all proceedings and upon all occasions whatsoever a copy of any such licence, and of every endorsement thereon (if any), the same being made and taken from the copy thereof filed or kept at such office or place as aforesaid, certified to be a true copy under the hand of one of the said commissioners, or of the officer by whom such licence shall have been granted, or other officer authorised as aforesaid, upon proof made that such certificate hath been signed with the handwriting of a person described in or by such certificate as such commissioner or officer, and whom it shall not be necessary to prove

5 & 6 Vict. c. 79.

to be a commissioner, shall be received as evidence, against any and every person appearing by such copy to be named in such licence, that the same was duly granted by such person, and of the contents thereof, and of every endorsement thereon; and in any such case the said commissioners, or any of their officers, shall not be required or compellable to produce in any court, or at any place out of the office of the said commissioners or officers respectively, the original of any such licence or endorsement, or any copy thereof filed or kept in any such office, or any entry or memorandum relating to such licence in the books of the said commissioners or officers, or to give any other evidence or proof of the granting or contents of any such licence or endorsement than such copy certified as aforesaid.

Recital of 2 & 3 W. 4, c. 120, s. 30, relating to stage carriages plying for hire without plates.

11. "And whereas by the said last-mentioned Act it is enacted, that if any carriage be found upon or near to any public highway, and any person shall ply for passengers to be conveyed by such carriage for hire at separate fares, such carriage not having placed and fixed thereupon the numbered plates required by the said Act to be fixed on stage carriages, the driver of such carriage, or the person having the care thereof, or plying for passengers to be conveyed thereby, such driver or person not being the owner of such carriage, shall forfeit ten pounds, and if he be such owner, he shall forfeit twenty pounds; and moreover, that it shall be lawful for any constable or other peace officer, or any officer of stamp duties, without any warrant for that purpose, to apprehend such driver or other person, and to carry and convey him before any justice of the peace, to be dealt with as therein mentioned, and also to drive or take such carriage, with the horse or horses harnessed thereto or drawing the same, or to cause the same to be driven or taken to some public green-yard, or some livery-stables, or other place of safety, and there to lodge the same for safe custody until the determination of such justice shall be known; and such carriage, horse, or horses, and harness, are thereby made liable to the payment of such penalty, and of such costs and expenses, or of such expenses only, as the case may be, as are therein mentioned; and it is expedient to amend the said provision by extending the same to the cases hereinafter mentioned;" BE IT THEREFORE ENACTED, That if any stage carriage, whether licensed or not, shall be used upon any public highway for the purpose of carrying or conveying any passengers, one or more of whom shall be charged or shall pay separate and distinct fares, or a separate and distinct fare, or at the rate of separate and distinct fares, for their respective places or seats, or his place or seat therein, or conveyance thereby, such carriage not having placed and fixed thereupon the numbered plates required by the said last-mentioned Act to be fixed on stage carriages, the driver, and also the conductor or guard thereof, or other person having the direction, management, or care thereof, or assisting therein, shall forfeit the sum of ten pounds, or if he be the owner, the sum of twenty pounds; and moreover it shall be lawful for any officer of stamp duties, without any warrant for that purpose, with or without the aid and assistance of any constable or peace officer or other person, at any place where the journey for the performance of which such carriage shall be used shall terminate, or on the return of such carriage to the place from whence such journey commenced, to apprehend such driver, and such conductor, guard, or other person, and to carry and convey him before any justice of the peace having jurisdiction where the offence shall be committed, to be dealt with as hereinafter and as in the said last-mentioned Act is mentioned; and it shall also be lawful for such officer of stamp duties, with or without such aid and assistance as aforesaid, to seize and take such carriage, with the horse or horses harnessed thereto, or drawing or having drawn the same, and to drive or take the same, or to cause the same to be driven or taken, to some public green-yard or some livery-stables, or other place of safety, and there to lodge the same for safe custody until the determination of such justice shall be known; and such justice shall proceed therein as in the said last-mentioned Act is provided in relation to the offences before described; and every such penalty respectively, and also such costs and expenses as in the said last-mentioned Act are mentioned respectively, shall be levied and recovered by the same ways and means, and, if necessary, the offender committed for the same term or time as in the said last-mentioned Act are in that behalf provided in relation to the aforesaid penalties thereby imposed: Provided always, that nothing in this Act contained shall in any way affect or alter, or be deemed to affect or alter, the provision contained in the said last-mentioned Act so far as the same relates to the offence hereinbefore described.

Recited enactment amended.

2 & 3 W. 4, c. 120, s. 46, excepting mail coaches from the regulations as to plates, repealed.

12. "And whereas it is expedient that all mail coaches licensed to carry passengers for hire should have fixed thereon the usual numbered plates, in like manner as other stage carriages:" BE IT THEREFORE ENACTED, That so much of the said last-mentioned Act as enacts that none of the regulations therein contained relating to the plates to be fixed upon any stage carriage shall extend to any mail coach employed in the service of the general post-office, built or constructed according to the regulations of the postmaster-general, and not carrying more than four outside passengers, shall be and the same is hereby repealed.

No stage carriage to carry a greater number of passengers than it is constructed to carry.

13. "And whereas the repealing of the duties in respect of the passengers to be conveyed by stage carriages in Great Britain, and granting a uniform rate of duty on stage carriages in lieu thereof, will render certain regulations necessary for preventing the overloading of such carriages, and the dangers and inconveniences consequent thereon:" BE IT THEREFORE ENACTED, That no stage carriage shall be allowed to carry at one time a greater number of passengers in the whole, or in the inside or on the outside thereof, than the same is constructed to carry according to the regulations of this Act; and that no such carriage shall be deemed to be constructed to carry a greater number of passen-

gers than the same will contain at one time, upon fit and proper seats provided therein or thereupon for that purpose, allowing for every passenger, on an average, upon each and every separate seat, a space convenient for sitting thereon of sixteen inches, measuring in a straight line lengthwise on the front of each seat: Provided always, that no child under five years of age, sitting in the lap, shall be deemed a passenger within the meaning of this Act.

5 & 6 Vict. c. 79.

What number of passengers a carriage shall be deemed to be constructed to carry.

14. That no stage carriage shall be used or employed unless nor until there shall be truly painted, in words at length, and in legible and conspicuous Roman letters one inch at the least in height, and of a proper and proportionate breadth, and in a colour different from and opposite to the colour of the ground on which such letters shall be painted, and in one or more straight horizontal line or lines, upon some conspicuous part on the outside of such carriage, at the back thereof, and also in the inside thereof, and where the same shall be constructed to carry passengers in different compartments, then in each such compartment, and so that the same shall be at all times plainly and distinctly visible and legible, the number of passengers which such carriage is constructed to carry according to this Act in the whole, and on the outside and in the inside thereof respectively, and in each such compartment; and if any stage carriage shall be used or employed without having all and every such particulars painted thereon in manner aforesaid, or if any stage carriage shall be used or employed having thereon or in or on any part thereof any words or figures, or any particulars whatever, specifying or importing, or tending or intended to signify or import that the same is constructed or in any way authorised to carry a greater number of passengers in the whole, or on the outside or in the inside thereof respectively, or in any compartment thereof, than the same is truly constructed to carry according to the regulations of this Act, the proprietor thereof shall forfeit the sum of ten pounds.

The number of passengers which a carriage is constructed to carry to be painted thereon.

If any stage carriage be used without having the proper particulars painted thereon, penalty, 10*l.*

15. That if the number of passengers at any one time conveyed in, upon, or about any stage carriage shall be greater in the whole, or upon or about the outside thereof, or in the inside thereof, or in any compartment thereof respectively, than the same is constructed to carry, according to the regulations of this Act, or than any particulars painted thereon shall specify in the whole, or upon the outside thereof, or in the inside thereof, or in any compartment thereof respectively, the driver and conductor or guard thereof for the time being respectively shall forfeit the sum of five pounds.

If any greater number of passengers be carried than the carriage is constructed to carry or than the particulars specify, penalty, 5*l.*

16. That it shall be lawful for any constable or peace officer at any time, and also for any person travelling or having immediately before travelled by any stage carriage, in any case where he shall have reason for believing or suspecting that a greater number of passengers are carried or are about to be carried, or have immediately before, or at any time during the journey last performed, been carried, by such stage carriage, to measure the seats or any of the seats in or upon such carriage, in order to ascertain the length thereof respectively, or the number of passengers which the said carriage is constructed to carry; and if any person shall refuse to permit the seats in or upon any such stage carriage to be measured, or shall by any means or in any way prevent or attempt to prevent any constable, peace officer, or other such person as aforesaid from or hinder or obstruct him in measuring the same, the person so offending shall forfeit for every such offence the sum of five pounds.

Any constable or passenger may measure the seats.

Penalty for refusing to permit the measuring of the seats, 5*l.*

17. That no stage carriage the top or roof of which shall be more than eight feet nine inches from the ground, or the bearing of which on the ground shall be less than four feet six inches from the centre of the track of the right or off wheel to the centre of the track of the left or near wheel, shall be allowed to carry in any case more than the number of outside passengers hereinafter respectively mentioned; (that is to say,) not more than five outside passengers where such carriage shall be constructed to carry, according to the regulations of this Act, not exceeding nine passengers in the whole; not more than eight outside passengers where such carriage shall be constructed to carry, according to the said regulations, in the whole exceeding nine, and not exceeding twelve passengers; not more than eleven outside passengers where such carriage shall be constructed to carry, according to the said regulations, in the whole exceeding twelve and not exceeding fifteen passengers; not more than twelve outside passengers where any such carriage shall be constructed to carry, according to the said regulations, in the whole exceeding fifteen and not exceeding eighteen passengers; and not more than two additional outside passengers for every three additional passengers which any such carriage shall be constructed to carry, according to the said regulations, in the whole; and if any greater number of outside passengers shall be carried by any such stage carriage as aforesaid than is hereinbefore specified and allowed, the driver of such stage carriage, and the conductor or guard thereof, at the time when such offence shall be committed, shall respectively forfeit the sum of five pounds.

Number of passengers allowed to be carried on the outside of stage carriages.

18. That nothing in this Act contained shall in any way alter or affect any of the regulations or provisions contained in the said Act passed in the second and third years of the reign of his late majesty king William the fourth, relating to stage carriages, now in force, which shall not be inconsistent with the regulations and provisions herein contained; and that all the clauses and provisions contained in the said Act relating to the recovery of penalties before any justice of the peace shall be applied and be put in force for the recovery of any penalty imposed by or incurred under this Act: Provided always, that it shall be lawful for any person to inform and prosecute for any penalty incurred as well by the owner or proprietor of any stage carriage, as by the driver, conductor,

Not to alter the regulations of 2 & 3 W. 4, c. 120.

Recovery of penalties for offences relating to

5 & 6 Vict. c. 79.

stage carriages.

or guard thereof, under this Act, so far as relates to the particulars to be painted on stage carriages, or to carrying a greater number of passengers by any stage carriage, than the same is constructed to carry, or than is allowed by this Act, provided the information be exhibited or the complaint made within ten days after the offence shall have been committed: Provided also, that where by this Act any penalty is imposed upon the driver, and conductor, or guard of any stage carriage respectively for one and the same offence, only one prosecution shall be had or maintained for the recovery of such penalty against such driver, or conductor, or guard, at the option of the person prosecuting for the same.

Evidence in prosecutions relating to the carrying of passengers by stage carriages.

19. That in any prosecution for the recovery of any penalty relating to the carrying of passengers by any stage carriage, or to the number of passengers which any stage carriage shall be constructed to carry, if proof be made of the due admeasurement of the height or bearing of such stage carriage, or of the seat or any of the seats in or upon any such carriage, or of the particulars painted thereon, the same shall be deemed and received as evidence thereof without the production of such carriage.

Reciting 22 G. 3, c. 48, as to fire insurances (a);

20. "And whereas by an Act passed in the twenty-second year of the reign of king George the third, intituled 'An Act for charging a Duty on Persons whose Property shall be insured against Loss by Fire,' it is enacted, that no person shall insure or open any office for insuring houses, furniture, goods, wares, merchandises, or other property, from loss by fire in Great Britain, without first taking out a licence for that purpose from the commissioners for managing the stamp duties, which licence it is enacted shall endure and have force for one year only; AND IT IS THEREBY ALSO ENACTED, That every person and body politic or corporate to whom any such licence shall be granted shall at the time of receiving such licence give security by bond, to his majesty, conditioned for making out and delivering the accounts of all moneys received for duties granted by the said last-mentioned Act, and payment of the same, as therein mentioned: And whereas under and by virtue of an Act passed in the sixth and seventh years of the reign of his late majesty king William the fourth, intituled 'An Act to enable Persons to make Deposits of Stock or Exchequer Bills in lieu of giving Security by Bond to the Postmaster General and Commissioners of Land Revenue, Customs, Excise, Stamps and Taxes,' and of an Act passed in the first and second years of her present majesty's reign, for amending the said last-mentioned Act, any person from whom any security is required in respect of any matter relating to the revenues of the post office, land revenues, customs, excise, stamps or taxes, is enabled, in lieu of giving such security bond, to give the same by transfer of stock or deposit of exchequer bills, as therein mentioned: And whereas the giving of security every year by persons insuring property from loss or damage by fire, on taking out a licence for that purpose, is attended with great inconvenience, and it is expedient to provide a remedy for the same:" BE IT THEREFORE ENACTED, that every licence which shall be hereafter granted for insuring houses, furniture, goods, wares, merchandises, or other property from loss by fire, under the said Act passed in the twenty-second year of the reign of king George the third, shall endure and remain in force from the day of the date thereof for and during all such time as the body politic or corporate to which the same shall be granted, or the persons therein named, or any of them, shall continue to insure or carry on the business of fire insurance, or, in the case of a company not incorporate, so long as the persons named in the licence shall be members or partners or a member or partner of the company named or described in such licence, and as and for the whole of which the same shall have been granted, anything in any of the said recited Acts or in any other Act contained to the contrary notwithstanding: Provided always, that every person and body politic or corporate to whom any such licence as aforesaid shall be granted shall give security, by bond, to her majesty, her heirs and successors, in such sum as the commissioners of stamps and taxes shall think proper, with sufficient sureties to the satisfaction of the said commissioners, or by transfer of stock or deposit of exchequer bills, in pursuance of the said recited Acts in that behalf, for duly and faithfully keeping, making out, signing and delivering, in the manner required by any Act of parliament relating thereto, all and every the accounts by any such Act required to be kept, made out, signed, and delivered by persons and bodies politic or corporate to whom licence is granted for insuring houses, furniture, goods, wares, merchandises, or other property from loss by fire, and for duly and faithfully paying, as required by any such Act, to the receiver general of stamps and taxes, or to such other person as the said commissioners may require, for the use of her majesty, her heirs and successors, the duties which shall appear to be due on such accounts respectively, and for truly and faithfully observing and performing all the directions, matters, and things contained in the said Acts on the part of such licensed person or body politic or corporate to be observed and performed; and every such security to be given under any of the said Acts, whether by bond and transfer, or deposit of stock or exchequer bills, and in the case of any such transfer or deposit in or into whose name or names soever, together with the name of the chairman of the commissioners of stamps and taxes for the time being, the stock or exchequer bills shall be, or be transferred or deposited, shall continue and be a security for the due performance of all things required as aforesaid, not only during all such time

6 & 7 W. 4, c. 28, and 1 & 2 Vict. c. 61, as to deposit of stock.

Fire insurance licences to be permanent.

Security to be given for payment of duties.

The security to continue in force so long as the person to whom the

(a) Agents of foreign companies which insure property in the united kingdom are required to take out licences, 19 Vict. c. 22, s. 3, post.

as the licence to which the same shall relate shall be in force, but during all such time as the body politic or corporate, or the company not incorporate, named or described in such licence, shall insure any such property from loss by fire, or shall carry on the business of such insurance, whether any such licence shall be in force or not, or otherwise according to the conditions of any such bond, or the terms or conditions of any declaration relating to any such stock or exchequer bills; and such stock or exchequer bills may, when the security for which the same was or were transferred or deposited shall be no longer necessary, be transferred or delivered up to any of the persons who for the time being shall be a partner or member or partners or members of the company for or on whose behalf the same was or were transferred or deposited, or otherwise according to the terms, if any, in that behalf mentioned and contained in any such declaration, as the said chairman for the time being shall think proper: Provided always that every such security shall be renewed from time to time, as often as any such bond shall become forfeited, or any of the parties thereto shall die or become bankrupt or insolvent, or reside in parts beyond the seas, and also as often as the said commissioners shall think fit, and in such amount as they or the commissioners of her majesty's treasury shall direct, whether the same shall be by bond or transfer, or deposit as aforesaid; and in the event of any neglect or refusal to renew the same when required by this Act, or by the said commissioners of stamps and taxes, it shall be lawful for the said last mentioned commissioners to revoke the licence which shall have been granted to the body politic or corporate, or company, or persons neglecting or refusing to renew such security to insure property from loss by fire, and thenceforth such licence shall cease and determine.

5 & 6 Vict. c. 79.

Licence is granted or the company shall continue to insure.

The security to be renewed.

21. That it shall not be lawful for the commissioners of stamps and taxes, or any of their officers, to stamp or mark any vellum, parchment, or paper upon which any bill of lading, or any charter-party, or any agreement, contract, memorandum, letter or other writing by this Act chargeable with any duty as a charter-party, shall be engrossed, written, or printed, under any pretence whatever after the same shall be executed or signed by any party, except as herein is provided; and if any person shall make or sign any bill of lading which shall be engrossed, printed, or written, or partly engrossed or written and partly printed, upon vellum, parchment, or paper not duly stamped according to law, every such person shall forfeit the sum of fifty pounds: Provided always that if any charter-party, or any such agreement, contract, memorandum, letter, or writing chargeable with any duty as a charter-party, shall be brought to the head office of the said commissioners, or to any of their proper officers, to be stamped, within fourteen days after the same shall bear date, and shall have been executed or signed by the party thereto who shall have first executed or signed the same, it shall be lawful for the said commissioners, and they are hereby required to cause the same to be stamped, upon payment of the duty chargeable thereon, without any penalty; and if the same shall be brought to the said head office to be stamped at any time after the expiration of such fourteen days and within one calendar month after the same shall bear date and shall have been first executed or signed as aforesaid, it shall be lawful for the said commissioners, and they are hereby required to cause the same to be stamped upon payment of the duty chargeable thereon, and of the further sum of ten pounds by way of penalty.

Bills of lading and charter-parties not to be stamped after signing, except in cases specified.

Penalty for signing an unstamped bill of lading.

Charter-parties may be stamped on payment of the duty, or duty and penalty, within certain limited periods after the signing thereof (a).

22. "And whereas before any person is admitted to the degree of a barrister-at-law in England he is required to be admitted a member of one of the inns of court in England, as well as a student into the society of King's Inns in Dublin, and it is expedient to relieve all such persons from the duty payable on such admission in England:" BE IT THEREFORE ENACTED, That where any person shall be admitted a member of any of the inns of court in England, and also a student into the society of King's Inns in Dublin, and shall have paid the stamp duties chargeable on both such admissions, it shall be lawful for the commissioners of stamps and taxes to repay to such person the amount of the duty on such admission in England, after deducting the usual discount allowed on the purchase of stamps in England, provided application shall be made for that purpose within six calendar months after the last admission; and proof of both such admissions, and the payment of the duties thereon, shall be made to the satisfaction of the said commissioners, who shall be at liberty to make such regulations relating thereto as they shall think proper.

Persons admitted members of inns of court both in England and Ireland to be allowed the stamp duty charged on admission in England.

23. "And whereas by the said recited Act of the fifty-fifth year of the reign of king George the third (b), the commissioners of the treasury are authorised to allow time for making claims for a return of stamp duty paid upon probates of wills and letters of administration in cases where an executor or administrator hath paid debts out of the personal or moveable estate of any deceased person, and it is expedient to authorise the commissioners of stamps and taxes to allow time for making such claims:" BE IT THEREFORE ENACTED, That where it shall be proved by oath and proper vouchers, to the satisfaction of the said commissioners of stamps and taxes, that an executor or administrator

A return of duty on probates, &c. to be made in respect of debts, if claimed in three years (c).

(a) See *Closemadeuc* v. *Carrol*, 18 C. B. 36, 25 L. J. C. P. 216.

(b) Sect. 51, ante, p. 475.

(c) Where a testator left personal property in each of the provinces of Canterbury and York, and probates were taken out for the property being in each province respectively, and separate duties paid on each probate, and the executors

5 & 6 Vict. c. 79.

hath paid debts due and owing from the deceased, and payable by law out of his or her personal or moveable estate, to such an amount as, being deducted from the amount or value of the estate and effects of the deceased for or in respect of which a probate or letters of administration shall have been granted in England after the 31st day of August, 1815, or which shall be included in any inventory duly exhibited and recorded after that day in a commissary court in Scotland, shall reduce the same to a sum which, if it had been the whole gross amount or value of such estate or effects, would have occasioned a less stamp duty to be paid on such probate or letters of administration or inventory than shall have been actually paid thereon, it shall be lawful for the said commissioners of stamps and taxes and they are hereby required to return the difference, provided the same shall be claimed within three years after the date of *such probate or letters of administration* (a), or the recording of such inventory as aforesaid: but where, by reason of any proceedings at law or in equity, the debts due from the deceased shall not have been ascertained and paid, or the effects of the deceased shall not have been recovered and made available, and in consequence thereof the executor or administrator shall be prevented from claiming such return of duty as aforesaid within the said term of three years, it shall be lawful for the said commissioners of stamps and taxes to allow such further time for making the claim as may appear to them to be reasonable under the circumstances of the case.

Penalties imposed by this Act, how to be recovered.

Powers, provisions, &c. of former Acts to continue in force.

24. That all pecuniary penalties imposed by or which may be incurred under this Act may be sued or prosecuted for and recovered by the same ways and means, and in the same manner and form, and be mitigated and applied as any other penalty incurred under any Act relating to the stamp duties may be sued for, prosecuted, and recovered, mitigated and applied; and that all the powers, provisions, regulations, forfeitures, pains, and penalties contained in or imposed by any Act or Acts in force with relation to any of the duties under the management of the commissioners of stamps and taxes, so far as the same are or may be applicable in cases not by this Act expressly provided for, and so far as the same shall not be superseded by, and as the same shall be consistent with, the express provisions of this Act, shall be of full force and effect with respect to the duties by this Act granted, and to the matters and things charged or chargeable therewith, in respect of which duty is hereby granted, and shall be applied and put in execution for recovering, securing, and collecting the said duties hereby granted, and for preventing, detecting, and punishing all frauds, forgeries and other offences relating thereto, as fully and effectually to all intents and purposes as if such powers, provisions, regulations, forfeitures, pains, and penalties had been repeated and specially enacted in this Act with reference to the duties by this Act granted and made payable.

Construction of terms used in this Act.

25. That wherever in this Act, with reference to any person, matter, or thing, any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Commencement of Act.

26. That this Act shall commence and take effect on the respective days hereinafter mentioned; (that is to say,) so much thereof as relates to the duties on passengers conveyed on railways shall commence and take effect on the 1st day of August in this present year 1842; and so much thereof as relates to stage carriages, and licences for keeping, using, or employing the same, and to the duties thereon, shall commence and take effect on the 3rd day of October in this present year 1842; and so much as relates to any other duties, matters, and things shall commence and take effect on the passing of this Act.

SCHEDULE.

Containing—The Duties by this Act granted on Stage Carriages; (that is to say,)

	Duty.
For and in respect of every original licence to be taken out yearly by the person who shall keep, use, or employ any stage carriage in Great Britain; (that is to say,) for every such stage carriage	£3 3 0

---

afterwards paid debts indiscriminately out of the whole personalty; it was held, that they were not entitled, for the purpose of demanding a return of duty under this section, to add together the amounts in respect of which the two probate duties were paid, deduct from the gross sum the amount of the debts, and then estimate the duty payable on the remainder, and demand back the difference between such duty and the aggregate of the sums paid on the two probates (*Reg.* v. *Commissioners of Stamps*, 9 Q. B. 637).

An equitable mode of calculating the sum to be returned seems to be to apportion the sum paid for debts in the ratio of the estates in each province, and deduct the respective portions of the debts from the values of the respective estates (*Ibid.*).

Property in a foreign country is not to be taken into consideration, in estimating the amount of duty to be returned under this section (*Reg.* v. *Commissioners of Stamps and Taxes* (*Ostell's case*) 18 L. J. Q. B. 201).

(a) See 10 & 11 Vict. c. 42.

5 & 6 Vict. c. 79.

And for and in respect of every supplementary licence (a) for the same carriage, for which any such original licence shall have been granted, which shall be taken out in any case allowed by law during the period for which such original licence was granted	£0	5	0
And for and in respect of every mile which any stage carriage shall be licensed to travel	0	0	1¼

And also the Duties in respect of Passengers conveyed for Hire by Carriages travelling upon Railways; (that is to say,)

For and in respect of all passengers conveyed for hire upon or along any railway, a duty at and after the rate of 5*l.* for 100*l.* upon all sums received or charged for the hire, fare, or conveyance of all such passengers.			

And also the Duties on the Instruments, Matters, and Things herein mentioned and described; (that is to say,)

Bill of lading of or for any goods, merchandise, or effects to be exported or carried coastwise	0	0	6
Charter-party, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such ship or vessel	0	5	0
Collation or appointment by any archbishop or bishop to any cathedral, prebend, dignity, office, or honorary canonry, having no endowment or emolument attached or belonging thereto	2	0	0
Collation by any archbishop or bishop to any ecclesiastical benefice, dignity, or promotion in England, other than as aforesaid	7	0	0
And where the net yearly value of such benefice, dignity, or promotion shall amount to 300*l.* or upwards, then for every 100*l.* thereof over and above the first 200*l.* a further duty of	5	0	0
Donation or presentation by her majesty (b), or her heirs or successors, of or to any ecclesiastical benefice, dignity, or promotion in England	5	0	0
And where the net yearly value of such benefice, dignity, or promotion shall amount to 300*l.* or upwards, then for every 100*l.* thereof over and above the first 200*l.* a further duty of	5	0	0
Institution granted by any archbishop, bishop, chancellor, or other ordinary, or by any ecclesiastical court, to any ecclesiastical benefice, dignity, or promotion in England:			
Where the same shall proceed upon a presentation	2	0	0
And where it shall proceed upon the petition of the patron to be himself admitted and instituted	7	0	0
And if in the latter case the net yearly value of such benefice, dignity, or promotion shall amount to 300*l.* or upwards, then for every 100*l.* thereof over and above the first 200*l.*, a further duty of	5	0	0
Note.—The value of such benefice, dignity, or promotion in any and every of the cases aforesaid to be ascertained by the certificate of the ecclesiastical commissioners for England: Provided always, that two or more benefices episcopally or permanently united shall be deemed one benefice only.			
Licence to hold a perpetual curacy not proceeding upon a nomination	3	10	0

5 & 6 Vict. c. 82. An Act to assimilate the Stamp Duties in Great Britain and Ireland, and to make Regulations for collecting and managing the same, until the Tenth day of October, One thousand eight hundred and forty-five (c). [5th August, 1842.] 5 & 6 Vict. c. 82.

6 & 7 Vict. c. 72. An Act to impose certain Stamp Duties, and to amend the Laws relating thereto. [22nd August, 1843.] 6 & 7 Vict. c. 72.

"Whereas by an Act passed in the last session of parliament, intituled, &c., certain stamp duties were granted upon donations or presentations by her majesty, or her heirs or successors, of or to any ecclesiastical benefice, dignity, or promotion in England, and 5 & 6 Vict. c. 79.

(a) The duties on supplementary licences and mileage are reduced to one shilling and one penny respectively by 18 & 19 Vict. c. 78, post.

(b) See 6 & 7 Vict. c. 72, infra.

(c) Continued by 8 & 9 Vict. c. 2, and 11 Vict. c. 9; 14 & 15 Vict. c. 18; and by 15 Vict. c. 21, for one year, to commence from 10th October, 1852. Made perpetual by 16 & 17 Vict. c. 59, s. 20, post.

6 & 7 Vict. c. 72.

upon collations by any archbishop or bishop to any such ecclesiastical benefice, dignity, or promotion; and whereas it is expedient that the said duties should be paid upon all donations, presentations, and collations of or to ecclesiastical benefices, dignities, or promotions in England, by whomsoever made or granted:" BE IT THEREFORE ENACTED, That from and after the passing of this Act the several and respective duties by the said recited Act granted and imposed upon any donation or presentation by her majesty, or her heirs or successors, of or to any ecclesiastical benefice, dignity, or promotion in England, shall be and the same are hereby respectively charged and made payable upon or for and in respect of every donation or presentation, by whomsoever made or granted, of or to any such ecclesiastical benefice, dignity, or promotion: and that the several duties by the said Act granted and imposed upon any collation by any archbishop or bishop to any ecclesiastical benefice, dignity, or promotion, in England, shall be and the same are hereby charged and made payable upon or for and in respect of every collation to any such ecclesiastical benefice, dignity, or promotion, whether the same shall be made by any archbishop or bishop, or by any other ordinary or competent authority.

The duties on donations and presentations by her majesty to extend to all donations and presentations by whomsoever made.

2. That the certificate of the ecclesiastical commissioners for England for ascertaining the value of any benefice, dignity, or promotion, as required by the said Act, shall in every case be written upon the instrument of donation, presentation, or collation respectively charged with duty by the said Act or this Act; and where institution shall proceed upon the petition of the patron to be himself admitted and instituted, such certificate shall be written upon the instrument of institution charged with duty by the said Act, and no such instrument as aforesaid shall be used or be available unless nor until such certificate shall be so written thereon; and such instrument shall be stamped to denote the proper duty chargeable in respect thereof.

The certificate of the value of the benefice to be written upon the donation, &c.

3. "And whereas it is expedient to impose a stamp duty on every certificate which may be issued of the registration of a design under the authority of 6 & 7 Vict. c. 65:" BE IT ENACTED, That there shall be charged and payable upon or for and in respect of every certificate to be issued of the registration of a design under the authority of the said last-mentioned Act a stamp duty of five pounds, to be denoted by a stamp to be specially appropriated for expressing and denoting the said duty, and to be impressed upon every such certificate.

Stamp duty payable on certificates of registration of a design under 6 & 7 Vict. c. 65.

7 Vict. c. 21.

7 Vict. c. 21 (a). An Act to reduce the Stamp Duties on Policies of Sea Insurance and on certain other Instruments, and to repeal the Duties on certain Bonds, and the Law requiring Public Notaries in Ireland to deliver Accounts of Bills and Notes noted by them. [6th June, 1844.]

55 G. 3, c. 184.

"Whereas under and by virtue of an Act passed in the fifty-fifth year of the reign of king George the third, intituled, &c., certain stamp duties specified and contained in a schedule to the said Act annexed were granted and made payable in Great Britain for and in respect of (amongst other things) policies or other instruments of insurance, agreements, and letters of powers of attorney: And whereas by an Act passed in the third and fourth years of the reign of his late majesty king William the fourth, intituled, &c., the duties granted by the said first-recited Act on certain policies or other instruments of sea insurance were repealed, and in lieu thereof other stamp duties were granted and made payable in Great Britain and Ireland respectively for and in respect of the same policies or instruments: And whereas under and by virtue of an Act passed in the fifth and sixth years of her present majesty's reign, intituled, &c., the stamp duties granted and then payable in England under or by virtue of the said first-recited Act were extended to and made payable in Ireland in lieu of certain stamp duties repealed by the last recited Act: And whereas it is expedient to reduce the stamp duties now payable in Great Britain and Ireland respectively on policies or other instruments of sea insurance, and on certain agreements, and also on certain letters or powers of attorney or other instruments for appointing proxies:" BE IT THEREFORE ENACTED, That from and after the passing of this Act the stamp duties now payable in Great Britain and Ireland respectively, under or by virtue of the said several recited Acts or any of them, on the policies or other instruments of sea insurance, and on the agreements, and also on the letters or powers of attorney or other instruments for appointing proxies respectively mentioned and described in the schedule hereunto annexed, and whereon other duties are by this Act granted and imposed, shall respectively cease and determine, and shall be and the same are hereby repealed, save and except so much and such part and parts of the said duties respectively as shall have accrued or been incurred before or upon the passing of this Act, and shall then or at any time afterwards be or become due or payable, and remain in arrear and unpaid, all which said duties so remaining in arrear and unpaid as aforesaid shall be recoverable by the same ways and means and with such and the same penalties as if this Act had not been passed.

3 & 4 W. 4, c. 23.

5 & 6 Vict. c. 82.

Stamp duties on policies of sea insurance, and on certain agreements, and also on certain instruments for appointing proxies, repealed, except as to arrears.

2. That from and after the passing of this Act, in lieu and instead of the said several

New duties granted in

(a) See 19 & 20 Vict. c. 81, post.

duties by this Act repealed there shall be granted, raised, levied, collected, and paid in Great Britain and Ireland respectively, unto and for the use of her majesty, her heirs and successors, for and in respect of the several articles, matters, and things mentioned and described in the schedule to this Act annexed, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said last-mentioned schedule; and that the said last-mentioned schedule, and the several provisions, regulations, and directions therein contained with respect to the said duties, and the articles, matters, and things charged therewith, shall be deemed and taken to be part of this Act.

7 Vict. c. 21. Ilieu of duties repealed.

3. That the said duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of stamps and taxes for the time being; and that all the powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties, contained in or imposed by the several former Acts of parliament relating to any prior duties of the same kind or description in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, articles, matters, and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, enforced, and put in execution for the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually, to all intents and purposes, as if the same had been herein repeated and specially enacted with reference to the said duties by this Act granted.

Powers and provisions of former Acts to be applied to the duties granted by this Act.

4. That if any person shall become an assurer upon any insurance in respect whereof any duty is by this Act made payable, or shall subscribe or underwrite, or otherwise sign or make or enter into any contract, agreement, or memorandum of any such insurance, or shall receive or contract for any premium or consideration for any such insurance, or shall receive or charge or take credit in account for any such premium or consideration as aforesaid, of any sum of money as or for any such premium or consideration as aforesaid, or shall wilfully or knowingly take upon himself any risk, or render himself liable to pay, or shall pay, or allow or agree to pay, or allow in account or otherwise, any sum of money upon any loss, peril, or contingency relative to any such insurance, unless such insurance shall be written on vellum, parchment, or paper duly stamped, or if any person shall be concerned in any fraudulent contrivance or device, or shall be guilty of any wilful act, neglect, or omission, with intent to evade the duties payable under this Act on policies of insurance, or whereby any such duties shall be evaded, every person so offending shall for every such offence forfeit and pay the sum of one hundred pounds: Provided always, that nothing herein contained shall extend to subject any member, officer, or servant of the London Assurance or Royal Exchange Assurance corporations respectively to any of the penalties by this Act imposed, for or by reason of his making any agreement to insure by any label, slip, or memorandum in writing upon unstamped paper; provided that in every such case the day on which such agreement shall be made shall be truly expressed in words at length on such label, slip, or memorandum, and a policy of insurance according to such agreement shall be made out in due form on vellum, parchment, or paper duly stamped, and which shall be duly executed within three office days from the time of making such agreement as aforesaid.

Penalty for evading the duties on insurances.

The London Assurance and the Royal Exchange Assurance Corporations allowed to make agreements on unstamped slips, on certain conditions.

5. That if any agreement, or minute or memorandum of an agreement, chargeable with duty under this Act, shall be ingrossed, written, or printed upon vellum, parchment, or paper not duly stamped according to law, and such agreement, minute, or memorandum shall be brought to the commissioners of stamps and taxes, or to any of their officers appointed or authorised to receive the same, to be stamped, together with the duty payable thereon, within fourteen days after such agreement, minute, or memorandum shall have been made or entered into, it shall be lawful for the said commissioners and they are hereby required to cause the same to be stamped without the payment of any penalty: Provided always, that if such agreement, minute, or memorandum shall not be brought to be stamped as aforesaid within the time hereinbefore prescribed and limited for that purpose there shall be payable by way of penalty on the stamping thereof the sum of ten pounds, over and above the duty chargeable thereon.

Agreements chargeable with duty under this Act may be stamped within fourteen days after the making thereof, without penalty.

Penalty on stamping the same afterwards, 10l.

6. That any letter or power of attorney, or other instrument made for the purpose of appointing or nominating a proxy, and chargeable with duty under this Act, shall authorise such proxy to vote upon any matter at one meeting of the proprietors or shareholders of or in any company or society, the time of holding whereof shall be specified in such instrument, or at any adjournment of such meeting; and no such letter or power of attorney or other instrument shall be further or otherwise available, any thing in such instrument or in any Act of parliament to the contrary notwithstanding.

Instruments of proxy to be available for voting at one meeting, or at any adjournment thereof (a).

(a) See now 19 & 20 Vict. c. 81, and 24 & 25 Vict. c. 91, s. 26, post.

The right of appointing a general proxy with a 30s. stamp, under 50 Geo. 3, c. 185, is not taken away by this section (*Trinity House* v. *Beadle*, 13 Q. B. 175; see ante, p. 520, n. (c)).

7 Vict. c. 21.

Commissioners not to stamp instruments appointing proxies, after the signing thereof.

Penalty for signing instruments appointing proxies, not being duly stamped, or for voting under such instruments.

7. That it shall not be lawful for the commissioners of stamps and taxes, or any of their officers, under any pretence whatever, to stamp or mark, after the signing thereof by any person, any vellum, parchment, or paper upon which any letter or power of attorney, or other instrument appointing or nominating a proxy, chargeable with duty under this Act, shall be ingrossed, written, or printed; and if any person shall make or sign any such letter or power of attorney or other instrument as aforesaid which shall be ingrossed, written, or printed, or partly ingrossed or written and partly printed, upon vellum, parchment, or paper not duly stamped according to law, or if any person shall vote or attempt to vote or act as a proxy in pursuance or under the authority, or pretended authority, of any such letter or power of attorney or other instrument not duly stamped as aforesaid, every person so offending in any or either of the cases aforesaid shall forfeit and pay the sum of fifty pounds; and every vote made or given or other act done in pursuance or under the authority or pretended authority of any such letter or power of attorney or other instrument, not duly stamped as aforesaid, shall be absolutely null and void to all intents and purposes.

8. [Stamp duty on bonds given for obtaining drawbacks of duties of customs or excise, repealed.]

THE SCHEDULE TO WHICH THIS ACT REFERS; CONTAINING THE DUTIES IMPOSED BY THIS ACT.

For and in respect of every POLICY OF ASSURANCE or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any ship or vessel, or upon any goods, merchandise, or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured for or upon any voyage whatever, the following duties, where the whole sum insured shall not exceed one hundred pounds, and where the whole sum insured shall exceed one hundred pounds, then for every one hundred pounds, and also for any fractional part of one hundred pounds, whereof the same shall consist; (that is to say,)

Where the premium or consideration for such insurance actually and *bonâ fide* paid, given, or contracted for shall not exceed the rate of ten shillings per centum on the sum insured	£0	0	3
And where the same shall exceed the rate of ten shillings per centum, and shall not exceed the rate of twenty shillings per centum, on the sum insured	0	0	6
And where the same shall exceed the rate of twenty shillings per centum, and shall not exceed the rate of thirty shillings per centum, on the sum insured	0	1	0
And where the same shall exceed the rate of thirty shillings per centum, and shall not exceed the rate of forty shillings per centum, on the sum insured	0	2	0
And where the same shall exceed the rate of forty shillings per centum, and shall not exceed the rate of fifty shillings per centum, on the sum insured	0	3	0
And where the same shall exceed the rate of fifty shillings per centum on the sum insured	0	4	0

But if the separate interests of two or more distinct persons shall be insured by one policy or instrument, then the said respective duties, as the case may require, shall be charged thereon in respect of each and every fractional part of one hundred pounds, as well as in respect of every full sum of one hundred pounds, which shall be thereby insured upon any separate and distinct interest.

And for and in respect of every POLICY OF ASSURANCE or insurance, or other instrument whereby any such insurance as aforesaid shall be made for any CERTAIN TERM or period of time, the following rates or sums for every one hundred pounds, and also for any fractional part of one hundred pounds, whereof the same shall consist; (that is to say,)

Where any such insurance shall be made for any term or period not exceeding six calendar months	0	2	6
Exceeding six calendar months	0	4	0

And for and in respect of every policy of assurance or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance commonly called a MUTUAL INSURANCE, shall be made, or whereby divers persons shall insure or agree to insure one another, without any premium or pecuniary consideration, from any loss, damage, or misfortune that may happen of or to any ship or vessel, or any goods, merchandise, or other property on board of any ship or vessel, or the freight of any ship or vessel, or any other interest in or relating to any ship or vessel which may lawfully be insured upon any voyage whatever, and not for any period of time,

For every sum of one hundred pounds, and also for each and every frac-

tional part of one hundred pounds, thereby insured to any person or persons	£0	2	6	Vict. c. 21.
And for and in respect of every AGREEMENT (a), or minute or memorandum of an agreement now chargeable with the duty of one pound under the head or title of "Agreement" in the schedule to the Act 55 Geo. 3, c. 184, annexed	0	2	6	
And for and in respect of every letter or power of attorney or other instrument made for the sole purpose of appointing or nominating a PROXY (b) to vote at any meeting of the proprietors or shareholders of or in any joint stock company or other company or society whose stock or funds are divided into shares, and transferable	0	2	6	

8 & 9 Vict. c. 76. An Act to increase the Stamp Duty on Licences to Appraisers; to reduce the Stamp Duties on Registry Searches in Ireland; to amend the Law relating to the Duties on Legacies; and also to amend an Act of the last Session of Parliament, for regulating the Issue of Bank Notes in England. [4th August, 1845.] 8 & 9 Vict. c. 76.

"Whereas under and by virtue of an Act passed in the fifty-fifth year of the reign of king George the third, intituled, &c., certain stamp duties specified and contained in a schedule to the said Act annexed were granted and made payable in Great Britain, and (amongst others) the duty of ten shillings for and in respect of a licence to use and exercise the calling or occupation of an appraiser, to be taken out yearly by every person who shall exercise the said calling or occupation, or make any appraisement or valuation charged by the said Act with a duty, for or in expectation of any gain, fee, or reward, except licensed auctioneers: And whereas under and by virtue of an Act passed in the fifth and sixth years of her present majesty's reign, intituled, &c., the stamp duties granted and then payable in England under or by virtue of the said first-recited Act were extended to and made payable in Ireland for a term limited by the said last-recited Act, in lieu of certain stamp duties thereby repealed, and the same duties have been granted and continued and are now payable in Ireland for a further term, under and by virtue of an Act passed in this present session of parliament, intituled, &c.: And whereas it is expedient to increase the duty in respect of licences to be taken out by appraisers in Great Britain and Ireland respectively:" BE IT THEREFORE ENACTED, That from and after the passing of this Act the said duty now payable in Great Britain and Ireland respectively under or by virtue of the said several recited Acts or any of them, for or in respect of a licence to use and exercise the calling or occupation of an appraiser, shall cease and determine, and the same is hereby repealed; and that in lieu thereof there shall be granted, raised, levied, collected, and paid in Great Britain and Ireland respectively, unto and for the use of her majesty, her heirs and successors, the duty of two pounds,

55 G. 3, c. 184. 5 & 6 Vict. c. 82. 8 & 9 Vict. c. 3. Stamp duty on appraisers' licences repealed, and an increased duty thereon granted in lieu.

For and in respect of a licence to use and exercise the calling or occupation of an appraiser, to be taken out yearly by every person (except a licensed auctioneer) who shall exercise the said calling or occupation of an appraiser, or who, for or in expectation of any gain, fee, or reward, shall make any appraisement or valuation chargeable by law with any stamp duty.

2. "And whereas under and by virtue of the said several recited Acts certain duties have been granted and are now payable in Ireland in respect of searches in the office for the registry of deeds, and it is expedient to repeal the same, and to grant other and reduced duties in lieu thereof:" BE IT THEREFORE ENACTED, That from and after the passing of this Act the several and respective stamp duties now payable in Ireland under or by virtue of the said several recited Acts or either of them, in respect of searches in the office for the registry of deeds, (that is to say,) for or in respect of "any copy or extract of any memorial, or of the registry of any memorial, registered pursuant to any Act of parliament made for the public registering of deeds and conveyances," or for or in respect of "every piece of vellum, parchment, or paper upon which any such copy or extract shall be written after the first," shall cease and determine in Ireland, save and except such of the said duties or so much or such part or parts thereof as have become due and payable and now remain in arrear and unpaid; and that in lieu of the said duties so hereby repealed as last mentioned there shall be granted, raised, levied, collected, and paid in Ireland, unto and for the use of her majesty, her heirs and successors, the several duties next hereinafter mentioned; (that is to say,)

Stamp duties payable in Ireland on registry searches repealed, and reduced duties granted in lieu thereof.

For and in respect of extracts or abstracts from deeds or other acts issued from the

---

(a) An agreement made in 1840, when the 55 Geo. 3, c. 184, required a 1*l.* stamp, was, subsequently to the passing of this Act, stamped, under a penalty, with a 2*s.* 6*d.* stamp: it was held, that it was admissible in evidence (*Deakin* v. *Pennall*, 2 Exch. 320).

(b) The duty is reduced to sixpence by 19 & 20 Vict. c. 81, post.

8 & 9 Vict. c. 76.

office for registry of deeds and so forth, called the registry office, and commonly called a common search, and whether such search shall contain the extract from any deeds or deed or not, and whether the same be signed by or on behalf of any officer or clerk belonging to such office or not;

For each sheet or piece of paper on which such search, extract or extracts, abstract or abstracts, shall be written, the sum of three shillings:

And for and in respect of searches for deeds, or abstracts or extracts from deeds, or other acts, issued from the office for registering deeds, called the register office, commonly called a negative search;

For each copy of any deed or memorial, or for each extract or abstract from any deed or memorial, which such negative search shall give or contain, the sum of three shillings;

And on the officer's certificate on such search, over and above all other duties, the sum of ten shillings.

Powers and provisions of former Acts to be applied to the duties granted by this Act.

3. That the said several duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of stamps and taxes for the time being; and that all the powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties, contained in or imposed by the several former Acts of parliament relating to any prior duties of the same kind or description in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, articles, matters, and things, charged and chargeable therewith, and to the persons liable to the payment of the said duties, and shall be observed, applied, enforced, and put in execution for the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, as fully and effectually, to all intents and purposes, as if the same had been herein repeated and specially enacted with reference to the said duties by this Act granted.

Certain gifts by will or testamentary instruments to be deemed legacies.

4. "And whereas under or by virtue of the said several recited Acts certain duties have been granted and are now payable in Great Britain and Ireland respectively upon legacies, and doubts have been entertained whether certain gifts by will or testamentary instrument are legacies liable to the said duties (*a*), and it is expedient to remove such doubts:" BE IT ENACTED, That from and after the passing of this Act every gift by any will or testamentary instrument of any person, which by virtue of any such will or testamentary instrument is or shall be payable, or shall have effect or be satisfied out of the personal or moveable estate or effects of such person, or out of any personal or moveable estate or effects which such person hath had or shall have had power to dispose of, or which gift is or shall be payable or shall have effect or be satisfied out of or is or shall be charged or rendered a burden upon the real or heritable estate of such person, or any real or heritable estate, or the rents or profits thereof, which such person hath had or shall have had any right or power to charge, burden, or affect with the payment of money, or out of or upon any moneys to arise by the sale, burden, mortgage, or other disposition of any such real or heritable estate, or any part thereof, whether such gift shall be by way of annuity or in any other form, and also every gift which shall have effect as a donation *mortis causâ*, shall be deemed a legacy within the true intent and meaning of all the several Acts granting or relating to duties on legacies in Great Britain and Ireland respectively, and shall be subject and liable to the said duties accordingly: Provided always, that no sum of money which by any marriage settlement is or shall be subjected to any limited power of appointment to or for the benefit of any person or persons therein specially named or described as the object or objects of such power, or to or for the benefit of the issue of any such person or persons, shall be liable to the said duties on legacies under the will in which such sum is or shall be appointed or apportioned in exercise of such limited power.

Proviso.

(*a*) This was passed in consequence of the decision in *Att.-Gen.* v. *Marquis of Hertford*, 14 M. & W. 284; and *Laurie* v. *Clutton*, ante, p. 445, n. (*b*).

A., by deed dated in 1802, conveyed certain lands to trustees, to the use of himself for life, remainder to B. his son for life, remainder to the defendant his grandson for life, with remainders over. The deed provided, that it should be lawful for the defendant and the survivor of A. and B. to declare any new uses of the lands. A. died in June, 1822, and by indenture of appointment in October, 1822, B. and the defendant declared that it should be lawful for B. by deed or will to charge the lands with the payment of any sum not exceeding 47,000*l.* In 1823, B. by his will charged the lands with payment to his executors of 47,000*l.*, to be applied in payment of his debts, &c., and the residue in trust for the defendant. B. died in 1842, and in 1847 his executors raised 11,259*l.* 11*s.* 8*d.*, part of the 47,000*l.*, and paid it to the defendant, the debts having been previously paid: it was held, that this was a gift by will within this statute, although it operated originally by virtue of a power; and that legacy duty was chargeable on the sum of 11,259*l.* 11*s.* 8*d.*, it not having been paid to the defendant until after that Act came into operation, notwithstanding the testator died before (*Att.-Gen.* v. *Marquis of Hertford*, 3 Exch. 670).

5. "And whereas an Act was passed in the last session of parliament, intituled, 'An Act to regulate the issue of bank notes, and for giving to the governor and company of the bank of England certain privileges for a limited period,' and certain penalties are thereby imposed for offences against the provisions of the same Act, and it is expedient to provide for the recovery and application of such penalties;" BE IT ENACTED, That from and after the passing of this Act, all pecuniary penalties imposed by or incurred under the said last recited Act may be sued or prosecuted for and recovered, for the use of her majesty, in the name of her majesty's attorney-general or solicitor-general, or of any person authorised to sue or prosecute for the same, by writing under the hands of the commissioners of stamps and taxes, or in the name of any officer of stamp duties, by action of debt, bill, plaint, or information in the court of exchequer at Westminster, in such and the same manner as any penalties imposed by any of the laws now in force relating to the duties under the management of the said commissioners; and it shall be lawful in all cases for the said commissioners, either before or after any proceedings commenced for recovery of any such penalty, to mitigate or compound any such penalty as they shall think fit, and to stay any such proceedings after the same shall have been commenced, and whether judgment may have been obtained for such penalty or not, on payment of part only of any such penalty, with or without costs, or on payment only of the costs incurred in such proceedings, or of any part thereof, or on such other terms as such commissioners shall judge reasonable: Provided always, that in no such proceeding as aforesaid shall any essoign, protection, wager of law, or more than one imparlance, be allowed; and all pecuniary penalties imposed by or incurred under the said last recited Act, by whom or in whose name soever the same shall be sued or prosecuted for or recovered, shall go and be applied to the use of her majesty, and shall be deemed to be and shall be accounted for as part of her majesty's revenue arising from stamp duties, anything in any Act contained, or any law or usage to the contrary in anywise notwithstanding: Provided always, that it shall be lawful for the said commissioners, at their discretion, to give all or any part of such penalties as rewards to any person or persons who shall have detected the offenders, or given information which may have led to their prosecution and conviction.

8 & 9 Vict. c. 76.

Provision for recovery and application of penalties under 7 & 8 Vict. c. 32.

13 & 14 Vict. c. 97. An Act to repeal certain Stamp Duties, and to grant others in lieu thereof; and to amend the Laws relating to the Stamp Duties. [14th August, 1850.]

13 & 14 Vict. c. 97.

"Whereas by an Act passed in the fifty-fifth year of the reign of king George the third, intituled, &c., certain stamp duties specified and contained in a schedule to the said Act annexed were granted and made payable in and throughout Great Britain, for and in respect of the several instruments, matters, and things described or mentioned in the said schedule: and whereas by an Act passed in the third year of the reign of king George the fourth, intituled, &c., certain stamp duties therein mentioned or referred to were repealed, and in lieu thereof certain other stamp duties in the said last recited Act specified were granted and made payable in and throughout Great Britain and Ireland respectively: And whereas by an Act passed in the sixth year of the reign of her present majesty, intituled, &c., certain of the said stamp duties granted by the said first recited Act were extended to and made payable in Ireland; and under and by virtue of the said three several Acts, and also of two other Acts passed respectively in the eighth and eleventh years of her majesty's reign, for continuing the said last recited Act, the said stamp duties are now payable in Great Britain and Ireland respectively: And whereas it is expedient to repeal certain of the said stamp duties, so far as the same relate to the several instruments, matters, and things mentioned and described in the schedule to this Act annexed, and to substitute in lieu thereof other rates of duties for and in respect of the same instruments, matters, and things;" BE IT ENACTED, That from and after the 10th day of October, 1850, the several stamp duties now payable in Great Britain and Ireland respectively, under or by virtue of the said several Acts hereinbefore recited or referred to, or any of the said Acts respectively, or any other Act or Acts, for or in respect of the several instruments, matters, and things described or mentioned in the said schedule to this Act annexed, and whereon other duties are by this Act granted and imposed, shall respectively cease and determine, and shall be and the same are hereby repealed, and in lieu and instead thereof there shall be granted, raised, levied, collected, and paid in and throughout the United Kingdom of Great Britain and Ireland, unto and for the use of her majesty, her heirs and successors, for and in respect of the said several instruments, matters, and things, or for or in respect of the vellum, parchment, or paper, upon which the same respectively shall be written, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said last mentioned schedule, and that the said last mentioned schedule, and the several provisions, regulations, and directions therein contained with respect to the said duties, and the instruments, matters, and things charged therewith, shall be deemed and taken to be part of this Act, and shall be applied, observed, and put in execution accordingly: Provided always, that nothing herein contained shall extend to repeal or alter any of the said duties now payable in relation to any deed or instrument which shall have been signed or executed by any party thereto, or which shall bear date before or upon the said 10th day of October, 1850.

55 Geo. 3, c. 184.

3 G. 4, c. 117.

5 & 6 Vict. c. 82.

8 & 9 Vict. c. 2.

11 & 12 Vict. c. 9.

Stamp duties on instruments specified in the annexed schedule repealed, and other duties granted in lieu thereof.

13 & 14 Vict. c. 97.

Duties granted to be denominated stamp duties, and to be under the care of the commissioners of inland revenue.

Powers and provisions of former Acts to be in force and be put in execution with regard to the duties hereby granted.

2. That the said duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of inland revenue for the time being; and that all powers, provisions, clauses, regulations, directions, and exemptions, fines, forfeitures, pains, and penalties, contained in or imposed by the said recited Act of the fifty-fifth year of the reign of king George the third and the schedule thereto annexed, and in or by any other Act or Acts relating to any duties of the same kind or description heretofore payable in Great Britain and Ireland respectively, and in force at the time of the passing of and not repealed by this Act, shall respectively be of full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, instruments, matters, and things, charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually, to all intents and purposes, as if the same had been herein repeated and specially enacted, *mutatis mutandis*, with reference to the said duties by this Act granted, and the said schedule annexed to the said Act of the fifty-fifth year of the reign of king George the third and the said schedule to this Act annexed shall be read and construed as one schedule and as one Act.

Duties not to be charged on deeds or instruments expressly exempted from stamp duty by existing Acts.

3. Provided always, That nothing in this Act or in the schedule hereto annexed contained shall extend, or be deemed or construed to extend to charge with stamp duty any deed or instrument which by any Act or Acts now in force is expressly exempted from all stamp duty; or to subject or charge any transfer or assignment of any share in the stock and funds of the governor and company of the bank of England, or of the South Sea Company, or of the East India Company respectively, to or with any higher or other stamp duty than such transfers and assignments are respectively subject and liable to under any Act or Acts now in force.

Duties imposed by 5 & 6 Vict. c. 82. 9 & 10 Vict. c. 112, on certain leases in Ireland repealed.

4. That the duties imposed by the said Act of the sixth year of her majesty's reign upon any lease, release, or deed, minute, memorandum, or legal or equitable article or instrument for setting or demising lands, tenements, or hereditaments in Ireland, in the manner in the said Act mentioned, and also the duty imposed by an Act passed in the tenth year of her majesty's reign, intituled "An Act to facilitate and encourage the granting of certain Leases for terms of Years in Ireland," on any lease in the said last mentioned Act described, shall, so far as the same respectively relate to any such lease, release, or deed, minute or memorandum, article or instrument as aforesaid which shall bear date after the said 10th day of October, 1850, be and the same are hereby repealed; and every such lease, release, or deed, minute, memorandum, or legal or equitable article or instrument last mentioned shall be and become subject and liable to and chargeable with the duties imposed by this Act and the said Act of the fifty-fifth year of the reign of king George the third respectively, on deeds and instruments of the like kind or description.

For removing doubts as to the stamp duties on certain agreements for setting or demising lands in Ireland.

5. "And whereas by an Act passed in the seventh year of her majesty's reign the stamp duty on an agreement or minute, or memorandum of an agreement, under hand only, and in the said last mentioned Act more particularly described, was reduced to the sum of two shillings and sixpence: And whereas doubts have arisen as to whether the said reduced duty extends to agreements or other instruments under hand only for setting or demising lands, tenements, or hereditaments in Ireland at a yearly rent not exceeding fifty pounds; and it is expedient to remove such doubts:" BE IT THEREFORE DECLARED AND ENACTED, That no agreement or minute, memorandum, or legal or equitable article or instrument, under hand only, made or to be made at any time since the 6th day of June, 1844, and before or upon the 10th day of October, 1850, for setting or demising lands, tenements, or hereditaments in Ireland at any yearly rent not exceeding fifty pounds, shall be held or deemed to be or to have been subject or liable to any higher amount of stamp duty than the said reduced duty of two shillings and sixpence payable on an agreement or minute, or memorandum of an agreement, under hand only, by virtue of the said Act of the seventh year of her majesty's reign.

Preamble.

4 & 5 Vict. c. 21.

6. "And whereas under or by virtue of the said several Acts hereinbefore recited, or some of them, certain stamp duties are now payable for or in respect of any bargain and sale, or lease for a year, for vesting the possession of lands or other hereditaments, and enabling the bargainee to take a release of the freehold or inheritance: And whereas by an Act passed in the fourth year of the reign of her present majesty, intituled 'An Act for rendering a Release as effectual for the Conveyance of Freehold Estates as a Lease and Release by the same Parties,' it is provided, that every deed (*a*) or instrument taking effect under the said last mentioned Act in the manner therein mentioned shall be chargeable with the same amount of stamp duty as any bargain and sale or lease for a year would have been chargeable with (except progressive duty) if executed to give effect to such deed or instrument, in addition to the stamp duties which such deed or instrument shall be chargeable with as a release or otherwise under any Act or Acts relating to stamp

(*a*) Ante, Vol. I. p. 823, tit. "CONVEYANCES."

duties: And whereas by an Act passed in the ninth year of the reign of her present majesty, intituled "An Act to amend the Law of Real Property," it is enacted, that every deed (a) which by force only of the said last mentioned Act shall be effectual as a grant shall be chargeable with the stamp duty with which the same deed would have been chargeable in case the same had been a release founded on a lease or bargain and sale for a year, and also with the same stamp duty (exclusive of progressive duty) with which such lease or bargain and sale for a year would have been chargeable: And whereas it is expedient to repeal the said stamp duties now payable for or in respect of any such bargain and sale or lease for a year as aforesaid, and also to repeal so much of the said two several Acts last mentioned as imposes upon any deed or instrument the said additional stamp duty as for a bargain and sale or lease for a year:" BE IT ENACTED, That the said duties now payable for or in respect of any such bargain and sale or lease for a year as aforesaid, and also so much of the said two several last-mentioned Acts as is hereinbefore recited, shall, so far as the same respectively relate to any deed or instrument which shall bear date after the said 10th day of October, 1850, be and the same are hereby repealed.

13 & 14 Vict. c. 97.

8 & 9 Vict. c. 106.

Stamp duties on a bargain and sale, and so much of said two Acts as is recited, repealed.

7. "And whereas by the said recited Act of the fifty-fifth year of the reign of king George the third, and the schedule thereto annexed, it is provided that where any freehold lands or hereditaments shall be conveyed by a deed of feoffment or by a deed of bargain and sale enrolled, such deed of feoffment or bargain and sale, unless accompanied with a lease and release, shall be charged with such further duty as in the said last-mentioned schedule is specified and contained in that behalf:" BE IT ENACTED, That so much of the said last-mentioned Act and of the said schedule as charges such deed of feoffment or bargain and sale with any such further duty shall, as to any such deed as aforesaid which shall bear date at any time after the 10th day of October, 1850, be and the same is hereby repealed.

Preamble.

Additional duty on a conveyance by feoffment or bargain and sale enrolled, repealed.

8. That if any person shall have received or gotten into his hands, or shall receive or get into his hands, any sum or sums of money as and for the stamp duty upon or in respect of any deed, instrument, or transaction, or intended deed, instrument, or transaction, or the duty upon or in respect of any legacy or residue, and shall improperly neglect or omit to appropriate such sum or sums of money to the due payment, or shall otherwise by or under any means or pretence whatsoever improperly withhold or detain the same, every such person shall be accountable for the amount of such duty or sum or sums of money, and the same shall be a debt from such person to her majesty, her heirs and successors, and recoverable as such accordingly; and it shall be lawful for the barons of her majesty's court of exchequer in England, Scotland, or Ireland respectively, upon application to be made for that purpose on behalf of the commissioners of inland revenue, upon such affidavit as to such court may appear sufficient, to grant a rule requiring such person, or his executor or administrator, to show cause why he should not deliver to the said commissioners an account upon oath of all such duties and sums of money as aforesaid, and why the same should not be forthwith paid to the receiver-general of inland revenue, or to such person as the said commissioners shall appoint or authorise to receive the same; and it shall be lawful for such court to refer the taking or auditing of any such account to the proper officer of such court, who shall examine any such person as a debtor or alleged debtor to the crown, on personal interrogatories, if such court shall think proper so to do; and it shall be lawful for such court to make absolute any such rule as aforesaid in every case in which the same may appear to such court to be proper and necessary, and to enforce by attachment or otherwise the payment of any such duties or sums of money as on such proceedings shall appear to such court to be due, together with the costs of all such proceedings.

All persons receiving moneys for stamp duties, and misappropriating the same, to be liable for the amount, and the court of exchequer to enforce payment thereof.

9. "And whereas doubts have arisen as to certain stamp duties in Great Britain and Ireland respectively payable under the said Act of the fifty-fifth year of the reign of king George the third, the said Act of the third year of the reign of king George the fourth, and the several Acts respectively therein recited or mentioned, and the said Act of the sixth year of the reign of her present majesty, or under some or one of the said several Acts respectively, upon or in respect of certain deeds or instruments hereinafter mentioned, and it is proper that such doubts should be removed:" BE IT ENACTED AND DECLARED, That any transfer or assignment, disposition or assignation, already made, or which on or before the 10th day of October, 1850, may be made, of any mortgage or wadset or of any other security in the said Acts or any of them mentioned, or of the benefit thereof, or of the money or stock thereby secured, shall not, by reason of its containing, either by the mortgagor or by any person entitled to the property mortgaged by descent, devise, or bequest from such mortgagor, any further or additional security for the payment or transfer or re-transfer of such money or stock, or any interest or dividends thereon, or any new covenant, proviso, power, stipulation, or agreement, or other matter whatever, in relation to such money or stock, or the interest or dividends thereon, or by reason of its containing all or any of such matters, be or be deemed to be liable to any

For removing doubts as to the duties upon transfers of mortgages (b).

(a) Ante, Vol. I. p. 824, tit. "CONVEYANCES."

(b) This enactment was introduced in consequence of the doubts and litigation that had arisen, upon 3 Geo. 4, c. 117, s. 3, ante, p. 552.

13 & 14 Vict c. 97.

further or other duty (except progressive duty) than the duty hereinafter mentioned; (that is to say), where no further money or stock has been or shall be added to the principal money or stock already secured, a stamp duty of one pound fifteen shillings, and where any further sum of money or stock has been or shall be added to the principal money or stock already secured, the same stamp duty only as on a mortgage or wadset for such further sum or stock; and that any deed or instrument, either by the mortgagor or by any person entitled as aforesaid, already made or which may be made as aforesaid, operating or intended to operate as a further charge or as a security for any further or additional money or stock advanced upon any property already comprised in any mortgage or other security, shall not by reason of its containing all or any of the matters aforesaid, in relation to the money or stock previously secured, or the interest or dividends thereon, be deemed to be liable to any further or other stamp duty than the duty chargeable on an original mortgage for the further or additional money or stock in and by such deed of further charge or security charged or secured, or intended so to be.

Or affording relief in certain cases of leases.

10. "And whereas numerous leases have been from time to time granted upon or after sales made in consideration of money paid to some other person or persons than the lessor, without stamping such leases with any *ad valorem* stamp in respect of such pecuniary consideration (*a*), the parties to such leases conceiving that the provisions of the several Acts now in force requiring the consideration to be set out, and imposing an *ad valorem* duty thereon, did not apply to any other consideration than that passing between the lessor and lessee; but inasmuch as doubts have arisen on the subject, it is reasonable that such relief as is hereinafter mentioned should be afforded in such cases:" BE IT ENACTED AND DECLARED, That no lease made and executed before the 20th day of March, 1850, shall be adjudged, deemed, or taken to be improperly stamped by reason of there not being an *ad valorem* stamp impressed thereon for or in respect of any pecuniary consideration which may have been paid or may be therein expressed to be paid by the lessee to any other person or persons than the lessor, and that the seller and the lessee respectively in any such lease, and any attorney, solicitor, writer to the signet, or other person employed in or about the preparation or completion of the same, shall be exempted from all penalties and other liabilities for or by reason of any default in setting forth any such pecuniary consideration as aforesaid.

For removing doubts regarding progressive duties (*b*).

11. "And whereas by the several Acts now in force relating to the stamp duties as well as by this Act, certain stamp duties called progressive duties are imposed upon deeds and instruments in respect of certain quantities of words contained therein, together with any schedule, receipt, or other matter put or indorsed thereon or annexed thereto: And whereas doubts are entertained whether such progressive duties are chargeable on any deed or instrument in respect of the words contained in any other deed or instrument liable to stamp duty and duly stamped which may be put or endorsed upon, or annexed to, or referred to in or by such first mentioned deed or instrument, and it is expedient to remove such doubts:" BE IT DECLARED AND ENACTED, That the said progressive duties shall not be deemed or held to be or to have been imposed or chargeable upon any deed or instrument in respect of the words, or any quantity of the words contained in any other deed or instrument liable to stamp duty and duly stamped which may be or may have been put or endorsed upon or annexed to such first mentioned deed or instrument, or which may be or may have been in any manner incorporated with or referred to in or by the same.

Progressive duties not to be charged on deeds or instruments in respect of other deeds or instruments duly stamped and referred to therein.

Terms and conditions on which deeds, &c. may be stamped after the signing thereof (*c*).

12. And whereas, for securing the due payment of the stamp duties imposed by law on deeds and other instruments, it is expedient to alter the terms and conditions on which any such deed or instrument may be stamped after the execution or signing thereof:" BE IT ENACTED, That where any deed or instrument liable by law to any stamp duty shall be written on vellum, parchment, or paper, and shall be signed or executed by any person before such vellum, parchment, or paper shall be duly stamped for denoting the payment of the said duty, then and in every such case there shall be due, answered, and paid to her majesty, her heirs and successors, the whole or (as the case may be) the deficiency of the stamp duty payable upon or in respect of such deed or instrument, and there shall also be paid and payable, over and above the said duty or deficiency of duty, by way of penalty, and in lieu of any former penalty imposed or made payable by law in the like case, the sum of ten pounds; and where the whole amount of the duty or deficiency of duty, as the case may be, to be denoted by the stamp or stamps required to be impressed on such deed or instrument when the same shall be brought to be stamped shall exceed the sum of ten pounds, there shall be paid by way of penalty, in addition to the said sum of ten pounds, interest on the said duty

---

(*a*) See *Boone* v. *Mitchell*, 1 B. & C. 18, ante, p. 504, n. (*a*); and *Att.-Gen.* v. *Brown*, 3 Exch. 662, ante, p. 503, n. (*c*).

(*b*) See *Veal* v. *Nicholls*, 1 M. & Ry. 248.

(*c*) A judgment signed on an unstamped warrant of attorney is not available against subsequent judgments, and will be set aside on the application of a judgment creditor. The court will not permit the warrant of attorney to be taken off the file for the purpose of being stamped on payment of the penalty, until the judgment signed on it is first set aside (*Semple* v. *Nicholson*, 4 H. & Nor. 298; 28 L. J. Ex. 217).

or deficiency of duty computed at the rate of five pounds per centum per annum from the date or first signing or execution of such deed or instrument; provided, that if such interest shall exceed in amount the said duty or deficiency of duty, then there shall be paid by way of penalty, in addition to the said duty or deficiency of duty, and the said sum of ten pounds, and in lieu of the said interest, a sum equal to the amount of the said duty or deficiency of duty; and the commissioners of inland revenue are hereby required, upon payment of the said duty or deficiency of duty, and of the said sum or sums hereinbefore directed to be paid by way of penalty, to cause such deed or instrument to be duly stamped with a stamp or stamps for denoting the payment of such duty or deficiency, and also with a stamp for denoting the payment of a penalty in lieu of the receipt heretofore required by any Act to be written or given for such penalty; and no such deed or instrument shall be pleaded or given in evidence (*a*), or admitted to be good, useful, or available in law or equity, until the same shall be duly stamped in manner aforesaid: Provided always, that where it shall appear to the commissioners of inland revenue, upon oath or otherwise, to their satisfaction, that any deed or instrument hath not been duly stamped previously to being signed or executed, by reason of accident, mistake, inadvertency, or urgent necessity, and without any wilful design or intention to defraud her majesty, her heirs or successors, of the duty chargeable in respect thereof, or to evade or delay the payment of such duty, then and in any such case, if such deed or instrument shall, within twelve calendar months after the first signing or executing of the same by any person, be brought to the said commissioners in order to be stamped, and the stamp duty chargeable thereon by law shall be paid, it shall be lawful for the said commissioners, if they shall think fit, to remit the whole or any part of the penalty payable on stamping such deed or instrument, and to cause such deed or instrument to be duly stamped, upon payment of the whole, or, as the case may be, the deficiency of the stamp duty chargeable thereon by law, and either with or without any portion of the said penalty; and thereupon every such deed or instrument shall be as valid and available in the law as it would have been if it had been duly stamped before the signing or executing of the same: Provided also, that nothing herein contained shall extend or be deemed or construed to extend to any deed or instrument for the stamping of which after the signing or execution thereof provision is specially made by any law now in force, or to any deed or instrument the stamping of which after the signing or execution thereof is expressly prohibited or restricted by any such law as aforesaid, or to repeal, alter, or affect any such provision, prohibition, or restriction.

13 & 14 Vict. c. 97.

Commissioners of inland revenue authorised to remit the penalty on stamping deeds, &c. within twelve months after the signing thereof.

Not to extend to instruments for the stamping of which after the signing thereof special provision is made, or to cases where the stamping is by law prohibited.

13. Provided always, that it shall be lawful for the commissioners of inland revenue to order and direct that any deed or instrument which shall have been or shall or may be signed or executed by any party thereto at any place out of the united kingdom may be duly stamped, upon payment of the proper stamp duty payable thereon, and without payment of any additional duty or penalty, provided such deed or instrument shall be brought to the said commissioners to be stamped as aforesaid within the space of two calendar months from the time when the same shall have been received in the united kingdom, and provided proof shall be first made to the satisfaction of the said commissioners of the facts aforesaid.

Commissioners may stamp instruments executed abroad without any penalty, on their being brought for that purpose within two months after their arrival in the united kingdom.

14. "And whereas doubts frequently arise as to the stamp duties with which some deeds or instruments are chargeable, and it is expedient that provision should be made whereby such doubts may be removed:" BE IT ENACTED, That when any deed or instrument liable to stamp duty, whether previously stamped or otherwise, shall be presented to the commissioners of inland revenue at their office, and the party presenting the same shall desire to have the opinion of the said commissioners as to the stamp duty with which such deed or instrument in their judgment is chargeable, and shall tender and pay to the said commissioners a fee of ten shillings (which shall be accounted for and paid over as part of her majesty's revenue arising from stamp duties), it shall be lawful for the said commissioners and they are hereby required to assess and charge the stamp duty to which in their judgment such deed or instrument is liable, and upon payment of the stamp duty so assessed and charged by them, or, in the case of a deed or instrument insufficiently stamped, of such a sum as, together with the stamp duty already paid thereon, shall be equal to the duty so assessed and charged, and upon payment also of the amount, if any, payable by way of penalty on stamping such deed or instrument, to stamp such deed or instrument with the proper stamp or stamps denoting the amount of the duty so paid, and thereupon, or if the full stamp duty to which in the judgment of the said commissioners such deed or instrument shall be liable shall have been previously paid and denoted upon the same in manner aforesaid, the said commissioners shall impress upon such deed or instrument a particular stamp to be provided by them for that purpose, with such word or words or device or symbol thereon as they shall think proper in that behalf, and such last mentioned stamp shall be deemed and taken to signify and denote that the full amount of stamp duty with which such deed or instrument is by law chargeable has been paid, and every deed or instrument upon which the same shall be impressed shall be deemed to have been duly stamped, and shall be receivable in evidence in all courts of law or equity, notwithstanding any objection made

For removing doubts as to the sufficiency of stamp duty paid on deeds.

(*a*) See *Semple* v. *Nicholson*, ante, p. 574, n. (*c*).

13 & 14 Vict. c. 97.

to the same as being insufficiently stamped (*a*); save and except that such last mentioned stamp shall not be impressed upon any deed or instrument chargeable with *ad valorem* duty under or by reference to the head of bond or mortgage in the schedule to this Act where the same is made as a security for the payment or transfer or re-transfer of money or stock without any limit as to the amount thereof; and provided always, that nothing herein contained shall be deemed or construed to extend to require or authorise the said commissioners to stamp as last aforesaid any probate of a will or letters of administration, or to stamp as last aforesaid any deed or instrument after the signing or execution thereof in any case in which the stamping thereof is expressly prohibited by any law in force.

Party dissatisfied with the determination of the commissioners as to the stamp duty chargeable may appeal to the court of exchequer, and the duty shall be paid according to the decision of the court.

15. Provided always, That if the party presenting such deed or instrument to the said commissioners as aforesaid for their opinion as to the stamp duty with which the same is chargeable shall declare himself dissatisfied with the determination made by them in that behalf, it shall be lawful for such party, upon paying the amount of the stamp duty according to such determination, and depositing with the said commissioners the sum of forty shillings for costs and charges to be paid by him in the event hereinafter provided for, to require the said commissioners to state specially and to sign the case on which the question with respect to such stamp duty arose, together with their determination thereupon, which case the said commissioners are hereby required to state and sign accordingly, and to cause the same to be delivered to the party making such request as aforesaid in order that he may appeal against such determination to her majesty's court of exchequer at Westminster; and upon the application of the said party (due notice thereof being given to the solicitor of inland revenue to the end that counsel may be heard on behalf of the said commissioners) it shall be lawful for the said court of exchequer and the said court is hereby required to hear and determine the said appeal (*b*) and to decide as to the stamp duty with which such deed or instrument is chargeable, and according to such decision the stamp duty and penalty (if any) which shall have been the subject of such case shall be deemed to have been payable by law; and if no excess of stamp duty or penalty shall have been paid to the said commissioners by the said appellant, over and above the sum which according to the decision of the said court ought to have been paid upon or in respect of such deed or instrument, the said sum of forty shillings deposited for costs and charges as aforesaid shall be applied to the use of her majesty's revenue; but if any such excess as aforesaid shall have been so paid by the said appellant, the same, together with the said sum of forty shillings deposited as aforesaid, shall be repaid by the said commissioners to the said appellant; and if the sum paid for stamp duty or penalty upon or in respect of such deed or instrument shall fall short of the amount which, according to the decision of the said court upon any such appeal, is chargeable or ought to be paid upon or in respect of such deed or instrument, the deficiency of such stamp duty or penalty, or both, as the case may be, shall be paid by the said appellant to the said commissioners, and the court shall order and enforce the payment thereof accordingly.

Conveyances, mortgages, and settlements of property under contract or obligation before 20th March, 1850, exempted from any increased *ad valorem* duty.

16. That where any lands or other property shall have been actually and *bonâ fide* contracted to be sold prior to the 20th day of March, 1850, by any contract or agreement in writing duly stamped, or shall have been actually and *bonâ fide* sold under the decree of any court made prior to the said 20th day of March, and the same shall be conveyed to the purchaser or any other person by his direction after the 10th day of October, and before or on the 31st day of March, 1851, or where any lands or other property shall have been actually and *bonâ fide* contracted to be mortgaged prior to the said 20th day of March, 1850, and the abstract of title of the mortgagor to such lands or other property shall have been actually delivered to the intended mortgagee or his solicitor prior to the said 20th day of March, 1850, and the same mortgage shall be executed after the said 10th day of October, and before or on the 31st day of March, 1851, or where any deed or instrument liable to the *ad valorem* duty by this Act granted under the head of "Settlement" in the schedule to this Act shall be executed after the said 10th day of October, and before or on the 31st day of March, 1851, in pursuance of an obligation contained in any deed, will, or other instrument which was actually and *bonâ fide* in force and obligatory upon the party executing the same prior to the said 20th day of March, 1850, or

---

(*a*) This statute has a prospective effect. When the commissioners have adjudicated an instrument to be properly stamped the court is bound by their decision (*per* Parke, B., *Prudential Association* v. *Curzon*, 8 Exch. 97). Documents stamped with a "denoting" stamp by the commissioners under this section cannot be objected to, when tendered in evidence, as being improperly stamped (*Ibid.*). Where an instrument is objected to at the trial as being insufficiently stamped, and afterwards but before the case is argued in *banc* a denoting stamp is affixed to it by the commissioners, such objection to the sufficiency of the first stamp is not thereby removed (*Ibid.* *Morgan* v. *Pike*, 23 L. J. C. P. 64; 14 C. B. 473).

(*b*) In an appeal from the determination of the commissioners of inland revenue under this section, the appellant is entitled to begin (*Duke of Buckingham* v. *Inland Revenue Commissioners*, 2 L., M. & P. 311; Acc. *Plymouth Great Western Dock Company* v. *The Commissioners of Inland Revenue*, 22 L. J. Exch. 188; 8 Exch. 376. So in an appeal under "The Succession Duty Act, 1853," 16 & 17 Vict. c. 51. In re *Micklethwaite*, 25 L. J. Exch. 19; 11 Exch. 452).

in pursuance of the decree of any court made prior to that day, the principal or only deed or instrument whereby such lands or other property as aforesaid shall be conveyed or mortgaged respectively, and the principal or only deed chargeable with *ad valorem* duty by this Act granted under the head of "Settlement" in the schedule hereto, shall be exempt from any *ad valorem* duty of a greater amount than would have been payable on such deed or instrument respectively if this Act had not been passed; but in order to prevent frauds such deed or instrument shall be produced on or before the 30th day of April, 1851, duly executed and duly stamped, to the commissioners of inland revenue, and upon its being proved to their satisfaction that the lands or other property therein comprised were actually and *bonâ fide* contracted to be sold as aforesaid, or were actually and *bonâ fide* sold under the decree of any court made prior to the said 20th day of March, 1850, or that such lands or other property therein comprised were actually and *bonâ fide* contracted to be mortgaged as aforesaid, and that the abstract of title thereto was actually delivered as aforesaid, or that such deed or instrument liable to the *ad valorem* duty by this Act, granted under the head of "Settlement" in the schedule to this Act, was executed in pursuance of an obligation contained in such deed, will, or other instrument so in force and obligatory as aforesaid, or was actually and *bonâ fide* executed in pursuance of the decree of any court made prior to the said 20th day of March, 1850, and that such deed or instrument was duly executed on or before the 31st day of March, 1851, the said commissioners of inland revenue, or some or one of them, shall sign a certificate of what shall be so proved to their satisfaction upon such deed or instrument, and thereupon such deed or instrument being stamped with the *ad valorem* duty which would have been payable if this Act had not been passed, shall be as valid and available in the law as if the same had been stamped with the said *ad valorem* duty by this Act granted, but the same shall not without such certificate be given in evidence, or be in any manner available, unless stamped with such *ad valorem* duty last mentioned. 13 & 14 Vict. c. 97.

17. "And whereas it is considered that under the provisions of an Act passed in the first and second years of the reign of king George the fourth, intituled 'An Act to remove Doubts as to the Amount of Stamp Duties to be paid on Deeds and other Instruments under the several Acts in force in Great Britain and Ireland respectively,' any deed, agreement, or other instrument which relates wholly to real or personal property in Ireland, or to any matter or thing (other than the payment of money) to be done in Ireland, cannot after the engrossing thereof properly be stamped elsewhere than at the stamp office in Dublin, and also that any deed, agreement, or other instrument which relates to any real or personal property situate elsewhere than in Ireland, or to any matter or thing (other than the payment of money) to be done elsewhere than in Ireland, cannot after the engrossing thereof properly be stamped elsewhere than at the stamp office in London: And whereas such construction of the said Act as aforesaid is the occasion of inconvenience:" BE IT ENACTED AND DECLARED, That from and after the passing of this Act any such deed, agreement, or instrument as aforesaid may and shall, without regard to the place where the property, matter, or thing to which the same may relate may be situate or may be to be done, be stamped with such duty or duties as the same may be liable to, either at the stamp office in London or at the stamp office in Dublin, according as the same shall for that purpose be presented at either of the said offices. 1 & 2 G. 4, c. 55. Deeds, &c., may be stamped either in London or Dublin.

18. [The allowance on receipt stamps granted by 12 & 13 Vict. c. 80, repealed,] and that in lieu thereof there shall be made and granted the allowance following; (that is to say,) to any person who at one and the same time shall produce at the office of the said commissioners in London or Dublin paper to be stamped with stamps for receipts to the amount of five pounds or upwards, or shall purchase at the office of the said commissioners in London, Edinburgh, or Dublin, stamps for receipts to the amount of five pounds or upwards, or of any distributor or sub-distributor of stamps at any place not within the distance of ten miles from the said offices respectively to the amount of one pound or upwards, an allowance at and after the rate of seven pounds ten shillings per centum, provided that no such allowance shall be made for any fraction of a pound. Allowance of 7*l.* 10*s.* per cent. granted (*a*).

19. "And whereas by an Act passed in the fifty-fifth year of the reign of king George the third, intituled 'An Act to regulate the Collection of Stamp Duties on Matters in respect of which Licences may be granted by the Commissioners of Stamps in Ireland,' it is enacted, that the said commissioners shall annually grant a licence for insuring houses, furniture, goods, wares, merchandise, or other property from loss by fire to all and every body and bodies politic or corporate or person or persons applying for the same in manner therein mentioned, and that where the business of insurance is carried on by a company consisting of a greater number than four the said licence shall be granted to such two or more of such company or partners, or if such company or partners shall be a British company or partnership, then to such agent or agents resident in Ireland as shall be named to the said commissioners; and that no person or persons or body or bodies politic or corporate shall insure, or open or keep any office in Ireland for insuring houses, furniture, goods, wares, merchandise, or other property from loss by fire, without having first taken out and continuing to take out annually a licence for that purpose; and it is also enacted, that all and every person and persons and body or bodies Reciting 55 G. 3, c. 101, as to fire insurances in Ireland.

(*a*) This section is repealed by 23 & 24 Vict. c. 111, s. 2, post.

13 & 14 Vict. c. 97.

politic or corporate to whom any such licence as aforesaid shall be granted shall at the time of receiving such licence give such security, with sufficient sureties, to be approved of by the said commissioners of stamps, by bond to his majesty, conditioned for making out, signing, and delivering the accounts of all moneys received for duties upon such insurances, and payment of the same, as therein mentioned: And whereas under and by virtue of an Act passed in the sixth and seventh years of the reign of his late majesty king William the fourth, intituled 'An Act to enable Persons to make Deposits of Stock or Exchequer Bills in lieu of giving Security by Bond to the Postmaster General and Commissioners of Land Revenue, Customs, Excise, Stamps, and Taxes,' and of an Act passed in the first and second years of her present majesty's reign, for amending the said last-mentioned Act, any person from whom any security is required in respect of any matter relating to the revenues of the post-office, land revenues, customs, excise, stamps, or taxes, is enabled, in lieu of giving such security by bond, to give the same by transfer of stock or deposit of exchequer bills as therein mentioned: And whereas the giving of security every year by persons in Ireland insuring property from loss or damage by fire on taking out a licence for that purpose is attended with great inconvenience, and it is expedient to provide a remedy for the same:" BE IT ENACTED, That every licence which shall be hereafter granted for insuring houses, furniture, goods, wares, merchandise, or other property from loss by fire, under the said Act passed in the fifty-fifth year of the reign of king George the third, shall endure and remain in force from the day of the date thereof for and during all such times as the body politic or corporate to which the same shall be granted, or the person or persons therein named, or any of them, shall continue to insure or carry on the business of fire insurance, or, in the case of a company in Ireland not incorporate, so long as the persons named in the licence shall be members or partners or a member or partner of the company named or described in such licence, and as and for the whole of which the same shall have been granted, anything in any of the said recited Acts or in any other Act contained to the contrary notwithstanding: Provided always, that every person and body politic or corporate to whom any such licence as aforesaid shall be granted shall give security by bond to her majesty, her heirs and successors, in such sum as the commissioners of inland revenue, or their proper officer in that behalf in Ireland, shall think proper, with sufficient sureties, to the satisfaction of the said commissioners or officer, or by transfer of stock or deposit of exchequer bills, in pursuance of the said recited Acts in that behalf, for duly and faithfully keeping, making out, signing, and delivering, in the manner required by any Act of parliament relating thereto, all and every the accounts by any such Act required to be kept, made out, signed, and delivered by persons and bodies politic or corporate to whom licence is granted for insuring houses, furniture, goods, wares, merchandise, or other property from loss by fire, and for duly and faithfully paying, as required by any such Act, the duties which shall appear to be due on such accounts respectively, and for truly and faithfully observing and performing all the directions, matters, and things contained in the said Acts, on the part of such licensed person or body politic or corporate to be observed and performed; and every such security to be given under any of the said Acts, whether by bond, or transfer or deposit of stock or exchequer bills, and in the case of any such transfer or deposit in or into whose name or names soever, together with the name of the chairman of the commissioners of inland revenue for the time being, the stock or exchequer bills shall be or be transferred or deposited, shall continue and be a security for the due performance of all things required as aforesaid, not only during all such time as the licence to which the same shall relate shall be in force, but, in the case of bodies politic or corporate or companies not incorporate in Ireland, during all such time as the body politic or corporate or the company not incorporate named or described in such licence shall insure any such property from loss by fire, or shall carry on the business of such insurance, whether any such licence shall be in force or not, or otherwise, according to the conditions of any such bond, or the terms or conditions of any declaration relating to any such stock or exchequer bills; and such stock or exchequer bills may, when the security for which the same was or were transferred or deposited shall be no longer necessary, be transferred or delivered up to any of the persons who for the time being shall be a partner or member or partners or members of the company for or on whose behalf the same was or were transferred or deposited, or otherwise, according to the terms, if any, in that behalf mentioned and contained in any such declaration as the said chairman for the time being shall think proper: Provided always, that every such security shall be renewed from time to time as often as any such bond shall become forfeited, or any of the parties thereto shall die, or become bankrupt or insolvent, or reside in parts beyond the seas, and also as often as the said commissioners or their said officer shall think fit, and in such amount as they or the commissioners of her majesty's treasury shall direct, whether the same shall be by bond or transfer or deposit as aforesaid; and in the event of any neglect or refusal to renew the same, when required by this Act, or by the said commissioners of inland revenue or their said officer, it shall be lawful for the said last-mentioned commissioners to revoke the licence which shall have been granted to the body politic or corporate, or company, or person or persons, neglecting or refusing to renew such security, to insure property from loss by fire, and thenceforth such licence shall cease and determine.

6 & 7 W. 4, c. 28, and 1 & 2 Vict. c. 61, as to deposit of stocks.

Fire insurance licences in Ireland to be permanent.

Security to be given for payment of duties.

The security to continue in force so long as the person to whom the licence is granted or the company shall continue to insure.

The security to be renewed.

Construction of certain terms

20. And in order to avoid the frequent use of divers terms and expressions, and to prevent any misconstruction of the terms and expressions used in this or any other Act relating to stamp duties, BE IT ENACTED, That whenever in this Act or in any other

such Act as aforesaid, with reference to any person, offence, matter, or thing, any word or words is or are or have been or shall be used importing the singular number or the masculine gender only, yet such words shall be understood to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and that wherever the several words, terms, or expressions following are or shall be used in this Act or in any other such Act as aforesaid, with reference to any deed or instrument, they shall be construed respectively in the manner hereinafter directed, (that is to say,) the word "write" or the word "written" shall be respectively deemed to mean and include the several words "print" or "printed," or "partly write and partly print," or "partly written and partly printed," as well as "write" or "written." 13 & 14 Vict c. 97. used in stamp Acts.

THE SCHEDULE REFERRED TO, CONTAINING THE DUTIES GRANTED BY THIS ACT.

	Duty.
AGREEMENT (*a*), or any minute or memorandum of agreement, made in England or Ireland under hand only, or made in Scotland without any clause of registration (*not charged otherwise than under the head* AGREEMENT *in the schedule to the Act 55 Geo.* 3, c. 184, *nor expressly exempted from all stamp duty*), where the matter thereof shall be of the value of 20*l.* or upwards, whether the same shall be only evidence of a contract, or obligatory upon the parties from its being a written instrument, together with every schedule, receipt, or other matter put or endorsed thereon or annexed thereto	£0 2 6
And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of	0 2 6
BOND (*b*) in England or Ireland, and personal bond in Scotland, given as a security for the payment of ANY DEFINITE AND CERTAIN SUM of money (*c*):	
Not exceeding 50*l.*	0 1 3
Exceeding 50*l.* and not exceeding 100*l.*	0 2 6
Exceeding 100*l.* and not exceeding 150*l.*	0 3 9
Exceeding 150*l.* and not exceeding 200*l.*	0 5 0
Exceeding 200*l.* and not exceeding 250*l.*	0 6 3
Exceeding 250*l.* and not exceeding 300*l.*	0 7 6
And where the same shall exceed 300*l.*, then for every 100*l.* and also for any fractional part of 100*l.*	0 2 6
BOND in England or Ireland, and personal bond in Scotland, given as a security for the repayment of any sum or sums of money to be thereafter lent, advanced, or paid, or which MAY BECOME DUE UPON AN ACCOUNT CURRENT, together with any sum already advanced or due, or without, as the case may be;	
Where the money secured or to be ultimately recoverable thereupon *shall be limited* not to exceed a given sum (*d*)	*The same duty as on a bond for such limited sum.*
And where the total amount of the money secured or to be ultimately recoverable thereupon *shall be uncertain, and without any limit*	*The same duty as on a bond for a sum equal to the amount of the penalty of such bond.*
And where there shall be no penalty of the bond in such last-mentioned case, such bond shall be available for such an amount only as the *ad valorem* duty denoted by any stamp or stamps thereon will extend to cover.	
BOND in England or Ireland, and personal bond in Scotland, given as a security for the TRANSFER OR RE-TRANSFER OF ANY SHARE in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the bank of Ireland, or of the East India company or the South Sea company, or of any other company or corporation	*The same* ad valorem *duty as on a bond for a sum of money equal to the value of the stock or fund secured, according to the average price thereof on the day of the date of the bond, or on either of the ten days preceding, or if there shall not have been any known sale on any of such days, then on the latest day preceding on which there shall have been a known sale.*

(*a*) See the notes to 55 Geo. 3, c. 184, sched. tit. "AGREEMENT," ante, p. 479.

(*b*) See the notes to 55 Geo. 3, c. 184, sched. tit. "BOND," ante, p. 497.

(*c*) See n. (*c*), ante, p. 496.

(*d*) See n. (*g*), ante, p. 496.

18 & 14 Vict. c. 97. Heritable BOND in Scotland for any of the purposes aforesaid.—See *Mortgage.*

BOND in England or Ireland, and personal bond in Scotland, given as a SECURITY for the payment of any sum of money, or for the TRANSFER OR RE-TRANSFER OF ANY SHARE in any of the stocks or funds before mentioned, *which shall be secured also by a mortgage or wadset,* or other instrument or writing hereinafter charged with and which shall have paid the same duty as a mortgage or wadset, or for the performance of covenants contained in such mortgage or other instrument or writing, or for both those purposes, *provided such mortgage, wadset, or other instrument or writing shall bear even date with and be referred to in such bond;*

Where the sum of money or the value of the stock or funds secured shall not exceed 800*l.* . . . . . } *The same* ad valorem *duty as on a mortgage or wadset for securing the like amount or value.*

And where such sum of money or value shall exceed 800*l.* . . . £1 0 0

BOND in England or Ireland, and personal or heritable bond in Scotland, given as an ADDITIONAL OR FURTHER SECURITY for the payment of any sum or sums of money, or for the transfer or re-transfer of any share in any of the stocks or funds before mentioned, previously secured by a bond, mortgage, or other security *therein referred to,* and which shall have paid the proper *ad valorem* duty on bonds or mortgages imposed by law at the date thereof;

Where the sum of money or the value of the stock or funds secured shall not exceed 1400*l.* . . . . . } *The same* ad valorem *duty as on a bond or mortgage for securing the like sum or value.*

And where such sum of money or the value of the stock or funds secured shall exceed 1400*l.* 1 15 0

BOND.—Any TRANSFER or ASSIGNMENT, disposition, or assignation of any such bond as aforesaid, and which shall have paid the proper *ad valorem* duty on bonds;

Where the principal money or stock secured by the bond shall not exceed in amount or value in the whole the sum of 1400*l.* . . . . . } *The same duty as on a bond for the total amount or value of such principal money or stock.*

And in every other case such transfer, assignment, disposition, or assignation shall be chargeable with the duty of . . . 1 15 0

And see *Progressive Duty.*

BOND in England or Ireland, and personal or heritable bond in Scotland, given as the ONLY OR PRINCIPAL SECURITY for the payment of ANY ANNUITY upon the original creation and sale thereof . . . . . } *The same* ad valorem *duty as on a conveyance upon sale in consideration of the sum or value given or agreed to be given for the purchase of such annuity.*

For the duty payable, see CONVEYANCE upon the sale of property.

BOND in England or Ireland, and personal bond in Scotland, given as A COLLATERAL OR AUXILIARY SECURITY for the payment of any annuity upon the original creation and sale thereof, where the same shall be granted or conveyed or secured by any other deed or instrument liable to and charged with the *ad valorem* duty imposed by law on conveyances upon the sale of any property;

Where such *ad valorem* duty shall not exceed 20*s.* such bond shall be chargeable with a stamp duty of equal amount with the said *ad valorem* duty.

And where such *ad valorem* duty shall exceed 20*s.* such bond shall be chargeable with the duty of 1 0 0

BOND in England or Ireland, and personal or heritable bond in Scotland, given as a SECURITY FOR THE PAYMENT of any ANNUITY (*except upon the original creation and sale thereof*), or of any sum or sums of money at stated periods (*not being interest for any principal sum, nor rent reserved or payable upon any lease or tack*), for any *definite and certain term,* so that the total amount of the money to be paid can be previously ascertained . . . . . } *The same* ad valorem *duty as on a bond of the like nature for the payment of a sum of money equal to such total amount.*

BOND in England or Ireland, and personal or heritable bond in Scotland, given as a SECURITY for the payment of any ANNUITY (*except as aforesaid*), or of any sum or sums of money at stated periods (*not being interest for any principal sum, nor rent reserved or payable upon any lease or tack*), for the term of LIFE or any other INDEFINITE PERIOD, so that the whole money to be paid cannot be previously ascertained;

Where the annuity or sum secured shall not exceed 50*l.* per annum 1 0 0

And where the same shall exceed 50*l.* and not exceed 100*l.* per annum 2 0 0

13 & 14 Vict. c. 97.

And where the same shall exceed 100*l.* per annum, then for every 100*l.* per annum and also for any fractional part of 100*l.* per annum £2 0 0

But where there shall be both a personal and heritable bond in Scotland in separate deeds of the same date for securing any such annuity or sums payable at stated periods, and the *ad valorem* duty above charged thereon shall amount to 2*l.* or upwards, the heritable bond only shall be charged with the *ad valorem* duty, and the personal bond shall be charged only with a duty of 1 0 0

BOND of any kind or description given FOR ANY OTHER PURPOSE than as aforesaid . . . . . } *The duty chargeable thereon by any Act or Acts now in force.*

Provided always, and it is hereby declared, that no such bond as last-mentioned shall be charged or chargeable under this or any other Act or Acts with any greater amount of stamp duty than the *ad valorem* duty hereinbefore charged upon a bond given for the payment of a *definite and certain* sum of money *of the same amount as the penalty* of such bond.

And in all the said several cases of BOND, see *Progressive Duty.*

CHARTER of resignation, or of confirmation, or of novodamus, or upon appriising, or upon a decreet of adjudication or sale of any lands, or other heritable subjects in Scotland, holden of any subject superior . . . 0 5 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words a further *progressive* duty of . . . 0 5 0

CONVEYANCE (*a*) whether grant, disposition, lease, assignment, transfer, release, renunciation, or of any other kind or description whatsoever, *upon the sale* (*b*) of any lands (*c*), tenements, rents, annuities, *or other property* (*d*), real or personal, heritable or moveable, or of any right, title, interest, or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property, that is to say, for and in respect of *the principal or only deed, instrument, or writing* whereby the lands or other things sold shall be granted, leased, assigned, transferred, released, renounced, or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction;

Where the purchase or consideration money therein or thereupon expressed shall not exceed 25*l.*	0	2	6
And where the same shall exceed 25*l.* and not exceed 50*l.* . .	0	5	0
And where the same shall exceed 50*l.* and not exceed 75*l.* . .	0	7	6
And where the same shall exceed 75*l.* and not exceed 100*l.* . .	0	10	0
And where the same shall exceed 100*l.* and not exceed 125*l.* . .	0	12	6
And where the same shall exceed 125*l.* and not exceed 150*l.* . .	0	15	0
And where the same shall exceed 150*l.* and not exceed 175*l.* . .	0	17	6
And where the same shall exceed 175*l.* and not exceed 200*l.* . .	1	0	0
And where the same shall exceed 200*l.* and not exceed 225*l.* . .	1	2	6
And where the same shall exceed 225*l.* and not exceed 250*l.* . .	1	5	0
And where the same shall exceed 250*l.* and not exceed 275*l.* . .	1	7	6
And where the same shall exceed 275*l.* and not exceed 300*l.* . .	1	10	0
And where the same shall exceed 300*l.* and not exceed 350*l.* . .	1	15	0
And where the same shall exceed 350*l.* and not exceed 400*l.* . .	2	0	0
And where the same shall exceed 400*l.* and not exceed 450*l.* . .	2	5	0
And where the same shall exceed 450*l.* and not exceed 500*l.* . .	2	10	0
And where the same shall exceed 500*l.* and not exceed 550*l.* . .	2	15	0
And where the same shall exceed 550*l.* and not exceed 600*l.* . .	3	0	0
And where the purchase or consideration money shall exceed, 600*l.*, then for every 100*l.* and also for any fractional part of 100*l.* .	0	10	0

And it is hereby directed, that the purchase money or consideration *shall be truly expressed and set forth in words at length* in or upon every such principal or only deed or instrument of conveyance; and where such consideration shall consist either wholly or in part of any stock or security the value thereof respectively to be ascertained as hereinafter mentioned, shall also be truly expressed and set forth in manner aforesaid in or upon every such deed or instrument; and

---

(*a*) Deeds made for several valuable considerations are made chargeable in respect of each, 17 & 18 Vict. c. 83, s. 16, post. See ante, p. 503.

(*b*) See ante, p. 503, n. (*c*).

(*c*) The duty is payable although the land conveyed is situate abroad (*Wright* v. *Commissioners of Inland Revenue*, 25 L. J. Ex. 49, 11 Ex. 458, ante, p. 503, n. (*d*)).

(*d*) See ante, p. 504, n. (*a*).

13 & 14 Vict. c. 97.

such value shall be deemed and taken to be the purchase or consideration money, or part of the purchase or consideration money, as the case may be, in respect whereof the *ad valorem* duty shall be charged as aforesaid.

And where the consideration or any part of the consideration shall be any stock in any of the public funds, or any government debenture or stock of the bank of England, or bank of Ireland, or any debenture or stock of any corporation, company, society, or persons or person, payable only at the will of the debtor, the said duty shall be calculated (taking the same respectively, whether constituting the whole or a part only of such consideration) according to the average selling price thereof respectively on the day or on either of the ten days preceding the day of the date of the deed or instrument of conveyance, or if no sale shall have taken place within such ten days, then according to the average selling price thereof on the day of the last preceding sale; and if such consideration or part of such consideration shall be a mortgage, judgment, or bond, or a debenture, the amount whereof shall be recoverable by the holder, or any other security whatsoever, whether payable in money or otherwise, then such calculation shall be made according to the sum due thereon for both principal and interest.

And see *Progressive Duty*.

COPYHOLD ESTATES (*a*) and customary estates passing by surrender and admittance, or by admittance only, and not by deed: INSTRUMENTS relating thereto *upon the sale or mortgage* of any such estates; (that is to say,)

Any ADMITTANCE out of court or the memorandum thereof, or the copy of court roll of any admittance in court	£0	2	6
And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words a further *progressive* duty of	0	2	6

COUNTERPART.—See *Duplicate*.

COVENANT.—Any *separate* deed of covenant made on the sale or mortgage of any freehold, leasehold, copyhold, or customary estate, or of any right or interest therein (*the same not being a deed chargeable with* ad valorem *duty under the head of* CONVEYANCE *in this schedule*) for the conveyance, assignment, surrender, or release of such estate, right, or interest, or for the title to or quiet enjoyment, freedom from incumbrances, or further assurance of the same estate, right, or interest, or otherwise by way of indemnity in respect of the same, or for the production of the title deeds or muniments of title relating thereto, or for all or any of those purposes;

Where the *ad valorem* duty on the purchase money or consideration or on the mortgage money shall not exceed the sum of 10*s*.	*A duty equal to the amount of such* ad valorem *duty.*		
And where the same shall exceed that amount	0	10	0

And see *Progressive Duty*.

COVENANT.—Any deed containing a covenant for the payment or repayment of any sum or sums of money, or for the transfer or re-transfer of any share or shares in the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the bank of Ireland, or of the East India company, or of the South Sea company, or of any other company or corporation, in any case where a mortgage, if made for the like purpose, would be chargeable under this schedule with any *ad valorem* duty exceeding in amount the sum of 1*l*. 15*s*.; or for the payment of any annuity, or any sums at stated periods in any case where a bond for the like purpose would be chargeable with any such duty . . . . . — *The same* ad valorem *duty as on a mortgage or bond respectively for the like purpose.*

For the duty thereon, see *Bond* or *Mortgage*.

And see *Progressive Duty*.

Provided always, that where any covenant shall be made as an additional or further security for the payment or repayment, transfer or re-transfer of any sum or sums of money, or any share or shares in any of the said stocks or funds, or for the payment of any annuity or sums at stated periods, at the same time or already or previously secured by any bond or other instrument mentioned and referred to by the deed containing such covenant, and chargeable with and which shall have paid the proper *ad valorem* duty under the head of

(*a*) See 55 Geo. 3, c. 184, sched. tit. "COPYHOLD," ante, p. 510.

BOND or MORTGAGE, or (as respects any annuity) under the head of CONVEYANCE, respectively in this schedule, or under any Act or Acts in force at the date thereof, in respect of the same sum or sums, share or shares, the said *ad valorem* duty hereby charged shall not be payable upon or in respect of such covenant; and if required for the sake of evidence the deed containing such covenant shall, on the same and such bond or other instrument being produced duly stamped in other respects, be stamped with a particular stamp for denoting or testifying the payment of the *ad valorem* duty hereby charged. 13 & 14 Vict. c. 97.

EXEMPTION *from the preceding* ad valorem *duty, but not from any other duty to which the same may be liable.*

Any covenant contained in any deed chargeable with any duty under the head of MORTGAGE *in this schedule, or in any deed exempted from the* ad valorem *duty on mortgages by the Act* 3 *Geo.* 4, *c.* 117, *such deeds hereby exempted operating as a security by way of mortgage, or as a transfer, assignment, disposition, or assignation hereinafter charged for the same sum or sums of money, or share or shares in any of the said stocks or funds, which is or are the subject of such covenant.*

Also any covenant contained in any deed chargeable with any duty under the head of SETTLEMENT *in this schedule, in respect of the same sum or sums of money, or share or shares in any of the said stocks or funds, which is or are the subject of such covenant.*

DUPLICATE or COUNTERPART of any deed or instrument, of any description whatever, chargeable with any stamp duty or duties, either under this schedule or any other Act or Acts now in force;

Where such stamp duty or duties chargeable as aforesaid (*exclusive of progressive duty*) shall not amount to the sum of five shillings . . . } *The same duty or duties as shall be chargeable on the original deed or instrument, including the* progressive *duty thereon (if any).*

And where the same (*exclusive as aforesaid*) shall amount to the sum of five shillings or upwards £0 5 0

And where in the latter case any such deed or instrument, together with any schedule, receipt, or other matter put or endorsed thereon or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, such duplicate or counterpart shall be charged with the further *progressive* duty of 0 2 6

Provided always, (*a*) that in such latter case the duplicate or counterpart shall not be available unless stamped with a particular stamp for denoting or testifying the payment of the full and proper stamp duty on the original deed or instrument, which said particular stamp shall be impressed upon such duplicate or counterpart, on the same being produced, together with the original deed or instrument, and on the whole being duly executed and duly stamped in all other respects.

LEASE (*b*) or TACK (*c*) of any lands, tenements, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of *fine*, premium, or grassum paid for the same, *without any yearly rent, or with any yearly rent under* 20*l.* } *The same duty as for a conveyance* on the sale *of lands for a sum of money of the same amount.*

For the duty thereon, see *Conveyance.*

(*Save and except leases and tacks for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three by whomsoever granted, and leases for a term absolute not exceeding twenty-one years, granted by ecclesiastical corporations, aggregate or sole, where the duties on such leases and tacks respectively would, under the provisions of this Act, amount to* 1*l.* 15*s. or upwards.*)

LEASE or TACK of any lands, tenements, hereditaments, or heritable subjects

---

(*a*) The proviso as to denoting stamps is not to extend to counterparts of leases, 16 & 17 Vict. c. 59, s. 12, post, p. 594.

(*b*) See as to leases for less than a year, 17 & 18 Vict. c. 83, s. 23, post. And as to leases for more than thirty-five years the schedule to that Act, *ib.*

(*c*) See ante, p. 518.

18 & 14 Vict. c. 97.

at a yearly (*a*) *rent, without any* sum of money by way of *fine*, premium, or grassum paid for the same;

Where the yearly rent shall not exceed 5*l.*	£0	0	6
And where the same shall exceed 5*l.* and not exceed 10*l.* . .	0	1	0
And where the same shall exceed 10*l.* and not exceed 15*l.* . .	0	1	6
And where the same shall exceed 15*l.* and not exceed 20*l.* . .	0	2	0
And where the same shall exceed 20*l.* and not exceed 25*l.* . .	0	2	6
And where the same shall exceed 25*l.* and not exceed 50*l.* . .	0	5	0
And where the same shall exceed 50*l.* and not exceed 75*l.* . .	0	7	6
And where the same shall exceed 75*l.* and not exceed 100*l.* . .	0	10	0
And where the same shall exceed 100*l.*, then for every 50*l.* and also for any fractional part of 50*l.*	0	5	0

LEASE or TACK of any lands, tenements, hereditaments, or heritable subjects, granted in consideration of a sum of money by way of *fine*, premium or grassum, *and also of a yearly rent* amounting to 20*l.* or upwards . . . . . .
(*Save and except the leases and tacks hereinbefore excepted.*)

Both the ad valorem *duties payable for a lease in consideration of a fine only and for a lease in consideration of a rent only of the same amount.*

LEASE or TACK of any *mine* or *minerals* or other property of a like nature, either with or without any other lands, tenements, hereditaments, or heritable subjects, *where any portion of the produce* of such mines or minerals *shall be reserved to be paid in money or kind;*

If it shall be stipulated that the value of such portion of the produce *shall amount at least* to a given sum per annum, or if such value *shall be limited not to exceed* a given sum per annum, to be specified in such lease or tack, then the said *ad valorem* duty on leases shall be charged in respect of the *highest* of such sums so given or limited for any year during the term of such lease or tack.

And where any *yearly sum* shall be reserved in addition to or together with such produce, relative to the yearly amount or value of which produce there shall be no such stipulation or limitation as aforesaid, the said *ad valorem* duty shall be charged in respect of such *yearly sum.*

And where *both a certain yearly sum and also such produce* relative to the yearly amount or value of which there shall be such stipulation or limitation as aforesaid shall be reserved, the said *ad valorem* duty shall be charged on the *aggregate* of such yearly sum and also of the highest yearly amount or value of such produce.

GENERAL REGULATIONS as to Leases and Tacks:

Where, in any of the aforesaid several cases of lease or tack, any fine, premium, or grassum, or any rent, payable under any lease or tack, shall consist wholly or in part of *corn, grain, or victual*, the value of such corn, grain or victual shall be ascertained or estimated at and after any permanent rate of conversion which the lessee may be specially charged with, or have it in his option to pay; and if no such permanent rate of conversion shall have been stipulated, then in England and Ireland respectively at and after the prices, upon an average of twelve calendar months preceding the first day of January next before the date of such lease or tack, of the average prices of British corn published in the "London Gazette," in the manner directed by any Act in force for the commutation of tithes in England and Wales; and in Scotland at and after the fiars prices of the county in which the lands or any part thereof lie, upon an average of seven years preceding the date of such lease or tack; and such respective values shall be deemed and taken to be the fine, premium, or grassum, or yearly rent, or part thereof respectively, as the case may be, in respect whereof the *ad valorem* duty shall be charged as aforesaid.

And where *separate* and *distinct* fines, premiums, or grassums shall be paid to several lessors, being joint tenants, tenants in common, or coparceners, in England or Ireland, or proprietors *pro indiviso* in Scotland, who shall by one and the same deed or instrument jointly or severally demise or lease the lands, tenements, hereditaments, or heritable subjects of which they are such joint tenants, tenants in common, or coparceners, in England or Ireland, or proprietors *pro indiviso* in Scotland, or where *separate* and *distinct* rents shall be by one and the same deed or instrument reserved or made payable, or

(*a*) Less than a year, see 17 & 18 Vict. c. 83, s. 23, post. For any term not exceeding seven years, see 22 Vict. c. 15, schedule, post.

agreed to be reserved or made payable, to the lessor or to several lessors, being such joint tenants, tenants in common, or coparceners, in England or Ireland, or proprietors *pro indiviso* in Scotland, the *ad valorem* duties shall be charged in respect of the *aggregate* amount of such fines, premiums, or grassums, and of such rents respectively.

And where any person, having contracted for, but not having obtained a lease of any lands or other property, shall contract to sell such lands or other property, or any part thereof, or his right or interest therein or thereto, to any other person, and a lease shall accordingly be granted to such other person, the purchase money or consideration which shall be paid or given or agreed to be paid or given to the person immediately selling to such lessee shall be set forth in such lease, and such lease shall be charged as well with the said *ad valorem* duty on such purchase money or consideration as with the duty on the purchase money or consideration or rent paid or reserved to the lessor.

LEASE or TACK, of any kind, *not otherwise charged* (*a*)	£1	15	0

Provided always, that no *ad valorem* duty shall be chargeable in respect of any *penal rent*, or increased rent in the nature of a penal rent, reserved in any such lease or tack as aforesaid.

LEASE.—Any ASSIGNMENT or SURRENDER of a lease or tack upon any other occasion than a sale or mortgage	*A duty equal to the* ad valorem *duty with which a similar lease or tack would be chargeable under this Act.*		
Provided always, that where a similar lease or tack would be chargeable under this Act with any stamp duty amounting to 1*l.* 15*s.* or upwards, then such assignment or surrender shall be chargeable only with a duty of	1	15	0

Provided also, that no stamp duty, except the said *ad valorem* duty, shall be chargeable for or in respect of any LEASE, whether in possession, reversion, or remainder, expressed to be granted in consideration of the surrender of an existing lease and also of a sum of money.

And in all the said several cases of LEASE or TACK, see *Progressive Duty.*

MEMORIAL to be registered pursuant to any Act of parliament made or to be made for the public registering of deeds and conveyances in England or Ireland; (that is to say,) For every piece of vellum, parchment, or paper upon which any such memorial shall be written	0	2	6

MORTGAGE (*b*), conditional surrender by way of mortgage, further charge, wadset and heritable bond, disposition, assignation, or tack in security, and eik to a reversion, of or affecting any lands, estate or property, real or personal, heritable or moveable, whatsoever (*c*).

Also any deed containing an obligation to infeft any person in an annual rent, or in lands or other heritable subjects, in Scotland, under a clause of reversion, but without any personal bond or obligation therein contained for payment of the money or stock intended to be secured.

Also any conveyance of any lands, estate, or property whatsoever, in trust to be sold or otherwise converted into money, which shall be intended only as a security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise, *except where such conveyance shall be made for the benefit of creditors generally, or for the benefit of creditors specified, who shall accept the provision made for payment of their debts in full satisfaction thereof, or who shall exceed five in number:*

Also any defeasance, letter of reversion, back bond, declaration, or other deed or writing for defeating or making redeemable or explaining or qualifying any conveyance, disposition, assignation, or tack of any lands, estate, or property whatsoever, which shall be apparently absolute, but intended only as a security:

Also any agreement, contract, or bond, accompanied with a deposit of title deeds for making a mortgage, wadset, or any such other security or conveyance as aforesaid of any lands, estate, or property comprised in such title deeds, or for pledging or charging the same as a security:

And also any deed whereby a real burden shall be declared or created on lands or heritable subjects in Scotland;

(*a*) See ante, p. 519, n. (*f*).

(*b*) A document stating goods to have been deposited as a security for money lent, and containing a power of sale, does not require a mortgage stamp within this statute (*Attenborough* v. *Coms. of Inland Revenue*, 11 Ex. 461, 25 L. J. Ex. 22).

(*c*) See ante, p. 521, n. (*m*).

18 & 14 Vict. c. 97

Where the same respectively shall be made as a security for the payment of any *definite and certain* sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable ;

Not exceeding 50*l.*	£0	1	3
Exceeding 50*l.* and not exceeding 100*l.*	0	2	6
Exceeding 100*l.* and not exceeding 150*l.*	0	3	9
Exceeding 150*l.* and not exceeding 200*l.*	0	5	0
Exceeding 200*l.* and not exceeding 250*l.*	0	6	3
Exceeding 250*l.* and not exceeding 300*l.*	0	7	6
And where the same shall exceed 300*l.* then for every 100*l.* and also for any fractional part of 100*l.*	0	2	6

And where the same respectively shall be made as a security for the repayment of money *to be thereafter lent, advanced, or paid, or which may become due upon an account current*, together with any sum already advanced or due, or without, as the case may be, *other than and except any sum or sums of money to be advanced for the insurance of any property comprised in such mortgage or security against damage by fire, or to be advanced for the insurance of any life or lives, or for the renewal of any grant or lease upon the dropping of any life or lives pursuant to any agreement in any deed whereby any estate or interest held upon such life or lives shall be granted, assigned, or assured, or whereby any annuity shall be granted or secured for such life or lives.*

If the total amount of the money secured or to be ultimately recoverable thereupon *shall be limited* not to exceed a given sum } *The same duty as on a mortgage or wadset for such limited sum.*

And if the total amount of the money secured or to be ultimately recoverable thereupon *shall be uncertain and without any limit*, then the same shall be available as a security or charge for such an amount only of money or stock intended to be thereby secured as the *ad valorem* duty denoted by any stamp or stamps thereon will extend to cover.

And where the same respectively shall be made as a security for the transfer or re-transfer of any share in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the bank of Ireland, or of the East India company, or of the South Sea company, or of any other company or corporation, in consideration of stock or money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable . . . . . } *The same duty as on a mortgage or wadset for a sum of money equal to the value of the stock or funds secured according to the average price thereof on the day of the date of the mortgage or other instrument aforesaid, or on either of the ten days preceding, or if there shall not have been any known sale on any of such days, then on the latest day preceding on which there shall have been a known sale.*

MORTGAGE.—And where any such deed or instrument as aforesaid shall be made respectively as a security for the payment of any rent-charge or annuity, or any sum or sums of money by way of repayment, or in satisfaction or discharge, or in redemption of any sum of money lent, advanced or paid, as or for or in the nature of a loan intended to be repaid, satisfied, discharged, redeemed in manner aforesaid . } *The same duty as on a mortgage or wadset for the sum of money so lent, advanced, or paid.*

MORTGAGE.—ANY TRANSFER OR ASSIGNMENT, disposition, or assignation of any mortgage or wadset, or of any such other security as aforesaid, or of the benefit thereof, or of the money or stock thereby secured ;

Where no further sum of money or stock shall be added to the principal money or stock already secured,

If such principal money or stock already secured shall not exceed in amount or value in the whole the sum of 1400*l.* . } *The same duty as on a mortgage or wadset for the total amount or value of such principal money or stock.*

And if such principal money or stock shall exceed in amount or value in the whole the sum of 1400*l.* 1 15 0

And where any further sum of money or stock shall be added to the principal money or stock already secured . . . . . } *The same duty as on a mortgage or wadset for such further money or stock only.*

And in every other case not hereinbefore expressly provided for, such transfer, assignment, disposition, or assignation shall be chargeable with the duty of 1 15 0

Provided always, that no such deed or instrument as aforesaid shall in any of the said several cases be chargeable with any further or other duty than is herein expressly provided (*except progressive*

duty), by reason of its containing any further or additional security for the payment or transfer or re-transfer of such money or stock, or any interest or dividends thereon, or any new covenant, proviso, power, stipulation, or agreement, or other matter whatever in relation to such money or stock, or the interest or dividends thereon, or by reason of its containing all or any of such matters.

MORTGAGE.—Any deed or instrument made for the *further assurance*, only of any estate or property which shall have been already mortgaged, pledged, or charged as a security, by any deed or instrument which shall have paid the *ad valorem* duty on mortgages or bonds chargeable under any Act or Acts in force at the time of making such last-mentioned deed or instrument:

Also any deed or instrument made as an *additional or further security* for any sum or sums of money, or any share or shares of any of the stocks or funds before mentioned, which shall have been already secured by any deed or instrument which shall have paid the said *ad valorem* duty on mortgages or bonds chargeable as aforesaid, shall be chargeable respectively with the following duties; (that is to say),

Where the total amount or value of the money or stock already secured, and in respect whereof the said *ad valorem* duty shall have been paid, shall not exceed the sum of 1400*l.* . . . . . } *The same duty as on a mortgage or wadset for the amount or value of the said money or stock.*

And in any other case £1 15 0

Provided always, that if any further sum of money or stock shall be added to the principal money or stock already secured, such deed or instrument for further assurance, or additional or further security, either by the mortgagor or by any person entitled to the property mortgaged, by descent, devise, or bequest from such mortgagor, shall be chargeable only (*exclusive of progressive duty*) with the *ad valorem* duty on mortgages under this Act, in respect of such further sum of money or stock in lieu of the duty aforesaid, notwithstanding that the same deed or instrument may also contain any covenant either by the mortgagor or by any person entitled as aforesaid, proviso, power, stipulation, or agreement, or other matter whatever in relation to the money or stock already secured, or the interest or dividends thereon.

MORTGAGE.—ANY RECONVEYANCE, release, surrender, discharge, or renunciation of any mortgage or wadset, or of any other such security as aforesaid, or of the benefit thereof, or of the money or stock thereby secured;

Where the total amount of the principal money or stock at any time secured shall not exceed the sum of 1400*l.* . . . . . } *The same duty as on a mortgage or wadset for the amount or value of the said money or stock.*

And in any other case 1 15 0

And in all the said several cases of deeds and instruments chargeable under the head of MORTGAGE, see *Progressive Duty*.

PRECEIT of *clare constat* to give seisin of lands or other heritable subjects in Scotland 0 5 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words a further *progressive* duty of 0 5 0

PROGRESSIVE DUTY; that is to say:—Where any deed or instrument of any description whatever chargeable with any stamp duty either under this schedule or under any other Act or Acts now in force, together with any schedule, receipt, or other matter put or endorsed thereon or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, there shall be charged the further *progressive* duty following; (that is to say,)

Where such deed or instrument shall be chargeable with any *ad valorem* stamp duty or duties not exceeding in the whole the sum of ten shillings, a further *progressive* duty equal to the amount of such *ad valorem* duty or duties.

And in every other case (*except where any other progressive duty is by this schedule expressly charged thereon*), a further *progressive* duty of . 0 10 0

Provided always, that nothing herein contained shall extend to charge the said *progressive* duty in any case in which express provision is made by any such Act or Acts as aforesaid for charging a certain duty on every skin, sheet, or piece of vellum, parchment, or paper in or upon which any deed or instrument shall be contained or written, or to charge with progressive duty any description of deed or instrument not chargeable with *progressive* duty under any Act or Acts now in force, or to charge any deed or instrument with any higher rate or amount of *progressive* duty than is now chargeable on a deed or instrument of the like description under any such Act or Acts as aforesaid.

13 & 14 Vict. c. 97. RESIGNATION.—Principal or original instrument of resignation, or service of cognition of heirs, or charter or seisin of any houses, lands, or other heritable subjects in Scotland holding burgage or of burgage tenure . £0 5 0

Also instrument of resignation of any lands or other heritable subjects in Scotland not of burgage tenure 0 5 0

And where any of the said instruments shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words a further *progressive* duty of 0 5 0

SCHEDULE (*a*), inventory, or catalogue of any lands, hereditaments, or heritable subjects, or of any furniture, fixtures, or other goods or effects, or containing the terms and conditions of any proposed sale, lease, or tack, or the conditions and regulations for the cultivation or management of any farm lands or other property leased or agreed to be leased, or containing any other matter or matters of contract or stipulation whatsoever, *which shall be referred to* in or by and be intended to be used or given in evidence as part of or as material to any agreement, lease, tack, bond, deed, or other instrument charged with any duty, *but which shall be separate and distinct from* and not indorsed on or annexed to such agreement, lease, tack, bond, deed, or other instrument;

Where any such schedule, inventory, or catalogue shall be so referred to in or by any such agreement, lease, tack, bond, deed, or other instrument chargeable with any stamp duty not exceeding 10*s.*, *exclusive of progressive duty* . . . . . — The same duty (*exclusive of progressive duty*) as shall be so chargeable on such agreement, lease, tack, bond, deed, or other instrument.

And where any such schedule, inventory, or catalogue shall be referred to in or by any lease, tack, bond, deed, or such other instrument as aforesaid, chargeable with any stamp duty exceeding ten shillings *exclusive of progressive duty* 0 10 0

And if in any of the said cases such schedule, inventory, or catalogue shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words — A further *progressive* duty of the same amount as the duty hereinbefore charged thereon respectively.

SEISIN.—Instruments of seisin given upon any charter, precept of *clare constat*, or precept from Chancery, or upon any wadset, heritable bond, disposition, apprising, adjudication, or otherwise of any lands or heritable subjects in Scotland not of burgage tenure 0 5 0

And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words a further *progressive* duty of 0 5 0

SETTLEMENT.—Any deed or instrument, whether voluntary or gratuitous, or upon any good or valuable consideration other than a *bonâ fide* pecuniary consideration, whereby any *definite and certain* (*b*) principal sum or sums of money (whether charged or chargeable on lands or other hereditaments or heritable subjects, or not, or to be laid out in the purchase of lands or other hereditaments or heritable subjects, or not), or any *definite and certain* share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, OR OF THE BANK OF IRELAND (*c*), or of the East India company, or of the South Sea company, or of ANY OTHER COMPANY OR CORPORATION, shall be settled or agreed to be settled upon or for the benefit of any person or persons, either in possession or reversion, either absolutely, or for life or other partial interest, or in any other manner whatsoever;

If (*d*) such sum or sums of money, or the value of such share or shares in all or any of the said stocks or funds, or of such one or more of the said articles as shall be so settled or agreed to be settled, or both such sum or sums of money and the value of one or more of such articles together, shall not exceed in the whole 100*l.* 0 5 0

(*a*) See 55 Geo. 3, c. 184, sched. part 1, tit. "SCHEDULE," and notes, ante, p. 538.

Public maps and documents are not to be liable to duty on account of their being referred to in any deed or instrument. 17 & 18 Vict. c. 83, s. 22, post.

(*b*) A marriage settlement, which assigned a policy effected on the life of the settlor and all moneys assured or to become payable by or under it, has been held, not to be liable to this duty (*Sanville* v. *The Commissioners of Inland Revenue*, 23 L. J. Exch. 270; 10 Exch. 159).

(*c*) The 55 Geo. 3, c. 184, sched. part 1, tit. "SETTLEMENT," ante, p. 539, did not include the bank of Ireland.

(*d*) This and the four following clauses are new.

And if the same shall exceed 100*l.*, then for every 100*l.*, and also for any fractional part of 100*l.* . . . . . £0 5 0 — 13 & 14 Vict. c. 97.

And all deeds or instruments chargeable with the said *ad valorem* duty which shall also contain any settlement of lands or other property, or contain any other matter or thing besides the settlement of such money or stock, shall be chargeable with such further stamp duty as any separate deed or instrument containing such settlement of lands or other property, or other matter or thing, would have been chargeable with, exclusive of the *progressive* duty.

And where there shall be more than one such deed or instrument for effecting any such settlement as aforesaid, chargeable with any such duty or duties exceeding 1*l.* 15*s.*, one of them only shall be charged with the said *ad valorem* duty; and also where any settlement shall be made in pursuance of any previous articles chargeable with and which shall have paid any such duty or duties exceeding 1*l.* 15*s.*, such last-mentioned settlement shall not be chargeable with the said *ad valorem* duty; and the said deeds and instruments respectively not chargeable with the said *ad valorem* duty shall be charged with the duty to which the same may be liable under any more general description in this schedule, or in the schedule annexed to the said Act of the fifty-fifth year of the reign of king George the third; and on the whole being produced, duly executed and duly stamped, as hereby required, the latter shall also be stamped with a particular stamp for denoting or testifying the payment of the said *ad valorem* duty.

And see *Progressive Duty*.

WARRANT OF ATTORNEY (*a*) (with or without a release of errors) to confess and enter up a judgment in any of her majesty's courts at Westminster or in Ireland, or in any of the courts of the counties palatine of Lancaster and Durham, or in any other court of record holding pleas, where the debt or damage amounts to 40*s.*, which shall be given as a security for the payment of any sum or sums of money, or for the transfer of any share or shares in any of the government or parliamentary stocks or funds, or in the stock and funds of the governor and company of the bank of England, or of the bank of Ireland, or of the East India company, or of the South Sea company, or of *any other* company or corporation . . . . . — The same duty as on a bond for the like purpose.

Save and except (*b*) *where such payment or transfer shall be already secured by a bond, mortgage, or other security which shall have paid the proper* ad valorem *duty on bonds or mortgages imposed by law at the date thereof, exceeding in amount the sum of 5s.; and also except where the warrant of attorney shall be given for securing any sum or sums of money exceeding* 200*l.* *for which the person giving the same shall then be in actual custody under an arrest on mesne process or in execution;* and in those excepted cases a duty of 0 5 0

WARRANT OF ATTORNEY *not otherwise charged* in this schedule . . . 1 15 0

16 & 17 Vict. c. 5. An Act to substitute Stamp Duties for Fees on passing Letters Patent for Inventions, and to provide for the Purchase for the public Use of certain Indexes of Specifications. [21st February, 1853.]

16 & 17 Vict. c. 5.

"Whereas it is expedient that the fees payable in respect of letters patent for inventions under the patent law amendment Act, 1852, and mentioned in the schedule to such Act, be converted into stamp duties;" BE IT ENACTED, THEREFORE, as follows:— 15 & 16 Vict. c. 83.

1. Sections seventeen, forty-four, forty-five, forty-six, and fifty-three of the said patent law amendment Act, 1852, and so much of the schedule to the said Act as relates to fees and stamp duties to be paid under the said Act, shall be repealed. Sects. 17, 44, 45, 46, and 53, and part of schedule of recited Act repealed.

2. (*c*) All letters patent for inventions to be granted under the provisions of the said patent law amendment Act, 1852, (except in the cases provided for in the fourth section Letters patent to be

(*a*) See 55 Geo. 3, c. 184, part 1, sched. tit. "WARRANT OF ATTORNEY," and notes, ante, p. 540.

(*b*) Further exemption—Warrants of attorney to confess judgment granted by high constables or collectors of grand jury cess in Ireland, 9 & 10 Vict. c. 60.

(*c*) "The policy of the Act, if it can be called policy, is this. Many persons were of opinion that there should be no patents at all, and others thought that every facility should be given to inventors for obtaining patents, and that such

16 & 17 Vict. c. 5.

made subject to avoidance on non-payment of stamp duties expressed in schedule to this Act annexed.

of this Act,) shall be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine, at the expiration of three years (*a*) and seven years respectively from the date thereof, unless there be paid before the expiration of the said three years and seven years respectively the stamp duties in the schedule to this Act annexed expressed to be payable before the expiration of the third year and of the seventh year respectively, and such letters patent, or a duplicate thereof, shall be stamped with proper stamps showing the payment of such respective stamp duties, and shall, when stamped, be produced before the expiration of such three years and seven years respectively at the office of the commissioners; and a certificate of the production of such letters patent or duplicate so stamped, specifying the date of such production, shall be endorsed by the clerk of the commissioners on the letters patent or duplicate, and a like certificate shall be endorsed upon the warrant for such letters patent filed in the said office.

Stamp duties mentioned in the schedule to this Act to be payable.

3. There shall be paid unto and for the use of her majesty, her heirs and successors, for or in respect of letters patent applied for or issued under the provisions of the said patent law amendment Act, 1852, warrants, specifications, disclaimers, certificates, and entries, and other matters and things mentioned in the schedule to this Act, or the vellum, parchment, or paper on which the same respectively are written, the stamp duties mentioned in the said schedule; and no other stamp duties shall be levied in respect of such letters patent, warrants, specifications, disclaimers, certificates, entries, matters, and things; and the stamp duty mentioned in the said schedule on office copies of documents shall be in lieu of such sums as by the said patent law amendment Act, 1852, are authorised to be appointed to be paid for such office copies.

As to payment of stamp duties on letters patent for England, Scotland, or Ireland respectively.

4. Where letters patent for England or Scotland or Ireland have been granted before the commencement of the said patent law amendment Act, 1852, or have been since the commencement of the said Act, or hereafter may be granted for any invention, in respect of any application made before the commencement of the said Act, letters patent for England or Scotland or Ireland may be granted for such invention in like manner as if the said Act had not been passed: Provided always, that in lieu of all fees or payments and stamp duties which were at the time of the passing of the said Act payable in respect of such letters patent as last aforesaid, or in or about obtaining a grant thereof, and in lieu of all other stamp duties whatsoever, there shall be paid in respect of such letters patent as last aforesaid on the sealing thereof stamp duties equal to one-third part of the stamp duties which would be payable under this Act in respect of letters patent issued for the united kingdom under the said patent law amendment Act, 1852, on or previously to the sealing of such letters patent as last aforesaid, and before the expiration of the third year and the seventh year respectively of the term granted by such letters patent for England, Scotland, or Ireland, stamp duties equal to one-third part of the stamp duties payable under this Act before the expiration of the third year and the seventh year respectively of the term granted by letters patent issued for the united kingdom under the said patent law amendment Act, 1852, and the condition of such letters patent for England or Scotland or Ireland shall be varied accordingly.

Duties to be under the management of the commissioners of inland revenue;

5. The stamp duties hereby granted shall be under the care and management of the commissioners of inland revenue; and the several rules, regulations, provisions, penalties, clauses, and matters contained in any Act now or hereafter to be in force with reference to stamp duties shall be applicable thereto.

who are to provide the proper stamps for the purpose.

6. The said commissioners of inland revenue shall prepare stamps impressed upon adhesive paper, of the amounts following, that is to say, twopence, fourpence, eightpence, and one shilling, to be used only in respect of the stamp duties on the office copies of documents and on the certificates of searches and inspections mentioned in the schedule to this Act; such adhesive stamps of proper amounts to be affixed by the clerk of the commissioners of patents for inventions to such office copies of documents and certificates of searches and inspections as aforesaid; and immediately after such affixing he shall obliterate or deface such stamps by impressing thereon a seal to be provided for

---

persons suffered great hardships from the expense of getting patents, especially when they turned out to be of no avail. The suggestion was then made, to avoid these hardships, which led to the passing of the Act, and it was settled that the whole cost of the patent should be 175*l.*, of which 25*l.* was to be paid down. Then the patentee was to have three years to try whether his patent was good, and if before the expiration of the three years he should pay 50*l.*, then he might go on for four years more to see whether the patent would stand; and if he found it would, then he might pay 100*l.* within the seven years for the continuance of it. That was the intention of the statute," per Jervis, C. J. (*Hill* v. *Mount*, 18 C. B. 72, 25 L. J. C. P. 190).

(*a*) Letters patent, dated the 26th of February, 1855, were, under this Act, to cease at the expiration of three years from the date thereof, unless there was paid before the expiration of the three years an additional stamp duty of 50*l.* This stamp duty was paid on the 26th of February, 1858:—It was held, that the payment had been made within the time, and that the patent was subsisting (*Williams* v. *Nash*, 28 Beav. 93; *Russell* v. *Ledsam*, 14 M. & W. 574, 1 H. L. C. 687).

that purpose, but so as not to prevent the amount of the stamp from being ascertained; and no such office copy or certificate shall be delivered out until the stamps thereon shall be obliterated or defaced as aforesaid. 16 & 17 Vict. c. 5.

7. The condition contained in any letters patent granted under the said patent law amendment Act, 1852, and before the passing of this Act for making such letters patent void at the expiration of three years and seven years respectively from the date thereof, unless there be paid before the expiration of the said three years and seven years respectively, the sums of money and stamp duties by the said patent law amendment Act, 1852, required in this behalf, shall be deemed to be satisfied and complied with by payment of the like stamp duties as would have been required if such letters patent had been granted after the passing of this Act, and had been made subject to the condition required by this Act in lieu of the said condition therein contained; and the provision hereinbefore contained concerning the endorsement on the letters patent or duplicate, and on the warrant for the same letters patent, of a certificate of the production of the letters patent or duplicate properly stamped, shall be applicable in the case of such letters patent granted before the passing of this Act. Conditions of letters patent already granted under recited Act to be satisfied by payment of stamp duties, &c., under this Act.

9. The word "duplicate" shall be construed to mean in this Act such letters patent as may be issued under the twenty-second section of the patent law amendment Act, 1852, in case of any letters patent being destroyed or lost. As to the word "duplicate."

10. This Act and the patent law amendment Act, 1852, shall be construed together as one Act. This Act and 15 & 16 Vict. c. 83, to be construed together.

THE SCHEDULE OF STAMP DUTIES TO BE PAID TO WHICH THIS ACT REFERS.

	£	s.	d.
On petition for grant of letters patent	5	0	0
On certificate of record of notice to proceed	5	0	0
On warrant of law officer for letters patent	5	0	0
On the sealing of letters patent	5	0	0
On specification	5	0	0
On the letters patent, or a duplicate thereof, before the expiration of the third year	50	0	0
On the letters patent, or a duplicate thereof, before the expiration of the seventh year	100	0	0
On certificate of record of notice of objections	2	0	0
On certificate of every search and inspection	0	1	0
On certificate of entry of assignment or licence	0	5	0
On certificate of assignment or licence	0	5	0
On application for disclaimer	5	0	0
On caveat against disclaimer	2	0	0
On office copies of documents, for every ninety words	0	0	2

16 & 17 Vict. c. 59. An Act to repeal certain Stamp Duties, and to grant others in lieu thereof, to amend the Laws relating to Stamp Duties, and to make perpetual certain Stamp Duties in Ireland. [4th August, 1853.] 16 & 17 Vict. c. 59.

"Whereas it is expedient to repeal the stamp duties now payable in respect of the several instruments, matters, and things mentioned or described in the schedule to this Act annexed, and to impose other stamp duties in lieu thereof; and it is also expedient to amend the laws relating to the stamp duties;" BE IT THEREFORE ENACTED as follows:—

1. From and after the 10th day of October, 1853, the several stamp duties now payable in Great Britain and Ireland respectively, under or by virtue of any Act or Acts of parliament for or in respect of the several instruments, matters, and things mentioned or described (otherwise than by way of exception) in the schedule to this Act annexed, and whereon other duties are by this Act granted, shall respectively cease and determine, and shall be and the same are hereby repealed; and in lieu and instead thereof there shall be granted, raised, levied, collected, and paid in and throughout the united kingdom of Great Britain and Ireland, to and to the use of her majesty, her heirs and successors, for and in respect of the several instruments, matters, and things described or mentioned in the said schedule, or for or in respect of the vellum, parchment, or paper upon which any of them respectively shall be written, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said schedule, which said schedule, and the several provisions, regulations, directions, and exemptions therein contained with respect to the said duties, and the instruments, matters, and things charged therewith or exempted therefrom shall be deemed and taken to be part of this Act, and shall be applied, observed, and put in execution accordingly: Provided Stamp duties on instruments in the schedule annexed repealed, and others granted in lieu.

16 & 17 Vict. c. 59.

always, that nothing herein contained shall extend to repeal or alter any of the said stamp duties now payable in relation to any deed or instrument which shall have been signed or executed by any party thereto, or which shall bear date before or upon the 10th day of October, 1853.

The new duties to be denominated stamp duties, and to be under the care of the commissioners of inland revenue.

Powers and provisions of former Acts to be in force.

2. The said duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of inland revenue for the time being; and all the powers, provisions, clauses, regulations, directions, allowances, and exemptions, fines, forfeitures, pains, and penalties contained in or imposed by any Act or Acts, or any schedule thereto relating to any duties of the same kind or description heretofore payable in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be in full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, instruments, matters, and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by, and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted, *mutatis mutandis*, with reference to the said duties by this Act granted.

Stamps denoting the duty of one penny on receipts and drafts may be impressed or affixed (a).

3. The duties of one penny by this Act granted on receipts and on drafts or orders for the payment of money respectively, may be denoted either by a stamp impressed upon the paper whereon any such instrument is written or by an adhesive stamp affixed thereto, and the commissioners of inland revenue shall provide stamps of both descriptions for the purpose of denoting the said duties.

Where adhesive stamps are used to denote the duties on receipts, drafts, or orders, the stamps to be cancelled by writing the name on it.

4. In any case where an adhesive stamp shall be used for the purpose aforesaid on any receipt or upon any draft or order respectively chargeable with the duty of one penny by this Act, the person by whom such receipt shall be given or such draft or order signed or made shall, before the instrument shall be delivered out of his hands, custody, or power, cancel or obliterate the stamp so used, by writing thereon his name or the initial letters of his name so and in such a manner as to show clearly and distinctly that such stamp has been made use of, and so that the same may not be again used; and if any person who shall write or give any such receipt or discharge or make or sign any such draft or order with any adhesive stamp thereon, shall not *bonâ fide* in manner aforesaid effectually cancel or obliterate such stamp, he shall forfeit the sum of ten pounds.

Penalty for committing frauds in the use of adhesive stamps.

5. If any person shall fraudulently get off or remove, or cause or procure to be gotten off or removed, from any paper whereon any receipt or any draft or order shall be written, any adhesive stamp, or if any person shall affix or use any such stamp which shall have been gotten off or removed from any paper whereon any receipt or any draft or order shall have been written, to or for any receipt, draft, or order, or any paper whereon any such receipt, draft, or order shall be or be intended to be written; or if any person shall do or practise or be concerned in any fraudulent act, contrivance, or device whatever, not specially provided for by this or some other Act of parliament, with intent or design to defraud her majesty, her heirs or successors, of any duty by this Act granted upon receipts or upon drafts or orders, every person so offending in any of the said several cases shall forfeit the sum of twenty pounds.

6. For better securing the stamp duties by law chargeable on policies of insurance upon lives, and for preventing frauds in respect of any such insurances:

In case of any insurance for lives, a stamp policy to be made out.

Every person who shall make or agree to make, or shall receive any premium or valuable consideration for making, any assurance or insurance upon any life or lives, or upon any event or contingency relating to or depending upon any life or lives, shall, within one calendar month after the payment or giving of any such premium or consideration, make out and sign or execute, or cause and procure to be made out and signed or executed upon vellum, parchment, or paper, duly stamped, a policy of such assurance or insurance, and have the same ready to be delivered to the party entitled thereto, and shall upon demand made by any such party, or any agent in that behalf duly authorised, deliver the same to him, or in default in any of the cases aforesaid, shall forfeit the sum of fifty pounds:

Officers of insurance companies to be answerable for default.

Every person who at the time of the payment or giving of any such premium or consideration shall be a managing director of or the secretary to or other principal officer of any society or company receiving any such premium or consideration, shall be deemed to be a person making or agreeing to make such assurance or insurance, and shall be subject and liable to the penalty by this Act imposed for any such default as aforesaid.

Articles of clerkship to attorneys of

7. "Whereas by an Act passed in the fifty-fifth year of the reign of king George the third, chapter one hundred and eighty-four, certain stamp duties are imposed on any articles of clerkship or contract whereby any person shall first become bound to serve

---

(a) The adhesive stamps provided for drafts and receipts may be used indiscriminately, 17 & 18 Vict. c. 83, s. 10, post.

as a clerk in order to his admission as an attorney or solicitor in any court; that is to say, in order to admission in any of the courts at Westminster, the stamp duty of one hundred and twenty pounds, and in order to admission in any of the courts of the counties palatine, the stamp duty of sixty pounds: And whereas where any person has become bound and has served as a clerk under any such articles or contract stamped with the said duty of sixty pounds in order to his admission as an attorney or solicitor in any of the courts of the counties palatine, he is capable of being admitted in any of her majesty's courts at Westminster, but only upon the payment of the further stamp duty of one hundred and twenty pounds; and it is expedient to afford relief in such cases:"

16 & 17 Vict. c. 59.

the county palatine courts may be stamped for admission of the clerk into superior courts on payment of the additional duty only.

Where any person shall have become bound as a clerk in order to his admission as an attorney or solicitor in any of the courts of the counties palatine by articles or contract stamped with the said duty of sixty pounds, then upon payment of such further sum of money as with the said duty of sixty pounds will make up the full stamp duty which, at the date of such articles or contract, was payable by law on articles of clerkship in order to admission in any of the courts at Westminster, it shall be lawful for the commissioners of inland revenue and they are hereby required to stamp the said articles or contract with a stamp or stamps to denote such further duty, and thereupon such articles or contract shall be as valid and effectual for entitling such person to admission in any of the courts at Westminster as if the same had been duly stamped with such full duty in the first instance.

8. "And whereas by an Act passed in the forty-eighth year of the reign of king George the third, chapter one hundred and forty-nine, section thirty-eight, persons intromitting with or entering upon the possession or management of any personal or moveable estate or effects in Scotland of any person dying, are required to exhibit a full and true inventory, duly stamped, to be recorded as in the said Act is provided, of all the personal or moveable estate and effects of the deceased already recovered or known to be existing; and if at any subsequent period a discovery shall be made of any other effects belonging to the deceased, an additional inventory of the same is in like manner to be exhibited and recorded; and every such additional inventory is chargeable by law with the full *ad valorem* stamp duty payable in respect of the total amount or value of the estate and effects specified therein, and in any such former inventory; and thereupon the party exhibiting the same is entitled to receive back the amount of the stamp duty paid on such former inventory; and it is expedient to prevent the inconvenience attending the overpayment of the stamp duty in such cases by charging on any such additional inventory the deficient stamp duty only:"

Additional inventories in Scotland to be chargeable with additional duty only.

Every such additional inventory to be made and recorded as aforesaid shall be chargeable only with such amount of stamp duty as, together with the stamp duty charged upon any former duly stamped inventory of the estate and effects of the same deceased person already exhibited and recorded, shall make up the full amount of stamp duty chargeable by law in respect of the total amount or value of all the estate and effects of the said deceased specified in the said additional and any such former inventory (a).

Licences to perform divine service in certain cases free from stamp duty.

9. No licence granted to any spiritual person to perform divine service in any building approved by the bishop in lieu of any church or chapel whilst the same is under repair or is rebuilding, or in any building so approved for the convenience of the inhabitants of a parish resident at a distance from the church or consecrated chapel, shall be chargeable with any stamp duty.

10. And whereas by the said Act passed in the fifty-fifth year of the reign of king George the third it is provided that where any property is sold and conveyed subject to any debt or sum of money to be afterwards paid by the purchaser, the same shall be deemed to be purchase or consideration money in respect whereof the said *ad valorem* duty charged upon the sale and conveyance of property is to be paid: And whereas it has been held and determined that the said *ad valorem* duty is payable in respect of any such sum or debt only where the purchaser is personally liable or bound, or undertakes or agrees to pay the same or to indemnify the vendor against the same; and it is expedient to alter and amend the law in this respect:

Where property is sold subject to any mortgage, the mortgage money to be deemed part of the purchase money, whether agreed to be paid by the purchaser or not.

Where any lands or other property shall be sold and conveyed subject to any mortgage, wadset, or bond or other debt, or to any gross or entire sum of money, such sum of money or debt shall be deemed the purchase or consideration money, or part of the purchase or consideration money, as the case may be, in respect whereof the said *ad valorem* duty shall be paid, notwithstanding the purchaser shall not be or become personally liable or shall not undertake or agree to pay the same or to indemnify the vendor or any person against the same, anything in any Act or otherwise to the contrary notwithstanding.

11. And whereas it has been adjudged and determined by law that upon the sale of property, where the consideration expressed in the conveyance is a rentcharge or an annuity made subject to redemption or repurchase, *ad valorem* stamp duty is chargeable under the Act passed in the session of parliament held in the thirteenth and fourteenth years of her majesty, chapter ninety-seven, only where such redemption

13 & 14 Vict. c. 97.

(a) See 20 & 21 Vict. c. 77, s. 87, ante, Vol. I., p. 1316, tit. "COURTS" (PROBATE, &c.).

16 & 17 Vict. c. 59.

or repurchase may be enforced at the option of the vendor; and it is expedient that such duty shall be chargeable in all cases where such rentcharge or annuity is made redeemable:

Where property is sold in consideration of a redeemable annuity, the redemption money to be deemed purchase money.

In any case where property shall be sold and conveyed in consideration of any rentcharge or annuity, or any annual or periodical payment to be made permanently or for any indefinite period, so that the total amount of the money to be paid for such property cannot be previously ascertained, which rentcharge, annuity, or other payment shall be made subject to the redemption or purchase upon terms and conditions specified in the deed or instrument whereby the property sold shall be conveyed to or vested in the purchaser, or any person by his direction, the money or the consideration mentioned in the said deed or instrument as that on payment or transfer, delivery, or satisfaction of which the said rentcharge, annuity, or other payment shall be redeemed or purchased or repurchased, or shall cease to be payable, shall be deemed to be the purchase money or consideration on the sale of the said property so sold and conveyed, and in respect of which last-mentioned purchase money or consideration the *ad valorem* duty shall be chargeable; and where any such last-mentioned consideration shall consist wholly or in part of any stock or security mentioned in the said Act, the value thereof shall be ascertained as in such Act is in that behalf provided; and where any such annuity, rentcharge, or other payment aforesaid shall be made subject to redemption or purchase or repurchase or discontinuance upon payment or satisfaction of any money or value to be ascertained or calculated in manner provided in the said deed or instrument, the amount of such money or value shall, for the purpose of charging the said *ad valorem* duty, be ascertained or calculated as in such deed or instrument shall be so provided.

12. And whereas by the said Act of the thirteenth and fourteenth years of her majesty, chapter ninety-seven, a stamp duty of five shillings was granted and imposed upon the duplicate or counterpart of any deed or instrument chargeable with stamp duty (exclusive of progressive duty) to the amount of five shillings or upwards; and it is provided that in such case the duplicate or counterpart shall not be available unless stamped with a particular stamp for denoting or testifying the payment of the full and proper stamp duty on the original deed or instrument; and it is expedient to dispense with the said particular stamp on counterparts of leases:

Counterparts of leases not required to be impressed with the denoting stamp.

Notwithstanding anything contained in the said Act, the counterpart of any lease of lands, tenements, or hereditaments, being duly stamped with the said stamp duty of five shillings, or any higher stamp duty (exclusive of progressive duty), and not being executed or signed by or on the behalf of any lessor or grantor, shall be available as a counterpart without being stamped with a particular stamp for denoting or testifying the payment of the stamp duty chargeable on the original lease.

13. And whereas by the said Act of the thirteenth and fourteenth years of her majesty, when any deed or instrument shall be presented to the commissioners of inland revenue, and the fee of ten shillings shall be paid to them for their opinion as to the stamp duty with which such deed or instrument in their judgment is chargeable, the said commissioners are required to assess and charge the stamp duty on such deed or instrument, and, on the same being duly stamped, to impress thereon a particular stamp to signify and denote that the full amount of stamp duty with which such deed or instrument is by law chargeable has been paid: And whereas the said commissioners are not authorised to impress a particular stamp upon any deed or instrument not chargeable with any stamp duty in order to denote that the same is not so chargeable; and it is expedient that provision should be made for that purpose:

Commissioners may adjudge deeds not liable to stamp duty.

It shall be lawful for any person to present to the said commissioners any deed or instrument, and upon payment of the fee of ten shillings, as in the said Act is mentioned, to require their opinion whether or not the same is chargeable with any stamp duty, and if the said commissioners shall be of opinion that such deed or instrument is not chargeable with any stamp duty, it shall be lawful for them and they are hereby required to impress thereon a particular stamp, to be provided by them for that purpose, with such word or words or device or symbol thereon as they shall think proper in that behalf, which shall signify and denote that such deed is not chargeable with any stamp duty; and every such deed or instrument upon which the said stamp shall be impressed shall be deemed to be not so chargeable, and shall be receivable in evidence in all courts of law and equity, notwithstanding any objection made to the same as being chargeable with stamp duty, and not stamped to denote the same: Provided always, that if the said commissioners shall assess and charge any stamp duty upon or in respect of any such deed or instrument, and the party presenting the same and paying such duty shall declare himself dissatisfied with their determination, it shall be lawful for him to appeal against the same to her majesty's court of exchequer, on the terms and in the manner in the said Act provided; and the said court shall hear and determine the appeal and decide whether the said deed or instrument is chargeable with any, and if any, what stamp duty; and if the court shall be of opinion that the same is not so chargeable, or is chargeable with a less amount of duty than shall have been assessed and charged thereon, then the amount of such duty or of the excess (as the case may be) shall be returned to the appellant, together with the sum deposited as in the said Act mentioned; and if the court shall be of opinion that any further duty is chargeable on the said deed or instrument, such further duty shall be paid to the said commissioners, and the court shall order and enforce the payment thereof accordingly.

Appeal from the determination of the commissioners.

14. And whereas it would facilitate the transfer of the bonds and mortgages given by public companies under the provisions of Acts of parliament as securities for money which such companies are by the said Acts expressly empowered or authorised to borrow, if the

transfers or assignments of such bonds or mortgages were endorsed thereon, and were exempted from stamp duty; and it is expedient to grant such exemption, in consideration of a composition stamp duty being paid on such bonds and mortgages on the original making and issuing thereof, in lieu of the stamp duty with which such transfers or assignments would otherwise be chargeable: 16 & 17 Vict. c. 59.

Where on the original making and issuing of any such bond or mortgage as aforesaid, and before any transfer or assignment thereof, the same shall be stamped with an amount of stamp duty equal to three times the amount of the *ad valorem* stamp duty chargeable thereon by law, over and above the said *ad valorem* duty, then every transfer or assignment thereafter made of such bond or mortgage by endorsement thereon shall be deemed to be exempt from the stamp duty which would otherwise be payable in respect of such transfer or assignment: Provided always that nothing herein contained shall extend to exempt any such transfer or assignment from any stamp duty to which it may be liable as a settlement of the money or stock secured by such bond or mortgage, or any portion thereof. Transfers of bonds and mortgages of public companies exempted from stamp duty on payment of a composition.

15. And whereas it is desirable to facilitate the purchase of stamped paper, covers, or envelopes, and of other stamps for expressing or denoting the rates or duties of postage (all of which are hereinafter designated as postage stamps) and for that purpose to enable certain persons in the service of the post office to sell postage stamps without having any such licence as the laws now in force require in that behalf, and without being subject or liable to any penalty for carrying about postage stamps for sale:

It shall be lawful for the postmaster general by writing under his hand to authorize and appoint any person in the service or employment of the post office to sell postage stamps at any particular house or place to be specified for that purpose, and also any messenger or other person employed in the delivery of letters sent by post to carry about for sale and to sell at any place postage stamps, and all such persons shall, during the period that such authority and appointment shall remain in force and unrevoked, without any licence or any authority other than last aforesaid, be at liberty to sell at any house or place to be specified as aforesaid, or, if so authorized, to carry about for sale and sell at any place, any postage stamps, and such persons respectively shall not be subject or liable to any penalty or forfeiture for so doing, anything in any Act or Acts to the contrary notwithstanding. Persons authorized by postmaster-general may sell postage stamps, or carry same about for sale, without being subject to penalty.

16. And whereas by an Act passed in the ninth year of the reign of king George the fourth, chapter eighteen, granting stamp duties upon playing cards made fit for sale or use in the united kingdom, such duties to be denoted on the ace of spades of each pack of cards, it is enacted, that no playing cards shall be sold as waste cards unless a corner of each card shall be cut off at least half an inch in depth, and other provisions are therein contained for securing the said duties: And whereas packs or parcels of cards fit and intended for use and play, but not containing an ace of spades duly stamped, are commonly sold under the pretence of being waste cards, each of such cards having a corner cut off, whereby the said duties are evaded; and it is expedient to prevent such practice: For preventing the evasion of the duties on playing cards.

No playing cards, except such as shall be *bonâ fide* spoiled and rendered unfit for use as playing cards in the process of manufacture, and which shall have a corner cut off as in the said last-mentioned Act is provided, nor any cards commonly called or known as picture cards or court cards, shall be deemed to be waste cards; and no playing cards except waste cards shall be sold otherwise than in packs, each pack containing fifty-two cards of the four usual suits of thirteen cards each, including an ace of spades duly stamped for denoting the duty by the said Act granted on a pack of cards, and tied up together in a manner directed by the said Act; and if any person shall sell or expose or keep for sale any playing cards, not being a pack of cards as aforesaid, and the same not being *bonâ fide* waste cards within the meaning of this Act, he shall for every pack, parcel, or separate quantity of cards so sold or exposed or kept for sale forfeit, if he shall not be a licensed maker of playing cards, the sum of ten pounds, and if he shall be such licensed maker the sum of twenty pounds; and all cards so sold or exposed or kept for sale shall be forfeited, and may be seized and taken by any officer of inland revenue, and be disposed of as the commissioners of inland revenue shall direct: Provided that if in any proceeding any question shall arise whether any cards are or were *bonâ fide* waste cards or not, proof of the affirmative thereof shall lie on the party selling the same or having or keeping the same for sale.

17. And whereas by an Act passed in the session held in the seventh and eighth years of the reign of king George the fourth, chapter fifty-three, officers of excise and persons employed in the collection or management of or accounting for the revenue of excise are exempted from serving as mayor or sheriff, or in any corporate or parochial or other public office or employment, or on any jury or inquest, or in the militia; and it is expedient to extend the same to all other officers appointed by or under the commissioners of inland revenue;

No officer or person appointed by the commissioners of inland revenue, or employed by them or under their authority or direction in any way relating to any of the duties under their care or management, shall, so long as he shall continue in and exercise such last-mentioned office or employment, be compelled to serve as mayor or sheriff, or in any of the offices, employments, or capacities in the said Act and hereinbefore in that behalf mentioned. Exemption of excise officers from serving public offices extended to officers of inland revenue.

18. Where any person shall be possessed of any stamps rendered useless by this Act, Allowance

16 & 17 Vict. c. 59.

for receipt stamps on hand.

it shall be lawful for the commissioners of inland revenue, on application to them or to their proper officer in that behalf, at any time within six calendar months after the commencement of this Act to cancel and make allowance for the same, as in the case of spoiled stamps, after deducting the discount by law granted on the purchase of receipt stamps.

Drafts on bankers payable to order on demand sufficient authority for payment without proof of endorsement.

19. Provided always, That any draft or order drawn upon a banker for a sum of money payable to order on demand which shall, when presented for payment, purport to be endorsed by the person to whom the same shall be drawn payable, shall be a sufficient authority to such banker to pay the amount of such draft or order to the bearer thereof; and it shall not be incumbent on such banker to prove that such endorsement, or any subsequent endorsement, was made by or under the direction or authority of the person to whom the said draft or order was or is made payable either by the drawer or any endorser thereof.

20. And whereas by an Act passed in the session of Parliament held in the fifth and sixth years of her majesty's reign, chapter eighty-two, certain rates and duties denominated stamp duties were granted and made payable in Ireland for a limited term; and by four several Acts passed respectively in the eighth, eleventh, fourteenth, and fifteenth years of her majesty's reign the same rates and duties were continued for four other several and successive terms, the last of which will expire on the 10th day of October, 1858; and it is expedient to make the said rates and duties perpetual:

Stamp duties in Ireland granted by 5 & 6 Vict. c. 82, and continued by 8 & 9 Vict. c. 2, 11 & 12 Vict. c. 9, 14 & 15 Vict. c. 18, 15 & 16 Vict. c. 21, made perpetual.

Acts continued in force.

All the several sums of money and duties and composition for duties granted and made payable in Ireland by the said Act of the fifth and sixth years of her majesty, chapter eighty-two, and not repealed by any subsequent Act, and also all duties now payable in lieu or instead of any of the said duties which may have been so repealed, shall be and the same are hereby continued and made perpetual, and shall be charged, raised, levied, collected, and paid unto and for the use of her majesty, her heirs and successors for ever: The said Act of the fifth and sixth years of her majesty, and all and every other Act and Acts now in force in relation to the duties and composition for duties which are continued by this Act, shall severally be continued and remain in full force in all respects in relation to the said duties and composition for duties hereby continued and granted, and all and every the powers and authorities, rules, regulations, directions, penalties, forfeitures, clauses, matters, and things contained in the said Acts or any of them, and in force as aforesaid, shall severally and respectively be duly observed, practised, applied, and put in execution in relation to the said duties and composition for duties hereby continued and granted, for the charging, raising, levying, paying, accounting for, and securing of the said duties and composition for duties, and all arrears thereof, and for the preventing, detecting, and punishing of all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if the same powers, authorities, rules, regulations, directions, penalties, forfeitures, clauses, matters, and things were particularly repeated and re-enacted in the body of this Act with reference to the said duties and composition for duties hereby granted.

THE SCHEDULE REFERRED TO BY THIS ACT.

	Duty. £	s.	d.
APPRENTICESHIP and CLERKSHIP. — Indenture or other instrument or writing, containing the covenants, articles, or agreements for or relating to the service of any apprentice, clerk, or servant who shall be put or placed to or with any master or mistress, or to or with any new master or mistress, either by assignment, transfer, or turn-over, or upon the death, absence, or incapacity of the former master or mistress, or otherwise, to learn any profession, trade, or employment whatsoever (except articles of clerkship or apprenticeship to any attorney, solicitor, or other person in order to admission in any court, or in any office in any court), or any writing whatever (except as aforesaid) whereby any such assignment, transfer, or turn-over may be effectuated or ascertained;			
Where no sum of money or other matter or thing shall be paid, given, assigned, or conveyed, or be secured to be paid, given, assigned, or conveyed to or for the use or benefit of the master or mistress, with or in respect of any apprentice, clerk, or servant	0	2	6
DEBENTURE or certificate for entitling any person to receive any drawback of any duty or duties, or part of any duty or duties of customs or excise, or any bounty payable out of the revenue of customs or excise, for or in respect of any goods, wares, or merchandize exported or shipped to be exported from any part of the united kingdom to any part beyond the sea;			
Where the drawback or bounty to be received shall not exceed ten pounds	0	1	0
Where the same shall exceed ten pounds and not exceed fifty pounds .	0	2	6
And where the same shall exceed fifty pounds	0	5	0
DRAFT or ORDER for the payment of any sum of money to the bearer or to order, on demand	0	0	1

	£	s.	d.
And the following instruments shall be deemed and taken to be drafts or orders for the payment of money within the intent and meaning of this Act, and of any Act or Acts relating to the stamp duties on bills of exchange, drafts, or orders, and shall be chargeable accordingly with the stamp duties imposed by this Act or any such Act or Acts; viz.			
All documents or writings usually termed letters of credit, or whereby any person to whom any such document or writing is or is intended to be delivered or sent shall be entitled, or be intended to be entitled, to have credit with, or in account with, or to draw upon any other person for, or to receive from such other person, any sum of money therein mentioned.			

16 & 17 Vict. c. 59.

Exemptions from the Duties on Drafts or Orders.

All drafts or orders for the payment of money to the bearer on demand, drawn upon any banker or bankers, now by law exempt from stamp duty.

All letters of credit, whether in sets or not, sent by persons in the united kingdom to persons abroad authorizing drafts on the united kingdom.

	£	s.	d.
POLICY OF ASSURANCE or insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any LIFE OR LIVES, or upon any event or contingency relating to or depending upon any life or lives;			
Where the sum insured shall not exceed five hundred pounds;			
Then for every fifty pounds, and any fractional part of fifty pounds	0	0	6
And where it shall exceed five hundred pounds, and shall not exceed one thousand pounds;			
Then for every one hundred pounds, and any fractional part of one hundred pounds	0	1	0
And where it shall exceed one thousand pounds;			
Then for every one thousand pounds, and any fractional part of one thousand pounds	0	10	0
RECEIPT or DISCHARGE given for or upon the payment of money amounting to two pounds or upwards (a)	0	0	1

Exemption.

Receipts given for money deposited in any bank, or in the hands of any banker, to be accounted for, whether with interest or not; provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for: Provided always, that this exemption shall not extend to receipts or acknowledgments for sums paid or deposited for or upon letters of allotment of shares or in respect of calls upon any scrip or shares of or in any joint-stock or other company or proposed or intended company, which said last-mentioned receipts or acknowledgments, by whomsoever given, shall be liable to the duty by this Act charged on receipts.

16 & 17 Vict. c. 63. An Act to repeal certain Stamp Duties, and to grant others in lieu thereof, to give Relief with respect to the Stamp Duties on Newspapers and Supplements thereto, to repeal the Duty on Advertisements, and otherwise to amend the Laws relating to Stamp Duties. [4th August, 1853.]

16 & 17 Vict. c. 63.

"Whereas it is expedient to repeal the stamp duties now payable in respect of the several instruments, matters, and things mentioned or described in the schedule to this Act annexed, and to impose other stamp duties in lieu thereof, and also to give relief with respect to the stamp duties on newspapers and supplements thereto, and otherwise to amend the laws relating to stamp duties, and to repeal the duty charged on advertisements;" BE IT THEREFORE ENACTED as follows:

1. From and after the passing of this Act the several stamp duties now payable in Great Britain and Ireland respectively, under or by virtue of any Act or Acts of parliament for or in respect of the several instruments, matters, and things mentioned or described in the schedule to this Act annexed, and whereon other duties are by this Act granted, shall respectively cease and determine, and shall be and the same are hereby repealed, and

Stamp duties on instruments in the schedule annexed repealed, and

(a) Stamped receipts for counsel's fees are not necessary (*In Re Reavan*, 5 De Gex. M. & G. 40; L. J. Ch. 536).

16 & 17 Vict. c. 63.

others granted in lieu thereof.

repealed; and in lieu and instead thereof there shall be granted, raised, levied, collected, and paid in and throughout the united kingdom of Great Britain and Ireland, to and to the use of her majesty, her heirs and successors, for and in respect of the several instruments, matters, and things described or mentioned in the said schedule, or for or in respect of the vellum, parchment, or paper upon which any of them respectively shall be written, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said schedule, which said schedule, and the several provisions, regulations, and directions therein contained with respect to the said duties, and the instruments, matters, and things charged therewith, shall be deemed and taken to be part of this Act, and shall be applied, observed, and put in execution accordingly: Provided always, that nothing herein contained shall extend to repeal or alter any of the said stamp duties now payable in relation to any deed or instrument which shall have been signed or executed by any party thereto, or which shall bear date before or upon the passing of this Act.

The new duties to be denominated stamp duties, and to be under the care of the commissioners of inland revenue.

Powers and provisions of former Acts to be in force.

2. The said duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of inland revenue for the time being; and all the powers, provisions, clauses, regulations, directions, allowances, and exemptions, fines, forfeitures, pains, and penalties contained in or imposed by any Act or Acts, or any schedule thereto, relating to any duties of the same kind or description heretofore payable in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be in full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, instruments, matters, and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by, and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted, *mutatis mutandis*, with reference to the said duties by this Act granted.

As to duties on newspapers and supplements.

3. No higher stamp duty than one penny shall be chargeable on any newspaper printed on one sheet of paper containing a superficies not exceeding two thousand two hundred and ninety-five inches:

A supplement published with any newspaper duly stamped with the duty of one penny, such supplement being printed on one sheet of paper only, and together with such newspaper containing in the aggregate a superficies not exceeding two thousand two hundred and ninety-five inches, shall be free from stamp duty:

Any other supplement to any such duly stamped newspaper shall not be chargeable with any higher stamp duty than one halfpenny, provided it does not contain a superficies exceeding one thousand one hundred and forty-eight inches:

And any two supplements to any such duly stamped newspaper shall not be chargeable with any higher stamp duty than one halfpenny on each, provided each of such supplements be printed and published on one sheet of paper only, and that they contain together a superficies not exceeding in the aggregate two thousand two hundred and ninety-five inches:

The superficies in all the cases aforesaid to be one side only of the sheet of paper, and exclusive of the margin of the letter-press.

Allowance for newspaper stamps on hand.

4. Where any person shall be possessed of any stamps for newspapers rendered useless by this Act, it shall be lawful for the commissioners of inland revenue, on application to them or to their proper officer in that behalf, at any time within six calendar months after the commencement of this Act, to cancel and make allowance for the same, as in the case of spoiled stamps.

After passing of this Act all duties on advertisements to cease.

5. And whereas it is expedient to repeal the duties now payable on advertisements: From and after the passing of this Act the duties now payable under any Act or Acts in force for or in respect of any advertisement contained in or published with any gazette or other newspaper, or contained in or published with any other periodical paper, or in or with any pamphlet or literary work, and all enactments, clauses, provisions, and regulations for levying, collecting, and securing the said duties, but so far only as they relate to such duties, shall respectively cease and determine, and shall be and the same are hereby repealed, save and except as to any of the said duties which shall have been charged or incurred on or before the day of the passing of this Act, and any arrear thereof, and as to all fines and penalties incurred or which may be incurred in respect of the said duties or arrears, all which said duties and arrears, fines and penalties, so excepted as aforesaid, shall respectively be sued for, recovered, levied, paid, and applied in the same manner as if this Act had not been passed.

Duties on assignments of judgment in Ireland, and writs of acknowledgment in Scotland.

6. Whereas it is expedient to remove doubts which have arisen as to the stamp duties chargeable upon assignments of judgment in Ireland; and it is also expedient to reduce the stamp duties now chargeable in Scotland upon writs of acknowledgment by persons infeft of lands in favour of the heirs or disponees of creditors: In lieu of the stamp duties now payable upon the instruments hereinafter mentioned there shall be chargeable (besides any progressive duties to which the same respectively may be liable by reference to the head of progressive duty in the schedule to the Act of the thirteenth and fourteenth years of her present majesty, chapter ninety-seven,) the respective stamp duties following; (that is to say,)

For and upon every assignment of any judgment in Ireland, one pound fifteen shillings: 16 & 17 Vict. c. 63.

And for and upon any writ of acknowledgment by any person infeft of lands in Scotland in favour of the heir or disponee of a creditor fully vested in right of an heritable security constituted by infeftment, ten shillings.

7. And whereas under and by virtue of certain Acts of parliament now in force the governor and company of the bank of Scotland, and the royal bank of Scotland, and the British linen company in Scotland are respectively authorized and empowered to make and issue and re-issue their promissory notes payable to bearer on demand on unstamped paper, giving security, and keeping and producing true accounts of all the notes so issued by them respectively, and accounting for and paying the stamp duties payable in respect of such notes: And whereas it is expedient to authorize and empower the commissioners of her majesty's treasury to compound with the said banks, as well as all bankers in Scotland, for the stamp duties on their promissory notes payable to bearer on demand as well as for stamps payable on their bills of exchange: It shall be lawful for the commissioners of her majesty's treasury for the time being, or any three of them, and they are hereby authorized and empowered to compound and agree with the said governor and company of the bank of Scotland, and the royal bank of Scotland, and the British linen company in Scotland, and all or any other bankers in Scotland, or elsewhere, respectively for a composition in lieu of the stamp duties payable on the promissory notes of the said banks and bankers respectively payable to the bearer on demand, as well as for stamps payable on their bills of exchange; and such composition shall be made on such terms and conditions, and with such security for the payment of the same, and for keeping, producing, and rendering of such accounts, as the said last-mentioned commissioners may deem to be proper in that behalf; and upon such composition being entered into by such banks and bankers respectively, it shall be lawful for them to issue and re-issue all notes and to draw all such bills for which such composition shall have been made upon unstamped paper, anything in any Act contained to the contrary notwithstanding. Power to treasury to compound with bankers in Scotland for the stamp duties on their promissory notes.

8. From and after the passing of this Act the following stamp duty shall be charged and paid; (that is to say,) Stamp duty on scrip certificates.

	£	s.	d.
On any SCRIP CERTIFICATE, that is to say, any document denoting or intended to denote the right or title of the holder thereof or any person to any share or shares in any joint stock or other company, or proposed or intended company, or any certificate declaring or entitling the holder thereof or any person to be or become the proprietor of any share or shares of or in any such company, where such certificate or the right or title to such share or shares shall be or be intended to be transferable by the delivery of such certificate, or otherwise than by deed or instrument in writing	0	0	1

9. No receipt given for any sum or sums of money received for or on account of land tax, or the duties of assessed taxes, or the duties on profits arising from property, professions, trades, and offices, by any collector or receiver of such taxes or duties, or by any person having authority to collect or receive the same, shall be subject or liable to any stamp duty. Receipts for land or assessed taxes or income tax exempt from stamp duty.

10. The duties granted by an Act of the present session of parliament on policies of assurance may be denoted either by a stamp impressed upon the paper whereon any such instrument is written, or by an adhesive stamp affixed thereto, and the commissioners of inland revenue shall provide stamps of both descriptions for the purpose of denoting the said duties. Stamps denoting the duty on policies of life assurance may be impressed or affixed.

11. The adhesive stamps to be so provided for the purpose aforesaid shall be adapted for the writing of the following particulars thereon; (that is to say,) the date and number of the policy, and the names of the person insured and of one of the directors of the assurance company, or other person by whom the same shall be signed; and where an adhesive stamp shall be used or intended to be used for or upon any such policy, such stamp shall be firmly and securely affixed and made to adhere to such policy, and all the several particulars aforesaid shall be fairly and distinctly written upon such stamp at or before the time of the signing thereof by such director or other person aforesaid, or in default thereof such director or other person signing such policy shall forfeit the sum of fifty pounds. Certain particulars to be written on adhesive stamps for policies.

THE SCHEDULE REFERRED TO BY THIS ACT.

	Duty. £	s.	d.
ARTICLES OF CLERKSHIP or contract, whereby any person shall first become bound to serve as a clerk in order to his admission as an ATTORNEY or solicitor in any of her majesty's courts at Westminster or in Ireland, or in order to his admission as a proctor in the court of admiralty in England, or the court of admiralty in Ireland, or in any of the ecclesiastical courts in doctors' commons or in Ireland	80	0	0
CERTIFICATE to be taken out yearly by every person admitted as an ATTORNEY or solicitor in any of her majesty's courts at Westminster or in Ireland, or			

16 & 17 Vict. c. 63.

	£	s.	d.
in any other court in England holding pleas where the debt or damage amounts to forty shillings; and by every person admitted as a writer to the signet, or as a solicitor, agent, attorney, or procurator in any of the courts in Scotland; and by every person admitted or enrolled as a notary public in England, Scotland, or Ireland, who in his name or in the name of any other person shall commence, prosecute, carry on, or defend any action, suit, prosecution, or other proceeding in any of the courts aforesaid, or do any notarial act whatever, for or in expectation of any fee, gain, or reward, as an attorney, solicitor, agent, proctor, procurator, or notary public, although not admitted or enrolled as such;			
If he shall reside within the distance of ten miles from the general post office in the city of London, or within the city or shire of Edinburgh, or in the city of Dublin, or within three miles thereof;			
And if he shall have been admitted for the space of three years or upwards	9	0	0
Or if he shall not have been admitted so long	4	10	0
If he shall reside elsewhere, and if he shall have been admitted for the space of three years or upwards	6	0	0
Or if he shall not have been admitted so long	3	0	0
CERTIFICATE to be taken out yearly by every person being a MEMBER of one of the four INNS OF COURT in England, and by every person in Ireland who in the character of conveyancer, special pleader, draftsman in equity, or otherwise, shall, for or in expectation of any fee, gain, or reward, draw or prepare any conveyance of or deed or instrument relating to any estate or property, real or personal, or any other deed or contract whatever, or any pleadings or proceedings in any court of law or equity;			
If he shall reside within the distance of ten miles from the general post office in the city of London, or in the city of Dublin, or within three miles thereof	9	0	0
And if he shall reside elsewhere	6	0	0
CONVEYANCE (a) of any kind or description whatsoever, in England or Ireland, and charter, disposition or contract containing the first original constitution of feu and ground annual rights in Scotland (not being a lease or tack for years), in consideration of any annual sum payable in perpetuity, or for any indefinite period, whether fee farm or other rent, feu duty, ground annual or otherwise;			
Where the annual sum thereby reserved, secured, or made payable, shall not exceed 20*s.*	0	2	6
And where the same shall exceed 20*s.* and shall not exceed 12*l.*, then for every 20*s.* or any fractional part of 20*s.* of such annual sum . .	0	2	6
And where the same shall exceed 12*l.* and shall not exceed 24*l.*, then for every 40*s.* and for any fractional part of 40*s.* of such annual sum	0	5	0
And where the same shall exceed 24*l.*, then for every 4*l.* and for any fractional part of 4*l.* of such annual sum	0	10	0

16 & 17 Vict. c. 71.

16 & 17 Vict. c. 71. An Act to amend the Law relating to the Stamp Duties upon Newspapers (b). [15th August, 1853.]

17 & 18 Vict. c. 83.

17 & 18 Vict. c. 83. An Act to amend the Laws relating to the Stamp Duties. [10th August, 1854.]

"Whereas it is expedient to repeal the stamp duties now payable in respect of the several instruments, matters, and things mentioned or described in the schedule to this Act annexed, and to impose other stamp duties in lieu thereof, and otherwise to amend the laws relating to stamp duties:" BE IT THEREFORE ENACTED as follows:

Stamp duties on instruments mentioned in schedule to this Act, payable under other Acts repealed, and the duties named in

1. From and after the 10th day of October, 1854, the stamp duties now payable in Great Britain and Ireland respectively, under or by virtue of any Act or Acts of parliament for or in respect of the several instruments, matters, and things mentioned or described in the schedule to this Act annexed, and whereon other duties are by this Act granted, shall respectively cease and determine, and shall be and the same are hereby repealed; and in lieu thereof there shall be granted, charged, and paid in and throughout the united kingdom of Great Britain and Ireland, unto and for the use of her majesty, her heirs and successors, upon and in respect of the several instruments, matters, and things described or mentioned in the said schedule, or upon or in respect of the vellum, parchment, or paper upon which any of them respectively shall be

(a) See 17 & 18 Vict. c. 83, s. 15, post, as to duplicates of these conveyances: and the schedule to that Act for the duties now payable.

(b) See 18 Vict. c. 27, post, 607.

written, the several duties or sums of money specified and set forth in the said schedule, which said schedule, and the several provisions, regulations, and directions therein contained, shall be deemed and taken to be part of this Act, and shall be applied, observed and put in execution accordingly: Provided always, that nothing herein contained shall extend to repeal or alter any of the said stamp duties now payable in relation to any bill of exchange, promissory note, or other instrument which shall have been drawn, made or signed, or which shall bear date before or upon the said 10th day of October, 1854.

17 & 18 Vict. c. 83.

said schedule granted in lieu thereof.

2. The said duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the commissioners of inland revenue for the time being; and all the powers, provisions, clauses, regulations, directions, allowances and exemptions, fines, forfeitures, pains, and penalties contained in or imposed by any Act or Acts, or any schedule thereto, relating to any duties of the same kind or description heretofore payable in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be in full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, instruments, matters, and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted, *mutatis mutandis*, with reference to the said duties by this Act granted.

The new duties by this Act granted to be denominated stamp duties, and to be under the care of commissioners of inland revenue.

Powers and provisions of former Act to be in force.

3. The duties by this Act granted in respect of bills of exchange drawn out of the united kingdom shall attach and be payable upon all such bills as shall be paid, indorsed, transferred, or otherwise negotiated within the united kingdom wheresoever the same may be payable, and the said duties shall be denoted by adhesive stamps, to be provided by the commissioners of inland revenue for that purpose, and to be affixed to such bills as hereinafter directed.

Duties on bills drawn out of the united kingdom to be denoted by adhesive stamps.

4. Every bill of exchange which shall purport to be drawn at any place out of the united kingdom shall for all the purposes of this Act be deemed to be a foreign bill of exchange drawn out of the united kingdom, and shall be chargeable with stamp duty accordingly, notwithstanding that in fact the same may have been drawn within the united kingdom.

Bills purporting to be drawn abroad deemed for the purposes of this Act to be so drawn.

5. The holder of any bill of exchange drawn out of the united kingdom, and not having a proper adhesive stamp affixed thereon as herein directed, shall, before he shall present the same for payment, or indorse, transfer, or in any manner negotiate (*a*) such bill, affix thereon a proper adhesive stamp for denoting the duty by this Act charged on such bill; and the person who shall indorse, transfer, or negotiate such bill shall, before he shall deliver the same out of his hands, custody, or power, cancel the stamp so affixed by writing thereon his name (*b*) or the name of his firm and the date of the day and year on which he shall so write the same, to the end that such stamp may not be again used for any other purpose; and if any person shall present for payment, or shall pay or indorse, transfer or negotiate any such bill as aforesaid whereon there shall not be such adhesive stamp as aforesaid duly affixed, or if any person who ought as directed by this Act to cancel such stamp in manner aforesaid shall refuse or neglect so to do, such person so offending in any such case shall forfeit the sum of fifty pounds; and no person who shall take or receive from any other person any such bill as aforesaid, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such bill there shall be such stamp as aforesaid affixed thereon (*d*) and cancelled in the manner hereby directed.

The holder of a bill drawn out of the united kingdom to affix an adhesive stamp thereon, before negotiating it (*c*).

Penalty for negotiating such bill without a stamp affixed or neglecting to cancel such stamp (*e*).

(*a*) The presentment of a bill for acceptance has been held not to be a negotiation of it. *Sharples* v. *Rickard*, 26 L. J. Ex. 302; 2 H. & N. 57.

(*b*) It has been contended that initial letters are not enough under this section. *Siordet* v. *Kuczynski*, 25 L. J. C. P. 2; 17 C. B. 251.

(*c*) See 23 & 24 Vict. c. 111, s. 5, post.

(*d*) This does not apply to a bill of exchange indorsed abroad and transmitted by post by the payee to his agent in England for the purpose of being presented for acceptance, nor to such presentment for acceptance; and therefore, on the non-acceptance and protest of such bill an action may be maintained by the indorsee against the drawer without a stamp being affixed. *Sharples* v. *Rickard*, 2 H. & N. 57; 26 L. J. Exch. 302.

(*e*) The duty of cancelling the stamp on a foreign bill of exchange lies equally on the holder and transferee (*Pooley* v. *Brown*, 11 C. B. N. S. 566; 31 L. J. C. P. 134). See 24 & 25 Vict. c. 91.

Where a plaintiff had bought a parcel of foreign bills, with their stamps uncancelled, both he and the seller being ignorant of the defect at that time, it was held, that he could not recover back the money paid for them on discovering the defect, as upon failure of consideration, the parties being in pari delicto (*Ib.*).

17 & 18 Vict. c. 83.

Penalty for drawing and issuing, or transferring or negotiating bills purporting to be drawn in a set, and not drawing the whole number of the set.

Penalty on taking or receiving such bills.

6. If any person shall within the united kingdom draw and issue any bill of exchange payable out of the united kingdom purporting to be drawn in a set, and shall not draw and issue on paper duly stamped as required by law the whole number of bills which such bill purports the set to consist of, or if any person shall within the united kingdom transfer or negotiate any such bill of exchange as aforesaid purporting to be drawn in a set, and shall not at the same time transfer or deliver on paper duly stamped as aforesaid the whole number of bills which such bill purports the set to consist of, every such person so offending in any of such cases shall forfeit the sum of one hundred pounds; and if any person shall take or receive in the united kingdom any such bill as aforesaid, either in payment or as a security or by purchase or otherwise, without having transferred or delivered to him duly stamped as aforesaid the whole number of bills which such bill purports the set to consist of, he shall not be entitled to recover on any such bill, or to make the same available for any purpose whatever.

Unstamped drafts on bankers not to be circulated beyond 15 miles of the place where made payable.

Penalty on persons offending.

7. "And whereas, under and by virtue of certain Acts relating to stamp duties, certain drafts, or orders for the payment of any sum of money to the bearer on demand, drawn upon any banker or person acting as a banker residing or transacting the business of a banker within fifteen miles of the place where such drafts or orders are issued, are exempted from all stamp duty, and it is expedient to prevent the negotiating or circulating of such drafts or orders unstamped at any place beyond the distance of fifteen miles from the place where the same are made payable:" BE IT ENACTED, That no such draft or order as aforesaid shall, unless the same be duly stamped as a draft or order, be remitted or sent to any place beyond the distance of fifteen miles in a direct line from the bank or place at which the same is made payable or be received in payment, or as a security, or be otherwise negotiated or circulated at any place beyond the said distance; and if any person shall remit or send any draft or order not duly stamped as aforesaid to any place beyond the distance aforesaid, or shall receive the same in payment or as a security, or in any manner negotiate or circulate the same at any such last-mentioned place, he shall forfeit the sum of fifty pounds.

Drafts lawfully issued unstamped may by affixing thereto an adhesive stamp be negotiated beyond the distance of 15 miles.

8. Provided always, that it shall be lawful for any person who shall receive any such draft or order as aforesaid at any place within the said distance of fifteen miles from the bank or place at which the same is made payable, which draft or order shall have been lawfully issued unstamped, to affix thereto a proper adhesive stamp, and to cancel such stamp by writing thereon his name or the initial letters of his name, and thereupon such draft or order may lawfully be received and negotiated at any place beyond the distance aforesaid, anything herein contained notwithstanding.

Provisions of 17 G. 3, c. 30, as extends to drafts on bankers, repealed.

9. "And whereas an Act was passed in the seventeenth year of the reign of king George the third, chapter thirty, for restraining the negotiating of promissory notes and inland bills of exchange under a limited sum:" BE IT ENACTED, That the said Act, and any Act or Acts continuing or perpetuating the same, shall, so far as they respectively extend or may be deemed or construed to extend to any draft on a banker for payment of money held for the use of the drawer, be and the same are hereby repealed.

Adhesive stamps denoting the duty of one penny may be used for receipts or drafts without regard to their special appropriation.

10. The adhesive stamps provided by the commissioners of inland revenue for denoting the duty of one penny payable on receipts and on drafts or orders for the payment of money to the bearer or to order on demand respectively may lawfully be used for the purpose of denoting the like amount of duty either on a receipt or on such draft or order as aforesaid, without regard to the special appropriation thereof for the other of such instruments by having its name on the face thereof, anything in any Act or Acts contained to the contrary notwithstanding.

What shall be deemed bank notes within the meanings of 7 & 8 Vict. c. 32, and 8 & 9 Vict. cc. 38 & 37.

11. "And whereas an Act was passed in the seventh and eighth years of her majesty's reign, chapter thirty-two, to regulate the issue of bank notes; and an Act was passed in the eighth and ninth years of her majesty's reign, chapter thirty-eight, to regulate the issue of bank notes in Scotland; and another Act was passed in the last-mentioned years, chapter thirty-seven, to regulate the issue of bank notes in Ireland; and in order to prevent evasions of the regulations and provisions of the said respective Acts it is expedient to define what shall be deemed to be bank notes within the meaning thereof respectively:" BE IT ENACTED, That all bills, drafts, or notes (other than notes of the bank of England) which shall be issued by any banker or the agent of any banker for the payment of money to the bearer on demand, and all bills, drafts, or notes so issued which shall entitle or be intended to entitle, the bearer or holder thereof, without endorsement, or without any further or other endorsement than may be thereon at the time of the issuing thereof, to the payment of any sum of money on demand, whether the same shall be so expressed or not, in whatever form and by whomsoever such bills, drafts, or notes shall be drawn or made, shall be deemed to be bank notes of the banker by whom or by whose agent the same shall be issued within the meaning of the said three several Acts last-mentioned, and within all the clauses, provisions, and regulations thereof respectively.

All bills, drafts, and notes deemed bank notes under the above

12. All bills, drafts, and notes which by or under this Act, or the said three several Acts last-mentioned, or any of them respectively, are declared or deemed to be bank notes, shall be subject and liable to the stamp duties, and composition for stamp duties, imposed by or payable under any Act or Acts in force upon or in respect of promissory notes for the payment of money to the bearer on demand; and all clauses, provisions,

regulations, penalties, and forfeitures contained in any Act or Acts relating to the issuing of such promissory notes, or for securing the said stamp duties and composition respectively, or for preventing or punishing frauds or evasions in relation thereto, shall respectively be deemed to apply to all such bills, drafts, and notes as aforesaid, and to the stamp duties and composition payable upon or in respect thereof, anything in this Act, or any other Act or Acts, to the contrary notwithstanding.

17 & 18 Vict. c. 83.

recited Acts liable to stamp duties, &c.

13. "And whereas under and by virtue of certain Acts relating to stamp duties, letters by the general post acknowledging the safe arrival of any bills of exchange, promissory notes, or other securities for money are exempted from the stamp duty granted and imposed on receipts or discharges given for or upon the payment of money:" BE IT ENACTED, That the said exemption shall be and the same is hereby repealed.

Exemption from receipt stamp duty of letters acknowledging receipt of bills, &c., repealed.

14. "And whereas under and by virtue of the laws in force the stamp duty on receipts given for or upon the payment of money to or for the use of her majesty, her heirs or successors, is made payable by the person requiring any such receipt:" BE IT ENACTED, That all such receipts as last-mentioned shall be and the same are hereby exempted from stamp duty (*a*).

Receipts for money paid to the crown exempted from stamp duty.

15. "And whereas by an Act passed in the thirteenth and fourteenth years of her majesty's reign, chapter ninety-seven, certain reduced rates of stamp duty were granted and made payable under the head or title of "Duplicate or Counterpart" in the schedule thereto annexed: And whereas by an Act passed in the last session of parliament, chapter sixty-three, certain stamp duties were granted and made payable upon conveyances, charters, dispositions, and contracts described under the head or title of "Conveyance" in the schedule to the said last-mentioned Act, but no provision is made for charging the duplicates or counterparts of the said conveyances, charters, dispositions, and contracts with the said reduced duties, and it is expedient to give such relief in that respect as hereinafter mentioned:" BE IT ENACTED, That it shall be lawful for the commissioners of inland revenue, and they are hereby required, upon production to them of any such conveyance, charter, disposition, or contract duly stamped, and of the duplicate or counterpart thereof stamped for denoting the amount of duty chargeable upon a duplicate or counterpart under the said Act of the thirteenth and fourteenth years of her majesty, to stamp the said duplicate or counterpart with the particular stamp directed by the said last-mentioned Act to be impressed upon a duplicate or counterpart for denoting or testifying the payment of the full and proper stamp duty on the original deed or instrument; and if the said duplicate or counterpart shall be stamped with any *ad valorem* stamp duty of greater amount than the amount of stamp duty so chargeable as aforesaid on a duplicate or counterpart, the said commissioners shall allow and repay such excess of stamp duty, and rectify the stamps accordingly, and thereupon such duplicate or counterpart shall be deemed to be duly stamped.

13 & 14 Vict. c. 97.

16 & 17 Vict. c. 63.

Relief to persons who have made duplicates of conveyances described in 16 & 17 Vict. c. 63.

16. And where any conveyance, charter, disposition, or contract described in the schedule to this Act shall be made partly in consideration of such annual sum as in the said schedule is mentioned, and partly in consideration of a sum of money or stock as mentioned under the head or title of "Conveyance" in the schedule to the said Act of the thirteenth and fourteenth years of her majesty, such conveyance, charter, disposition, or contract shall be chargeable with the *ad valorem* stamp duties granted by the said Acts respectively in respect of each of the said considerations; and in any case where any deed or instrument which shall be chargeable with any *ad valorem* stamp duty in respect of any sum of money yearly or in gross or any stock or security therein mentioned shall be made also for any further or other valuable consideration, such deed or instrument shall be chargeable (except where express provision to the contrary is or shall be made in any Act of parliament) with such further stamp duty as any separate deed or instrument made for such last-mentioned consideration alone would be chargeable with, except progressive duty.

Deeds made for several valuable considerations to be chargeable in respect of each.

17. And to prevent fraud and evasion of stamp duty in any case where application is made to the commissioners of inland revenue to assess and charge the stamp duty to which any deed or instrument is liable, or to impress on any deed or instrument the particular stamp provided to denote the payment of the full and proper duty on the same or on any other deed or instrument, or that any deed or instrument is not liable to any stamp duty, it shall be lawful for the said commissioners to require such evidence by affidavit as they may deem necessary in order to show to their satisfaction the quantity of words contained in any such deed or instrument, and whether or not the consideration, or any definite or certain sum or sums of money, stock, or other valuable matter or thing capable of being ascertained and set forth, or any other facts, upon the full or proper statement of any of which matters and things in such deed or instrument the stamp duty which shall be or which ought to be payable thereon shall in any measure depend, is or are truly and fully set forth therein; and it shall be lawful for the said commissioners and their officers in any case to refuse to impress on any such deed or instrument, or any duplicate or counterpart respectively, the particular stamp to denote the payment of the full and proper duty as aforesaid, except on payment of

Commissioners of inland revenue, before assessing the duty upon any deed, may require proof that the facts upon which the duty depends are truly stated.

(*a*) 55 Geo. 3, c. 184, sched. ante, p. 536.

17 & 18 Vict. c. 83.

the full stamp duty which would be chargeable on such deed or instrument if all or any of such matters and things aforesaid had been truly set forth therein.

The affidavit not to be used for any other purpose.

18. Provided, that no such affidavit shall be used against any person making the same in any proceeding whatever, except only in any inquiry as to the stamp duty with which such deed or instrument is chargeable, and every such person shall, upon payment of such full stamp duty as aforesaid, be relieved from any penalty, forfeiture, or disability he may have incurred by reason of the omission to state truly in such deed or instrument any of the facts, matters, and things aforesaid.

48 G. 3, c. 149.

19. "Whereas by an Act passed in the forty-eighth year of the reign of king George the third, chapter one hundred and forty-nine, certain penalties and disabilities were imposed upon the parties to any deed or instrument of conveyance of property upon sale, wherein the full purchase or consideration money directly or indirectly paid or secured or agreed to be paid should not be truly expressed and set forth, and also upon the attorney, solicitor, writer to the signet, or other person employed in or about the preparing of any such deed or instrument: And whereas the sale of a trade or business, or the goodwill thereof, has been erroneously considered by some persons not to be a sale of property within the meaning of the Acts imposing *ad valorem* stamp duties on the conveyance thereof, and the instruments whereby property of that description, or whereby certain messuages, lands, or other property wherein or whereupon such trade or business has been carried on, has or have been in such cases assigned, transferred, or otherwise conveyed to or become vested in a purchaser may not have been stamped with the full and proper duties with which the same were by law chargeable, and in some instances the purchase or consideration money has been omitted to be fully and truly expressed and set forth as required by law in such instruments, by reason whereof the parties to such instruments, and the attorney, solicitor, writer to the signet, or other person employed in or about the preparing of the same, may have incurred the penalties, forfeitures and disabilities in that behalf mentioned in and imposed by the said Act of the forth-eighth year of king George the third, and it is expedient that they should be relieved therefrom, and that such instruments should be rendered available in evidence;"

Indemnity from penalties for omitting to state the full purchase money in assignments on the sale of goodwill (a).

BE IT ENACTED, That in any such case as aforesaid the parties to any such instrument made and bearing date on or before the 15th day of June, 1854, and every person employed in or about the preparing of the same, shall be and they are hereby declared to be respectively freed, discharged, and indemnified from and against any penalties, forfeitures, and disabilities contained in or imposed by the said last-mentioned Act which may have been incurred by reason of any omission to express or set forth in any such instrument the full and true purchase or consideration money upon the sale of the property thereby conveyed, transferred, assigned, or assured, or vested in the purchaser; and all such instruments shall be available in evidence notwithstanding the full and proper *ad valorem* duties which ought to have been paid in respect of the purchase or consideration money therein expressed for the conveyance, transfer, or assignment of any such trade, business, or good will shall not have been paid and denoted thereon.

Stamp duty on licences to pawnbrokers in Dublin reduced.

20. "And whereas it is expedient to reduce the stamp duty now payable on licences to pawnbrokers in Dublin:" BE IT ENACTED, that the stamp duty of fifteen pounds now payable on a licence to be taken out yearly for exercising the trade or business of a pawnbroker within the city of Dublin, or the circular road surrounding the same, shall be reduced to the sum of seven pounds ten shillings.

Contracts to serve as artificers, servants, &c. in the colonies exempted from stamp duty.

21. All indentures of apprenticeship, bonds, contracts and agreements entered into in the united kingdom for or relating to the service in any of her majesty's colonies or possessions abroad of any person as an artificer, clerk, domestic servant, handicraftsman, mechanic, gardener, servant in husbandry, or labourer shall be and the same are hereby exempted from all stamp duty.

Public maps and documents not to be liable to stamp duty by reason of their being referred to in deeds or writings.

22. And whereas by an Act passed in the fifty-fifth year of the reign of king George the third, chapter one hundred and eighty-four, and by the said Act of the thirteenth and fourteenth years of her majesty respectively, certain stamp duties were imposed upon any schedule, inventory or catalogue containing the matters and things in the said Acts respectively mentioned, which should be referred to in or by and be intended to be used or given in evidence as part of or as material to any instrument charged with stamp duty, but which should be separate and distinct therefrom, and not endorsed on or annexed thereto, and doubts are entertained whether the said duties extend to certain documents and writings of a public character hereinafter mentioned: for the removal of such doubts, BE IT DECLARED AND ENACTED, that the said last-mentioned stamp duties shall not extend or be deemed to have extended to any public map, plan, survey, apportionment, allotment, award, or other parochial or public document or writing whatsoever made under or in pursuance of any Act of parliament, and deposited or kept for reference in any registry, or in any public office, or with the public books, papers, or writings of any parish, by reason of any such document or writing as aforesaid being referred to in or by any deed or instrument whatever, provided that such document or writing be not endorsed on or annexed to such deed or instrument.

(a) This section was passed in consequence of the decision in *Potter* v. *Commissioners of Inland Revenue*, 10 Ex. 147.

23. "And whereas by the said Act of the thirteenth and fourteenth years of her majesty and this Act respectively certain *ad valorem* stamp duties are granted and imposed upon leases or tacks of any lands, tenements, hereditaments, or heritable subjects at a yearly rent, and doubts are entertained whether the said duties extend to any lease or tack for any term or period less than a year:" for the removal of such doubts, BE IT ENACTED, That where any lease or tack of any lands, tenements, hereditaments, or heritable subjects shall be made for any term or period less than a year at a rent reserved or payable for the same, such lease or tack shall be chargeable with the same *ad valorem* duty as a lease or tack at a yearly rent of the same amount as the sum so reserved or payable.

17 & 18 Vict. c. 83.

Leases for a period less than a year to be chargeable with stamp duty on the rent reserved.

24. And in order to encourage the purchase of stamps for drafts, bills, and notes of the several rates and denominations hereinafter mentioned, and to facilitate the distribution and supply thereof, there shall be granted and allowed to every person who at one and the same time shall produce at the office of the commissioners of inland revenue in London or Dublin, paper to be stamped with such stamps or any of them to the amount of five pounds in the whole or shall purchase such stamps or any of them to the like amount at the office of the said commissioners in London, Edinburgh, or Dublin, or of any distributor or sub-distributor of stamps at any place not within the distance of ten miles from the said offices respectively, the allowance following; (that is to say,) on stamps for denoting any rate of duty not exceeding one shilling on bills of exchange, drafts or orders, or promissory notes, an allowance after the rate of seven and a half *per centum* on the amount of such stamp duties respectively; provided that no allowance shall be made on any fraction of a pound; which said allowances are in lieu of any allowance payable on stamps of the like rates and denominations under any other Act or Acts in force.

Allowance (a) on the purchase of stamps not exceeding the rate of 1s. duty for drafts, bills, and notes.

25. And in consideration that such allowance as aforesaid is by this Act granted on the purchase of stamps of the several rates and denominations aforesaid, it shall not be lawful for any person on the sale of any such stamp to make any charge for the paper whereon the same is impressed; and if any person upon the sale of any stamp denoting any rate of duty not exceeding one shilling for any bill of exchange, draft or order, or promissory note, shall make any charge for the paper whereon the same is impressed, or under any colour or pretence whatever demand or receive a greater price or sum than the amount of the stamp duty, he shall forfeit the sum of ten pounds.

No charge to be made for paper on sale of bill or note stamps where the rate of duty does not exceed 1s.

26. Where any person shall be possessed of any stamps rendered useless by this Act, it shall be lawful for the commissioners of inland revenue, on application to them or to their proper officer in that behalf, at any time on or before the 5th day of April, 1855, to cancel and make allowance for the same as in the case of spoiled stamps, after deducting the discount granted and allowed by law on the purchase of stamps of the like description.

Allowance for stamps rendered useless by this Act.

27. Every instrument liable to stamp duty shall be admitted in evidence in any criminal proceeding, although it may not have the stamp required by law impressed thereon or affixed thereto.

Instruments admissible in evidence in criminal cases, though not properly stamped.

THE SCHEDULE TO WHICH THIS ACT REFERS.

INLAND BILL OF EXCHANGE, draft or order for the payment to the bearer, or to order at any time OTHERWISE THAN ON DEMAND, of any sum of money (b)			Duty. £	s.	d.
Not exceeding		£5	0	0	1
Exceeding £5	and not exceeding	10	0	0	2
,, 10	,,	25	0	0	3
,, 25	,,	50	0	0	6
,, 50	,,	75	0	0	9
,, 75	,,	100	0	1	0
,, 100	,,	200	0	2	0
,, 200	,,	300	0	3	0
,, 300	,,	400	0	4	0
,, 400	,,	500	0	5	0
,, 500	,,	750	0	7	6
,, 750	,,	1000	0	10	0

(a) Repealed by 23 & 24 Vict. c. 111, s. 3, post.

(b) A bill of exchange stamped, with the right (or a greater) amount, but on the wrong denomination, is admissible if it purports to have been re-stamped by the commissioners of inland revenue (*Kaiser* v. *Crout*, 29 L. J. Exch. 20, 5 H. & Nor. 35).

17 & 18 Vict c. 83.

		Duty. £	s.	d.
Exceeding £1000 and not exceeding	£1500	0	15	0
,, 1500 ,,	2000	1	0	0
,, 2000 ,,	3000	1	10	0
,, 3000 ,,	4000	2	0	0
,, 4000 and upwards (a)		[2	5	0]

FOREIGN BILL OF EXCHANGE drawn in, but payable out of, the united kingdom,

If drawn singly or otherwise than in a set of three or more, the same duty as on an inland bill of the same amount and tenor.

If drawn in sets of three or more, for every bill of each set,

Where the sum payable thereby shall not exceed	£25	0	0	1
And where it shall exceed £25 and not exceed	50	0	0	2
,, 50 ,,	75	0	0	3
,, 75 ,,	100	0	0	4
,, 100 ,,	200	0	0	8
,, 200 ,,	300	0	1	0
,, 300 ,,	400	0	1	4
,, 400 ,,	500	0	1	8
,, 500 ,,	750	0	2	6
,, 750 ,,	1000	0	3	4
,, 1000 ,,	1500	0	5	0
,, 1500 ,,	2000	0	6	8
,, 2000 ,,	3000	0	10	0
,, 3000 ,,	4000	0	13	4
,, 4000 and upwards (a)		[0	15	0]

FOREIGN BILL OF EXCHANGE drawn out of the united kingdom, and payable within the united kingdom, the same duty as on an inland bill of the same amount and tenor (b).

FOREIGN BILL OF EXCHANGE drawn out of the united kingdom, and payable out of the united kingdom, but indorsed or negotiated within the united kingdom, the same duty as on a foreign bill drawn within the united kingdom, and payable out of the united kingdom.

PROMISSORY NOTE for the payment in any other manner than to the bearer on demand of any sum of money,

Not exceeding	£5	0	0	1
Exceeding £5 and not exceeding	10	0	0	2
,, 10 ,,	25	0	0	3
,, 25 ,,	50	0	0	6
,, 50 ,,	75	0	0	9
,, 75 ,,	100	0	1	0

PROMISSORY NOTE for the payment, either to the bearer on demand, or in any other manner than to the bearer on demand, of any sum of money,

Exceeding £100 and not exceeding	£200	0	2	0
,, 200 ,,	300	0	3	0
,, 300 ,,	400	0	4	0
,, 400 ,,	500	0	5	0
,, 500 ,,	750	0	7	6
,, 750 ,,	1000	0	10	0
,, 1000 ,,	1500	0	15	0
,, 1500 ,,	2000	1	0	0
,, 2000 ,,	3000	1	10	0
,, 3000 ,,	4000	2	0	0
,, 4000 and upwards (c)		2	5	0

LEASE OR TACK of any lands, tenements, hereditaments, or heritable subjects, for any term of years EXCEEDING THIRTY-FIVE, at a yearly rent, with or without any sum of

(a) See 23 Vict. c. 15, sched. post.

(b) See 24 & 25 Vict. c. 21, post.

(c) Exceeding 4,000*l.*; then, for every additional 1,000*l.* or part of it, 10*s.*; 23 & 24 Vict. c. 111, sched. post.

money by way of fine, premium, or grassum paid for the same, the following duties in respect of such yearly rent, 17 & 18 Vict. c. 83.

		Duties. If the term shall not exceed 100 years. £ s. d.	Duties. If the term shall exceed 100 years. £ s. d.
Where the yearly rent shall not exceed £5		0 3 0	0 6 0
And where the same shall exceed	£5 and not exceed £10	0 6 0	0 12 0
,, ,,	10 ,, 15	0 9 0	0 18 0
,, ,,	15 ,, 20	0 12 0	1 4 0
,, ,,	20 ,, 25	0 15 0	1 10 0
,, ,,	25 ,, 50	1 10 0	3 0 0
,, ,,	50 ,, 75	2 5 0	4 10 0
,, ,,	75 ,, 100	3 0 0	6 0 0
And where the same shall exceed £100 then for every £50, and also for any fractional part of £50		1 10 0	3 0 0

And where any such lease or tack as aforesaid shall be granted in consideration of a fine, premium, or grassum, and also of a yearly rent, such lease or tack shall be chargeable also, in respect of such fine, premium, or grassum, with the *ad valorem* stamp duties granted under the head or title of "Conveyance" in the schedule annexed to the Act passed in the thirteenth and fourteenth years of her majesty's reign, chapter ninety-seven.

Exemption.

Any lease made in pursuance of the Trinity College (Dublin) Leasing and Perpetuity Act, 1851.

CONVEYANCE of any kind or description whatsoever in England or Ireland, and charter, disposition, or contract containing the first original constitution of feu and ground annual rights in Scotland (not being a lease or tack for years), in consideration of an annual sum payable in perpetuity or for any indefinite period, whether fee farm or other rent, feu duty, ground annual, or otherwise . . . . . — The same duties as on a lease or tack for a term exceeding 100 years, at a yearly rent equal to such annual sum.

Exemptions.

Any lease or tack for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, by whomsoever granted.

Any grant in fee simple or in perpetuity, made in Ireland, in pursuance of the Renewable Leasehold Conversion Act, or in pursuance of the Trinity College (Dublin) Leasing and Perpetuity Act, 1851.

All which said leases or tacks and grants respectively shall be chargeable with the stamp duties to which the same were subject and liable before the passing of the Act 16 & 17 Vict. c. 63.

Duplicate or Counterpart, and Progressive Duty.

EVERY SUCH LEASE or tack, and every such conveyance, charter, disposition, or contract as aforesaid hereby charged with duty, and the duplicate or counterpart thereof respectively, shall be chargeable with respect to the stamp duties granted and made payable under the several heads or titles of "Duplicate or Counterpart," and "Progressive Duty," in the schedule annexed to the Act of the thirteenth and fourteenth years of her majesty's reign, chapter ninety-seven.

LICENCE TO DEMISE copyhold lands, tenements, or hereditaments, or the memorandum thereof if granted out of court, and the copy of court roll of any such licence if granted in court.

Where the clear yearly value of the estate to be demised shall be expressed in such licence and shall not exceed 75*l.* . . . . — The same duty as on a lease at a yearly rent equal to such yearly value under the Act of the 13 & 14 Vict. c. 97.

And in all other cases . . . . . £ 0 s. 10 d. 0

18 Vict. c. 27. An Act to amend the Laws relating to the Stamp Duties on Newspapers, and to provide for the Transmission by Post of printed periodical Publications. [15th June, 1855.] 18 Vict. c. 27.

"Whereas it is expedient to amend the laws relating to the stamp duties on newspapers, and to provide for the transmission by post of printed periodical publications;" BE IT THEREFORE ENACTED as follows:

18 Vict. c. 27.

Not to be compulsory to print newspapers on stamps.

1. From and after fourteen days after the passing of this Act it shall not be compulsory (except for the purpose of free transmission by the post,) to print any newspaper on paper stamped for denoting the duties imposed by law on newspapers, and no person shall be subject or liable to any penalty or forfeiture for printing, publishing, selling or having in his possession any unstamped newspaper.

Periodical publications printed on stamps to be transmitted by post free of postage.

2. Every periodical publication hereinafter mentioned which shall be printed within the united kingdom on paper stamped for denoting the rate of duty now imposed by law on newspapers shall be entitled to the like privileges of transmission and retransmission by the post between places in the united kingdom, either postage-free or otherwise, on the same terms and conditions and under and subject to the like rules and regulations as newspapers duly stamped are now entitled and subject to under any Act or Acts in force, but under and subject nevertheless to the terms and conditions in this Act contained.

Periodical publications entitled to free transmission by post to be printed under certain limitations and conditions specified.

3. Every periodical publication to be entitled to any such privilege as aforesaid shall be printed and published at intervals not exceeding thirty-one days between any two consecutive parts or numbers of such publication, and shall be subject to the same limitations and restrictions with respect to the number of sheets or pieces of paper whereon the same shall be printed, and with respect to the superficies or dimensions of the letter-press thereof, as by any Act or Acts now in force are enacted or imposed with respect to newspapers and supplements thereto; and every such periodical publication shall be entitled to such privilege only on the terms and conditions following; (that is to say,) one of the sheets or pieces of paper on which the same shall be printed shall be stamped with an appropriated die, denoting the stamp duty imposed by law on a newspaper printed on the like number of sheets or pieces of paper and of the like dimensions with respect to the superficies of the letter-press thereof; and on the top of every page of such publication there shall be printed the title thereof, and the date of publishing the same; and such periodical publication at the time when the same shall be posted shall be folded in such manner that the whole of the stamp denoting the said duty shall be exposed to view, and be distinctly visible on the outside thereof; also such periodical publication shall not be printed on pasteboard or cardboard, or on two or more pieces or thickness of paper pasted together, nor shall any pasteboard, cardboard or such pasted paper be transmitted by post with any such periodical publication either as a back or cover thereto, or otherwise.

Paper to be stamped for such periodical publications at the request of the proprietor or printer.

4. It shall be lawful for the proprietor or printer of any such periodical publication to send to the commissioners of inland revenue, or to such officer as they shall appoint or direct in that behalf, any quantity of paper, to be stamped with an appropriated die, to be provided in the manner directed by the third section of the Act passed in the session of parliament holden in the sixth and seventh years of the reign of his late majesty king William the fourth, chapter seventy-six, for denoting the rate of stamp duty chargeable on newspapers; and upon payment to the proper officer of the full amount of the stamps required to be impressed on such paper, the said commissioners or their proper officer shall cause the same to be stamped accordingly: Provided always, that there shall be allowed in Ireland, in respect of such appropriated stamps as aforesaid, for any periodical publication which shall be printed and published only in Ireland, the same rate of discount as by the said last-mentioned Act is directed to be allowed on the purchase of stamps for the printing of newspapers in Ireland.

Discount to be allowed on stamps in Ireland.

Periodical publications to be posted within fifteen days after being published.

5. Every periodical publication, posted in the united kingdom, to be entitled to the privilege of transmission by the post between places in the united kingdom, under the provisions of this Act, shall be put into a post-office within fifteen days next after the day on which the same shall be published; the day of publication to be determined by the date of such publication.

Questions as to periodical publications how determined.

6. In all cases in which a question shall arise whether a printed paper is entitled to the privilege of a periodical publication, so far as respects the transmission thereof by the post under the provisions of this Act, the question shall be referred to the determination of the postmaster-general, whose decision, with the consent of the commissioners of her majesty's treasury, shall be final.

Newspapers may be registered at the general post office to entitle the same to the privilege of transmission abroad under treaties with foreign powers.

7. And whereas certain treaties and arrangements have been made and entered into, and other treaties and arrangements may hereafter be entered into, by and between her majesty's government and certain foreign and colonial governments, for regulating the transmission of British newspapers abroad: and it is expedient to make provision for enabling her majesty's postmaster-general to secure for such newspapers respectively the privileges and advantages of such treaties and arrangements: BE IT THEREFORE ENACTED, that, upon the postmaster-general being satisfied that any printed publication is a newspaper, or entitled to the privileges of a newspaper, within the meaning of such treaties and arrangements as aforesaid, it shall be lawful for the proprietor or printer of such newspaper or publication, if he shall think fit, to register the same at the general post office in London, in such form and with such particulars relating to the same, and subject to the payment of such fees, not exceeding five shillings respectively, as well on registration as afterwards periodically for being continued on the register, as the postmaster-general, with consent of the commissioners of the treasury, shall from time to time direct or require in that behalf; and thereupon such newspaper or publication, being printed on paper duly stamped with an appropriated die under the provisions of this Act, shall be entitled to all the privileges and advantages secured to newspapers by any such treaties and arrangements as aforesaid.

8. It shall be lawful for the commissioners of her majesty's treasury, by warrant under their hands, to allow any printed newspaper (British, colonial or foreign) to be transmitted by the post between places in the united kingdom and her majesty's colonies or foreign countries, or between any ports or places beyond the sea (whether through the united kingdom or not), either free of postage or subject to such rates of postage not exceeding twopence for each newspaper, irrespective of any foreign or colonial postage, as the commissioners of the treasury, or the postmaster-general with their consent, shall from time to time think fit; and as a condition to any British newspaper being transmitted by the post to any place out of the united kingdom, the same shall be printed on paper duly stamped with an appropriated die under the provisions of this Act, and the said last-mentioned commissioners or the postmaster-general may require such newspaper to be registered at the general post office in London, in such form and with such particulars, and subject to the payment of such fees as in the last preceding section mentioned. 18 Vict. c. 27, Transmission by post of printed papers to foreign countries.

9. It shall be lawful for her majesty's postmaster-general, with the consent of the commissioners of her majesty's treasury, at any time or times hereafter to make and issue such orders, regulations, conditions and restrictions as he shall deem to be necessary or expedient for the purpose of regulating the receipt, transmission and delivery by post of periodical publications under the provisions of this Act, or for preventing or detecting frauds or abuses in relation thereto, and for giving effect to the purposes of this Act; and it shall also be lawful for the said postmaster-general, with the like consent, from time to time, to rescind or revoke all or any such orders, regulations, conditions and restrictions, and to make and issue any new ones in lieu thereof. Power to the postmaster-general, with consent of treasury, to make regulations for carrying the Act into effect.

10. All periodical publications sent by post otherwise than in conformity with the terms, conditions and regulations established by or under the authority of this Act may be detained by the postmaster-general and any officer of the post office; and after being opened, the same shall be either returned to the senders thereof or forwarded to the place of their destination, charged with the like rates of postage as if the same were letters transmitted by the post: Provided always, that it shall be lawful for the commissioners of her majesty's treasury, by warrant under their hands, to authorise her majesty's postmaster-general to charge in any such case any such less rate of postage as to him shall seem fit. Periodical publications sent by post not in conformity with this Act to be charged letter rates of postage.

11. Any printed copy of the London Gazette in which any warrant or order issued or made under or by virtue of this Act, or purporting so to be, shall be published, shall be admitted as evidence by all courts, judges, justices and others, of such warrant or order, and of the due making and issuing thereof, and of the contents thereof, without any further or other proof of such warrant or order, or of the matters therein contained. London Gazette to be evidence of the issuing of warrants or orders.

12. The term "periodical publication" used in this Act shall be construed to mean and include a newspaper as defined by the Acts in force relating to the stamp duties on newspapers, and every printed literary work or paper, printed and published periodically, or in parts or numbers, at intervals not exceeding thirty-one days between any two consecutive papers, parts or numbers of such literary work or paper; and for all the purposes of this Act the islands of Guernsey, Jersey, Alderney, Sark and the Isle of Man shall respectively be deemed to be part of the united kingdom. Interpretation of terms.

19 & 20 Vict. c. 81. An Act to reduce the Stamp Duties on certain Instruments of Proxy; to amend the Laws relating to the stamping of Articles of Clerkship to Attorneys and others; and to exempt from Stamp Duty Admissions to the Freedom of the City of London by Redemption. [29th July, 1856.]

19 & 20 Vict. c. 81.

"Whereas it is expedient to reduce the stamp duties on certain instruments of proxy, and to amend the laws relating to the stamping of articles of clerkship to attorneys and others:" BE IT THEREFORE ENACTED as follows:

1. From and after the passing of this Act, in lieu of the stamp duties now payable on the several instruments of proxy hereinafter described, there shall be charged and paid the duties following; (that is to say,) Stamp duties on instruments of proxies hereinnamed repealed, and new duties granted in lieu thereof.

For and in respect of every letter or power of attorney, and every commission, factory, mandate, or other instrument in the nature thereof, made for the sole purpose of appointing or nominating a proxy to vote at any meeting within any part of the united kingdom of the proprietors or shareholders of or in any joint-stock company or other company or society whose stock or funds are divided into shares, and transferable, or made for the purpose of appointing, nominating, or authorising any person to vote as a proxy, commissioner, mandatory, or otherwise, at any parish meeting of heritors or proprietors of real or heritable property in Scotland, the stamp duty of *sixpence*.

2. The provision contained in section six of the Act passed in the seventh year of her majesty's reign, chapter twenty-one, relating to instruments for appointing proxies, Provision in section 6

19 & 20 Vict. c. 81.

of 7 Vict. c. 21 (a), and other stamp Acts to be applied to the new duties.

thereby charged with a certain stamp duty, and also, so far as the same shall be applicable, and shall not be inconsistent with such provision, all other powers, provisions, clauses, regulations, directions, allowances and exemptions, fines, forfeitures, pains and penalties contained in or imposed by any Act or Acts relating to any duties of the same kind or description, shall, for and in the raising, levying, collecting and securing of the duties hereby granted, and otherwise in relation thereto respectively, have full effect, and be observed, applied, allowed, enforced and put in execution with respect to the last-mentioned duties, and to the vellum, parchment and paper, matters and things, charged and chargeable therewith, and to the persons signing, or voting or acting, or attempting to vote or act, under any such instrument, as fully and effectually, to all intents and purposes, as if the same had been herein repeated, and specially enacted with reference to the duties hereby granted, and the instruments charged or chargeable therewith.

Power to treasury to authorise articles to be stamped on the terms stated (b).

3. And whereas by an Act passed in the seventh year of the reign of his late majesty king George the fourth, chapter forty-four, it is enacted, that it shall not be lawful for the commissioners of stamps or any of their officers to stamp, under any pretence whatever, after the expiration of six months from the date thereof, any vellum, parchment or paper upon which shall be engrossed, printed or written any articles of clerkship, contract, indenture or other instrument, whereby any person shall become bound to serve as a clerk or apprentice, in order to his admission as a solicitor, attorney, proctor, writer to the signet, agent or procurator in any of the courts of law or equity, or the high court of admiralty, or any ecclesiastical court, or the courts of session, justiciary, exchequer, commission of teinds, or the commissary court, or any inferior court in Great Britain: BE IT ENACTED, that it shall be lawful for the commissioners of inland revenue, notwithstanding the said last-mentioned Act, in any case where they shall be directed so to do by the commissioners of her majesty's treasury, to stamp any such instruments as last mentioned, upon payment of the duty chargeable thereon at the date thereof, and of such further sum as hereinafter specified by way of penalty, and in lieu of all other penalties; (that is to say,)

As to any such instrument bearing date and executed before the fifth day of August one thousand eight hundred and fifty-three, the sum of twenty pounds:

As to any other such instrument where the same shall be brought to be stamped within the period of one year from the date thereof, the sum of ten pounds:

After one year and within two years, twenty pounds:

After two years and within three years, thirty pounds:

After three years and within four years, forty pounds:

And after four years, fifty pounds.

Admissions to the freedom of the city of London by redemption exempted from stamp duty.

4. Whereas by an Act passed in the first and second years of the reign of her present majesty, queen Victoria, intituled "An Act to repeal the Stamp Duty now paid on Admissions to the Freedom of Corporations in England," it was enacted, that after the passing of that Act no stamp duty should be chargeable on the admission of any person entitled to take up his freedom by birth or servitude in any city or borough in England returning a member or members to serve in parliament: and whereas in the city of London the right to vote in ward elections is vested in the freemen occupiers, and it is expedient that all impediments to the admission of occupiers in the city of London to the freedom of the city of London by redemption for that purpose should be removed, and that the stamp duty payable on such admission should be abolished: BE IT ENACTED, that from and after the passing of this Act no stamp duty shall be chargeable on the admission of any person to the freedom of the city of London by redemption: Provided always, that this Act shall not repeal any stamp duty now payable on the admission to the freedom of any company.

21 Vict. c. 20.

21 Vict. c. 20. An Act for granting a Stamp Duty on certain Drafts or Orders for the Payment of Money (c).

[21st May, 1858.]

21 Vict. c. 24.

21 Vict. c. 24. An Act to reduce the Stamp Duty on Passports.

[14th June, 1858.]

"Whereas it is expedient to reduce the stamp duty on passports:" BE IT ENACTED, as follows:

(a) Ante, p. 566.

(b) Where articles of clerkship had not been stamped within six months from their execution, but had been subsequently stamped under this section, and the clerk had served under them from their execution, the court allowed a subsequent enrolment of them to count from the date of the execution, there having been no negligence or default on the part of the clerk (*Ex parte Francis Norton*, 26 L. J. Q. B. 24).

This section does not enable unstamped articles of clerkship to be enrolled (*Ex parte Williams*, 26 L. J. Q. B. 167).

(c) See this Act, ante, Vol. I., p. 236, tit. "BANKERS' DRAFTS."

1. That from and after the passing of this Act the stamp duty of five shillings now payable on a PASSPORT shall be reduced to the sum of sixpence. 21 Vict. c. 24. Stamp duty on passports reduced to 6*d*.

22 & 23 Vict. c. 36. An Act to alter the Stamp Duties payable upon Probates of Wills and Letters of Administration, to repeal the Stamp Duties on Licences to exercise the Faculty of Physic, and to amend the Laws relating to Hawkers and Pedlars.

[13th August, 1859.]

22 & 23 Vict. c. 36.

1. Whereas certain stamp duties contained in the schedule to the Act passed in the fifty-fifth year of the reign of king George the third, chapter one hundred and eighty-four (*a*), are now payable upon probates of wills and letters of administration in England and Ireland, and upon inventories to be exhibited and recorded in any commissary court in Scotland, and are imposed by certain graduated scales according to the value of the estate and effects for or in respect of which such probate or letters of administration are granted, or whereof such inventory is exhibited or recorded, but such graduated scales of duty cease where such value amounts to one million pounds and upwards; and it is expedient to extend and continue such graduation of duty as hereinafter mentioned: BE IT ENACTED, that in lieu of the said stamp duties upon such probates and letters of administration and inventories respectively, where such value as aforesaid shall amount to one million pounds or upwards, there shall be charged and paid the following duties respectively; that is to say,

Graduated scales of stamp duties on probates, &c., continued on property above the value of 1,000,000*l*.

For every one hundred thousand pounds of the whole value of such estate and effects, and any fractional part of one hundred thousand pounds,

Where the deceased shall have left any will or testament or testamentary disposition of his personal or moveable estate and effects, the stamp duty of one thousand five hundred pounds;

And where the deceased shall not have left any such will or testament or testamentary disposition, the stamp duty of two thousand two hundred and fifty pounds.

2. The stamp of fifteen pounds for and in respect of the admission or licence of any person by the college of physicians in England or Scotland to exercise the faculty of physic, or practise as a licentiate, granted by the said Act passed in the fifty-fifth year of the reign of king George the third, chapter one hundred and eighty-four, and the like duty now payable in Ireland by and under an Act passed in the fifth and sixth years of the reign of her present majesty, to assimilate the stamp duties in Great Britain and Ireland, shall from and after the passing of this Act be and the same are hereby repealed.

The stamp duty on licences to exercise the faculty of physic repealed.

3. And whereas an Act was passed in the fiftieth year of the reign of the late king George the third, chapter forty-one, intituled "An Act for placing the Duties of Hawkers and Pedlars under the Management of the Commissioners of Hackney Coaches," by which certain rates and duties (now under the care and management of the commissioners of inland revenue) are required to be paid by every hawker, pedlar, petty chapman and other trading person going from town to town or to other men's houses in England, Wales, or Berwick-upon Tweed; and every such person is thereby required to take out a licence as therein mentioned; and it is by the said Act provided, that nothing therein contained shall extend to hinder the real worker or workers, maker or makers, of any goods, wares or manufactures of Great Britain, or his, her or their children, apprentices or known agents or servants, usually residing with such real workers or makers only, from carrying abroad or exposing to sale and selling by retail or otherwise any of the said goods, wares or manufactures of his, her or their own making, in any mart, market or fair, and in every city, borough, town corporate and market town: and whereas by an Act passed in the fifty-fifth year of the reign of king George the third, chapter seventy-one, to regulate hawkers and pedlars in Scotland, licences chargeable with certain duties (now likewise under the care and management of the said commissioners) are required to be taken out by every such trading person in Scotland, with a similar proviso: BE IT ALSO ENACTED, that nothing in the said two last-mentioned Acts respectively shall extend to hinder any such real worker or maker, or his children, apprentices or known agents or servants aforesaid, from carrying abroad or exposing to sale any of the said goods, wares or manufactures of his own making, at any place whatever in Great Britain.

Nothing in 50 Geo. 3, c. 41, or 55 Geo. 3, c. 71, to hinder maker of goods or his children, &c., from carrying abroad or exposing to sale such goods.

4. Where any person shall be convicted of an offence under either of the aforesaid Acts relating to hawkers and pedlars, whereby a pecuniary penalty has become forfeited, it shall be lawful for the justice of the peace, or other person before whom the information or complaint is heard, and he is hereby authorised and empowered, if he shall think fit so to do, to mitigate the penalty to any sum not less than one-fourth part thereof, over and above the necessary costs of the proceedings to be allowed by him.

Power to justices, on conviction of a hawker, to mitigate the penalty to one-fourth.

(*a*) Ante, p. 543.

28 Vict. c. 5. 23 Vict. c. 5. An Act to regulate Probate and Administration with respect to certain Indian Government Securities; to repeal certain Stamp Duties; and to extend the Operation of the Act of the Twenty-second and Twenty-third Years of Victoria, Chapter Thirty-nine to Indian Bonds. [23rd March, 1860.]

"Whereas at various times the executive government of India has raised moneys for the public service by the issue of government promissory notes and by government loans severally payable in India, and by various public notifications of the said government, or regulations to be made by the secretary of state in council, the owners of such notes have been or may be allowed the privilege of having the current interest thereon made payable in London by drafts payable in India, and the holders or owners of shares or portions of such loans have been or may be allowed the privilege of having the same registered and made transferable, and the interest thereon made payable in London: and whereas upon the death of the holders of notes as to which the said privilege shall have been claimed, questions may arise as to the place in which the same are properly to be deemed assets of the deceased owner, and it is for the convenience and advantage of the estates of such persons that the same should be deemed assets in this country and not in India; and whereas by an Act passed in the session holden in the fifth and sixth years of the reign of his late majesty king William the fourth, chapter sixty-four, section five, the transfer of any part of the territorial debt of the East India Company in India in the books of the said company in England, whether upon a sale thereof or otherwise, was made chargeable with a stamp duty of one pound ten shillings, and it is expedient to repeal so much of the said Act as imposes the said stamp duty: and whereas under the authority of various Acts of parliament the East India company were empowered to raise money upon bonds to be issued under their common seal, and the said bonds formerly constituted the bond debt of the East India company, and are commonly designated East India bonds: and whereas by an Act passed in the session holden in the twenty-first and twenty-second years of the reign of her present majesty, chapter one hundred and six, section sixty-seven, all liabilities of the East India company were transferred to the secretary of state in council: and whereas by an Act passed in the last session of parliament, chapter thirty-nine, power was given to the secretary of state in council to raise money by bonds or debentures or the creation of a capital stock or annuities upon or for the repayment of any principal money secured under the authority of the said Act or of either of the Acts therein recited: and whereas it is expedient to extend such power of raising money to the repayment of any of the East India bonds aforesaid:" BE IT THEREFORE ENACTED as follows (that is to say),

Indian government notes on which interest is payable in London, and certain Indian government promissory notes, to be deemed *bona notabilia* in England.

Probate, &c. or confirmation granted in Scotland valid, &c.

1. All Indian government promissory notes, and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in London by drafts payable in India, and which at the decease of the owner thereof shall have been registered in the books of the secretary of state in council in London, or in the books of the governor and company of the bank of England, or shall have been enfaced in India for the purpose of being so registered before the decease of the owner thereof, and all Indian government promissory notes issued with coupons attached, which, under such regulations and conditions as may be determined from time to time by the secretary of state in council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and bona notabilia of such deceased person in England, and probate or letters of administration in England, or confirmation granted in Scotland, and sealed with the seal of the principal court of probate in England, in pursuance of the provisions of the "Confirmation and Probate Act, 1858," shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and moneys as aforesaid.

Transfers of territorial debt and of Indian government loans not chargeable with stamp duty.

2. So much of the fifth section of the said first-recited Act (*a*) as enacts that every transfer of any part of the said territorial debt in the books of the East India company in England, whether upon a sale thereof or otherwise, shall be chargeable with a stamp duty of one pound ten shillings and no more, is hereby repealed; and no transfer of any part of the said territorial debt or of Indian government loans registered and transferable in the books of the secretary of state in council in London, or in the books of the governor and company of the bank of England, shall be chargeable with any stamp duty.

23 Vict. c. 15. 23 Vict. c. 15. An Act for granting to Her Majesty certain Duties of Stamps. [3rd April, 1860.]

Duties on instruments described in

1. The stamp duties now payable in the united kingdom of Great Britain and Ireland for or in respect of the several instruments, matters and things mentioned or described

(*a*) 5 & 6 Will. 4, c. 64, ante, p. 555.

in the schedule to this Act annexed, whereon other duties are by this Act granted, shall respectively cease and determine, and shall be and the same are hereby repealed; provided that the stamp duties now chargeable on any of the said instruments, matters, and things shall be payable in respect of such of them as shall have been or shall be made, signed or dated at any time before the passing of this Act; save and except that the stamp duties on foreign bills of exchange by this Act granted shall be payable on all such bills as shall, after the passing of this Act, be first negotiated, or, if not negotiated, paid in the united kingdom.

23 Vict. c. 15. schedule repealed.

2. There shall be granted, raised, levied and paid in and throughout the united kingdom of Great Britain and Ireland, to and to the use of her majesty, her heirs and successors, for and in respect of the several instruments, matters and things described or mentioned in the said schedule, or for or in respect of the vellum, parchment or paper upon which any of them respectively shall be written, the several stamp duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said schedule; which said schedule, and the several provisions, regulations and directions therein contained, with respect to the said duties, and the instruments, matters and things charged therewith, shall be deemed and taken to be part of this Act, and shall be applied and put in execution accordingly.

New duties as set forth in schedule granted.

3. All the powers, provisions, clauses, regulations, directions, allowances and exemptions, fines, forfeitures, pains and penalties contained in or imposed by any Act or Acts or any schedule thereto, relating to any duties of the same kind or description, heretofore payable in the united kingdom, and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, paper, instruments, matters and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced and put in execution for and in the raising, levying, collecting and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually, to all intents and purposes, as if the same had been therein repeated and specially enacted, mutatis mutandis, with reference to the duties by this Act granted.

Provisions of former Acts to apply.

4. The stamp duties payable by law upon probates of wills and letters of administration, with a will annexed, in England and Ireland, and upon inventories in Scotland, shall be levied and paid in respect of all the personal or moveable estate and effects which any person, hereafter dying, shall have disposed of, by will, under any authority enabling such person to dispose of the same as he or she shall think fit; and, for the purpose of this Act such personal or moveable estate and effects shall be deemed to be the personal or moveable estate and effects of the person so dying in respect of which the probate of the will or the letters of administration with the will annexed of such person are or is granted, or the inventory is or is required to be exhibited and recorded as the case may be; and such estate and effects, and the value thereof, shall accordingly be included in the affidavit required by law to be made on applying for probate or letters of administration, in order to the full and proper stamp duty being paid.

Personal estate appointed by will under general powers to be chargeable with probate and inventory duties.

5. The said last-mentioned duties shall be a charge or burden upon the property in respect of which the same are so payable, and shall be paid thereout by the trustees or owners thereof to the person for the time being lawfully having or taking the burden of the execution of the will or testamentary instrument, or the administration or management of the personal or moveable estate and effects of the deceased, for the benefit of the persons entitled to the personal or moveable estate and effects of the deceased.

Probate and inventory duties in respect thereof to be a charge on the property.

6. Money secured on heritable property in Scotland, and money secured by Scotch bonds in favour of heirs and assignees, excluding executors, shall, for the purposes of this Act, be held and interpreted to be moveable property, and shall be included in any inventory to be exhibited and recorded in any commissary court in Scotland of the estate and effects of any person deceased entitled thereto [and in England and Ireland respectively shall be deemed to be estate and effects for or in respect whereof any probate of will or letters of administration shall be granted] (a); and every such inventory [probate and letters of administration] shall be chargeable with stamp duty in respect of such moveable property [and such property, and the value thereof, shall be included in any such affidavit as aforesaid made on applying for probate or letters of administration in respect thereof in England or Ireland (a)].

Money secured on heritable property and by heritable bonds in Scotland to be chargeable with probate and inventory duties.

7. Whereas it is considered that certain testamentary dispositions in Scotland are chargeable with stamp duty, and it is expedient that the same should be exempted: BE IT ENACTED, That no will, testament, testamentary instrument, or disposition mortis causâ, shall be chargeable with any stamp duty.

Certain testamentary dispositions in Scotland not to be chargeable with stamp duty.

8. The duties by this Act granted of one penny and threepence respectively specified in the said schedule, and also of sixpence, therein specified, under the head of cost-book

Certain duties in the

(a) The words within brackets are repealed by the 23 & 24 Vict. c. 80, s. 9, post, 619.

23 Vict. c. 15.

Schedule to be denoted either by impressed or adhesive stamps.

mines, may be denoted either by a stamp impressed upon the paper, or by an adhesive stamp affixed thereto: and the commissioners of inland revenue shall provide stamps of both descriptions for the purpose of denoting the said duties; and the provisions and regulations relating to adhesive stamps contained in the next succeeding section of this Act shall apply to all cases where the paper upon which the instrument, document or writing charged with the duty shall not, at the time of its being written, made or signed, have thereon the proper impressed stamp for denoting the said duty.

The persons making the instruments to affix adhesive stamps, and cancel same.

In default, penalty 20*l.*

9. The person who shall make, sign or issue any instrument, document or writing in the schedule to this Act mentioned, and chargeable with any of the duties of one penny and threepence, shall, before he shall deliver the same out of his hands, custody or power, affix to it the proper adhesive stamp denoting the duty chargeable thereon or in respect of it, and shall effectually cancel and obliterate the stamp, by writing upon it his name, or the name of his firm or principal, or the initials thereof respectively, and the date of the day and year on which he shall so write the same, and so and in such manner as clearly and distinctly to indicate that the said stamp has already been used, and so that it cannot, without fraud, be again made use of; and if any person who ought so to affix any such stamp, and to cancel and obliterate the same, shall refuse or neglect so to do, or if any person shall receive or take by way of security or indemnity any of the said instruments, documents or writings, or shall deliver out or authorise the delivery out of any goods, wares or merchandise to which the same relates, the said instrument, document or writing not having a proper adhesive stamp affixed thereto, and cancelled and obliterated as hereby required, every such person shall for every such offence forfeit the sum of twenty pounds; and no charge for brokerage, commission, agency or otherwise, made or to be made by any broker, agent or other person in or about the sale or purchase mentioned or referred to in any such instrument, document or writing made by him shall be lawful, unless such instrument, document or writing shall be duly stamped as by this Act is required: provided that no person shall be subject or liable to the said penalty for delivering any goods, wares or merchandise, under the authority of any unstamped order, in any case where the value of such goods, wares and merchandise shall therein be stated by the person making, signing or issuing the same to be under the value of forty shillings.

No charge for brokerage, &c. to be lawful unless instrument, &c. shall be duly stamped.

Penalty for fraudulently stating goods to be under the value of 40*s.*

10. If any person who shall make, sign or issue any order for, or any writing or document authorising the delivery of any goods, wares or merchandise by this Act charged with the stamp duty of one penny, shall knowingly and wilfully state or permit to be stated therein that the said goods, wares or merchandise are or is under the value of forty shillings, he shall, unless the said order, writing or document shall, at the time of its being issued, be stamped to denote the said duty, forfeit the sum of twenty pounds.

The person requesting the entry of transfer of any share to affix and cancel an adhesive stamp.

In default, penalty 20*l.*

11. The person who shall write or sign any note, instrument or writing requesting or authorising the purser or other officer of any mining company conducted on the cost-book system to enter or register the transfer of any share or shares or part of any share in any mine, or shall give any notice in writing to such purser or other officer of any such transfer, in whatever form such notice shall be, shall, in like manner as hereinbefore provided, affix thereto the proper adhesive stamp to denote the duty by this Act charged thereon, and cancel and obliterate the same; and if he shall refuse or neglect so to do, or if the purser or other officer to whom such request, authority or notice shall be addressed, delivered, sent or given shall enter or register the transfer of any share mentioned or referred to in such notice, or shall comply with or in any way give effect to such notice, the same not being stamped as by this Act is required, every such person so offending shall forfeit the sum of twenty pounds.

The payers of bills of exchange, &c. to cancel stamps (*a*).

In default, penalty, 20*l.*

12. Whenever any bill of exchange, draft or order having thereon an adhesive stamp shall be presented for payment, the person to whom the same shall be presented shall, upon paying the same, write or impress or cause to be written or impressed upon every stamp affixed to the bill the word "paid," to the end that the stamp may be more effectually cancelled, and made incapable of being used again; and, in default of so doing he shall forfeit the penalty of twenty pounds.

The stamps on foreign bills to be adhesive.

The provisions of 17 & 18 Vict. c. 83. to be applied.

13. The duties by this Act granted upon or in respect of bills of exchange, drafts or orders drawn out of the united kingdom, shall be denoted by adhesive stamps, in like manner as the duties now payable on bills of exchange drawn out of the united kingdom; and all the classes, provisions, directions, regulations, penalties and forfeitures contained in the Act passed in the seventeenth and eighteenth years of her majesty's reign, chapter eighty-three (*b*), relating to adhesive stamps on bills of exchange drawn out of the united kingdom, as well as in this Act, so far as the same are applicable, shall be applied and put in force in respect of the stamp duties on bills of exchange by this Act granted, as fully and effectually as if the same were herein repeated and re-enacted.

Penalty on committing frauds in relation to

14. If any person shall fraudulently remove or cause to be removed, or assist in removing, from any instrument, document or writing of any kind, any adhesive stamp, or shall affix any stamp which shall have been so removed to any other instrument, document or writing chargeable with stamp duty, or to any paper, with intent that such

---

(*a*) See 23 & 24 Vict. c. 111, s. 5, post, p. 620. (*b*) Ante, Vol. I., p. 600.

stamp might be used again; or if any person shall sell, or offer for sale, or utter any stamp, or shall utter any instrument, document or writing with any stamp thereon which shall have been so as aforesaid removed, knowing the same to have been removed, or shall practise or be concerned in any fraudulent act, contrivance or device not specially provided for, with intent to defraud her majesty of the duty, he shall forfeit, over and above any other penalty to which he may be liable, the sum of fifty pounds. 28 Vict. c. 15. adhesive stamps.

15. Where an instrument or writing chargeable under this Act with the duty of sixpence, as an agreement, shall be unstamped, and it shall appear thereby that the matter thereof is under the value of twenty pounds, the penalty payable to her majesty, her heirs or successors, on stamping the same, shall be twenty shillings, over and above the said duty, in lieu of the penalty now by law payable on stamping an agreement under hand only. Penalty on stamping an agreement under the value of 20*l.* to be 20*s.* only.

SCHEDULE referred to, containing the Duties imposed by this Act.

SCHEDULE.	DUTY.
Agreement for a lease or tack of any lands, tenements, hereditaments or heritable subjects, for any term not exceeding seven years; and agreement, minute or memorandum of agreement, containing the terms and conditions on which any lands, tenements, hereditaments or heritable subjects are let, held or occupied, for any such term as aforesaid.	The same duty as on a lease or tack for the term, rent, consideration and conditions mentioned in such agreement, minute or memorandum.
Provided that any lease or tack of the same lands, tenements, hereditaments or heritable subjects, afterwards made in pursuance of and conformably to any such agreement, minute or memorandum, which shall have actually paid the duty payable on such lease or tack as aforesaid, shall not be chargeable with any higher stamp duty than two shillings and sixpence, exclusive of progressive duty, notwithstanding any variation in the terms or conditions only, not affecting the stamp duty; and in any such case the lease or tack shall, if required for the sake of evidence, be stamped with a particular stamp for denoting or testifying the payment of the full and proper stamp duty on the agreement, minute or memorandum, on the same and the agreement, minute or memorandum being produced, and appearing to be executed or signed, and duly stamped in all other respects.	
Agreement, or any minute or memorandum of an agreement, made in England or Ireland under hand only, or made in Scotland without any clause of registration, and not otherwise charged nor expressly exempted from all stamp duty, where the matter thereof shall be of the value of five pounds or upwards, whether the same shall be only evidence of a contract, or obligatory upon the parties from its being a written instrument; together with every schedule, receipt or other matter, put or indorsed thereon or annexed thereto	£0 0 6 (*a*)
And where the same shall contain 2160 words or upwards, then for every entire quantity of 1080 words contained therein over and above the first 1080 words a further progressive duty of	0 0 6
Provided always, that where divers letters were offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any of such letters shall be stamped with a duty of one shilling, although the same shall in the whole contain any quantity of words exceeding 2160.	

(*a*) The stamps may be adhesive; 28 & 24 Vict. c. 111, s. 12, post, p. 621.

23 Vict. c. 15.

SCHEDULE.	DUTY.
Bill of Exchange, draft or order for the payment of money, exceeding 4000*l.*, now chargeable with the stamp duty of 2*l.* 5*s.*; For every 1000*l.* or part of 1000*l.* of the money thereby made payable	£0 10 0
Bill of exchange (foreign) drawn in a set of three or more for the payment of money exceeding 4000*l.*, where every bill of the set is now chargeable with the stamp duty of fifteen shillings; Every bill of the set, for every 1000*l.* or part of 1000*l.* of the money thereby made payable	0 3 4
Bill of exchange, draft or order (foreign), drawn or endorsed out of the united kingdom for the payment of money on demand.	The same duty as on an inland bill of exchange for the payment of money otherwise than on demand, according to the amount thereby made payable.
All bills, drafts or orders, for the payment by any banker or person acting as a banker of any sum of money, though not made payable to the bearer or to order, and whether delivered to the payee or not; and all writings or documents entitling or intended to entitle any person whatever to the payment from or by any banker or person acting as a banker of any sum of money, whether the person to whom payment is to be made shall be named or designated therein or not, or whether the same shall be delivered to him or not, shall respectively be deemed to be bills, drafts or orders for the payment of money chargeable with stamp duty, as if the same had been made payable to bearer or to order. Provided always, that any one document or writing, although directing the payment of several sums of money to different persons, shall be chargeable with stamp duty as one order only.	
Exemptions.	
Any draft or order drawn by any banker upon any other banker, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such bankers. Any letter written by a banker to any other banker directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made, or to any person on his behalf; and all warrants or orders for the payment of any annuity granted by the commissioners for the reduction of the national debt, or for the payment of any dividend or interest on any share in the government or parliamentary stocks or funds, and all drafts or orders drawn by the accountant-general of the court of chancery in England or Ireland, shall be exempt from all stamp duty.	
Copy.—Certified copy or extract of or from any register of births, baptisms, marriages, deaths or burials . . . . . The said duty to be paid by the person requiring any such copy or extract.	0 0 1
Exemptions (*a*).	
Copies of entries of baptisms, marriages and burials, transmitted to the registrar of the diocese, in pursuance of the 52 Geo. 3, c. 146.	

(*a*) Further exemptions, see 23 & 24 Vict. c. 111, s. 16, post, p. 622.

23 Vict. c. 15.

SCHEDULE.	DUTY.
Certified copies of registers sent by superintending registrars to the general registrar, in pursuance of the 6 & 7 Will. 4, c. 86. And copies or extracts made or given under or in pursuance of the 7 Vict. c. 15, to amend the Laws relating to Labour in Factories.	
Cost-book mines.—Any note, instrument or writing, requesting or authorising the purser or other officer of any mining company conducted on the cost-book system to enter or register any transfer of any share or shares or part of a share in any mine; or any notice to such purser or officer of any such transfer . . .	£0 0 6
Declaration in lieu or in the nature of an affidavit, in any case where, if the same were an affidavit, it would be chargeable with any stamp duty	The same duty as would be chargeable on such affidavit.
Delivery order.—Any writing or document commonly called a delivery order, or by whatever name the same shall be designated, entitling or intended to entitle any person therein named, or his assigns, or the holder thereof, to the delivery of any goods, wares or merchandise, of the value of forty shillings or upwards, lying in any dock or port or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such writing or document being signed by or on behalf of the owner of such goods, wares or merchandise, upon the sale or transfer of the property therein	0 0 1
Dock warrant.—Any warrant or document commonly called a dock warrant or any other writing or document, by whatever name the same shall be designated, which shall evidence the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods, wares or merchandise, lying in any dock or warehouse or upon any wharf, such writing or document being signed or certified by or on behalf of the company or person in whose custody such goods, wares or merchandise may be	0 0 3
Exemption. Any writing or document given by any inland carrier acknowledging the receipt of goods conveyed by such carrier (*a*).	
Letter or power of attorney for the sale, transfer or acceptance, of any of the government or parliamentary stocks or funds not exceeding in value 20*l.*; or for the receipt of any sum of money, or any cheque, note or draft for any sum of money not exceeding 20*l.*; or dividends or interest of any such stocks or funds, or any other periodical payments not exceeding the annual sum of 10*l.*	0 5 0

23 & 24 Vict. c. 80. An Act to regulate the Levying and Collection of the Inventory Duty payable upon Heritable Securities and other Property in Scotland. [6th August, 1860.]

23 & 24 Vict. c. 80.

"Whereas by an Act passed in the present session of parliament, chapter fifteen, it was enacted, that money secured on heritable property in Scotland, and money secured by Scotch bonds in favour of heirs and assignees, excluding executors, should for the purposes of the Act be held and interpreted to be moveable property, and should be included in any inventory to be exhibited and recorded in any commissory court in Scotland of the estate and effects of any person deceased entitled thereto, and in England and Ireland respectively should be deemed to be estate and effects for or in respect whereof any probate of will or letters of administration should be granted; and that every such inventory, probate and letters of administration should be chargeable with

23 & 24 Vict. c. 15.

(*a*) See 23 & 24 Vict. c. 111, s. 15, post, p. 622.

23 & 24 Vict. c. 80.

stamp duty in respect of such moveable property; and that such property and the value thereof should be included in any affidavit as therein mentioned, made on applying for probate or letters of administration in respect thereof, in England or Ireland; and it is expedient that the levying and collecting of the said duty should be regulated as hereinafter mentioned:" BE IT THEREFORE ENACTED as follows:

Money secured on heritable property in Scotland and Scottish bonds, excluding executors, to be liable to inventory duty.

1. All money secured on heritable property in Scotland, and all money secured by Scottish bonds and other instruments, excluding executors, and all money secured by Scottish bonds and other instruments the rights to which shall be taken excluding executors, constituting the succession or part of the succession of any person who shall have died on or after the third day of April in the year one thousand eight hundred and sixty, shall be liable to inventory duty under the said recited Act.

Duty, and interest thereon, shall be a debt to her majesty, to be payable by person who shall take money secured.

2. The said duty, with interest thereon at the rate of five per centum per annum from the expiry of the period of six months after the death of such deceased person, shall be a debt to her majesty, and shall be payable by any and every person who shall take any money secured as aforesaid, constituting the succession or part of the succession of any person deceased, and that whether he shall take the same as having a beneficial interest therein, or as trustee, or in any other capacity, and whether he shall have an absolute right, or only a life-rent or life interest, or other limited right or interest therein, and whether he shall take the same by mortis causâ conveyance, or by special destination, or by inheritance.

Stamped special inventory to be lodged on oath with the solicitor of inland revenue at Edinburgh.

3. The person or persons so taking such money as aforesaid shall, within six months next after taking the same or any part thereof or any interest due thereon, lodge with the solicitor of inland revenue at Edinburgh a full and true inventory upon oath or solemn affirmation, to be called a "special inventory," in the form of the schedule annexed hereto, of all money secured as aforesaid, constituting the succession or part of the succession of such deceased person, such special inventory having thereon a stamp denoting the duty payable on the value of such money secured as aforesaid contained in such inventory, being the same rate and amount of duty, whether testate or intestate, as the case may be, which would have been payable as inventory duty on moveable or personal estate of the same value; and the oath or affirmation to the said special inventory may be taken before any magistrate or justice of the peace within the united kingdom or the colonies, or any British consul; provided that in all cases the duty, together with the interest and necessary expenses, upon any money contained in such inventory, by whomsoever the same may have been originally paid, shall, in the absence of any special agreement or provision or valid testamentary direction to the contrary, be ultimately borne by the person or persons beneficially interested in such money, and if there shall be more than one person so interested, the duty shall be borne by them proportionally according to their several and beneficial interests in the money on which the duty has been so paid.

Money so secured may be added to inventory of personal or moveable estate.

As to return of duty on the ground of debts.

Duty paid off the aggregate amount to be ultimately borne by the parties according to their beneficial interest.

4. It shall be lawful for the executor or executors of the deceased to add the amount of money so secured, and the value thereof, including the proceeds accrued thereon, as hereinafter mentioned, to the inventory in Scotland of the deceased's moveable or personal estate, and to pay the stamp duty on the aggregate amount, in which case no special inventory or separate stamp duty shall be required from the person or persons beneficially entitled to the money so secured; provided that in this case the executor or executors of the deceased shall make oath (or, if so privileged, solemn affirmation), of the true amount and value of the said money and proceeds; and the contingent provision for return of duty, hereinafter provided for, in regard to the debts of the deceased, shall in such case be applicable mutatis mutandis; and farther, in this case, the inventory duty so paid on the aggregate amount of the deceased's moveable or personal estate, and of the said money and proceeds, shall, in the absence of any special agreement or provision or valid testamentary direction to the contrary, be ultimately borne by the persons beneficially interested proportionally according to their several and beneficial interests in the aggregate amount on which the stamp duty shall have been so paid, and with right of relief accordingly.

Property for payment of inventory duty shall be valued at the date of the affidavit to the inventory (a).

5. The special inventory provided by this Act, and the inventory of the personal estate of a deceased, containing also the property on which duty is imposed by the recited Act and this Act, shall be stamped with duty according to the value of the property contained therein at the time they shall be respectively sworn to, including the proceeds accrued thereon down to that time, and the duty or deficient duty according to such value and proceeds and interest thereon, at the rate of five per centum per annum, shall be a debt due to her majesty by the person making oath to said inventories; and it is hereby provided, that the inventory and additional inventory of any person deceased required to be exhibited and recorded in the proper commissary court in Scotland shall be stamped with duty according to the value of the property contained therein at the time they shall be respectively sworn to, including the proceeds accrued thereon down to that time; and the duty or deficient duty according to such value and proceeds, and interest thereon at the rate of five per centum per annum, shall be a debt to her

(a) See *In re Booth*, 1 Giff. 46.

majesty by the person making oath to said inventory and additional inventory, and his heirs and successors; and if such inventory and additional inventory shall not be exhibited and recorded, the inventory duty on all the personal or moveable estate and effects of the deceased, and interest thereon at the rate of five per centum per annum from the expiry of the period of six months after the death of such deceased person, shall be payable and shall be a debt to her majesty by the person who shall intromit with or enter upon the possession and management of such personal or moveable estate and effects, or any part thereof, and his heirs and successors. 23 & 24 Vict. c. 80.

6. The commissioners of inland revenue shall grant a return of the said duty, corresponding to a rateable apportionment of the amount by which the debts (in respect of which a claim for return of inventory duty may be competent) shall be proved to the satisfaction of the said commissioners to exceed the personal estate of the deceased, between the amount of the money contained in the said special inventory and all the other heritable property of the deceased; provided such return shall be claimed within three years from the date of lodging the special inventory. Power to grant a return of duty under circumstances herein stated.

7. Every person shall for the purposes of this Act be held to have taken money secured as aforesaid who shall have received or intromitted with such money or any part thereof, or any interest due thereon, or who shall have made up a title thereto. Intromitters, &c., to be held to have taken money so secured.

8. Money secured upon heritable property by conveyance ex facie absolute, and money secured by adjudication when the right of reversion has not expired, and all money secured in any other way upon heritable property, shall be subject to the provisions of the recited Act and this Act; provided always, that nothing therein and herein contained shall be held to apply to feu duties or to other permanent periodical payments which are made a real burden upon land, where payment of a capital sum of money is not thereby secured. Money secured on land by absolute conveyance, and adjudication, and otherwise, to fall under the provisions of the Act.

9. The said recited Act is hereby repealed, in so far as it provides that in England and Ireland the said money shall be deemed estate and effects for and in respect of which probate and letters of administration shall be granted, and shall be included in the affidavit made on applying for probate or letters of administration in England and Ireland. Recited Act repealed to a certain extent.

SCHEDULE.

SPECIAL inventory of the money secured on heritable property in Scotland, and money secured by Scotch bonds, &c., excluding executors, belonging to [*name and description of deceased*], who died at on the day of 18 for payment of the duty imposed by the Act 23 & 24 Victoria, cap. 80.

	£	s.	d.
I. Bond and disposition in security dated granted by in favour of the deceased, over lands in the county of [*Fife*] [*or* houses in the city of (*Edinburgh,*) *&c. If deceased acquired right by assignation, &c., describe title*].			
II. Interest thereof from the day of to the day of .			
III. Bond dated granted by in favour of the deceased, excluding executors [*If the deceased's right is by assignation, &c., describe right*].			
IV. Interest thereon as above			

At the day of one thousand eight hundred and , in presence of Esquire, one of the magistrates for the city of [*Edinburgh*] [*or* Justice of the Peace, *or* British consul],

Appeared who, being solemnly sworn and examined, deponed that [*name and description of deceased*] died at on the day of ; that the deponent has right to the above subjects [*or* part of the above subjects, *or* to the life rent of the above subjects, *&c.*] as heir of the deceased [*or* as legatee, *or* as one of the trustees of the deceased, *&c.*]; that the deponent knows of no settlement or other writing left by the deceased relative to the disposal of his personal estate or effects or any part thereof [*or* that the deponent does not know of any settlement or writing relative to the disposal of the deceased's personal estate or effects or any part thereof, other than a general disposition and deed of settlement dated the day of registered in the books of council and session on the day of]; that the foregoing inventory, each page of which is signed by the deponent as relative hereto, is a full and complete special inventory of all the money or property belonging to the deceased, and proceeds thereof, liable to the duty imposed by the Acts 23 Vict. cap. 15, and 23 & 24 Vict. cap. 80 [*this Act*], in so far as the same has come to the deponent's knowledge; and that the said property is of the value of pounds and under the value of pounds. All which is truth, as the deponent shall answer to God.

23 & 24 Vict. c. 111.

23 & 24 Vict. c. 111. An Act for granting to Her Majesty certain Duties of Stamps, and to amend the Laws relating to the Stamp Duties. [28th August, 1860.]

After passing of this Act the duties described in schedule to be charged.

1. From and after the day of the passing of this Act there shall be granted, raised, levied and paid, in and throughout the united kingdom of Great Britain and Ireland, for the use of her majesty, her heirs and successors, for and in respect of the several instruments, matters and things described or mentioned in the said schedule, or for or in respect of the vellum, parchment or paper, upon which any of them respectively shall be written, the several stamp duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said schedule, which said schedule, and the several provisions, regulations and directions therein contained with respect to the said duties, and the instruments, matters and things charged therewith, shall be deemed and taken to be part of this Act, and shall be applied and put in execution accordingly: provided that nothing herein contained shall in any way alter or affect the Act passed in the twelfth and thirteenth years of the reign of her present majesty, intituled "An Act to confer certain Powers on the Railway Passengers' Assurance Company," or the duties thereby imposed.

Stamp duties now payable on instruments, &c. mentioned in schedule repealed.

2. The stamp duties now payable for and in respect of the several instruments, matters and things, mentioned or described in the schedule to this Act annexed, whereon other duties are by this Act granted, shall respectively from and after the day of the passing of this Act cease and determine, and the same are hereby repealed; provided that the stamp duties now chargeable on any of the said instruments, matters and things, and not the said other new duties, shall be payable in respect of such of them as shall be made, signed or dated at any time before or upon the day of the passing of this Act.

Allowances on bill and receipt stamps granted by Acts 13 & 14 Vict. c. 97, and 17 & 18 Vict. c. 83, to cease, and an allowance granted in lieu thereof.

3. From and after the thirty-first day of December, one thousand eight hundred and sixty, the allowances granted respectively by the eighteenth section of the Act passed in the thirteenth and fourteenth years of her majesty, chapter ninety-seven, in respect of stamps for receipts, and by the twenty-fourth section of the Act passed in the seventeenth and eighteenth years of her majesty, chapter eighty-three, in respect of stamps for drafts, bills and notes, and any allowance granted by or payable under any other Act in respect of any of the stamps hereinafter mentioned, shall cease; and in lieu thereof there shall be granted and allowed to every person who at one and the same time shall produce at the office of the commissioners of inland revenue in London or Dublin paper to be stamped with stamps for denoting any rate of duty not exceeding one shilling on bills of exchange, drafts or orders, or promissory notes or stamps, for denoting the duty of one penny on any instrument or document whatever (except postage stamps and customs stamps), to the amount of two pounds or upwards in the whole of all or any of such stamps as aforesaid, and to every person who at one and the same time shall purchase any such stamps as aforesaid at the office of the said commissioners in London, Edinburgh, or Dublin, to the amount aforesaid, or of any distributor or sub-distributor of stamps at any place not within the distance of ten miles from the said offices respectively, to the amount of one pound or upwards, an allowance of tenpence for every twenty shillings of the amount of the duties denoted by such stamps.

Provisions of former Acts to apply to this Act.

4. All the powers, provisions, clauses, regulations, directions, allowances and exemptions, fines, forfeitures, pains and penalties contained in or imposed by any Act or Acts, or any schedule thereto, relating to any duties of the same kind or description heretofore payable in the united kingdom and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, paper, instruments, matters and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable in all cases not hereby expressly provided for; and shall be observed, applied, allowed, enforced and put in execution, for and in the raising, levying, collecting and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted, mutatis mutandis, with reference to the duties by this Act granted.

The duties on foreign promissory notes to be denoted by adhesive stamps.

5. The duties by this Act granted on promissory notes made or purporting to be made out of the united kingdom shall be denoted by adhesive stamps, to be provided by the commissioners of inland revenue for the purpose, or by any stamps of sufficient amount which shall have been provided for denoting the duties on bills of exchange made out of the united kingdom; and the proper adhesive stamp for denoting the duty on any such note shall be affixed thereon, and be cancelled at the same time and times, and in like manner as is provided by the fifth section of an Act passed in the seventeenth and eighteenth years of her present majesty, chapter eighty-three (*a*), and the twelfth section of an Act passed in the present session, chapter fifteen (*b*), in the case of bills of exchange therein respectively mentioned, and under the like penalties respectively for any neglect thereof; and the said respective sections shall be read as if the same were

(*a*) Ante, p. 600. (*b*) Ante, p. 614.

inserted in this Act expressly in reference to the promissory notes aforesaid, and the duties by this Act granted thereon, as well as to the bills of exchange therein respectively mentioned. 23 & 24 Vict. c. 111.

6. The term "contract note," wherever the same is used in this Act, shall mean any note or memorandum mentioned or referred to under the head contract note in the schedule to this Act; and the term "insurance" shall mean also and shall include the term "assurance." Construction of terms "contract note" and "insurance."

7. The stamp duty on contract notes may be denoted either by impressed or adhesive stamps, and the said commissioners shall provide stamps of both descriptions; and in any case where a contract note is made, and the same is not written on an impressed stamp, there shall be affixed thereon a proper adhesive stamp; and every person who shall make or sign a contract note to which an adhesive stamp shall be affixed shall effectually cancel and obliterate the stamp by writing upon or across it his name or the name of his firm, or the initials thereof respectively, and by adding thereto the date of such cancelling, and so and in such manner that the said stamp cannot be used upon or for any other document or writing; and if any person shall make or sign any contract note by this Act chargeable with stamp duty without the same being duly stamped to denote the said duty; or shall refuse or neglect to cancel and obliterate as aforesaid any adhesive stamp affixed thereon, he shall forfeit the sum of twenty pounds; and no charge for brokerage, commission, agency or otherwise, made or to be made by any broker, agent or other person, in or about the sale or purchase mentioned or referred to in any contract note made or signed by him, shall be lawful unless such contract note shall be duly stamped, and the stamp thereon, if adhesive, properly cancelled. Stamps on contract notes may be impressed or adhesive; if adhesive, to be cancelled.

8. Where any insurance in respect of which a policy or agreement is chargeable with stamp duty under this Act shall be renewed or continued on the payment of further premium or consideration, whether in pursuance of any stipulation in the policy or agreement or otherwise, a receipt for such further premium or consideration shall be given by the person who shall receive the same, and such receipt shall for the purposes of this Act be and be deemed the policy or agreement for such renewed or continued insurance and be chargeable with the duty by this Act granted; and if any person shall receive any money for premium or consideration for any such insurance, and shall not within a month make out and, if required, deliver a duly stamped policy or agreement in respect thereof; or in the case of a renewal or continuance of such insurance, shall not thereupon give such receipt as aforesaid duly stamped; or if any such person shall deliver or cause to be delivered any policy or agreement, or give or cause to be given any receipt not duly stamped, he shall forfeit the sum of twenty pounds; and where the insurance shall be made, renewed or continued by or for any society or company, the person who shall be a managing director, or the secretary or other principal officer thereof, at the time of the payment of any such premium or consideration, and of any such default or unlawful act being done or suffered as aforesaid, shall be held and deemed to be a person doing or suffering the default or unlawful act, and shall, as well as the society or company, and the members thereof who may by law be chargeable therewith, be subject and liable to the said penalty in respect thereof. On renewal of insurance the receipt to be chargeable with the duty (a).

9. The duties hereby granted on instruments of insurance may be denoted by any adhesive stamps that the commissioners of inland revenue may provide for the purpose, and in the meanwhile by any adhesive stamps provided by them not appropriated by name to any other instrument, as well as by impressed stamps, or by a combination of both impressed and adhesive stamps; and in any case where an adhesive stamp is issued it shall be cancelled by writing upon the stamp the name of the person or the society or company making the insurance, or the initials thereof, and the date of writing the same, and also any particulars relating to the insurance for which the stamp may be adapted; and in default thereof such person or society or company, and also the managing director, secretary or other principal officer as aforesaid of any such society or company, shall forfeit the sum of ten pounds. Adhesive or impressed stamps, or both, may be used for insurances.

10. Whereas it is expedient to reduce the stamp duty now chargeable on policies of insurance upon lives for small sums: BE IT ENACTED, in lieu of the stamp duty of sixpence now payable upon or for or in respect of any policy of insurance or other instrument by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon a life or lives, where the sum insured shall not exceed twenty-five pounds, there shall be charged and payable the stamp duty of threepence. The stamp duty on policies of insurance on lives for sums not exceeding 25*l.* reduced.

11. No insurance from loss or damage by fire in any sum not exceeding twenty pounds, made, renewed or continued at the instance or for the benefit of any working mechanic, artificer, handicraftsman or labourer on the tools or implements of work or labour used by any such person in his work or employment shall be chargeable with any stamp duty; provided that such insurance be effected by a separate policy, or that a distinct sum be assured on such tools or instruments. No duty on insurance of workmen's tools not exceeding 20*l.*

12. The stamp duty of sixpence by the Act of the present session of parliament, chapter fifteen (b), charged on an agreement under hand only may be denoted by an adhesive stamp in any case where the same is capable of being used under the terms and The stamp on an agreement may be adhesive.

(a) Partially repealed 24 & 25 Vict. c. 91, s. 29. (b) Ante, p. 615.

23 & 24 Vict. c. 111.

restrictions hereinafter mentioned; and the commissioners of inland revenue shall provide stamps for the purpose; and whenever any such adhesive stamp shall be used, every party to the agreement who shall sign the same, shall also at the time of so signing write upon or across the stamp his name and the date of the day and year of writing the same, so that the stamp may be appropriated to the instrument, and effectually cancelled and rendered incapable of being used for any other; and in default thereof the stamp shall be of no avail; and proof of the said writing upon or across the stamp, as hereby required, shall be a necessary part of the evidence of the agreement in any case where such agreement is not stamped with an impressed stamp.

Every delivery order to be deemed to be upon a sale or transfer unless otherwise stated.

Penalty for false statement.

Order not to be invalid.

13. Every writing or document entitling or intended to entitle any person to the delivery of any goods, wares or merchandise lying in any dock, port or warehouse, or upon any wharf, as in the said Act of the present session is mentioned, shall be deemed to be made and given upon a sale or transfer of the property in such goods, wares or merchandise, unless the contrary shall be expressly stated therein by the person making or giving the same; and if any person shall untruly state or by any word or words signify or cause or permit to be untruly stated or signified in any such writing or document that the same is not made or given upon a sale or transfer; or if any person shall himself or by his servant or other person procure or require the delivery of any of the goods, wares or merchandise therein mentioned, knowing that the same contains any such untrue statement, every such person shall forfeit, over and above any other penalty to which he may be liable, the sum of twenty pounds; but any such writing or document shall not, by reason of the same not being stamped, be invalid in the hands of the person having the custody of the goods, wares and merchandise, and delivering out the same, unless such person shall be party or privy to the fraud thereby committed.

The stamp duty on a delivery order to be paid by the person requiring the order.

14. The stamp duty of one penny payable on any such writing or document as in the last preceding clause is mentioned shall, in the absence of any special agreement between the parties relating to it, be paid by the person requiring the writing or document; and it shall be lawful, in any such case, for the person of whom the writing or document is required to refuse to give the same until the amount of the stamp duty thereon be paid to him.

Weight-notes not to be liable as dock warrants.

15. Whereas a practice prevails in relation to certain descriptions of goods, wares and merchandise lying in docks and warehouses, and upon wharfs, for the company or person in whose custody the same may be to deliver to the owner thereof, in addition to a warrant evidencing the title to the property, a certain other document termed a weight-note, such document being intended to be delivered by or on behalf of the owner to the purchaser of the goods mentioned in the warrant upon any sale thereof before the completion of the contract for sale, but which other document as well as the warrant is chargeable with the duty of threepence under the head dock-warrant in the schedule to the said Act of the present session, and it is expedient that the same should be exempted from the said duty: BE IT THEREFORE ENACTED, in any case where a document designated a warrant, chargeable with and duly stamped for denoting the payment of the said duty of threepence, and also a document termed a weight-note, or any other document of the like character or description relating only to the same goods, wares or merchandise as are specified in the warrant, shall be issued by the company or person in whose custody the said goods, wares or merchandise shall be, to the owner thereof or his broker or agent, the weight-note or other document aforesaid shall be exempt from the said duty of threepence.

Certain copies or extracts from registers not to be chargeable with stamp duty.

16. The stamp duty of one penny by the said Act of the present session (*a*) charged upon a certified copy or extract of or from any register of births, baptisms, marriages, deaths or burials shall not be deemed to have been or to be payable upon any such copy or extract which is or shall be furnished by any clergyman, registrar or other official person, pursuant to and for the purposes of any Act of parliament, or to any general or superintending registrar under any general regulation, nor in any case where the person giving the copy or extract is not entitled to any fee or reward for the same.

Certain orders on bankers not to be subject to more than a penny stamp.

17. No draft, or order, writing or document for the payment or for entitling any person to the payment by or through any banker or person acting as a banker of any sum of money, such draft, order, writing or document being sent or delivered by the person making or giving the same to the banker or person acting as a banker by or through whom the payment is to be made, and not to the person to whom such payment is to be made or to any person on his behalf, shall be chargeable or be deemed to have been chargeable with any higher stamp duty than one penny, notwithstanding the said payment shall be or have been thereby directed to be made at any time after the date thereof, which duty of one penny may be denoted by an adhesive stamp to be cancelled as in the case of a draft or order on demand.

Bankers may affix stamps to drafts or orders drawn on them.

18. Where any draft or order for the payment of money by any banker or person acting as a banker, chargeable with the stamp duty of one penny, shall come to the hands of such person unstamped, it shall be lawful for him to affix thereto the necessary adhesive stamp, and to cancel the same in manner by law required, and upon so doing to make the payment thereby directed, and to charge the duty in account against the person who ought to have paid the same, or to deduct such duty from the sum so

(*a*) Ante, p. 616.

directed to be paid; and such draft or order shall, so far as relates to the stamp duty chargeable thereon, be good and valid; but this shall not relieve any person from the liability to the penalty he may have incurred by issuing the said draft or order unstamped.

23 & 24 Vict. c. 111.

19. Whereas by the eighteenth section (*a*) of the Act passed in the fifty-fifth year of the reign of king George the third, chapter one hundred and eighty-four, the issuing of promissory notes payable to bearer on demand with printed dates therein is prohibited, and such prohibition is an unnecessary restriction: BE IT ENACTED, that the said section of the said last-mentioned Act shall be and is hereby repealed: provided always, that notwithstanding anything in any Act of parliament contained to the contrary, it shall be lawful for any person to draw upon his banker, who shall *bonâ fide* hold money to or for his use, any draft or order for the payment, to the bearer or to order on demand, of any sum of money less than twenty shillings.

Sect. 18 of 55 Geo. 3, c. 184, prohibiting the issuing of bankers' notes with printed dates, repealed.

Drafts on bankers for less than 20*s.* to be lawful.

20. Whereas by an Act passed in the fiftieth year of the reign of king George the third, chapter forty-one (*b*), every hawker, pedlar and petty chapman and other trading person going from town to town or to other men's houses, in England, Wales, or Berwick-upon-Tweed, is required to take out a licence as therein mentioned, and by an Act passed in the fifty-fifth year of the reign of the said king, chapter seventy-one, such trading persons in Scotland are also required to take out a licence: BE IT ENACTED, That a licence taken out under either of the said Acts shall be sufficient to authorise the trading according to the tenor of it, in any part of Great Britain, and shall be read as a licence granted under both of the said Acts.

Licences to hawkers and pedlars granted in England or Scotland to be good for any part of Great Britain.

21. If any person be convicted of an offence under either of the said two last-mentioned Acts, it shall be lawful for the commissioners of inland revenue, and they are hereby authorised, in case they should think fit so to do, to remit the whole or any part of the penalty imposed by law for such offence, notwithstanding the same or some portion thereof may be payable to some party other than the crown.

Commissioners of inland revenue may remit penalties under the said Acts.

22. It shall be lawful for any person in the service or employment of the post-office, without any licence or any authority other than this Act, to carry about for sale and to sell at any place or places within the united kingdom, postage stamps and printed forms of any kind issued from or used at the general post-office, and any other matters and things relating to the business of the post-office which are or may be authorised or permitted to be sold at any post-office; and such person shall not be subject or liable to any penalty or forfeiture for so doing, anything in any Act or Acts to the contrary notwithstanding.

Persons in the service of the post-office may sell postage stamps, &c., without licence.

23. Whereas by the Act passed in the twentieth and twenty-first years of her majesty's reign, chapter seventy-seven (*c*), for amending the Law relating to Probates and Letters of Administration in England, IT IS ENACTED, That none of the fees payable to the officers of the court of probate, or of any county court, in respect of business under the Act, except the fees of district registrars (which were to be taken as their remuneration, and for their own use), should be received in money, but that every such fee should be collected and received by a stamp denoting the amount of the fee which otherwise would be payable, and provisions were therein made for the proper collection of such fees; and IT WAS ALSO ENACTED, that it should be lawful for the commissioners of her majesty's treasury at any time to order that the district registrars or any of them should be paid by salaries instead of fees, and that thereupon all fees payable to them should be accounted for and paid into the exchequer as the last-mentioned commissioners should direct; and by an Act passed in the same year, chapter seventy-nine, for amending the law relating to Probates and Letters of Administration in Ireland, similar enactments are contained; and it may be considered expedient in cases where the last-mentioned commissioners shall have directed or shall at any time direct the district registrars in England or Ireland to be paid by salaries instead of fees, that such fees should also be collected and received by means of stamps: BE IT THEREFORE ENACTED as follows, in any case where the commissioners of her majesty's treasury have ordered or shall at any time hereafter order that any district registrar, under either of the said Acts, shall be paid by salary, it shall be lawful for them at any time to order also that the fees or any of the fees authorised to be taken by such district registrar shall be collected and received by means of stamps; and thereupon, from and after the time to be fixed for that purpose by any such last-mentioned order, every such fee shall be collected and received by a stamp denoting the amount of the fee which otherwise would be payable, in the same manner and under and subject to the same provisions, clauses, regulations and directions in that behalf, as are contained in the said Acts respectively, in relation to the fees thereby directed to be collected and received by means of stamps, and to the documents which ought to be stamped to denote such fees, as if such fees had not been excepted as aforesaid, but had been expressly directed by the said respective Acts to be collected and received by means of stamps, as other fees are thereby respectively directed to be collected and received.

20 & 21 Vict. c. 77, probates and administrations, England.

20 & 21 Vict. c. 79, Ireland.

If treasury direct district registrars to be paid by salary, they may also direct the fees to be collected, &c., by means of stamps.

(*a*) Ante, p. 469.

(*b*) Ante, Vol. II., p. 406, tit. "HAWKERS."

(*c*) Ante, Vol. I., p. 1300, tit. "COURTS (PROBATE, &c.)".

23 & 24 Vict. c. 111.

SCHEDULE referred to, containing the Duties by this Act imposed.

SCHEDULE.	DUTY.
Award (a) in England or Ireland, and award or decreet arbitral in Scotland:	
Where the amount or value of the matter in dispute shall not exceed 50*l.*	£0 2 6
And where it shall exceed 50*l.* and not exceed 100*l.*	0 5 0
And where it shall exceed 100*l.* and not exceed 200*l.*	0 10 0
And where it shall exceed 200*l.* and not exceed 500*l.*	0 15 0
And where it shall exceed 500*l.* and not exceed 750*l.*	1 0 0
And where it shall exceed 750*l.* and not exceed 1000*l.*	1 5 0
And where it shall exceed 1000*l.* and also in all other cases not above provided for	1 15 0
Contract note (b).—Any note, memorandum or writing, commonly called a contract note, or by whatever name the same may be designated, for or relating to the sale or purchase of any government or other public stocks, funds or securities, or any stocks, funds or securities, or share or shares of or in any joint stock or other public company, to the amount or value of 5*l.* or upwards	0 0 1
Lease.—Any assignment or surrender of a lease or tack for a term of years exceeding thirty-five, upon any other occasion than a sale or mortgage	A duty equal to the ad valorem duty with which a similar lease or tack would be chargeable, but no higher duty than 1*l.* 15*s.* shall be charged.
Policy of assurance (c) or insurance, by whatever name the same shall be called, whereby any sum of money shall be assured, or agreed to be paid only upon the death of any person, from or by reason of any cause incident to or consequent upon travelling, whether by land or water, or any accident or external violence, or any cause whatever other than a natural cause; or whereby any compensation shall be assured or agreed to be made or paid for personal injury received from any cause whatever; or whereby both a sum of money upon death and a compensation for personal injury as aforesaid shall be assured and agreed to be paid, or whereby any assurance or insurance shall be made upon glass from loss or damage of any kind except by fire,	
Where the *premium or consideration for such assurance, insurance or agreement shall not exceed two shillings* and sixpence	0 0 1
And where the same shall exceed two shilling and sixpence and shall not exceed five shillings	0 0 3
And where the same shall exceed five shillings, then for every five shillings and also for every fractional part of five shillings	0 0 3
Promissory note made in the united kingdom for the payment of any sum of money exceeding 4000*l.*,	
For every 1000*l.* or part of 1000*l.* of the money thereby made payable	0 10 0
Foreign promissory note made or purporting to be made out of the united kingdom for the payment within the united kingdom of any sum of money	The same duty as on an inland bill of exchange for the payment otherwise than on demand of money of the same amount.

(a) See ante, p. 491, n. (d). (b) See sect. 6, ante, p. 621.
(c) See sect. 8, ante, p. 621.

24 & 25 Vict. c. 21. An Act for granting to Her Majesty certain Duties of Excise and Stamps. [28th June, 1861.]

24 & 25 Vict. c. 21.

Grant of duties specified in schedules annexed.

1. There shall be charged, collected, and paid for the use of her majesty, her heirs and successors, the several duties of excise and stamps specified and contained in the schedules marked respectively (A.) and (B.) to this Act annexed, which said duties shall commence and take effect at or from the respective times specified or mentioned in that behalf in the said schedules; and where with regard to any of such duties no time is so specified for the commencement thereof, the same shall commence and take effect from and after the passing of this Act: provided, that the last-mentioned duties imposed on any of the several instruments, matters, and things described in the said schedule (B.) shall be chargeable in respect of such of them only as shall be dated, or, if there be no date, made or signed at a time after the day of the passing of this Act.

[See sec. 3, ante, Vol. I. pp. 397-8, tit. "BEER;" see secs. 4—9, ante, Vol. II. p. 413, tit. "HAWKERS."]

Who shall be deemed house agents, and required to be licensed as such.

10. Every person who, as an agent for any other person, shall, for or in expectation of fee, gain, or reward of any kind, advertise for sale or for letting any furnished house or part of any furnished house, or who shall by any public notice or advertisement, or by any inscription in or upon any house, shop, or place used or occupied by him, or by any other ways or means, hold himself out to the public as an agent for selling or letting furnished houses, and who shall let or sell, or agree to let or sell, or make or offer or receive any proposal, or in any way negotiate for the selling or letting of any furnished house or part of any furnished house, shall be deemed to be a person using and exercising the business, occupation, or calling of a house agent within the meaning of this Act and the schedule (B.) hereto, and shall be licensed accordingly: Provided that no person shall be deemed to be such house agent by reason of his letting, or agreeing or offering to let, or in any way negotiating for the letting of any house not exceeding the annual rent or value of twenty-five pounds: provided also, that any story or flat rated and let as a separate tenement shall be considered to be a house for the purposes of this enactment.

By whom licences to house agents shall be granted, and the date and continuance thereof.

11. The commissioners of inland revenue, and any person authorised by them, shall, after the fifth day of July, one thousand eight hundred and sixty-one, grant licence to any person who shall apply for the same to use and exercise the business, occupation and calling of a house agent, which licence shall also authorise the person to whom it is granted to use and exercise the calling or occupation of an appraiser; and any such licence issued between the fifth day of July and the fifth day of August in any year shall be dated on the sixth day of July, and any such licence issued at any other time shall bear the date of the day on which the same shall be issued, and every such licence shall continue in force from the day of the date thereof until and upon the fifth day of July then next following and no longer.

Penalty on house agents acting without a licence.

12. Every person who shall use or exercise the business, occupation or calling of a house agent, without having a licence in force under this Act so to do, shall forfeit the sum of twenty pounds.

Exceptions.

13. Provided always that this Act shall not extend to require any agent employed in the management of landed estates, or any attorney, solicitor, proctor, writer to the signet, agent or procurator admitted in any court of law, or any conveyancer, who shall as such have taken out his annual certificate, or any auctioneer or appraiser, having in force a licence as such, to take out a licence under this Act as a house agent.

The stamp on the lease of a furnished house may be adhesive; the same to be cancelled.

14. The stamp duty on a lease or tack of a furnished dwelling house for a term or period of time less than a year, or on an agreement, or a minute or memorandum of an agreement, containing the terms and conditions on which any such house is let, held or occupied for any such term or period of time, whatever may be the amount of rent reserved or made payable, and any counterpart or duplicate thereof, may be denoted by an adhesive stamp affixed thereto, to be provided by the commissioners of inland revenue for that purpose; and where any such adhesive stamp shall be used, every party to the instrument who shall sign the same shall also at the time of signing it write upon or across the stamp his name, and there shall, before or at the time of so signing the instrument by the party who shall first sign the same, be written upon the stamp the date of the instrument, so that the stamp may be appropriated to the instrument and effectually cancelled and rendered incapable of being used for any other instrument, and in default thereof the stamp shall be of no avail, and proof of the said writing upon or across the stamp as aforesaid shall be a necessary part of the evidence of the signing or making of the instrument in any case where such instrument is not stamped with an impressed stamp: Provided always, that where the persons who as parties shall sign any such instrument shall exceed two, it shall be sufficient if one person only on each part shall write his name on the stamp.

Penalty for signing any such agreement not stamped.

15. If any lease or tack, or agreement, minute or memorandum of agreement, hereinbefore described, or any duplicate or counterpart thereof, shall not be written on paper or parchment duly stamped for the same, and shall not at the time of signing the same as aforesaid have affixed thereto the proper adhesive stamp, or such stamp, if affixed, shall not be cancelled in manner hereinbefore mentioned, every person who shall sign the said instrument, if there shall be no stamp thereon or affixed thereto, and every person who shall make default in signing his name across the adhesive stamp if one shall be affixed

24 & 25 Vic. c. 21.

thereto, and also, in either of the cases aforesaid, the agent or person who shall prepare or be employed in preparing such instrument, shall forfeit five pounds, which shall be in addition to any penalty by law payable on stamping the same: Provided always, that nothing herein contained shall be construed to render any person liable to any penalty for or on account of any letters or correspondence by post containing the terms or conditions offered or accepted for the taking or letting of any furnished house.

SCHEDULES.

SCHEDULE (A.)

Containing the Duties of Excise granted by this Act.

Retail Licence to Dealers in Spirits.

	£	s.	d.
For and upon every additional excise licence to be taken out by any licensed dealer in spirits in Great Britain to authorise and empower him to sell by retail foreign or British spirits in any quantity not less than one reputed quart bottle, or as to foreign liquors in the bottles in which the same may have been imported, and not to be drunk or consumed on the premises, the sum of	3	3	0

Licence to sell Table Beer.

For and upon every excise licence to be taken out by any person for the sale in any house or shop of table beer at a price not exceeding the rate of one penny halfpenny the quart, and not to be drunk or consumed on the premises where sold	0	5	0

SCHEDULE (B.)

Containing the Stamp Duties imposed by this Act.

Bill of exchange (foreign) for the payment of money exceeding 500*l.* drawn out of the united kingdom, and payable or endorsed or negotiated within the united kingdom.			
For every 100*l.* and part of 100*l.* of the money thereby made payable	0	1	0
Lease or tack of any furnished dwelling house for any term or period of time less than a year, or any agreement, minute or memorandum of agreement, containing the term and conditions on which any such house is let, occupied or held for any such term or period of time, where the rent for such term or period of time shall exceed 25*l.*	0	2	6
And where the same, together with any schedule, receipt or other matter put or endorsed thereon or annexed thereto, shall contain 2160 words or upwards, then for every entire quantity of 1080 words therein contained over and above the first 1080 words, the further progressive duty of	0	2	6
And for any duplicate or counterpart thereof	The same duty or duties.		
Licence to be taken out by any hawker, pedlar or petty chapman in Great Britain who shall travel and trade on foot, without any horse or other beast bearing or drawing burden, and who shall carry his goods, wares or merchandise to and sell or expose for sale the same at other men's houses only, and not in or at any house, shop, room, booth, stall or other place whatever belonging to or hired or occupied or used by him for selling or exposing the same for sale in any town to which he may travel.			
Where such licence shall be granted for any period not exceeding six months	1	0	0
And where the same shall be granted for any period exceeding six months and not exceeding a year	2	0	0
Licence to be taken out by any such trading person in Great Britain who shall travel with one beast of burden only, that is to say, an ass or a mule or a horse not exceeding in height thirteen hands, of four inches to each hand.			
Where such licence shall be granted for any period not exceeding *six months* (*a*)	2	0	0
And where the same shall be granted for any period exceeding six months and not exceeding a year	4	0	0

(*a*) Sec 25 Vict. c. 22, s. 40, post, p. 635.

	£	s.	d.
The several stamp duties hereinbefore contained in this schedule to be in lieu of the stamp duties now payable upon the like matters under any other Act now in force.			
Licence to be taken out yearly after the fifth day of July, one thousand eight hundred and sixty-one, by every person who shall use or exercise the business, occupation or calling of a house agent	2	0	0

24 & 25 Vict. c. 21.

24 & 25 Vict. c. 91. An Act to amend the Laws relating to the Inland Revenue. [6th August, 1861.]

24 & 25 Vict. c. 91.

[17. Persons dealing in game without excise licence to be liable to penalty whether licensed by the justices or not (a).]

As to Stamps.

25. In lieu of the stamp duties now payable on PROTESTS and other notarial acts there shall be paid the duties following; that is to say,

Stamp duties in lieu of those now payable on protests and other notarial Acts.

	£	s.	d.
Protest of any bill of exchange or promissory note, where the stamp duty on the bill or note does not exceed one shilling } The same duty as on the bill or note.			
Protest of any other bill of exchange or promissory note, and protest of any other kind, and other notarial act whatsoever	0	1	0
And for every sheet or piece of paper, parchment or vellum upon which the same shall be written, after the first, a further progressive duty of . .	0	1	0

26. In lieu of the stamp duty of one pound ten shillings which may by law be now payable on any of the instruments hereinafter mentioned, there shall be charged as follows; that is to say,

Stamp duty on certain proxies reduced.

For and in respect of any letter or POWER OF ATTORNEY or commission, factory, mandate or other instrument in the nature thereof, made for the sole purpose of appointing, nominating or authorising any person to vote as A PROXY, commissioner, mandatory or otherwise, at any one meeting of the proprietors, members or contributors to the funds of any institution established for the purposes of education or charity or of other persons having the direction or control of the affairs of the institution, the time of holding whereof shall be specified in such instrument, or at any adjournment of such meeting, the stamp duty of sixpence.

27. The stamp duty of sixpence granted by this Act and any former Act upon a letter or power of attorney, commission, factory, mandate or other instrument in the nature thereof, may be denoted by an adhesive stamp to be provided by the commissioners of inland revenue and affixed to the instrument, and cancelled by the person signing the instrument, by writing his name, or the initials thereof, upon or across the stamp, together with the date of the day of the meeting for voting at which the instrument is made; but nothing herein contained shall relieve any person from the penalty incurred by making or signing any such instrument on paper not duly stamped, or by voting or attempting to vote under the authority thereof, unless there shall be affixed thereto and cancelled as aforesaid the proper adhesive stamp.

Adhesive stamps may be used for proxies.

28. The stamp duties by this Act imposed, and also any other stamp duties which shall at any time become payable under any Act of parliament, and also any fees by any Act now in force, or any future Act directed to be collected or received by means of stamps, shall respectively be raised, levied, collected, paid and secured, under and by virtue of and subject to all the powers, provisions, clauses, regulations, directions, allowances, and exemptions, fines, forfeitures, pains and penalties, applicable thereto, for the time being in force relating to stamp duties of the like kind or description respectively, or any schedule thereto; all which powers, provisions, clauses, regulations, directions, allowances and exemptions, fines, forfeitures, pains and penalties respectively, shall be of full force and effect with respect to all such duties and fees respectively, and to the vellum, parchment and paper, instruments, matters and things, charged and chargeable therewith, or in respect whereof the same are to be paid, and to the persons liable to the payment thereof, so far as the same are or shall be applicable, in all cases for which no express provision is or shall be made, and shall be observed, applied, allowed, enforced and put in execution for and in the raising, levying, collecting and securing of the said duties and fees respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with any such express provisions, as fully and effectually, to all intents and purposes, as if the same were specially enacted, mutatis mutandis, with reference to such duties and fees respectively.

Stamp duties to be collected under the laws in force.

29. Section eight (b) of the Act passed in the twenty-third and twenty-fourth years of the reign of her present majesty, chapter one hundred and eleven, so far as it relates to the renewal or continuance of any assurance upon death or personal injury, shall be and the same is hereby repealed.

Duty upon renewals of certain insurances repealed

(a) See the previous section, ante, Vol. I. p. 399, tit. "BEER." See this section and Vol. II. p. 256, tit. "GAME."

(b) Ante, p. 621.

24 & 25 Vict. c. 91.

On appointment of new trustees where several deeds are required, one only shall be charged with the full stamp duty, and the others as duplicates.

30. Where upon the appointment of a new trustee the property which is the subject of one and the same settlement, or of trusts created for the benefit of the same parties is of various kinds or descriptions, or is held under different titles, and it is necessary or desirable that it should be conveyed to or vested in the trustee by means of several deeds or instruments, or where, upon any such appointment, several deeds or instruments are made or executed for the purpose only of transferring to and vesting in the trustee the same trust property, if in any of such cases one of the deeds or instruments shall be stamped with the duty of one pound fifteen shillings, it shall be sufficient if the others or other shall be stamped with the duty that would by law be chargeable on a duplicate or counterpart thereof; and on all the deeds or instruments being produced duly stamped accordingly it shall be lawful for the commissioners of inland revenue, on being satisfied as to the facts, to impress the deeds or instruments not having the duty of one pound fifteen shillings thereon with a particular stamp to denote the payment of such duty on some other instrument.

Duties on duplicates and counterparts and progressive duties in certain cases.

31. Whereas by an Act passed in the 13th and 14th years of her majesty's reign, chapter 97, certain stamp duties were imposed on a duplicate or counterpart of any deed or instrument chargeable with stamp duty under that Act, or any Act then in force, and also certain progressive duties on any such deed or instrument, the said duties respectively being regulated by the amount of stamp duty otherwise chargeable on such last-mentioned deed or instrument, and on the original deed or instrument in the case of a duplicate or counterpart; for disposing of doubts as to the duties chargeable on any such duplicate or counterpart, and the progressive duties on any deed or instrument, where, by any Act since passed or hereafter to be passed, stamp duties, not being progressive duties, have been or may be granted or imposed on any deed or instrument, BE IT ENACTED, that the progressive duties payable on any such last-mentioned deed or instrument, and the stamp duties on any duplicate or counterpart thereof, shall, in the absence of any express provision in that behalf, be the same as would have been payable if the stamp duties on such deed or instrument had been imposed or granted by the aforesaid Act of the 13th and 14th years of her majesty's reign.

Adhesive stamps may be affixed and cancelled by an authorised officer of inland revenue.

32. In any case where, under any Act of parliament now or hereafter in force, it is or shall be competent to or incumbent upon any person or persons to affix to any instrument chargeable with stamp duty an adhesive stamp to denote such duty, and to cancel the same, it shall be lawful for any officer of inland revenue, duly authorised by the commissioners of inland revenue in that behalf, on any such instrument being produced to him, to affix thereto the proper adhesive stamp, and to cancel the same by any means the commissioners may think proper; and thereupon the said instrument shall be deemed to be as well and sufficiently stamped as if the stamp had been affixed and cancelled by the person or persons allowed or required by law to affix and cancel the same, and as if the instrument had been impressed with a stamp denoting the same amount of duty as the stamp so affixed: Provided that nothing herein contained shall authorise the stamping of any instrument not allowed by law to be stamped after it is made, signed or issued, or after the expiration of any period by law limited for stamping the same, nor in any way alter or affect the law requiring the payment of a penalty on the stamping of any such instrument.

Proviso.

Mode of cancelling adhesive stamps.

33. In any case where an adhesive stamp used for denoting any stamp duty is required by law to be cancelled by any person, by writing thereon his name or the name of his firm, it shall be sufficient if, instead of the name in full, the initials thereof shall be so written, or shall be stamped or impressed in ink thereon, together with any other particulars specially required by law to be written thereon, provided that by means thereof the stamp shall be effectually obliterated and cancelled, so as not to admit of its being used again, anything in any Act to the contrary notwithstanding; and where the adhesive stamp on any foreign bill or promissory note shall, on such bill or note being received by any person who shall be or become the bonâ fide holder thereof, be effectually obliterated, and shall purport and appear to be duly cancelled, the same shall, so far as relates to such holder, be deemed to be sufficiently cancelled (a): Provided that where any such bill or note when so received by any such person as last aforesaid shall have affixed thereto a proper and sufficient adhesive stamp, but such stamp shall not be duly cancelled, it shall be competent to the holder to cancel the same as if he were the person first negotiating the bill or note; and upon his so doing, such bill or note shall be deemed to be duly stamped, and shall be as valid and as available by such holder and any prior or subsequent holder as it would have been if the stamp had been affixed and cancelled as by law required by the first holder, anything in any Act to the contrary notwithstanding; but nothing herein contained shall relieve any person who ought to cancel such stamp from any penalty incurred by not cancelling the same as required by law.

Proviso.

Bills of sale to be produced stamped on filing copies, and deeds to be stamped before registered.

34. No copy of any BILL OF SALE of personal chattels shall be filed in any court unless the original shall be produced to the proper officer with whom the copy is to be filed, duly stamped with the duty to which the same may be liable; and no deed or instrument liable to stamp duty shall be registered until the same is duly stamped.

Licences to joint-stock

35. Whereas the licences and certificates granted to bankers and persons acting as bankers in Great Britain and Ireland respectively, by or under the authority of the com-

(a) See *Pooley* v. *Brown*, 11 C. B. N. S. 566, ante, p. 601, n. (c).

missioners of inland revenue, are required by law to specify, amongst other things, the names and places of abode of all the persons composing the respective companies or partnerships to whom they are granted: BE IT ENACTED, that in any case where a company or copartnership of bankers consists of more than six persons it shall be sufficient to specify in any such licence or certificate the names and places of abode of any six or more of such persons who may be presented to the commissioners or their officer, or whom they or he may select for the purpose, and to grant the licence or certificate to them as and for the whole of the company or copartnership, or otherwise to specify only the name or style of the company or copartnership, and to grant the licence or certificate to such company or copartnership in and by the said name or style as the commissioners or their officer shall think fit; and every such licence and certificate respectively shall be as good, valid and available as if the names and places of abode of all the members of the company or copartnership had been specified therein, and the licence had been granted to them, anything in any Act of parliament to the contrary notwithstanding; but this shall not in any way alter or affect the provisions of any Act of parliament whereby any banking company or copartnership is required to make any account or return of the names and places of abode of all the members or partners of such company or copartnership, and any other particulars relating thereto.

24 & 25 Vict. c. 91.

Banks not required to specify the names of more than six persons.

36. The provision made by the Act passed in the fifth and sixth years of her majesty's reign, chapter eighty, section two, and the Act passed in the sixteenth and seventeenth years of her majesty's reign, chapter thirty-four, section ten (*a*), for the assessing and charging the income tax on interest, dividends or other annual payments payable out of or in respect of the stocks, funds or shares of any foreign company, society, adventure, or concern, shall be and the same is hereby extended and shall be applied to the assessing and charging of the income tax on all interest, dividends or other annual payments payable out of or in respect of the stocks, funds or shares of any colonial company, society, adventure or concern, and in respect of any securities given by or on account of any such colonial company, society, adventure or concern, and which said interest, dividends or annual payments have been or shall be intrusted to any person in the united kingdom for payment to any persons, corporations, companies or societies in the united kingdom; and for this purpose the said section ten of the last-mentioned Act and this enactment shall be read and construed together as one enactment, in like manner as if the words "or colonial" had been inserted and contained in the said section ten, immediately after the word "foreign," used therein with reference to any company, society, adventure or concern.

The provision made for assessing the income tax on the interest and dividends payable in the united kingdom arising out of foreign companies extended to colonial companies.

37. In any case in which an assessment shall be made under schedule (D.) of the Acts relating to the income tax, and the party assessed shall within the year of assessment cease to carry on the concern in respect of which the assessment shall be made, and shall be succeeded therein by another person, it shall be lawful for the inspector or surveyor of the district within which the change may take place, at any time before the expiration of three calendar months from the fifth day of April next after such change, to certify to the commissioners for the district in which the assessment shall have been made the particulars thereof, and the christian and surname and place of residence of the person assessed, and of the successor to the concern, and also the date of the change in the carrying on of the said concern, if the same shall be known to the said inspector or surveyor; and upon the receipt of such certificate the commissioners shall cause notice to be given to the respective parties of a time and place appointed for a meeting of commissioners for considering the same; and the commissioners shall, upon the examination of the respective parties, if in attendance, or upon such other proof of the facts as may be satisfactory to the said commissioners, adjust and apportion the assessment by charging the successor with a fair proportion thereof from the period of his succeeding to the concern and relieving the person originally assessed from a like amount.

Inspector or surveyor to certify to commissioners cases in which persons assessed are succeeded in their trade or business by other persons, and commissioners may apportion and adjust the assessment.

38. The determination of the commissioners upon any such certificate shall be final, and the assessment so adjusted shall be recoverable from the respective parties in like manner as an original assessment; provided that if in any case either of the said parties shall have paid in respect of any assessment so certified more than the proportion which shall appear by the determination of the commissioners to be chargeable on him, then the amount which shall have been so overpaid shall, when recovered from the party liable, be paid to the person by whom the overpayment may have been made.

Commissioners' determination final.

Recovery of adjusted assessment.

As to Land Tax.

39.—45. [See these sections, ante, Vol. II. p. 1084, tit. "LAND TAX."]

STAMP DUTIES ON PROBATES, &c.

24 & 25 Vict. c. 92. An Act to amend the Law for the Collection of the Stamp Duties on Probates, Administrations, Inventories, Legacies, and Successions. [6th August, 1861.]

24 & 25 Vict. c. 92.

BE IT ENACTED as follows:

1. Where any assessment of duty shall be made in pursuance of the Succession Duty

Proceedings

(*a*) Ante, Vol. III. tit. "PROPERTY TAX."

24 & 25 Vict. c. 92.

for enforcing payment of succession and legacy duties.

Act, 1853, and the duty shall not be paid, and there shall be no appeal from the assessment, where there shall be no notice of disputing the liability to such assessment, the commissioners of inland revenue shall be and they are hereby empowered to take the same or the like proceedings for enforcing the payment of such duty, or any part thereof, from any person liable for the same, or the owner of any property expressly charged therewith, in like manner as they are by section forty-seven of the same Act authorised to take for enforcing the delivery of an account, including all the costs of such proceedings; and where proceedings shall be taken under the said section against any accountable party, and an account shall be delivered in pursuance thereof, no cause being shown as therein mentioned, such party shall, on paying the duty assessed on such account, pay also the costs of the proceedings; and where proceedings shall be taken as authorised by section forty-eight of the same Act, to enforce the delivery of accounts under the Legacy Duty Acts, such proceedings shall also extend to the payment of the duty, if any, together with the costs of the proceedings; and for any of the purposes aforesaid the judges of the respective courts of exchequer shall frame all necessary writs and orders; and when any such proceedings shall be discharged the crown shall be liable to pay costs to the party proceeded against, and in all such cases an appeal shall lie from any judgment of the court in the same manner as from any judgment in a proceeding by information at the suit of the attorney-general.

Certain provisions in 22 & 23 Vict. c. 21, relating to summary proceedings in England to extend to Ireland.

2. Whereas an Act was passed in the 22nd and 23rd years of her present majesty's reign, chapter 21, for regulating the office of queen's remembrancer, and amending the practice and procedure on the revenue side of the court of exchequer in England, and it is expedient that certain of the provisions contained in the said Act should extend to Ireland: BE IT ENACTED, that the provisions contained in sections ten, eleven, twelve, thirteen, fourteen and fifteen (*a*) of the said last-mentioned Act shall, so far as the same are applicable, extend to Ireland, and the said sections shall be read as if the same were expressly enacted in reference to Ireland.

No return of probate duty to be made for voluntary debts.

3. No return of stamp duty paid upon any probate or letters of administration in England or Ireland, or any inventory of the estate and effects of any deceased person in Scotland, shall be made or allowed in respect of any voluntary debt due from any person dying after the twenty-eighth day of June, one thousand eight hundred and sixty-one, which shall be expressed to be payable on the death of such person or payable under any instrument which shall not have been *bonâ fide* delivered to the donee thereof three months before the death of such person.

25 Vict. c. 22.

25 Vict. c. 22. An Act to continue certain Duties of Customs and Inland Revenue for the Service of Her Majesty, and to grant, alter, and repeal certain other Duties. [3rd June, 1862.]

Grant of duties specified in schedules annexed.

BE IT ENACTED as follows:

1. There shall be charged, collected, and paid for the use of her majesty, her heirs and successors, the several rates and duties of customs, excise, stamps, and income tax respectively specified and contained in the several schedules marked respectively (A.), (B.), (C.), and (D.) to this Act annexed, and there shall be allowed the several drawbacks specified and contained in the said schedules (A.) and (B.); and the said rates, duties and drawbacks shall respectively take effect at or from the respective times, and shall continue to be charged, collected, paid and allowed for and during the periods respectively specified or mentioned in that behalf in this Act or in the said schedules; and where no time is so specified for the commencement thereof, the same shall commence and take effect from and after the passing of this Act; and where no period is so specified or limited for the duration thereof, the same shall continue to be charged, collected, paid, and allowed respectively until parliament shall otherwise order; and the said several schedules shall be deemed to be part of this Act.

Provisions of former Act to apply to this Act.

2. All the powers, provisions, clauses, regulations, allowances, and exemptions, forfeitures, pains, and penalties, contained in or imposed by any Act or Acts or any schedule thereto, relating to any duties or drawbacks, of the same kind or description as the several rates or duties or drawbacks granted and allowed by this Act respectively, and in force at the time of the passing of this Act and not hereby expressly repealed, or as regards the income tax in force on the fifth day of April, one thousand eight hundred and sixty-two, shall respectively be in full force and effect with respect to the said rates, duties, and drawbacks by this Act granted respectively, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said last-mentioned rates and duties and the allowance and payment of the said drawbacks respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and

(*a*) Ante, Vol. I. p. 1331, tit. "CROWN SUITS."

specially enacted, *mutatis mutandis*, with reference to the rates, duties, and drawbacks by this Act granted respectively. 25 Vict. c. 22.

3. All licences to BREWERS OF BEER to be granted under this Act shall expire on the tenth day of October in every year, and shall be renewed yearly on payment of the duties chargeable for or in respect of such licences respectively, according to the provisions of this Act. Licences to brewers to expire on 10th October in every year.

4. Before any licence shall be granted to any brewer of beer for sale (other than a first licence), such brewer or his principal servant under whose direction or inspection the malt or sugar hereinafter mentioned shall have been brewed, shall make before a justice of the peace, or before the proper collector of the excise, or any other officer of excise empowered to grant licences (who are hereby respectively authorised to receive the same), a declaration in writing under the provisions of the Act passed in the fifth and sixth years of the reign of his late majesty king William the fourth, chapter sixty-two, setting forth a true and just account of the number of bushels of malt and of the number of pounds weight avoirdupois of sugar respectively used by such brewer in the brewing of beer within the previous year ending on the tenth day of October immediately preceding the application for such licence; and if such declaration shall be false or untrue in any particular, the person making the same shall be subject to the pains and punishment prescribed by the said last-mentioned Act: Provided always, that in no case shall a licence be granted to any such brewer of beer upon payment of any less amount of duty than shall appear to be due according to the entries made in the book or paper delivered to such brewer by the officer of excise for that purpose. Brewer of beer for sale, before obtaining licence, to make declaration under provisions of 5 & 6 Will. 4. c. 62, of the quantity of malt and sugar brewed during the previous year.

5. Where the amount of duty chargeable upon any licence to brew beer for sale shall exceed the sum of ten pounds, such licence may, if required, be granted upon payment only of a moiety of the duty so chargeable, and in such case the other moiety of such duty shall be paid on the first day of March next after the commencement of the year for which such licence shall have been granted, or in default thereof the licence shall thereupon cease and determine, and be no longer in force. When licence of brewer of beer for sale exceeds 10*l.*, it may be paid in moieties.

6. If any brewer of beer for sale shall die or become bankrupt, or shall discontinue the trade and business of a brewer of beer for sale at any time before the expiration of his current licence, it shall be lawful for the commissioners of inland revenue to ascertain by such means as they shall think fit, the quantity of malt and sugar which such brewer shall have used in the brewing of beer in the portion of the year during which he shall have carried on business under such licence, and the amount of duty which would be payable for a licence in respect of the number of barrels of beer brewed from such malt and sugar, according to the provisions of this Act; and if the amount of duty so ascertained shall be less than the sum paid by such brewer for his current licence, the commissioners shall cause the difference to be repaid to such brewer, or to the executors or assignees of any brewer who shall die or become bankrupt. On the death of a brewer, or on the business being discontinued before expiration of licence, a proportionate part of the duty may be returned.

7. If upon the termination of any licence granted to a brewer of beer for sale it shall appear that the number of barrels of beer brewed by such brewer during the existence of such licence, computed according to the provisions in the seventh section of the Act passed in the first year of the reign of king William the fourth, chapter fifty-one, is less than the number of barrels in respect of which the duty upon such licence was charged, the difference between the amount of duty that would have been payable for a licence for the lesser number of barrels of beer brewed and the amount actually paid for the licence shall be repaid to the brewer, his executors or administrators; and if it shall appear that the number of barrels of beer, computed as aforesaid, brewed during such period, shall be greater than the number in respect of which the licence was granted, the brewer, or his executors or administrators, shall be surcharged with such additional amount of duty as, with the sum actually paid for such licence, shall amount to the sum payable according to the rates of duty imposed by this Act upon the number of barrels of beer brewed as aforesaid by such brewer; and such additional amount of duty shall be paid by such brewer, his executors or administrators, within seven days after he or they shall have had notice to pay the same. When the quantity of beer brewed in any year shall be less than the quantity for which the licence was granted, the difference shall be repaid to the brewer; if the quantity be greater, he shall be surcharged.

8. If any person who shall have taken out a licence as a brewer of beer for sale for the first time shall die, or become bankrupt, or discontinue the business of a brewer of beer at any time before the expiration of such licence, the further additional sum which shall be chargeable under this Act in respect of such licence shall become due and payable immediately thereupon, and shall be a debt due to her majesty, her heirs and successors, and be recoverable accordingly; and in the case of any such brewer who shall discontinue business as aforesaid, payment of such additional sum may be demanded either verbally of such brewer, or by writing left at the brewery, by the supervisor of excise of the district in which the brewery shall be situated; and if the same shall not be paid within three days next after such demand shall have been made, the brewer shall forfeit a penalty of double the amount thereof; and in all the foregoing cases the stock of beer, malt, and hops, and the utensils and machinery upon the brewery premises at the time of such death, bankruptcy, or discontinuance of business, shall be and remain liable for the payment of the said sum of money or penalty, and are hereby made chargeable therewith, notwithstanding any title or conveyance by which they may be claimed. Surcharge upon a brewer's first licence to become payable immediately upon death or bankruptcy of the brewer.

9. Provided always, that brewers of beer known as spruce or black beer, for sale, shall continue to pay for their licences only the same rates of duty as are imposed by the Act passed in the sixth year of king George the fourth, chapter eighty-one, on Brewers of black beer to continue to pay the

25 Vic. c. 22. duties imposed by 6 Geo. 4, c. 81.

brewers of beer other than table beer only, for sale; provided that any such brewer shall not brew on the same premises beer of any other description than spruce or black beer, nor use in the brewing of the same, or add thereto, any hops or other bitter, or any yeast or other matter to produce fermentation, and shall not brew, or sell or send out, any of such beer of a less specific gravity than one thousand one hundred and eighty degrees.

Brewers of beer for sale omitting to take out licence to be liable to the duty.

10. If any brewer of beer for sale shall omit to take out a proper licence in that behalf under this Act, he shall nevertheless be chargeable with the full amount of the duty payable or which would become payable under this Act for or in respect of the licence which he ought to have taken out, and such duty shall be a debt to her majesty, her heirs and successors, and shall be recoverable accordingly.

Persons brewing beer for others to be deemed brewers for sale.

11. If any person shall brew any beer for the use of any other person at any place other than the premises of the person for whose use the beer shall be brewed, the person brewing such beer shall be deemed to be a brewer of beer for sale, and shall be liable to take out a licence accordingly.

So much of any Act as permits sale of beer at fairs, &c., without licence repealed.

12. So much of any Act as permits the sale of beer, spirits, or wine at fairs or races without an excise licence shall be and the same is hereby repealed.

Occasional licence may be granted to victuallers to sell beer, spirits, &c., at such time and place as the commissioners of inland revenue shall approve.

13. It shall be lawful for the commissioners of inland revenue, whenever they shall consider it conducive to public convenience, comfort, and order, and with the consents in writing of two justices of the peace usually acting at the petty sessions for the petty sessional division within which the place of sale is situate, to authorise any officer of excise to grant to any person who shall be duly authorised to keep a common inn, alehouse, or victualling house, and who shall have taken out the proper excise licences to sell therein beer, spirits, wine, or tobacco, an occasional licence under this Act empowering him to sell the like articles for which he shall have taken out such licences as aforesaid at any such other place, and for and during such space or period of time, not exceeding three consecutive days at any one time, as the said commissioners shall approve, and as shall be specified in such occasional licence; and any person who shall have taken out such occasional licence shall not be liable to any penalty or forfeiture whatever by reason or on account of his selling the articles mentioned in the said licence during the time and at the place specified therein; provided that no such occasional licence shall authorise the sale of any beer, spirits, or wine, except during the hours after sunrise and before sunset; and provided that the said licence shall not protect any such person in the sale of any of the articles herein mentioned, unless he shall at the time of such sale produce such licence when requested to do so by any officer of excise, or by any constable or police officer; nor shall any such licence be granted for the sale of any of the articles herein mentioned on any Sunday, Christmas Day, or Good Friday, or on any day appointed for a public fast or thanksgiving; provided also, that the provisions of this clause shall not extend to Scotland.

Charging of excise duty on sugar used in brewing deferred until 1st July, 1863.

14. And whereas by an Act passed in the nineteenth and twentieth years of her majesty's reign, chapter thirty-four, a duty of excise was imposed on sugar used in the brewing or making of beer, and by an Act passed in the twenty-fourth and twenty-fifth years of her majesty's reign, chapter ninety-one, the charging of the said duty was deferred until the first day of July, one thousand eight hundred and sixty-two, and it is expedient further to defer the same: BE IT ENACTED, That the charging of the said duty of excise on sugar used as aforesaid shall be further deferred until the first day of July, one thousand eight hundred and sixty-three.

Licences granted under 23 Vict. c. 27, and 23 & 24 Vict. c. 107, may be transferred as other excise licences in case of the removal of the licensed person.

15. The provisions contained in the twenty-first section of the Act passed in the sixth year of the reign of king George the fourth, chapter eighty-one, relating to the transfer of excise licences in the case of the removal of any person from the house or premises at which he shall be licensed under that Act, shall be and the same are hereby extended to licences granted under the Act passed in the twenty-third year of the reign of her present majesty, chapter twenty-seven, and the Act passed in the twenty-third and twenty-fourth years of her said majesty's reign, chapter one hundred and seven respectively: Provided that no licence granted under either of the two last-mentioned Acts for the sale of foreign wine by retail to be consumed upon the premises where the same shall be sold shall be transferred by the officers of excise, unless the assignee of such licence shall be duly licensed to keep a refreshment house, nor unless he shall produce to such officers a certificate from a justice of the peace acting for the city, borough, town, or place in which the house and premises are situated, that such justice does not object to such transfer being made, and provided that no such licence so transferred shall authorise the assignee to carry on the business mentioned therein for a longer period than five weeks from the date of such transfer, unless he shall in the meantime have qualified himself to become the holder of a licence of the like kind according to the provisions of the said respective Acts.

For removal of doubts as to the privilege of the free vintners of the city of London

16. Whereas doubts have arisen as to the extent of the privilege of the master, warden, freemen, and commonalty of the vintners of the city of London to sell wine without taking out an excise licence for that purpose: BE IT ENACTED, That no freeman of the said company shall be entitled to sell wine in more than one separate and distinct house or premises at the same time without taking out the proper excise licence in that behalf, nor shall any freeman be entitled to exercise the said privilege unless he shall have pre-

viously made an entry of the house or premises in which he intends to sell wine with the proper officer of excise, in the manner directed in the fifth section of an Act passed in the fourth and fifth years of the reign of his late majesty king William the fourth, chapter fifty-one.

25 Vict. c. 22. to sell wine without licence.

17. [Excise duties, &c., on HOPS cured after the passing of this Act repealed.]

27. From and after the first day of September one thousand eight hundred and sixty-two, the Act passed in the ninth year of the reign of king George the fourth, chapter eighteen, for repealing the stamp duties on CARDS AND DICE made in the united kingdom, and granting other duties in lieu thereof, and amending and consolidating the Acts relating to cards and dice and the exportation thereof, shall be, and the same is hereby repealed, save and except as to any duties granted by the said Act and which shall be then unpaid and any penalty which may have been incurred, which duties and penalties shall be recoverable as if this Act had not been made, and also save and except so far as relates to any bond given in pursuance of the said Act, which bond shall, notwithstanding this Act, continue in force until the condition thereof shall have been performed and fulfilled; and from and after the said first day of September one thousand eight hundred and sixty-two the duty by this Act charged for and in respect of playing cards, and all the clauses and provisions relating thereto, shall commence and take effect.

9 Geo 4, c. 18, granting duties on cards and dice, repealed.

28. The term "cards," wherever the same shall be used in this Act, shall mean playing cards by this Act charged with stamp duty; the term "wrapper" shall mean a paper wrapper, label, or enclosure provided by the said commissioners of inland revenue for containing, enclosing, or covering a pack of cards and denoting the duty in respect thereof; and the term "pack of cards" shall mean any quantity or number of cards not exceeding fifty-two.

Interpretation of terms.

29. The said duty of threepence by this Act chargeable on a pack of cards shall be denoted on the wrapper of every pack, which wrapper the commissioners of inland revenue shall provide with such stamp or device or devices thereon for denoting the said duty as they shall think fit; and the said commissioners shall supply to any person who shall be a maker of cards, and shall as such have a licence in force for selling cards, with any quantities of such wrappers on payment of the duties for the same, or at their discretion shall stamp, to denote the said duty, the wrappers of licensed makers of cards, which when so stamped shall be deemed to be wrappers provided by the said commissioners in pursuance of this Act; and no cards shall be sold otherwise than in separate packs, each pack being enclosed in a wrapper, the stamp on which shall be at all times uncovered and open to view, and which shall be securely fastened round or over the same by means of wheat flour paste, or some other firmly adhesive substance to be approved by the said commissioners, and so in and in such manner that the wrapper cannot be opened, or the cards taken out without the wrapper being destroyed; and if the wrapper be used by any maker of cards for enclosing any cards sold by him shall not be fastened with proper and sufficient adhesive substance as aforesaid, or *bonâ fide* in a secure manner, and with the stamp thereon open to view, according to the true intent and meaning of this Act, such cards shall be deemed to be not enclosed in a wrapper provided by the said commissioners under this Act; and such maker, and also any other person selling such cards, shall be subject and liable to the penalties imposed by this Act for selling cards not enclosed in wrappers.

The duty to be denoted on the wrapper.

Cards to be sold in separate packs enclosed in wrappers.

30. The commissioners of inland revenue, or any of their officers authorised by them, shall grant to any person who shall apply for it a licence to sell cards at any house to be specified therein, on payment of the duty for the same; every such licence shall continue in force from the day on which the same shall be granted until and upon the first day of September then next following, and no longer.

Licences to sell cards to be granted.

31. If any person shall sell or offer for sale any cards without having a licence in force for the same granted under this Act he shall forfeit twenty pounds; and any person who shall sell cards at any house or place not specified in a licence granted to him shall be deemed to be a person selling cards without having a licence; and any person who shall be found hawking or carrying about for sale any cards, whether enclosed in a stamped wrapper or not, and who shall sell the same or offer the same for sale at any place for which he shall have no licence, may be apprehended by any constable or officer of inland revenue, and taken before any justice of the peace, who shall hear and determine the matter, and if upon conviction of such offence the offender shall not immediately pay the penalty in which he shall be convicted, he shall be committed to prison for any period not exceeding three months nor less than one month, unless the penalty shall be sooner paid; and all cards which he shall be found trading with or carrying about shall be forfeited, and delivered up to the commissioners to be dealt with as cards forfeited under this Act.

Selling cards without licence, penalty, 20l.

Hawkers of cards may be apprehended and taken before a justice.

32. If any maker of cards shall remove or send, or deliver out any cards from his house or premises, or the house or place in which they were made or completed (except for exportation as allowed by this Act), the same not being in packs enclosed in wrappers in manner aforesaid, or if any person, whether a maker of cards or not, and whether licensed or not, shall sell any cards, not being a pack of cards enclosed in a wrapper as by this Act is required, he shall forfeit, if he be a maker of cards, the sum of one hundred pounds, and if he be not a maker of cards, the sum of twenty pounds; and, moreover, for every pack of cards which any such person shall sell or send or deliver out not enclosed in a wrapper as aforesaid, he shall forfeit the further sum of five pounds;

Penalty on selling cards without stamped wrappers.

25 Vict. c. 22.

Unstamped cards to be forfeited.

and all cards found in any house or place whatever (except on the premises of a licensed maker specified in his licence) which shall be kept or intended for sale, or which shall be found on the premises or in the possession of any person who shall sell cards, and which shall not be in separate packs enclosed in wrappers as aforesaid, shall be forfeited; and the same, and also all wrappers found in any house or place whatsoever which shall have been used for enclosing cards, and removed or got off therefrom, may be taken and carried away by any officer of inland revenue, and be destroyed or otherwise disposed of as the commissioners shall direct; and for the purposes of such seizure it shall be lawful for any such officer, under the authority of a warrant for that purpose specially granted by any two of the commissioners or any justice of the peace, to enter in the day time any house or place in which there shall be reason to suspect that any cards not enclosed in stamped wrappers, or any wrappers that have been used as aforesaid, are deposited or kept, and to search for the same; and if necessary, such officer may break open the door of any room or closet, or any box, trunk, or case in which any such cards or wrappers are suspected to be contained; and all cards so found shall be deemed to be kept and intended for sale, unless the contrary shall be proved.

Name of maker, &c., to be printed on the wrapper.

33. Upon the wrapper of every pack of cards sold or sent or delivered out by any maker of cards there shall be printed his name and the place at which he shall be licensed to sell cards in manner to be approved by the said commissioners, but, except as is provided by the next succeeding section, no cards shall be sold or sent or delivered out by any maker the stamp upon the wrapper of which shall be cancelled or defaced, or in any way damaged or injured; and for every pack of cards sold or sent or delivered out by any maker of cards, on the wrapper of which shall not be printed as hereby required such name and place, or, except as aforesaid, the stamp on which wrapper shall be cancelled or in any way defaced, damaged or injured, he shall forfeit the sum of five pounds; and cards enclosed in a wrapper having the name of a maker thereon, or otherwise purporting to be made by him, shall be deemed to have been made by him, unless the contrary shall appear.

The seller of cards to cancel the stamp on the wrapper.

34. Every person who shall sell cards, other than a maker of or dealer in cards selling by wholesale to persons who buy to sell again, shall, before he shall deliver or send out a pack of cards on the sale thereof, cancel the stamp on the wrapper denoting the duty by this Act charged on a pack of cards, by writing or impressing in ink his name upon such stamp, or in default thereof he shall forfeit the sum of five pounds.

Frauds relating to wrappers, &c.

35. If any person shall remove or get off or aid or assist in removing or getting off from any pack of cards any wrapper which shall have been used for enclosing the same, with intent that such wrapper shall be again used for enclosing any other cards; or shall use any wrapper so removed or got off for enclosing any such other cards; or shall sell or utter any such last-mentioned wrapper, or any cards enclosed therein, knowing the said wrapper to have been so removed or got off as aforesaid; or shall knowingly have in his possession or on his premises any wrapper which shall have been so removed or got off, with intent that the same might be used for enclosing other cards; or shall be guilty of any fraudulent act, contrivance, or device whatever relating to the duty by this Act chargeable in respect of cards, he shall forfeit the sum of twenty pounds; and it shall be lawful for the said commissioners to refuse to grant licence to sell cards to any person who shall have been convicted of any such offence.

Penalty, 20*l.*

What cards may be sold without wrappers.

36. Provided, that cards in packs, each pack containing an ace of spades duly stamped under the said Act of the ninth year of king George the fourth, and also cards duly imported, enclosed in wrappers according to the Act of the sixteenth and seventeenth years of her present majesty, chapter one hundred and seven, may lawfully be sold as if this Act had not been made; and provided that it shall be lawful for any person possessed of cards previously sold and opened, used and played with, to sell the same to any licensed maker of cards without having a licence for selling cards, and without such cards being enclosed in a wrapper provided under this Act; and if any such cards shall be afterwards sold or sent or delivered out by the said maker, they shall be subject to all the provisions of this Act, and for the purposes of this Act such maker shall be deemed to be the maker of such cards; and provided that this Act shall not extend to charge with stamp duty *bonâ fide* toy cards not exceeding in length one inch and three-quarters, or in width one inch and a quarter.

Second-hand cards.

Unstamped cards may be exported.

37. Provided also, that any licensed maker of cards who shall have given security as hereinafter required may export cards, made by him on the premises specified in his licence, to the Isle of Man or to foreign parts without being enclosed in wrappers provided under this Act, under the conditions and provisions hereinafter mentioned; that is to say, before any cards intended for exportation shall be removed from the premises of the licensed maker, notice of the intention to export them shall be given by the maker to the said commissioners, or to some officer of inland revenue authorised to receive the same, at the chief office in London, or at the place at which the maker shall be licensed, specifying the quantity of packs and the description of the cards to be exported, the ports or places from and to which respectively, and the name of the ship or vessel in which the cards are to be exported; and the said commissioners or officer shall issue to the maker a certificate, in such form as the commissioners shall approve, authorising the removal and exportation of the cards in conformity with the notice, and thereupon the cards may be removed from the premises of the maker, and shall be deposited on board the said ship or vessel within a certain period to be specified in the certificate, not exceeding in any case seven days from the date thereof; and if the said cards or any of them shall be found at any place whatever within the united kingdom

after the expiration of such period, or at any place other than the port or place of exportation, or in transit thereto, before the expiration thereof, or at any place and at any time not accompanied by such certificate, the same shall be forfeited, and may be seised by any officer of inland revenue, and disposed of as by this Act is provided as to cards forfeited: Provided, that before any maker of cards shall be permitted to export cards not enclosed in wrappers under this Act, he shall give bond to her majesty in the penalty of five hundred pounds, with one or more sureties to the satisfaction of the commissioners, conditioned for the due exportation, in conformity with the provisions of this Act, of all cards which he shall be authorised to export, which bond, and the condition thereof, shall be in such form and terms as the commissioners shall require. 25 Vict. c. 22.

38. If any person shall make, issue, deliver, assign, transfer, or negotiate in the united kingdom, any BOND, DEBENTURE, or other security by this Act chargeable with stamp duty, or shall pay any interest or dividend accrued due in respect of any such instrument, before the same shall be duly stamped for denoting the said duty, he shall forfeit the sum of twenty pounds. Penalty for making unstamped bonds.

39. For the purposes of the STAMP DUTIES ON PROBATES OF WILLS AND LETTERS OF ADMINISTRATION, debts and sums of money due and owing from persons in the united kingdom to any deceased person at the time of his death on obligation or other specialty, shall be estate and effects of the deceased, within the jurisdiction of her majesty's court of probate in England or Ireland, as the case may be, in which the same would be if they were debts owing to the deceased upon simple contract, without regard to the place where the obligation or specialty shall be at the time of the death of the deceased. For probate duty, bond debts to be assets, as if they were simple contract debts.

40. The stamp duty of eight pounds now payable for a yearly licence to be taken out by a HAWKER, PEDLAR, and petty chapman in Great Britain, to travel and trade with one horse only, exceeding in height thirteen hands, shall be and the same is hereby reduced to the sum of four pounds; and any licence to be hereafter taken out by a hawker, pedlar, and petty chapman in Great Britain may be granted for a period not exceeding six months on payment only of one half the amount payable for a yearly licence for the same purpose: Provided that any such licence shall continue in force until and upon the thirty-first day of January or the thirty-first day of July, as the case may be, next following the date thereof, and no longer. Licences to hawkers with one horse reduced. All licences to hawkers may be half-yearly.

41. All penalties imposed by this Act relating to stamp duty may be proceeded for and recovered for the use of her majesty in the same manner, and in the case of summary proceedings with the like power of appeal, as any penalty may be proceeded for and recovered under any Act relating to the excise revenue. Recovery of penalties.

SCHEDULES.

SCHEDULE (A.)

Containing the RATES and DUTIES of CUSTOMS granted, and the DRAWBACKS allowed on the following ARTICLES, by this Act.

SCHEDULE (B.)

Containing the DUTIES and DRAWBACK of EXCISE granted and allowed respectively by this Act.

Duties on licences to BREWERS OF BEER FOR SALE, to be taken out on and after the eleventh day of October, one thousand eight hundred and sixty-two.

SCHEDULE (C.)

Containing the STAMP DUTIES imposed by this Act.

	£	s.	d.
For and in respect of every pack of PLAYING CARDS made fit for sale or use in the united kingdom, the duty of	0	0	3
For and upon every licence to be taken out annually by any person who shall sell playing cards in the united kingdom,			
If he be a maker of playing cards, the duty of	1	0	0
If he be not a maker of playing cards, the duty of	0	2	6
Upon and in respect of any BOND, DEBENTURE, OR OTHER SECURITY for money, by whatever name it shall be called, made in the united kingdom or elsewhere, by or on behalf of any foreign or colonial government, state, or company, and bearing date or signed after the passing of this Act (not being a bill of exchange or promissory note chargeable as such with stamp duty, nor being an instrument already chargeable with the same duty as a bond, or for which a composition in lieu thereof is payable) which shall be issued, delivered, assigned, transferred, or negotiated within the united kingdom	The same stamp duty as is chargeable on a bond made in the united kingdom, for securing the payment of the like amount of money.		

25 Vict. c. 22. Provided that this shall not extend to charge with stamp duty any instrument *bonâ fide* made and issued at any place out of the united kingdom as a security for the repayment of money raised or procured on loan in foreign parts, and not lent or advanced by any person resident in the united kingdom, and the interest whereon shall not be paid within the united kingdom.

SCHEDULE (D.)

Containing the RATES and DUTIES of INCOME TAX granted by this Act.

STATUTES (*a*).

33 G. 3, c. 13. **33 Geo. 3, c. 13. An Act to prevent Acts of Parliament from taking Effect from a time prior to the passing thereof. [A.D. 1793.]**

Clerk of the parliaments to indorse on every Act the time it receives the royal assent, which shall be its commencement where no other is provided.

"Whereas every Act of parliament in which the commencement thereof is not directed to be from a specific time, doth commence from the first day of the session of parliament in which such Act is passed: And whereas the same is liable to produce great and manifest injustice;" for remedy whereof BE IT ENACTED, That the clerk of the parliaments shall indorse (in English) on every Act of parliament which shall pass after the 8th day of April, 1793, immediately after the title of such Act, the day, month, and year when the same shall have passed, and shall have received the royal assent, and such indorsement shall be taken to be a part of such Act, and to be the date of its commencement, where no other commencement shall be therein provided (*b*).

48 G. 3, c. 106. **48 Geo. 3, c. 106. An Act to remedy the Inconvenience which has arisen, and may arise, from the Expiration of Acts before the Passing of Acts to continue the same. [25th June, 1808.]**

When bills for continuing expiring Acts shall not pass before the Acts expire, such Acts shall be continued from their expiration, except as to penalties.

"Whereas bills for the continuing of Acts in force only for a limited time, have sometimes not passed before the expiration of the Act intended to be continued, and great inconvenience may arise therefrom;" BE IT ENACTED, That where any bill may have been or shall be introduced into this present or any future session of parliament, for the continuance of any Act which would expire in such sessions, and such Act shall have expired before the bill for continuing the same shall have received the royal assent, such such continuing Act shall be deemed and taken to have effect from the date of the expiration of the Act intended to be continued, as fully and effectually to all intents and purposes, as if such continuing Act had actually passed before the expiration of such Act, except it shall be otherwise especially provided in such continuing Act: Provided nevertheless that nothing herein contained shall extend, or be construed to extend, to affect any person or persons with any punishment, penalty, or forfeiture whatsoever, by reason of anything done or omitted to be done by any such person or person contrary to the provisions of the Act so continued, between the expiration of the same and the date at which the Act continuing the same may have received or shall receive the royal assent.

13 & 14 Vict. c. 21. **13 & 14 Vict. c. 21. An Act for shortening the Language used in Acts of Parliament. [10th June, 1850.]**

Acts of parliament may be altered, &c., in the same session.

BE IT ENACTED, That every Act to be passed after the commencement of this Act may be altered, amended, or repealed in the same session of parliament, any law or usage to the contrary notwithstanding.

(*a*) As to statutes in general, how passed, the construction of them, &c., see 1 Bla. Com. 85; Bac. Ab. Statute; Com. Dig. Parliament (R); Dwarris on Statutes.

(*b*) Before this enactment, every statute (unless otherwise expressly provided) related to the first day of the session in which it was passed; contrary to the principle of legislation, that all laws should be made to commence *in futuro*, and be notified before their commencement (1 Bla. Com. 46; *Rumsey* v. *Tufnell*, 2 Bing. 257; *R.* v. *Painter*, 6 Bro. P. C. 486). The consequence was, that frequently great injustice was occasioned (see instances, *Rex* v. *Thurston*, 1 Lev. 91; *Latless* v. *Holmes*, 4 T. R. 660); and even ignorance of a statute rendering criminal an Act not before so, was held to afford no defence to the indictment, although it was ground for a pardon (see *Rex* v. *Bailey*, Russ. & R. 1). The above statute remedies this evil, and in general, in modern Acts, it is provided that they shall commence to operate on some future named day.

2. That all Acts shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments, without any introductory words. 13 & 14 Vict. c. 21. Acts to be divided into sections, without introductory words.

3. That in any Act, when any former Act is referred to, it shall be sufficient, if such Act was made before the seventh year of Henry the seventh, to cite the year of the king's reign in which it was made, and where there are more statutes than one in the same year the statute, and where there are more chapters than one the chapter; and if such Act referred to was made after the fourth year of Henry the seventh, to cite the year of the reign, and where there are more statutes or sessions than one in the same year the statute or the session (as the case may require), and where there are more chapters or sections than one the chapter or section or chapter and section (as the case may require), without reciting the title of such Act, or the provision of such section, so referred to; and the reference in all cases shall be made according to the copies of statutes printed by the queen's printer, or to the copies thereof contained in the reports of the commissioners of public records: Provided, that where it is only intended to amend or repeal any portion only of such section it shall be necessary still either to recite such portion or to set forth the matter or thing intended to be amended or repealed. Where any Act is referred to it shall be sufficient to cite the year of the reign, chapter, and section, &c.

4. That in all Acts words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended; and "county" shall be held to mean also county of a town or of a city, unless such extended meaning is expressly excluded by words; and the word "land" shall include messuages, tenements, and hereditaments, houses and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit" shall include affirmation, declaration, affirming, and declaring, in the case of persons by law allowed to declare or affirm instead of swearing. Interpretation of certain words for future Acts.

5. That where any Act repealing in whole or in part any former Act is itself repealed, such last repeal shall not revive the Act or provisions before repealed, unless words be added reviving such Act or provisions. Repealed Acts not to be revived, &c.

6. That wherever any Act shall be made repealing in whole or in part any former Act, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made Act. Repealed provisions of any Act to remain in force until the substituted provisions come into force.

7. That every Act made after the commencement of this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such Act. Acts to be deemed public Acts.

8. That this Act shall commence and take effect from and immediately after the commencement of the next session of parliament. Commencement of Act.

19 & 20 Vict. c. 64. An Act to repeal certain Statutes which are not in use. [21st July, 1856.] 19 & 20 Vict. c. 64.

24 & 25 Vict. c. 101. An Act for promoting the Revision of the Statute Law by repealing divers Acts and Parts of Acts which have ceased to be in force. [6th August, 1861.] 24 & 25 Vict. c. 101.

STOCK CERTIFICATE ACT, 1863.

20 Vict. c. 28. An Act to give further Facilities to the Holders of the Public Stocks. [8th June, 1863.] 20 Vict. c. 28.

"Whereas it is expedient to give further facilities to the holders of the public stocks in respect of the transfer thereof, and the receipt of the dividends thereon;" BE IT ENACTED, as follows:

1. This Act may be cited for all purposes as the "STOCK CERTIFICATE ACT, 1863." Short title.

2. In this section and elsewhere in this Act the following expressions have the meanings here assigned to them: Definition of terms.

"The BANK" shall with reference to the public stocks transferable at the bank of England, and certificates issued under this Act in respect thereof, and the coupons of such certificates, mean the governor and company of the bank of England, and shall, with reference to the public stocks transferable at the bank of Ireland, and certificates issued under this Act in respect thereof, and the coupons of such last-mentioned certificates, mean the governor and company of the bank of Ireland:

"The TREASURY" shall mean "the commissioners of her majesty's treasury, or any two of them:"

26 Vict. c 28

"The PUBLIC STOCKS" shall mean any stocks forming part of the national debt, and transferable in the books of the bank, and "share in the public stocks" shall include any part of a share

"PERSON" shall include corporation

"FELONY" shall mean and include crime and offence in Scotland

Right to certificate of title to stock

3. With the exception and subject to the conditions hereinafter mentioned, every person inscribed in the books of the bank of England or of the bank of Ireland as proprietor of a share in the public stocks may obtain a certificate or certificates of title to the said share, or to any part thereof, having annexed coupons entitling the bearer to the dividends payable in respect of that share or part of a share

Restriction as to trustees taking certificates of title.

4 No trustee of any share in the said stocks shall apply for or hold a certificate of title to that share unless he is authorised so to do by the terms of his trust, and any contravention of this section by a trustee shall be deemed to be a breach of trust, and be punishable accordingly, nevertheless this section shall not impose on the bank any obligation to inquire whether a person applying for a certificate of title under this Act is or not a trustee, nor subject them to any liability in the event of their granting a certificate of title to a trustee, nor invalidate any certificate of title if granted

General provisions as to certificates of title

5. No certificate shall be granted in respect of any sum of stock not being fifty pounds, or a multiple of fifty pounds, or in respect of any larger amount than one thousand pounds

The treasury may by warrant declare that any one or more of the public stocks specified in the warrant shall be subject to the provisions of this Act, but until that declaration is made, stock certificates shall be issued only in respect of the three per centum consolidated annuities, reduced three per centum annuities, and the new three per centum annuities

The coupons annexed to a stock certificate shall comprise the dividends payable in respect of the stock described in the certificate for a period of not less than five years, commencing from the date of the certificate At the expiration of that period fresh coupons shall be issued for a further period of not less than five years, and so for successive periods of not less than five years during the continuance in force of the stock certificate, but the bank may, if they think fit, in lieu of issuing fresh coupons in respect of a certificate, give in exchange a fresh certificate with coupons attached thereto

Coupons shall be payable at the chief establishment of the bank at the expiration of three clear days from the day of presentation, and at any branch establishment of the bank, situate more than ten miles from the chief establishment, at the expiration of five clear days from the day of presentation

The payment to the bearer of any coupon of the amount expressed therein shall be a full discharge to the bank of all liability in respect of that coupon and the dividend represented thereby

If any stock certificate or coupon issued under this Act is lost, or destroyed, the bank shall grant a new certificate or coupon, on receiving indemnity to their satisfaction against the claims of all persons deriving title under the certificate or coupon so lost or destroyed

No notice of any trust in respect of any stock certificate or coupon issued under this Act shall be receivable by the bank

Distinction between certificates of title to bearer and nominal certificates.

6. A stock certificate, unless a name is inscribed therein, as hereinafter provided, shall entitle the bearer to the stock therein described, and shall be transferable by delivery

The bearer of a stock certificate may convert the same into a nominal certificate by inserting therein, in manner prescribed by any regulation made in pursuance of this Act, the name, address, and quality of some person A stock certificate when it becomes nominal shall not be transferable, and the person named therein (hereinafter called the nominee), or some person deriving title from him by devolution in law as hereinafter mentioned, shall alone be recognised by the bank as entitled to the stock described in the certificate

Upon the death of the nominee in a nominal certificate his personal representative, upon his bankruptcy his assignees, and upon the marriage of any female nominee her husband shall alone be recognised by the bank as entitled to the stock described in the certificate, and shall be deemed respectively to be a nominee or nominees in that certificate

The death or bankruptcy of any nominee in a nominal certificate, or the marriage of any female nominee, and the loss or destruction of any certificate or coupon, shall be proved in such manner as may from time to time be directed by the bank, with the sanction of the treasury

Nominee in a nominal certificate not entitled to have it renewed as nominal.

7 The nominee in a nominal stock certificate shall not be entitled to have the same renewed as nominal, but he shall, on delivery up to the bank of his certificate, and of all unpaid coupons belonging thereto, and on compliance with any regulation made in pursuance of this Act, be entitled to receive in exchange from the bank a stock certificate to bearer

The nominee in a nominal stock certificate, and the bearer of a stock certificate to bearer, may, on the like delivery, and on compliance with any regulation made in pursuance of this Act, require to be registered in the books of the bank as a holder of the stock described in the certificates under which they respectively derive title, and thereupon the stock shall be re-entered in the books kept by the bank for the entry of trans

ferable stock, and become transferable, and the dividends payable as if no certificate had been issued in respect of such stock. 26 Vict. c. 28.

8. No fees shall be charged on the grant of a stock certificate to bearer, in exchange for a like certificate, but there shall be charged with respect to the several other proceedings in relation to stock authorised by this Act the fees specified in the schedule hereto, or such less fees as may be determined by the treasury: Fees in respect of dealings with stock under this Act.

All fees received in pursuance of this Act shall be paid into the receipt of her majesty's exchequer:

No stamp duty shall be payable in respect of any certificate or coupon issued in pursuance of this Act.

9. There shall be paid to the bank of England out of the consolidated fund, on account of the additional trouble, expense, and responsibility, if any, imposed on it by this Act, in addition to the remuneration otherwise payable to it in respect of the management of the national debt, such remuneration as may be agreed upon between the treasury and the bank of England. Remuneration to the bank.

10. The bank of England and the bank of Ireland, with the sanction of the treasury, may from time to time issue any forms that may be required for carrying into effect the provisions of this Act, and also from time to time make any regulations that are not inconsistent with this Act relative to the following things: General regulations with respect to certificates of title.

1. The time for which coupons are to be given:
2. The conversion of a stock certificate to bearer into a nominal certificate:
3. The authority under which and the mode in which the bank is to act in issuing stock certificates or exchanging nominal certificates for certificates to bearer, or registering in their books the holders of stock certificates, or taking any other proceedings in relation to stock authorised to be taken under this Act:
4. The mode of proving the title of or identifying any person applying for a stock certificate or deriving any title under a stock certificate issued under this Act:
5. With respect to any other matter necessary to carry this Act into effect:

And any regulation so made shall be deemed to be part of this Act in the same manner as if it were herein enacted.

11. The income tax shall be deducted from any coupons payable under this Act in the same manner and subject to the same regulations in and subject to which it may, in pursuance of any law for the time being in force, be deducted from the dividends payable at the bank in respect of the stock of proprietors inscribed in the books of the bank. Income tax.

12. All sums due and not demanded on any coupons issued under this Act shall for all purposes be dealt with as if they were dividends due and not demanded in respect of the stock of proprietors inscribed in the books of the bank. Unclaimed dividends.

13. When any certificate of title issued under this Act in respect of any share in the public stocks is outstanding, the stock represented thereby shall cease to be transferable in the books of the bank: Provisions as to public stocks outstanding.

Save in so far as relates to the mode of transfer and payment of dividends thereon, any stock described in a stock certificate issued under this Act shall be deemed to be charged on the same securities, and to be subject to the same powers of redemption, and to the same incidents in all respects, including the remuneration payable to the bank, as if it had continued registered in the books of the bank as stock transferable therein:

Any stock described in a stock certificate in respect of which no coupons have been presented for payment for a period of ten years may in all respects be dealt with as if it were stock upon which no dividends had been demanded for a period of ten years, and be transferred accordingly to the commissioners for the reduction of the national debt, and shall be subject to the rights of the parties proving themselves entitled to such stock in pursuance of the Act passed in the fifty-sixth year of the reign of king George the third, chapter sixty, or the Act passed in the session held in the twenty-third and twenty-fourth years of the reign of her present majesty, chapter seventy-one; and the provisions of those Acts and of all other Acts relating to stock transferred to the aforesaid commissioners shall apply to stock in respect of which certificates shall have been issued in pursuance of this Act.

14. Whosoever shall forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any stock certificate or coupon or any document purporting to be a stock certificate or coupon issued in pursuance of this Act, or shall demand or endeavour to obtain or receive any share or interest of or in the public stocks, or to receive any dividend or money payable in respect thereof, by virtue of any such forged or altered certificate or coupon or document purporting as aforesaid, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement. Penalties on persons committing forgery.

15. Whosoever shall falsely and deceitfully personate any owner of any share or interest of or in any of the public stocks, or of any stock certificate or coupon issued in pursuance of this Act, and shall thereby obtain or endeavour to obtain any such stock certificate or coupon, or receive or endeavour to receive any money due to any such owner, as if such offender were the true and lawful owner, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in Penalties on persons falsely personating owners of stock.

26 Vict. c. 28.

penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Penalties on persons engraving plates, &c.

16. Whosoever, without lawful authority or excuse, the proof whereof shall lie on the party accused, shall engrave or make, upon any plate, wood, stone, or other material, any stock certificate or coupon purporting to be a stock certificate or coupon issued or made under and in pursuance of this Act, or to be a blank stock certificate or coupon issued or made as aforesaid, or to be a part of such a stock certificate or coupon, or shall use any such plate, wood, stone, or other material for the making or printing any such stock certificate or coupon, or any such blank stock certificate or coupon, or any part thereof respectively, or knowingly have in his custody or possession any such plate, wood, stone, or other material, or shall knowingly offer, utter, dispose of, or put off, or have in his custody or possession, any paper upon which any such blank stock certificate or coupon, or part of any such stock certificate or coupon, shall be made or printed, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

SCHEDULE.

Schedule of Fees.

On the issue of a stock certificate, a fee not exceeding five shillings on every hundred pounds of stock included in the certificate, and a proportional sum for any less sum.

If the applicant is the registered holder of an amount of stock divisible into several sums of fifty pounds or multiples of fifty pounds, he may require such sums of fifty pounds or such multiples of fifty pounds to be distributed amongst different certificates, as he thinks fit; subject to this proviso, that if the number of certificates required by him exceed the proportion of five to a thousand pounds he shall, in respect of each certificate constituting that excess, pay a sum of sixpence in addition to the per-centage fee.

On the change of a nominal certificate for a certificate to bearer, or on the registration in the books of the bank of the stock included in a nominal certificate, there shall be charged a fee not exceeding one half the fee that would be chargeable on the issue of a new certificate to bearer.

On the registration in the books of the bank of the stock included in a stock certificate to bearer there shall be charged a fee not exceeding five shillings.

STOCK JOBBING.

7 G. 2, c. 8.

7 Geo. 2, c. 8. An Act to prevent the infamous Practice of Stock Jobbing (a). [A.D. 1734.]

"Whereas great inconveniences have arisen and do daily arise by the wicked, pernicious and destructive practice of stock jobbing, whereby many of his majesty's good subjects have been and are diverted from pursuing and exercising their lawful trades and vocations, to the utter ruin of themselves and families, to the great discouragement of industry, and to the manifest detriment of trade and commerce;" For remedy thereof

All contracts made for liberty to put upon, accept, or refuse any public

be it enacted, That all contracts and agreements whatsoever which shall be made or entered into by or between any person or persons whatsoever upon which any premium or consideration in the nature of a premium shall be given or paid for liberty to put upon or to deliver, receive, accept, or refuse any public or joint stock or other public securities whatsoever, or any part, share or interest therein (b), and also all wagers and contracts in the nature of wagers and all contracts in the nature of putts and refusals relating to

---

(a) This statute is repealed by 23 Vict. c. 28, but no questions may still arise upon its construction, it is inserted.

See ante, Vol. II. tit. "Gaming." This statute is a remedial rather than a penal Act (*Billing* v. *Flight*, 6 Taunt. 419, 2 Marsh. 214).

(b) *Omnium* was held to be stock within the meaning of this Act, although it was urged that at the time of the transaction the loan had only been voted, but the scrip receipts were not in the market, and that the statute speaks of joint stock or public securities, and meant only public securities then subsisting (*Brown* v. *Turner*, 2 Esp. 631, 7 T. R. 630; *Olivierson* v. *Coles*, 1 Stark. 496). But dealing in lottery produces is not within the Act (*Mortimer* v. *Salkeld*, 4 Camp. 42). Nor dealing in railway shares (*Hewitt* v. *Price*, 4 Man. & G. 355, 5 Scott, N. R. 229). The Act relates only to stock of this country and was made to prevent jobbing in the *British* funds; therefore a trafficking in foreign securities is not within the Act (*Henderson* v. *Bisr*, 3 Stark. 158; *Wells* v. *Porter*, 2 Bing. N. C. 722; *Oakley* v. *Rigby*, *Ibid.* 732; *Elsworth* v. *Cole*, 2 M. & W. 31).

Shares of companies, though incorporated by

the then present or future price or value of any such stock or securities as aforesaid (*a*), shall be null and void to all intents and purposes whatsoever (*b*), and all premiums, sum or sums of money whatsoever, which shall be given, received, paid or delivered, upon all such contracts or agreements, or upon any such wagers or contracts in the nature of wagers as aforesaid, shall be restored and repaid to the person or persons who shall give, pay, or deliver the same, who shall be at liberty within six months from and after the making such contract or agreement, or laying any such wager, to sue for and recover the same from the person or persons to whom the same is or shall be paid or delivered, with double costs of suit by action of debt founded on this Act (*c*), to be prosecuted in any of his majesty's courts of record, in which action no essoin, protection, wager of law, or more than one imparlance shall be allowed; and it shall be sufficient therein for the plaintiff to allege that the defendant is indebted to the plaintiff, or has received to the plaintiff's use the money or premium so paid or received, whereby the plaintiff's action accrued to him according to the form of this statute, without setting forth the special matter (*c*).

7 G. 2, c. 8. stocks or securities, and wagers, &c., shall be void, &c.

Act of parliament, are not within the meaning of this Act, for it refers only to those stocks which are ordinarily considered as public funds or securities for which there is a guarantee by the government (*Williams* v. *Trye*, 18 Beav. 366, 23 L. J. Ch. 860).

(*a*) The Act does not apply where the vendor of the stock was really possessed of the stock bargained to be sold, and where it was intended that it should be transferred (*Sanders* v. *Kentish*, 8 T. R. 162; *Child* v. *Morley*, *Ibid.* 610; *Lightfoot* v. *Creed*, 2 Moore, 255). And a person who has omnium potentially in possession, may legally contract to sell it (*Olivierson* v. *Coles*, 1 Stark. 496). Nor does the Act apply to a case where the stock is intended to be and is actually transferred, although the seller was not possessed of it at the time of the contract (*Mortimer* v. *M'Callan*, 6 M. & W. 58; 9 M. & W. 636). If therefore a broker in such a legal transaction has been obliged to pay the differences in consequence of the neglect of his principal, although he cannot recover the amount under the common count for *money paid*, yet he may under a special declaration (*Child* v. *Morley*, 8 T. R. 610; *Lightfoot* v. *Creed*, 2 Moore, 255). "Differences in consols" does not necessarily refer to a time bargain, but may refer to a *bonâ fide* sale and delivery of stock (*Day* v. *Stuart*, 6 Bing. 109, 3 M. & P. 334).

The Act does apply to contracts which are legal in point of form if the parties really intended to violate its provisions (*Nicholson* v. *Gooch*, 25 L. J. Q. B. 137, 5 E. & B. 999).

(*b*) Where A., being employed as a broker for B. in illegal stock-jobbing transactions, paid the differences for him, and a dispute having arisen between them, the claim of A. was referred to C., who awarded 306*l.* to be due; on which A. drew on B. for 100*l.*, part of that amount, and indorsed the bill to C., who then knew all the circumstances; it was held that he could not recover (*Steers* v. *Lashley*, 6 T. R. 61). And if a bill, given in respect of an illegal stock-jobbing transaction, be indorsed to a person after it became due, he cannot recover upon it (*Brown* v. *Turner*, 7 T. R. 630; 2 Esp. 631). And even if a *bond* be substituted for a note received by a third person, aware, at the time he received the note, of the illegality of the transaction, he cannot recover (*Amory* v. *Meryweather*, 2 B. & C. 573; 4 D. & R. 86).

It was formerly held, that where the plaintiff and defendant having been engaged in partnership in illegal stock-jobbing transactions, and the plaintiff having paid more than his share for compounding the differences, the defendant gave his bond to the plaintiff for his share, the bond was valid (*Faikney* v. *Reynous*, 4 Burr. 2069; *Petrie* v. *Hannay*, 3 T. R. 418). But these cases are overruled. See the above cases, and especially *Aubert* v. *Maze*, 2 Bos. & P. 371; and *Cannan* v. *Bryce*, 3 B. & Ald. 179, in which it was held that money lent, and applied by the borrower for the express purpose of settling losses on illegal stock-jobbing transactions, to which the lender was no party, could not be recovered back. So, promissory notes given by a stock-broker for the balance of an account for money advanced to him to be employed in illegal stock-jobbing transactions, part thereof for profits, cannot be proved under a commission against such broker (*Ex parte Bulmer*, 13 Ves. 313). So, a contract to pay the differences which may become due on the settling day, on the sale of consols, is void (*Sawyer* v. *Langford*, 2 C. & K. 697). But as this Act does not, as did the statute against gaming (9 Anne, c. 14, s. 5), avoid bills, notes, and securities, but only the contract, agreement, or wager itself, it follows that a bill or note, though founded on an illegal stock-jobbing transaction, is valid in the hands of a *bonâ fide* holder who received it ignorant of the circumstances, and before it was due (*Day* v. *Stuart*, 6 Bing. 109; 3 M. & P. 334; *Greenland* v. *Dyer*, 2 Man. & Ry. 422).

(*c*) According to the principle of the decision in *Thistlewood* v. *Cracroft*, 1 M. & Sel. 500, the declaration must be framed in *debt* on this Act (see post, p. 640, n. (*c*)); where the court allowed the form of action to be amended (*Billing* v. *Flight*, 2 Marsh. 124; 6 Taunt. 419). The contract laid in a declaration on this Act for penalties, was to deliver the stock on the 27th

7 G 2 c 8

Persons sued on this Act obliged to answer on oath.

2 "And for the better discovery of the moneys or premium which shall be given, paid, or delivered, and to be sued for and recovered as aforesaid" IT IS ENACTED, That all and every the person or persons who by virtue of this present Act shall or may be liable to be sued for the same, shall be obliged (*a*) and compellable to answer upon oath such bill as shall be preferred against him or them, in any court of equity for discovering any such contract or wager, and the sum of money or premium so given, paid, or delivered as aforesaid (*a*)

Security for costs

3 Provided always, That the plaintiffs relators, or informers in such bill shall, and do (at the time of bringing or filing such bill) give good and sufficient security to answer and pay the defendants in such bill full costs of suit, in case such costs shall be adjudged to the defendants, and that no person shall be obliged to appear or to answer such bill until such security is given

500*l* penalty on making or executing any such putts or bargains

Exceptions

4 That all and every person or persons whatsoever who shall enter into, make, or execute any such contract, bargain, or agreement upon which any premium or consideration in the nature of a premium shall be given or paid for liberty to put upon or to deliver, receive, accept, or refuse any public or joint stock or other public securities whatsoever, or any part, share, or interest therein, or any contract or bargain in the nature of putts and refusals as aforesaid, or shall lay any such wager, or make any such contract in the nature of a wager as aforesaid (except such person or persons who shall actually and *bonâ fide* without covin or collusion sue, and with effect prosecute for the recovery of the money or premium given, delivered, or paid by him, her, or them as aforesaid, and also except such person or persons who shall voluntarily before any action or suit commenced actually and *bonâ fide* without covin or collusion repay or tender before one or more witness or witnesses such moneys or premium as he, she, or they shall have had, taken, received or been paid as aforesaid, and also except such persons who shall discover such transactions in any court of equity) (*b*), shall forfeit and pay the sum of five hundred pounds, and also all and every brokers, agents, scriveners, or other persons negotiating, transacting, or writing any such contract, bargain, or agreement as aforesaid, shall likewise forfeit and pay the sum of five hundred pounds which said penalties shall and may be recovered by action of debt (*c*), bill, plaint, or information in any of his majesty's courts of record at Westminster, in which no essoin, privilege, protection, or wager of law, or more than one imparlance shall be allowed, one moiety thereof to the use of his majesty, his heirs, and successors, and the other moiety thereof to the use of him, her, or them who shall sue for the same

100*l* penalty on giving or receiving money to compound differences relating to stock not actually delivered (*d*).

5 "And for preventing the evil practice of compounding or making up differences for stocks or other securities, bought, sold, or at any time hereafter to be agreed so to be," BE IT ENACTED, That no money or other consideration whatsoever (except as hereinafter is provided) shall be voluntarily given, paid, had, or received for the compounding, satisfying, or making up any difference for the not delivering, transferring, having, or receiving any public or joint stock or other public securities, or for the not performing of any contract or agreement so stipulated and agreed to be performed, but that all and every such contract and agreement shall be specifically performed and executed on all sides, and the stock or security thereby agreed to be assigned, transferred, or delivered shall be actually so done, and the money or other consideration thereby agreed to be given and paid for the same shall also be actually and really given and paid, and all and every person and persons whatsoever who shall voluntarily compound, make up, pay, satisfy, take, or receive such difference, money, or other

---

February The contract proved was to deliver stock on the settling day, which at the time was fixed for and understood by the parties to mean the 27th February, it was held that the proof supported the declaration (*Wickes* v *Gordon*, 2 B & Ald 335)

(*a*) It is no ground for refusing to answer a bill of discovery under this clause, that the plaintiff has declared in assumpsit instead of debt (*Billing* v *Pulley*, 2 Marsh 125, n) But this section does not compel a party at law to give evidence criminating himself, and therefore in an action on a bill a stock broker may refuse to give evidence that the consideration of it was stock jobbing differences (*Rawlings* v *Hall*, 1 Car & P 11, *Thomas* v *Newton*, 2 Car & P 606), but, if subpœnaed to do so, he is bound to produce his books, kept as directed by s 9 (*Rawlings* v *Hall*, 1 Car & P 11, 325) And if the stock broker refuse to state what the consideration of the bill was, then it is to be taken that there was no consideration, and the plaintiff will fail, if the defendant prove that he received no consideration (*per* Lord Tenterden, in *Thomas* v *Newton*, supra, and see the next note)

(*b*) The protection hereby given to persons making discovery, relates only to the penalties imposed in this section upon Acts prohibited by section 1, and a defendant is not compellable, under section 2, to answer to matters which may subject him to penalties under sections 5 and 8 (*Bullock* v *Richardson*, 11 Ves 373)

(*c*) In an action for money lost by stock-jobbing under this Act, the plaintiff declared in assumpsit instead of debt. The court of common pleas amended the declaration, by changing it from assumpsit to debt (*Billing* v *Flight*, 2 Marsh 124, 6 Taunt 419)

(*d*) See this section commented upon in *Cannan* v *Bryce*, 3 B & Ald 184, *Nicholson* v *Gooch*, 25 L. J. Q B 137, 5 E. & B. 999.

consideration whatsoever for the not delivering, transferring, assigning, having or receiving such stock or other security so to be agreed to be delivered, transferred, assigned, had, or received as aforesaid (except in the manner hereinafter provided), shall forfeit and pay the sum of one hundred pounds to be recovered by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, in which no essoin, privilege, protection or wager of law, or more than one imparlance shall be allowed; one moiety thereof to the use of his majesty, his heirs and successors, and the other moiety thereof to the use of him, her, or them who shall sue for the same. 7 G. 2, c. 8.

6. Provided nevertheless, That no person or persons who shall sell any public or joint stock or other public securities to be delivered and paid for on a certain day, and which shall be refused or neglected to be paid for according to such agreement, shall be obliged to transfer the same; but it shall and may be lawful for such person or persons to sell (*a*) such stock or other securities which shall be so refused or neglected to be paid for to any other person or persons for the best price which can be obtained; and after such sale to receive (if the parties can agree) or to recover as aforesaid from the person or persons who first contracted for the same, all the damage which shall be sustained thereby (*a*). Stock sold, and not paid for at the time prefixed, may be sold to any other person (*a*).

7. Provided also, that it shall and may be lawful to and for any person or persons who shall buy any public or joint stock or other public securities to be accepted and paid for on a future day, and which shall be refused or neglected to be transferred, to buy the like quantity of such stock or other public securities of any other person or persons at the current market price, and to recover and receive after such purchase and acceptance (if the parties can agree) from the person or persons who first contracted to sell or deliver the same, the damage which shall be sustained by reason of the not delivering or not transferring such stock or other securities; anything in this Act, or any law, usage or custom to the contrary notwithstanding (*b*). Stock bought, and not transferred at the time prefixed, the buyer may purchase other stock and recover his damage (*b*).

8. "And whereas it is a frequent and mischievous practice for persons to sell and dispose of stocks or other securities of which they are not possessed;" BE IT ENACTED, That all contracts and agreements whatsoever which shall be made or entered into for the buying, selling, assigning, or transferring of any public or joint stock or stocks or other public securities whatsoever, or of any part, share, or interest therein, whereof the person or persons contracting or agreeing, or on whose behalf the contract or agreement shall be made, to sell, assign, and transfer the same, shall not at the time of making such contract or agreement be actually possessed of, or entitled unto in his, her, or their own right, or in his, her, or their own name or names, or in the name or names of a trustee or trustees to their use, shall be null and void to all intents and purposes whatsoever; and all and every person and persons whatsoever contracting or agreeing, or on whose behalf and with whose consent any contract or agreement shall be made, to sell, assign, or transfer any public or joint stock or stocks, or other public securities whereof such person or persons shall not at the time of making such contract or agreement be actually possessed of or entitled unto in his, her, or their own name or names, or in the name or names of a trustee or trustees to their use or their own right as aforesaid, shall forfeit and pay the sum of five hundred pounds, to be recovered by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, in which no essoin, privilege, protection, or wager of law, or more than one imparlance shall be allowed; one moiety thereof to the use of his majesty, his heirs and successors, and the other moiety thereof to the use of him, her, or them who shall sue for the same; and all and every broker or brokers, agent, or agents who shall negotiate, transact, or intermeddle in the making or procuring to be made any such contract or agreement as aforesaid, and shall 500*l.* penalty on buying or selling stock, of which they are not actually possessed at time of contract. 100*l.* penalty on brokers negotiating

---

(*a*) In order to recover damages under this section, it is necessary to prove an actual transfer of the stock to some other person before the action brought; and proof only of a contract to sell to such other person before the action brought, though followed up by an actual transfer afterwards, is not sufficient to sustain the action (*Heckscher* v. *Gregory*, 4 East, 607). But it seems not to be necessary for the plaintiff to show that he made such transfer on the next possible day after default made by the original contractor; though delay will affect the damages (*Bordenave* v. *Gregory*, 5 East, 107).

It is necessary to show either an actual tender and refusal (*Dorriens* v. *Hutchinson*, 1 Smith, 420), or that the plaintiff waited at the bank on the day when the transfer was to be made, until the close of the transfer books, which is the latest time when the transfer can be made (*Bordenave* v. *Gregory*, 5 East, 107).

As to the damage at common law for not *replacing* stock, see *M'Arthur* v. *Lord Seaforth*, 2 Taunt. 257; *Harrison* v. *Harrison*, 1 Car. & P. 412; *Shepherd* v. *Johnson*, 2 East, 211.

(*b*) Where a defendant has failed to transfer stock, and the plaintiff buys stock of another, and sues for the consequent loss, he must declare specially upon the contract, and not merely for money paid, &c., as the claim is in the nature of unliquidated damages (*Lightfoot* v. *Creed*, 8 Taunt. 268; 2 Moo. 255). A broker who contracts for the sale of stock at a future day by the authority of his principal, who afterwards refuses to make good the bargain, cannot, by paying the difference to the purchaser, maintain an action against his principal for the amount, as for money paid, but must declare specially (*Child* v. *Morley*, 8 T. R. 610).

7 G. 2, c. 8. such contract.

know that the person or persons by whom or on whose behalf such contract or agreement shall be made, is or are not possessed of or entitled unto the stock or security concerning which such contract or agreement shall be made in his, her, or their own name or names, or in the name or names of a trustee or trustees for their use or right, shall for every such offence forfeit and pay the sum of one hundred pounds, to be recovered by action of debt, bill, plaint, or information in any of his majesty's courts of record at Westminster, in which no essoin, privilege, protection, or wager of law, or more than one imparlance shall be allowed; one moiety thereof to the use of his majesty, his heirs and successors, and the other moiety thereof to the use of him, her, or them, who shall sue for the same (*a*).

All contracts for stock to be truly entered in the broker's book,

9. That all and every broker or brokers, or other person or persons who shall negotiate or act as a broker, receiving brokerage, in the buying, selling, or otherwise disposing of any of the said public or joint stocks or other public securities, shall respectively keep a book or register, which shall be called "The Broker's Book;" in which said book he and they shall fairly, justly, and truly enter all contracts, agreements, and bargains, that he or they shall from time to time make between any person or persons whatsoever on the day of the making such contract or agreement, together with the names of the principal parties, as well buyers as sellers, and also the day of making such contract or agreement, to the intent and purpose that such broker or brokers, and other person or persons acting or negotiating as such as aforesaid, shall from time to time produce such book or register when thereunto lawfully required (*b*); and in case such broker or brokers or any other who shall negotiate or act as a broker as aforesaid, in relation to any the said matters, shall not keep such book or register, or who shall wilfully omit to enter therein, fairly, justly, and truly any such contract, bargain, or agreement as aforesaid, he or they shall for every such offence or omission forfeit and pay the sum of fifty pounds, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at Westminster, in which no essoin, privilege, or protection or wager of law, or more than one imparlance shall be allowed; one moiety thereof to the use of his majesty, his heirs and successors, and the other moiety thereof to the use of him, her, or them who shall sue for the same.

on penalty of 50*l.* for each offence.

12. [Made perpetual by 10 Geo. 2, c. 8.] (*c*).

24 & 25 Vict. c. 95.

24 & 25 Vict. c. 95. An Act to repeal certain Enactments which have been Consolidated in several Acts of the present Session relating to Indictable Offences, and other Matters.

[6th August, 1861.]

[See this statute, ante, vol. 2, "CRIMINAL LAW."]

STYLE.

[See post, tit. "TIME."]

SUCCESSION DUTY.

16 & 17 Vict. c. 51.

16 & 17 Vict. c. 51. An Act for granting to Her Majesty Duties on Succession to Property, and for altering certain Provisions of the Acts charging Duties on Legacies and Shares of Personal Estates (*d.*) [4th August, 1853.]

Most gracious sovereign,

We, your majesty's most dutiful and loyal subjects, the commons of the united

---

(*a*) The penalty does not attach either upon the principal or the broker, where the principal really had the stock at the time of the sale by his broker, though he afterwards refuse to make the transfer, and though the name of the principal is not disclosed by the broker (*Child* v. *Morley*, 8 T. R. 610).

(*b*) See *Rawlings* v. *Hall*, 1 Car. & P. 11, ante, p. 640, n. (*a*). The court refused to entertain an application by a defendant in an action on a bill of exchange, to compel the plaintiff, a stock-broker, to produce his book kept pursuant to this section, in order to enable the defendant to plead this statute (*Pritchett* v. *Smart*, 7 C. B. 625).

(*c*) Repealed by 23 Vict. c. 28.

(*d*) See Shelford's Succession Duty Act, and Thring's Succession Duty Act.

As between a vendor and purchaser of a reversion, the purchaser is liable to bear the succession duty payable in respect of it (*Cooper* v. *Trewby*, 28 Beav. 194).

A testator gave three annuities; the first "free from income or property tax, or any other deduction," the second "free from all deductions," the third "free from deductions:" it was held, that all the annuities were free from income tax (*Turner* v. *Mulneux*, 1 Johns. & H. 334).

A., by will, gave his lands unto trustees, for the benefit of his children on their attaining twenty-one, and authorised his trustees to sell

kingdom of Great Britain and Ireland in parliament assembled, towards raising the necessary supplies for defraying your majesty's public expenses, and making a permanent addition to the public revenue, have freely and voluntarily resolved to grant unto your majesty the duties hereinafter mentioned; and do most humbly beseech your majesty that it may be enacted; and BE IT ENACTED as follows: 16 & 17 Vict. c. 51.

1. In the construction and for the purposes of this Act,

Interpretation of certain terms in this Act.

The term "real property" shall include all freehold, copyhold, customary, leasehold, and other hereditaments, and heritable property, whether corporeal or incorporeal, in Great Britain and Ireland, except money secured on heritable property in Scotland, and all estates in any such hereditaments:

The term "personal property" shall include leaseholds, but shall include money payable under any engagement, and money secured on heritable property in Scotland, and all other property not comprised in the preceding definition of real property:

The term "property" alone shall include real property and personal property:

The term "succession" shall denote any property chargeable with duty under this Act:

The term "trustee" shall include an executor and administrator, and any person having or taking on himself the administration of property affected by any express or implied trust:

The term "person" shall include a body corporate, company, and society:

The term "legacy duty Acts" shall denote the Acts now in force for charging duties on legacies and shares of the personal estates of deceased persons:

What dispositions and devolutions of property shall confer successions.

2. Every past (*a*) or future disposition of property, by reason whereof any person (*b*) has or shall become beneficially entitled to any property or the income thereof upon the death of any person dying after the time appointed for the commencement of this Act, either immediately or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation (*c*), and every devolution by law of any beneficial interest in property, or the income thereof, upon the death of any person dying after the time appointed for the commencement of this Act, to any other person, in possession or expectancy, shall be deemed to have conferred or to confer on

---

such of his lands as they might see fit, and to invest the moneys in any way which might appear unto them best, and to pay such sums as they might think right for the maintenance and education of the children. In an administration suit the estates were directed to be sold: it was held, that succession duty was payable on the dower to which the widow was entitled out of a portion of the estate (*Harding* v. *Harding*, 7 Jur. N. S. 906, V. C. S.).

(*a*) The property of a remainderman whose estate vested upon his birth, before this Act came into operation, but did not fall into possession until the death of a tenant for life, which took place after the Act came into operation, but before it received the royal assent, was held to be liable to the duty (*Wilcox* v. *Smith*, 4 Drew. 40; 26 L. J. Chanc. 596). So when a testator devised his real estate to D. for life, and after D.'s decease to his eldest and other sons in tail male: and in default of such issue to H. for life, and after his decease to the eldest son of H. for life, with remainders over. The testator died in June, 1835, leaving D. and H., and the defendant (the eldest son of H.), him surviving. H. died in November, 1849, leaving the defendant him surviving. After this Act came into operation, D. died, whereupon the defendant succeeded to the estate under the testator's will: it was held that the defendant was chargeable with duty (*Att.-Gen.* v. *Middleton*, (*Lord*), 3 H. & N. 125; see *Att.-Gen.* v. *Fitzjohn*, 2 H. & N. 465).

M. T., pursuant to a power reserved to her in her marriage settlement, appointed real property (which had been settled on her by her father, W. D. G.), from and after the death of the survivor of her husband and herself without issue, to such uses as her father, the said W. D. G., should by deed or will appoint; and in default of such appointment, to the use of W. D. G. absolutely. M. T. survived her husband, and died in 1855 without issue. W. D. G. died in 1831, and by his will, dated the same year, devised the said property to the defendant, a stranger in blood. It was held that W. D. G., at the time of making his will, was absolute owner in fee simple of an estate which, for the purposes of the succession duty, was a reversion expectant on the estates for life of M. T. and her husband and the contingent estates of the unborn children, and that by the devise to the defendant the latter became beneficially entitled, on the death of M. T. in 1855, to a new "succession" under "a past disposition of property," under this section, and was liable to a duty of 10*l.* per cent. under section 10 (*Att.-Gen.* v. *Gardner*, 32 L. J. Ex. 84; see *Lord Advocate* v. *Roberts's Trustees*, 20 Sess. C. 449, 2nd series; *Lord Advocate* v. *Macdonald*, 24 Sc. Sess. Cas. 1175).

(*b*) The Act applies to a succession under a British settlement to British property vested in British trustees, and falling under the jurisdiction of a British court, although the persons entitled are aliens domiciled abroad (*In re Lovelace*, 4 De Gex & J. 340).

(*c*) This section includes powers of appointment (*In re Lovelace*, 4 De Gex & J. 340; *In re Payton*, 7 H. & Nor. 265). In which case it seems that the donor of the power and not the donee is the predecessor (*In re Barker*, 7 H. & Nor. 109, infra, p. 647).

16 & 17 Vict. c. 51.

Definition of the terms "successor," "predecessor."

the person entitled by reason of any such disposition or devolution a "succession;" and the term "successor" shall denote the person so entitled (*a*); and the term "predecessor" shall denote the settlor, disponer, testator, obligor, ancestor, or other person from whom the interest of the succeesor is or shall be derived (*b*).

(*a*) Where A., the tenant for life, and B., his nephew, and tenant in tail, entered into an arrangement, by which they barred the entail, and conveyed the property to such uses as they should jointly appoint, and subject thereto to the old uses. By a contemporaneous deed, in execution of the joint power, A. secured to B. a life annuity on the property, and B. secured 25,000*l.* payable when he, B., came into possession. Of this, 20,000*l.* was settled contemporaneously, on A.'s daughters, and the remainder on A.: it was held, that on the death of A. in 1855, succession duty was payable on the 20,000*l.* as a succession from A., but that no succession duty was payable on the remaining 5000*l.*, being within the exemption of the 17th section (*Re Jenkinson*, 24 Beav. 64; 26 L. J. Ch. 241). And where C., tenant for life, and protector of the settlement, purchased for valuable consideration, of the remainderman of the property, 20,000*l.*, to become payable on the remainder taking effect by a death. C. transferred his interest in the money to the defendant. On the sum becoming payable to him by the death of one, G.: it was held, by Bramwell, B., that the transfer of the interest was not a disposition of property, but a transfer only (*Att.-Gen.* v. *Yelverton*, 7 H. & Nor. 306; 30 L. J. Exch. 333). But Pollock, C. B., Martin and Channell, BB., held that the words of this section were insuperable, and that the duty must be paid as on a succession from C. (*Ib.*).

Where J. P. died intestate leaving W. P. his brother, A. S., the wife of J. H. S., claimed to be a daughter of a sister of J. P. And by indenture, reciting that letters of administration had been granted to W. P., and in order to obviate any doubts or differences which might arise touching any share which J. H. S. or A. S. might be entitled to in the personal effects of J. P., W. P. had proposed and agreed on having a general release from J. H. S. and A. S. to transfer 30,000*l.*, to be settled upon trusts for J. H. S. and A. S., and the children of their marriage, to which proposal J. H. S. and A. S. agreed; that 30,000*l.* had been directed to be transferred to trustees by W. P., and that J. H. S. and A. S. had that day executed a general release to W. P., of all claims against him as administrator of J. P. or otherwise; it was declared that B. and O. should stand possessed of the 30,000*l.* in trust to pay the interest to J. H. S. for life, and after his death to A. S. for her life, and after the death of the survivor, if there should be an only child, in trust for such child, and if there should be two or more children, in trust for such children in such shares as J. H. S. and A. S. or the survivor should appoint; and in case no child should live to attain a vested interest, in trust for the survivor of J. H. S. and A. S. absolutely. Contemporaneously with the indenture a release was executed by J. H. S. and A. S. to W. P. There were ten children of the marriage, and J. H. S. and A. S., having appointed 2,000*l.* to E., one of such children, J. H. S. and A. S. died in or before March, 1854: it was held, that the defendant was entitled to judgment, because it could not be inferred that W. P. was either the sole predecessor of E., or a joint predecessor within the meaning of section 13, *dubitante* Channell, B. *Per* Watson, B., that J. H. S. and A. S. were the settlors (*Att.-Gen.* v. *Baker*, 4 H. & N. 19).

Where A. by will devised real estate to B. for life; remainder to C. in tail male. After the testator's death B. and C. executed a disentailing deed, by which the property was conveyed to trustees to such uses as B. and C. should by deed jointly appoint, and in default to the uses under the will. By deed of appointment the property was conveyed by them to trustees on trust for B. for life, subject to an annuity of 1,000*l.* to C. during the joint lives of B. & C.; remainder to C. for life; remainder to C.'s eldest son for life; remainder to the second and other sons of C., with divers remainders over, with an ultimate remainder to C. in fee, it was held, that on the death of B. after this Act came into operation, C. was chargeable with duty as on a "succession," and that C. was not entitled to an allowance under section 38 from the value of such succession in respect of the annuity which ceased to be payable on the death of B. (*Att.-Gen.* v. *Sibthorp*, 3 Hurl. & N. 424; 28 L. J. Ex. 9).

(*b*) Where S., by deed of entail in Scotland, gave an estate to her eldest son, A., and the heirs of his body, whom failing, she gave the same to her grandson, C., and the heirs of his body, with remainders over. A. died without issue: it was held, that S. was the "predecessor," of C. (*Saltoun* (*Lord*) v. *Advocate-Gen.* 3 Macq. H. L. Cas. 659; 6 Jur. N. S. 713).

Where the succession is by provision, the settlor is the predecessor; but where by devolution, the last possessor is the predecessor. Hence C. took by provision. He must be considered in the situation of a remainderman in tail, according to English law, taking *per formam doni*, to whom the donor, and not the last person who held under the first estate tail, would be considered the predecessor." *Per* Campbell, C. (*Ib.*).

Where there is an entail giving an estate tail to one, with remainder to another, the donee or

16 & 17 Vict c. 51.

Joint tenants taking by survivorship to be deemed successors.

3. Where any persons shall, at or after the time appointed for the commencement of this Act, have any property vested in them jointly, by any title not conferring on them a succession, any beneficial interest in such property accruing to any of them by survivorship shall be deemed to be a succession; and every person to whom any such interest shall accrue shall be deemed to be the successor; and the person upon whose death such accruer shall take place shall be deemed to be the predecessor; and where any persons after the time appointed for the commencement of this Act shall take any succession jointly, they shall pay the duty, if any, chargeable thereon by this Act in proportion to their respective interests in the succession; and any beneficial interest in such succession accruing to any of them by survivorship shall be deemed to be a new succession, derived from the predecessor from whom the joint title shall have been derived.

General powers of appointment to confer successions.

4. Where any person shall have a general power of appointment, under any disposition of property (*a*) taking effect upon the death of any person dying after the time appointed for the commencement of this Act, over property, he shall, in the event of his making any appointment thereunder, be deemed to be entitled, at the time of his exercising such power, to the property or interest thereby appointed as a succession derived from the donor of the power; and where any person shall have a limited power of appointment, under a disposition taking effect, upon any such death, over property, any person taking any property by the exercise of such power shall be deemed to take the same as a succession derived from the person creating the power as predecessor.

Extinction of determinable charges to confer successions (*b*).

5. Where any property shall at or after the time appointed for the commencement of this Act be subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of benefit accruing to any person or persons upon the extinction or determination of such charge, estate, or interest shall be deemed to be a succession accruing to the person, or the persons if more than one, then entitled beneficially to the property or the income thereof, according to his or their respective estates or interests therein, or beneficial enjoyment thereof; and the person or persons from whom such successor or successors respectively shall have derived title to the property so charged shall be deemed to be the predecessor or predecessors, as the case may be.

Persons now beneficially

6. Provided, that no person entitled, at the time appointed for the commencement of this Act, to the immediate reversion in any real property expectant upon the determina-

---

remainderman who takes by purchase is the "successor," and the entailer the "predecessor;" and with respect to the heirs of the body, the donee in tail is the "ancestor," and the heir of the body is the "successor."—Per Lord Wensleydale (*Ib.*).

Upon a second marriage of a lady, her second husband settled his property on the children of her former husband: it was held, that the husband, and not the wife was the predecessor (*In re Ramsay's Settlement*, 30 Beav. 75).

Succession duty is payable by a person entitled under the will of an officer of customs to the amount of "The Customs Annuity and Benevolent Fund," payable at his death under the 56 Geo. 3, clxxiii.; for the relationship of predecessor and successor exists between the officer and the nominee within this Act (*Att.-Gen.* v. *Abdy*, 32 L. J. Ex. 9).

Where a settlor, having by a settlement executed prior to the time fixed for the coming of the Act into operation, reserved to herself a general power of appointment, executed that power by will, and died after the Act came into operation: it was held, upon appeal, that the property was subject to the payment of the duty, and that the case was within this section; that the 4th had no application, nor the 12th (*In re Lovelace's Settlement*, 4 De Gex. & J. 340; 28 L. J. Ch. 489).

Where H., tenant for life, and J., tenant in tail in remainder, suffered a recovery to the use of an appointment to be made by them jointly, which they exercised, to give, among other dispositions, a life estate in remainder to G., who, before the recovery suffered, had an estate tail in remainder expectant upon J.'s then existing estate tail: it was held, that H. and J. jointly were the predecessors of G. (*Att.-Gen.* v. *Floyer*, 7 H. & N. 238; in error, 31 L. J. Ex. 404; 9 H. L. C. 477; *Att.-Gen.* v. *Smyth*, 9 H. L. C. 497; *Att.-Gen.* v. *Deane*, 12 Ir. Com. Law. Rep. 307).

(*a*) This refers to the power coming into operation, and not to the appointment under it taking effect—to the power and not to the disposition of the property (*In re Lovelace*, 4 De Gex and J. 340; 28 L. J. Chan. 489). It applies to appointments under powers created before the passing of the Act (*Ib.*).

Personal property appointed under a general power, and not coming within this section, ought not to be treated as the property of the donee so as to be, in the case of the donee being domiciled abroad, exempt from succession duty (*Ib.*).

Where L., tenant for life, and subject to such life estate having a general power of appointment by deed or will, by will exercised the powers in favour of B., B. was a stranger in blood to L., but was the niece of her husband, the donor of the power who had created it, and died before the Act came into operation: it was held, that B. was only liable to a duty as on a succession derived from the donor of the power (*In re Barker*, 7 Ex. 109).

(*b*) See *Wilcox* v. *Smith*, 4 Drew. 55.

16 & 17 Vict. c. 51.

tion of any lease for life or for years determinable on life, shall be chargeable with duty in respect of such determination, in the event of the same occurring in his lifetime.

entitled to real property subject to leases for life, not liable to duty.

Dispositions accompanied by the reservation of a benefit to the grantor, &c., to confer successions.

7. Where any disposition of property, not being a *bonâ fide* sale, and not conferring an interest expectant on death on the person in whose favour the same shall be made, shall be accompanied by the reservation or assurance of or contract for any benefit to the grantor, or any other person, for any term of life or for any period ascertainable only by reference to death, such disposition shall be deemed to confer at the time appointed for the determination of such benefit an increase of beneficial interest in such property, as a succession equal in annual value to the yearly amount or yearly value of the benefit so reserved, assured, or contracted for, on the person in whose favour such disposition shall be made.

Dispositions to take effect at periods depending on death, or made for evading duty, to confer successions.

8. Where any disposition of property shall be made to take effect at a period ascertainable only by reference to the date of the death of any person dying after the time appointed for the commencement of this Act, such disposition shall be deemed to confer a succession on the person in whose favour the same shall be made; and where any disposition of property shall purport to take effect presently, or under such circumstances as not to confer a succession, but by the effect or in consequence of any engagement, secret trust, or arrangement capable of being enforced in a court of law or equity, the beneficial ownership of such property shall not *bonâ fide* pass according to such disposition, but shall in fact devolve to any person on death, or at some period ascertainable only by reference to death, then such last-mentioned person shall be deemed to acquire the property so passing as a succession derived from the person making the disposition as the predecessor; and where any court of competent jurisdiction shall declare any disposition to have been fraudulent and made for the purpose of evading the duty imposed by this Act, it shall be lawful for such court to declare a succession to have been conferred on such person at such time and to such an extent as such court shall think just; and such last-mentioned person shall be deemed to have taken a succession accordingly derived from the person making such disposition as predecessor.

Duties to be under the care and management of the commissioners of inland revenue.

9. The duties hereinafter imposed shall be considered as stamp duties, and shall be under the care and management of the commissioners of inland revenue, hereinafter called "the commissioners;" who, by themselves and their officers, shall have the same powers and authorities for the collection, recovery, and management thereof, as are by an Act passed in the session holden in the twelfth and thirteenth years of the reign of her present majesty, chapter one, or by any other Act or Acts, vested in them for the collection, recovery, and management of any stamp duties; and shall provide proper stamps for denoting the rate *per centum* of the duties payable under this Act; and shall have all other powers and authorities requisite for carrying this Act into execution.

Duties on successions.

10. There shall be levied and paid to her majesty in respect of every such succession as aforesaid, according to the value thereof, the following duties; (that is to say,)

Where the successor shall be the lineal issue or lineal ancestor of the predecessor, a duty at the rate of one pound *per centum* upon such value:

Where the successor shall be a brother or sister, or a descendant of a brother or sister of the predecessor, a duty at the rate of three pounds *per centum* upon such value:

Where the successor shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the predecessor, a duty at the rate of five pounds *per centum* upon such value:

Where the successor shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the predecessor, a duty at the rate of six pounds *per centum* upon such value:

Where the successor shall be in any other degree of collateral consanguinity to the predecessor than is hereinbefore described, or shall be a stranger in blood to him, a duty at the rate of ten pounds *per centum* upon such value.

Provision as to married persons chargeable with succession or legacy duties.

11. Where any person chargeable with duty under this Act in respect of any succession, or chargeable with duty under the legacy duty Acts in respect of any legacy bequeathed to him or her by a testator dying after the time appointed for the commencement of this Act, or in respect of the personal estate of any person dying after the same period, shall have been married to any wife or husband of nearer consanguinity than himself or herself to the predecessor, testator, or deceased person, then the person taking such succession, legacy, or personal estate shall pay in respect thereof the same rate of duty only as such his or her wife or husband would have been chargeable with if she or he had taken the same.

What duties

12. Where any person shall take a succession under a disposition made by himself (*a*),

---

(*a*) The object of this section was to prevent any one, with a vested estate tail in remainder, from diminishing by his own act the rate of succession duty to which he would be liable if he were not to deal with the estate tail till it vests in possession (*per* Lord Campbell, *Lord Braybrooke* v. *The Att.-Gen.*, 9 H. L. C. 150).

Where a testator devised his estates in L. to his brother C. for life, with remainder in tail to his first and other sons. On the 22nd March, 1848, C. and the defendant, his eldest son, executed a disentailing deed, whereby they limited

then, if at the date of such disposition he shall have been entitled to the property comprised in the succession expectantly on the death of any person dying after the time appointed for the commencement of this Act, and such person shall have died during the continuance of such disposition, he shall be chargeable with duty on his succession, at the same rate as he would have been chargeable with if no such disposition had been made; but a successor shall not in any other case be chargeable with duty upon a succession taken under a disposition made by himself, and no person shall be chargeable with duty upon the extinction or determination of any charge, estate, or interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto expectantly on the death of some person dying after the time appointed for the commencement of this Act.

16 & 17 Vict. c. 51.

payable when the successor is also the predecessor.

13. Where the successor shall derive his succession from more predecessors than one, and the proportional interest derived from each of them shall not be distinguishable, it shall be lawful for the commissioners to agree with the successor as to the duty payable; but if no such agreement shall be made, the successor shall be deemed to have derived his succession in equal proportions from each predecessor, and shall be chargeable with duty accordingly.

Provision as to joint predecessors (*a*).

14. Where the interest of any successor in any personal property shall, before he shall have become entitled thereto in possession, have passed by reason of death to any other successor or successors, then one duty only shall be paid in respect of such interest, and shall be due from the successor who shall first become entitled thereto in possession; but such duty shall be at the highest rate which, if every such successor had been subject to duty, would have been payable by any one of them.

Duty on transmitted successions.

15. Where, at the time appointed for the commencement of this Act, any reversionary property (*b*) expectant on death shall be vested, by alienation or other derivative title, in any person other than the person who shall have been originally entitled thereto under

Duties payable in respect of

---

the estate to such uses as they should jointly appoint, and in default of such appointment, to the uses declared by the will of the testator. On the same day C. and the defendant executed another disentailing deed of estates devised to them by another testator, and also limited them to such uses as they should jointly appoint. On the 23rd March, 1848, C. and the defendant executed a joint appointment, whereby, after reciting the two disentailing deeds, and certain arrangements made in respect of incumbrances, with other stipulations, they appointed the estates in L., to the use that the defendant might receive thereout the yearly sum of 1,000*l.* during the joint lives of himself and C., and subject thereto to the use of C. for life, in restoration, corroboration, and confirmation of his previous life estate, and after his decease to the use of the defendant for life, and after his decease to the use of his eldest son for life, with remainder, in tail male. In 1855 C. died:—It was held, first, that the defendant took a succession under a disposition made by himself, within this section (*Att.-Gen.* v. *Sibthorp*, 3 H. & N. 424; 28 L. J. Exch. 9); secondly, that the defendant was not entitled, under the 38th section, to any allowance in respect of the 1000*l.* a-year, which ceased on the death of C. (*Ib.* but the last point appears to be overruled by *Lord Braybrooke* v. *Attorney-Gen.*, *infra*).

Where in 1796 a testator devised freehold estates to his cousin, A. N., for life, with remainder to R. N., eldest son of A. N., for life, with remainder to the first and other sons of R. N. in tail male. In 1841, R. N. (being tenant for life in possession), and the defendant his son (being tenant in tail in remainder), executed a disentailing deed, whereby they limited the estates, subject and without prejudice to the life estate of R. N., to such uses as R. N. and the defendant should appoint, and in default of such appointment, to such uses as the defendant, in case he survived R. N., should appoint, and in default to the defendant for life, with remainder to his first and other sons in tail male. In 1850, R. N. and the defendant executed a joint appointment, whereby, after reciting the disentailing deed, and declaring that the estates should be freed from a rent charge of 10,131*l.*, the absolute property of R. N., they limited the estate to such uses as R. N. and the defendant should appoint, and in default thereof (subject to a rent-charge to the defendant of 1200*l.* a-year), to the use of R. N. for life, with remainder to the defendant for life, with remainder to his first and other sons in tail male. R. N. died in 1858:—It was held, first that the defendant took a succession under a disposition made by himself within this section, the testator being his "predecessor," and therefore the defendant was chargeable with duty at the rate of 10*l.* per cent. (*Att.-Gen.* v. *Lord Braybrooke*, 5 H. & N. 488; 29 L. J. Exch. 283; in error, 9 H. & C. 150; 31 L. J. Exch. 177). It was held, secondly, that the defendant was not entitled under the 38th section to any allowance in respect of the 1200*l.* a-year, which ceased on the death of R. N. (Ib. See *Att.-Gen.* v. *Floyd*, 7 Exch. 238; in error, 9 H. L. C. 477; 31 L. J. Exch. 404.)

(*a*) See *Att.-Gen.* v. *Baker*, ante, p. 646, n. (*a*); *Att.-Gen.* v. *Floyer*, ante, p. 647, n. (*b*).

(*b*) A sum of money to be raised in certain events is not reversionary property (*In re Jenkinson*, 24 Beav. 64, ante, p. 646, n. (*a*)).

16 & 17 Vict. c. 51.

transferred interests.

any such disposition or devolution as is mentioned in the second section of this Act, then the person in whom such property shall be so vested shall be chargeable with duty in respect thereof as a succession at the same time and at the same rate as the person so originally entitled would have been chargeable with if no such alienation had been made or derivative title created; and where, after the time appointed for the commencement of this Act, any succession shall, before the successor shall have become entitled thereto or to the income thereof in possession, have become vested by alienation or by any title not conferring a new succession in any other person, then the duty payable in respect thereof shall be paid at the same rate and time as the same would have been payable if no such alienation had been made or derivative title created; and where the title to any succession shall be accelerated by the surrender or extinction of any prior interests, then the duty thereon shall be payable at the same time and in the same manner as such duty would have been payable if no such acceleration had taken place.

Succession subject to trusts for charitable or public purposes chargeable with duty.

16. Where property shall become subject to a trust for any charitable or public purposes (*a*), under any past or future disposition, which, if made in favour of an individual, would confer on him a succession, there shall be payable in respect of such property, upon its becoming subject to such trusts, a duty at the rate of ten pounds *per centum* upon the amount or principal value of such property; and it shall be lawful for the trustee of any such property to raise the amount of any duty due in respect thereof, with all reasonable expenses, upon the security of the charity property, at interest, with power for him to give effectual discharges for the money so raised.

Provision for life policies and certain post obit bonds.

17. No policy of insurance on the life of any person shall create the relation of predecessor and successor between the insurers and the assured, or between the insurers and any assignee of the assured, and no bond or contract made by any person *bonâ fide* for valuable consideration in money or money's worth (*b*) for the payment of money or money's worth after the death of any other person, shall create the relation of predecessor and successor between the person making such bond or contract and the person to or with whom the same shall be made (*c*); but any disposition or devolution of the moneys payable under such policy, bond, or contract, if otherwise such as in itself to create a succession within the provisions of this Act, shall be deemed to confer a succession.

Exemptions.

18. Where the whole succession or successions derived from the same predecessor, and passing upon any death to any person or persons, shall not amount in money or principal value to the sum of one hundred pounds, no duty shall be payable under this Act in respect thereof or of any portion thereof; and no duty shall be payable under this Act upon any succession, which, as estimated according to the provisions of this Act, shall be of less value than twenty pounds in the whole, or upon any moneys applied to the payment of the duty on any succession according to any trust for that purpose, or by any person in respect of a succession, who, if the same were a legacy bequeathed to him by the predecessor, would be exempted (*d*) from the payment of duty in respect thereof under the legacy duty Acts; and no person shall be charged with duty under this Act in respect of any interest surrendered by him or extinguished before the time appointed for the commencement of this Act; and no person charged with the duties on legacies and shares of personal estate under the legacy duty Acts, in respect of any property subject to such duties, shall be charged also with the duty granted by this Act in respect of the same acquisition of the same property.

Leasehold estates not to be charged with legacy duty as personal estate.

19. No legatee or other person shall, after the time appointed for the commencement of this Act, be chargeable under the legacy duty Acts with duty, not then already due, in respect of any leasehold hereditaments of any testator or deceased person, as belonging to the personal estate of the testator or deceased.

Duties to be paid on the successor becoming

20. The duty imposed by this Act shall be paid at the time when the successor, or any person in his right or on his behalf, shall become entitled in possession to his succession, or to the receipt of the income and profits thereof; except that if there shall be any

---

(*a*) A bequest of a sum of money to trustees to erect a church to which the public would have a right to go and receive religious instruction, and for the support of a minister to officiate, would be either a charitable purpose or certainly a public purpose, per Martin, B. (*In re Parker*, 4 Hurl. & N. 679).

(*b*) The words of this section apply to all contracts, and exempt them from duty; and the funds of a tontine becoming divisible are within this section, so that the crown is not entitled to duty; such division, however, would not affect any devolution or disposition after the commencement of the Act. In the case of a father who had subscribed for one share in the tontine in the names of his three infant children, two of whom died before the Act came into operation, the Court decided that there was no succession at all in the surviving child, who took in his own right only that which had been given to him before the Act came into operation (*Oldfield* v. *Preston*, 31 L. J. Ch. 256). See *In re Jenkinson*, ante, p. 646, n. (*a*).

(*c*) See *Att.-Gen.* v. *Yelverton*, 7 H. & Nor. 306, ante, p. 644, n. (*a*).

(*d*) The word exempted is to be construed in its legal sense, and applies only to exemptions expressly provided for by the legacy duty Acts (*Att.-Gen.* v. *Fitz John*, 2 Hurl. & N. 456).

prior charge, estate, or interest, not created by the successor himself, upon or in the succession, by reason whereof the successor shall not be presently entitled to the full enjoyment or value thereof, the duty in respect of the increased value accruing upon the determination of such charge, estate, or interest shall, if not previously paid, compounded for, or commuted, be paid at the time of such determination; and except that in case of an annuity, or property hereby made chargeable as an annuity, the duties shall be paid by such instalments as are hereinafter directed or referred to; provided that no duty shall be payable upon the determination of any lease purporting at the date thereof to be a lease at rackrent, in respect of the increase accruing to the successor upon such determination.

16 & 17 Vict. c. 51.

entitled in possession, but in the case of outstanding interests on the determination thereof.

21. The interest of every successor except as herein provided, in real property, shall be considered to be of the value of an annuity equal to the annual value of such property (*a*), after making such allowances as are hereinafter directed, and payable from the date of his becoming entitled thereto in possession, or to the receipt of the income or profits thereof during the residue of his life, or for any less period during which he shall be entitled thereto: and every such annuity, for the purposes of this Act, shall be valued according to the tables in the schedule annexed to this Act; and the duty chargeable thereon shall be paid by eight equal half-yearly instalments, the first of such instalments to be paid at the expiration of twelve months next after the successor shall have become entitled to the beneficial enjoyment of the real property in respect whereof the same shall be payable, and the seven following instalments at half-yearly intervals of six months each, to be computed from the day on which the first instalments shall have become due, provided that if the successor shall die before all such instalments shall have become due, then any instalments not due at his decease shall cease to be payable, except in the case of a successor who shall have been competent (*b*) to dispose by will of a continuing interest in such property, in which case the instalments unpaid at his death shall be a continuing charge on such interest, in exoneration of his other property, and shall be payable by the owner for the time being of such interest.

The interest of a successor in real property to be considered as an annuity.

22. In estimating the annual value of lands used for agricultural purposes, houses, buildings, tithes, teinds, rentcharges, and other property yielding or capable of yielding income not of a fluctuating character, an allowance shall be made of all necessary outgoings.

Rules for valuing lands, houses, &c.

23. Where timber, trees, or wood, not being coppice of underwood, shall be comprised in any succession, the successor shall be chargeable with duty upon his interest in the net moneys, after deducting all necessary outgoings for the year, which shall from time to time be received from any sales of such timber, trees, or wood, and shall account for and pay the same yearly; provided that no duty shall be payable on the net moneys received from the sale of timber, trees, or wood in any one year unless such net moneys shall exceed the sum of ten pounds; provided, that if the successor shall be desirous of commuting the duty, and shall deliver to the commissioners an estimate of the net moneys obtainable by him from the sale of such timber, trees, and wood as may, in a prudent course of management of the property, be felled by such successor during his life, the commissioners, if satisfied with such estimate, shall accept the same and assess the duty accordingly.

Rule as to timber.

24. A successor shall not be chargeable with duty in respect of any advowson or church patronage comprised in his succession, unless the same, or some right of presentation, or some other interest in or out of such advowson or church patronage, shall be disposed of by or in concert with him for money or money's worth, in which case he shall be chargeable with duty upon the amount or value of the money or money's worth for which the same or any such presentation or interest, shall be so disposed of at the time of such disposal.

Rule as to advowsons.

25. Where a successor, entitled to any real property, subject to any lease by reason whereof he shall not be presently entitled to the full enjoyment thereof, shall not have paid duty in respect of the full yearly value of such property, he shall be chargeable with duty upon his interest in any fine or grassum or other consideration which may be received during his life for the renewal of any such lease, or the grant of any reversionary lease of the same property.

Rule as to property subject to beneficial leases.

26. The yearly value of any manor, opened mine, or other real property of a fluctuating yearly income shall either be calculated upon the average profits or income derived therefrom, after deducting all necessary outgoings, during such a number of

Rule as to manors, mines, &c.

(*a*) In calculating the value of a succession no deduction is to be made for income-tax upon real property, or on stock the produce of real property, nor for the cost of collecting rents of real property during a temporary absence of the owner abroad. *Elwes, In re*, 3 H. & N. 719; accord. *Att.-Gen.* v. *Lorton (Lord)* 11 Ir. Com. L. R. 429; overruling, *In re Beresford's Succession*, 5 Ir. L. R. 407.

(*b*) The words "competent to dispose by will" had reference to the interest in the property, and not to personal capacity (*Att.-Gen.* v. *Hallett*, 2 H. & N. 368). A person, therefore, becoming entitled to the disposable interest of a successor, who, being insane, or a feme covert, dies intestate before all or any of the instalments of succession are payable, is liable to the payment of such instalments (*Ib.*).

16 & 17 Vict. c. 51.

preceding years as shall be agreed upon for this purpose between the commissioners and the successor, before the first payment of duty on the succession shall have become due; or if no such period shall be agreed upon, then the principal value of such property shall be ascertained, and the annual value thereof shall be considered to be equal to interest calculated at the rate of three pounds *per centum per annum* on the amount of such principal value.

Duty payable by corporations, &c., taking real estates.

27. Where any body corporate, company, or society shall become entitled, as successors, to any real property, the duty in respect thereof shall be assessed upon the principal value of such property, but shall be payable by such instalments, at such times, and in such manner as the same would be payable if assessed in respect of property devolving on a successor in fee simple; and it shall be lawful for such body corporate, company, or society, or any trustee thereof, to raise the amount of any duty due in respect of their succession upon the security thereof, at interest, with power for them to give effectual discharges for the money so raised.

Allowance for fines, &c., paid by successor.

28. If a successor, or any person on his behalf, upon becoming entitled to any copyhold or other real property, shall be subject to any fines, casualties of superiority, compositions, reliefs, or charges incident to the tenure thereof, and due in respect of his succession, he shall be entitled to have a deduction allowed to him of the amount of such fines, casualties, compositions, reliefs, or charges from the assessable value of his interest in such copyhold or other real property.

Real property directed to be sold to be charged as personalty.

29. The interest of any successor in moneys to arise from the sale of real property under any trust for the sale thereof, so far as the same shall not be chargeable with duty under the legacy duty Acts, shall be deemed to be personal property chargeable with duty under this Act; provided that where such moneys shall be subject to any trust for the re-investment thereof in the purchase of other real property, to which the successor would not be absolutely entitled, such moneys shall be deemed to be real property, and for the purpose of this Act each successor's interest therein shall be considered to be of the value of an annuity, payable during his life, or for any less period during which he shall be entitled, equal in amount to the annual produce of the actual trust property at the time of his becoming entitled in possession, whether the same shall then be the real property subject to the trust or direction for sale, or any property purchased in substitution for it, or any intermediate investment of the produce of the sale of the original property.

Personal property to be invested in real property how to be charged.

30. The interest of any successor in personal property subject to any trust for the investment thereof in the purchase of real property to which the successor would be absolutely entitled shall, so far as the same shall not be chargeable with duty under the legacy duty Acts, be chargeable with duty under this Act as personal property; and personal property subject to any trust for the investment thereof in the purchase of real property to which the successor would not be absolutely entitled shall, so far as the same shall not be chargeable with duty under the legacy duty Acts, be chargeable with duty under this Act as real property; and for the purposes of this Act each successor's interest therein shall be considered to be of the value of an annuity, payable during his life, or for any less period during which he shall be entitled, equal in amount to the annual produce of the actual trust property at the time of his becoming entitled in possession, whether the same shall be the real property directed to be purchased, or any intermediate investment of the personal property directed to be invested in such purchase.

Annuities under this Act and the legacy duty Acts to be valued according to the tables annexed to this Act.

31. Where it shall be required to calculate, for the purposes either of this Act or of the legacy duty Acts, the value of any annuity, or of any interest chargeable with duty as an annuity, such value shall, after the time appointed for the commencement of this Act, be calculated according to the tables in the schedule annexed to this Act, and not according to the tables in the schedule annexed to the Act of the thirty-sixth year of the reign of king George the third, chapter fifty-two, and such annuity or interest shall be chargeable with duty accordingly (*a*).

Provisions as to the assessment of personalty.

32. The following provisions relating to the assessment and payment of duty on personal estate, and the exemption thereof from duty in certain cases, namely, the eighth, tenth, eleventh, twelfth, fourteenth, and twenty-third sections of the said Act of the thirty-sixth year of the reign of king George the third, chapter fifty-two, shall be applicable to the personal property comprised in any succession, and to the assessment and payment of duty thereon, as if such personal property were a legacy bequeathed by the predecessor to the successor, and were subject to the said provisions, and as if the tables in the said Act referred to were the tables in the schedules annexed to this Act.

Allowance to donee of general power of appointment.

33. Where the donee of a general power of appointment shall become chargeable with duty in respect of the property appointed by him under such power, he shall be allowed to deduct from the duty so payable any duty he may have already paid in respect of any limited interest taken by him in such property.

(*a*) This section is confined to cases where the testator died after the commencement of the Act, and does not extend to cases where, the death being before, the act of calculation and payment occur after the commencement of the statute. *Cornwallis (Earl), In re*, 11 Exch. 580; 25 L. J. Exch. 149.

34. In estimating the value of a succession no allowance shall be made in respect of any incumbrance thereon created or incurred by the successor, not made in execution of a prior special power of appointment (*a*), but an allowance shall be made in respect of all other incumbrances, and also in respect of any moneys which the successor may previously to his possession have laid out in the substantial repairs or permanent improvement of real property comprised in his succession, provided that upon any successor becoming entitled to real property subject to any prior principal charge, an allowance shall be made to him in respect only of the yearly sums payable by way of interest or otherwise on such charge as reducing the annual value *pro tanto* of such real property

What allowance to be made for incumbrances

35 In estimating the value of a succession no allowance shall be made in respect of any contingent incumbrance thereon, but in the event of such incumbrance taking effect as an actual burden on the interest of the successor, he shall be entitled to a return of a proportionate amount of the duty so paid by him in respect of the amount or value of the incumbrance when taking effect

No allowance to be made in respect of contingent incumbrances, unless they take effect.

36. In estimating the value of a succession no allowance shall be made in respect of any contingency upon the happening of which the property may pass to some other person, but in the event of the same so passing the successor shall be entitled to a return of so much of the duty paid by him as will reduce the same to the amount which would have been payable by him if such duty had been assessed in respect of the actual duration or extent of his interest.

The duty on successions to be calculated without regard to contingencies.

37. Where a successor shall not have obtained the whole of his succession at the time of the duty becoming payable, he shall be chargeable only with duty on the value of the property or benefit from time to time obtained by him, and whenever any duty shall have been paid on account of any succession, and it shall afterwards be proved to the satisfaction of the commissioners that such duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of property which the successor shall have been unable to recover, or from or of which he shall have been evicted or deprived by any superior title, or that for any other reason it ought to be refunded, the commissioners shall thereupon refund the same to the person entitled thereto

Provision for allowance or return of duty.

38. Where any successor upon taking a succession shall be bound to relinquish or be deprived of any other property, the commissioners shall, upon the computation of the assessable value of his succession, make such allowance to him as may be just in respect of the value of such property (*b*).

Allowance to be made to successor in respect of relinquished property.

(*a*) See *Att.-Gen.* v. *Lorton* (*Lord*), 11 Ir Com. L R 429.

Where in 1803 estates were settled to the use of P. for life, with remainder to his first son in tail male In May, 1826, P and his first son suffered a recovery, and conveyed the estates to the use of P for life, with remainder to the use that the wife of P, in case she should survive him, should yearly receive during her life, a rent of 1000*l* with remainder to such uses and subject to such charges as P and his son should appoint, and in default of appointment to the use of the son for life, with remainder to his first and other sons in tail male In December, 1826, P and his son, in execution of the power, appointed the estates to such uses and subject to such charges as they during their joint lives should appoint; and in default of appointment to the son for life, with remainder over Subsequently P and his son, in exercise of the power, mortgaged the estates for money lent to them, and for the repayment of which they jointly and severally covenanted They also mortgaged the estate for a debt due from P, and for the repayment of which he alone covenanted They also charged the estates with an annuity of 500*l* for the grandson of P, during his life and the life of P and his son, or the survivor it was held, first, that on the death of P his son was entitled, on estimating the value of his succession, to an allowance in respect of the rent-charge of 1000*l.* during the life of the wife of P., inasmuch as she was chargeable with duty in respect of it (*Peyton, In re*, 7 H & N. 265, 31 L J Exch. 50). Secondly, that the annuity of 500*l* to the grandson of P, and the mortgage debts, were incumbrances on the succession created by the son, and not made in execution of a prior special power of appointment within this section, and consequently the son was not entitled to any allowance in respect of either of them (*Ib*).

(*b*) Where A, by settlement on the marriage of his daughter with B, covenanted to pay them 500*l* a year during their lives, provided that if B, by reason of the death of his brother without issue, should come into possession of certain estates, the covenant should cease, determine, and be void. In 1853, B's brother died without issue, and B came into possession of the estates it was held, on appeal against the decision of the commissioners of inland revenue, that in assessing the duty chargeable under this Act, B was entitled under this section to an allowance in respect of the loss of the annuity (*Micklethwaite, In re*, 11 Exch. 452). This decision has been approved of in the House of Lords (*Lord Braybrooke* v *The Att.-Gen*, 9 H & C 150) Though it had been questioned by Pollock, C.B, in *Att.-Gen.* v. *Sibthorp*, ante, p 649, n. (*a*).

16 & 17 Vict. c. 51.

Power for commissioners to compound duties.

39. Where, in the opinion of the commissioners, any succession shall be of such a nature, or so disposed or circumstanced, that the value thereof shall not be fairly ascertainable under any of the preceding directions, or where, from the complication of circumstances affecting the value of a succession, or affecting the assessment or recovery of the duty thereon, the commissioners shall think it expedient to exercise this present authority, it shall be lawful for them to compound the duty payable on the succession upon such terms as they shall think fit, and to give discharges to the successor, upon payment of duty according to such composition; and it shall be lawful for them, in any special cases in which they may think it expedient so to do, to enlarge the time for payment of any duty.

Power of commissioners to receive duty in advance.

40. It shall be lawful for the commissioners to receive any duty tendered to them in advance, and to allow discount thereon at the rate of four pounds *per centum per annum*, or at such other rate as may from time to time be directed by the commissioners of her majesty's treasury; and no person, by reason of his having made any payment of duty in advance, shall be prejudiced in his right to have any repayment of duty made to him to which he may become entitled under any of the provisions of this Act.

Power for commissioners to commute future duties.

41. It shall be lawful for the commissioners, in their discretion, upon application made by any person who shall be entitled to a succession in expectancy, to commute the duty presumptively payable in respect of such succession for a certain sum to be presently paid, and for assessing the amount which shall be so payable they shall cause a present value to be set upon such presumptive duty, regard being had to the contingencies affecting the liability to such duty, and the interest of money involved in such calculation being reckoned at the rate for the time being allowed by the commissioners in respect of duties paid in advance; and upon the receipt of such certain sum they shall give discharges to the successor accordingly.

Duty to be a first charge on property.

42. The duty imposed by this Act shall be a first charge on the interest of the successor, and of all persons claiming in his right, in all the real property in respect whereof such duty shall be assessed; and such duty shall also be a first charge on the interest of the successor in the personal property in respect whereof the same shall be assessed, while the same shall remain in the ownership or control of the successor, or of any trustee for him, or of his guardian or committee, or tutor or curator, or of the husband of any wife who shall be the successor; and the said duty shall be a debt due to the crown from the successor, having, in the case of real property comprised in any succession, priority over all charges and interests created by him, but such duty shall not charge or affect any other real property of the successor than the property comprised in such succession; provided, that where any settled real property comprised in a succession shall be subject to any power of sale, exchange, or partition, exerciseable with the consent of the successor, or by the successor with the consent of another person, he shall not be disqualified by the charge of duty on his succession from effectually authorising by his consent the exercise of such power, or exercising any power with proper consent, as the case may be, and in such case the duty shall be charged substitutively upon the successor's interest in all real property acquired in substitution for the real property before comprised in the succession, and in the meantime upon his interest also in all moneys arising from the exercise of any such power, and in all investments of such moneys.

Provision for the separate assessments of properties.

43. The commissioners shall, at the request of any successor, or any person claiming in his right, accept or cause to be made so many separate assessments of the duty payable in respect of the interest of the successor in any separate properties, or in defined portions of the same property, as shall be reasonably required; and in such cases the respective properties shall be chargeable only with the amount of duty separately assessed in respect thereof; and it shall be lawful also for the commissioners, by their certificates, to be issued in such form as they shall think fit, from time to time to declare that any duties already assessed, whether collectively or distributively, in respect of any succession, shall thenceforth be charged, as to any unpaid instalments, according to any further distribution thereof, upon separate parts only of the property in respect of which such assessment shall have been made, in which case the charge of such duties shall be thenceforth limited according to such further distribution.

What persons accountable for duty.

44. The following persons, beside the successor, shall be personally accountable to her majesty for the duty payable in respect of any succession, but to the extent only of the property or funds actually received or disposed of by them respectively after the time appointed for the commencement of this Act; that is to say, every trustee, guardian, committee, tutor, or curator, or husband in whom respectively any property, or the management of any property, subject to such duty, shall be vested, and every person in whom the same shall be vested by alienation or other derivative title at the time of the succession becoming an interest in possession; and all such trustees, guardians, committees, tutors, curators, husbands, and persons shall be authorised to compound or pay in advance or commute any duty, and retain out of the property subject to any such duty the amount thereof, or to raise such amount, and the expenses incident thereto, at interest on the security of such property, with power to give effectual discharges for the same, and such security shall have priority over any charge or incumbrance created by the successor; and in the event of the nonpayment of such duty as aforesaid every person hereby made accountable shall be a debtor to her majesty in the amount of the unpaid duty for which he shall be so accountable.

Notice of succession

45. The persons hereby made accountable for the payment of duty in respect of any succession, or some of them, shall, in the case of personal property, at the time of the

first payment, delivery, retainer, satisfaction, or other discharge of the same or any part thereof to or for the successor or any person in his right, and in the case of real property when any duty in respect thereof shall first become payable, give notice to the commissioners or to their officers of their liability to such duty, and shall at the same time deliver to the commissioners or to their officers a full and true account of the property for the duty whereon they shall respectively be accountable, and of the value thereof, and of the deductions claimed by them, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the commissioners fully and correctly to ascertain the duties due; and the commissioners, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein upon their requisition, may assess the succession duty on the footing of such account and estimate; but it shall be lawful for the commissioners, if dissatisfied with such account and estimate, to cause an account and estimate to be taken by any person or persons to be appointed by themselves for that purpose, and to assess the duty on the footing of such last-mentioned account and estimate, subject to appeal, as hereinafter provided; and if the duty so assessed shall exceed the duty assessable according to the return made to the commissioners, and with which they shall have been dissatisfied, and if there shall be no appeal against such assessment, then it shall be in the discretion of the commissioners, having regard to the merits of each case, to charge the whole or any part of the expenses incident to the taking of such last-mentioned account and estimate on the interest of the successor in respect whereof the duty shall be due, in increase of such duty, and to recover the same forthwith accordingly; and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be in the discretion of the court of appeal hereinafter appointed.

16 & 17 Vict. c. 51.

to be given to the commissioners, and a return of the property made.

46. If any person required to give any such notice or deliver such account as aforesaid shall wilfully neglect to do so at the prescribed period, he shall be liable to pay to her majesty a sum equal to ten pounds *per centum* upon the amount of duty payable by him, or in the case of a succession chargeable with a higher rate of duty than one pound *per centum* upon the value thereof, upon such less sum as such duty, if assessable at the rate of one pound *per centum* upon the value of the succession, would amount to, and a like penalty for every month after the first month during which such neglect shall continue; and if any person liable under this Act to pay any duty shall, after such duty shall have been finally ascertained, wilfully neglect to do so within twenty-one days, he shall also be liable to pay to her majesty a sum equal to ten pounds *per centum* upon the amount of duty so unpaid, or upon such less sum as such duty, if assessable at the rate of one pound *per centum* on the value of the succession, would amount to, and a like penalty for every month after the first month during which such neglect shall continue.

Penalty on not giving notices of succession.

47. If any accountable party required by the commissioners to deliver any such account as aforesaid shall make default in doing so, it shall be lawful for the commissioners to sue, out of her majesty's court of exchequer in England, Scotland, or Ireland, as they shall think expedient, according to the circumstances of the case, and for such court to issue a writ of summons in such form as the judges of such court shall from time to time frame, commanding the party so in default to deliver such account within such period as may be appointed in the writ, or to show cause to the contrary, and on cause being shown such order shall be made as shall be just.

Proceeding if return not made.

48. The commissioners shall for the purposes of the legacy duty Acts be empowered to require and enforce the delivery of accounts from executors, administrators, and trustees of property and legatees chargeable with duty under such Acts, and for the duty whereon they shall be accountable, in the same manner as they are by the last preceding section of this Act empowered to require and enforce the delivery of accounts for the purposes of this Act.

Power to enforce returns from executors and administrators.

49. Every person who under the provisions of this Act may deliver any account or estimate of the property comprised in any succession shall, if required by the commissioners, produce before them such books and documents in the custody or control of such person, so far as the same relate to such account or estimate, as may be capable of affording any necessary information for the purpose of ascertaining such property and the duty payable thereon; and the commissioners may, without payment of any fee, inspect and take copies of any public book; but all such information shall be deemed to be confidential, and the commissioners shall not disclose the same, or the contents of any document or book, to any person, otherwise than for the purposes of this Act.

Accounting party to verify his account by production of books and documents, and commissioners may, without fee, inspect and take copies of public books.

50. It shall be lawful for any accountable party dissatisfied with the assessment of the commissioners, upon giving, within twenty-one days after the date of such assessment, notice in writing to the commissioners of his intention to appeal against such assessment, and a statement of the grounds of such appeal, such statement to be furnished within the further period of thirty days, to appeal by petition accordingly to her majesty's court of exchequer in England, Scotland, or Ireland, according to the place in which the appellant shall be resident; and every such court, or any judge thereof sitting in chambers, shall have jurisdiction to hear and determine the matter of such appeal and the costs thereof (*a*), with power to direct, for the purposes of such appeal, any inquiry,

Power for accountable party to appeal.

(*a*) Where the decision of the Commissioners of Inland Revenue is appealed against, and the Court decides in favour of the appellant, he is entitled to costs against the Crown (*Micklethwaite, In re*, 11 Exch. 452).

16 & 17 Vict. c. 51.

valuation, or report to be made by any officer of the court, or other person, as such court or judge may think fit: Provided, that where the sum in dispute in respect of duty on such assessment does not exceed fifty pounds, the accountable party may, having given notice of appeal and delivered a statement of the grounds thereof as hereinbefore directed, appeal to the judge of the county court in England (*b*), the sheriff court in Scotland, or the assistant barrister's court in Ireland, for the district, county, or division in which the appellant shall be resident, or the property be situate; and every such judge shall have jurisdiction to hear and determine the matter of such last-mentioned appeal, with the like power and authority as are by this section given to a judge of her majesty's court of exchequer.

Duty to be entered by the commissioners in a book, and a stamped receipt to be given.

51. Whenever any payment of duty shall be made under this Act, the same shall be entered in a book to be kept by the commissioners for this purpose, and the receiver-general of inland revenue, or other proper officer appointed by the commissioners, shall give a receipt for the same in such form as they shall think fit, and stamped with the proper stamp for denoting the rate of duty, and the commissioners shall from time to time deliver to any person interested in any property affected by such duty, on applying for the same for any reasonable purpose approved by the commissioners, a certificate, in such form as they may think fit, of such payment.

Protection to *bonâ fide* purchasers.

52. Every receipt and certificate purporting to be in discharge of the whole duty payable for the time being in respect of any succession or any part thereof, shall exonerate a *bonâ fide* purchaser for valuable consideration, and without notice, from such duty, notwithstanding any suppression or mis-statement in the account upon the footing whereof the same may have been assessed, or any insufficiency of such assessment; and no *bonâ fide* purchaser of property for valuable consideration under a title not appearing to confer a succession shall be subject to any duty with which such property may be chargeable under the provisions of this Act, by reason of any extrinsic circumstances of which he shall not have had notice at the time of such purchase.

Court in suits for the administration of property to provide for payment of duty.

53. Whenever any suit shall be pending in any court for the administration of any property chargeable with duty under this Act or the legacy duty Acts, such court shall provide, out of any property which may be in the possession or control of the court, for the payment of duty to the commissioners.

Commencement of Act.

54. This Act shall be taken to have come into operation on the 19th day of May, 1853, and shall take effect accordingly.

Short title.

55. This Act may be cited for all purposes as "The Succession Duty Act, 1853."

SCHEDULE TO WHICH THIS ACT REFERS.

TABLE I.

The Values of an Annuity of £100 per Annum held on a Single Life.

[Here follows the table.]

TABLE II.

The Values of an Annuity of £100 per Annum, held on the Joint Continuance of Two Lives.

Ages of the Elder Lives.	Ages of the Younger Lives.	Values of the Annuities.

[Here follows the table.]

TABLE III.

The Values of an Annuity of £100 per Annum, for any Number of Years, not exceeding 95.

[Here follows the table.]

(*b*) In proceedings in the county courts under this section, a plaint shall be entered, and a summons shall be issued thereon, and the rules and practice of the court shall be adopted with respect to such proceedings, so far as the same are applicable (*County Court Rules, R.* 193, 2 Jur., N. S. 552, Part 2).

By a Treasury order of Nov. 1856, it is directed that for proceedings under the statute the same fees shall be taken as upon the entry and hearing of a plaint in the County Court, regard being had to the amount in dispute. Broom's County Court Practice, 580.

16 & 17 Vict. c. 51.

RULES

FOR INFERRING

The value of an annuity of 100*l.* per annum, held on the longest of two lives;

Also, the value of an annuity of 100*l.* per annum, held on the joint continuance of three Lives;

Also, the value of an annuity of 100*l.* per annum, held on the longest of three lives.

RULE for determining the value of an annuity of 100*l.* per annum, held on the longest of two lives.

The values of an annuity of 100*l.* per annum held on each of the single lives, to be added together, (from Table I.,) and from this sum the value of an annuity held on the joint continuance of the two lives (from Table II.) to be subtracted; the result is the value of an annuity of 100*l.* per annum, held on the longest of the two lives.

RULE for determining the value of an annuity of 100*l.* per annum, held on the joint continuance of three lives.

The value of an annuity of 100*l.* per annum on the joint continuance of the two elder lives is to be found from Table II. The age of a single life of the same (or nearest) value, with the annuity on the said joint lives, to be found from Table I. The value of an annuity of 100*l.* per annum on the joint continuance of this life and the younger life from Table II., 5*l.* being deducted from this sum, the remainder is the value of an annuity of 100*l.* per annum held on the joint continuance of the three lives.

RULE for determining the value of an annuity of 100*l.* per annum, held on the longest of three lives.

The values of an annuity of 100*l.* per annum for each of the three single lives to be extracted from Table I., and to be added together. The value of an annuity of 100*l.* per annum on the joint continuance of the two youngest lives, also the value of an annuity of 100*l.* per annum on the joint continuance of the two eldest lives, also the value of an annuity of 100*l.* per annum on the joint continuance of the oldest life and the youngest life (all found by Table II.) to be subtracted from the sum or addition of the annuities on the three single lives: to the result is to be added the value of an annuity of 100*l.* per annum held on the joint continuance of the three lives; the amount is the value of an annuity of 100*l.* per annum on the longest of the three lives.

FURTHER RULE.

And in all cases where the annuity shall be for more than three lives, the same shall be valued as an annuity for the three youngest of such lives: and where the annuity shall be given for a longer term of years than ninety-five years, or in perpetuity, the same shall be valued as an annuity for ninety-five years only.

22 & 23 Vict. c. 21. An Act to regulate the Office of Queen's Remembrancer, &c. [13th August, 1859.]

22 & 23 Vict. c. 21.

Appeal from assessments of succession duty may be carried to a superior court.

12. (*a*) In cases of appeal from the assessment of the commissioners of inland revenue to the court of exchequer, made under the provisions of "The Succession Duty Act, 1853," the party decided against may appeal from the decision of the court upon a case to be stated by the parties, or, if they differ, to be settled by the court, or a judge thereof, or any officer to whom the court may think proper to refer the same; and the court of appeal shall give such judgment as ought to have been given by the court of exchequer, and shall have power to adjudge the payment of costs.

Courts of appeal.

13. Such appeal as aforesaid shall be made to the court of error in the exchequer-chamber, and the decision of the said court of error shall be subject to appeal to the house of lords.

Notice of appeal to be given.

14. No such appeal shall be allowed under this Act unless notice thereof be given in writing to the opposite party or attorney, and to the proper officer of the court, within four days after the decision complained of, or such further time as may be allowed by the court or judge.

In summary proceedings for legacy or succession duty parties may appeal.

15. In any proceeding in the court of exchequer by writ of summons under "The Succession Duty Act, 1853," or by rule under any of the legacy duty Acts, the court may refer the matter to the proper officer to report thereon, and may, if they deem it expedient, order the facts contained in such report to be stated in the form of a special case for the opinion of the court, and may give such directions as to the mode of settling the case,

---

(*a*) See the sections from 9 to 11, and from 16 to 27, ante, vol. 1, p. 1301, tit. "CROWN SUITS;" and the sections from 27 to the end of the statute, ante, p. 235, tit. "SHERIFF."

22 & 23 Vict. c. 21. and the matters to be contained therein, and for the production of such documents, and may direct any issue or issues of fact to be tried by a jury, as they may think proper, and the court may proceed to give judgment on such case, and for any amount of duty the court are of opinion may be due to the crown, and for costs, in like manner as on a verdict on information, and on such judgment error may be brought and judgment given as on a special case stated by consent.

24 & 25 Vict. c. 92. 24 & 25 Vict. c. 92. An Act to amend the Law for the Collection of the Stamp Duties on Probates, Administrations, Inventories, Legacies, and Successions. [6th August, 1861.]

[See ante, p. 629, tit. "STAMPS."]

SUNDAY (a).

1 Eliz. c. 2. 1 Eliz. c. 2. An Act for the Uniformity of Common Prayer and Service in the Church, and Administration of the Sacraments. [A.D. 1558.]

Every person shall resort to church on the holy days.

14. That from and after the said feast of the nativity of St. John Baptist next coming, all and every person and persons inhabiting within this realm or any other, the queen's majesty's dominions, shall diligently and faithfully, having no lawful or reasonable excuse to be absent, endeavour themselves to resort to their parish church or chapel accustomed, or upon reasonable let thereof to some usual place where common prayer and such service of God shall be used in such time of let upon every Sunday and other days ordained and used to be kept as holy days, and then and there to abide orderly and soberly during the time of the common prayer, preaching, or other service of God, there to be used and ministered; upon pain of punishment by the censurers of the church, and also upon pain that every person so offending shall forfeit for every such offence twelve pence, to be levied by the churchwardens of the parish where such offence shall be done, to the use of the poor of the same parish, of the goods, lands, and tenements of such offender by way of distress.

Forfeiture for not coming to church.

3 Jac. 1, c. 4. 3 Jac. 1, c. 4. An Act for the better discovering and repressing of Popish Recusants. [A.D. 1605.]

27. That if any subject of this realm, at any time after one month next after the end of this present session of parliament, shall not resort or repair every Sunday to some church, chapel, or some other usual place appointed for common prayer, and there hear divine service according to the statute made in that behalf in the first year of the reign of the late queen Elizabeth, that then it shall and may be lawful to and for any one justice of peace of that limit, division, or liberty wherein the said party shall dwell, upon proof unto him made of such default by confession of the party or oath of witness, to call the said party before him; and if he or she shall not make a sufficient excuse, and due proof thereof to the satisfaction of the said justice of peace, that it shall be lawful for the said justice of peace to give warrant to the churchwardens of the said parish wherein the said party shall dwell, under his hand and seal, to levy twelve pence for every such default by distress and sale of the goods of every such offender, rendering to the said offender the overplus of the money raised of the said goods so to be sold; and that in default of such distress it shall and may be lawful for the said justice of peace to commit every such offender to some prison within the said shire, division, limit or liberty wherein such offender shall be inhabiting until payment be made of the said sum or sums so to be forfeited; which forfeiture shall be employed to and for the use of the poor of that parish wherein the offender shall be resident or abiding at the time of such offence committed.

1 Eliz. c. 2.

Forfeiture for not repairing to church weekly.

28. Provided, That no man be impeached upon this clause except he be called in question for his said default within one month next after the said default made.

1 Car. 1, c. 1. 1 Car. 1, c. 1. An Act for punishing divers Abuses committed on the Lord's Day, called Sunday. [A.D. 1625.]

"Forasmuch as there is nothing more acceptable to God than the true and sincere

---

(a) As to the cases in which Sunday is excluded in the computation of time, see post, tit. "TIME." Elections of officers of corporations, and other public companies, required to be held on a Sunday, may be held on the Saturday preceding or the Monday following (3 & 4 Will. 4, c. 31, ante, Vol. 1. p. 658, tit. "CORPORATIONS;" 5 & 6 Will. 4, c. 76, s. 30, ib. p. 672).

service and worship of him according to his holy will, and that the holy keeping of the Lord's day is a principal part of the true service of God, which in very many places of this realm hath been and now is profaned and neglected by a disorderly sort of people in exercising and frequenting bear-baiting, bull-baiting, interludes, common plays, and other unlawful exercises and pastimes upon the Lord's day; and for that many quarrels, bloodsheds, and other great inconveniences have grown by the resort and concourse of people going out of their own parishes to such disordered and unlawful exercises and pastimes, neglecting divine service both in their own parishes and elsewhere;" BE IT ENACTED, That from and after forty days next after the end of this session of parliament there shall be no meetings, assemblies, or concourse of people out of their own parishes on the Lord's day within this realm of England, or any the dominions thereof, for any sports and pastimes whatsoever: nor any bear-baiting, bull-baiting, interludes, common plays, or other unlawful exercises and pastimes used by any person or persons within their own parishes: and that every person or persons offending in any the premises shall forfeit for every offence three shillings four pence, the same to be employed and converted to the use of the poor of the parish where such offence shall be committed; and that if any one justice of the peace of the county, or the chief officer or officers of any city, borough, or town corporate, where such offence shall be committed, upon his or their view or confession of the party, or proof of any one or more witness by oath, which the said justice or chief officer or officers shall by virtue of this Act have authority to minister, shall find any person offending in the premises, the said justice or chief officer or officers shall give warrant under his or their hand and seal to the constables and churchwardens of the parish or parishes where such offence shall be committed, to levy the said penalty so to be assessed by way of distress and sale of the goods of every such offender, rendering to the said offender the overplus of the money raised of the said goods so to be sold; and in default of such distress, that the party offending be set publicly in the stocks by the space of three hours; and that if any man be sued or impeached for execution of this law, he shall and may plead the general issue, and give the said matter of justification in evidence: provided, that no man be impeached by this Act except he be called in question within one month next after the said offence committed; provided also, that the ecclesiastical jurisdiction within this realm, or any the dominions thereof by virtue of this Act or anything therein contained shall not be abridged, but that the ecclesiastical court may punish the said offences as if this Act had not been made; this Act to continue until the end of the first session of the next parliament, and no longer.

1 Car. 1, c. 1.

Every person using any unlawful pastime on the Lord's day to forfeit 3s. 4d. to the poor of the parish.

General issue.

Limitation of action.

The ecclesiastical jurisdiction not abridged.

3 Car. 1, c. 1. An Act for the further Reformation of sundry Abuses committed on the Lord's Day, commonly called Sunday.

[A.D. 1627.]

3 Car. 1, c. 1.

"Forasmuch as the Lord's day, commonly called Sunday, is much broken and profaned by carriers, waggoners, carters, wain-men, butchers, and drovers of cattle, to the great dishonour of God and reproach of religion;" BE IT THEREFORE ENACTED, That no carrier with any horse or horses (a), nor waggon-men with any waggon or waggons, nor carman with any cart or carts, nor waiuman with any wain or wains, nor drovers with any cattle, shall after forty days next after the end of this present session of parliament, by themselves or any other, travel upon the said day upon pain that every person and persons so offending shall lose and forfeit twenty shillings for every such offence: or if any butcher by himself, or any other for him by his privity or consent, shall after the end of the said forty days kill or sell any victual upon the said day, that then every such butcher shall forfeit and lose for every such offence the sum of six shillings and eight pence (b); the said offences and every of them being done in view of any justice of the peace, mayor, or other head officer of any city or town corporate, within their limits respectively, or being proved upon oath by two or more witnesses, or by the confession of the party offending, before any such justice, mayor, or head officer within their several limits respectively, wherein such offence shall be committed: to which end every such justice, mayor, or head officer shall have power by this Act to minister an oath to such witness or witnesses: all which sums or penalties shall or may be levied by any constable or churchwarden by warrant from any such justice or justices of the peace, mayor, or

A carrier, &c., that travels on the Lord's day shall forfeit 20s. (a).

Butchers that kill or sell victual upon that day shall forfeit 6s. 8d.

After conviction, and

(a) The driver of a van travelling to and from distant towns (as London and York) was held to be a carrier within the meaning of this Act, and liable to the penalty for travelling on a Sunday, though the driver of a stage or mail coach might not be (*Ex parte Middleton*, 3 B. & C. 164; 4 D. & R. 824; see *Sandiman* v. *Breach*, post, p. 659, n.) By 1 & 2 Will. 4, c. 22, s. 37, ante, Vol. II. p. 348, drivers of hackney coaches may ply, and are compellable to drive, on a Sunday. Justices of the peace may order the route of stage coaches and cattle during the hours of divine service on a Sunday (3 & 4 Will. 4, c. 19, s. 26).

(b) An indictment against a butcher for selling meat on a Sunday must conclude, *contra formam statuti* (*Rex* v. *Brotherton*, 1 Stra. 702).

3 Car. 1, c. 1. by warrant from a justice, &c., the constables, &c., may levy the said forfeitures to the use of the poor, or they may be recovered by suit.

other head officer as aforesaid within their several limits where such offence shall be committed or done, by distress and sale of the offender's goods, rendering to the party the overplus, or shall be recovered by any person or persons that will sue for the same by bill, plaint, or information in any of his majesty's courts of record in any city or town corporate, before his majesty's justices of the peace in their general sessions of the peace: all which forfeitures shall be employed to and for the use of the poor of the parishes where the said offences shall be committed or done, saving only that it shall be lawful to and for any such justice, mayor, or head officer, out of the said forfeitures, to reward any such person or persons that shall inform or otherwise prosecute any person or persons offending against this present Act according to their discretions, so that such reward exceed not the third part of the forfeiture: provided that such bill, plaint, or information shall be commenced, sued, and prosecuted in the county, city, or town corporate where such offence shall be committed and done, and not elsewhere; wherein no essoin, protection, or wager of law shall be allowed to the defendant: provided always, That it shall be lawful for any constable or churchwarden that shall have any suit or action brought against them for any distress by them or any of them to be taken by force of this present Act to plead the general issue and to give the special matter in evidence: provided likewise, That no person or persons whatsoever shall be impeached by this Act, unless he be thereof questioned within six months after the offence committed: provided further, That this Act shall not in any sort abridge or take away the authority of the courts ecclesiastical. This Act to continue to the end of the first session of the next parliament.

29 Car. 2, c. 7.

29 Car. 2, c. 7. An Act for the better Observation of the Lord's Day, commonly called Sunday. [A.D. 1676.]

"For the better observation and keeping holy the Lord's day, commonly called Sunday," BE IT ENACTED, That all the laws enacted and in force concerning the observation of the Lord's day, and repairing to the church thereon, be carefully put in execution; and that all and every person and persons whatsoever shall on every Lord's day apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publicly and privately; and that no tradesman, artificer, workman, labourer, or other person whatsoever shall do or exercise any worldly labour, business, or work of their ordinary callings (*a*) upon the Lord's day, or any part thereof

Tradesmen, artificers, and labourers.

(*a*) In *Drury* v. *Defontaine*, 1 Taunt. 131, it was held that a sale of a horse on a Sunday was not void, such sale not being within the ordinary calling of the plaintiff or his agent; but Mansfield, C. J., intimated an opinion, that if it had been such ordinary calling, the contract would have been void. And accordingly it was held, that a *horse-dealer* cannot maintain an action upon a private contract for the sale and warranty of a horse bought by him on a Sunday (*Fennell* v. *Ridler*, 5 B. & C. 406; 8 D. & R. 204). And an action will not lie upon a contract made and completed on a Sunday, although entered into by an agent without the direction of his principal, and although the objection is taken by the party at whose request the contract was so entered into (*Smith* v. *Sparrow*, 4 Bing. 84; 2 Car. & P. 544), in which case Best, C. J., seemed to dissent from the doctrine laid down in *Bloxsome* v. *Williams*, infrà, and Park, J., said he did not think the court was right in the decision of *Drury* v. *Defontaine*, suprà.

But where A., not knowing that B. was a horse-dealer, made a verbal bargain with him on a Sunday for the purchase of a horse, the price (which was above 10*l.*) being then specified, and the horse warranted sound; but it was not delivered till the following Tuesday, when the money was paid: it was held, that the contract was not complete until the delivery of the horse, and that therefore it was not void under this Act; but assuming it to be void, as the purchaser was ignorant that the vendor was exercising his ordinary calling on the Sunday, he had not been guilty of any breach of the law, and was therefore entitled to recover back the price of the horse for breach of the warranty (*Bloxsome* v. *Williams*, 3 B. & C. 232; 5 D. & R. 82).

The statute only prohibits labour, business, or work done in the course of a man's ordinary calling, and therefore a contract of hiring made on a Sunday between a farmer and a labourer for a year, is valid, and a service under it confers a settlement (*Rex* v. *Whitnash*, 7 B. & Car. 596; 1 Man. & Ry. 452). The enlistment of a soldier by a recruiting officer is not within the statute (*Wolton* v. *Gavin*, 16 Q. B. 48).

The giving by A., a tradesman, to B., another tradesman, of a guarantee for the faithful services of a person to be employed by the latter as a traveller, is not an act done in the way of A.'s ordinary calling, within this statute (*Norton* v. *Powell*, 4 Man. & G. 42). Where, in an action by the drawer against the acceptor of a bill of exchange, it appeared that the bill was drawn on a Sunday, that was held to be no objection against the plaintiff's recovering (*Begbie* v. *Levi*, 1 Car. & P. 180; 1 Tyrw. 130). Where A. sent a mare to B., a farmer, to be covered by a stallion belonging to him, on a Sunday, it was

(works of necessity (*a*) and charity only excepted): and that every person being of the age of fourteen years or upwards offending in the premises, shall for every such offence forfeit the sum of five shillings (*b*); and that no person or persons whatsoever shall publicly cry, show forth, or expose to sale any wares, merchandizes, fruit, herbs, goods, or chattels whatsoever upon the Lord's day, or any part thereof, upon pain that every person so offending shall forfeit the same goods so cried or showed forth or exposed to sale.

29 Car. 2, c. 7.

None shall cry or expose to sale wares.

2. That no drover, horse-courser, waggoner, butcher, higler (*c*), their or any of their servants, shall travel or come into his or their inn or lodging upon the Lord's day, or any part thereof, upon pain that each and every such offender shall forfeit twenty shillings for every such offence; and that no person or persons shall use, employ, or travel upon the Lord's day with any boat (*c*), wherry, lighter, or barge, except it be upon extraordinary occasion, to be allowed by some justice of the peace of the county, or head officer, or some justice of the peace of the city, borough, or town corporate where the fact shall be committed; upon pain that every person so offending shall forfeit and lose the sum of five shillings for every such offence. And that if any person offending in any of the premises shall be thereof convicted before any justice of the peace of the county, or the chief officer or officers, or any justice of the peace of or within any city, borough, or town corporate where the said offences shall be committed, upon his or their view or confession of the party, or proof of any one or more witnesses by oath (which the said justices, chief officer or officers is by this Act authorised to administer), the said justice or chief officer or officers shall give warrant under his or their hand and seal, to the constables or churchwardens of the parish or parishes where such offence shall be committed, to seize the said goods cried, showed forth, or put to sale as aforesaid, and to sell the same and to levy the said other forfeitures or penalties by way of distress and sale of the goods of every such offender distrained, rendering to the said offenders the overplus of the moneys raised thereby; and in default of such distress, or in case of insufficiency or inability of the said offender to pay the said forfeitures or penalties, that then the

Drovers, horse-coursers, waggoners, butchers, and higlers, boats and barges.

In what manner the conviction shall be.

The penalty, how to be levied.

In case of insufficiency.

---

held that the contract was not void under this Act, it not being made by B. in the exercise of his ordinary calling; but that even if it were, the contract having been executed, a specific lien for the charge attached to the mare, and she might be detained till it was satisfied (*Scarfe* v. *Morgan*, 4 M. & W. 270). Where a parol contract for the sale of goods is made on a week-day, but the delivery and acceptance of them take place on a Sunday, it is doubtful whether the statute applies (*Beaumont* v. *Brengeri*, 5 C. B. 301). Where a man kept a heifer, which he had bought on a Sunday, and after that day made a promise to pay for it, he was held liable on a *quantum meruit* (*Williams* v. *Paul*, 6 Bing. 653; 4 Moo. & P. 532); but that case was doubted to be law by Parke, B., in *Simpson* v. *Nicholls*, 3 M. & W. 240. There the defendant having pleaded to a count for goods sold and delivered, that they were goods sold and delivered to him by the plaintiff in the way of his trade, on a Sunday, contrary to the statute; the plaintiff replied, that the defendant, after the sale and delivery of the goods, kept them for his own use without returning or offering to return them, and had thereby become liable to pay the sum mentioned in the plea, being as much as they were reasonably worth; this replication was held bad, for want of a statement of an express promise to pay for the goods after the Sunday; see also the note on the same case, 5 M. & W. 702.

The words "other person or persons" do not include the owner or driver of a stage coach, and therefore their contracts to carry passengers on a Sunday are binding (*Sandiman* v. *Breach*, 7 B. & C. 96; *Ex parte Middleton*, 3 B. & C. 164). An attorney entering into an agreement on a Sunday for the settlement of his client's affairs, and thereby rendering himself personally liable, is not thereby exercising his ordinary calling (*Peate* v. *Dicken*, 1 C. M. & R. 422, 5 Tyrw. 116).

A plea founded on this statute need not conclude *contrà formam statuti* (*Id.*).

(*a*) The baking provisions for customers is within this exception, and, as it seems, within the exception in section 3, as to cooks' shops (*Rex* v. *Cox*, 2 Bur. 787; *Rex* v. *Younger*, 5 T. R. 449); but baking rolls on a Sunday is within the Act (*Crepps* v. *Durden*, Cowp. 640). And by 34 Geo. 3, c. 61, no baker in the city of London, or within twelve miles thereof, shall make, bake, or expose to sale any bread or rolls, or bake any meat, puddings, pies or tarts, or in any other manner exercise the trade of a baker, on the Lord's Day, on pain of forfeiting 10*s.*, and for want of distress to be committed to the house of correction for seven days; provided, that the Act shall not extend to prohibit the selling of bread, or baking meat, puddings, or pies, between nine in the forenoon and one in the afternoon, so as the person requiring the baking thereof carry or send the same to and from the place where baked.

(*b*) The penalty can only be incurred once on the same day (*Crepps* v. *Durden*, Cowp. 640).

(*c*) See *Sandiman* v. *Breach*, 7 B. & C. 96, supra, n. Quære, whether this clause is repealed by the Thames Act, 7 & 8 Geo. 4, c. 75, s. 1; see *Calder and Hebble Navigation Co.* v. *Pilling*, 14 M. & W. 76). By 11 & 12 Will. 3, c. 21, s. 13, forty watermen may ply on every Lord's day, on the Thames, between Vauxhall and Limehouse.

29 Car. 2, c. 7.

the offender shall be set in the stocks.

The forfeitures, how to be disposed of.

party offending be set publicly in the stocks by the space of two hours (*a*). And all and singular the forfeitures or penalties aforesaid shall be employed and converted to the use of the poor of the parish where the said offences shall be committed, saving only that it shall and may be lawful to and for any justice, mayor, or head officer or officers, out of the said forfeitures or penalties, to reward any person or persons that shall inform of any offence against this Act, according to their discretions, so as such reward exceed not the third part of the forfeitures or penalties.

A provision for private families, victualling houses, &c.

3. Provided, That nothing in this Act contained shall extend to the prohibiting of dressing of meat in families, or dressing or selling of meat in inns, cooks' shops, or victualling houses, for such as otherwise cannot be provided, nor to the crying or selling of milk before nine of the clock in the morning or after four of the clock in the afternoon (*b*).

Prosecution to be within ten days.

4. Provided also, That no person or persons shall be impeached, prosecuted, or molested for any offence before mentioned in this Act, unless he or they be prosecuted for the same within ten days after the offence committed.

The hundred not responsible to persons travelling on the Lord's day; but shall make fresh suit after the offenders. 27 Eliz. c. 13.

5. Provided, That if any person or persons whatsoever which shall travel upon the Lord's day shall be then robbed, that no hundred or the inhabitants thereof shall be charged with or answerable for any robbery so committed, but the person or persons so robbed shall be barred from bringing any action for the said robbery; any law to the contrary notwithstanding: nevertheless, the inhabitants of the counties and hundreds (after notice of any such robbery to them or some of them given, or after hue and cry for the same to be brought), shall make or cause to be made fresh suit and pursuit after the offenders, with horsemen and footmen, according to the statute made in the twenty-seventh year of the reign of queen Elizabeth, upon pain of forfeiting to the king's majesty, his heirs and successors, as much money as might have been recovered against the hundred by the party robbed if this law had not been made.

Service of process on Lord's day shall be void.

6. Provided also, That no person or persons upon the Lord's day shall serve or execute (*c*), or cause to be served or executed, any writ, process, warrant, order (*d*), judgment, or decree (except in cases of treason, felony, or breach of the peace), but that the service of every such writ, process, warrant, order, judgment, or decree shall be void to all intents and purposes whatsoever: and the person or persons so serving or executing the same shall be as liable to the suit of the party grieved, and to answer damages to him for doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment, or decree at all (*e*).

(*a*) A conviction under this section adjudged the defendant to pay five shillings penalty, and eleven shillings costs, the same, if not paid, to be levied by distress; and in default of distress, the defendant to be put in the stocks for two hours, unless the same and the costs of the distress were sooner paid. This conviction was held bad, inasmuch as the payment of the *costs* could not be enforced by putting in the stocks (*Reg.* v. *Barton*, 3 N. S. C. 470, 18 L. J. M. C. 56).

(*b*) By 10 & 11 Will. 3, c. 24, s. 14, mackerel may be sold before or after divine service.

(*c*) A transmission by post is not service within this statute (*R.* v. *Leominster*, 2 B. & Smith, 391; 31 L. J. M. C. 95).

(*d*) See as to whether a notice of chargeability and copy of an order of removal comes within this description, *R.* v. *Leominster*, supra.

(*e*) Before this statute, ministerial acts done on a Sunday were lawful (9 Co. 660, Cro. Jac. 280; *Pit* v. *Webly*, 2 Bulst. 72); but by it the service of any civil process on a Sunday is absolutely void (*Wilson* v. *Tucker*, 1 Salk. 78), and cannot be made good by any subsequent waiver (*Taylor* v. *Phillips*, 3 East, 155). A debtor cannot, therefore, be arrested on a Sunday; but a defendant arrested on another day, and escaping by *negligence*, may be retaken on a Sunday (*Anon.* 6 Mod. 231); so a person may be taken on an escape warrant (*Parker* v. *Moore*, 2 Salk. 626, 6 Mod. 95, 2 Lord Raym. 1028); but not after a *voluntary* escape (*Featherstonehaugh* v. *Atkinson*, Barnes, 373); nor a person arrested and liberated, but against whom there is, at the time of his liberation, a detainer at the suit of another person (*Atkinson* v. *Jameson*, 5 T. R. 25). But where a debtor is arrested on a Sunday, the subsequent detainer of him by another creditor, without collusion, is not vitiated by the illegality of the original arrest (*In re Ramsden*, 15 L. J. M. C. 113). See now, however, *Hooper* v. *Lane*, 6 H. L. C. 443.

Where a *fieri facias* had been executed on Sunday, and the execution had been *abandoned* the next day, it was held that an entry on the following Thursday to execute a distress warrant was not invalid (*Percival* v. *Stamp*, 23 L. J. Ex. 25, 9 Ex. 167).

Where a defendant, being in custody in the county gaol on a *ca. sa.*, received on a Saturday an order from the creditor for his discharge, which was on the same day forwarded by the gaoler to the under-sheriff, who lived at another town in the county, and on the Sunday a warrant of detainer on another *ca. sa.*, which had been received by the sheriffs on the Saturday, was forwarded by the gaoler, who thereupon detained the defendant, it was held that he had no right to his discharge; for the sheriff was entitled to a reasonable time to search his office for other writs against the defendant, which time would not elapse till the Monday (*Samuel* v.

26 & 27 Vict. c. 112. An Act to regulate the Exercise of Powers under Special Acts for the Construction and Maintenance of Telegraphs. [28th July, 1863.]

26 & 27 Vict. c. 112.

BE IT ENACTED as follows:

Preliminary.

Short title.

1. This Act may be cited as "The Telegraph Act, 1863."

Application of this Act to all future telegraph companies, and also, subject to certain exceptions, to all existing telegraph companies.

2. This Act shall apply—

(1.) To every company to be hereafter authorised by special Act of parliament to construct and maintain telegraphs:

(2.) To every company so authorised before the passing of this Act by any such special Act, notwithstanding anything in any such special Act contained,—but so that, except as hereinafter expressly provided, nothing in this Act shall give to any owner, lessee, or occupier of land, or other person, or to any body, as against any such company as last aforesaid, in respect of anything lawfully done before the passing of this Act by such company under any such special Act, any further or other right, power, jurisdiction, authority or remedy, than he or they would have had if this Act had not been passed: provided also, that nothing in this Act shall interfere with the maintenance or repair, under any such special Act, of any work lawfully constructed before the passing of this Act by any such company under any such special Act, or with the increasing of the number of the wires forming part of any such work; and that nothing in this Act shall relieve any such company from any obligation or liability under any agreement made before the passing of this Act, or shall make lawful any work constructed by the company before the passing of this Act which is the subject of any proceedings at law or in equity pending at the passing of this Act, or which has been constructed without such consent as was required for the construction thereof before the passing of this Act.

Interpretation of terms.

3. In this Act—

The term "the company" means any company to be hereafter authorised as aforesaid (hereinafter distinguished by the term "future company"), or any company already so authorised (hereinafter distinguished by the term "existing company"):

The term "telegraph" means a wire or wires used for the purpose of telegraphic communication, with any casing, coating, tube, or pipe inclosing the same, and any apparatus connected therewith for the purpose of telegraphic communication:

The term "post" means a post, pole, standard, stay, strut, or other above-ground contrivance for carrying, suspending, or supporting a telegraph:

The term "work" includes telegraphs and posts:

The term "street" means a public way situate within a city, town, or village, or between lands continuously built upon either side, and repaired at the public expense, or at the expense of any turnpike or other public trust, or *rationæ tenuræ*, including the footpaths of such way, and any bridge forming part thereof:

The term "public road" means a public highway for carriages being repaired at the public expense, or at the expense of any turnpike or other public trust, or *rationæ tenuræ*, and not being a street, including the footpaths of such public highway, and any bridge forming part thereof, and also any land by the side and forming part of such a public highway, but not including a railway or canal:

The term "railway" includes any station, work, or building connected with a railway:

The term "canal" includes navigation or navigable river, and any dock, basin, towing-path, wharf, work, or building connected with a canal:

The term "land" means land not being a street or public road, and not being land by the side and forming part of a public road, and includes land laid out for and proposed by the owner to be converted into a street or public road:

The term "body" includes a body of trustees or commissioners, municipal corporation, grand jury, board, vestry, company, or society, whether incorporated or not; and any provision referring to a body applies to a person, as the case may require:

The term "person" includes corporation aggregate or sole:

The term "the board of trade" means the lords of the committee of her majesty's privy council for the time being appointed for the consideration of matters relating to trade and foreign plantations:

The term "justice" means justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises:

The term "two justices" means two or more justices met and acting together, or any one police magistrate or justice having by law authority to act alone for any purpose with the powers of two justices:

The term "sheriff" means the sheriff depute of the county or ward of a county in Scotland, and the steward depute of the stewartry in Scotland, in which the matter submitted to the cognizance of the sheriff arises, and includes the substitutes of such sheriff depute and steward depute respectively.

26 & 27 Vict. c. 112.

Recovery of damages, costs, expenses, and penalties.

4. The provisions of the "The Railway Clauses Consolidation Act, 1845" (a), with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, and the provisions of "The Railway Clauses Consolidation (Scotland) Act, 1845," with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall, so far as the same are applicable, and save so far as the same are inconsistent with any express provision of this Act, be incorporated with this Act; and terms used in those provisions shall be interpreted as the same terms are directed to be interpreted in this Act.

Provisions as to notices and consents.

5. The following provisions shall apply to notices and consents under this Act:

(1.) Every notice or consent shall be in writing or print, or partly in writing and partly in print:

(2.) Any notice to or by the company or a body having the control of a street or public road, or of the sewerage or drainage thereunder, may be given to or by the secretary, clerk, or surveyor, or other like officer (if any) of the company or of such body, as the case may be:

(3.) Any consent may be given on such pecuniary or other terms or conditions (being in themselves lawful), or subject to such stipulations as to the time or mode of execution of any work, or as to the removal or alteration, in any event, of any work, or as to any other thing connected with or relative to any work, as the person or body giving consent thinks fit.

General Powers of Company.

General description of works which a telegraph company may execute, subject to the restrictions of this Act.

6. Subject to the restrictions and provisions hereinafter contained, the company may execute works as follows:

(1.) They may place and maintain a telegraph under any street or public road, and may alter or remove the same:

(2.) They may place and maintain a telegraph over, along, or across any street or public road, and place and maintain posts in or upon any street or public road, and may alter or remove the same:

(3.) They may for the purposes aforesaid, open or break up any street or public road, and alter the position thereunder of any pipe (not being a main) for the supply of water or gas:

(4.) They may place and maintain a telegraph and posts under, in, upon, over, along, or across any land or building, or any railway or canal, or any estuary or branch of the sea, or the shore or bed of any tidal water, and may alter or remove the same:

Provided always, that the company shall not be deemed to acquire any right other than that of user only in the soil of any street or public road under, in, upon, over, along, or across which they place any work.

Provision as to compensation.

7. In the exercise of the powers given by the last foregoing section the company shall do as little damage as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation to be determined in manner provided by "The Lands Clauses Consolidation Act, 1845," and "The Lands Clauses Consolidation (Scotland) Act, 1845," respectively, and any Act, amending those Acts, for the determination of the amount and application of compensation for lands taken or injuriously affected.

Provision as to gas and water pipes.

8. In the exercise of the aforesaid powers, the company shall also be subject to the following restrictions:

(1.) They shall cause as little detriment or inconvenience as circumstances admit to the body or person to or by whom any pipe for the supply of water or gas belongs or is used:

(2.) Before they alter the position of any such pipe they shall give to the body to whom the same belongs notice of their intention to do so, specifying the time at which they will begin to do so, such notice to be given twenty-four hours at least before the commencement of the work for effecting such alteration:

(3.) The company shall not execute such work except under the superintendence of the body to whom such pipe belongs, unless such body refuses or neglects to give such superintendence at the time specified in the notice for the commencement of the work, or discontinues the same during the work; and the company shall execute such work to the reasonable satisfaction of such body:

(4.) The company shall pay all reasonable expenses to which such body may be put on account of such superintendence:

And the body to whom any such pipe belongs may, when and as occasion requires, alter the position of any work of the company already constructed, or to be hereafter constructed, under, in, or upon a street or public road, on the same conditions as are by the last foregoing and present sections imposed on the company in relation to such a body, *mutatis mutandis*.

(a) 8 Vict. c. 20, ante, p. 18, tit. "RAILWAY."

26 & 27 Vict. c. 112.

Restrictions as to Telegraphs under Streets and Public Roads.

Not to place telegraphs under streets in metropolis and large towns without consent of bodies having control of the streets.

9. The company shall not place a telegraph under any street within the limits of the district over which the authority of the metropolitan board of works extends, or of any city or municipal borough or town corporate, or of any town having a population of thirty thousand inhabitants or upwards (according to the latest census), except with the consent of the bodies having the control of the streets within such respective limits.

Depth, course, &c., of underground works to be agreed on between street or road authority and company, or else to be determined by justices or sheriff.

10. Where the company has obtained consent to the placing, or by virtue of the powers of the company under this Act intends to proceed with the placing, of a telegraph under a street or public road, the depth, course, and position at and in which the same is to be placed shall be settled between the company and the following bodies:

The body having the control of the street or public road:

The body having the control of the sewerage or drainage thereunder:

But if such settlement is not come to with any such body, the following provisions shall take effect:—

(1.) The company may give to such body a notice specifying the depth, course, and position which the company desires:

(2.) If the body to whom such notice is given does not, within twenty-eight days after the giving of such notice, give to the company a counter-notice objecting to the proposal of the company, and specifying the depth, course, and position which such body desires, they shall be deemed to have agreed to the proposal of the company:

(3.) In the event of ultimate difference between the company and such body, the depth, course, and position, shall be determined in England or Ireland by two justices, and in Scotland by two justices or the sheriff.

Underground tubes to have distinguishing mark.

11. Every underground tube or pipe of the company shall be so marked as to distinguish it from tubes or pipes of every other company.

Company not to place a telegraph along a street or road without consent of body having control of street, &c.

12. The company shall not place a telegraph over, along, or across a street or public road, or a post in or upon a street or public road, except with the consent of the body having the control of such street or public road; and where a public road passes through or by the side of any park or pleasure grounds, and where a public road crosses, by means of a bridge or viaduct, or abuts on any ornamental water belonging to any park or pleasure grounds, and where a public road crosses or abuts on a private drive through any park or pleasure grounds, or to any mansion, the company shall not, without, or otherwise than in accordance with, the consent of the owner, lessee and occupier of such park, pleasure grounds, or mansion, place any work above ground on such public road.

As to where a public road passes through parks, pleasure grounds, &c.

Where landowner, &c., is liable to repair of street, &c., company not to place works in such street, &c., without consent.

Proviso.

13. Where any landowner or other person is liable for the repair of any street or public road (notwithstanding that the same is dedicated to the public), the company shall not place any work under, in, upon, over, along, or across such street or public road, except with the consent of such landowner or other person, in addition to the consent of the body having the control of such street or public road, where under this Act such last-mentioned consent is required: provided, that where the company places a telegraph across or over any street or public road they shall not place it so low as to stop, hinder or interfere with the passage for any purpose whatsoever along the street or public road.

Removal of Works affecting Streets and Public Roads.

In case abandonment of works, &c., street or road authority or owner of land may remove them.

14. In the following cases—

(1.) If any part of the company's works is abandoned, or suffered to fall into decay;

(2.) If the company is dissolved, or ceases for six months to carry on business,—

The body having the control of any street or public road, or the owner of any land or building affected (in the former case) by such part of the company's works as aforesaid, or (in the latter case) by any of the company's works, may give notice to the company, or leave a notice at the last known office or place of business of the company, to the effect that if such works as are specified in the notice are not removed within one month after the notice given or left, the same will be removed by the body having such control, or by such owner; and in every such case, unless such works are removed accordingly, the body having such control or such owner may, without prejudice to any remedy against the company, remove such works, or any part thereof, and sell the materials thereof or of any part thereof, and, out of the proceeds of such sale, reimburse themselves their expenses relative to such notice, removal and sale, and consequent thereon (rendering the overplus, if any, to the company), and may recover any unpaid residue of such expenses from the company. The present section shall apply to an existing company, in respect of any work already constructed or to be hereafter constructed, as well as to a future company.

In event of alteration of street or road, company to re-

15. In case the body having the control of any street or public road at any time hereafter resolves to alter the line or level of any portion of such street or road under, in, upon, over, along, or across which any work of the company constructed either before or after the passing of this Act is placed, the company shall from time to time be bound, on

20 & 27 Vict. c. 112.

Remove and replace the works under or over the same.

receiving one month's notice of such intended alteration, and at their own expense, to remove such work, and to replace the same in such position and manner in all respects as may be required by such body, or, in the event of difference between such body and the company, in such position and manner in all respects as may be determined in England or Ireland by two justices, and in Scotland by two justices or the sheriff.

Removal of dangerous posts placed before passing of this Act.

16. Where the company has, before the passing of this Act, placed posts in or upon a street or public road, and the body having the control of the street or road considers the position of any such post to be dangerous or inconvenient, the following provisions shall take effect :

(1.) Such body may give to the company a notice requiring them to remove or alter the position of such post, and specifying the grounds of such requisition :

(2.) The company either shall, within fourteen days after receipt of such notice, remove or alter the position of the post in accordance with the notice ; or else, if they do not intend to remove or alter the position of the post in accordance with the notice, shall, within one week after receipt of the notice, deliver to such body a counter-notice, specifying their objection to such removal or alteration :

(3.) Such body may send copies of the notice and counter-notice to the board of trade :

(4.) As soon as may be after receipt of such copies, the board of trade shall (unless the difference between the body giving the notice and the company is arranged) make inquiry and examination, and hear and determine the matter of the notice and counter-notice :

(5.) On hearing any such matter, the board of trade may direct that the company shall comply with the notice, wholly or in part, or subject to any such modifications as the board of trade prescribes, or on condition that the body giving the notice shall afford to the company all reasonable and proper facilities in their power for substituting some other work for that to which the notice relates, or on any such other condition as to the board of trade seems, according to the circumstances of the case, just and expedient, and the expenses incurred in or about such removal or alteration shall be borne and paid by the company or by the body giving the notice, or partly by one and partly by the other, as to the board of trade seems, according to the circumstances of the case, just and expedient, the amount of such expenses to be determined in case of difference by the board of trade.

Restrictions as to the Opening of Streets and Public Roads.

Streets and public roads to be opened only after notice and under superintendence.

17. Subject to any special stipulations made with a company by the body having the control of a street or public road, and to any determinations, orders or directions of the justices, or sheriff as aforesaid, where the company proceeds to open or break up a street or public road, the following provisions shall take effect :

(1.) The company shall give to the bodies between whom respectively and the company the depth, course, and position of a telegraph under such street or public road are hereinbefore required to be settled or determined, notice of their intention to open or break up such street or public road, specifying the time at which they will begin to do so,—such notice to be given, in the case of an underground work, ten days at least, and in the case of an aboveground work five days at least, before the commencement of the work ; except in case of emergency, in which case notice of the work proposed shall be given as soon as may be after the commencement thereof :

(2.) The company shall not (save in cases of emergency) open or break up any street or public road, except under the superintendence of the bodies to whom respectively notice is by the present section required to be given, unless such bodies respectively refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the work :

(3.) The company shall pay all reasonable expenses to which such bodies respectively may be put on account of such superintendence.

Streets and public roads to be restored and kept in repair for six months.

18. Subject to any such special stipulations as aforesaid, after the company has opened or broken up a street or public road they shall be under the following further obligations :—

(1.) They shall, with all convenient speed, complete the work on account of which they opened or broke up the same, and fill in the ground, and make good the surface, and generally restore the street or public road to as good a condition as that in which it was before being opened or broken up, and carry away all rubbish occasioned thereby :

(2.) They shall in the meantime cause the place where the street or public road is opened or broken up to be fenced and watched, and to be properly lighted at night :

(3.) They shall pay all reasonable expenses of keeping the street or public road in good repair for six months after the same is restored, so far as such expenses may be increased by such opening or breaking up :

Penalty.

If the company fails to comply in any respect with the provisions of the present section, they shall for every such offence (without prejudice to the right of any person to enforce specific performance of the requirements of this Act, or to any other remedy against

them), be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for each day during which any such failure continues after the first day when such penalty was adjudged; and any such penalty shall (notwithstanding anything hereinbefore, or in any Act relating to municipal corporations, or to the metropolitan police force, or in any other Act, contained) go and belong to the body having the control of the street or public road, and shall form part of the funds applicable by them to the maintenance of the street or public road. 26 & 27 Vict. c. 112.

Power to street or road authorities to execute works and charge the expenses to the company.

19. Whenever the permanent surface or soil of any street or public road is broken up or opened by the company, it shall be lawful for the body having the control of the street or road, in case they think it expedient so to do, to fill in the ground, and to make good the pavement or surface or soil so broken up or opened, and to carry away the rubbish occasioned thereby, instead of permitting such work to be done by the company; and the costs and expenses of filling in such ground, and of making good the pavement or soil so broken up or opened, shall be repaid on demand to the body having the control of the street or road by the company, and in default thereof may be recovered by the body having the control of the street or road from the company as a penalty is or may be recoverable from the company.

Restrictions on impediments to traffic.

20. The company shall not stop or impede traffic in any street or public road, or into or out of any street or public road, further than is necessary for the proper execution of their works. They shall not close against traffic more than one-third in width of any street or public road, or of any way opening into any street or public road, at one time: and in case two-thirds of such street or road are not wide enough to allow two carriages to pass each other, they shall not occupy with their works at one time more than fifty yards in length of the one-third thereof, except with the special consent of the body having the control thereof.

Restriction as to Works affecting Private or Crown Property.

As to works affecting crown property.

21. The company shall not place any work by the side of any land or building, so as to stop, hinder, or interfere with ingress or egress for any purpose to or from the same, or place any work under, in, upon, over, along, or across any land or building, except with the previous consent in every case of the owner, lessee, and occupier of such land or building, which consent, in case of any land or building belonging to or enjoyed by the queen's most excellent majesty in right of her crown, may be given by the commissioners for the time being of her majesty's woods, forests, and land revenues, or one of them, on behalf of her majesty: provided always, that with respect to lands and buildings situate within the limits of the district over which the authority of the metropolitan board of works extends (hereinafter referred to as the metropolis), or within the limits of any city or municipal borough or town corporate, or any town having a population of thirty thousand inhabitants or upwards, according to the latest census (hereinafter referred to as a city or large town), if the body having the control of any street in the metropolis or a city or large town, consents to the placing of works by the company in, upon, over, along, or across that street, then and in every such case that consent shall (unless it is otherwise provided by the terms thereof), be sufficient authority for the company, without any further consent, except as to any land or building belonging to or enjoyed by her majesty in right of her crown, to place and maintain a telegraph over, along, or across any building adjoining to or near the street, and situate within the limits of the district over which the powers of the consenting body extend, or over, along, or across any land, not being laid out as building land, or not being a garden or pleasure ground, adjoining to or near the street and situate within the same limits, subject nevertheless to the following provisions:—

(1.) Twenty-one days at least before the company proceeds to place a telegraph by virtue of the authority so conferred, they shall publish a notice stating they have obtained the consent of such body as aforesaid, and describing the intended course of such telegraph:

(2.) Where the company by virtue of the authority so conferred places a telegraph directly over any dwelling-house, they shall not place it at a less height above the roof thereof than six feet, if the owner, lessee, or occupier thereof objects to their placing it at a less height:

(3.) If at any time the owner, lessee, or occupier of any building or land adjoining to a building, directly over which building or land the company by virtue of the authority so conferred places a telegraph, desires to raise the building to a greater height, or to extend it over such land, the company shall increase the height or otherwise alter the position of the telegraph, so that the same may not interfere with the raising or extension of the building, within fourteen days after receiving from the owner, lessee, or occupier a notice of his intention to raise or extend the building, or in case of difference between the company and the owner, lessee, or occupier, as to his intention, then within fourteen days after receiving a certificate, signed by a justice of the peace, certifying that he is satisfied of the intention of the owner, lessee, or occupier to raise or extend the building:

(4.) The company shall make full compensation to the owner, lessee, and occupier of any land or building over, along, or across which the company by virtue of the authority so conferred places a telegraph, and which may be shown to be in any respect prejudicially affected thereby, the amount of such compensation to be

26 & 27 Vict. c. 112.

determined in manner provided by the said Lands Clauses Consolidation Acts respectively, and any Act amending those Acts for the determination of the amount of compensation with respect to lands injuriously affected:

Provided also, that the consent of any person occupying as a tenant from year to year only shall not be required, nor shall any person so occupying be entitled to such compensation as aforesaid.

Company not to place telegraphs above ground, and posts within certain distance of dwelling-houses, without consent of occupier, &c.

22. Subject and without prejudice to the foregoing provisions, the company shall not place a telegraph above ground, or a post, within ten yards of a dwelling-house, or place a telegraph above ground across an avenue or approach to a dwelling-house, except subject and according to the following restrictions and provisions:

(1.) They shall in each such case obtain the consent of the occupier (if any) of such dwelling-house, and if there is no occupier, then of the lessee entitled to possession, and if there is none, then of the owner:

(2.) The consent of an occupier shall be effective only during the continuance of his occupation:

(3.) On the termination of the occupation of any occupier the lessee or owner entitled to possession, if he did not consent to the placing of the telegraph or post, may give notice to the company that he requires it to be removed:

(4.) The company shall remove the same accordingly within one month after receiving such notice:

(5.) If any question arises between a lessee or owner and the company as to such removal, or the time or mode thereof, the same shall be referred to the determination in England or Ireland of two justices, and in Scotland of two justices or the sheriff, which justices or sheriff may give such directions as to such removal, and the time and mode thereof, as may seem reasonable, and may impose on the company for not carrying such directions into effect such penalty not exceeding five pounds a day as may seem just.

Notices to be published, and left at dwelling-houses, of intended telegraph along street or public road, after consent of street or road authority obtained.

23. Before the company proceeds to place a telegraph over, along, or across a street (not being a street in the metropolis or in a city or large town) or a public road, or to place posts in or upon a street (not being such a street as aforesaid) or a public road, they shall publish a notice stating that they have obtained the consent in that behalf of the body having the control of the street or public road, and describing the intended course of the telegraph,—

(1.) By affixing such notice on some conspicuous places by the side of the part of the street or road affected, at distances of not more than one mile apart:

(2.) By leaving such notice at every dwelling-house fronting on the part of the street or road affected, and being within fifty feet thereof:

(3.) By inserting such notice as an advertisement once at least in each of two successive weeks in some one and the same local newspaper circulating in the neighbourhood of the part of the street or road affected:

And they shall not so place any such telegraph or post until the expiration of twenty-one days from the last publication of such advertisement.

Power to owner or occupier of adjoining land or building to object.

24. At any time during such twenty-one days the owner, lessee, or occupier of any land or building adjoining to either side of such street or road may give to the company notice of his objection to their intended works as prejudicially affecting such land or building, and send to the board of trade a copy of his notice of objection.

Until objection settled works to be stayed.

25. Until such objection is settled, or is determined in manner hereinafter provided, the company shall not execute that part of their intended works to which the objection relates.

Examination and inquiry to be made by board of trade.

26. As soon as may be after the receipt of such copy of notice of objection, the board of trade shall (unless the difference between the company and the person objecting is arranged) make inquiry and examination, and hear and determine the matter of the objection.

Powers of board of trade respecting the objection.

27. On hearing any such objection the board of trade—

(1.) may allow the objection, wholly or in part; or

(2.) may authorise the company to proceed with their works, subject to the provisions of this Act, according to their published notice, paying to the owner, lessee, or occupier objecting full compensation (the amount thereof to be determined, in case of difference, by the board of trade) for any damage done to him; or

(3.) may authorise the company to so proceed subject to any such conditions as to the time or mode of execution of any work, or as to the removal or alteration in any event of any work, or as to any other thing connected with or relative to any work, as the board of trade thinks fit; or

(4.) may authorise the company to so proceed subject to any such modification of any intended work as the board of trade prescribes; but so that in that case such notice and opportunity of objecting and being heard as the board of trade directs shall be given to any owner, lessee, or occupier whom such modification may affect.

Decision of board of trade final.

28. The determination of the board of trade on the matter of any such objection shall be final and conclusive.

Costs.

29. The board of trade may allow to any owner, lessee, or occupier so objecting such costs as seem just, to be paid by the company.

Removal or Alteration of Works affecting Land or Buildings.

For building or other purposes, owner, &c., may require removal of works.

30. Where at any time before or after the passing of this Act the company has constructed any work under, in, upon, over, along, or across any land or building, or any street or public road adjoining to or near any land or building, and any owner, lessee, or occupier of such land or building, or any lord of a manor, or other person having any interest in such land or building, desires to build upon or inclose such land, or in any manner to improve or alter such land or building, or to use such land or building in some manner in which it was not actually used at the time of the construction of such work by the company, and with which the continuance of such work would interfere, then and in every such case the following provisions shall take effect :

(1.) Such owner, lessee, occupier, lord of a manor, or other person interested may give to the company a notice specifying the nature of such intended building, inclosure, improvement, alteration, or other use of the land or building, including ingress or egress thereto or therefrom, and requiring the company to remove or alter their work so that the same may not interfere therewith :

(2.) Within fourteen days after the receipt of such notice, or in case of difference between the company and the person giving the same as to his intention, then within fourteen days after the receipt of a certificate, signed by a justice of the peace, certifying that he is satisfied of the intention of such person to make such building, inclosure, improvement, alteration, or other use of the land or building, and that the continuance of such work would interfere therewith, the granting of such certificate being deemed to be a matter referred to the determination of the justice so certifying, the company shall remove or alter their work so that the same shall not interfere with such intended building, inclosure, improvement, alteration, or other use of the land or building :

(3.) When such certificate is required by the company the costs thereof, when obtained, shall be paid by the company to the person giving the notice :

(4.) Nothing herein shall empower any person to obtain the removal or alteration of any work contrary to the terms of any grant or consent in writing made or given by him, or by any person through whom he takes his estate or interest.

Removal of injurious works constructed before this Act.

31. Where the company has, before the passing of this Act, constructed any work under, in, upon, over, along, or across a street or public road, and the owner, lessee, or occupier of any land or building adjoining to or near the street or public road considers such land or building to be prejudicially affected by such work, then the following provisions shall take effect :

(1.) Such owner, lessee, or occupier may give to the company a notice requiring them to remove or alter such work, and specifying the grounds of such requisition :

(2.) The company either shall, within one month after receipt of such notice, remove or alter the work in accordance with the notice, or else, if they do not intend to remove or alter the work in accordance with the notice, shall, within one week after receipt of the notice, deliver to the person giving the notice a counter-notice, specifying their objection to such removal or alteration :

(3.) The person giving the notice may send copies of the notice and counter-notice to the board of trade :

(4.) As soon as may be after receipt of such copies the board of trade shall (unless the difference between the person giving the notice and the company is arranged) make inquiry and examination, and hear and determine the matter of the notice and counter-notice :

(5.) Such owner, lessee, or occupier shall be entitled to obtain a direction from the board of trade for the removal or alteration of such work in every case where it appears to the board of trade that such land or building is prejudicially affected by such work, and that the removal or alteration thereof may be effected consistently with a due regard to the efficient working of the company's telegraphs, such direction nevertheless to be given on such terms and conditions as to the board of trade seem, according to the circumstances of the case, just and expedient, including, if it seems expedient, the condition of the payment by such owner, lessee, or occupier of any expense incurred by the company in or about such removal or alteration, the amount thereof to be determined in case of difference by the board of trade :

(6.) Nothing herein shall empower any person to obtain the removal or alteration of any work contrary to the terms of any grant or consent in writing made or given by him, or by any person through whom he takes his estate or interest.

Restrictions as to Works affecting Railways and Canals.

For works affecting railways, canals, &c. consent of directors, &c., requisite.

32. The company shall not place any work under, in, upon, over, along, or across any railway or canal, except with the consent of the proprietors or lessees, or of the directors or persons having the control thereof. But this provision shall not restrict the company from placing any work (subject and according to the other provisions of this Act) under, in, upon, over, along, or across any street or public road), although such street or public road may cross or be crossed by a railway or canal, so that such work do not damage the railway or canal, or interfere with the use, alteration, or improvement thereof.

26 & 27 Vict. c. 112.

Access from future docks to canal.

33. If at any time after the company has placed any work under, in, upon, over, along, or across any canal, any person having power to construct docks, basins, or other works upon any land adjoining to or near such canal, constructs any dock, basin, or work on such land, but is prevented by the company's work from forming a communication for the convenient passage of vessels with or without masts between such dock, basin, or other work, and such canal, or if the business of such dock, basin, or other work is interfered with by reason or in consequence of any such work of the company, then the company, at the request of such person, and on having reasonable facilities afforded them by him for placing a telegraph round such dock, basin, or other work, under, in, upon, over, along, or across land belonging to or under his control, shall remove and place their work accordingly. If any dispute arises between the company and such person as to the facilities to be afforded to the company, or as to the direction in which the telegraph is to be placed, it shall be determined by the board of trade.

Appointment of Arbitrator by Board of Trade.

Board of trade may in any case appoint arbitrator.

34. If in any case where any matter is hereinbefore authorised or directed to be determined by the board of trade it appears to the board of trade to be expedient, for convenience of local investigation or for any other reason, that the matter should be determined by an arbitrator, the board of trade may, notwithstanding anything hereinbefore contained, and whether the board of trade has entered on the investigation or not, refer the matter to some competent and impartial person as arbitrator; and with respect to the matter so referred any such arbitrator shall have the like authority and jurisdiction as the board of trade has under this Act, and his determination shall have the same effect as a determination of the board of trade under this Act. The reasonable expenses and remuneration of the arbitrator (to be settled in case of difference by the board of trade) shall be paid by the company.

Restrictions as to Works affecting Seashore.

For works on seashore, consent of proprietors of shore and conservancy or other authorities requisite.

35. The company shall not place any work under, in, upon, over, along, or across any estuary or branch of the sea, or the shore or bed of any tidal water, except with the consent of all persons and bodies having any right of property, or other right, or any power, jurisdiction or authority in, over, or relating to the same, which may be affected or be liable to be affected by the exercise of the powers of the company (which consent, where her majesty in right of her crown is interested, may be given on behalf of her majesty by the commissioners for the time being of her majesty's woods, forests and land revenues, or one of them, in writing signed by them or him).

Plan of such works to be subject to approval of board of trade.

36. Before commencing the construction of any such work as last aforesaid, or of any buoy or sea mark connected therewith, except in cases of emergency for repairs to any work previously constructed or laid, and then as speedily after the commencement of such work as may be, the company shall deposit at the office of the board of trade a plan thereof, for the approval of the board of trade. The work shall not be constructed otherwise than in accordance with such approval. If any work is constructed contrary to this provision, the board of trade may, at the expense of the company, abate and remove it, or any part of it, and restore the site thereof to it former condition.

Lights and signals for such works.

37. Notwithstanding anything in "The Merchant Shipping Act, 1854," or any Act amending the same, contained, the company may, in or about the construction, maintenance, or repair of any such work, use on board ship or elsewhere any light or signal allowed by any regulation to be made in that behalf by the board of trade.

Power of board of trade as to such works if disused, &c.

38. If any such work, buoy, or sea mark is abandoned, or suffered to fall into decay, the board of trade may, if and as they think fit, at the expense of the company, either repair and restore it or any part of it, or abate and remove it or any part of it, and restore the site thereof to its former condition.

Local survey of such works by board of trade.

39. The board of trade may at any time, at the expense of the company, cause to be made a survey and examination of any such work, buoy, or sea mark, or of the site thereof.

Recovery of expenses by board of trade in such cases.

40. Whenever the board of trade, under the authority of this Act, does, in relation to any such work, any act or thing which they are by this Act authorised to do at the expense of the company, the amount of such expense shall be a debt due to the crown from the company, and shall be recoverable as such, with costs, or the same may be recovered, with costs, as a penalty is or may be recoverable from the company.

General Obligations and Liabilities of Company and their Servants.

Telegraph to be open for all messages without preference; subject to leases.

41. Every telegraph of the company shall be open for the messages of all persons alike, without favour or preference; but this provision shall not prejudicially affect the operation of any lease or agreement authorised by this Act.

Company to be responsible for all damages.

42. The company shall be answerable for all accidents, damages and injuries happening through the act or default of the company or of any person in their employment by reason or in consequence of any of the company's works, and shall save harmless all bodies having the control of streets or public roads, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents and injuries.

26 & 27 Vict. c. 112.

Sale, &c., of undertaking and leases of wires (with exceptions) prohibited, except with consent of board of trade.

43. The company shall not sell, transfer or lease their undertaking or works, or any part thereof, to any other company or to any body or person, except with the consent of the board of trade previously obtained for such sale, transfer, or lease; but this provision shall not, as far as it relates to leases, apply to the universal private telegraph company, constituted by the special Act of 1861 in the schedule to this Act mentioned, and shall not restrict the granting of any lease by any company in pursuance of any agreement in that behalf made before the twelfth day of February one thousand eight hundred and sixty-three, and shall not restrict the making or carrying into effect by any company of any arrangement with any person for providing any work for his private use only.

Registered office of company for service of documents.

44. The company, before exercising any power for the construction of works or the opening or breaking up of streets or public roads in any one of the three parts of the united kingdom, shall give to the registrar of joint-stock companies acting for that part of the united kingdom under the Companies Act, 1862, notice of the situation of some office where notices may be served on the company within that part of the united kingdom; and the company shall from time to time give to such registrar notice of any change in the situation of such office: every such notice shall be recorded by the registrar, and the record thereof may be inspected from time to time by any person: the delivery at the office of which notice is so given of any notice, writ, summons, or other document addressed to the company shall, for the purposes of this Act and all other purposes, be deemed good service on the company: the company shall, on giving each notice to the registrar under the present section, pay such fee as is payable under the last-mentioned Act on registration of any document by that Act required or authorised to be registered, other than a memorandum of association; and every person inspecting the record of such notice with the registrar shall pay such fee as is for the time being payable under the last-mentioned Act for inspection of documents kept by the registrar under that Act.

Punishment of officers of company for misconduct respecting messages.

45. If any person in the employment of the company—

Wilfully or negligently omits or delays to transmit or deliver any message;

Or by any wilful or negligent act or omission prevents or delays the transmission or delivery of any message;

Or improperly divulges to any person the purport of any message,—

He shall for every such offence be liable to a penalty not exceeding twenty pounds.

Saving for effect of future general Acts.

46. Nothing in this Act, and nothing in any future special Act, except so far as express provision to the contrary hereof may be thereby made, shall relieve the company from being subject to any restrictions, regulations, or provisions which may hereafter be made by Act of parliament respecting telegraphs or telegraph companies or their charges.

Savings as to Restrictions on and Duties of Existing Companies.

Certain enactments in special Acts not affected by this Act.

47. Nothing in this Act shall affect any of the enactments specified in the schedule to this Act.

Powers of Her Majesty's Government over Company.

Messages on her majesty's service to have priority.

48. If one of her majesty's principal secretaries of state, or the board of trade, or other department of her majesty's government, requires the company to transmit any message on her majesty's service, such message shall (notwithstanding anything hereinbefore contained) have priority over all other messages; and the company shall as soon as reasonably may be transmit the same, and shall, until transmission thereof, suspend the transmission of all other messages.

On request of board of trade company to place telegraph.

49. On the request of the board of trade, the company shall from time to time place and shall maintain such a telegraph as the board of trade appoints, to be for the exclusive use of her majesty, and to be applied to such purposes, whether for the immediate service of her majesty, or otherwise, as her majesty thinks fit.

On refusal or neglect of company, power to board of trade to place such telegraph.

50. If the company refuses or neglects to place a telegraph in accordance with such request, the board of trade may cause such a telegraph to be placed in connexion with any of the company's works, by such persons and in such manner as the board of trade thinks fit, and for that purpose shall have and may exercise all the powers under this Act or otherwise vested in the company; subject, nevertheless, to the restrictions and provisions under this Act or otherwise applicable to the company, and without prejudice to the exercise by the company of the powers under this Act or otherwise vested in them.

Remuneration of company for placing such telegraph.

51. Where the company places a telegraph, in pursuance of such request of the board of trade, the commissioners of her majesty's treasury shall pay to the company, as remuneration for the same, out of money to be provided by parliament for the purpose, such sum, annual or in gross, or both, as may be settled between the board of trade and the company by agreement, or, in case of difference, by arbitration, such arbitration to be conducted as follows:

(1.) The board of trade and the company shall each, within fourteen days after the delivery by one to the other of a demand in writing for an arbitration, nominate an arbitrator:

(2.) The two arbitrators nominated shall, before entering on the arbitration, nominate an umpire:

(3.) If either party or arbitrator makes default in nominating an arbitrator or

26 & 27 Vict. c. 112.

umpire within fourteen days after receiving from the other a demand in writing for such nomination, the lord chief justice of her majesty's court of common pleas at Westminster may, on the request of the board of trade, or of the company, by writing under his hand, nominate an arbitrator or umpire:

(4.) The arbitrators shall make their award within twenty-eight days after their nomination, otherwise the matter shall be left to be determined by the umpire:

(5.) The umpire shall make his award within twenty-eight days after notice from the arbitrators or one of them that the matter is left to be determined by him; or, on default, a new umpire shall be appointed as nearly as may be in manner aforesaid, who shall make his award within the like time, or on default, be superseded; and so *toties quoties*:

The award of the arbitrators or umpire shall be final and conclusive as between the board of trade and the company.

In emergencies telegraphs may be taken possession of for her majesty's service.

52. Where, in the opinion of one of her majesty's principal secretaries of state, an emergency has arisen in which it is expedient for the public service that her majesty's government should have control over the transmission of messages by the company's telegraphs, the secretary of state, by warrant under his hand, may direct and cause the company's works, or any part thereof, to be taken possession of in the name and on behalf of her majesty, and to be used for her majesty's service, and, subject thereto, for such ordinary service as may seem fit; or may direct and authorise such persons as he thinks fit to assume the control of the transmission of messages by the company's telegraphs, either wholly or partly, and in such manner as he directs. Any such warrant shall not have effect for a longer time than one week from the issuing thereof; but the secretary of state may issue successive warrants from week to week as long as, in his opinion, such emergency continues. The commissioners of her majesty's treasury shall pay to the company, as compensation for any loss of profit sustained by the company by reason of the exercise by the secretary of state of any of the powers of the present section, out of money to be provided by parliament for the purpose, such sum as may be settled between the secretary of state and the company by agreement, or, in case of difference, by arbitration,—such arbitration to be conducted in manner provided in the last foregoing section, the secretary of state being only substituted for the board of trade.

Power to proceed against company given to law officers of crown on certificate of board of trade.

53. Where it appears to the board of trade that any provision of this Act has not been complied with on the part of the company, and that it would be for the public advantage that compliance therewith should be enforced, the board of trade may certify accordingly to her majesty's attorney-general for England or for Ireland, or to the lord-advocate for Scotland, as the case may require; and thereupon the attorney-general or lord-advocate may, by such civil or criminal proceeding as the case may require, enforce compliance with such provision, by the recovery of penalties, or otherwise according to law. But no such certificate shall be made by the board of trade until the expiration of twenty-one days after they have given notice to the company of their intention to make the same. This provision shall be deemed to be cumulative, and to be without prejudice to any other remedy or process against the company on the part of her majesty or of any person or body.

SCHEDULE.

Enactments in Special Acts of Existing Companies which are not to be affected by this Act.

Session and Chapter of Act.	Short Title of Act.	Enactments to which Saving extends.
16 & 17 Vict. c. clix.	The British Electric Telegraph Company's Act, 1853.	Section Forty-three (relating to Works affecting the Thames).
16 & 17 Vict. c. cciii.	The Electric Telegraph Company's Act, 1853.	Section Fifty-six (relating to Works affecting the Thames).
24 & 25 Vict. c. lxi.	The Universal Private Telegraph Company's Act, 1861.	Section Twenty-seven (relating to Works affecting the Mersey Dock Estate).
24 & 25 Vict. c. xcii.	Bonelli's Electric Telegraph Act, 1861.	Sections Twenty-five, Twenty-six, Twenty-seven (relating to Works affecting the Thames), and Thirty-eight and Thirty-nine (relating to Works affecting the Mersey, and to the Mersey and Irwell Navigation).
25 & 26 Vict. c. cxxxi.	United Kingdom Electric Telegraph Act, 1862.	Sections Fifty-three, Fifty-four, Fifty-five (relating to Works affecting the Thames), Fifty-seven, Fifty-eight (relating to Works affecting the Mersey, and to the Mersey and Irwell Navigation), Seventy-four (relating to a Sale, Transfer, or Lease), and Seventy-six (relating to Works in Scotland).

11 & 12 Vict. c. 49. An Act for regulating the Sale of Beer and other Liquors on the Lord's Day. [14th August, 1848.] 11 & 12 Vict. c. 49.

[See this Statute, and 18 & 19 Vict. c. 118, ante, Vol. I., p. 387, tit. "BEER."]

TAXES, ASSESSED.

[The duties on, are now regulated by 16 & 17 Vict. c. 90; and the procedure for the recovery of, by 43 Geo. 3, cc. 99 & 161.]

TENDER.

56 Geo. 3, c. 68. An Act to provide for a New Silver Coinage, and to regulate the Currency of the Gold and Silver Coin of this Realm. [22nd June, 1816.] 56 G. 3, c. 68.

11. "And, whereas at various times heretofore the coins of this realm of gold and silver have been equally a legal tender for payments to any amount, and great inconve-

---

Buller, 1 Exch. 439). Bail may seize their principal on a Sunday, in order to surrender him (Mod. Ca. 231); but not, as it seems, sheriff's bail (*Brookes* v. *Warren*, 2 W. Bla. 1273). The service on Sunday of a master's order (*M'Ilcham* v. *Smith*, 8 T. R. 86), or of an award to ground an attachment (*Rex* v. *Myers*, 1 T. R. 265), is void. So is an arrest on an attachment for non-performance of an award (*Ibid.*); or an arrest on a *capias utlagatum* (*Osborne* v. *Carter*, Barnes, 319); or for non-payment of a penalty on a conviction before justices (*Rex* v. *Myers*, 1 T. R. 265); or for not delivering up accounts and books, &c., under 5 & 6 Will. 4, c. 76, s. 60 (*Eggington's Case*, 2 E. & B. 718, 23 L. J. M. C. 41).

Service of notice of plea filed on a Sunday is void (*Roberts* v. *Monkhouse*, 8 East, 547). So is a notice to produce. So a declaration in ejectment served on a Sunday (*Hughes* v. *Budd*, 8 Dowl. 315), or left at the house of the tenant on Saturday, but received by him on Sunday, is void (*Doe d. Warren* v. *Roe*, 8 D. & R. 342; *Doe* v. *Roe*, *ib.* 592; *Doe* v. *Roe*, 5 B. & C. 764).

The execution of a writ of inquiry on a Sunday is bad (*Hoyle* v. *Lord Cornwallis*, 1 Strs. 387). Whether an *affidavit*, appearing by the jurat to be sworn in court on a Sunday, is bad, has been made matter of question (*Doe d. Williamson* v. *Roe*, 3 D. & L. 328). A writ of summons tested on a Sunday is a nullity; but a *copy* bearing date on a Sunday, and service thereof (the writ being correctly tested), are merely irregular, and the irregularity will be waived by acquiescence or laches (*Carroll* v. *Foulkes*, 2 B. C. Rep. 262, 5 D. & L. 590).

Service on a Sunday of notice of appeal to the sessions against an order of justices, is *not void* within this statute (*Reg.* v. *Leominster*, 2 B. & S. 391, 31 L. J. M. C. 95; see *Reg.* v. *Middlesex Justices*, 17 L. J. M. C. 111), but would seem to operate from the following day (*Ib.*).

A person may be arrested on a Sunday on the Lord Chancellor's warrant, on an order of commitment for a contempt (*Ex parte Whitchurch*, 1 Atk. 55); and it would seem that a citation out of the spiritual court may be served on a Sunday (*Alanson* v. *Brookbank*, Carth. 504, 5 Mod. 449; *Walgrave* v. *Taylor*, 1 Ld. Raym. 706, 12 Mod. 606); or an attachment for a rescue (*Anon.* Willes, 459). And a person may voluntarily surrender himself to prison on a Sunday if he will (*Ex parte Whitchurch*, 1 Atk. 55).

The exception in this section ("in cases of treason, felony, or breach of the peace,") extends to *constructive* as well as *actual* breaches of the peace; it includes therefore all indictable offences (*Rawlins* v. *Ellis*, 16 M. & W. 172; see 12 Mod. 348.

By 6 Vict. c. 18, s. 4, persons desirous of having their names inserted in the register of voters for the county are to give notice of their claims to the overseers, "on or before the 20th day of July." Service of such a notice on the 20th day of July was held valid, though that day was Sunday (*Rawlins, app.* v. *Overseers of West Derby, resp.*, 2 C. B. 72). So, service of a notice required by that Act, by a delivery *by post* on a Sunday, is valid (*Colvill, app.* v. *Lewis, resp.*, *Ib.* 60; *Reg.* v. *Leominster*, 2 B. & S. 391, 31 L. J. M. C. 95).

Where a person has been arrested or served with process on a Sunday, the court will discharge him out of custody, or set the execution aside, on motion (*Atkinson* v. *Jameson*, 5 T. R. 22); and an action of trespass lies against the sheriff (*Wilson* v. *Guttery*, 5 Mod. 95; *S. C. nom. Wilson* v. *Tucker*, 1 Salk. 78). And if, when such arrest is attempted, the party resists, and slays the bailiff, this seems to be manslaughter only (2 Hak. P. C. c. 32, s. 58).

See 7 Will. 4 & 1 Vict. c. 45 as to the mode of making proclamations and giving notices, which used to be made and given in church on Sundays, ante, vol. 3, tit. "OUTLAWRY."

56 G. 3, c. 68.

nience has arisen from both those precious metals being concurrently the standard measure of value, and equivalent for property: and it is expedient that the gold coin, made according to the indentures of the mint, should henceforth be the sole standard measure of value and legal tender for payment, without any limitation of amount, and that the silver coin should be a legal tender to a limited amount only, for the facility of exchange and commerce;" BE IT THEREFORE ENACTED, That from and after the passing of this Act the gold coin of this realm shall be and shall be considered, and is hereby declared to be the only legal tender for payments (except as hereinafter provided) within the united kingdom of Great Britain and Ireland, and that the said gold coin shall hold such weight and fineness as are prescribed by the present indenture with his majesty's master and worker of the mint for making gold moneys at his majesty's mint in London, and with such allowance, called the remedy, as is given to the said master by the said indenture; which weight and fineness are hereby declared to be and shall remain to be the standard of and for the lawful gold coin of the realm, so far as relates to gold coins of the denominations at present in use, and specified in the said indenture, and in case any gold coin or coins of any other denomination shall hereafter be coined at the said mint, under any future indenture, such gold coin and coins shall hold the like standard in fineness as the gold coins of the present denominations, and shall hold such weight as shall be proportionate to the weight of the present gold coins, according to the value for which such gold coin or coins of any new denominations shall be declared to be current.

Gold coin declared the only legal tender, being the weight and fineness of the Mint indenture.

14 G. 3, c. 42, s. 2, and other Acts as herein mentioned, repealed, after a day to be named in the king's proclamation for that purpose.

No tender of silver coin legal beyond 40s.

12. "And whereas it is expedient that the silver coin of the realm should be a legal tender by tale according to its denomination, to any amount not exceeding the sum of forty shillings;" BE IT THEREFORE ENACTED, That from and after such day as shall be for that purpose named in any proclamation, which at any time after the passing of this Act shall be made and issued, by or on behalf of his majesty, with the advice of his majesty's privy council, so much and such parts of the Act made in the fourteenth year of his present majesty's reign, intituled "An Act to prohibit the Importation of Light Silver Coin of this Realm from foreign Countries into Great Britain or Ireland, and to restrain the Tender thereof beyond a certain Sum," as enacts or provides, or may be construed to enact or provide, that any tender in silver coin of the realm shall be legal to the amount of twenty-five pounds, or a tender for any greater sum, according to its value by weight, and also so much of any Act and Acts whereby the said last recited Act is continued, revived or made perpetual, shall be and the same is and are hereby repealed accordingly: And that from and after such day as shall be for that purpose named in any such proclamation to be made and issued as aforesaid, no tender of payment of money made in the silver coin of this realm of any sum exceeding the sum of forty shillings at any one time, shall be reputed a tender in law, or allowed to be a legal tender within the united kingdom of Great Britain and Ireland either by tale or weight, of such silver coin or otherwise howsoever; anything in the said recited Act of the fourteenth year of his present majesty's reign, or in any other Act or Acts in force immediately before the passing of this Act, or any usage or custom to the contrary in any wise notwithstanding.

3 & 4 W. 4, c. 98.

3 & 4 Will. 4, c. 98. An Act for giving to the Corporation of the Governor and Company of the Bank of England certain Privileges, for a limited Period, under certain Conditions (*a*).

[29th August, 1833.]

Bank notes to be a legal tender, except at the bank and branch banks.

6. That from and after the 1st day of August, 1834, unless and until parliament shall otherwise direct, a tender of a note or notes of the governor and company of the bank of England, expressed to be payable to bearer on demand, shall be a legal tender, to the amount expressed in such note or notes, and shall be taken to be valid as a tender to such amount for all sums above five pounds on all occasions on which any tender of money may be legally made, so long as the bank of England shall continue to pay on demand their said notes in legal coin: Provided always, that no such note or notes shall be deemed a legal tender of payment by the governor and company of the bank of England, or any branch bank of the said governor and company; but the said governor and company are not to become liable or be required to pay and satisfy, at any branch bank of the said governor or company, any note or notes of the said governor and company not made specially payable at such branch bank; but the said governor and company shall be liable to pay and satisfy at the bank of England in London all notes of the said governor and company, or of any branch thereof.

(*a*) This does not extend to Ireland (8 & 9 Vict. c. 37, s. 6), or Scotland (8 & 9 Vict. c. 38, s. 15).

Even at common law, a tender in bank of England notes (*Grigby* v. *Oakes*, 2 Bos. & P. 526; *per* Butler, J., *Wright* v. *Reed*, 3 T. R. 554; *Cousins* v. *Thompson*, 6 T. R. 335), or in country bank notes (*Polglass* v. *Oliver*, 2 C. & J. 15), or by bankers' draft (*Jones* v. *Arthur*, 8 Dowl. 442), would be good, if the creditor did not at the time object.

TERMS (SATISFIED).

[See ante, Vol. I., p. 826, n. (*b*), tit. "CONVEYANCE."]

TIME (*a*).

24 Geo. 2, c. 23. An Act for regulating the Commencement of the Year; and for correcting the Calendar now in Use (*b*).

24 G. 2, c. 23.

[A.D. 1751.]

"Whereas the legal supputation of the year of our Lord in that part of Great Britain called England, according to which the year beginneth on the 25th day of March, hath

---

(*a*) See Woolrych on Legal Time, &c.

As to the calendar, and time in general, and the mode of computing it, see Com. Dig. tit. Ann. and tit. Temps.; Vin. Ab. tit. Time; Bac. Ab. Lease, E. 2 & 3; Burn's Eccl. L. tit. Kalendar; Jaç. Dic. tit. Day, Month, and Year; 2 Bla. Com. 140, and note; ante, tit. "LIMITATION OF ACTIONS;" and see Chitty on Bills, as to usances, days of grace, and the time when bills should be presented for payment.

(*b*) So much of this Act as requires the keeping and observing the 30th day of January, the 29th day of May, and the 5th day of November, is repealed, 22 Vict. c. 2.

Before 1752, the year commenced on the 25th March, the Julian calendar being used, and much inaccuracy and inconvenience resulted, which occasioned the introduction of the new style by this Act, which enacts, that the 1st January shall be reckoned to be the first day of the year, and throws out eleven days in that year from the 2nd September to the 14th, and in other respects, regulates the future computation of time, with a saving of ancient customs, &c. The difference between the old and new style, up to the year 1699, was ten days; after 1700, eleven days; and after 1800, twelve days (see the Chronology of History, by Sir Harris Nicolas).

It has been held, that in a lease or other instrument under seal, if the feast of Michaelmas, &c., be mentioned, it must be taken to mean New Michaelmas, and parol evidence to the contrary is not admissible (*Doe* v. *Lea*, 11 East, 312); but upon a parol agreement it is otherwise (*Doe d. Hall* v. *Benson*, 4 B. & Ald. 588).

A *year* consists of three hundred and sixty-five days; there are six hours and a few minutes over in each year, which every fourth year make another day, being the 29th February, and those three hundred and sixty-six days constitute the bissextile or leap year (Co. Lit. 135; 2 Roll. 521, I, 35; Com. Dig. Ann. A.; 24 Geo. 2, c. 23, s. 2). Fifty-two weeks consist only of three hundred and sixty-four days (see *Rex* v. *Astley*, Burn, 279; 1 Nolan P. L. 256, 4th ed.). Where a statute speaks of a year, it shall be computed by the whole twelve months, according to the calendar, and not by lunar months (*Bishop of Peterborough* v. *Catesby*, Cro. Jac. 166). But if a statute direct a prosecution to be within twelve months, it is too late to proceed after the expiration of twelve lunar months (Carth. 407). It was held that the 43 Geo. 3, c. 84, which prohibits under a penalty a spiritual person from absenting himself from his benefice for more than a certain time in any one year, means a calendar year next before the time when the action is brought for the penalty (*Cathcart* v. *Hardy*, 2 M. & Scl. 534). "A twelvemonth," in the singular number, includes all the year; but "twelve months" shall be computed according to twenty-eight days for every month (6 Co. 62). Business, however, is not invariably regulated by the solar year; and for the purposes of supporting a settlement, the year has been counted from one moveable feast to another, as from Whitsuntide to Whitsuntide, though the number of days between was only 339 (*Rex* v. *Newstead*, Burr. S. C. 669). So from statute fair to statute fair (*Anon.* Lofft, 54). But where a fair day was to be on Old Michaelmas-day, except when that day should happen to be Saturday, on which occasion Monday was to be the fair day, the court would not allow a hiring from the Monday till the following Old-Michaelmas-day to be considered a hiring for a year (*Rex* v. *Standon Massey*, 10 East, 576). Where by charter the election of mayor of a borough was ordained to take place on the Monday next before Michaelmas, and forbade the same person from being mayor twice within three years, this was construed to mean three *chartered* or *mayor's* years, not calendar years; and therefore the re-election was good if three such *mayoralties* happened between the time when the party ceased to be mayor, and the time when he was sworn into office for the second time (*Rex* v. *Swyer*, 10 B. & C. 486).

With respect to *leap year*, the stat. 21 Hen. 3 provided, that the day increasing in the leap year should be accounted for one year, that is, should be included in the year; and further that it should be taken in the same month out of which it grew, and that day and the day going before should be accounted for one day (see *Rex* v. *Wormingall*, 6 M. & Sel. 350; *Rex* v. *Ackley*, 3 T. R. 250; *Rex* v. *Roxby*, 10 B. & C. 51; *Chapman* v. *Beecham*, 3 G. & D. 71; *Lister* v. *Stanly*, 1 Mod. 112; 3 Keb. 291; Woolrych on Time, p. 38).

14 G. 2, c. 23. been found by experience to be attended with divers inconveniences, not only as it differs from the usage of neighbouring nations, but also from the legal method of computation

Half a year consists of one hundred and eighty-two days, for there shall be no regard to a part or a fraction of a day (Co. Litt. 135 b. ; *Bp. of Peterborough* v. *Catesby*, Cro. Jac. 166 ; 6 Co. 61 ; 2 Roll. 521 ; Com. Dig. Ann. A). "Half a year" and "six calendar months" therefore are not equivalent ; for six calendar months will be one or two days less or more than half a year, according as February is or is not reckoned one of the six (2 Bl. Comm. 141, note (1)). Therefore six calendar months' notice is insufficient to determine a tenancy from year to year ; it must be half a year's notice (*Right* v. *Darby*, 1 T. R. 159 ; see *Parker* v. *Constable*, 3 Wils. 25 ; *Doe* d. *Pitcher* v. *Donovan*, 2 Camp. 78). The time to collate within six months shall be reckoned half a year, or one hundred and eighty-two days, and not lunar months (*Bp. of Peterborough* v. *Catesby*, Cro. Jac. 166 ; 6 Co. 61).

So *a quarter of a year* consists but of ninety-one days, for the law does not regard the six hours afterwards (Co. Litt. 135 b. ; 2 Roll. 521, 1, 40 ; Com. Dig. Ann. A.).

But both half years and quarters are usually divided according to certain feasts or holidays, rather than by a precise division of days ; as Lady-day, Midsummer-day, Michaelmas-day, or Christmas-day ; or Old Lady-day (6th April), or Old Michaelmas-day (11th October). In these cases, such division of the year by the parties is regarded by the law ; and therefore, though half a-year's notice to quit is necessary to determine a tenancy from year to year, yet a notice served on the 29th September to quit on the 25th March, being half a year's notice according to the above division, is good, though there be less than one hundred and eighty two, viz., only one hundred and seventy-eight days (*Doe* d. *Harrop* v. *Green*, 4 Esp. 198 ; see also *Howard* v. *Wemsley*, 6 Esp. 53 ; *Roe* d. *Durant* v. *Doe*, 6 Bing. 574 : 4 M. & P. 391).

A *month* is solar, or computed according to the calendar, which contains thirty or thirty-one days ; or lunar, which consists of twenty-eight days (Co. Lit. 135, b.). In temporal matters, it is usually construed to mean lunar ; in ecclesiastical, solar or calendar (1 Bla. R. 450 ; *Lang* v. *Gale*, 1 M. & Sel. 111 ; *Crooke* v. *M'Tavish*, 1 Bing. 307).

In general, where a *statute* spoke of a month, without adding "calendar," or other words indicating a contrary intention, it used to be intended a lunar month of twenty-eight days ; see *Lacon* v. *Hooper*, 6 T. R. 224 ; *Glassington* v. *Rawlins*, 3 East, 407 ; *Lang* v. *Gale*, 1 M. & Sel. 111 ; *Crooke* v. *M'Tavish*, 1 Bing. 307 ; but now it is expressly enacted by the 13 & 14 Vict. c. 21, s. 4 (ante tit. "STATUTES," p. 637), that in all Acts of Parliament the word "*month*" shall be taken to mean *calendar* month, unless words be added showing a lunar month to be intended.

Where a *deed* speaks of a month, it is intended a lunar month, unless it can be collected from the context that it was intended to be calendar (Com. Dig. Ann. (B.) ; *Bp. of Peterborough* v. *Catesby*, Cro. Jac. 166 ; *Lang* v. *Gale*, 1 M & Sel. 111). So in all other contracts (*Barksdale* v. *Morgan*, 4 Mod. 185 ; *Jocelyn* v. *Hawkins*, 1 Stra. 446), unless it be shown that the general understanding in the department of trade in question is, that bargains of that nature are according to calendar months (*Ib.* ; see *Thomas* v. *Popham*, Dyer, 218 b. ; *Wood* v. *Chivers*, 4 Leon. 179, 288 ; *Kirby* v. *Green*, 2 Lutw. 1131, 1139 ; *Dixie's case*, 1 Leon. 96 ; *R.* v. *Chawton*, 1 Q. B. 247, per Littledale, J). The "law merchant" has established, in the case of bills of exchange and promissory notes, that a month named in such contracts shall be deemed calendar (*Cockell* v. *Gray*, 3 Brod. & B. 186). So where a ship is freighted by the month, the months are calendar and not lunar (*Jolly* v. *Young*, 1 Esp. 186). So where goods were sold at a certain number of months' credit (*Hart* v. *Middleton*, 2 Car. & K. 9). So, wherever there is admissible evidence of an intention in the parties using the word to denote calendar months, that construction may be adopted (*Webb* v. *Fairmaner*, 3 M. & W. 473 ; *Simpson* v. *Margitson*, 11 Q. B. 23, and the cases there cited).

In all *legal proceedings*, as in commitments, pleadings, notices, &c., a month means four weeks (*Talbot* v. *Linfield*, 3 Bur. 1455 ; 1 W. Bla. 450 ; *Rex* v. *Adderley*, 2 Dougl. 463 ; *Soper* v. *Curtis*, 2 Dowl. 237 ; see *Dormer* v. *Smith* Cro. Eliz. 835 ; *Holcroft's case*, 1 Shaw, 368 ; *Windall* v. *Fell*, 3 Bro. Ch. C. 11 ; *Blunt* v. *Heslop*, 8 Ad. & E. 577 ; 3 N & P. 553 ; Woolrych on Time, p. 46).

A *day* is natural, which consists of twenty-four hours ; or artificial, which contains the time from the rising of the sun to its setting (Co. Litt. 135 a.). A day is usually intended of a natural day ; as in an indictment for burglary, we say "in the night of the same day" (*Ibid.* 3 Inst. 318). The law generally rejects fractions of a day (Co. Litt. 135 a. ; *Lester* v. *Garland*, 15 Ves. 248 ; *Field* v. *Jones*, 9 East, 151). "But though the law does not in general allow of the fraction of a day, yet it admits it in cases where it is necessary to distinguish ; and I do not see why the very hour may not be so too, where it is necessary and can be done ; for it is not like a mathematical point, which cannot be divided" (*per* Lord Mansfield, *Combe* v. *Pitt*, 3 Burr. 1434). Therefore, inquiry of the fraction of a day was admitted in support of a commission of bankruptcy, by allowing evidence that

in that part of Great Britain called Scotland, and from the common usage throughout the whole kingdom, and thereby frequent mistakes are occasioned in the dates of deeds and other writings, and disputes arise therefrom: And whereas the calendar now in use throughout all his majesty's British dominions, commonly called the Julian calendar,

24 G. 2, c. 23.

---

the act of bankruptcy, though on the same day, was anterior to the issuing of the commission (*Wydoun's case*, 14 Ves. 87; *Ex parte Dufrere*, 1 Ves. & B. 54; *ex parte, Farquhar*, Mont. & M. 7; *Ex parte Whitby*, Mont. & Ch. 671). So the court will inquire which had priority on the same day, a fiat in bankruptcy or an execution (*Sadler* v. *Leigh*, 4 Camp. 195; *Thomas* v. *Desanges*, 2 B. & Ald. 586; *Ex parte D'Obree*, 8 Ves. 82; see also *Warrington* v. *Morton*, Cas. temp. Talbot, 184; *Saunderson* v. *Gregg*, 3 Stark. 72). And for all purposes connected with the vesting of property, the particular hour of the day may be noticed. But where there is a conflict between the right of the crown and the right of a subject, a fraction of a day cannot be taken into account (*Reg.* v. *Edwards*, 23 L. J. Ex. 42; affirmed in Cam. Scacc., *ib.* 165; 9 Exch. 32). So also as to the *death* of a person, where the hour of his death is important as determining the rights of third parties; for instance, the right to the rent of his land, as between his heir and executor. So as to the time of signing a judgment, or of exhibiting an information. (See the cases on this subject collected in Woolrych on Legal Time, pp. 162—176).

An *hour* consists of sixty minutes (Com. Dig. Ann. (C.)). There is a distinction in law as to the certainty of stating a month, or a day, and an hour. That a fact took place "*circa horam*" is sufficient; but not so as to a day, which must be stated with precision, though it may be varied from in proof (2 Inst. 318).

With respect to the computation of days, the rule which appeared formerly to exist, that where the computation was to be made *from an act done*, the day of doing it should be included, seems to have been abrogated by the later authorities, which have established as the general rule of computation, that whether the time be counted from an act done or from a certain day, the day shall be excluded from, the last day of the series being included in, the computation (see *Lester* v. *Garland*, 15 Ves. 248; *Pellew* v. *Inhabitants of Wonford*, 9 B. & C. 134; 4 Man. & Ry. 130; *Hardy* v. *Ryle*, 9 B. & C. 603; 4 Man. & Ry. 296; *Webb* v. *Fairmaner*, 3 M. & W. 473; *Rex* v. *Justices of Cumberland*, 4 Nev. & M. 378; *Reg.* v. *Justices of Salop*, 8 Ad. & E. 173; 3 Nev. & P. 286; *Blunt* v. *Heslop*, 8 Ad. & E. 577; 3 Nev. & P. 553; *Young* v. *Higgon*, 6 M. & W. 49; *Mitchell* v. *Foster*, 12 Ad. & E. 479; 4 P. & D. 150; *Williams* v. *Burgess*, *Ibid.* 635; *Wilkinson* v. *Gaston*, 9 Q. B. 137; and other cases). And "wherever there is given to a party a certain space of time to do some act, which space of time is included between two other acts to be done by another person, both the days of doing those acts ought to be excluded, in order to insure to him the whole of that space of time" (*per* Alderson, B., in *Young* v. *Higgon*, 6 M. & W. 54); as in the case of notice of action to a magistrate (*Ibid.*); of the delivery of an attorney's bill (*Blunt* v. *Heslop*, supra); of the sale of goods "to be paid for in two months" (*Webb* v. *Fairmaner*, supra); of the sale under a distress for rent (*Robinson* v. *Waddington*, 13 Q. B. 753), and the like. Again, whenever the statute or instrument in question uses words which import that both the first and last days shall be excluded in the computation, they must be so reckoned; as where the words are "four *clear* days" (*Bennet* v. *Nicholls*, 4 T. R. 121; *Roberts* v. *Stacey*, 13 East, 21; see *Rex* v. *Justices of Herefordshire*, 3 B. & Ald. 581; *Rex* v. *Justices of West Riding*, 4 B. & Ad. 685); "fourteen days *at least*" (*Zouch* v. *Empsey*, 4 B. & Ald. 522; *Rex* v. *Justices of Salop*, 3 Nev. & P. 286; 8 Ad. & E. 173; see *Mitchell* v. *Foster*, 12 Ad. & E. 472; 4 P. & D. 150; *Rex* v. *Justices of Middlesex*, 3 D. & L. 109; *Reg.* v. *Best*, 5 D. & L. 40; *Reg.* v. *Aberdare Canal Co.*, 19 L. J. Q. B. 251).

"In all cases in which any particular number of days, not expressed to be clear days, is prescribed by the rules or practice of the courts, the same shall be reckoned exclusively of the first day, and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas-day, or Good Friday, or a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also" (Reg. Gen. H. T. 1853, No. 174).

"The days between Thursday next before and the Wednesday next after Easter-day, and Christmas-day and the three following days, shall not be reckoned or included in any rules, notices, or other proceedings, except notices of trial or notices of inquiry" (*Id.*, No. 175).

As to reckoning Sunday in other cases, the distinction is between cases where the party must have done some juridical act on the Sunday, if it had been allowed to count, and those where the Sunday is reckoned silently with other days, no business or act being required on that day. In the former case Sunday is excluded, in the latter it is included (see further Woolrych on Legal Time, &c., p. 92; 1 Archb. Pr. 159; *Rowberry* v. *Morgan*, 9 Ex. 780; *Peacock* v. *Reg.*, 4 C. B. N. S. 264; *Ex parte Simpkin*, 29 L. J. M. C. 23; *Morris* v. *Barrett*, 7 C. B. N. S. 139).

As to the construction of "forthwith," "immediately," "directly," "next ensuing," "until," see the cases cited in Woolrych on Legal Time, &c., pp. 153—160; and *Duncan* v. *Topham*, 8 C. B. 225.

24 G. 2, c. 23. hath been discovered to be erroneous, by means whereof the vernal or spring equinox, which at the time of the general council of Nice in the year of our Lord 325, happened on or about the 21st day of March, now happens on the ninth or tenth day of the same month; and the said error is still increasing, and if not remedied would in process of time occasion the several equinoxes and solstices to fall at very different times in the civil year from what they formerly did, which might tend to mislead persons ignorant of the said alteration: and whereas a method of correcting the calendar in such manner, as that the equinoxes and solstices may for the future fall nearly on the same nominal days on which the same happened at the time of the said general council, hath been received and established, and is now generally practised by almost all other nations of Europe: And whereas it will be of general convenience to merchants and other persons corresponding with other nations and countries, and tend to prevent mistakes and disputes in or concerning the dates of letters and accounts, if the like correction be received and established in his majesty's dominions: BE IT ENACTED, That in and throughout all his majesty's dominions and countries in Europe, Asia, Africa, and America, belonging or subject to the crown of Great Britain, the said supputation, according to which the year of our Lord beginneth on the 25th day of March, shall not be made use of from and after the last day of December, 1751; and that the 1st day of January next following the said last day of December, shall be reckoned, taken, deemed, and accounted to be the first day of the year of our Lord, 1752, and the 1st day of January which shall happen next after the said 1st day of January, 1752, shall be reckoned, taken, deemed and accounted to be the first day of the year of our Lord, 1753, and so on from time to time, the 1st day of January in every year which shall happen in time to come, shall be reckoned, taken, deemed and accounted to be the first day of the year, and that each new year shall accordingly commence, and begin to be reckoned from the 1st day of every such month of January next preceding the 25th day of March on which such year would, according to the present supputation, have begun or commenced; and that from and after the said 1st day of January, 1752, the several days of each month shall go on, and be reckoned and numbered in the same order; and the feast of Easter, and other moveable feasts thereon depending, shall be ascertained according to the same method as they now are, until the 2nd day of September in the said year 1752 inclusive, and that the natural day next immediately following the said 2nd day of September shall be called, reckoned and accounted to be the 14th day of September, omitting for that time only the eleven intermediate nominal days of the common calendar, and that the several natural days which shall follow and succeed next after the said 14th day of September, shall be respectively called, reckoned and numbered forwards in numerical order from the said 14th day of September, according to the order and succession of days now used in the present calendar; and that all acts, deeds, writings, notes and other instruments of what nature or kind soever, whether ecclesiastical or civil, public or private, which shall be made, executed or signed, upon or after the said 1st day of January, 1752, shall bear date according to the said new method of supputation, and that the two fixed terms of St. Hilary and St. Michael in that part of Great Britain called England, and the courts of great sessions in the counties palatine and in Wales, and also the courts of general quarter sessions and general sessions of the peace, and all other courts of what nature or kind soever, whether civil, criminal or ecclesiastical, and all meetings and assemblies of any bodies politic or corporate, either for the election of any officers or members thereof, or for any such officers entering upon the execution of their respective offices, or for any other purpose whatsoever, which by any law, statute, charter, custom or usage within this kingdom, or within any other the dominions or countries subject or belonging to the crown of Great Britain, are to be holden and kept on any fixed or certain day of any month, or on any day depending upon the beginning or any certain day of any month (except such courts as are usually holden or kept with any fairs or marts), shall from time to time, from and after the said 2nd day of September, be holden and kept upon or according to the same respective nominal days and times, whereon or according to which the same are now to be holden, but which shall be computed according to the said new method of numbering and reckoning the days of the calendar as aforesaid; that is to say, eleven days sooner than the respective days whereon the same are now holden and kept, any law, statute, charter, custom or usage to the contrary thereof in anywise notwithstanding.

The old supputation of the year not to be made use of after Dec. 1751. Year to commence for the future on 1st Jan.

The days to be numbered as now, until 2nd Sept. 1752, and the day following to be accounted 14th Sept. omitting eleven days.

Hilary and Michaelmas terms and all courts to be held on the same nominal days.

Courts held with fairs or marts excepted.

2. "And for the continuing and preserving the calendar or method of reckoning, and computing the days of the year in the same regular course, as near as may be, in all times coming:" BE IT ENACTED, That the several years of our Lord 1800, 1900, 2100, 2200, 2300, or any hundredth years of our Lord, which shall happen in time to come, except only every fourth hundredth year of our Lord, whereof the year of our Lord 2000 shall be the first, shall not be esteemed or taken to be bissextile or leap years, but shall be taken to be common years, consisting of 365 days and no more; and that the years of our Lord 2000, 2400, 2800, and every other fourth hundred year of our Lord, from the said year of our Lord 2000 inclusive, and also all other years of our Lord, which by the present supputation are esteemed to be bissextile or leap years, shall for the future and in all times to come be esteemed and taken to be bissextile or leap years, consisting of 366 days, in the same sort and manner as is now used with respect to every fourth year of our Lord.

Hundredth years, except every fourth hundred, to be common years of 365 days.

Years bissextile of 366 days.

3. "And whereas according to the rule prefixed to the Book of Common Prayer of the church of England, Easter-day is always the first Sunday after the first full moon which happens next after the one-and-twentieth day of March, and if the full moon

happens upon a Sunday, Easter-day is the Sunday after, which rule was made in conformity to the decree of the said general council of Nice for the celebration of the said feast of Easter: And whereas the method of computing the full moons now used in the church of England, and according to which the table to find Easter for ever, prefixed to the said Book of Common Prayer, is formed, is by process of time become considerably erroneous: And whereas a calendar and also certain tables and rules for the fixing the true time of the celebration of the said feast of Easter, and the finding the times of the full moons on which the same dependeth, so as the same shall agree as nearly as may be with the decree of the said general council, and also with the practice of foreign countries, have been prepared, and are hereunto annexed:" BE IT ENACTED, That the said feast of Easter, or any of the moveable feasts thereon depending, shall from and after the said 2nd day of September be no longer kept or observed in that part of Great Britain called England, or in any other the dominions or countries subject or belonging to the crown of Great Britain, according to the said method of supputation now used, or the said table prefixed to the said Book of Common Prayer, and that the said table, and also the column of golden numbers, as they are now prefixed to the respective days of the month in the said calendar, shall be left out in all future editions of the said Book of Common Prayer, and that the said new calendar, tables and rules hereunto annexed shall be prefixed to all such future editions of the said book in the room and stead thereof; and that from and after the said 2nd day of September all and every the fixed feast days, holy days and fast days, which are now kept and observed by the church of England, and also the several solemn days of thanksgiving, and of fasting and humiliation, which by virtue of any Act of parliament now in being, are from time to time to be kept and observed, shall be kept and observed on the respective days marked for the celebration of the same in the said new calendar, that is to say, on the same respective nominal days on which the same are now kept and observed, but which according to the alteration by this Act intended to be made as aforesaid, will happen eleven days sooner than the same now do, and that the said feast of Easter and all other moveable feasts thereon depending shall from time to time be observed and celebrated according to the said new calendar, tables and rules hereunto annexed, in that part of Great Britain called England, and in all the dominions and countries aforesaid, wherein the Liturgy of the church of England now is or hereafter shall be used, and that the two moveable terms of Easter and Trinity, and all courts of what nature or kind soever, and all meetings and assemblies of any bodies politic or corporate, and all markets, fairs and marts and courts thereunto belonging, which by any law, statute, charter, custom or usage are appointed, used or accustomed to be holden and kept at any moveable time or times depending upon the time of Easter, or any other such moveable feast as aforesaid, shall from time to time, from and after the said 2nd day of September, be holden and kept on such days and times whereon the same shall respectively happen or fall, according to the happening or falling of the said feast of Easter, or such other moveable feasts as aforesaid, to be computed according to the said new calendar, tables and rules.

Easter and the moveable feasts to be observed according to the new calendar, tables, and rules.

Feasts and fasts, &c., to be according to the new calendar.

4. And, that the several meetings of the court of session, and terms fixed for the court of Exchequer in Scotland, the April meeting of the governor, bailiffs and commonalty of the company of conservators of the great level of the fens, and the holding and keeping of all markets, fairs and marts, whether for the sale of goods or cattle, or for the hiring of servants or for any other purpose, which are either fixed to certain nominal days of the month or depending upon the beginning or any certain day of any month, and all courts incident or belonging to or usually holden or kept with any such fairs or marts fixed to such certain time as aforesaid, shall not from and after the said 2nd day of September be continued upon or according to the nominal days of the month, or the time of the beginning of any month to be computed according to the said new calendar, but that from and after the said 2nd day of September the said courts of sessions and exchequer, the said April meeting, and all such markets, fairs and marts as aforesaid, and all courts incident or belonging thereto, shall be holden and kept upon, or according to the same natural days upon or according to which the same should have been so kept or holden in case this Act had not been made, that is to say, eleven days later than the same would have happened according to the nominal days of the said new supputation of time, by which the commencement of each month, and the nominal days thereof, are anticipated or brought forward by the space of eleven days; anything in this Act contained to the contrary thereof in any wise notwithstanding.

Courts of session and exchequer in Scotland, and markets, fairs, and marts, to be held upon the same natural days.

5. "And whereas, according to divers customs, prescriptions and usages in certain places within this kingdom, certain lands and grounds are, on particular nominal days and times in a year, to be opened for common of pasture and other purposes, and at other times the owners and occupiers of such lands and grounds have a right to inclose or shut up the same for their own private use; and there is, in many other instances, a temporary and distinct property and right vested in different persons, in and to many such lands and grounds according to certain nominal days and times in the year: And whereas the anticipating or bringing forward the said nominal days and times, by the space of eleven days, according to the said new method of supputation, might be attended with many inconveniences:" BE IT ENACTED, That nothing in this Act contained shall extend, or be construed to extend, to accelerate or anticipate the days or times for the opening, inclosing or shutting up any such lands or grounds as aforesaid, or the days or times on which any such temporary or distinct property or right in or to any such lands or grounds as aforesaid is to commence, but that all such lands and grounds as aforesaid shall, from and after the said 2nd day of September, be from time to time respectively

The times for opening and inclosing the commons not altered.

24 G. 2, c. 23. opened, inclosed or shut up, and such temporary and distinct property and right in and to such lands and grounds as aforesaid shall commence and begin upon the same natural days and times on which the same should have been so respectively opened, inclosed or shut up, or would have commenced or begun, in case this Act had not been made, that is to say, eleven days later than the same would have happened, according to the said new account and supputation of time, so to begin on the said 14th day of September as aforesaid.

Times of payment of rents, annuities, &c.

6. Provided also, That nothing in this present Act contained shall extend, or be construed to extend to accelerate or anticipate the time of payment of any rent or rents, annuity or annuities, or sum or sums of money whatsoever, which shall become payable by virtue or in consequence of any custom, usage, lease, deed, writing, bond, note, contract or other agreement whatsoever, now subsisting or which shall be made, signed, sealed or entered into at any time before the said 14th day of September, or which shall become payable by virtue of any Act or Acts of parliament now in force, or which shall be made before the said 14th day of September, or the time of doing any matter or thing directed or required by any such Act or Acts of parliament to be done in relation thereto, or to accelerate the payment or increase the interest of any such sum of money which shall become payable as aforesaid, or to accelerate the time of the delivery of any goods, chattels, wares, merchandise or other things whatsoever, or the time of the commencement, expiration or determination of any lease or demise of any lands, tenements or hereditaments, or of any other contract or agreement whatsoever, or the accepting, surrendering or delivering up the possession of any such lands, tenements or hereditaments, or the commencement, expiration or determination of any annuity or rent, or of any grant for any term of years of what nature or kind soever, by virtue or in consequence of any such deed, writing, contract or agreement, or the time of the attaining the age of one-and-twenty years, or any other age requisite by any law, custom or usage, deed, will or writing whatsoever, for the doing any act or for any other purpose whatsoever, by any person or persons now born or who shall be born before the said 14th day of September, or the time of the expiration or determination of any apprenticeship or other service, by virtue of any indenture or of any articles under seal, or by reason of any simple contract or hiring whatsoever, but that all and every such rent and rents, annuity and annuities, sum and sums of money, and the interest thereof, shall remain and continue to be due and payable, and the delivery of such goods and chattels, wares and merchandises shall be made, and the said leases and demises of all such lands, tenements, and hereditaments, and the said contracts and agreements shall be deemed to commence, expire and determine, and the said lands, tenements and hereditaments shall be accepted, surrendered and delivered up, and the said rents and annuities and grants for any term of years shall commence, cease and determine at and upon the same respective natural days and times as the same should and ought to have been payable or made, or would have happened in case this Act had not been made, and that no further or other sum shall be paid or payable for the interest of any sum of money whatsoever than such interest shall amount unto, for the true number of natural days for which the principal sum bearing such interest shall continue due and unpaid; and that no person or persons whatsoever shall be deemed or taken to have attained the said age of one-and-twenty years or any other such age as aforesaid, or to have completed the time of any such service as aforesaid, until the full number of years and days shall be elapsed on which such person or persons respectively would have attained such age, or would have completed the time of such service as aforesaid, in case this Act had not been made, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

or of delivery of goods.

Commencement or expiration of leases, &c., or of attaining the age of 21 years, &c., not altered.

[Then follow the new calendar with the table of lessons, &c.]

25 G. 2, c. 30. 25 Geo. 2, c. 30. An Act to amend an Act made in the last Session of Parliament, intituled *An Act for regulating the Commencement of the Year, and for correcting the Calendar now in use.* [A.D. 1752.]

The election of officers, &c., to be done upon the same natural days of this year only, as before.

"Whereas," &c. [recites part of the 24 Geo. 2, c. 23, and enacts,] That it shall and may be lawful to and for all such bodies politic and corporate as aforesaid, and all and every the officers and members thereof, and they and every of them are hereby required to do all such acts, as by any law, charter or usage are appointed or required to be done on any of the nominal days of or in the said month of September, which by the said recited Act are directed to be dropt or omitted for this present year, upon the same natural day or days of this year only, as such acts would, might or ought to be done, in case the said recited Act had not been made, and that all acts so done in pursuance hereof shall be deemed, and are hereby declared and enacted to be as good and effectual to all intents and purposes as if the same were done on any of the nominal days so dropt or omitted as aforesaid; any law, statute, charter, custom or usage to the contrary in anywise notwithstanding.

2. "And whereas in divers parts of this kingdom, by custom, prescription or usage, or by virtue of some law or contract, certain lands and grounds are to be opened and used for common of pasture or other purposes, and the same lands and grounds are again inclosed and shut up, and certain rents or other payments are due and payable, and some

other matters and things may be to be done upon some of the moveable feasts or upon certain days or times depending upon, or to be computed from, the same: And whereas the said moveable feasts are hereafter to take place and to be observed according to the new calendar by the said Act directed to be used, whereby some doubts have already arisen or may hereafter arise about the time for opening and using, inclosing and shutting up such lands and grounds, the paying of such rents or other payments, and the doing such other matters or things as aforesaid:" for remedy thereof BE IT ENACTED, That from and after the said 2nd day of September, 1752, the respective times for opening, using, inclosing and shutting up all such lands and grounds as aforesaid, for the paying of such rents or other payments, and for the doing of such other matters or things as aforesaid, if such things are depending on any moveable feast or feasts, shall be computed and take place according to the said new calendar, and the tables and rules in the said recited Act directed to be used, and not according to the method of supputation heretofore used, or to the tables heretofore commonly affixed to the Book of Common Prayer, and the temporary and distinct property and right of all persons, bodies politic and corporate of, to, and in all such lands and grounds shall commence and be enjoyed, and all such rents and payments shall become and be due and payable, and all such matters and things shall be transacted and done accordingly; any law, custom, prescription, or usage to the contrary notwithstanding.

25 G. 2, c. 30.

The times for opening and inclosing grounds for common, and for payment of rents, &c., if the same depend on any moveable feast, are to be according to the new calendar.

3. Provided always, That nothing in this Act contained shall extend or be construed to extend to the abridging, enlarging, confirming or altering the title of any person, body politic or corporate whatsoever, of, in, or to any such lands or grounds, but the same shall remain and continue the same in all respects (except as to the new computation of time when such respective right, or the enjoyment thereof, shall commence or be put in use).

The title to such lands not altered.

4. That the annual admission and swearing of the mayor of London, be on the 8th of November.

TITHES (*a*).

45 Ed. 3, c. 3. A Prohibition shall be granted where a Suit shall be commenced in a Spiritual Court for *Sylva cædua* (*b*).

[A.D. 1371.]

45 Ed. 3, c. 3.

"Item, at the complaint of the said great men and commons, showing by their petition, That whereas they sell their great wood at the age of twenty years, or of forty

---

(*a*) See generally, Selden's History of Tithes; Eagle on Tithes; Toller's Law of Tithes; Mirehouse on Tithes; Plowden's Principles and Law of Tithing; Gwillim's Tithe Cases; Eagle and Younge's Tithe Cases; Shelford's Acts for the Commutation of Tithes, &c. &c.

(*b*) The most important exposition of the above statute is contained in the judgment of Lord Hardwicke, in the case of *Walton* v. *Tryon*, Ambl. 130; 2 Eag. & Yo. 123; Gwill. 818; in which it was held, that if a man having a wood which is properly a copse wood, with a few timber trees in it of above twenty years' growth, in cutting the copse makes a few loppings of such trees, and binds them up promiscuously together, so as to make it almost impossible to distinguish and separate one from the other, the parson may demand tithes of the whole (see also *Daws* v. *Mollins*, infrà). Tithes of wood are due of common right, in cases not protected by the statute. By the statute, oak, ash, and elm, which are regarded as timber by the common law, are exempt from tithes if of twenty years' growth, without regard to the use to which they may be applied; other trees, which are not timber generally, may be so by the customs of particular counties, as beech in Buckinghamshire and Cumberland; hazel, holly, willow, and whitethorn, in Hampshire, &c. And when this custom prevails, such trees are in like manner protected by the statute, being of the above growth; and the age and custom concurring, no inquiry is allowed as to the quality of the particular trees (*Aubrey* v. *Fisher*, 10 East, 446; *Pinder* v. *Spencer*, Noy, 30; 1 Eag. & Yo. 289). And with respect to trees which are clearly of a species to be denominated timber, the courts have declared they would presume the trees to be above twenty years' growth, unless the plaintiff demanding tithes prove the contrary (*Duke of Chandos* v. *Talbot*, 2 P. Wms. 606; Gwill. 357; *Wright* v. *Powel*, 2 Rol. Rep. 83; *Gafly* v. *Pindar*, Hob. 219; Gwill. 358, n.). When the trees are exempt, no tithe is payable for the bark tops, or lops, except in particular cases open to fraud, as when loppings of timber standing in a copse wood are intermixed with the fall of the copse wood (*Walton* v. *Tryon*, ubi sup.). In *Daws* v. *Mollins*, 2 Leon. 79; 1 E. & Y. 86, it had been laid down, that if woods, consisting chiefly of timber trees with underwood intermixed, are cut down and made into faggots promiscuously, it not being worth while to separate them, the timber shall privilege the whole; but if the woods are mostly underwood, with here and there an oak, and all are cut and made into faggots indiscriminately, the whole shall pay.

45 Ed. 3, c. 3 years, or of greater age, to merchants to their own profit, or in aid of the king in his wars, parsons and vicars of holy church do implead and draw the said merchants in the spiritual court for the tithes of the said wood, in the name of this word called *Sylva cædua*, whereby they cannot sell their woods to the very value, to the great damage of them and of the realm;" IT IS ORDAINED AND ESTABLISHED, That a prohibition in this case shall be granted, and upon the same an attachment, as it hath been used before this time.

27 H. 8, c. 20. 27 Hen. 8, c. 20. For Tithes to be paid throughout this Realm. [A.D. 1535.]

31 H. 8, c. 13. 31 Hen. 8, c. 13. An Act for Dissolution of Monasteries and Abbies (*a*). [A.D. 1539.]

21. "And where divers and sundry abbots, priors, abbesses, prioresses, and other ecclesiastical governors and governesses of the said late monasteries, abbathies, priories,

---

Timber trees having attained the requisite growth are exempted, although being unfit for timber and only fit for fuel; and though after attaining such growth they may be lopped every seven years (*Withington* v. *Harris*, Gwill. 584; see also Gwill. 836, and authorities cited, Toller, 102). But if a tree is lopped before it is of twenty years' growth, and afterwards periodically, the loppings are titheable (*Brooke* v. *Rogers*, Moor, 908; Gwill. 833). If it ceases to be lopped for twenty years successively, it is said to become timber, and to be privileged (1 R. A. 640; Degge, p. 11, c. 4; but see Gwill. 165).

As the clergy did not, at common law, claim tithes of timber trees growing from seed, but did claim tithes of all trees, of whatever age, growing from the stools and roots of trees which had been cut, the provisions of this statute must have been intended to meet such claim; and its construction, therefore, must necessarily be, that no tithes should be payable for timber trees, though growing from stools and roots, if above twenty years old; therefore, notwithstanding a current of authorities which had laid it down that no timber trees springing from old stools, whatever their age or size, were privileged from the payment of tithes (*Bibye* v. *Huxley*, Bunb. 192; Gwill. 657; 1 Eag. & Yo. 805; *Walton* v. *Tryon*, suprà; *Walbank* v. *Hayward*, Gwill. 1058; 3 Eag. & Yo. 1245; *Lewis* v. *Snell*, Gwill. 1729; 3 Eag. & Yo. 1388; *Chichester* v. *Sheldon*, Turn. & R. 245; *Evans* v. *Rowe*, M'Cle. & Yo. 577; 12 Pri. 76), Lord Cottenham held, after an elaborate examination of all those authorities, that trees of the growth of twenty years or upwards, sprung from the roots of old trees formerly cut down, are within the exemption of this statute, and not titheable (*Lozon* v. *Price*, 4 Myl. & Cr. 603).

See further on this subject, Shelford on Tithes, p. 121, et seq.

As to how the tithe of wood is to be valued under 6 & 7 Will. 4, c. 71, see the 41st section of that statute, post.

(*a*) The monasteries dissolved by this Act, and entitled to exemption from tithes, are those of the yearly value of 200*l.* and upwards, there being no exemption in respect of the lesser monasteries dissolved by 27 Hen. 8, c. 28. A catalogue of the greater monasteries, in respect of which exemption may be claimed, is contained in Turner's Notitia, and from thence extracted in Burn's Eccl. Law, tit. "TITHES," and the Appendix to Toller on Tithes.

The following view of the law respecting such exemption is abridged from the treatise of Mr. Toller, c. 7.

The exemption may be in respect, I. Of unity of possession by the monastery of the parsonage and the land titheable, and this exemption takes place as well when they are in the hands of a tenant as when they are in the hands of the owner. The requisites to such exemption are, that the union must have been, 1st, founded upon legal title; 2nd, equal with respect to the quantity of estate; 3rd, free from the payment of any tithes in any manner; 4th, immemorial, and such immemorial possession must be proved, and is not to be presumed (*Cluvill* v. *Oram*, Gwill. 1354; but see *Ingram* v. *Thackstone*, infrà). II. In respect of order. Religious orders were, by Pope Pascal II., exempted generally from tithes of lands *dum propriis manibus excoluntur*. This exemption was confined by Pope Adrian IV. to the orders of Cistercians, Templars, and Hospitallers, and was afterwards endeavoured by Innocent III. to be extended to the Premonstratenses, but the extension has not been allowed in this country. By the Council of Lateran, in 1215, received as law in England, the exemption of religious houses was restrained to the lands of which they were at that time in possession. The Cistercians afterwards obtained bulls for the exemption of lands in the hands of tenants. Such exemptions were prevented for the future by stat. 2 Hen. 4, c. 4, but are valid as to privileges then existing. Lands, in respect of which the monasteries were entitled to exemption *ratione ordinis*, are exempted, although at the time of the dissolution they were in the

nunneries, colleges, hospitals, houses of friars, and other religious and ecclesiastical houses and places, have had, possessed, and enjoyed divers and sundry parsonages, appropriated tithes, pensions, and portions, and also were acquitted and discharged of and for the payment or payments of tithes, to be paid out or for their said monasteries, abbathies, priories, nunneries, colleges, hospitals, houses of friars, and other religious and ecclesiastical houses and places, manors, messuages, lands, tenements, and hereditaments;" BE IT THEREFORE ENACTED, That as well the king our sovereign lord, his heirs and successors, as all and every such person and persons, their heirs and assigns, which have or hereafter shall have any monasteries, abbathies, priories, nunneries, colleges, hospitals, houses of friars, or other ecclesiastical houses or places, sites, circuits, precincts of the same, or of any of them, or any manors, messuages, parsonages, appropriate tithes, pensions, portions, or other hereditaments, whatsoever they be, which belonged or appertained, or which now belong or appertain unto the said monasteries, abbathies, priories, nunneries, colleges, hospitals, houses of friars, or other religious and ecclesiastical houses or places, or unto any of them, shall have, hold, retain, keep, and enjoy, as well the said parsonages, appropriate tithes, pensions, and portions of the said monasteries, abbathies, priories, nunneries, colleges, hospitals, houses of friars, and other religious and ecclesiastical houses and places, sites, circuits, precincts, manors, messes, lands, tenements, and other hereditaments, whatsoever they be, and every of them, according to their estates and titles, discharged and acquitted of payment of tithes, as freely and in as large and ample manner as the said late abbots, priors, abbesses, prioresses, and other ecclesiastical governors and governesses, or any of them, had, held, occupied, possessed, used, retained, or enjoyed, the same, or any parcel thereof, at the days of their dissolution, suppression, renouncing, relinquishing, forfeiting, giving up or coming to the king's highness, of such monasteries, abbathies, priories, nunneries, colleges, hospitals, houses of friars, or other religious or ecclesiastical houses or places, or at the day of the dissolution, suppression, renouncing, relinquishing, giving up, or coming to the king's highness of any of them; this Act or anything therein contained to the contrary notwithstanding.

31 H. 8, c. 13.

Such abbey-lands as before the dissolution of them were discharged of tithes shall so continue.

32 Hen. 8, c. 7. For the true Payment of Tithes and Offerings. [A.D. 1540.]

32 H. 8, c. 7.

"Where divers and many persons inhabiting in sundry counties and places of this realm and other the king's dominions, not regarding their duties to Almighty God and to the king our sovereign lord, but in few years past more contemptuously and commonly presuming to offend and infringe the good and wholesome laws of this realm and gracious commandments of our said sovereign lord than in times past hath been seen or known, have not letted to subtract and withdraw the lawful and accustomed tithes of corn, hay, pasturages, and other sort of tithes and oblations commonly due to the owners, proprietaries, and possessors of the parsonages, vicarages, and other ecclesiastical places of and within the said realm and dominions, being the more encouraged thereunto, for that divers of the king's subjects being lay persons having parsonages, vicarages, and tithes to them and to their heirs, or to them and to their heirs of their bodies lawfully begotten, or for term of life or years, cannot by the order and course of the ecclesiastical laws of this realm sue in any ecclesiastical court for the wrongful withholding and detaining of the said tithes or other duties, nor cannot by the order of the common laws of this realm have any due remedy against any person or persons, their heirs or assigns, that wrongfully detaineth or withholdeth the same; by occasion whereof much controversy, suit, variance, and discord is like to insurge and ensue among the king's subjects,

---

hands of tenants, and as such titheable (*Cowley* v. *Keys*, Gwill. 1368). But it is otherwise with respect to lands which, previous to the dissolution, had been granted in tail (*Farmer* v. *Shereman*, Hob. 248; Gwill. 431). The exemption extends, in other cases, only to lands in the hands of the owners. It may be claimed by a tenant in tail, or by a tenant for life, under the limitations of a settlement (*Hett* v. *Meeds*, Gwill. 1515); but not by a lessee for life (*Ibid.*). An absolute, and not a qualified discharge, was presumed in favour of lands that had never paid tithes, although belonging to a Cistercian abbey, and never in lease, and although tithes had been paid for other part of the same farm, when in the hands of tenants (*Ingram* v. *Thackstone*, Gwill. 819; see *Humphreys* v. *Wagstaff*, 1 Russ. & M. 529).

Lands exempted by the statute are not chargeable, although they have paid tithes ever since it passed (*Earl of Clericourt* v. *Lady Denton*, Gwill. 363). Lands exempt under this statute are not rendered liable by the general provision of an inclosure Act, that tithes should be paid from the new inclosure, notwithstanding any modus or exemption in other parts of the parish (*Pratt* v. *Hopkins*, 3 Bro. P. C. 521; Gwill. 704).

Lands of the order of St. John of Jerusalem, which came to the crown by stat. 32 Hen. 8, c. 24, are exempt under the authority of this Act.

32 H 8, c. 7. to the great detriment, damage, and decay of many of them, if convenient and speedy remedy therefore be not had and provided."

Tithes shall be paid according to the custom of the parish where they be due.

2. Wherefore it is ordained and enacted by our said sovereign lord the king, &c., That all and singular persons of this his said realm, or other his dominions, of what estate, degree, or condition soever he or they be, shall fully, truly, and effectually divide, set out, yield, or pay all and singular tithes and offerings aforesaid, according to the lawful customs and usages of the parishes and places where such tithes or duties shall grow, arise, come, or be due; and in case that it shall happen any person or persons, of his or their ungodly or perverse will and mind, to detain and withhold any of the said tithes or offerings, or any part or parcel thereof, then the person or party, being ecclesiastical or lay person, having cause to demand or have the said tithes or offerings, being thereby wronged or grieved, shall and may convent the person or persons so offending before the ordinary, his commissary, or other competent minister or lawful judge of the place where such wrong shall be done, according to the ecclesiastical laws: and in every such cause or matter of suit, the same ordinary, commissary, or other competent minister or lawful judge, having the parties or their lawful procurators before him or them, shall and may by virtue of this Act proceed to the examination, hearing, and determination of every such cause or matter, ordinarily or summarily, according to the course and process of the said ecclesiastical laws, and thereupon may give sentence accordingly.

The offender may be convented before the ordinary.

The appellant shall pay costs of suit to the other party

3. And in case that any of the parties, for any cause or matter concerning that suit, do appeal from the sentence, order, and definitive judgment of the said ordinary or other competent judge as is aforesaid, then the same judge by virtue of this Act forthwith upon such appellations made, shall adjudge to the other party the reasonable costs of his suit therein before expended; and shall compel the same party appellant to satisfy and pay the same costs so adjudged by compulsory process and censures of the said laws ecclesiastical, taking surety of the other party to whom such costs shall be adjudged and paid, to restore the same costs to the party appellant, if after the principal cause of that suit of appeal shall be adjudged against the same party to whom the same costs shall be yielden, and so every ordinary or other competent judge ecclesiastical by virtue of this Act, shall adjudge costs to the other party upon every appeal to be made in any suit or cause of subtraction or detention of any tithes or offerings, or in any other suit to be made for or concerning the duty of such tithes or offerings.

The offender shall be bound by two justices of peace to obey the ordinary's sentence.

4. That if any person or persons, after such sentence definitive given against them, obstinately and wilfully refuse for to pay their tithes or duties, or such sums of money so adjudged, wherein they be condemned for the same, that then two justices of the peace for the same shire, whereof one to be of the quorum, shall have authority by this Act, upon information, certificate, or complaint to them made in writing by the said ecclesiastical judge that gave the same sentence, to cause the same party so refusing to be attached and committed to the next gaol, and there to remain without bail or mainprize till he or they shall have found sufficient sureties to be bound by recognizance or otherwise, before the same justices, to the use of our said sovereign lord the king, to perform the said definitive sentence and judgment.

Lands discharged of tithes.

5. Provided always, That no person or persons shall be sued, or otherwise compelled to yield, give, or pay any manner of tithes for any manors, lands, tenements, or other hereditaments, which by the laws or statutes of this realm are discharged, or not chargeable with the payment of any such tithes.

6. Provided also, That this Act, nor anything therein contained, shall in anywise bind the inhabitants of the city of London, and suburbs of the same, for to pay their tithes and offerings within the same city and suburbs otherwise than they ought or should have done before the making of this Act; anything in this Act contained to the contrary notwithstanding.

Recoveries may be had, and conveyances made in temporal courts, of tithes, as of lands

7. That in all cases where any person or persons which now have, or which hereafter shall have any estate of inheritance, freehold, term, right or interest of, in, or to any parsonage, vicarage, portion, pension, tithes, oblations, or other ecclesiastical or spiritual profit (a) which now be or hereafter shall be made temporal, or admitted to be, abide and go to, or in temporal hands and lay uses and profits by the law or statutes of this realm, shall hereafter fortune to be disseised, deforced, wronged, or otherwise kept or put from their lawful inheritance, estate, seisin, possession, occupation, term, right, or interest of, in, to the same, or of, in, or to any parcel thereof, by any other person or persons claiming or pretending to have interest or title in or to the same; that then, in all and every such case or cases, the person or persons so disseised, deforced, or wrongfully kept or put from his or their right or possession as is afore rehearsed, their heirs, wives, and such other to whom such injury and wrong shall be done or committed shall and may have their remedy in the king's temporal courts, or other temporal courts, as the case shall require, for the recovery, getting, or obtaining of such inheritance, estate, freehold, seisin, possession, term, right or interest, by writs original of *Prece quod reddat*, assize of *Novel disseisin*, *Mortdance*, *Quod ei deforciat*, writs of dower, or other writs original, as the case shall require, to be devised and granted in the king's court of chancery, of every such parsonage, vicarage, portion, pension, or other profit called ecclesiastical or spiritual, so to be demanded according to the nature and cause of the suit thereof, in like manner and form as they should or might have had of or for lands,

(a) See *Ayrton* v. *Abbott*, 14 Q. B. 1.

tenements, or other hereditaments in such manner to be demanded: and that writs of covenant and other writs for fines to be levied, and all other assurances to be had, made, or conveyed of any such parsonage, vicarage, portion, pension, or other profit called ecclesiastical or spiritual, as is aforesaid, shall be hereafter devised and granted in the said chancery according as hath been used for fines to be levied, and assurance to be had, made, or conveyed of lands, tenements, or other hereditaments: and that all judgments to be given upon any of the said writs original, so to be devised or granted of or for any the premises, or any of them, and all fines to be levied and knowledged in any of the king's said courts thereof, shall be of like force and effect in the law, to all intents and purposes, as judgments given and fines levied of lands, tenements, and hereditaments in the same courts upon writs original, therefore duly pursued and prosecuted, albeit no such form of writs original out of the said court of chancery have heretofore proceeded or been awarded. 32 H. 8, c. 7.

Judgments given, and fines levied in the king's courts of tithes, shall be of like force as of lands.

8. Provided always, That this last Act shall not extend nor be expounded to give any remedy, cause of action, or suit in the courts temporal against any person or persons which shall refuse or deny to set out his or their tithes, or which shall detain, withhold, or refuse to pay his tithes or offerings, or any parcel thereof; but that in all such cases the person or party, being ecclesiastical or lay person, having cause to demand or have the said tithes or offerings, and thereby wronged or grieved, shall take and have their remedy for their said tithes or offerings in every such case in the spiritual courts, according to the ordinance in the first part of this Act mentioned, and not otherwise; anything herein expressed to the contrary thereof notwithstanding.

Remedy shall be had for tithes and offerings in the spiritual courts, and not in the temporal.

37 Hen. 8, c. 12. An Act for Tithes in London (a). [A.D. 1545.]

37 H. 8, c. 12.

2 & 3 Edw. 6, c. 13. An Act for Payment of Tithes (b). [A.D. 1548.]

2 & 3 Edw. 6, c. 13.

"Where in the parliament holden at Westminster, the iv. day of February, in the xxvij. year of the reign of the late king of most famous memory king Henry the viij. there was an Act made concerning payment of tithes, predial and personal: And also in another parliament holden at Westminster the xxiv. day of July, in the xxxij. year of the reign of the said late king Henry the viij., another Act was made concerning the true payment of tithes and offerings; in which several Acts many and divers things be omitted and left out, which were convenient and very necessary to be added to the same:" in consideration whereof, and to the intent the said tithes may be hereafter truly paid, according to the mind of the makers of the said Acts, BE IT ENACTED, That not only the said Acts, made in the said xxvij. and xxxij. years of the reign of the said late king Henry the viij., concerning the true payment of tithes, and every article and branch therein contained, shall abide and stand in their full strength and virtue; BE IT FURTHER ENACTED, That every of the king's subjects shall from henceforth truly and justly, without fraud or guile, divide, set out, yield and pay all manner of their predial tithes in their proper kind (c), as they rise and happen, in such manner and form (d) as hath been of right yielded and payed within forty years next before the making of this Act, or of right or custom ought to have been paid (e): and that no person shall from henceforth take or

In what manner tithes ought to be paid.

Every person shall set forth and pay his predial tithes, or forfeit treble value

(a) See *Vivian* v. *Cochrane*, 14 L. J. Ch. 89; *London and Blackwall Railway Company* v. *Letts*, 3 H. L. Ca. 470.

(b) See 7 & 8 Will. 3, c. 6; 7 & 8 Will. 3, c. 34, s. 4; 5 & 6 Will. 4, c. 74; 4 & 5 Vict. c. 36, post. This statute is a remedial Act; and in an action thereon the court will grant a new trial for the mistake of the jury (*Lord Selsea* v. *Powell*, 6 Taunt. 297). See the cases on this Act, Selwyn N. P. tit. "TITHES;" Mirehouse on Tithes, &c.

(c) This provision relates only to prædial tithes; and therefore, where the declaration was for not setting out prædial and other tithes, as wool, &c., and a general verdict was given, judgment was arrested (*Pain* v. *Nichols*, 1 Brownl. 65). The statute extends to small tithes as well as great (*Day* v. *Parkwell*, Moer, 915). But it extends only to such tithes as can be set out in kind; therefore, though agistment is a prædial tithe, it is not within the Act (*Scarr* v. *Trinity College*, 3 Anst. 760).

(d) As to whether the action can be brought for non-payment of a customary tithe of an eleventh instead of a tenth, or if it can, whether such customary tithe should not be expressly stated in the declaration (see *Blundell* v. *Maudsley*, 15 East, 641).

The common-law mode of tithing hay is in the cocks, into which the grass is first collected after cutting and tedding; and of wheat, in the sheaf. The occupier must in all cases leave the nine parts in the field a reasonable time, for the parson to compare them with the tithe set out, or he will forfeit treble the value (*Halliwell* v. *Trappes*, 2 Taunt. 55).

(e) The declaration must aver that the tithe was paid or payable within forty years, &c. (*Butt* v. *Howard*, 4 B. & Ald. 655). But it is not necessary that tithes should appear to have been actually paid, the presumption being in favour of the general liability; and the plaintiff will recover in such case, upon a declaration that the

2 & 3 Ed. 6, c. 13.

carry away any such or like tithes, which have been yielded or paid within the said forty years, or of right ought to have been paid, in the place or places titheable of the same, before he hath justly divided or set forth for the tithe thereof the tenth part of the same, or otherwise agreed for the same tithes with the parson, vicar, or other owner, proprietory or fermor of the said tithes (*a*) under the pain of forfeiture of treble value of the tithes so taken or carried away (*b*).

Persons entitled to tithe at liberty to view and take away the same, and if any person prevent, he shall pay double value and costs.

2. That at all times, whensoever and as often as the said predial tithes shall be due and at the tithing time of the same, it to be lawful to every party to whom any of the said tithes ought to be paid, or his deputy or servant, to view and see their said tithes to be justly and truly set forth and severed from the nine parts, and the same quietly to take and carry away; and if any person carry away his corn or hay or his other predial tithes before the tithe thereof be set forth, or willingly withdraw his tithes of the same, or of such other things whereof predial tithes ought to be paid, or do stop or let the parson, vicar, proprietor, owner, or other their deputies or farmers, to view, take, and carry away (*c*) their tithes as is abovesaid, by reason whereof the said tithe or tenth is lost, impaired, or hurt, that then upon due proof thereof made before the spiritual judge, or any other judge to whom heretofore he might have made complaint, the party so carrying away, withdrawing, letting, or stopping shall pay the *double value* of the tenth or tithe so taken, lost, withdrawn, or carried away, over and besides the costs, charges, and expenses of the suit in the same; the same to be recovered before the ecclesiastical judge, according to the king's ecclesiastical laws.

Tithes of cattle feeding in a waste where the parish is not known.

3. That all and every person which hath or shall have any beasts or other cattle titheable, going, feeding, or depasturing in any waste or common ground, whereof the parish is not certainly known, shall pay their tithes for the increase of the said cattle so going in the said waste or common, to the parson, vicar, proprietor, portionary, owner, or other their farmers or deputies of the parish, hamlet, town, or other place where the owner of the said cattle inhabiteth or dwelleth.

Lands discharged of tithe by prescription, &c.

4. Provided always, That no person shall be sued or otherwise compelled to yield, give or pay any manner of tithes for any manors, lands, tenements, or hereditaments, which by the laws and estates of this realm, or by any privilege or prescription (*d*), are not chargeable with the payment of any such tithes, or that be discharged by any composition real.

The tithe of barren heath or waste ground.

5. Provided always, That all such barren heath or waste ground, other than such as be discharged for the payment of tithes by Act of parliament, which before this time have lain barren and paid no tithes by reason of the said barrenness, and now be or hereafter shall be improved and converted into arable ground or meadow, shall from henceforth, after the end and term of seven years next after such improvement fully

---

tithes were due and payable within forty years before the statute (*Mitchell* v. *Walker*, 5 T. R. 260). It has been supposed, however, that if it is alleged that tithes were *paid* within the forty years, evidence must be given thereof (*Lord Mansfield* v. *Clarke*, cited *Ibid.*; but see *Halliwell* v. *Trappes*, 2 N. R. 173), from which it should seem that actual payment will be presumed, in support of the allegation, that tithe of turnips and potatoes were rendered, although some writers say they were introduced since that time.

An action of debt founded on this statute is not within the new rules of pleading, and *nil debet* may therefore be pleaded thereto (*Earl Spencer* v. *Swannell*, 3 M. & W. 154). But the defendant cannot plead *several* pleas of *nil debet* by statute, as to several parts of the lands on which the titheable matters were produced, but should plead one plea of *nil debet* by statute to the whole (*Graburn* v. *Brown*, 16 M. & W. 831). The defendant will be obliged to give a particular of all grounds of exemption, modus, &c., intended to be insisted on at the trial (*Ibid.*).

(*a*) See cases as to such agreement and notice, &c., Selw. N. P. tit. "TITHES."

(*b*) This action for treble value is taken away by the stat. 5 & 6 Will. 4, c. 74, post, in cases where the amount of the tithe withheld is of or under the yearly value of 10*l.*, except where the actual title to the tithe, or the exemption of the property from any tithe is *bonâ fide* in question (see *Peyton* v. *Watson*, 3 Q. B. 658). As to the costs, see 8 & 9 Will. 3, c. 11, s. 3, ante, Vol. I. p. 1102.

Before stat. 53 Geo. 3, c. 127, s. 5, ante, p. 13, there was no limitation of the action for treble value founded on this statute; but by that Act "no action shall be brought for the recovery of any penalty for not setting out tithes, nor any suit instituted in any court of equity, or in any ecclesiastical court, to recover the value of any tithes, unless such action shall be brought or such suit commenced within six years from the time when such tithes became due."

See 2 & 3 Will. 4, c. 100, s. 5, post, p. 688.

(*c*) Semble, the parson has a right to use, for carrying off the tithe, only the usual occupation way of that close. If obstructed in that use, he may support an action on the case (*Cobb* v. *Selby*, 2 N. R. 466).

(*d*) A prescription, exempting from the penalties of this Act, must be good in law; and the validity of the custom is proper to be tried in an action on the statute (*Phillips* v. *Davies*, 8 East, 178).

ended and determined, pay tithe for the corn and hay growing upon the same; anything in this Act to the contrary in anywise notwithstanding (*a*). 2 & 3 Ed. 6, c. 13.

6. Provided always, That if any such barren waste or heath ground hath before this time been charged with the payment of any tithes, and that the same be hereafter improved or converted into arable ground or meadow, that then the owner or owners thereof shall, during seven years next, following from and after the same improvement, pay such kind of tithe as was paid for the same before the said improvement; anything in this Act to the contrary in anywise notwithstanding.

7. That every person exercising merchandises, bargaining and selling clothing, handicraft or other art or faculty, being such kind of persons and in such places as heretofore within these forty years have accustomably used to pay such personal tithes, or of right ought to pay (other than such as been common day-labourers) shall yearly at or before the feast of Easter pay for his personal tithes the tenth part of his clear gains, his charges and expenses, according to his estate, condition or degree, to be therein abated, allowed, and deducted. Who shall pay their personal tithes.

8. Provided always, That in all such places where handicraftsmen have used to pay their tithes within these forty years, the same custom of payment of tithes to be observed and to continue; anything in this Act to the contrary notwithstanding. Handicraftsmen.

9. That if any person refuse to pay his personal tithes in form aforesaid, that then it shall be lawful to the ordinary of the same diocese where the party that so ought to pay the said tithes is dwelling, to call the same party before him, and by his discretion to The ordinary may examine him that

---

(*a*) It is agreed that the statute gives an exemption with respect to the land here described. for the term of seven years. For the exposition of this clause, see 2 Inst. 656; *Stockwell* v. *Terry*, 1 Ves. 115; 2 Eag. & Yo. 118; *Bourscough* v. *Aston*, Bull. N. P. 191; *Sherington* v. *Flewood*, Cro. Eliz. 475, 1 Eag. & Yo. 132; *Beardmore* v. *Gilbert*, Bunb. 159: 3 Bulst. 365; 1 Eag & Yo. 794; *Byron* v. *Lamb*, Gwill. 1594; 3 Eag. & Yo. 1337; *Warwick* v. *Collins*, 2 M. & Sel. 349.

It is settled that land is not entitled to the privilege, as barren, on account of the expense of clearing from wood, draining, inclosing, or recovery from the sea, and that the exemption must be founded upon the natural inaptitude of the soil for the production of a crop without an extraordinary expense in manuring. The proper test of barrenness is, whether the land requires extraordinary expense either in manure or labour, to bring it into a proper state of culture (*Lord Selsea* v. *Powell*, 6 Taunt. 297). In *Hutchins* v. *Maughan*, cited by Eyre, C. B., in *Jones* v. *Le David*, 4 Gwill. 1594, it was held, that land which, from its exposed situation, would not grow corn without the expense of erecting stone walls to protect it from the severity of the climate, is exempt.

The following extracts from Lord Ellenborough's judgment in *Warwick* v. *Collins* (2 M. & Sel. 358) seem to comprise the substance of the law upon this subject:—"There are two causes of unproductiveness in land, one arising from the mere neglect of cultivation, the other because the land is in its nature unfit for and indisposed to receive and return the benefits of cultivation. The latter only is protected; all land which has not been already cultivated by the plough is, to use Lord Coke's words (2 Inst. 656), so far *not apt for tillage*. Something must necessarily be done, some labour bestowed, some expense incurred in all cases, to conquer this inaptitude. Then comes the question on the limitation in the statute, whether 'it has paid no tithes by reason of barrenness' (on which the comments made on the statute and the cases have principally turned), in other words, 'whether it be *sudpte naturâ sterilis*,' and this, all agree, must be shown, to entitle it to exemption. It seems neither reasonable nor analogous to the common course of husbandry to confine the inaptitude for tillage to such causes only as hinder the mere use and passage of the plough over it, such as the incumbrance of wood, of water, or furze and whin. There is an ulterior inaptitude to these in all cases of new land, arising from the rankness and foulness of the soil; and, if I may use the expression, from its unsubdued condition. If the land only require the manure and cultivation ordinarily necessary to bring it into an apt state of tillage, it is not *sudpte naturâ sterilis*. Sterility, *ex vi termini*, imports an ungrateful soil; a sort of natural and constitutional infecundity, resisting the ordinary means properly applied to render it otherwise."

The proper inquiry seems to be, whether the land was of such a nature as to require extraordinary expense either in manure or labour to bring it into a proper state of cultivation.

In the subsequent case of *Warwick* v. *Collins*, 5 M. & Sel. 166, it was held, that land which is of a good quality shall pay tithe immediately, although the expense attending the breaking it up and liming it exceeds the return made to the farmer in the several first years of cultivating it.

The seven years begin to run from the time when some act has been done to make the land more productive than it was before (see *Ross* v. *Smith*, 1 B. & Ad. 907). The onus of proving that the land is barren, in an action for setting out tithes, is on the defendant (*Lord Selsea* v. *Powell*, 6 Taunt. 297; 3 Eag. & Yo. 714; see 6 & 7 Will. 4, c. 71, ss. 43, 67, 71; and 1 Vict. c. 69, s. 11, post).

2 & 3 Ed. 6, c. 13. refuses to pay his tithe.

examine him by all lawful and reasonable means, other than by the party's own corporal oath, concerning the true payment of the said personal tithes.

Payment of offerings.

10. Provided always, That all and every person and persons which by the laws or customs of this realm ought to make or pay their offerings, shall yearly from henceforth well and truly content and pay his or their offerings to the parson, vicar, proprietor, or their deputies or farmers, of the parish or parishes where it shall fortune or happen him or them to dwell or abide; and that at such four offering-days as at any time heretofore within the space of four years last past hath been used and accustomed for the payment of the same, and in default thereof to pay for their said offerings at Easter then next following.

Tithe of fish.

11. Provided also, That this Act or anything therein contained, shall not extend to any parish which stands upon and towards the sea coasts, the commodities and occupying whereof consistoth chiefly in fishing, and have by reason thereof used to satisfy their tithes by fish; but that all and every such parish and parishes shall hereafter pay their tithes according to the laudable customs, as they have heretofore of ancient time within these forty years used and accustomed, and shall pay their offerings as is aforesaid.

Payment of tithe by houses.

12. Provided always, That this Act or anything therein contained, shall not extend in anywise to the inhabitants of the city of London and Canterbury, and the suburbs of the same, ne to any other town or place that hath used to pay their tithes by their houses, otherwise than they ought or should have done before the making of this Act; anything contained in this Act to the contrary in anywise notwithstanding.

Suits for withholding of tithes shall be in the ecclesiastical court.

13. That if any person do subtract or withdraw any manner of tithes, obventions, profits, commodities, or other duties before mentioned, or any part of them, contrary to the true meaning of this Act, or of any other Act heretofore made, that then the party so subtracting or withdrawing the same, may or shall be convented and sued in the king's ecclesiastical court, by the party from whom the same shall be subtracted or withdrawn (*a*), to the intent the king's judge ecclesiastical shall and may then and there hear and determine the same, according to the king's ecclesiastical laws; and that it shall not be lawful unto the parson, vicar, proprietor, owner or other, their farmers or deputies, contrary to this Act, to convent or sue such withholder of tithes, obventions and other duties aforesaid, before any other judge than ecclesiastical; and if any archbishop, bishop, chancellor, or other judge ecclesiastical, give any sentence in the foresaid causes of tithes, obventions, profits, emoluments, and other duties aforesaid, or in any of them (and no appeal ne prohibition hanging), and the party condemned do not obey the said sentence, that then it shall be lawful to every such judge ecclesiastical to excommunicate the said party so as afore condemned and disobeying; in the which sentence of excommunication, if the said party excommunicate wilfully stand and endure still excommunicate by the space of forty days next after, upon denunciation and publication thereof in the parish church, or the place or parish where the party so excommunicate is dwelling or most abiding, the said judge ecclesiastical may then at his pleasure signify to the king in his court of chancery, of the state and condition of the said party so excommunicate, and thereupon to require process *de excommunicato capiendo* to be awarded against every such person as hath been so excommunicate.

Excommunication of the party condemned (*b*).

A copy of the libel shall be delivered to the judges before a prohibition granted.

14. That if any party at any time hereafter, for any matter or cause before rehearsed, limited or appointed by this Act to be sued or determined in the king's ecclesiastical court, or before the ecclesiastical judge, do sue for any prohibition in any of the king's courts where prohibition before this time have been used to be granted, that then in every such case, the same party, before any prohibition shall be granted to him or them, shall bring and deliver to the hands of some of the justices or judges of the same court where such party demandeth the prohibition, the very true copy of the libel depending in the ecclesiastical court, concerning the matter wherefore the party demandeth the prohibition, subscribed or marked with the hand of the same party, and under the copy of the said libel shall be written the suggestion wherefore the party so demandeth the said prohibition; and in case the said suggestion, by two honest and sufficient (*c*) witnesses at the least, be not proved true (*d*) in the court (*e*) where the said prohibition

---

(*a*) Suits in the spiritual courts, for any tithes recoverable at law or in equity, must now be brought within the same period during which the party might bring such action or suit at law or in equity (8 & 4 Will. 4, c. 27, s. 43, ante, Vol. III. p. 62, tit. "LIMITATION OF ACTIONS;" see 53 Geo. 3, c. 127, s. 5; ante, p. 13, and note (*b*), ante, p. 676).

(*b*) But see, as to excommunication, ante, Vol. I. p. 1255.

(*c*) In *Robson's Case*, 1 Vent. 107, it is said to be sufficient, where the suggestion consists of two parts, to produce one witness to each.

(*d*) The proof must be made in all cases where the matter suggested is mere matter of fact, as a modus (*Gippe's Case*, Godb. 245; *Pool* v. *Gardner*, Carth. 463); of the place being exempted as barren ground (*Stroud* v. *Hoskins*, Cro. Car. 208); that the lord had from time immemorial received tithes within the manor, for which he had maintained a chaplain; and the proof did not show the maintaining a chaplain (*Hoocher* v. *Rogers*, 1 Roll. 2); a discharge by arbitrament (*Reynolls* v. *Hayes*, 1 Roll. 55); a discharge under 31 Hen. 8,

shall be so granted (*f*), within six months (*g*) next following after the said prohibition shall be so granted and awarded, that then the party that is letted or hindered of his or their suit in the ecclesiastical court by such prohibition, shall upon his or their request and suit, without delay have a consultation granted (*h*) in the same case, in the court where the said prohibition was granted; and shall also recover double costs (*i*) and damages against the party that so pursued the said prohibition, the said costs and damages to be assigned or assessed by the court where the said consultation shall be so granted; for which costs and damages the party to whom they shall be awarded, may have an action of debt (*k*), by bill, plaint or information, in any of the king's courts of record, wherein the defendant shall not wage his or their law, nor have any essoign or protection allowed or admitted.

2 & 3 Ed. 6, c. 13.

A consultation granted for default of proving a suggestion.

15. Provided always, That this Act, or anything therein contained, shall not extend to give any minister or judge ecclesiastical any jurisdiction to hold plea of any matter, cause, or thing, being contrary or repugnant to or against the effect, intent or meaning of the statute of Westminster second, the fifth chapter, the statutes of *Articuli cleri*, *Circumspecte agatis Silva cæda*, the treatise *De Regia prohibitione*, ne against the statute of *Anno primo Edwardi tertii*, the tenth chapter, or any of them, no yet hold plea in any matter whereof the king's court of right ought to have jurisdiction; anything herein contained to the contrary in anywise notwithstanding.

Of what things a judge ecclesiastical shall hold plea.

16. "Provided nevertheless, where heretofore such a custom hath been in many parts of Wales, that of such chattel and other goods as hath been given with the marriage of any person, their tithes have been exacted and levied by the parsons and curates in those parts; which custom being dissonant from any part of this realm, as it seemed when the said county of Wales was through civil dissention unculted, for want of other sufficient profits that might otherwise grow to the curates and ministers there, to have been for that time tolerable: so now the country being well manured and husbanded, and the tithe is duly paid there of corn, hay, wool and cheese, and of other increase of all manner of cattle, as it is commonly in all other parts of this realm, the same custom seems to be grievous and unreasonable, especially where the benefices are else sufficient for the finding of the said ministers and curates;" BE IT ENACTED, That from and after the 1st day of May next coming no such tithes of marriage goods be exacted or required of any person within the said dominion of Wales or marches of the same; anything in this Act contained, or any other Act, custom or prescription had or made to the contrary thereof notwithstanding.

No tithes of marriage goods shall be paid in Wales, &c.

---

c. 38 (*Congley* v. *Hale*, 2 Roll. 125). Proof may be as to *belief* (*Bennett* v. *Snell*, Palm. 377; *Webb* v. *Pelts*, Noy, 44; Littl. 155. It is sufficient if the suggestion is proved true in substance, although not proved strictly as laid; as where the suggestion was, that the parson had twenty acres of pasture, and twenty acres of wood, in lieu of tithes, and it was proved as to the pasture and not as to the wood (*Austen* v. *Pigot*, Cro. Eliz. 736; Moor, 911). So if the modus is laid on the inhabitants of D., and proved to be paid by the plaintiff (*Anon.* Noy, 28). So, where there is a proof of a modus differing in amount (*Gresham* v. *Lucas*, Moor, 911; *Pelles* v. *Saunderson*, Dyer, 171, in marg. Hetl. 100).

No proof is necessary, where the suggestion is in the negative; as, that the parsonage is not appropriate; that the lands are not in the parish; or where the suggestion is of matter of law (29 Inst. 662). Nor of a composition or agreement with the parson (*Woodward* v. *Bugg*, 2 Leon. 29; 3 Leon. 257; *Anon.* Lit. Rep. 297; *Tanner* v. *Small*, Yelv. 102). Nor of a cause of suggestion arising upon a subsequent statute (*Wiggen* v. *Arscot*, 2 Leon. 212). Nor where two matters are suggested, one of which requires costs, the other not; as a modus and an agreement (semble, *Cobb* v. *Hunt*, Yelv. 119; Brownl. 98); in which it was held that the party in such case is not entitled to double costs.

(*e*) The proof may be made before one of the judges in vacation, and recorded in term (*Skinner's Case*, Latch. 30; and see *Trask* v. *French*, 15 East, 574).

(*f*) Where the party is put to declare in prohibition, and is nonsuited, the defendant is only entitled to single costs, under 8 & 9 Will. 3, c. 11 (*Trask* v. *French*, 15 East, 574; and see 5 & 6 Vict. c. 97, ante, Vol. I., p. 1107, tit. "COSTS").

(*g*) *Calendar* months, being a matter of ecclesiastical law (Lit. 19; Hob. 179; 2 Mod. 58; see ante, tit. "TIME," p. 666), it was held (*Anon.* Moor, 573), that the six months must be in term time; but this has been since overruled, and the time runs from the teste of the writ of prohibition (*Foy* v. *Lister*, 2 Salk. 554; 2 Ld. Raym. 1171). When the declaration was by rule of court amended, to make it conformable to the proceedings in the spiritual court, it was ruled that the time should be computed from the amendment (*Malton* v. *Acklam*, Barnes, 428). If the proof be defective, it may be amended within the six months, but not after (*Stiddar* v. *Tilar*, Lit. 155).

(*h*) A consultation for not proving the suggestion is not, like a consultation on the merits, a bar to a second prohibition (see Carth. 463; *Stroud* v. *Hoskins*, Cro. Car. 208; *Trask* v. *French*, 15 East, 574).

(*i*) But see now 5 & 6 Vict. c. 97, ante, Vol. I p. 1107, tit. "COSTS."

(*k*) In such action the plaintiff is entitled to costs (1 Roll. Abr. 516, 1, 37).

7 & 8 W. 3, c. 6.

7 & 8 Will. 3, c. 6. An Act for the more Easy Recovery of small Tithes (a). [A.D. 1696.]

"For the more easy and effectual recovery of small tithes, and the value of them, where the same shall be unduly subtracted and detained, where the same do not amount to above the yearly value of forty shillings (b) from any one person;" BE IT ENACTED, That all and every person and persons shall henceforth well and truly set out and pay all and singular the tithes commonly called small tithes, and compositions and agreements for the same, with all offerings, oblations and obventions, to the several rectors, vicars, and other persons to whom they are or shall be due, in their several parishes within this kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, according to the rights, customs and prescriptions commonly used within the said parishes respectively; and if any person or persons shall hereafter subtract or withdraw, or anyways fail in the true payment of such small tithes, offerings, oblations, obventions or compositions as aforesaid, by the space of twenty days at most after demand thereof, then it shall and may be lawful for the person or persons to whom the same shall be due, to make his or their complaint in writing unto two or more of his majesty's justices of the peace within that county, riding, city, town corporate, place or division where the same shall grow due; neither of which justices of peace is to be patron of the church or chapel whence the said tithes do or shall arise, nor any ways interested in such tithes, offerings, oblations, obventions or compositions aforesaid (c).

Small tithes not paid in 20 days after demand, lawful to complain to two justices not interested,

2. That if hereafter any suit or complaint shall be brought to two or more justices of the peace as aforesaid, concerning small tithes, offerings, oblations, obventions or compositions as aforesaid, the said justices (d) are hereby authorised and required to summon, in writing under their hands and seals, by reasonable warning, every such person or persons against whom any complaint shall be made as aforesaid; and after his or their appearance, or upon default of their appearance, the said warning or summons being proved before them upon oath, the said justices of peace, or any two or more of them, shall proceed to hear and determine the said complaint, and upon the proofs, evidences and testimonies produced before them, shall, in writing, under their hands and seals, adjudge the case and give such reasonable allowance and compensation for such tithes, oblations and compositions so subtracted or withheld, as they shall judge to be just and reasonable, and also such costs and charges, not exceeding ten shillings, as upon the merits of the cause shall appear just.

who may summon the person complained of, and on default of appearance determine the complaint, &c.

3. That if any person or persons shall refuse or neglect, by the space of ten days after notice given, to pay or satisfy any such sum of money, as upon such complaint and proceeding, shall by two or more justices of the peace be adjudged as aforesaid, in every such case the constables and churchwardens of the said parish, or one of them, shall, by warrant under the hands and seals of the said justices to them directed, distrain the goods and chattels of the party so refusing or neglecting as aforesaid, and after detaining them by the space of three days, in case the said sum so adjudged to be paid, together with reasonable charges for making and detaining the said distress, be not tendered or paid by the said party in the meantime, shall and may make public sale of the same, and pay to the party complaining, so much of the money arising by such sale as may satisfy the said sum so adjudged, retaining to themselves such reasonable charges for making and keeping the said distress, as the said justice shall think fit, and shall render the overplus (if any be) to the owner.

On refusal to pay in 10 days after notice, constables, &c., may distrain.

4. Provided always, That it shall and may be lawful for all justices of peace, in the examination of all matters offered to them by this Act, to administer an oath or oaths to any witness or witnesses, where the same shall be necessary for their information and for the better discovery of the truth.

Justices to administer an oath.

5. Provided also, That this Act, or anything herein contained, shall not extend to any tithes, oblations, payments or obventions within the city of London or liberties thereof, nor to any other city or town corporate where the same are settled by any Act of parliament in that case particularly made and provided.

Not to extend to London, &c.

6. Provided also, That no complaint for or concerning any small tithes, offerings, oblations, obventions or compositions (e) hereafter due, shall be heard and determined by any justices of the peace, by virtue of this Act, unless the complaint shall be made within the space of two years (f) next after the times that the same tithes, oblations, obventions and compositions did become due or payable; anything in this Act contained to the contrary notwithstanding.

Complaint to be made within two years.

(a) See 53 Geo. 3, c. 127, ss. 4 et seq., ante, Vol. I. p. 1257; 7 Geo. 4, c. 15, post, p. 684; 5 & 6 Will. 4, c. 74, post, p. 689; 4 & 5 Vict. c. 38, post.

(b) Extended by 53 Geo. 3, c. 127, s. 4, ante, Vol. I. p. 1257, to 10*l.*; and see 5 & 6 Will. 4, c. 74, s. 1, post, p. 689.

(c) See 7 Geo. 4, c. 15, post, p. 684.

(d) One justice may receive the original complaint, and summon the parties to appear before two or more justices (53 Geo. 3, c. 127, s. 4, ante, Vol. I. p. 1257).

(e) A *mortuary* is not within these words (*Ayrton* v. *Abbott*, 14 Q. B. 1).

(f) See *Robinson* v. *Purday*, 16 M. & W. 11, post, p. 690, n. (b).

7. Provided also, That any person finding him, her or themselves aggrieved by any judgment to be given by any two justices of the peace, shall and may appeal to the next general quarter sessions to be held for that county, riding, city, town corporate or division, and the justices of the peace there present, or the major part of them, shall proceed finally to hear and determine the matter, and to reverse the said judgment if they shall see cause; and if the justices then present, of the major part of them, shall find cause to confirm the judgment given by the first two justices of the peace, they shall then decree the same by order of sessions, and shall also proceed to give such costs against the appellant, to be levied by distress and sale of the goods and chattels of the said appellant, as to them shall seem just and reasonable; and no proceedings or judgment had or to be had by virtue of this Act shall be removed or superseded by virtue of any writ of *certiorari* or other writ out of his majesty's courts at Westminster or any other court whatsoever, unless the title of such tithes, oblations or obventions shall be in question; any law, statute, custom or usage to the contrary notwithstanding. 7 & 8 W. 3, c. 6. Persons aggrieved may appeal to the sessions. If judgment confirmed, justices to give costs, &c.

8. Provided always, That where any person or persons complained of for subtracting or withholding any small tithes, or other duties aforesaid, shall, before the justices of the peace to whom such complaint is made, insist upon any prescription, composition or *modus decimandi*, agreement or title, whereby he or she is or ought to be freed from payment of the said tithes or other dues in question, and deliver the same in writing to the said justices of the peace, subscribed by him or her, and shall then give to the party complaining reasonable and sufficient security, to the satisfaction of the said justices, to pay all such costs and damages as upon a trial at law to be had for that purpose in any of his majesty's courts having cognizance of that matter shall be given against him, her or them, in case the said prescription, composition, or *modus decimandi* shall not upon the said trial be allowed; that in that case the said justices of the peace shall forbear to give any judgment in the matter, and that then and in such case the person or persons so complaining shall and may be at liberty to prosecute such person or persons for their said subtraction, in any other court or courts whatsoever, where he, she, or they might have sued before the making of this Act; anything in this Act to the contrary notwithstanding. Persons complained of insisting on any composition, &c. and giving security to pay costs, justices not to give judgment (a).

9. That every person and persons who shall by virtue of this Act obtain any judgment, or against whom any judgment shall be obtained before any justices of the peace out of sessions, for small tithes, oblations, obventions or compositions, shall cause or procure the said judgment to be inrolled at the next general quarter sessions to be holden for the said county, city, riding, or division; and the clerk of the peace for the said county, city, riding or division is hereby required upon tender thereof, to inrol the same, and that he shall not ask or receive for the inrolment of any one judgment any fee or reward exceeding one shilling; and that the judgment so inrolled, and satisfaction made by paying the same sum so adjudged, shall be a good bar to conclude the said rectors, vicars and other persons from any other remedy for the said small tithes, oblations, obventions or compositions for which the said judgment was obtained. Judgment to be inrolled at the next sessions by the clerk of the peace, &c.

10. That if any person or persons against whom any such judgment or judgments shall be had as aforesaid, shall remove out of the county, riding, city or corporation after judgment had as aforesaid, and before the levying the sum or sums thereby adjudged to be levied, the justices of the peace who made the said judgment, or one of them, shall certify the same, under his or their hands and seals, to any justice of peace of such other county, city or place wherein the said person or persons shall be inhabitants; which said justice is hereby authorised and required by warrant, under his hand and seal, to be directed to the constables or churchwardens of the place or one of them, to levy the sum or sums so adjudged to be levied as aforesaid, upon the goods and chattels of such person or persons as fully as the said other justices might have done if he, she, or they had not removed as aforesaid; which shall be paid according to the said judgment. Persons removing, justices may certify the judgment, &c.

11. Provided always, That no vicar or other person shall have remedy to recover small tithes or other dues aforesaid which became or were due before the making of this Act, unless complaint be made to the justices of the peace in form aforesaid before the first day of October, which shall be in the year of our Lord one thousand six hundred and ninety-six.

12. That the said justices of the peace who shall hear and determine any of the matters aforesaid, shall have power to give costs not exceeding ten shillings to the party prosecuted, if they shall find the complaint to be false and vexatious, which costs shall be levied in manner and form aforesaid. Justices may give costs not exceeding 10s.

13. Provided also, That if any person or persons shall be sued for anything done in execution of this Act, and the plaintiff in such suit shall discontinue his action, or be Double costs.

(a) A party summoned under this Act, who resists the payment of tithe on the ground of a modus under the 8th section, must set up the modus before the justices in the first instance; and if he neglect to do so, and an order is made by the justices, he cannot, on appeal to the sessions, give evidence of the modus: and it seems that the 8th section takes away from the justices the power of trying a question of modus in any case (*Rex* v. *Jeffreys*, 1 B. & C. 604; 2 D. & R. 860; 3 Esg. & Yo. 1098; see *Rex* v. *Wakefield*, 1 Burr. 485; 2 Esg. & Yo. 153; *Rex* v. *Furness*, 1 Stra. 264; 1 Esg. & Yo. 750; Burn's Justice, by Chitty, tit. "TITHES").

7 & 8 W. 3, c. 6.

nonsuit, or a verdict pass against him, that then in any of the said cases such person or persons shall recover double costs.

Suits for tithes not exceeding 40s. to have no benefit by this Act.

14. Provided always, That any clerk or other person or persons who shall begin any suit for recovery of small tithes, oblations, or obventions not exceeding the value of forty shillings, in his majesty's court of exchequer, or in any of the ecclesiastical courts, shall have no benefit by this Act or any clause in it for the same matter for which he or they have so sued.

15. [Act to continue three years] (*a*).

7 & 8 W. 3, c. 34.

7 & 8 W. 3, c. 34. An Act that the solemn Affirmation and Declaration of the People called Quakers, shall be accepted instead of an Oath in the usual Form (*b*). [A.D. 1696.]

If Quakers refuse to pay tithes, &c., justices, on stating what is due, may compel them thereto, if the sum be under 10*l.* (*c*).

4. "Whereas by reason of a pretended scruple of conscience quakers do refuse to pay tithes and church rates;" BE IT ENACTED, That where any quaker shall refuse to pay or compound for his great or small tithes or to pay any church rates, it shall and may be lawful to and for the two next justices of peace of the same county (other than such justice of the peace as is patron of the church or chapel whence the said tithes do or shall arise, or any ways interested in the said tithes) upon the complaint of any parson, vicar, farmer, or proprietor of tithes, churchwarden or churchwardens, who ought to have, receive, or collect the same, by warrant under their hands and seals to convene before them such quaker or quakers neglecting or refusing to pay or compound for the same, and to examine upon oath (which oath the said justices are hereby empowered to administer) or in such manner as by this Act is provided, the truth and justice of the said complaint, and to ascertain and state what is due and payable by such quaker or quakers to the party or parties complaining, and by order under their hands and seals to direct and appoint the payment thereof, so as the sum ordered as aforesaid do not exceed ten pounds; and upon refusal by such quaker or quakers to pay according to such order, it shall and may be lawful to and for any one of the said justices by warrant under his hand and seal to levy the money thereby ordered to be paid by distress and sale of the goods of such offender, his executors or administrators, rendering only the overplus to him, her, or them, necessary charges of distraining being thereout first deducted and allowed by the said justice; and any person finding him, her, or themselves aggrieved by any judgment given by such two justices of the peace, shall and may appeal to the next general quarter sessions to be held for the county, riding, city, liberty, or town corporate; and the justices of the peace there present, or the major part of them, shall proceed finally to hear and determine the matter, and to reverse the said judgment if they shall see cause; and if the justices then present, or the major part of them, shall find cause to continue the judgment given by the first two justices of the peace, they shall then decree the same by order of sessions, and shall also proceed to give such costs against the appellant, to be levied by distress and sale of the goods and chattels of the said appellant, as to them shall seem just and reasonable; and no proceedings or judgment had or to be had by virtue of this Act shall be removed or superseded by any writ of *certiorari* or other writ out of his majesty's courts at Westminster or any other court whatsoever, unless the title of such tithes shall be in question.

Persons aggrieved may appeal to the quarter sessions, who are finally to determine.

No judgment to be superseded by *certiorari*.

5. Provided always, That in case any such appeal be made as aforesaid, no warrant of distress shall be granted until after such appeal be determined.

11 & 12 W. 3, c. 16.

11 & 12 W. 3, c. 16. An Act for the better ascertaining the Tithes of Hemp and Flax. [A.D. 1700.]

3 W. & M. c. 3.

"Whereas an Act made in the third year of the reign of his majesty and the late queen intituled 'An Act for the better ascertaining the Tithes of Hemp and Flax,' was made to continue but for seven years, and to the end of the next session of parliament after such term ended, and is now expired: and whereas the said Act hath by experience been found very useful and necessary;" BE IT ENACTED, That from and after the five-and-twentieth day of March, which shall be in the year of our Lord one thousand seven hundred, all and every person or persons who shall sow or cause to be sown any hemp or flax in any parish or place in the kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, shall pay or cause to be paid to every parson, vicar, or impropriator of any such parish or place yearly and every year, the sum of five shillings

Ground sown with flax or hemp to pay 5*s.* per acre.

(*a*) Made perpetual by 3 & 4 Anne, c. 18, s. 1.

(*b*) See ante, Vol. III. p. 451, tit. "OATHS."

(*c*) See 1 Geo. 1, st. 2, c. 6, s. 2 et seq., post, p. 683; 53 Geo. 3, c. 127, s. 6, ante, Vol. I., p. 1257; 5 & 6 Will. 4, c. 74, post.

The jurisdiction of justices under this statute to make an order on a quaker for the payment of a church-rate is ousted when the validity of such rate is *bonâ fide* disputed (*Backhouse* v. *The Churchwardens of Bishopwearmouth*, 30 L. J., M. C. 118; *In re Furness*, 1 Burr. 386).

and no more, for each acre of hemp and flax so sown, before the same be carried off the ground, and so proportionably for more or less ground so sown; for the recovery of which sum or sums of money, the parson, vicar, or impropriator shall have the common and usual remedy allowed of by the laws of the land. 11 & 12 W. 3, c. 16.

2. Provided, That this Act or anything therein contained shall not extend to charge any lands discharged by any *modus decimandi*, ancient composition, or otherwise discharged of tithes by law.

3. [Not to alter payment of tithes for ground sown with hemp or flax between 2nd Feb. 1684, and 2nd Feb. 1691.]

1 Geo. 1, st. 2, c. 6. An Act for making perpetual an Act of the Seventh and Eighth Years of the Reign of his late Majesty King William the Third, intituled, &c., and for explaining and enforcing the said Act in relation to the Payment of Tithes and Church Rates; and for appointing the Form of an Affirmation to be taken by the said people called Quakers, instead of the Oath of Abjuration. [A.D. 1714.] 1 G. 1, st. 2, c. 6.

2. "And whereas by the said Act made in the seventh year of the reign of king William the Third, a remedy is provided for the recovery of tithes and church-rates, where *any quaker shall refuse to pay the same*:" BE IT ENACTED, That such remedy shall be and is hereby extended, and the like remedy shall and may be had and used against any quaker or quakers for the recovering of any tithes or rates, or any customary or other rights, dues, or payments belonging to any church or chapel, which of right by law and custom ought to be paid for the stipend or maintenance of any minister or curate officiating in any church or chapel; and any two or more justices of the peace of the same county or place, other than such justice of the peace as is patron of any such church or chapel, or any ways interested in the said tithes, upon complaint of any parson, vicar, curate, farmer, or proprietor of such tithes, or any churchwarden or chapelwarden, or other person who ought to have, receive, or collect any such tithes, rates, dues, or payments as aforesaid, are hereby authorised and required to summon in writing under their hands and seals, by reasonable warning, such quaker or quakers against whom such complaint shall be made, and after his or their appearance, or upon default of appearance, the said warning or summons being proved before them upon oath, to proceed to hear and determine the said complaint, and to make such order therein as in the said Act is limited or directed; and also to order such costs or charges as they shall think reasonable, not exceeding ten shillings, as upon the merits of the cause shall appear just; which order shall and may be so executed, and on such appeal may be reversed or affirmed by the general quarter sessions of the county or place, with such costs and remedy for the same, and shall not be removed into any other court, unless the titles of such tithes, dues, or payments shall be in question, in like manner as in and by the same Act is limited and provided. 7 & 8 W. 3, c. 34. Recovery of tithes, &c., from quakers.

3. "And whereas several disputes have arisen concerning the effect of the abjuration to be taken by the people called quakers, upon their solemn affirmation, as directed by an Act of parliament made in the sixth year of her late majesty's reign: now, for preventing the like inconveniences for the future," BE IT ENACTED, That in all cases wherever the effect of the said abjuration oath may be legally tendered, or required of the said people called quakers, or any of them, he or they shall take the effect thereof in the following words (that is to say), Concerning the solemn affirmation to be taken by quakers instead of the abjuration oath.

"I, A. B. do truly and sincerely acknowledge, profess, testify, and declare in the presence of Almighty God, the witness of the truth of what I say, That king George is lawful and rightful king of this realm, and of all other his dominions and countries thereunto belonging. And I do solemnly and sincerely declare, that I do believe the person pretended to be the prince of Wales, during the life of the late king James, and since his decease pretending to be, and taking upon himself the style and title of the king of England, by the name of James the third, or of Scotland, by the name of James the eighth, or the style and title of king of Great Britain, hath not any right or title whatsoever to the crown of this realm, nor any other the dominions thereunto belonging: and I do renounce and refuse any allegiance or obedience to him. And I do solemnly promise, that I will be true and faithful, and bear true allegiance to king George, and to him will be faithful against all traitorous conspiracies and attempts whatsoever, which shall be made against his person, crown, or dignity. And I will do my best endeavour to disclose and make known to king George and his successors all treasons and traitorous conspiracies which I shall know to be made against him, or any of them. And I will be true and faithful to the succession of the crown against him the said James, and all other persons whatsoever, as the same is and stands settled by an Act, intituled 'An Act declaring the Rights and Liberties of the subject, and settling the Succession to the Crown' to the late queen Anne and the heirs of her body, being protestants; and as the same by one other Act, intituled 'An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject,' is and stands settled and entailed after the decease of the said late queen, and for default of issue of the said late The affirmation. 1 W. & M. sess. 2, c. 2. 12 & 13 W. 3, c. 2.

1 G. 1, st. 2, c. 6.

queen, to the late princess Sophia, electoress and duchess dowager of Hanover, and the heirs of her body being protestants. And all these things I do plainly and sincerely acknowledge, promise, and declare, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever. And I do make this recognition, acknowledgment, renunciation, and promise heartily, willingly, and truly."

This Act, as to the affirmation, to extend to Scotland for ever, and to the plantations for five years, and thence to the end of the next session of parliament.

4. Provided always, that so much of this Act as relates to the affirmations to be made by the people called quakers shall be extended to that part of Great Britain called Scotland for ever, and to the plantations belonging to the crown of Great Britain for five years, and to the end of the next session of parliament after the said five years, and no longer.

53 G. 3, c. 127.

53 Geo. 3, c. 127. An Act for the better Regulation of Ecclesiastical Courts in England; and for the more easy Recovery of Church Rates and Tithes. [12th July, 1813.]

[Ante, Vol. I., p. 1255.]

7 G. 4, c. 15.

7 Geo. 4, c. 15. An Act to amend an Act passed in the Seventh and Eighth Year of the Reign of King William the Third, for the more easy Recovery of Small Tithes. [11th April, 1826.]

"Whereas by an Act passed in the seventh and eighth year of the reign of king William the third intituled, &c. [Recites title of 6 & 7 Will. 3, c. 6, s. 1, and also title of 53 Geo. 3, c. 127, s. 4.]

"And whereas it is expedient in certain cases to alter and amend that part of the said recited Act of king William the third, which relates to the jurisdiction before which the said tithes shall be recovered:" BE IT THEREFORE ENACTED, That from and after the passing of this Act, it shall and may be lawful in all cities, towns corporate, or other towns or places in England, Wales, or Berwick-upon-Tweed, where the justices of the peace in and for the same are patrons of the said church or chapel, where any tithes or offerings do or shall arise, for two justices of the peace in and for any adjoining county, riding, or division to hear and determine all complaints for withholding the said tithes and offerings not exceeding the amount of ten pounds; such complaint to be made in writing by the said rector or vicar, or other person his attorney or agent.

In places where justices are patrons of church tithes, to be recovered before justices of any adjoining county.

How far recited Acts repealed.

2. That nothing in this Act shall be construed to repeal or alter any of the clauses or provisions of the said recited Acts, or either of them, save and except as to such parts thereof as are expressly altered or amended by the same.

2 & 3 W. 4, c. 100.

2 & 3 Will. 4, c. 100. An Act for shortening the Time required in Claims of *Modus decimandi*, or Exemption from or Discharge of Tithes (*a*). [9th August, 1832.]

"Whereas the expense and inconvenience of suits instituted for the recovery of tithes may and ought to be prevented, by shortening the time required for the valid establish-

---

(*a*) This statute is unaffected by the provisions of 3 & 4 Will. 4, c. 27 (*The Dean of Ely* v. *Bliss*, 2 De Gex, M. & G. 459; see 3 & 4 Will. 4, c. 27, s. 1, and the notes thereon, ante, Vol. III. p. 25.

Before this statute, the state of the law was this: that with respect to lands in the hands of a layman, not proved to have belonged to one of the greater monasteries, evidence showing the enjoyment of the lands without payment or render of tithes *for any length of time* was immaterial, and evidence of the fact was neither required nor admissible; and in suits for the recovery of tithes with respect to lands proved to have belonged to one of the greater monasteries (and having on that account a *capacity* for exemption), proof of the enjoyment of the lands exempt from the payment of tithes in modern times, though carried back for centuries, might be counteracted by the production of a terrier, survey, valuation, account, or other evidence of more ancient date (*per* Wigram, V.-C., in *Salkeld* v. *Johnson*, 1 Hare, 204; and see the cases referred to in Shelford on Tithes, App., p. 49). The object of this statute was to prevent the expense and inconvenience which were thus incident to tithe suits, by shortening the time required for the valid establishment of claims of a *modus decimandi*, or exemption from or discharge of tithes. It will be seen, however, from

ment of claims of a *modus decimandi*, or exemption from or discharge of tithes;" BE IT THEREFORE ENACTED, That all prescriptions and claims of or for any *modus decimandi*, or of or to any exemption from or discharge of tithes, by composition real or otherwise, shall, in cases where the render of tithes in kind shall be hereafter demanded by our said lord the king, his heirs or successors, or by any duke of Cornwall, or by any lay person, not being a corporation sole, or by any body corporate of many, whether temporal or spiritual, be sustained and be deemed good and valid in law, upon evidence showing, in cases of claim of a *modus decimandi* (*a*), the payment or render of such modus, and, in cases of claim to exemption or discharge, showing the enjoyment of the land without payment or render of tithes, money, or other matter in lieu thereof, for the full period of thirty years next before the time of such demand, unless, in the case of claim of a *modus decimandi*, the actual payment or render of tithes in kind, or of money or other thing differing in amount, quality or quantity from the modus claimed, or, in case of claim to exemption or discharge, the render or payment of tithes, or of money or other matter in lieu thereof, shall be shown to have taken place at some time prior to such thirty years, or it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing; and if such proof in support of the claim shall be extended to the full period of sixty years next before the time of such demand, in such cases the claim shall be deemed absolute and indefeasible, unless it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing; and where the render of tithes in kind shall be demanded by any archbishop, bishop, dean, prebendary, parson, vicar, master of hospital, or other corporation sole, whether spiritual or temporal, then every such prescription or claim shall be valid and indefeasible, upon evidence showing such payment or render of modus made or enjoyment had, as is hereinbefore mentioned, applicable to the nature of the claim, for and during the whole time that two persons in succession shall have held the office or benefice in respect whereof such render of tithes in kind shall be claimed, and for not less than three years after the appointment and institution or induction of a third person thereto (*b*); Provided always, that if the whole

2 & 3 W. 4, c. 100.

What prescriptions and claims of *modus decimandi* to be valid in law.

---

the cases cited in the following notes, that the ambiguity in the wording of the Act has introduced difficulties and inconveniences not less in degree, though different in their nature, than those which existed before its passing.

(*a*) Notwithstanding this Act, a claim of a *modus decimandi from time immemorial* may still be pleaded, and may be proved by the same evidence as would have been sufficient before the statute; but such claim will be liable, as before the statute, to be defeated by showing payment of tithes in kind at any time within legal memory (*Earl of Stamford* v. *Dunbar*, 13 M. & W. 822).

A prescription for the lord of a manor to hold and enjoy the manor freed and discharged from tithe on payment to the rector of the annual sum of 40*l.*, in lieu and compensation for all tithes within the manor; and for the lord, in consideration of this payment, to have for himself, his heirs, and assigns, from the occupiers of all lands within the manor, a tenth of all titheable matters within the manor, is not a *modus decimandi*, or exemption or discharge from tithes, within this Act. And the court doubted whether such prescription was good in law (*Knight* v. *Marquis of Waterford*, 15 M. & W. 419; see 11 Cla. & Fin. 653).

So where, for a period longer than that prescribed by this statute, an annual payment of 20*l.* had been paid to the rector of a parish by the occupier of the land within a hamlet of that parish; and on a feigned issue under the Tithe Commutation Act the jury found that the 20*l.* had been paid quarterly, partly for tithe and partly for glebe, and not for tithe alone: it was held to be clear that such payment could not be considered as a valid *modus* in respect of the *tithes of the hamlet within this statute*. Nor could it be treated as having originated in an arrangement made before the disabling statutes, whereby such payment was agreed to be made in respect of the glebe and tithes, and the incumbent, with the consent of the patron and ordinary, alienated the glebe lands, and thus be upheld as a valid discharge of the tithes, inasmuch as the facts of the case showed that, subsequent to the disabling statutes, the glebe land remained in the ownership of the incumbent (*Young* v. *Master, &c., of Clare Hall*, 17 Q. B. 529; 21 L. J. Q. B. 12).

Where a sum of money has been expressly paid and received during the whole statutable period as a *modus* or composition for the tithe only, such payment renders the *modus* valid and indefeasible, although the abandonment by the rector of certain rights of common originally formed part of the consideration for the payment (*Toymbee* v. *Brown*, 3 Exch. 117).

(*b*) Great difficulties, which still remain unsettled, have arisen upon the true construction of this section. The question first came for judicial decision before Wigram, V.-C., in the important case of *Salkeld* v. *Johnson* (1 Hare, 196). In that case a bill was filed in November, 1833, by the vicar of the parish of Crosby-upon-Eden, in Cumberland, against the defendants, lay occupiers of land within the parish, praying for an

2 & 3 W. 4, c. 100.

time of the holding of such two persons shall be less than sixty years, then it shall be necessary to show such payment or render of modus made or enjoyment had (as the case may be), not only during the whole of such time, but also during such further number of years, either before or after such time, or partly before and partly after, as shall with such time be sufficient to make up the full period of sixty years, and also for and during the further period of three years after the appointment and institution or induction of a third person to the same office or benefice, unless it shall be proved that such payment or render of modus was made or enjoyment had by some consent or agreement expressly made or given for that purpose by deed or writing (*a*).

What compositions for tithes shall

2. That every composition for tithes which hath been made or confirmed by the decree of any court of equity in England in a suit to which the ordinary, patron, and incumbent were parties, and which hath not since been set aside, abandoned, or departed from,

---

account of the tithes of "turnips, potatoes, cabbages, tares, grass, clover, rye grass, sainfoin, and other artificial grasses not made into hay, but used as and for green fodder or carried off the land in a green state, and other green crops, yearly arising within the parish," and also for an account of the tithes of agistment. The rector appeared to the bill as a defendant, and disclaimed all title to the tithes in question. The defendants, the occupiers, did not by their answer claim any special ground of legal exemption from the payment of tithes in kind, but insisted on the fact that the lands in their occupation had been enjoyed without payment or render of any tithes of the above titheable matters, or any of them, or money or other matter in lieu thereof, to the vicar, for the period prescribed by this Act. It did not appear that tithes of the titheable matters above mentioned had ever been paid to any person; but the vicar for the time being had received the tithes of some other titheable matters (milk, calves, &c.) arising within the parish. And the question was, whether the *mere non-payment* or *non-render*, in respect of the titheable matters the tithes of which were claimed by the bill, for the period mentioned in this statute, alone constituted a bar to the claim of the vicar. The Vice-Chancellor, holding (February, 1842) the mere non-payment or non-render to be no answer to the claim, without showing a legal origin for the exemption from the payment, gave the plaintiff the option of a decree for an account of the tithes claimed by the bill, with costs, or an issue rejecting the rector's disclaimer. On appeal to Lord Chancellor Lyndhurst against this decision, his Lordship (November, 1843) ordered a case to be stated for the opinion of the Court of Common Pleas. In the meantime the case of *Fellowes* v. *Clay* (4 Q. B. 313; 3 G. & D. 443), involving the same point, had been argued before, and (in February, 1843) decided by, the Court of Queen's Bench; Lord Denman, C. J., and Williams, J., holding that mere non-payment for the prescribed period was, Patteson, J., and Coleridge, J., that it was not, an answer to a claim of tithes by a corporation sole.

Salkeld v. *Johnson* was heard by the Court of Common Pleas in Easter Term, 1845, and judgment given in February, 1846 (2 C. B. 749); Tindal, C. J., and Cresswell, J., holding that the exemption claimed by the defendants could not be established by proof of non-payment for the period prescribed by the statute, without showing the legal origin of the exemption; the exemption being claimed, not in respect of *all* tithes, as in *Fellowes* v. *Clay*, but in respect of particular articles, some of them of modern introduction; Coltman, J., and Erle, J., expressing the contrary opinion.

The Lord Chancellor thereupon directed another case to be stated for the opinion of the Court of Exchequer. That Court, in Easter Term, 1848 (2 Exch. 256) held unanimously, that the enjoyment of land producing titheable matters, without payment of tithe, for the period prescribed by this Act, if adverse and as of right, did create a valid and indefeasible exemption from and discharge of tithes. But they also held unanimously, that the non-payment of tithes of a particular thing for such period, in respect of lands for which tithes of other titheable produce had been paid within the statutable period, did not operate as an exemption from the tithes of that particular thing.

The case came again before Lord Cottenham in 1849, when his lordship delivered a most elaborate judgment (see 1 Mac. & G. 242), holding, first, that the enjoyment of land without payment of tithes, for the period prescribed by this Act, did create a valid and indefeasible exemption of such land from payment of tithes, and that it was not necessary to show a legal origin of such exemption; and, secondly, that the statute applies equally to the case of a claim of *partial* exemption, on the ground of non-payment of tithes in respect only of some titheable matters, although the same lands had paid tithes of other matters, as to a claim of total exemption.

(*a*) The "consent or agreement in writing," which is to take the payment of a *modus* for the statutable period out of the operation of the Act, must be a consent or agreement for the payment of *that very modus during all or some part of that time*; and that by a person who could otherwise have objected to the payment (*Toymbee* v. *Brown*, 3 Exch. 117).

shall be and the same is hereby confirmed and made valid in law; and that no modus, exemption, or discharge shall be deemed to be within the provisions of this Act, unless such modus, exemption, or discharge shall be proved to have existed and been acted upon at the time of or within one year next before the passing of this Act (*a*).

2 & 3 W. 4, c. 100.

be considered valid.

3. Provided always, that this Act shall not be prejudicial or available to or for any plaintiff or defendant in any suit or action relative to any of the matters before mentioned, now commenced, or which may be hereafter commenced, during the present session of parliament, or within one year from the end thereof (*b*).

This Act not available in any suit now commenced, &c.

(*a*) In 1711, A., lord of the manor and patron of the church of Aston-le-Walls, being seised in fee of certain lands lying dispersed in the common fields of Aston, and B. being rector of the said church, and in right thereof seised of other parcels of lands, also lying dispersed in the said common fields (being the glebe lands belonging to the rectory), and also of the tithes as well of the said common fields as of the demesne lands of A., an agreement was made on the 1st of March, 1711, under the hands and seals of the said A. and B., by which it was agreed that A. should convey to B. and his successors for ever certain lands therein specified, to be enjoyed as the glebe lands held by the church and the rectors thereof for ever; and also that A. should grant to B. and his successors for ever an annuity of 40*l.*, to be charged on his manors and lands; and B., thereby for himself, and, as far as in him lay, for his successors, covenanted with A. and his heirs, that all these pieces of land reputed as glebe lands should thenceforth be possessed and enjoyed by A. and his heirs for ever; and also that all the lands of which A. was the owner in Aston (including the lands the tithes of which were in question) should be freed and discharged from the payment of all manner of tithes, &c. Afterwards, on a petition to the ordinary, a commission was issued, under which it was certified to the ordinary that the exchange would not be prejudicial to the rector, and he granted his licence for carrying it into effect. A bill in Chancery was also filed by A. against B. and the ordinary, in which suit a decree was made in 1715, that the agreement should be performed and the exchange confirmed. In pursuance of this agreement B. took possession of the lands and enjoyed the same, and he and his successors received as it became due the annuity of 40*l.*, until June, 1831, when the plaintiff became rector; and he also received it till Michaelmas, 1832. No tithes had been taken from the lands of A. so exempted from tithes by the agreement, since the making thereof; and at the time of the passing of this Act that agreement had not been set aside, abandoned, or departed from. The manor and all the lands of A. descended to one C. before the 10th of July, 1833, and continued to be enjoyed by him till his death in 1838, when they descended to the defendant. On the 7th June, 1833, a notice was served on certain occupiers, as well as on C., requiring the tithes to be set out and paid in kind to the plaintiff; and on the 10th July, 1833, a bill in equity was filed against the occupiers, praying for an account of the single value of the tithes (see *Thorpe* v. *Mattingley*, 2 Y. & C. 421); but no bill was then filed against C.; but by an order of 15th January, 1835, the bill was amended, and C. was made a defendant. On the hearing the bill was dismissed against C., but the Court directed that the occupiers should account for the tithes. Against that decree the defendants, including C., appealed to the House of Lords, by which, in February, 1840, the decree was reversed (*Plowden* v. *Thorpe*, 7 Cla. & Fin. 161). Pending the appeal to the Lords, actions of debt were brought by the plaintiff against the same occupiers under 2 & 3 Edw. 6, to recover the treble value of the tithes of the same lands, which accrued subsequently to those sought to be recovered by the bill in equity, and in such action the plaintiff was held entitled to recover, and the treble value of the tithes was paid pursuant thereto. A feigned issue having been brought under the 6 & 7 Will. 4, c. 7, s. 46, to try the validity of the decision of an Assistant Tithe Commissioner, as to whether the above lands were free from tithes, the Court of Exchequer, on a special case stating the above facts, held, first, that the agreement of 1711 was a valid composition for tithes within this section; secondly, that the proceedings and suits which took place in 1863 and subsequently were not sufficient to take the case out of the statute, the plaintiff not having commenced any suit or action against C. within one year from the passing of the Act, within the meaning of the third section (*Thorpe* v. *Plowden*, 14 M. & W. 520; see the cases cited in the next note).

(*b*) Where a bill for an account of tithes was filed against five defendants, before the expiration of the time limited by this section, and after the expiration of that time was amended under orders of court, and four other persons were added as defendants: it was held, that the suit, as against the latter defendants, must be taken to have commenced at the date at which they were actually introduced into the bill, and that they could not by relation backwards be treated as defendants to the original bill, and consequently they were entitled to the protection of the provisions of the statute (*Byron* v. *Cooper*, 11 Cla. & Fin. 556; see *Plowden* v. *Thorpe*, 7 Cla. & Fin. 161; *Thorpe* v. *Plowden*, 14 M. & W. 520, supra; *Croughton* v. *Blake*,

2 & 3 W. 4, c. 100.

To what cases this Act shall not extend.

4. Provided also, that this Act shall not extend or be applicable to any case where the tithes of any lands, tenements, or hereditaments shall have been demised by deed for any term of life or number of years, or where any composition for tithes shall have been made by deed or writing, by the person or body corporate entitled to such tithes, with the owner or occupier of the land, for any such term or number of years, and such demise or composition shall be subsisting at the time of the passing of this Act, and where any action or suit shall be instituted for the recovery or enforcing the payment of tithes in kind within three years next after the expiration, surrender, or other determination of such demise or composition.

Time during which lands shall be held by persons entitled to the tithes thereof to be excluded in the computation under this Act;

5. Provided also, that where any lands or tenements shall have been or shall be held or occupied by any rector, vicar, or other person entitled to the tithes thereof, or by any lessee of any such rector, vicar, or other person, or by any person compounding for tithes with any such rector, vicar, or other person, or by any tenant of any such rector, vicar, or other person, or of any such lessee or compounder, whereby the right to the tithes of such lands or tenements may have been or may be during any time in the occupier thereof, or in the person entitled to the rent thereof, the whole of every such time and times shall be excluded in the computation of the several periods of time hereinbefore mentioned.

as also the time during which any person capable of resisting any claim shall be an infant, &c.

6. Provided also, That the time during which any person otherwise capable of resisting any claim to any of the matters before mentioned shall have been or shall be an infant, idiot, *non compos mentis*, feme covert, or lay tenant for life, or during which any action or suit shall have been pending, and which shall have been diligently prosecuted, until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods hereinbefore mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

What it shall be sufficient to allege in actions commenced under this Act.

7. That in all actions and suits to be commenced after this Act shall take effect, it shall be sufficient to allege that the modus or exemption or discharge claimed was actually exercised and enjoyed for such of the periods mentioned in this Act as may be applicable to the case; and if the other party shall intend to rely on any proviso, exception, incapacity, disability, contract, agreement, deed, or writing herein mentioned, or any other matter of fact or of law not inconsistent with the simple fact of the exercise and enjoyment of the matter claimed, the same shall be specially alleged and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general traverse or denial of the matter claimed.

No presumption allowed in support of any claim for any less period than mentioned in this Act.

8. That in the several cases mentioned in and provided for by this Act no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as may be applicable to the case and to the nature of the claim (*a*).

9. Provided also, that this Act shall not extend to Scotland or Ireland.

4 & 5 W. 4, c. 83.

4 & 5 Will. 4, c. 83. An Act to amend an Act passed in the Third Year of his present Majesty, intituled *An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes.* [15th August, 1834.]

2 & 3 W. 4, c. 100.

"Whereas by an Act passed in the third year of the reign of his present majesty, intituled, 'An Act for shortening the time required in claims of *modus decimandi*, or exemption from or discharge of tithes,' certain provisions were made limiting the period

---

12 M. & W. 205). By these decisions the case of *Thorpe* v. *Mattingley* (2 Y. & C. 421) is overruled.

Where a composition for tithes is set aside by a decree in equity under s. 2, the titheowner may bring an action of debt on the stat. 2 & 3 Edw. 6, for not setting out the tithes, before the determination of an appeal to the House of Lords in the equity suit (*Thorpe* v. *Mattingley*, 5 M. & W. 302).

In consequence of the operation of the Act being deferred for a year after the end of the session of parliament in which it was passed, a great number of suits was immediately instituted, under an apprehension on the part of the plaintiffs that they would be precluded from recovering the tithes they claimed, unless they prosecuted their claims within the period limited by the Act. This led to the passing of the Act 4 & 5 Will. 4, c. 83, supra, for the purpose of giving the defendants in such suits time; see also 5 & 6 Vict. c. 54, s. 10, post.

(*a*) Where, therefore, a defendant rested his defence to a suit for tithes, instituted by a rector, on the non-alleged payment or non-render of tithes for the period mentioned in the first section of this Act, and made no other defence, but failed to carry back the proof of non-payment or non-render for the full period, it was held, that, as this section precluded the court from supplying the proofs by presumption, a decree for tithes in kind must be made agains him (*Clayton* v. *Meadows*, 2 Hare, 26).

within which in cases of claims of a *modus decimandi* the payment or render of such modus, and in cases of claims of or to any exemption from or discharge of tithes by composition, real or otherwise, the enjoyment of the land without payment or render of tithes or money, or other matter in lieu thereof, should be shown to have taken place: And whereas it was by the said Act further enacted, that nothing therein contained should be prejudicial or available to or for any plaintiff or defendant in any suit or action relative to any of the matters therein mentioned, then commenced, or which might be thereafter commenced during the then session of parliament, or within one year from the end thereof: And whereas since the passing of the said Act a great number of suits have been instituted for the recovery of tithes, under the apprehension on the part of the plaintiffs, that they would be precluded by the said Act from recovering the tithes to which they claim to be entitled unless they prosecuted their claims within the periods limited by the said Act: And whereas it is deemed advisable to enable the defendants in such suits to cause all further proceedings therein to be suspended until the end of the next session of parliament, upon the terms hereinafter expressed:" BE IT THEREFORE ENACTED, That from and after the passing of this Act it shall and may be lawful for the defendant or defendants in any action or suit which may have been commenced or instituted since the passing of the said recited Act for the recovery of tithes, or for invalidating claims of a *modus decimandi*, or an exemption from or discharge of tithes, for lands in respect whereof no tithes, nor any composition in lieu thereof, shall have been actually rendered or paid within the space of sixty years previous to the passing of this Act, with the consent of the plaintiff or plaintiffs in such action or suit, to pay the amount of the costs and expenses (to be taxed as between party and party) which may have been incurred by or on the part of the plaintiff or plaintiffs in such action or suit into the bank of England, in the name and with the privity of the accountant-general of the court of chancery or the court of exchequer, or of the proper officer of the court in which such action or suit shall have been brought, to the credit or on account of such action or suit; and in every case where such costs and expences shall be so paid into court, all further proceedings in such action or suit (except as hereinafter provided) shall be stayed and suspended until the end of the next session of parliament.

4 & 5 W. 4, c. 83.

Proceedings stayed on defendant's paying costs into court.

2. That from and after the end of the next session of parliament it shall and may be lawful for the plaintiff or plaintiffs in an action or suit, in which the defendant or defendants shall have caused the proceeding to be stayed or suspended, under the provision hereinbefore contained, to give notice to the defendant or defendants of his, her, or their intention to proceed in such action or suit and to proceed therewith accordingly; and then and in every such case the defendant or defendants shall, immediately after such notice shall have been so given, be entitled to receive out of court the sum or sums which such defendant or defendants shall have previously paid into court on account of the costs of the plaintiff or plaintiffs.

Plaintiff may give notice to defendant of his intention to proceed; in which case the defendant may have his costs out of court.

3. Provided always, That it shall and may be lawful for the plaintiff or plaintiffs in any action or suit in which the defendant or defendants shall have paid into court the costs of such plaintiff or plaintiffs under the provision hereinbefore contained, to take the sum or sums which may have been so paid for such costs out of court, for his, her, or their own use, and then and in every such case all further proceedings in such action or suit shall be for ever abandoned and relinquished.

If plaintiff accepts the costs, all proceedings to be abandoned.

4. That it shall and may be lawful for the successors, heirs, executors, administrators, or assigns of any plaintiff or plaintiffs, whose action or suit may be so stayed or suspended as aforesaid, to revive and proceed with such action or suit after the end of the next session of parliament, or to take such costs as aforesaid out of court, and cause all further proceedings to be abandoned and relinquished, in the same manner in every respect as the original plaintiff or plaintiffs might or could have done.

Executors, heirs, &c., may act in case of death.

5. Provided always, That notwithstanding the provision hereinbefore contained, it shall and may be lawful for any party to any action or suit so suspended, upon adducing sufficient proof to the satisfaction of a judge of the court in which such action or suit shall have been commenced that there is danger of some material evidence in support of the right or claim of such party being lost in consequence of such suspension, to proceed in such action or suit to the extent of proving such fact or facts the evidence respecting which shall be so shown as aforesaid to be in danger of being lost through such suspense.

Judges may, upon sufficient cause shown, permit actions to be proceeded with.

6. Provided always, That nothing in this Act contained shall prevent the prosecution of any suit in law or equity for the recovery of any tithes claimed or demanded previous to the passing of the said recited Act, or for the recovery of the value thereof.

As to previous claims.

5 & 6 Will. 4, c. 74. An Act for the more easy Recovery of Tithes. [9th September, 1835.]

5 & 6 W. 4, c. 74.

"Whereas an Act was passed in the seventh and eighth years of the reign of king William the third, intituled, 'An Act for the more easy recovery of small tithes,' whereby it was amongst other things enacted, that two or more of his majesty's justices of the peace were authorised and required to hear and determine complaints touching small tithes, oblations, and compositions subtracted or withheld, not exceeding 40s.: And whereas an Act was passed in the fifty-third year of the reign of his late majesty king George the third, intituled, 'An Act for the better regulation of ecclesiastical courts

7 & 8 W. 3, c. 6.

53 G. 3, c. 127.

5 & 6 W. 4, c. 74.

in England, and for the more easy recovery of church rates and tithes,' whereby the jurisdiction of the said justices was extended to all tithes, oblations, and compositions subtracted or withheld, where the same should not exceed 10*l.* in amount from any one person: And whereas by an Act of the seventh and eight years of the reign of king William the third, chapter thirty-four, provision is made for the recovery of great and small tithes (not exceeding the amount of 10*l.*) due from quakers, by distress and sale, under the warrant of two justices: And whereas by an Act of the first year of the reign of king George the first, chapter six, the provisions of the said last mentioned Act were extended, in the case of quakers, to all tithes or rates, and customary rights, dues, and payments belonging to any church or chapel: And whereas by the said recited Act of the fifty-third year of the reign of king George the third the aforesaid provisions in relation to quakers were amended, and were also made applicable to any amount not exceeding 50*l.*: And whereas by an Act of the parliament of Ireland of the seventh year of the reign of king George the third, chapter twenty-one, amended and extended by an Act of the parliament of the united kingdom of the fifty-fourth year of the reign of king George the third, chapter sixty-eight, similar provisions are in force in Ireland, for the recovery, from quakers, of great and small tithes, and customary and other rights, dues, and payments, belonging to any church or chapel, not exceeding the amount of 50*l.*; And whereas it is highly expedient, and would further tend to prevent litigation, if, in the cases and with the exceptions hereinafter mentioned, all claimants were restricted to the respective remedies provided by the said recited Acts:" BE IT ENACTED, That from and after the passing of this Act no suit or other proceeding shall be had or instituted in any of his majesty's courts in England now having cognisance of such matter for or in respect of any tithes, oblations, or compositions withheld of or under the yearly value of 10*l.* (save and except in the cases provided for in the two first recited Acts), but that all complaints touching the same shall, except in the case of quakers, be heard and determined only under the powers and provisions contained in the said two first recited Acts of parliament in such and the same manner as if the same were herein set forth and re-enacted (*a*); and that no suit or other proceeding shall be had or instituted in any of his majesty's courts either in England or Ireland now having cognisance of such matter, for or in respect of any great or small tithes, moduses, compositions, rates, or other ecclesiastical dues or demands whatsoever, of or under the value of 50*l.* withheld by any quaker either in England or Ireland; but that all complaints touching the same, if in England, shall be heard and determined only under the powers and provisions contained in the said recited Acts of the seventh and eighth years of king William the third, chapter thirty-four, and the fifty-third year of king George the third, and if in Ireland, under the said recited Act of the parliament of Ireland, of the seventh year of king George the third, and the said recited Act of the fifty-fourth year of king George the third, in the same manner as if the same were herein set forth and re-enacted: Provided always, that nothing hereinbefore contained shall extend to any case in which the actual title to any tithe, oblation, composition, modus, due, or demand, or the rate of such composition or modus, or the actual liability or exemption of the property to or from any such tithe, oblation, composition, modus, due, or demand shall be *bonâ fide* in question, nor to any case in which any suit or other proceeding shall have been actually instituted before the passing of this Act (*b*).

Proceedings for the recovery of tithes under 10*l.* (except in the case of quakers) shall be had only under the powers of the two first recited Acts.

Proviso.

Manner of recovering tithes due from quakers.

2. That in case any suit or other proceeding has been prosecuted or commenced, or shall hereafter be prosecuted or commenced, in any of his majesty's courts in England or Ireland, for recovering any great or small tithes, modus or composition for tithes, rate, or other ecclesiastical demand, subtracted, unpaid, or withheld by or due from any quaker, no execution or decree or order shall issue or be made against the person or persons of the defendant or defendants, but the plaintiff or plaintiffs shall and may have his execution or decree against the goods or other property of the defendant or defendants; and in case any person now is detained in custody in England or Ireland under any execution or decree in such suit or proceeding, the sheriff or other officer having such person in his custody shall forthwith discharge him therefrom; and the plaintiff or plaintiffs in such suit or proceeding shall and may, notwithstanding such discharge, issue any other execution or take any other proceeding for recovering his demand and his costs out of the property, real or personal, of the person so discharged.

5 & 6 W. 4, c. 75.

5 & 6 Will. 4, c. 75. An Act for the Amendment of the Law as to the tithing of Turnips in certain Cases. [9th September, 1835.]

"Whereas it is frequently convenient and necessary, in the agistment of turnips by

---

(*a*) This Act took away the right of action under 2 & 3 Edw. 6, c. 18, to recover treble value for not setting out tithes under the yearly value of 10*l.* (*Peyton* v. *Watson*, 3 Q. B. 658, 2 G. & D. 750, see ante, p. 676, n. (*b*))

(*b*) If the title of the claimant, or the liability of the party sought to be charged, is undisputed, two years' arrears may be recovered before the justices; whereas, if such title or liability is denied *vivâ voce* before the justices, or at any time in writing, the claimant may proceed in equity, and recover six years' arrears (*Robinson* v. *Purday*, 16 M. & W. 11).

sheep or cattle, to sever the turnips from the ground, in order that they may be the more easily and completely consumed, and thereby to prevent waste, and it is not reasonable that such severance should vary or affect the payment of tithe:" BE IT THEREFORE ENACTED, That from and after the passing of this Act, in all cases where turnips shall be severed in the manner and for the purpose aforesaid, and shall be eaten on the ground by sheep or cattle, and not otherwise removed, the same shall be subject to the payment of tithe in the same manner and to the same extent as if they had been eaten by such sheep or cattle without having been so severed as aforesaid, and no farther or otherwise.

5 & 6 W. 4, c. 75.

Turnips severed from the land, if consumed on the same, subject to tithe as if not so severed.

6 & 7 Will. 4, c. 71. An Act for the Commutation of Tithes in England and Wales (a). [13th August, 1836.]

6 & 7 W. 4, c. 71.

Preamble.

"Whereas it is expedient to amend the laws relating to tithes in England and Wales, and to provide the means for an adequate compensation for tithes, and for the commutation thereof:" BE IT THEREFORE ENACTED [Appointment of commissioners] (b).

3. [Commissioners to report to secretary of state. Annual report to be laid before parliament.]

4. [Power to appoint assistant commissioners, secretary, assistant secretary, &c. Limiting the number of appointments.]

5. [Commissioners not to sit in the House of Commons.]

6. [Duration of Act as to appointment of commissioners, &c., limited to five years (c).]

7. [Salaries of, and allowances to commissioners, and assistant commissioners, secretary, and other officers. Treasury may allow travelling and other expences.]

8. [Such salaries, allowances, &c., to be paid out of consolidated fund.]

9. [Oath of commissioners and assistant commissioners. Appointment to be published in the Gazette] (d).

10. That the said commissioners, or any assistant commissioner, may, by summons under their or his hand, require the attendance of all such persons as they or he may think fit to examine upon any matter brought before them or him as hereinafter mentioned relating to the commutation of tithes, and also make any inquiries and call for any answer or return as to any such matter, and also administer oaths, and examine all such persons upon oath, and cause to be produced before them or him upon oath all books, deeds, contracts, agreements, accounts and writings, terriers, maps, plans, and surveys, or copies thereof respectively, in anywise relating to any such matter: Provided always, that no such person shall be required, in obedience to any such summons, to travel more than ten miles from the place of his abode, or to produce any deeds, papers or writings relating to the title of any lands or tithes.

Commissioners or assistant commissioner may summon and examine witnesses, and call for returns, books, &c. (c).

No person required to travel more than ten miles.

11. That the said commissioners may delegate to their assistant commissioners, or to any one or more of them, such of the powers hereby given to the said commissioners as the said commissioners shall think fit (except the power to confirm agreements and awards, or to frame forms of agreements and other instruments, as hereinafter provided, or to do any act herein required to be done under the seal of the said commissioners), and the powers so delegated shall be exercised under such regulations as the said commissioners shall direct, and the said commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such assistant commissioner in pursuance of such delegated powers shall be obeyed by all persons as if they had proceeded from the said commissioners, and the non-observance thereof shall be punishable in like manner.

Commissioners may delegate powers to assistant commissioners, except powers to be exercised under their seal.

12. That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "person" shall mean and include the king's majesty, and any body corporate, aggregate, or sole, as well as an individual, and any word importing the singular number only shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; and any word importing the masculine gender only

Meaning of the words "person," "lands," "tithes," "parish," "parochial,"

(a) See Shelford's Acts for the Commutation of Tithes, &c.; Eagle's Tithe Commutation Act, &c., &c.

(b) By 14 & 15 Vict. c. 53, ante, Vol. I. p. 868, tit. "COPYHOLD," the powers and duties of the tithes commissioners not fully exercised and performed are transferred to the Inclosure Commissioners.

(c) But see 5 Vict. c. 7; 5 & 6 Vict. c. 54, s. 1; 10 & 11 Vict. c. 104, s. 1; and 14 & 15 Vict. c. 53, post; 16 & 17 Vict. c. 124; 18 & 19 Vict. c. 52; 20 Vict. c. 8; and 23 & 24 Vict. c. 81, 93.

(d) See 1 Vict. c. 69, s. 13, post.

(e) See s. 93, post.; 3 & 4 Vict. c. 15, s. 24, post. A Court of Equity compelled a discovery and production of documents in aid of proceedings at law to try a disputed right under this Act, notwithstanding the special provisions for that purpose contained in this section and in ss. 45 & 46 (*Morris* v. *Duke of Norfolk*, 9 Sim. 472).

6 & 7 W. 4, c. 71.

"land," "owner," "tithe owner," as used in this Act.

shall mean and include a female as well as a male; and the word "lands" shall mean and include all messuages, lands, tenements, and hereditaments: and the word "tithes" shall mean and include all uncommuted tithes, portions, and parcels of tithes, and all moduses, compositions real, and prescriptive and customary payments; and the word "parish" and "parochial" shall mean and include and extend to every parish and every extra-parochial place, and every township or village, within which overseers of the poor are separately appointed under the provisions of an Act passed in the thirteenth and fourteenth years of the reign of his late majesty king Charles the second, intituled "An Act for the better Relief of the Poor of this Kingdom," and every district of which the tithes are payable under a separate impropriation or appropriation, or in a separate portion or parcel, or which the commissioners shall by any order direct to be considered as a separate district for the commutation of tithes: and the words "land owner" or "tithe owner" or "owner of lands" or "owner of tithes" shall mean and include every person who shall be in the actual possession or receipt of the rents or profits of any lands or tithes (except any tenant for life or lives, or for years, holding under a lease or agreement for a lease on which a rent of not less than two-thirds of the clear yearly value of the premises comprised therein shall have been reserved, and except any tenant for years whatsoever holding under a lease or agreement for a lease, for a term which shall not have exceeded fourteen years from the commencement thereof), and that without regard to the real amount of interest of such person (*a*); and in every case in which any tithes or lands shall have been leased or agreed to be leased to any person for life or lives, or for years, by any lease or agreement for a lease on which a rent less than two-thirds of the clear yearly value of the premises comprised therein shall have been reserved, and of which the term shall have exceeded fourteen years from the commencement therof, the person who shall for the time being be in the actual receipt of the rent reserved upon such lease or agreement for a lease shall, jointly with the person who shall be liable to the payment of such rent of such tithes or lands, be deemed for the purposes of this Act to be the owner of such tithes or lands; and in every case in which any person shall be in possession or receipt of the rents or profits of any tithes or lands under any sequestration, extent, elegit, or other writ of execution, or as a receiver under any order of a court of equity, the person against whom such writ shall have issued, or who but for such order would have been in possession, shall, jointly with the person in possession by virtue of such writ or order, be deemed for the purposes of this Act to be the owner of such tithes or lands.

Where parties to be deemed joint owners.

When ownership of lands or tithes or patronage is vested in the crown, who to be deemed the owner or patron.

13. That whenever the ownership of any lands or tithes to which the provisions of this Act are intended to apply shall be vested in his majesty, the first commissioner of his majesty's woods, forests, and land revenues for the time being, or in case such lands or tithes shall be vested in his majesty in right of the duchy of Lancaster or of the duchy of Cornwall, the chancellor of the duchy of Lancaster or the officers of the duchy of Cornwall, entitled to grant leases of lands parcel of the duchy of Cornwall (*b*), shall for the purposes of this Act be substituted instead of the owner of such lands or tithes respectively; and whenever the patronage of any benefice to which the provisions of this Act are intended to apply shall be vested in his majesty, the lord high treasurer or first lord commissioner of the treasury for the time being, where the value of such benefice is above the yearly value of twenty pounds in the king's books, and where such value is of or below the yearly value of twenty pounds in the king's books, the lord chancellor or lord keeper or first lord commissioner of the great seal for the time being, shall for the purposes of this Act be substituted instead of the patron: Provided nevertheless, that if such patronage is vested in his majesty in right of the duchy of Lancaster, the chancellor for the time being of such duchy shall for the purposes of this Act be substituted instead of the patron.

When the same person is owner of lands and owner of tithes, or patron, he may be dealt with in each character.

14. That whenever any person shall be at the same time owner of any lands and owner of any tithes comprised within any agreement to be executed pursuant to the provisions of this Act, or besides being owner of any lands or of any tithes, shall also be patron of the benefice to which the tithes in question may belong, such person, in relation to such agreement, may act and be dealt with in each of the several characters so borne by him as aforesaid.

In case patron or owner is under legal

15. That whenever the patron of any benefice, or the owner of any lands or tithes to which the provisions of this Act are intended to apply, or any person interested in any question as to any tithes, shall be a minor, idiot, lunatic, feme covert, beyond the seas,

---

(*a*) Where no statement appeared as to the receipt of agistment tithe by any party, it was held that the Tithe Commissioners might properly consider the rector as the person in actual possession, within this section (*Reg.* v. *Tithe Commissioners*, 15 Q. B. 620).

By 4 & 5 Vict. c. 39, s. 29, the Ecclesiastical Commissioners for England shall, in respect of all lands, tithes, tenements, or other hereditaments, endowments, or emoluments, already vested or liable to be vested in them under the provisions of the 6 & 7 Will. 4, c. 77, and 3 & 4 Vict. c. 113, or of the 4 & 5 Vict. c. 39, be deemed to be the owners or joint-owners thereof respectively, as the case may be, for all the purposes of this Act, and of the several Acts to explain and amend the same.

(*b*) See 1 & 2 Will. 4, c. 5.

or under any other legal disability (*a*), the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the commissioners, after due inquiry shall have been made by them as to the fitness of such person and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act be substituted in the place of such patron, owner, or person so interested.

6 & 7 W. 4, c. 71.

disability, who to act.

16. That it shall be lawful for any landowner or titheowner, by a power of attorney given in writing under his hand, to appoint an agent to act for him in carrying into execution the provisions of this Act; and all things which by this Act are directed to be done by or with relation to any person, may be lawfully done by or with relation to the agent so duly authorised of such person; and every such agent shall have full power, in the name and on behalf of his principal, to concur in and execute any agreement, and to vote on any question arising out of the execution of this Act; and every person shall be bound by the Acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the power of attorney under which the agent shall have acted, or a copy thereof authenticated by the signature of two credible witnesses, shall be appended to every agreement executed by any such agent, and shall be sent with it to the office of the commissioners as hereinafter provided; and any such power of attorney may be in the form following:

Agent may be appointed by power of attorney to carry provisions of Act into execution.

Principal bound by acts of such agent.

"I, A.B., of [&c.] do hereby appoint C.D., of [&c.] to be my lawful attorney to act for me in all respects as if I myself were present and acting in the execution of an Act passed in the sixth and seventh years of his present majesty, intituled [*here insert the title of this Act.*]

(Signed) "A. B."

Form of power (*b*).

17. That any one or more of the landowners or titheowners, whose interest respectively shall not be less than one-fourth part of the whole value of the lands subject to tithes (*c*), or one-fourth part of the whole value of the tithes of any parish in England or Wales, may call a parochial meeting of landowners and titheowners within the limits of the parish, by notice thereof in writing under his or their hand (*d*), to be affixed at least twenty-one days before such meeting on the principal outer door of the church, or in some public and conspicuous place within the limits of the parish, and to be twice at least during such twenty-one days inserted in some newspaper generally circulated within the county in which such parish is situated, for the purpose of making an agreement for the general commutation of tithes within the limits of such parish; and every landowner and titheowner attending such meeting shall bear his own expenses of attendance; and the landowners and titheowners who shall be present at any such meeting called as aforesaid, and whose interest in the lands and tithes of the parish respectively shall not be less than two-thirds of the lands subject to tithes, two-thirds of the great tithes and two-thirds of the small tithes of the parish, may proceed to make and execute a parochial agreement for the payment of an annual sum by way of rent-charge, variable as hereinafter provided (*e*), instead of the great and small tithes of the parish collectively, or instead of the great tithes and small tithes severally, to the respective owners thereof in the said parish; and every agreement so made and executed, and confirmed in manner hereinafter mentioned (*f*), shall be binding on all persons interested in the tithes or lands subject to tithes of the said parish.

Parochial meetings may be called, at which owners of two-thirds in value of lands and tithes may agree on the sum to be paid to the tithe-owners, which agreement shall bind the whole parish.

Notice of meeting.

Expenses of attending meeting.

18. That the majority of such landowners and titheowners present at every such meeting shall elect a chairman, who shall forthwith proceed to ascertain the interest of the landowners and titheowners then present in person or by their agents; and in case it shall thereupon appear that the persons present at such meeting have not a sufficient interest in the premises as aforesaid to make and execute such an agreement which shall be binding on all persons interested therein, it shall be lawful notwithstanding for any number of the persons then present to make and execute a provisional agreement for the commutation of tithes of the like form and tenor; and every such provisional agreement which shall be executed within six calendar months from the day of the first making thereof (*g*), by the landowners and titheowners whose interest in the lands and tithes of the parish shall not be less than two-thirds of the lands subject to tithes, two-thirds of the great tithes and two-thirds of the small tithes of the parish respectively, shall be as binding as if executed by all the parties thereto at the meeting at which the agreement was first made.

Provisional agreements may be made at the parochial meetings; to be binding if executed within six months.

19. Provided always, That the proportional interest of the owners of such lands or tithes so far as relates to their power to make any such agreement or provisional agreement, or to give any notice to the commissioners or assistant commissioners as

Proportional interest in lands and

(*a*) See also s. 48, post, p. 703.

(*b*) Not liable to stamp duty, s. 91, post, p. 712.

(*c*) See the mode of estimating this interest, infra, s. 19.

(*d*) See forms of these notices, as settled by the commissioners, Shelford on Tithes, App. p. 406.

(*e*) Sects. 56, 57, post, p. 704.

(*f*) Sect. 27, post, p. 695; see also 2 & 3 Vict. c. 62, s. 8, post; 5 & 6 Vict. c. 54, s. 2, post.

(*g*) See s. 21, infra.

6 & 7 W. 4, c. 71.

tithes, how to be estimated for the purposes of this Act.

hereinafter provided, shall be estimated according to the proportional sum at which such lands or tithes shall be rated to the relief of the poor, or, if there shall be no such rate, according to the rules by which property of the same kind is by law rateable to the relief of the poor.

Meetings may be adjourned.

Notice of adjournment.

20. That in case an adjournment of the said meeting for any cause shall be desired by a majority of the persons attending such meeting, the chairman shall adjourn the meeting to any time and place then by him to be declared, and so from time to time, in case the same shall be in like manner desired by a majority of the persons attending such meeting; and notice of every adjourned meeting shall be given under the hand of the chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting or the last adjournment thereof shall have been holden; and the like order of proceeding shall be observed at any such adjourned meeting, and everything done at any such adjourned meeting shall be as valid as if done at the original meeting.

Form of parochial agreement.

21. That every such agreement shall bear date on the day on which the first signature is attached thereto, and every such agreement or some schedule thereunto annexed shall set forth all the lands of the said parish which are subject to the payment of any kind of tithes, and also the true or estimated quantity in statute measure of land subject to tithes within the parish, which shall be then cultivated as arable, meadow, or pasture land, or as wood land, common land, or howsoever otherwise; and shall also set forth whether any modus or composition real, or prescriptive or customary payment, shall be payable instead of all or any of the tithes of the said parish, and which lands or tithes respectively are covered thereby; and shall also set forth which of the said tithes, moduses, compositions, or payments are payable to the titheowner, or if there is more than one titheowner to each of the several titheowners in the said parish, distinguishing in what right every such titheowner is entitled to such tithes, and shall also set forth whether any and which of the lands of the said parish are or have been under any and what circumstances exempt from the payment of any and what tithes; and such agreement shall also state in words at length the amount of the sum or sums agreed to be paid (subject to variation as hereinafter provided) instead of the tithes of the lands comprised in the said agreement, and instead of all moduses and compositions real, prescriptive and customary payments (if any) payable in respect of such lands, or the produce of such lands, or any of them; distinguishing, if there is more than one titheowner, the sum payable to every such titheowner, and where the tithes of different lands in the same parish are payable to different titheowners, or to the same titheowner in different rights, distinguishing the sum payable in respect of such different lands; and every such agreement shall also state all such other particulars as the commissioners shall by any order from time to time require to be inserted in such agreements.

Commissioners to frame and circulate forms of agreements, &c. (a).

22. That the commissioners shall frame and cause to be printed, as soon as conveniently may be after their appointment, forms of notices and agreements, and such other instruments as in their judgment will further the purposes of this Act, and supply all or any of such forms to the churchwardens and overseers of any parish who may require the same, or to whom the commissioners may think fit to send the same, for the use of any landowner or titheowner desirous of putting this Act into execution.

Commissioner or assistant commissioner may attend to advise terms of agreement.

23. That any commissioner, or assistant commissioner, if the commissioners shall think fit, may attend any such meeting for the purpose of taking part in the discussion and advising on the terms of agreement, but no commissioner or assistant commissioner, during the time that he is actually attending such meeting for that purpose, shall have any of the powers herein given to the commissioners in case of an award or apportionment by the commissioners as hereinafter provided.

Suits and differences may be referred to arbitration.

24. That if any suit shall be pending touching the right to any tithes, or if there shall be any question as to the existence of any modus or composition real, or prescriptive or customary payment, or any claim of exemption from or non-liability to tithes, under any circumstances, in respect of any lands or any kind of produce, or touching the situation or boundary (b) of any lands; or if any difference shall arise, whereby the making and executing of any such agreement shall be hindered, it shall be lawful for the owners, or, if there shall be no owner actually in possession, for the persons claiming to be the owners of the lands and tithes respectively, being parties to such suit or difference, to submit the same to reference by any writing under their respective hands, containing an agreement that such submission shall be made a rule of any of his

---

(a) See the forms, Shelford's Tithe Commutation Acts, &c., Appendix.

(b) See provisions for determining boundaries, 1 Vict. c. 69, ss. 2, 3, post; 2 & 3 Vict. c. 62, ss. 34, 35, 36, post; 3 & 4 Vict. c. 15, s. 28, post; and as to boundaries of glebe lands, 5 & 6 Vict. c. 54, s. 5, post. See also 2 & 3 Will. 4, c. 80, as to the determination of disputed boundaries of lands, tithes, &c., between ecclesiastical persons and their lessees.

majesty's courts of record, upon such terms of reference as the parties may agree upon; and the decision of the arbitrator or arbitrators named in the said reference shall for the purposes of this Act be final and conclusive on all persons: Provided nevertheless, that no person, being owner of an estate in land or tithes, less in the whole than an immediate estate of fee-simple or fee-tail, shall be empowered to submit to any such reference so as to bind any person in remainder, reversion, or expectancy without the consent of the commissioners, and that it shall be lawful for the commissioners, if they shall think fit so to do, but not otherwise necessary, to direct that any person in remainder, reversion, or expectancy of an estate of inheritance in the said lands or tithes, or any other person whom they shall deem to be interested therein, shall be made a party to such reference.

6 & 7 W. 4, c. 71.

Submission of persons not having estate in fee, not to bind reversioner without consent of commissioners.

25. That every agreement for the commutation for a rent-charge of the tithes of any lands which shall be pending at the time of the passing of this Act, and which shall be executed before or within six calendar months after the passing of this Act, by the landowners and titheowners, or persons claiming to be such owners, whose interest in the said lands and tithes shall not be less than two-thirds of the said lands, two-thirds of the great tithes, and two-thirds of the small tithes of the said lands, and which shall be confirmed by the commissioners, under their hands and seals, in the manner hereinafter provided for the confirmation of any parochial agreement, shall be as valid, and the rent-charge agreed to be paid by any such agreement shall be apportioned and charged, as hereinafter provided (*a*), among and upon the said lands, as if the agreement had been made and executed at a parochial meeting.

Agreements pending at time of the passing of this Act, if completed and confirmed by the commissioners, to be as valid as parochial agreements.

26. Provided always, That in every case in which any tithes shall belong to any ecclesiastical person in right of any spiritual dignity or benefice, no agreement for the commutation of such tithes made and executed under this Act shall be deemed to be executed by the owner of such tithes, unless such consent thereto be given as is hereinafter mentioned: (that is to say,) in the case of an archbishop or bishop, the consent of the crown, signified by the lord high treasurer or first lord commissioner of the treasury; and in case of the incumbent of any other benefice or ecclesiastical dignity, the consent of the patron or person entitled to present to such benefice or dignity, in case the same were then vacant; and every such consent shall be given under the hand of the person giving the same, and shall be annexed to the agreement, and taken to be part of the execution thereof.

Consent of patron to be given to every agreement for commutation of ecclesiastical tithe.

27. That every such agreement, as soon as may be after it shall have been executed by a sufficient number of landowners and titheowners whose interest in the lands and tithes of the parish respectively shall not be less than two-thirds of the lands subject to tithes, two-thirds of the great tithes, and two-thirds of the small tithes, shall be sent by the chairman of the meeting, or by the person in whose custody it shall then be, to the office of the commissioners, and the commissioners, by themselves, or by some assistant commissioner, shall cause inquiry to be made, and shall require such proof as will be satisfactory to them, whether or not the agreement has been made without fraud or collusion, and whether or not it ought to be confirmed; and if they shall be satisfied that it ought to be confirmed, the commissioners shall confirm the agreement under their hands and seal, and shall add to such agreement the date of the confirmation, and shall publish the fact of such confirmation and the date thereof within the parish, in such manner as to them shall seem fit; and every such confirmed agreement shall be binding on all persons interested in the said lands or tithes (*c*).

Agreement to be confirmed by the commissioners (*b*).

28. Provided always, That before the commissioners shall confirm any such agreement relating to tithes belonging to any ecclesiastical person in right of any spiritual dignity or benefice, they shall communicate the same to the bishop of the diocese for his observations and opinion; and no such agreement shall be confirmed by such commissioners until four weeks shall have elapsed from the date of the transmission of such agreement to such bishop, unless the said bishop shall sooner signify his approbation of such agreement to the said commissioners.

Before confirmation, such agreement to be communicated to the bishop of the diocese.

29. That any such parochial agreement may be made in manner and form aforesaid for giving to any ecclesiastical owner, in right of any spiritual benefice or dignity, of any tithes, or of any rent-charge for which such tithes shall have been commuted, any quantity not exceeding in the whole twenty imperial acres of land, by way of commutation for the whole or an equivalent part of the great or small tithes of the parish, or in discharge of or exchange for the whole or an equivalent part of any rent-charge agreed to be paid instead of such tithes, but subject in every case to the provisions hereinafter contained; and every such agreement shall be made in such form and contain such particulars as the commissioners shall in that behalf direct, specifying the land whereof the tithes or rent-charge for which such tithes shall have been commuted shall be the subject of such agreement, and giving full and sufficient descriptions of the quantity, state of culture, and annual value of the land proposed to be given in exchange for such tithes or rent-charge: Provided always, that the same consent and confirmation shall be necessary to any such agreement as in the case of an agreement for a rent-charge (*d*);

Parochial agreement may be made for giving land not exceeding twenty acres, to ecclesiastical tithe-owner, by way of commutation.

Particulars to be specified in such agreement.

(*a*) Sect. 33, post, p. 696.

(*b*) See *In re Ystradgunlais*, 8 Q. B. 32.

(*c*) As to the making of a supplemental award, see 2 & 3 Vict. c. 62, s. 8, post.

(*d*) See ante, ss. 26, 27, 28.

6 & 7 W. 4, c. 71.

and that in case the said agreement shall not extend to the whole of the tithes of the parish, an agreement or award as hereinafter provided may and shall be made for the payment of a rent-charge in satisfaction of the residue of the said tithes; and such rent-charge when agreed upon or awarded, or the residue thereof, shall be apportioned, in manner hereinafter provided, upon all the lands of the parish subject to the payment of tithes, unless otherwise agreed upon by the parties to the said parochial agreement, except the land so given by way of commutation, in like manner as if no agreement for giving land had been made: Provided also, that the land so given shall be free from incumbrances, except leases at improved rent, land tax, or other usual outgoings, and shall not be of leasehold tenure, nor of copyhold or customary tenure subject to arbitrary fine or the render of heriots (*a*).

Commissioners to satisfy themselves of title, &c.

Expense to be borne by landowners.

30. That in every case in which any such agreement for giving land shall be so entered into, the commissioners shall satisfy themselves in such way and by such evidence as they shall see fit, of the title of the land proposed thereby to be given in exchange for such tithes or rent-charge, and that the same are of the description and value set forth in such agreement, and that such agreement is conformable in every respect to the provisions hereinbefore contained respecting the same; and the expense attending every such agreement for giving land and the confirmation thereof, and of investigating the title to the land, shall be borne by the owners of land liable to the payment of tithes within the parish, in such proportions as they may agree, or in default of agreement, as the commissioners may direct (*b*).

Agreements for giving land to operate as conveyances.

31. That such agreement for giving land, confirmed by the said commissioners, shall operate as a conveyance of such land to the owner of such tithes or rent-charge, and the land so conveyed shall thereupon vest in and be, and be deemed to be, holden by such person or persons, and upon the like uses and trusts, in every respect, as the tithes or rent-charge in commutation or exchange for which the same shall have been given shall be vested and holden; and for the purpose of making and completing any such agreement, the provisions of this Act respecting persons under legal disability (*c*) shall apply to every person party to such agreement, or in whom any such land shall be vested, and whose concurrence or consent may be necessary to the perfecting thereof, or of the title to such land, as fully as if the same had been here repeated and re-enacted.

Appointment of valuers by landowners.

32. That at the said meeting, or at some adjournment thereof, or at some other parochial meeting to be called in like manner, either before or after the confirmation of the agreement, the owners of lands subject to tithes in the said parish, or their agents present at the meeting, may appoint a valuer or valuers; and in case the majority in respect of number and the majority in respect of interest shall not agree upon the appointment, then they shall appoint two or such other even number of valuers as shall be then agreed on by such landowners; half of such number to be chosen by a majority in respect of number, and the other half by a majority in respect of interest of such landowners then present.

Valuers to apportion the rent-charge.

33. That as soon as may be after the choosing of such valuer or valuers, and after the confirmation of the said agreement, the valuer or valuers so chosen shall apportion the total sum agreed to be paid by way of rent-charge instead of tithes, and the expenses of the apportionment, amongst the several lands in the said parish, according to such principles of apportionment as shall be agreed upon at the meeting at which the valuer or valuers shall be chosen; or if no principles shall be then agreed upon for the guidance of the valuer or valuers, then having regard to the average titheable produce and productive quality of the lands, according to his or their discretion and judgment, but subject in each case to the provisions hereinafter contained (*d*), and so that in each case the several lands shall have the full benefit of every modus and composition real, prescriptive and customary payment, and of every exemption from or non-liability to tithes relating to the said lands respectively, and having regard to the several tithes to which the said lands are severally liable: Provided that it shall be lawful for the said valuers, when an even number is chosen, by any writing under their hands, to appoint an umpire before they proceed upon the business of such apportionment, and the decision of the umpire on the questions in difference between the valuers shall be binding on them, and shall be adopted by them in the apportionment.

Modusses and exemptions to be respected.

Umpire may be appointed.

Valuers may enter on lands for the purpose of valuing tithes.

To subscribe declaration before acting.

34. That the said valuers and umpire (if it shall become necessary for him to act), and their agents or servants, at all reasonable times, may enter upon any of the lands to be included in the apportionment, and make an admeasurement plan, and valuation of the same, without being subject to any action or molestation for so doing: Provided always, that no valuer or umpire shall be capable of acting until he shall have made and subscribed before the said commissioners, or some assistant commissioner or justice of the peace, a solemn declaration to the same purport and effect as the oath hereinbefore directed to be made by the said commissioners (*e*), substituting only the proper description of such person instead of the word commissioner, and adding to his signature the usual place of his residence; which declaration it shall be lawful for the said commis-

---

(*a*) See also 2 & 3 Vict. c. 62, s. 19, post; 5 & 6 Vict. c. 54, s. 6, post.

(*b*) See 2 & 3 Vict. c. 62, ss. 20, 21, post.

(*c*) Ante, s. 15.

(*d*) See ss. 54, 55, 58, 60, 61, 75, 76; and 2 & 3 Vict. c. 62, s. 23, post.

(*e*) Ante, s. 9.

sioners or any assistant commissioner or justice to administer; and every such declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the office of the commissioners. 6 & 7 W. 4, c. 71.

35. That the valuer or valuers or umpire may, if they think fit, use for the purposes of this Act any admeasurement, plan, or valuation previously made of the lands or tithes in question of the accuracy of which they shall be satisfied; and that it shall be lawful for the meeting at which such valuer or valuers shall be chosen to agree upon the adoption, for the purposes aforesaid, of any such admeasurement, plan, or valuation; and such agreement shall be binding upon the valuer or valuers: Provided always, that three-fourths of the landowners in number and value shall concur therein (*a*).

Old plans and surveys may be used, if the valuers think proper.

And if three-fourths of the landowners concur.

36. That after the 1st day of October, 1838, the commissioners shall proceed in manner hereinafter mentioned, at such time and in such order as to them shall seem fit, either by themselves or by some assistant commissioner, to ascertain and award the total sum to be paid by way of rent-charge instead of the tithes of every parish in England and Wales in which no such agreement binding upon the whole parish as aforesaid shall have been made and confirmed as aforesaid: Provided nevertheless, that if any proceeding shall be had towards making and executing any such agreement after the commissioners shall have given, or caused to be given, notice of their intention to act as aforesaid in such parish, the commissioners may refrain from acting upon such notice if they shall think fit, until the result of such proceeding shall appear (*b*).

After 1st of October, 1838, commissioners may ascertain total value of tithes in any parish in which no previous agreement has been made.

37. That in every case in which the commissioners shall intend making such award, notice thereof shall be given in such manner as to them shall seem fit; and after the expiration of twenty-one days after such notice shall have been given, the commissioners, or some assistant-commissioner, shall, except in the cases for which provision is hereinafter made (*c*), proceed to ascertain the clear average value (after making all just deductions on account of the expenses of collecting, preparing for sale, and marketing (where such tithes have been taken in kind) of the tithes of the said parish, according to the average of seven years preceding Christmas in the year 1835: Provided, that if during the said period of seven years, or any part thereof, the said tithes or any part thereof shall have been compounded for or demised to the owner or occupier of any of the said lands in consideration of any rent or payment instead of tithes, the amount of such composition or rent or sum agreed to be paid instead of tithes shall be taken as the clear value of the tithes included in such composition, demise, or agreement during the time for which the same shall have been made (*d*); and the commissioners or assistant commissioner shall award the average annual value of the said seven years so ascertained as the sum to be taken for calculating the rent-charge to be paid as a permanent commutation of the said tithes: Provided also, that whenever it shall appear to the commissioners that the party entitled to any such rent or composition shall in any one or more of the said seven years have allowed and made any abatement from the amount of such rent or composition, on the ground of the same having in any such year or years been higher than the sum fairly payable by way of composition for the tithe, but not otherwise, then and in every such case such diminished amount, after making such abatement as aforesaid, shall be deemed and taken to have been the sum agreed to be paid for any such year or years: Provided also, that in estimating the value of the said tithes the commissioners or assistant commissioner shall estimate the same, without making any deduction therefrom on account of any parliamentary, parochial, county, and other rates, charges, and assessments to which the said tithes are liable; and whenever the said tithes shall have been demised or compounded for on the principle of the rent or composition being paid free from all such rates, charges, and assessments, or any part thereof, the said commissioners or assistant commissioner shall have regard to that circumstance, and shall make such an addition on account thereof as shall be an equivalent (*e*).

Value of tithes to be calculated upon an average of seven years preceding Christmas, 1835.

If compounded, or demised, composition or rent to be taken as value of tithes.

Proviso for reduction where abatement has been made on account of composition being above real value.

Tithes to be valued without reduction on account of parochial and county rates.

38. Provided always, that in case notice in writing under the hand of any patron, or the hands of any landowners or titheowners whose interest in the lands or tithes of the parish shall not be less than one-half of the lands subject to tithes, one-half of the great tithes or one-half of the small tithes of the parish, shall be given to the commissioners or assistant-commissioner acting in that behalf, within one calendar month next after

Commissioners in certain cases may increase or diminish the

(*a*) See ss. 63, 64; and 1 Vict. c. 69, s. 1; 2 & 3 Vict. c. 62, ss. 22, 23.

(*b*) See also 5 & 6 Vict. c. 54, s. 2, post.

(*c*) Sects. 38—43.

(*d*) Where the same person was vicar of the church, and also lay impropriator of the rectorial tithes, in a parish, and for seven years before Christmas, 1835, had compounded with the tithepayers for all the tithes, rectorial and vicarial, in one entire sum, not distinguishing the proportions payable in respect of each, there being no dispute between the titheowner and the tithepayers as to the amount of the composition, and the tithepayers not objecting to it before the commissioner: it was held, that although the commissioner must in his award fix the proportions, and divide the rent-charge between the impropriator and the vicar, he had rightly proceeded under this clause (*Reg.* v. *Tithe Commissioners*, 12 L. J. Q. B. 109; see post, s. 45, and the cases there cited).

(*e*) See ss. 40, 41, 43, and 69, post.

6 & 7 W. 4, c. 71.

sum to be paid for commutation.

the notice of the intention to make an award shall have been given as aforesaid, that the average value to be ascertained as aforesaid will not fairly represent the sum which ought to be taken for calculating a permanent commutation of the great or small tithes of the said parish, the commissioners shall have power to diminish or increase the sum to be so taken by a sum amounting to not more than one-fifth part of the average value ascertained as aforesaid: Provided always, that every case which shall appear to the commissioners to be fraudulent or collusive, or which, by reason of the length of time which shall have elapsed since the making of any composition then in force, or which by reason of the peculiar interest in the lands or tithes of either of the parties to any composition, or by reason of any other special circumstances, ought in the judgment of the commissioners to be separately adjudicated upon, shall be reserved for separate adjudication as hereinafter provided; and the commissioners shall certify and report to one of his majesty's principal secretaries of state, under their hands and seals, before the 1st day of May, in the year 1838, in what manner the discretion hereby vested in them ought in their judgment to be exercised, and shall in the said report lay down such rules for the guidance of the assistant commissioners as may to them seem expedient, and such report shall be laid before parliament within six weeks after the same shall have been received, or after the meeting of parliament; and unless parliament shall otherwise provide, such rules shall be observed by the said commissioners and assistant commissioners in the exercise of the discretion hereby vested in the commissioners (a).

When cases may be reserved for special adjudication.

Special adjudications, how to be made.

39. That the commissioners shall from time to time report to one of his majesty's principal secretaries of state, under their hands and seals, all the cases which under the power hereinbefore reserved to them in that behalf shall have been reserved for separate adjudication, and shall state in every such report the reasons for so reserving every case mentioned therein, and the commissioners shall in every such case award the rent-charge to be paid as a permanent commutation for tithes, having regard to the average rate which shall be awarded in respect of lands of the like description and similarly situated in the neighbouring parishes (b): Provided always, that a draft of such intended award, with a copy of so much of the said report as is applicable to such award, shall be deposited in the parish; and the commissioners, or an assistant commissioner to be specially appointed by the commissioners for that purpose, shall hear and determine all objections to the award in the like manner as is herein provided in an ordinary case of award, and the commissioners shall have power thereupon to amend the draft of the said award accordingly.

How the tithe of hops, fruit, and garden produce is to be valued.

40. That in case any of the lands in the parish shall be hop grounds, orchards, or gardens, and notice shall be given by the owner thereof to the commissioners or assistant commissioner acting in that behalf that the tithes thereof should be separately valued, the commissioners or assistant commissioner shall estimate the value of the tithes thereof according to the average rate of composition for the tithes of hops, fruit, and garden produce respectively during seven years preceding Christmas in the year 1835, within a district to be assigned in each case by the commissioners or assistant commissioner, and estimating the same as chargeable to all parliamentary, parochial, county, and other rates, charges, and assessments to which the said tithes are liable, and shall add the value so estimated to the value of the other tithes of the parish ascertained as aforesaid.

How the tithe of coppice wood is to be valued.

41. That in case any of the lands in the parish shall be coppices, and notice shall be given by the owner thereof, or by the owner of the tithes thereof, to the commissioners or assistant commissioner acting in that behalf, that the tithes thereof should be separately valued, the commissioners or assistant commissioner shall estimate the value of the tithes thereof with a due regard to the average value, estimated according to the best of their judgment, of coppice wood of the same kind cut during the said period of seven years in that parish and the neighbouring parishes, estimating the same as chargeable to all parliamentary, parochial, county, and other rates, charges, and assessments to which the said tithes are liable, and shall add the clear value of the tithes so estimated to the value of the other tithes of the parish ascertained as aforesaid; and the commissioners shall, in the report which they are hereinbefore (c) required to make to one of his majesty's principal secretaries of state before the 1st day of May in the year 1838, lay down rules for the guidance of the assistant commissioners in estimating the value of the tithes of coppice wood, and, unless parliament shall otherwise provide, such rules shall be observed by the said commissioners and assistant commissioner (d).

Provision for the change of culture of hop grounds and market gardens (e).

42. That the amount which shall be charged by any such apportionment as hereinafter provided upon any hop grounds or market gardens in any district so to be assigned, shall be distinguished into two parts, which shall be called the ordinary charge and the extraordinary charge, and the extraordinary charge shall be a rate per imperial acre, and so in proportion for less quantities of ground, according to the discretion of the

---

(a) See the Report of the Tithe Commissioners, May 1, 1838; Shelford, App. 470.

(b) See also 5 & 6 Vict. c. 54, s. 4, post.

(c) Sect. 38.

(d) See the report of the Tithe Commissioners, May 1, 1838, Shelford, App. 470.

(e) The tithes of the parish of B. were commuted in 1841. The plaintiff was possessed of certain land in the parish used as common or waste land. The award under the commutation

valuers or commissioners or assistant commissioner by whom the appointment shall be made as aforesaid; and all lands whereof the tithes shall have been commuted under this Act, and which shall cease to be cultivated as hop grounds or market gardens at any time after such commutation, shall be charged after the 31st day of December next following such change of cultivation, only with the ordinary charge upon such lands; and all lands in any such district the tithes whereof shall have been commuted under this Act, and which shall be newly cultivated as hop grounds or market gardens at any time after such commutation, shall be charged with an additional amount of rent-charge per imperial acre, equal to the extraordinary charge per acre upon hop grounds or market gardens respectively in that district: Provided always, that no such additional amount shall be charged or payable during the first year, and half only of such additional amount during the second year, of such new cultivation; and an additional rent-charge by way of extraordinary charge upon hop grounds and market gardens, newly cultivated as such, beyond the limits of every district in which any extraordinary charge for hop grounds or market gardens respectively shall have been distinguished as aforesaid at the time of the commutation, shall be charged by the commissioners at the time of such new cultivation, upon the request of any person interested therein, if such new cultivation shall have taken place during the continuance of the commission of the said commissioners, and after the expiration of the commission shall be charged in such manner and by such authority as parliament shall direct, and shall be payable and recoverable in like manner and subject to the same incidents in all respects as an extraordinary charge charged upon any hop grounds or market gardens at the time of commutation (*a*).

6 & 7 W. 4, c. 71.

No additional amount to be charged during first year, and only half during second.

43. That in case any of the lands in the parish shall, during any part of the said period of seven years preceding Christmas in the year 1835, have been exempted from payment of tithes by reason of having been inclosed under any Act of parliament or converted from barren heath or waste ground (*b*), or by reason of being glebe lands or of having been heretofore parcel of the possessions of any privileged order, and notice shall have been given as last aforesaid to the commissioners or assistant commissioner acting in that behalf that the tithes thereof should be separately valued, the commissioners or assistant commissioner shall estimate the value of the tithes thereof according to the average value which shall be ascertained as aforesaid in respect of lands of the like description and quality in that parish and the neighbouring parishes, or as near thereto as the circumstances of each case may in their judgment require, and estimating the same as chargeable to all parliamentary, parochial, county, and other rates, charges, and assessments to which the said tithes are liable, and shall add the value so estimated to the value of the other tithes of the parish ascertained as aforesaid.

Provision for valuing tithes of lands to which the average of seven years cannot apply.

44. That if any modus or composition real, or prescriptive or customary payment, shall be payable instead of the tithes of any of the lands or produce thereof in the said parish, the commissioners or assistant commissioner shall in such case estimate the amount of such modus, composition, or payment as the value of the tithes payable in respect of such lands or produce respectively, and shall add the amount thereof to the value of the other tithes of the parish ascertained as aforesaid, and shall also make due allowance for all exemptions from or non-liability to tithes of any lands or any part of the produce of such lands: Provided also, that if it shall appear to the said commissioners or assistant commissioner that any question concerning any modus or composition real, prescriptive or customary payment, or claim of exemption from or non-liability to the payment of tithes relating to the lands in question, shall have been decided by competent authority before the making of the said award, the commissioners or assistant commissioners shall act on the principle established by such decision, and shall make their award as if such decision had been made at the beginning of the said period of seven years (*c*).

Moduses, &c., how to be allowed for in the award.

Proviso as to recent decisions.

---

ordered that the lands which were then or should be thereafter cultivated as hop grounds should be charged with the additional charge of 1*l.* per acre by way of extraordinary rent-charge. No ordinary rent-charge was apportioned upon the land of the plaintiff, and none was ever paid in respect of such land. In 1854 the land was inclosed, and in 1855 the plaintiff commenced cultivating it as hop grounds: it was held *dissentiente*, Wightman, J., that this land was within the provision of the above section, and was liable to the extraordinary charge of 1*l.* per acre in consequence of its being cultivated as hop grounds, although no ordinary charge had been imposed on it before (*Trimmer* v. *Walsh*, 32 L. J. Q. B. 20).

(*a*) See 3 & 4 Vict. c. 15, s. 18, post.

(*b*) See 2 & 3 Edw. 6, c. 13, s. 5, ante, p. 676.

(*c*) On the trial, in 1843, of a feigned issue under the 46th section of this Act, between the vicar of the parish of M. and the owners of the lands within the township of K. in that parish, to try whether there was a modus of 13*s.* 4*d.* payable by the lord of the manor of K. in lieu of all vicarial tithes in respect of the lands within the township, the vicar gave in evidence a bill filed in the Equity Exchequer in 1826, by the then vicar of M. against certain occupiers of lands, for the subtraction of tithes, in which the then defendants (none of whom were parties to the present issue) set up a claim of a modus of 13*s.* 4*d.* payable by the occupiers of lands within the township, and on which a decree was

6 & 7 W. 4, c. 71.

Commissioners may hear and determine disputes;

45. That if any suit shall be pending touching the right to any tithes (*a*), or if there shall be any question as to the existence of any modus or composition real, or prescriptive or customary payment, or any claim of exemption from or non-liability under any circumstances to the payment of any tithes in respect of any lands or any kind of produce, or touching the situation or boundary of any lands (*b*), or if any difference shall arise whereby the making of any such award by the commissioners or assistant commissioner shall be hindered (*a*), it shall be lawful for the commissioners or assistant commissioner

---

made to take an account of the tithes, and that the defendants should pay such sums as should be found due, with costs. It was held that this decree was not binding on the commissioner (who had awarded in favour of the validity of the modus), for that the above provision must be understood as being confined to decrees and decisions made by a court of competent authority to bind *the same persons* as were bound by the award of the commissioner (*Croughton* v. *Blake*, 12 M. & W. 205).

(*b*) This does not authorize the commissioners to settle, by their award a dispute as to the boundary of parishes (*In re Ystradgunlais*, 8 Q. B. 32).

(*a*) The cases appear to have established that these words do not include suits, disputes, &c. *between rival claimants* as to the *title* to the tithes, but apply only to suits, &c., between the tithe owner and the tithe payer, as to whether the tithe is or is not payable in kind (see s. 71, post). For all that the commissioner has to do, is by his award to fix the amount of rent-charge payable in lieu of tithe, and for that purpose to decide on the titheability of lands; but he has no jurisdiction to decide thereby who is the party entitled to receive the rent-charge. A dispute, therefore, between several claimants to the tithes, is not a *difference* which enables the commissioner to decide any question of modus or composition, nor can it be "a difference whereby the making of his award shall be hindered." Nor, consequently, under sect. 46, can the title of the claimant to tithe be made the subject of a feigned issue, by way of appeal against the commissioner's award; even though the award, after deciding on the liability of the landowner to tithe, has improperly gone on to say that the claimant "is owner of the impropriate rectory of A., and is, as such rector or otherwise, well entitled to all the great tithes arising from all the said lands," &c. (*Edwards* v. *Bunbury*, 3 Q. B. 885; 3 Gal. & Dav. 239; see also *Wetherell* v. *Weighill*, 3 Y. & Coll. 248; *University College, Oxford* v. *Garton*, 10 Q. B. 760; *Reg.* v. *Tithe Commissioners*, 12 L. J. Q. B. 109; *In re Crosby-upon-Eden Tithe Commutation*, 13 Q. B. 761; 18 L. J. Q. B. 258; *Reg.* v. *Tithe Commissioners*, 15 Q. B. 620; *Shepherd* v. *Marquis of Londonderry*, 18 Q. B. 145; 21 L. J. Q. B. 204; *Reg.* v. *Tithe Commissioners*, Id. 208; 18 Q. B. 156). Thus, where, at the time of the making of the award, a suit in equity was pending for an account of the same tithes, in which the question was, whether a predecessor of the claimant as lay impropriator had not conveyed the tithes to the owners of certain burgage tenements in respect of which they were claimed, this was held not to be a suit within this section (*Shepherd* v. *Marquis of Londonderry*, supra). And where the same person was vicar of the church of a parish, and also lay impropriator of the rectorial tithes, and for seven years preceding Christmas, 1835, he had compounded with the tithe payers for all the tithes, rectorial as well as vicarial, in one entire sum, not distinguishing the proportion payable in respect of each; and he objected before the commissioner, that the composition could not be taken as the basis of the rent-charge to be awarded, inasmuch as the commissioner was bound by his award to fix the proportionate sum for each kind of tithes, which the composition would not enable him to do; but there had not been, and was not raised before the commissioner, any dispute between the tithe owner and the tithe payers, as to the existence o amount of the composition; it was held that this was a case in which the commissioner rightly proceeded under sect. 37, to fix the rent-charge by means of the composition; that there was no difference whereby the making of his award was hindered, within this section; and that he was not bound to state a special case under sect. 46; which, therefore, the court refused by *mandamus* to order the tithe commissioners to do (*Reg.* v. *Tithe Commissioners*, 12 L. J. Q. B. 109). So also, where, in answer to a claim by a vicar of tithes of lamb and wool, the landowners alleged that their lands were exempt therefrom by reason of the payment of 1*s.* an acre yearly in lieu of such tithes to the impropriator (*Reg.* v. *Tithe Commissioners*, 21 L. J. Q. B. 208). On the other hand, a suit in equity, praying an account of tithes due to a vicar, in which no question of the vicar's title is raised, is within this section; and where during the pendency of such a suit the commissioner was proceeding to make his award, the court stayed the making of it by prohibition, till the decision of the suit, and intimated that under this section he might decide it himself (*In re Crosby-upon-Eden Tithe Commutation*, 13 Q. B. 761; 18 L. J. Q. B. 258). So where a dispute had arisen before the commissioner, between the vicar and the landowners of a parish, the latter claiming an exemption from the payment of all tithes in kind, except certain appropriate tithes, admitted by them to be payable to the bishop as rector, and the former claiming all the tithes except the said appropriate tithes, and the bishop

to appoint a time and place in or near the parish for hearing and determining the same; and the decision of the commissioners or assistant commissioner shall be final and conclusive on all persons (*a*) subject to the provisions hereinafter contained (*b*). 6 & 7 W. 4, c. 71.

46. Provided always, that any person claiming to be interested in any lands or in the tithes thereof who shall be dissatisfied with any such decision of the commissioners or assistant commissioner, may, if the yearly value of the payment to be made or withholden according to such decision shall exceed the sum of 20*l.* (*d*), cause an action to be brought (*e*) in any of his majesty's courts of law at Westminster against the person in whose favour such decision shall have been made, within three calendar months next after such decision shall have been notified in writing, in such manner as the commissioners or assistant commissioner shall direct, to the parties interested therein or to their known agents (*f*), in which action the plaintiff shall deliver a feigned issue, whereby such disputed right may be tried, and shall proceed to a trial at law of such issue at the sittings subject to appeal by an issue at law (*c*);

---

made no claims adverse to the vicar; and the commissioner decided that the lands were subject to the payment of all tithes in kind, except, &c., to the vicar, for the time being; the landowners were held entitled to raise, by a feigned issue under sect. 46, the question whether the tithes in question were so payable or not *to the vicar;* but it was also held that the right of the bishop to the tithes in question could not be set up under that issue (*University College, Oxford* v. *Garton*, 10 Q. B. 760). In *Girdlestone* v. *Stanley* (3 Y. & Coll. 421), it seems to have been ruled, that the tithe commissioners had no jurisdiction to interfere with *any* suits for tithes which were pending at the time of the passing of this Act; *sed quære.*

(*a*) These words point to the provisions which immediately follow in the 46th section (*Banbury* v. *Fuller*, 9 Ex. 111; 23 L. J. Ex. 29).

(*b*) Where a claim of modus or other exemption from tithe is preferred before the commissioner, who decides against the claim set up, the party is not precluded from setting up afterwards a claim to a *different* modus on the same lands, unless the commissioner have made his final *award* under sects. 50 and 52; even though a feigned issue delivered under sect. 46 be pending to try the validity of the first modus (*Barker* v. *Tithe Commissioners and Birch*, 9 M. & W. 129; 11 M. & W. 320). If the decision of the commissioner against the modus go beyond the claim made before him, it is void *pro tanto* (*Earl of Stamford* v. *Dunbar*, 12 M. & W. 414).

(*c*) See note (*a*), p. 700, as to the cases in which an appeal lies under this section.

A person claiming a modus is entitled to appeal as to all claims made by him before the commissioner, and against which the commissioner has decided; and if, by reason of the uncertainty of the evidence, he has claimed the modus in different ways before the commissioner, he is entitled to have issues, stating it in different ways accordingly (*Earl of Stamford* v. *Dunbar*, 12 M. & W. 414).

Where a claim was made that tithes had been extinguished by an Act of parliament, and the commissioner decided that they had not; his decision was held not to be conclusive, as the claim, if well founded, deprived him of his jurisdiction under sect. 90 (*Bunbury* v. *Fuller*, 23 L. J. Ex. 29; 9 Exch. 111).

The power to amend a variance, given by 3 & 4 Will. 4. c. 42, s. 23, does not extend to feigned issues under this Act (*James* v. *Lynn*, 13 Q. B. 845).

(*d*) The yearly value of the payment to be made under the award by the *individual appellant* must exceed 20*l.*, to entitle him to appeal (Ibid.; *Flanders* v. *Bunbury*, cit. 1 C. B. 668; *Matthews* v. *Leapingwell*, 3 C. B. 912). And *semble*, in estimating such value, he is not entitled to take into account lands held by him as tenant in common with another person who is no party to the appeal (*Matthews* v. *Leapingwell*, Ibid.). The "payment to be made or withholden according to such decision," is the *difference* between the modus claimed and the asserted value of the tithes in kind, payable under the award (*Ibid.*).

Where several moduses are set up before the commissioner in respect of distinct farms, and the annual value of the payment to be made in respect of each farm is less than 20*l.*, his decision is final, though the whole is in the hands of one proprietor, and the aggregate yearly value exceeds 20*l.* (*Tomlinson* v. *Boughey*, 1 C. B. 663).

(*e*) Where both parties being dissatisfied with the award of the commissioner, actions were brought for the purpose of trying issues under this section, by the vicar against one of the landowners, and by seventy-four landowners against the vicar; the court refused, at the instance of the vicar, to consolidate the seventy-four actions, or to direct that the proceedings in those actions should abide the event of the issues to be directed in the action brought by him (*Ward* v. *Pomfret*, 1 Man. & G. 559; 1 Scott, N. R. 403).

(*f*) If the incumbent, against whom an award is made in favour of a modus, dies within the three months, having had notice in writing of the decision, without having brought an action to dispute it, his successor cannot do so after the three months have expired; and if he does, the court will set aside the proceedings on motion (*Homfray* v. *Scroope*, 13 Q. B. 509).

6 & 7 W. 4, c. 71.

after the term or at the assizes then next or next but one after such action shall have been commenced, to be holden for the county within which such lands or the greater part thereof are situated, with liberty nevertheless for the court in which the same shall have been commenced or any judge of his majesty's courts of law at Westminster, to extend the time for going to trial therein (*a*), or to direct the trial to be in another county if it shall seem fit to such court or judge so to do; and every defendant in any such action shall enter an appearance thereto, and accept such issue; but in case the parties shall differ as to the form of such issue, or in case the defendant shall fail to enter such appearance or accept such issue, then the same shall be settled under the direction of the court in which the action shall be brought, or by any judge of his majesty's courts of law at Westminster, and the plaintiff may proceed thereon in like manner as if the defendant had appeared and accepted such issue; and the parties in such action shall produce to each other and their respective attorneys or counsel, at such time and place as any judge may order before trial, and also to the court and jury upon the trial of any such issue, all books, deeds, papers, and writings, terriers, maps, plans, and surveys relating to the matters in issue in their respective custody or power (*b*); and it shall be lawful for the judge by whom any such action shall be tried, if he shall think fit, to direct the jury to find a verdict, subject to the opinion of the court upon a special case; and the verdict which shall be given in any such action, or the judgment of the court upon the case subject to which the same may be given, shall be final and binding upon all parties thereto (*c*), unless the court wherein such action shall be brought shall set aside such verdict and order a new trial to be had therein, which it shall be lawful for the said court to do, if it shall see fit: Provided also, that in case any such decision shall involve a question of law only, and the parties in difference shall be agreed upon the facts relating thereto, and whereon such decision shall have been founded, the said commissioners or assistant commissioner, at the request of the person dissatisfied (such request to be made in writing within three calendar months after such decision, and at least fourteen days' previous notice in writing of such request to be given in like manner to the other parties in difference or to their known agents), shall direct a case to be stated for the opinion of such one of his majesty's courts of law at Westminster as the commissioners or assistant commissioner shall think fit, which case shall be settled by them or him, or under their or his direction in case the parties differ about the same, and may be set down for argument and be brought before the court in like manner as other cases are brought before the court; and the decision of such court upon every case so brought before it shall be binding upon all parties concerned therein: Provided always, that after such verdict given and not set aside by the court, or after such decision of the court, the said commissioners or assistant commissioner shall be bound by such verdict or decision; and the costs of every such action, or of stating such case and obtaining a decision thereon, shall be in the discretion of the court in or by which the same shall be decided, which may order the same to be taxed by the proper officer of the court, and the like execution may be had for the same as if such costs had been recovered upon a judgment of record of the said court (*d*).

or by taking the opinion of a court of law thereon.

(*a*) Judgment as in case of a nonsuit might have been had, in case the plaintiff did not proceed to trial as here directed (*Sandys* v. *Mayor of Beverley*, 12 M. & W. 568; See *Wick* v. *Cotton*, 1 D. & L. 227, contra; see also *Tomlinson* v. *Boughey*, 2 C. B. 844; *Hancock* v. *Earl of Carlisle*, 4 Exch. 447).

(*b*) A bill of discovery was granted in aid of an action under this section (*Morris* v. *Duke of Norfolk*, 9 Sim. 472). See 3 & 4 Vict. c. 15, s. 24, post, and 14 & 15 Vict. c. 99, s. 6, ante, Vol. I. p. 1384, tit. "EVIDENCE."

(*c*) As there is no *judgment* of record, the verdict being of itself final and conclusive, unless a new trial be granted, the provisions of the 3 & 4 Will. 4, c. 42, sects. 23, 24, as to *amendments*, do not apply to issues tried under this Act (*Brown* v. *Hutchinson*, 13 Q. B. 185; *James* v. *Lynn*, Id. 845). For the same reason, *error* does not lie in these cases (*Thorpe* v. *Plowden*, 2 Exch. 387).

(*d*) The successful party in the issue is entitled to costs, unless he have been guilty of some misconduct or bad faith, or have succeeded partially only; and this, though the commissioner had previously decided in favour of the other party (*Earl of Stamford* v. *Dunbar*, 14 M. & W. 151; see *Croughton* v. *Blake*, 12 M. & W. 205). Where the plaintiff declined to proceed to trial, because a decision of the court had so narrowed the issue as to render it inexpedient for him to incur the expense of a trial, the defendants were held entitled to their costs (*Tomlinson* v. *Boughey*, 2 C. B. 844). Where the issue raised a question as to the mode of taking the tithe of calves, and the plaintiff's notice of the points intended to be raised stated an intention to raise one on the value also, but at the trial the plaintiff was, at the defendant's instance, precluded from going into that question, as not being properly raised by the issue; the defendant, who succeeded, was held not to be entitled to the costs of witnesses brought by him to the assizes to rebut the plaintiff's evidence on the point as to value (*Fisher* v. *Berrell*, 1 Dowl. N. S. 565). Under an issue directed to try the validity of three different moduses, there being a distinct issue as to each, and a finding for the plaintiff on one, and for the defendant on the others, the plaintiff is not entitled to the general costs of the trial

47. That no proceeding of or before the commissioners or any assistant commissioner, or in any action, or in any case stated, or reference, in pursuance of this Act, shall abate or cease by reason of the death of any person interested therein. 6 & 7 W. 4, c. 71.

Proceedings not to abate by death of parties (a).

48. That if any person in whose favour any such decision of the commissioners or any assistant commissioner shall have been made shall die before any such action shall have been brought or case stated, and before the expiration of the time hereinbefore limited for that purpose, it shall be lawful for every person who might have brought such action, or have had such case stated, against the person so dying, to bring or have the same, within the time so limited as aforesaid, nominally against such person as if living, and to serve the said commissioners or assistant commissioner with process and notices relating thereto in the same manner as the person deceased might have been served therewith if living; and it shall be lawful for every person entitled to the benefit of such decision, as aforesaid, or, in case of any such person being a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustee, committee of the estate, husband, or attorney respectively, or in default thereof such person as may be nominated for that purpose by the commissioners, and whom they are hereby empowered to nominate under their hands and seal, to appear and defend such action or argue such case; and proceedings shall be had therein in the same manner, and the rights of all persons shall be equally bound and concluded by the event of such action or the decision upon such case, as if such person had been living; and the costs of every such action or case shall be in the discretion of the court as aforesaid.

In case of deaths of parties before actions brought, &c., the same to be carried on and defended in their names.

49. Provided always, That nothing in this Act contained shall revive any right to tithes which now is or hereafter shall be barred by any law in force for shortening the time required in claims of *modus decimandi* or exemption from or discharge from tithes, or for the limitation of actions and suits relating to real property (b).

Statutes of limitation not to be affected.

50. That as soon as all such suits and differences shall have been decided, or if there shall have been no suits or differences then as soon as the commissioners or assistant commissioner shall have ascertained and estimated as aforesaid the total value of all the tithes of the said parish, the commissioners or assistant commissioner shall frame the draft of an award, declaring that the sum ascertained as aforesaid shall be the amount of the rent-charge to be paid in respect of the tithes of the said parish, and every such draft shall contain all the particulars hereinbefore (c) required to be inserted in any parochial agreement or any schedule thereto: Provided always, that no such award shall be made for giving land instead of the tithes of the parish.

Commissioners to award total sum to be paid for the tithes of the parish.

Such award not to extend to giving land.

51. That as soon as the said draft shall have been made by the commissioners or assistant commissioner, they or he shall deposit a copy of the same, and of any special report thereunto annexed, at some convenient place within the said parish for the inspection of all persons interested in the said lands or tithes, and shall forthwith give notice in such manner as to the commissioners shall seem fit where the said copy may be inspected, and shall also in such notice appoint some convenient place and time (the first not earlier than twenty-one days from the first giving of such notice) for holding a meeting to hear objections to such intended award by any person interested therein; and the said commissioners or assistant commissioner at such meeting as aforesaid shall hear and determine any objections which may be then and there made to the said intended award, or adjourn (d) the further hearing thereof, if they or he shall think proper, to a future meeting, and may, if they or he shall see occasion, direct any further valuation of the lands or tithes or any of them, and from time to time fix further meetings for the hearing and determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting; and when the said commissioners or assistant commissioner shall have heard and determined all such objections, they or he shall amend the draft of such award accordingly, if they or he shall see occasion.

Commissioners may hear and determine objections to the award.

52. That as soon as the commissioners or assistant commissioner shall have made such amendments in the draft of the award as to them or him shall seem necessary, they or he shall cause the same to be fairly written, and shall sign and send it to the office of the commissioners, and the commissioners shall satisfy themselves that all the proceedings incident to the making of such award have been duly performed, and if they shall think that the award ought to be confirmed shall confirm the same under their hands and seal, and shall add to the award the date of such confirmation, and shall publish the fact of such confirmation and the date thereof in the parish, in such manner as to them shall seem fit; and every such confirmed award shall be binding on all persons interested in the said lands or tithes (e).

Award to be confirmed by the commissioners.

(*M'Carthy* v. *Nepean*, 6 Q. B. 252). Where the defendants claimed a modus in respect of a district, and the jury negatived the claim for the district generally, and found it for part, the defendants were ordered to pay the costs (*Brown* v. *Hutchinson*, 7 D. & L. 35).

(a) See 15 & 16 Vict. c. 76, s. 135, ante, Vol. III. tit. "PLEADING, PRACTICE," &c.

(b) See 2 & 3 Will. 4, c. 100, ante, p. 684; 3 & 4 Will. 4, c. 27, ante, tit. "LIMITATION OF ACTIONS," p. 25; 5 & 6 Vict. c. 54, s. 10, post.

(c) Sect. 21.

(d) See 2 & 3 Vict. c. 62, s. 25, post, p. 722.

(e) The confirmed award, though final as between the tithe owners and tithe payers, does not exclude from further investigation a case

6 & 7 W. 4, c. 71.

Commissioners to summon a parochial meeting to appoint valuers.

53. That as soon as the commissioners shall have confirmed any such award, the commissioners or some assistant commissioner shall call a parochial meeting of the owners of land subject to tithes in the said parish, for the purpose of choosing valuers to apportion the amount so awarded among the lands of the parish, and shall give notice thereof in writing under their or his hand, to be fixed at least twenty-one days before such meeting on the principal outer door of the church or in some public and conspicuous place within the parish; and valuers or a single valuer may be chosen at such meeting by the landowners then present in like manner, and the valuers so chosen shall act with the same powers and be subject to the same provisions, as if the rent-charge so awarded had been agreed to at a parochial meeting of the landowners and titheowners of the parish, and the valuers had been thereupon chosen as aforesaid (*a*).

If valuation not completed in six months, commissioners to apportion.

54. That if upon the expiration of six calendar months after the day of the date of the confirmation of any agreement or award no valuer or valuers shall have been appointed, or the apportionment by such valuers or valuer shall not have been made and sent to the office of the commissioners as hereinafter provided (*b*), it shall be lawful for the commissioners or some assistant commissioner to apportion the rent-charge previously agreed or awarded to be paid among the lands of the said parish, having regard to the average titheable produce and productive quality of the said lands, according to the discretion and judgment of the commissioners or assistant commissioner, but subject to the provisions hereinafter contained, and so that the several lands may have the full benefit in each case of every modus, composition real, prescriptive and customary payment, and of every exemption from or non-liability to tithes relating to the said lands respectively, and having regard to the several tithes to which the said lands are severally liable.

Form of apportionment (*c*).

55. That a draft of every apportionment shall be made, and shall set forth the agreement or award, as the case may be, upon which such apportionment is founded, and every schedule thereunto annexed; and the said draft, or some schedule thereunto annexed, whether made by or under the direction of the valuers or commissioners or assistant commissioners, shall state the name or description and the true or estimated quantity in statute measure of the several lands to be comprised in the apportionment (*d*), and shall set forth the names and description of the several proprietors and occupiers thereof, and whether the said several lands are then cultivated as arable, meadow, or pasture land, or as wood land, common land, or howsoever otherwise, and shall refer, by a number set against the description of such lands, to a map or plan to be drawn on paper or parchment, and the same number shall be marked on the representation of such lands in the said map or plan; and the draft of the apportionment shall also state the amount charged upon the said several lands, and to whom and in what right the same shall be respectively payable (*e*).

Comptroller of corn returns to

56. That immediately after the passing of this Act, and also in the month of January in every year, the comptroller of corn returns for the time being, or such other person as

---

between the tithe owners themselves, in which there was, before the award, a just title to tithes, which, by accident and mistake, was not brought forward until after the award was made. Thus where, by an award made with the concurrence of A., the patron, the whole rent-charge was made payable to B., the rector, A. being at the time entitled to one-half of the corn tithes, but ignorant of his rights, he was held entitled to relief in equity as against B. (*Clarke* v. *Younge*, 5 Beav. 523). See also 10 & 11 Vict. c. 104, socts. 2, 3, 4, post.

As to the power of making a supplemental award, see 2 & 3 Vict. c. 62, s. 8, post, p. 718.

(*a*) Sect. 32, et seq.

(*b*) Sect. 60, post, p. 705.

(*c*) See forms, Shelford, Appendix, p. 501.

(*d*) In the instruments of voluntary apportionment, it is not necessary to state the particulars of the lands, if three-fourths of the landowners so request (1 Vict. c. 69, s. 5, post, p. 714).

(*e*) Where there were in the parish marsh and other ancient pasture lands, arable lands, and wood lands, and there was a *modus* of 1*s.* an acre payable to the vicar for all tithes except those of corn and grain, the wood land being exempt from tithes by custom: the commissioner awarded a rent-charge to the rector and vicar, in respect of the tithe and moduses, and the award was confirmed under sect. 52 of this Act. The valuer appointed under sect. 53, in his apportionment, charged certain of the ancient pasture lands, not only with the amount payable in respect of the *modus*, but with a further payment of 1*s.* an acre to the rector, in part of the rent-charge awarded to him in lieu of the tithes of corn and grain, on the ground that there was a probability of such pasture lands being, at a future period, converted into tillage: and it appeared that in point of fact lands within the same district had within living memory been ploughed. Objections being made before the commissioners to this apportionment, both as to the principle and on the facts, they decided that they would confirm it, if not forbidden by a superior court. On motion for a prohibition, it was held, first, that it did not lie, the commissioners having acted within their jurisdiction; but, further, that the apportionment was correct in principle (*In re Appledore Tithe Commutation*, 8 Q. B. 139).

may from time to time be in that behalf authorised by the privy council, shall cause an advertisement to be inserted in the "London Gazette," stating what has been, during seven years ending on the Thursday next before Christmas-day then next preceding, the average price of an imperial bushel of British wheat, barley, and oats, computed from the weekly averages of the corn returns (*a*). 6 & 7 W. 4, c. 71. publish average price of corn.

57. That every rent-charge charged upon any lands by any such intended apportionment shall be deemed at the time of the confirmation of such apportionment, as hereinafter provided, to be of the value of such number of imperial bushels and decimal parts of an imperial bushel of wheat, barley, and oats as the same would have purchased at the prices so ascertained by the advertisement to be published immediately after the passing of this Act (*b*), in case one third part of such rent-charge had been vested in the purchase of wheat, one third part thereof in the purchase of barley, and the remaining third part thereof in the purchase of oats; and the respective quantities of wheat, barley, and oats so ascertained shall be stated in the draft of every apportionment (*c*). Rent-charges to be valued according to the average price of corn.

58. That it shall be lawful for the valuers or commissioners or any assistant commissioner, upon the request of any landowner, at any time before the confirmation of the apportionment, to apportion the whole rent-charge intended to be charged upon any lands of such landowner held under the same title and for the same estate (*d*), in the same parish, specially upon the several closes or portions of such lands, or according to an acreable rate or acreable rates upon lands of different quality, in such manner and in such proportion, and to the exclusion of such of them as the landowner, with the consent of the person entitled to such rent-charge, may direct; and the particulars of every such special apportionment shall be included in the draft of the apportionment and taken to be a part thereof: Provided always, that the extra expenses of every such special apportionment shall be borne by the party at whose instance the same shall have been made, and shall be recoverable as other costs of the apportionment are recoverable: and that no close of land shall be charged with any rent-charge or share of rent-charge on account of the tithes of any other lands, unless the value of such lands shall be at least three times the value of the whole rent-charge upon such lands (*e*). Rent-charge may be specially apportioned on particular lands at request of any landowner. How expenses to be paid. No close to be charged unless three times the value of the rent-charge.

59. That for the purpose of making any such apportionment, as well as for the purpose of making any award as hereinbefore provided, the commissioners and assistant commissioners may employ such land surveyors and tithe valuers as to them shall seem fit, and may order them to be paid for valuing, surveying, mapping, and planning after any rate not exceeding two guineas to every such person for every day that he shall have been so employed, and may assess the same as part of the expenses of making their award or apportionment respectively; and the said commissioners and assistant commissioners, and the land surveyors and tithe valuers employed by them respectively, shall have all the powers and be subject to all the provisions hereinbefore enacted concerning the valuers appointed at a parochial meeting, except that they shall not be bound to adopt any principles of apportionment agreed to at any parochial meeting: Provided always, that it shall be lawful for such commissioners and assistant commissioners to make any agreement with any such land surveyors or tithe valuers for the payment to the same of one sum for the whole duty or any part thereof to be performed by them respectively. Commissioners may employ surveyors. Commissioners to have the power of valuers as to entry in lands, &c.

60. That the draft of every apportionment, whether made by or under the direction of the commissioners or any assistant commissioner, or by any valuer or valuers appointed as hereinbefore is provided (*f*), shall be signed by the person by or under whose direction it shall have been made, and shall be sent, together with the map or plan therein referred to, by the person by whom it is signed, to the office of the commissioners, or otherwise to some assistant commissioner, as the commissioners may direct, with such proof as the commissioners may require that every proceeding incident to the making of such draft of apportionment has been duly performed. Apportionment to be signed by the person making it, and sent with the plan to the commissioners.

61. That as soon as the draft of any such appointment, verified as aforesaid, shall have been sent to the commissioners, they shall cause a copy of the same to be deposited at some convenient place within the said parish for the inspection of all persons interested in the said lands or tithes, and shall forthwith cause notice to be given, in such manner as to them shall seem fit, where the said copy may be inspected, and shall also in such notice appoint some convenient place and such times as they shall think necessary (the first not earlier than twenty-one days from the first giving of such notice) for holding a meeting to hear objections to the intended apportionment by any person interested therein (*g*), and the said commissioners or some assistant commissioner at such meeting as aforesaid shall hear and determine any objections which may be then and there made to the said intended apportionment, or adjourn (*h*) the further hearing thereof, if they or Commissioners may hear and determine objections to apportionment.

(*a*) See 5 & 6 Vict. c. 54, s. 9; and *Rex* v. *Townrow*, 1 B. & Ad. 465.

(*b*) See "London Gazette," Aug. 24, 1836; Shelford, p. 276.

(*c*) See 1 Vict. c. 69, s. 7, post, p. 715.

(*d*) By 3 & 4 Vict. c. 15, s. 21, post, p. 730, the amount of rent-charge payable for each close is to be distinguished.

(*e*) See further provisions, 1 Vict. c. 69, s. 9, post, p. 715.

(*f*) Sects. 32, 33, 54, 59.

(*g*) See 1 Vict. c. 69, s. 6, post, p. 715.

(*h*) See 2 & 3 Vict. c. 62 s. 25, post, p. 723.

6 & 7 W. 4, c. 71.

he shall think proper, to a future meeting, and may, if they or he shall see occasion, direct any further valuation of the lands or any of them, and from time to time fix further meetings for the hearing and determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting; and when the said commissioners or assistant commissioner shall have heard and determined all such objections, they and he are and is hereby required to cause such apportionment to be amended accordingly if they or he shall see occasion.

Landowner may give land not exceeding twenty acres, in exchange for ecclesiastical tithes or rent-charge; with like consent, &c. as in case of parochial agreement for land.

62. That it shall be lawful for the owner of any lands chargeable with any such rent-charge to agree, at any time before the confirmation of any such instrument of apportionment, with any ecclesiastical person being the owner of the tithes thereof in right of any spiritual benefice or dignity, for giving land instead of the rent-charge charged or about to be charged upon his lands; and every such agreement shall be made under the hands and seals of the landowner and titheowner, and shall contain all the particulars hereinbefore required to be inserted in a parochial agreement for giving land instead of tithes or rent-charge (*a*): Provided always, that no such titheowner shall be enabled to take or hold more than twenty imperial acres of land in the whole by virtue of any such agreement or agreements made in the same parish; and the same consent and confirmation relatively to the lands and tithes comprised in the said agreement shall be necessary to any such agreement as in the case of a parochial agreement for giving land instead of tithes; and all the provisions hereinbefore contained concerning a parochial agreement for giving land shall be applicable to every such agreement as hereinbefore last mentioned, so far as concerns the lands and tithes comprised in the said agreement: Provided also, that any amendment which shall be made in the draft of apportionment before confirmation thereof, and subsequent to any such agreement for giving land instead of rent-charge, whereby the charge upon the lands referred to in such agreement shall be altered, shall be taken to annul the execution of such agreement for giving land, and any consent which may have been necessary thereunto (*b*).

Former agreement for land to be annulled by subsequent agreement.

Confirmation of apportionment by the commissioners.

Map or plan to be annexed.

63. That after such proceedings as aforesaid shall have been had, and all such objections, if any, shall have been finally disposed of, the commissioners or assistant commissioner shall cause the instrument of apportionment to be ingrossed on parchment, and shall annex the map or plan thereunto belonging to the ingrossed instrument of apportionment, and shall sign the instrument of apportionment and the map or plan, and shall send both to the office of the commissioners, and if the commissioners shall approve the apportionment, they shall confirm the instrument of apportionment under their hands and seal, and shall add thereunto the date of such confirmation.

Copies to be deposited in registry of diocese, and with incumbent and churchwardens.

May be inspected and copies furnished.

Recitals to be evidence of facts recited.

64. That two copies of every confirmed instrument of apportionment, and of every confirmed agreement for giving land instead of any tithes or rent-charge, shall be made and sealed with the seal of the said commissioners, and one such copy shall be deposited in the registry of the diocese within which the parish is situated, to be there kept among the records of the said registry, and the other copy shall be deposited with the incumbent and church or chapel wardens of the parish for the time being, or such other fit persons as the commissioners shall approve, to be kept by them and their successors in office with the public books, writings, and papers of the parish, and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy on giving reasonable notice to the person having custody of the same, and on payment of two shillings and sixpence for such inspection, and after the rate of threepence for every seventy-two words contained in such copy or extract; and every recital or statement in or map or plan annexed to such confirmed apportionment or agreement for giving land, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated, or of the accuracy of such plan (*c*).

Commissioners may require notice of agreements or awards to be given to reversioner.

65. That the commissioners, if they shall see fit, before confirming any agreement, award, or apportionment, may require notice thereof to be given in such manner as they shall direct to the person next in remainder, reversion, or expectancy of an estate of inheritance in any lands or tithes, or any other person to whom they may think notice ought to be given, and may by themselves or by some assistant commissioner hear and determine any objection made to such confirmation by any person interested therein, and may direct any award or apportionment to be amended accordingly.

Confirmed agreements, &c., not to be questioned.

66. That no confirmed agreement, award, or apportionment shall be impeached after the confirmation thereof by reason of any mistake or informality therein, or in any proceeding relating thereunto (*d*).

(*a*) Sects. 26, 27, 28, 30; see also 2 & 3 Vict. c. 63, ss. 20, 21, post, p. 721.

(*b*) See form of agreement, Shelford, Appendix; see also 2 & 3 Vict. c. 62, ss. 19, 21, post, p. 721; and 5 & 6 Vict. c. 54, s. 6, post, p. 734.

(*c*) See 1 Vict. c. 69, s. 1, post, p. 713.

It seems that this section does not make the matters specified in it evidence in an action at law (*Hammond* v. *Bradstreet*, 10 Exch. 390).

(*d*) See *Clarke* v. *Younge*, 5 Beav. 523, ante, p. 704, n. (*e*); and *Morris* v. *Duke of Norfolk*, 9 Sim. 493. See also 2 & 3 Vict. c. 62, s. 8, post, p. 718, as to the making of a supplemental award in cases of fraud, error, &c.; and 10 & 11 Vict. c. 104, ss. 2—4, post, p. 743.

6 & 7 W. 4, c. 71.

67. That from the 1st day of January next following the confirmation of every such apportionment, the lands of the said parish shall be absolutely discharged from the payment of all tithes, except so far as relates to the liability of any tenant at rack-rent dissenting as hereinafter provided (*a*), and instead thereof there shall be payable thenceforth to the person in that behalf mentioned in the said apportionment a sum of money equal in value, according to the prices ascertained by the then next preceding advertisement, to the quantity of wheat, barley, and oats, respectively mentioned therein, to be payable instead of the said tithes, in the nature of a rent-charge issuing out of the lands charged therewith; and such yearly sum shall be payable by two equal half-yearly payments, on the 1st day of July and the 1st day of January in every year, the first payment, except in the case of barren reclaimed lands, as hereinafter provided, being on the 1st day of July next after the lands shall have been discharged from tithes as aforesaid; and such rent-charge may be recovered at the suit of the person entitled thereto, his executors or administrators, by distress and entry as hereinafter mentioned (*b*); and after every 1st day of January the sum of money thenceforth payable in respect of such rent-charge shall vary so as always to consist of the price of the same number of bushels and decimal parts of a bushel of wheat, barley, and oats respectively, according to the prices ascertained by the then next preceding advertisement; and any person entitled from time to time to any such varied rent-charge shall have the same powers for enforcing payment thereof as are herein contained concerning the original rent-charge: Provided always, that nothing herein contained shall be taken to render any person whomsoever personally liable (*c*) to the payment of any such rent-charge: Provided always, that the rent-charge which shall be apportioned upon any lands in the said parish which during any part of the said period of seven years preceding Christmas, 1835, were exempted from tithes by reason of having been inclosed under any Act of parliament, or converted from barren heath or waste ground, shall be payable for the first time on the 1st day of July, or 1st day of January next following the confirmation of the apportionment which shall be nearest to the time at which tithes were or would have become payable for the first time in respect of the said lands if no commutation thereof had taken place.

Lands to be discharged from tithes, and rent-charge paid in lieu thereof.

Rent-charge to be recovered by distress and entry.

No person to be personally liable for rent-charge.

Payment of rent-charge on reclaimed lands to be postponed until tithes would have been due.

68. That from the 1st day of January next following the confirmation of every parochial or other agreement for giving land instead of any tithes or rent-charge, the lands of the parish in which any such agreement shall be made shall be absolutely discharged from the payment of the tithes or rent-charge for which it shall have been agreed that such land shall be given.

Lands to be free from tithes when lands are given in lieu thereof.

69. That every rent-charge payable as aforesaid instead of tithes shall be subject to all parliamentary, parochial, and county and other rates, charges, and assessments, in like manner as the tithes commuted for such rent-charge have heretofore been subject.

Rent-charge to be liable to rates.

70. That all rates and charges to which any such rent-charge is liable shall be assessed upon the occupier of the lands out of which such rent-charge shall issue; and in case the same shall not be sooner paid by the owner of the rent-charge for the time being, may be recovered from such occupier in like manner as any poor-rate assessed on him in respect of such lands; and any occupier holding such lands under any landlord, and who shall have paid any such rate or charge in respect of any such rent-charge, shall be entitled to deduct the amount thereof from the rent next payable by him to his landlord for the time being, and shall be allowed the same in account with his landlord; and any landlord or owner in possession who shall have paid any such rate or charge, or from whose rent the amount of any such rate or charge in respect of any such rent-charge shall have been so deducted, or who shall have allowed the same in account with any tenant paying the same, shall be entitled to deduct the amount thereof from the rent-charge, or by all other lawful ways and means to recover the same from the owner of the rent-charge, his executors and administrators (*d*); provided that the owner of every such rent-charge shall have and be entitled to the like right of demanding, inspecting, and taking copies of every assessment containing such rate or charge, and of appeal against the same, and the like power of prosecuting such appeal, and the like remedies in respect thereof, as any occupier or ratepayer has or may have in the case of poor-rates (*e*), although such rate or charge is herein made assessable upon the occupier, and the owner of the rent-charge is not mentioned by name in such assessment.

How rates and charges are to be recovered.

Occupying tenant paying the same may deduct amount from rent.

71. That any person having any interest in or claim to any tithes, or to any charge or incumbrance upon any tithes, before the passing of this Act, shall have the same right to or claim upon the rent-charge for which the same shall be commuted as he had to or

Rent-charge to be subject to the same.

(*a*) Sect. 79. See 1 Vict. c. 69, s. 11, post, p. 715.

(*b*) Sects. 81—85.

(*c*) This section creates no personal liability upon the owner of land (*Griffenhoofe* v. *Daubuz*, 4 E. & B. 320, 24 L. J. Q. B. 20). An off-going tenant, if liable to pay the tithe rent-charge, may be sued for the amount by his landlord who has been compelled to pay it (14 & 15 Vict. c. 25, s. 4, ante, Vol. II., p. 1145, tit. "LANDLORD AND TENANT").

(*d*) See further provisions, 1 Vict. c. 69, s. 8, post, p. 715; 2 & 3 Vict. c. 62, s. 3, post, p. 717.

(*e*) See 17 G. 2, c. 3, ss. 2, 3, and the notes thereon, ante, Vol. III., tit. "POOR;" 6 & 7 Will. 4, c. 96, ss. 5—7 (*Ib.*).

6 & 7 W. 4, c. 71.

Incumbrances and incidents as tithe before this Act.

upon the tithes, and shall be entitled to have the like remedies for recovering the same as if his right or claim to or upon the rent-charge had accrued after the commutation; provided that nothing herein contained shall give validity to any mortgage or other incumbrance which before the passing of this Act was invalid or could not be enforced; and every estate for life, or other greater estate in any such rent-charge, shall be taken to be an estate of freehold; and every estate in any such rent-charge shall be subject to the same liabilities and incidents as the like estate in the tithes commuted for such rent-charge; and where any lands were exempted from tithe whilst in the occupation of the owner thereof by reason of being glebe, or of having been heretofore parcel of the possessions of any privileged order, the same lands shall be in like manner exempted from the payment of the rent-charge apportioned on them whilst in the occupation of the owner thereof (*a*); and where, by virtue of any Act or Acts of parliament heretofore passed, any tithes are authorised to be sold, exchanged, appropriated, or applied in any way, the rent-charges for which such tithes may be commuted under the provisions of this Act, or any part thereof, shall or may be saleable or exchangeable, appropriated and applied, to all intents and purposes, in like manner as such tithes; and the same powers of sale, exchange, and appropriation shall in all such cases extend to and may be exercised in respect of the said commutation rent-charges; and the money to arise by the sale of such rent-charges shall or may be invested, appropriated, and applied to the same purposes and in like manner as the money to arise by the sale of any such tithes might have been invested, appropriated, and applied under such particular Act or Acts in case this Act had not been passed; and no such rent-charge shall merge or be extinguished in any estate of which the person for the time being entitled to such rent-charge may be seised or possessed in the lands on which the same shall be charged: Provided always, that it shall be lawful for any person seised in possession of an estate in fee-simple or fee-tail of any tithes or rent-charge in lieu of tithes, by any deed or declaration under his hand and seal, to be made in such form as the said commissioners shall approve (*b*), and to be confirmed under their seal, to release, assign, or otherwise dispose of the same, so that the same may be absolutely merged and extinguished in the freehold and inheritance of the lands on which the same shall have been charged (*c*).

Rent-charge not to merge, but tenant in fee may declare the same merged.

Apportionment may be altered by commissioners of land tax, if desired.

Mode of effecting this.

72. That if at any time subsequent to the confirmation of any such instrument of apportionment the owner of any lands charged with any such rent-charge shall be desirous that the apportionment thereof shall be altered, it shall be lawful for the commissioners of land tax for the county or place where the said lands are situate, or any three of them, to alter the apportionment in such manner and in such proportion and to the exclusion of such of the lands as the landowner, with the consent of two justices of the peace acting for the county, riding, division, or other jurisdiction in which the lands are situated, may direct; and such altered apportionment shall be made by an instrument in writing under the hands and seals of the said commissioners of land tax and of the said landowner and justices, of the like form and tenor as to the said lands as the original apportionment, and bearing date the day of its execution by the said commissioners of land tax, subject to the provision hereinbefore contained with respect to the value of lands on which any rent-charge may be charged on account of the tithes of any other lands (*d*); and every such altered apportionment shall be as valid as if made and confirmed by the tithe commissioners as aforesaid, and shall be taken to be an amendment of the original apportionment; and in every such case two counterparts of the instrument of altered apportionment, under the hands and seals of the said commissioners of land tax and justices and landowner, shall be sent, one to the registrar of the diocese, and one to the incumbent and church or chapel wardens, or other person having the custody of the other copy of the original instrument of apportionment; and one counterpart shall be annexed to the copy of the instrument of apportionment in the custody of the registrar and such other person respectively, and taken to be an amendment thereof; and thenceforward such lands shall be charged only according to such altered apportionment; and all expenses of such alteration shall be borne by the landowner desiring the same.

Expenses of witnesses to be paid under the direction of the commissioners.

73. That the commissioners or assistant commissioner, in any case where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, contracts, agreements, accounts, or writings, terriers, maps, plans, and surveys, or copies thereof, and all other expenses (except the salary or allowance to any commissioner or assistant commissioner) incurred in the settlement of any suit or difference, or in the hearing and determining any objection to any award or apportionment before the said commissioners or any assistant commissioner, to be paid by such parties interested in the production thereof respectively, or in the event of such suit, difference, or objection, and in such proportions as the commissioners or assistant commissioner shall think fit and reasonable.

(*a*) See 2 & 3 Vict. c. 62, s. 11, post, p. 719; 3 & 4 Vict. c. 15, s. 14, post, p. 729.

(*b*) See form of declaration, Shelford, Appendix, p. 468.

(*c*) See further powers of merger, 1 & 2 Vict. c. 64, ss. 1, 3, post, p. 716; 2 & 3 Vict. c. 62, ss. 1, 6, 7, post, p. 717.

(*d*) Sect. 58, ante, p. 705. See 5 & 6 Vict. c. 54, ss. 14, 15, post, p. 736.

74. That the allowances to and expenses of land surveyors and tithe valuers necessary for making any award, and all other expenses of or incident to making the said award, except the salary or allowance to any commissioner or assistant commissioner, and except any expenses which the commissioners or any assistant commissioner, or any court or arbitrator, may be authorised to order and may have ordered to be otherwise paid, shall be borne and paid by the landowners and titheowners interested in the said award, in such proportion, time, and manner as the commissioners or assistant commissioner shall direct (*a*). 6 & 7 W. 4, c. 71. Expenses of award to be paid by the landowners and titheowners as the commissioners may direct.

75. That all the expenses of or incident to making any apportionment (*b*) (except the salary or allowance to any commissioner or assistant commissioner, and except any expense which the commissioners or assistant commissioner may be authorised and may have ordered to be otherwise paid) shall be borne and paid by the owners of lands included in the apportionment in rateable proportion to the sum charged on the said lands in lieu of tithes by such apportionment. Expenses of apportionment to be borne rateably by the landowners.

76. That if any difference shall arise touching the said expenses, or the share thereof to be paid by any person, it shall be lawful for the commissioners or some assistant commissioner to certify under their or his hand the amount to be paid by such person; and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any two justices of the peace for the county or other jurisdiction wherein the lands mentioned in the agreement or award or apportionment are situate, such justices, upon the non-payment thereof, are hereby required, by warrant under their hands and seals, to cause the same and the costs of the distress to be levied by distress and sale of the goods of the person liable to pay the same, and to render the surplus (if any), after deducting the charges of the distress and sale, to the person distrained upon (*a*). Expenses may be recovered by warrant of distress.

77. That every owner of an estate in land or tithes less in the whole than an immediate estate of fee-simple or fee-tail, or which shall be settled upon any uses or trusts, may, with the consent of the commissioners, and in such manner as they may direct, charge so much of the expenses of commutation as is to be defrayed by him, or any part thereof, and the interest thereon, after the rate of four pounds by the hundred, upon the lands whereof the tithes are commuted, or upon the rent-charge to be received by him instead of such tithes respectively; but so nevertheless that the charge upon such lands or rent-charge respectively shall be lessened in every year following such commutation by one-twentieth part at least of the whole original charge thereon (*c*). Owners of particular estates may charge the costs on the estate for twenty years.

78. That every ecclesiastical beneficed person who shall commute the tithes of his benefice under this Act may advance or borrow the sum necessary to defray so much of the expenses of commutation as is to be defrayed by him, or any part thereof, and as a security for repayment may charge or assign the rent-charge to be received instead of such tithes for twenty years, or until the principal sum advanced or borrowed, and the interest thereon, after the rate of four pounds by the hundred, and the expenses of such charge or assignment, shall be sooner paid; and every incumbent successively shall pay the interest of the sum advanced or borrowed, or of so much thereof as shall then remain unpaid, as the same shall become due, or within one calendar month next following, and also an instalment at the rate of five pounds for every hundred pounds of the principal sum advanced or borrowed; and in default of such payment the ordinary may sequester the profits of the benefice until such payments shall be made: Provided that the sum to be so advanced or borrowed shall be ascertained and certified under the hand of any commissioner or assistant commissioner, and shall be by him stated to have been the amount of such expenses properly incurred by such ecclesiastical beneficed person in relation to such commutation (*d*). Costs of ecclesiastical titheowners may be charged on the benefice for twenty years.

79. That any tenant or occupier who at the time of such commutation shall occupy at rack-rent any lands of which the tithes shall be so commuted, may, within one calendar month next after the confirmation of the apportionment by the commissioners, signify by writing under his hand, given to or left at the usual residence of his landlord or his agent, his dissent from being bound to pay any rent-charge apportioned and charged on the said lands as aforesaid, and in that case such landlord shall be entitled, from the time when the said apportionment shall take effect, and during the tenancy or occupation of such tenant or occupier, to stand, as to the perception and collection of tithes, or receipt of any composition instead thereof, in the place of the owner of the tithes so commuted, and to have all the powers and remedies for enforcing render and payment of such tithes or composition which the titheowner would have had if the commutation had not taken place (*e*). If tenant of lands at rack-rent dissent from paying the rent-charge, the landlord may take the tithes during the tenancy.

(*a*) See 2 & 3 Vict. c. 62, ss. 18, 23, post, p. 721.

(*b*) Expenses incurred by the employment of an attorney by the landowners of a parish, to conduct the proceedings towards the commutation of the tithes under this Act, are not expenses incident to making the apportionment within this section (*Hinchliffe* v. *Armitstead*, 9 M. & W. 155).

(*c*) See 2 & 3 Vict. c. 62, ss. 16, 17, post, p. 720.

(*d*) See 2 & 3 Vict. c. 62, s. 17, post, p. 720; 3 & 4 Vict. c. 15, s. 23, post, p. 730; 5 & 6 Vict. c. 54, s. 8, post, p. 734.

(*e*) See 3 & 4 Vict. c. 15, s. 16, post, p. 729.

6 & 7 W. 4, c. 71.

Tenant paying rent-charge to be allowed the same in account with his landlord (*a*).

80. That any tenant or occupier at the time of such commutation who shall have signified his dissent from being bound to pay any such rent-charge as aforesaid, or who shall hold his lands under a lease or agreement providing that the same shall be holden and enjoyed by him free of tithes, and every tenant or occupier who shall occupy any lands by any lease or agreement made subsequently to such commutation, and who shall pay any such rent-charge, shall be entitled to deduct the amount thereof from the rent payable by him to his landlord, and shall be allowed the same in account with the said landlord (*b*).

When rent-charge is in arrear for 21 days after half-yearly days of payment, the person entitled thereto may distrain. No more than two years' arrears to be recoverable.

81. That in case the said rent-charge shall at any time be in arrear and unpaid for the space of twenty-one days next after any half-yearly day of payment, it shall be lawful for the person entitled to the same, after having given or left ten days' notice in writing at the usual or last-known residence of the tenant in possession (*c*), to distrain upon the lands liable to the payment thereof, or on any part thereof, for all arrears of the said rent-charge, and to dispose of the distress when taken, and otherwise to act and demean himself in relation thereto as any landlord may for arrears of rent reserved on a common lease for years: Provided that not more than two years' arrears shall at any time be recoverable by distress (*d*).

When rent-charges are in arrear for 40 days after half-yearly days of payment, and no sufficient distress on the premises, writ to be issued directing sheriff to summon jury to assess arrears.

82. That in case the said rent-charge shall be in arrear and unpaid for the space of forty days next after any half-yearly day of payment, and there shall be no sufficient distress on the premises liable to the payment thereof, it shall be lawful for any judge of his majesty's courts of record at Westminster, upon affidavit of the facts, to order a writ to be issued, directed to the sheriff of the county in which the lands chargeable with the rent-charge are situated (*e*), requiring the said sheriff to summon a jury to assess the arrears of rent-charge remaining unpaid, and to return the inquisition thereupon taken to some one of his majesty's courts of law at Westminster, on a day therein to be named, either in term time or vacation; a copy of which writ, and notice of the time and place of executing the same, shall be given to the owner of the land, or left at his last known place of abode, or with his known agent, ten days previous to the execution thereof; and the sheriff is hereby required to execute such writ according to the exigency thereof; and the costs of such inquisition (*f*) shall be taxed by the proper officer of the court; and thereupon the owner of the rent-charge may sue out a writ of *habere facias possessionem*, directed to the sheriff, commanding him to cause the owner of the rent-charge to have possession of the lands chargeable therewith until the arrears of rent-charge found to be due, and the said costs, and also the costs of such writ and of executing the same, and of cultivating and keeping possession of the lands, shall be fully satisfied: Provided always, that not more than two years' arrears over and above the time of such possession shall be at any time recoverable (*g*).

Account, how to be rendered.

83. That it shall be lawful for the court out of which such writ shall have issued or any judge at chambers, to order the owner of the rent-charge who shall be in possession by virtue of such writ, from time to time to render an account of the rents and produce of the lands and of the receipts and payments in respect of the same, and to pay over the surplus (if any) to the person for the time being entitled thereunto, after satisfaction of such arrears of rent-charge and all costs and expenses as aforesaid, and thereupon to order a writ of *supersedeas* to issue to the said writ of *habere facias possessionem*, and also by rule or order of such court or judge from time to time to give such summary relief to the parties as to the said court or judge shall seem fit.

(*a*) An off-going tenant who leaves a stack upon the farm, cannot recover damages from his landlord for allowing the stack to be distrained for tithes, as there is no personal liability on the part of the landlord to pay them (*Griffenhoofe* v. *Daubuz*, 4 E. & B. 230; 24 L. J. Q. B. 20).

(*b*) Where A., being the owner of land and also of tithe commuted under this Act, agreed by parol to demise to B. the land "tithe free," at a certain yearly rent, it was held that, by the operation of this section, the words "tithe free" were surplusage, and so there was a valid demise of the land by parol; although before the commutation such an agreement might have operated as an agreement to demise both the land and the tithe at that joint rent, and ought to have been by deed (*Meggison* v. *Lady Glamis*, 7 Exch. 685).

(*c*) See 5 & 6 Vict. c. 54, s. 17, post, p. 736.

(*d*) See 5 & 6 Vict. c. 54, ss. 18, 19, post, p. 736. And see *Roden* v. *Eyton* (6 C. B. 427), as to the conduct of a distress under this section.

A titheowner distraining under this section, and afterwards obtaining judgment in an action of replevin, is not entitled to double costs under 11 Geo. 2, c. 19, s. 22; neither, consequently, is he entitled to the "full and reasonable indemnity as to costs," substituted for double costs by the 5 & 6 Vict. c. 97, s. 2 (ante, Vol. I., tit. "Costs," p. 1107; *Newnham* v. *Bever*, 8 C. B. 560).

(*e*) As to service of the writ, see 5 & 6 Vict. c. 54, s. 17, post, p. 736. The order may be made on an *ex parte* application (*In re Hammersmith Rent-charge*, 4 Exch. 87).

(*f*) See *In re Hammersmith Rent-charge*, 4 Exch. 101.

(*g*) See 5 & 6 Vict. c. 54, s. 17, post, p. 736.

84. Provided always, that in all cases in which it shall be necessary to make any distress under this Act in respect of any lands in the possession of any person of the persuasion of the people called quakers, the same may be made upon the goods, chattels, or effects of such person, whether on the premises or elsewhere, but nevertheless to the same amount only and with the same consequences in all respects as if made on the premises; and that in all cases of distress under this Act upon persons of that persuasion, the goods, chattels, or effects which may be distrained, shall be sold without its being necessary to impound or keep the same: Provided always, that no writ under the provision hereinbefore contained shall be issued for assessing or recovering any rent-charge payable under this Act, in respect of any lands in the possession of any person of the persuasion aforesaid, unless the same shall be in arrear and unpaid for the space of forty days next after any half-yearly day of payment, without the person entitled thereto being able to find goods, chattels, or effects, either on the premises or elsewhere, liable to be distrained as aforesaid, sufficient to satisfy the arrears to which such lands are liable, together with the reasonable costs of such distress. 6 & 7 W. 4, c. 71. How to proceed in case of quakers.

85. That whenever any rent-charge payable under the provisions of this Act shall be in arrear, notwithstanding any apportionment which may have been made of any such rent-charge, every part of the land situate in the parish in which such rent-charge shall so be in arrear, and which shall be occupied by the same person who shall be the occupier of the lands on which such rent-charge so in arrear shall have been charged, whether such land shall be occupied by the person occupying the same as the owner thereof or as tenant thereof holding under the same landlord under whom he occupies the land on which such rent-charge so in arrear shall have been charged, shall be liable to be distrained upon or entered upon as aforesaid for the purpose of satisfying any arrears of such rent-charge, whether chargeable on the lands on which such distress is taken or such entry made, or upon any other part of the lands so occupied or holden: Provided always, that no land shall be liable to be distrained or entered upon for the purpose of satisfying any such rent-charge charged upon lands which shall have been washed away by the sea, or otherwise destroyed by any natural casualty. Powers of distress and entry to extend to all lands within the parish occupied by the owner, or under the same landlord or holding. No land liable to be distrained on for rent-charge of lands washed away, &c.

86. That the several provisions of an Act passed in the fourth and fifth years of his present majesty, intituled "An Act to amend an Act of the Eleventh year of King George the Second, respecting the Apportionment of Rents, Annuities, and other periodical Payments," shall extend to all rent-charges payable under this Act (*a*). Powers of 4 & 5 W. 4, c. 22, to extend to rent-charges under this Act.

87. That if any barns or buildings belonging to any titheowner, having a limited estate or interest therein, which shall have been generally used for the housing of tithes paid in kind, shall be rendered in the whole or in part useless by reason of any commutation of tithes under this Act, it shall be lawful for every such titheowner (with the consent, nevertheless, of the commissioners, and subject to such directions as they may give, to be signified under their hands and seal) to pull down any such barns or buildings, or any part thereof, and to sell and dispose of the materials, or to sell and dispose of all or any of such barns or buildings, and the site thereof, and either with or without any farm buildings or homesteads thereunto belonging, in such manner as the commissioners may direct; and upon payment of the consideration money, it shall be lawful for every such titheowner (with such consent as aforesaid) to convey and deliver the premises sold as aforesaid to the purchaser thereof, or to such uses and in such manner as such purchaser shall direct; and the consideration money in each case shall be paid to such titheowner, and his receipt shall be a good discharge to the purchaser; and such titheowner shall lay out and invest the consideration money in such manner and for such trusts as the commissioners shall direct for the benefit of the persons entitled to the said rent-charge. Provision for the sale of buildings and the sites thereof rendered useless or unnecessary by the commutation of tithes (*b*).

88. That it shall be lawful for the lessee, being in occupation of any tithes commuted under this Act, by an instrument in writing under his hand and seal, to be made in such form as the commissioners shall direct, and confirmed under their seal, to surrender and make void the lease by which the said tithes are held or enjoyed by such lessee at the time of the commutation, so far as the same may relate to the said tithes (*c*), and it shall be lawful for the commissioners, by the same instrument, to direct what compensation (if any) shall be given by the immediate lessor of any lessee at rack-rent so surrendering any lease of any such tithes to such lessee, and what allowance (if any) shall be made by any lessee to his immediate lessor of any such surrendered lease, in consideration of the non-fulfilment of any conditions contained in such lease, and what deduction (if any) shall be made from the rent thenceforth payable by any lessee to his immediate lessor in respect of other hereditaments which may have been included with the said tithes in any such lease: Provided always, that any intermediate lessor to whom Leases of tithes may be surrendered.

(*a*) As to the apportionment of the rent-charge between the representatives of a deceased rector and his successor, see *Oldham* v. *Hubbard*, 2 You. & Coll., Ch. C. 209. *Semble*, a composition for tithes is within the 11 Geo. 2, c. 19, s. 15, and the 4 & 5 Will. 4, c. 22 (*Ibid.*). See also *Hawkins* v. *Kelly*, 8 Ves. 308; *Aynsley* v. *Wordsworth*, 3 Ves. & B. 331.

(*b*) See also 2 & 3 Vict. c. 62, s. 15, post, p. 720.

(*c*) If the lessee do not surrender his lease pursuant to this section, he continues liable on his covenant to pay the rent, notwithstanding the commutation (*Tasker* v. *Bullman*, 3 Exch. 351).

6 & 7 W. 4, c. 71.

any such lease shall have been surrendered shall, as regards his immediate lessor, be taken to be the lessee in occupation of the tithes included in the said lease.

Tithes due before commutation not to be affected.

89. That nothing in this Act contained shall affect any right to any tithes which shall have become due before the commutation (*a*).

Act not to extend to Easter offerings, &c., or to payments instead of tithes in London, or to permanent rent-charges by custom or Act of parliament (*b*).

90. That nothing in this Act contained, unless by special provision, to be inserted in some parochial agreement, and especially approved by the commissioners, in which case the same shall be valid, shall extend to any Easter offerings, mortuaries or surplice fees, or to the tithes of fish or of fishing, or to any personal tithes, other than the tithes of mills, or any mineral tithes (*c*), or to any payment instead of tithes arising or growing due within the city of London, or to any permanent rent-charge or other rent or payment in lieu of tithes, calculated according to any rate or proportion in the pound on the rent or value of any houses or lands in any city or town under any custom or private Act of parliament, or to any lands or tenements the tithes whereof shall have been already perpetually commuted or extinguished under any Act of parliament heretofore made.

Advertisements, contracts, and awards not to be liable to stamp duty.

91. That no advertisement inserted by direction of the commissioners or any assistant commissioner, or by any titheowner or landowner, in the "London Gazette," or in any newspaper, for the purpose of carrying into effect any provision of this Act, and no agreement, award, or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty (*d*).

Correspondence of commissioners, relating to this Act, to be free of postage.

92. That the said commissioners may receive and send by the general post from and to places in England and Wales all letters and packets relating exclusively to the execution of this Act free from the duty of postage, provided that such letters and packets as shall be sent to the said commissioners be directed to the "Tithe Commissioners for England and Wales," at their office in London, and that all such letters and packets as shall be sent by the said commissioners shall be in covers, with the words "Tithe Commissioners for England and Wales" printed on the same, and be signed on the outside thereof under such words with the name of such person in his own handwriting as the said commissioners, with the consent of the lords commissioners of the treasury, or any three or more of them, shall appoint (such name to be from time to time sent to the secretary of the general post-office in London), and be sealed with the seal of the said commissioners, and under such other regulations as the said lords commissioners or any three or more of them shall think fit; and if the person so to be appointed shall subscribe or seal any letter or packet whatever, except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate exclusively to the execution of this Act, or if the person so to be appointed, or any other person, shall send or cause to be sent under any such cover any letter, paper, or writing, or any inclosure, other than shall relate exclusively to the execution of this Act, every person so offending shall forfeit and pay the sum of one hundred pounds and be dismissed from his office, one moiety of such penalty shall be paid to the use of his majesty, his heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same; and every such penalty may be sued for and recovered in any of his majesty's courts of record in Westminster.

False evidence to be deemed perjury; withholding evidence a misdemeanor.

93. That if any person, under the provisions of this Act, shall wilfully give false evidence, he shall be deemed guilty of perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act, he shall suffer the penalties of perjury; and if any person shall wilfully refuse to attend in obedience to any lawful summons of any commissioner or assistant commissioner, or to give evidence, or shall wilfully alter, withhold, destroy, or refuse to produce any book, deed, contract, agreement, account, or writing, terrier, map, plan, or survey, or any copy of the same, which may be lawfully required to be produced before the said commissioners or assistant commissioner, he shall be deemed guilty of a misdemeanor.

Limitation of actions against commissioners, assistant commissioners, justices, &c.

94. That no action or suit shall be commenced against any commissioner, assistant commissioner, justice of the peace, valuer, umpire, or surveyor, for anything done under the authority of this Act (*e*), until twenty-one days' notice thereof shall have been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after three calendar months shall have expired from the commission of the act for which such action or suit shall be so brought: and every such action shall be brought, laid, and tried in the county or place where the cause of action shall have

---

(*a*) See 1 Vict. c. 69, s. 1, post, p. 713; 5 & 6 Vict. c. 54, s. 9, post, p. 735.

(*b*) See *In re Wintningham Tithes*, 31 L. J. C. P. 274; *Bunbury* v. *Fuller*, 9 Ex. 111; 23 L. J., Ex. 29, ante, p. 701, n. (*a*) and (*b*).

(*c*) See 2 & 3 Vict. c. 62, s. 9, post, p. 718. As to the allotment of the tithes of common lands or fields, see 6 & 7 W. 4, c. 115, s. 36, ante, Vol. I. p. 752, tit. "INCLOSURE."

(*d*) See also 1 Vict. c. 69, s. 12, post, p. 715; 1 & 2 Vict. c. 64, s. 2, *Ib.*; 3 & 4 Vict. c. 15, s. 10, post, p. 728.

(*e*) See *Acland* v. *Buller*, 1 Exch. 837.

prison, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before twenty-one days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the jury shall find a verdict for the defendant therein, or the court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit, or suffer a discontinuance of such action, or if upon any demurrer in such action or suit judgment shall be given for the defendant therein, then such defendant shall have costs, charges, and expenses as between attorney and client. 6 & 7 W. 4, c. 71.

95. That no order, adjudication, or proceeding made or had by or before the commissioners or any assistant commissioner, under the authority of this Act, or any proceeding to be had touching any offender against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process, into any of his majesty's courts of record at Westminster or elsewhere. Proceedings under this Act not to be quashed for want of form, nor to be removed by certiorari.

96. That this Act shall extend only to England and Wales. Limits of Act.

1 Vict. c. 69. An Act to amend an Act for the Commutation of Tithes in England and Wales. [15th July, 1837.]

1 Vict. c. 69.

"Whereas an Act was passed in the seventh year of the reign of his late majesty king William the fourth, intituled 'An Act for the Commutation of Tithes in England and Wales,' and it is expedient to amend the said Act in certain respects;" BE IT ENACTED, that the tithe commissioners for England and Wales shall have power, if they shall think fit, to confirm under their hands and seal any instrument of voluntary apportionment, and also any agreement for giving land instead of tithes, made according to the provisions of the said Act, to which shall be annexed a map or plan agreed to be adopted by a parochial meeting, although they shall not be satisfied of the accuracy of such map or plan, or that the several quantities of land specified in such apportionment or agreement are therein truly stated; but no recital of quantity or admeasurement of land, nor any map or plan annexed to any such confirmed apportionment or agreement, nor any copy thereof, shall be deemed evidence of the quantity of land referred to therein, or of the accuracy of such map or plan, unless the said map or plan, as well as the instrument of apportionment or agreement, shall be signed by the commissioners and sealed with their official seal: Provided always, that the commissioners, in case they shall confirm such voluntary apportionment or agreement, but shall not think proper to seal such map or plan, shall certify under their hands, upon some part of such map or plan, that the same is the map or plan referred to in such voluntary apportionment or agreement, as the case may be, which certificate shall be received as evidence of that fact. 6 & 7 W. 4, c. 71. Apportionments and agreements may be confirmed, although the commissioners are not satisfied of the accuracy of the maps (a).

2. That two-thirds in value of the owners of the lands in any parish or district of which the tithes are to be commuted (c), and respecting the boundaries of which any dispute or doubt shall arise, may, by writing under their hands or the hands of their agents, signed at a parochial meeting called for that purpose according to the provisions of the said Act, in the case of a parochial meeting for making a voluntary agreement for the commutation of the tithes of a parish, signify their request to the tithe commissioners that the said commissioners should inquire into and settle such boundaries; and thereupon the For determining parochial boundaries (b).

(a) See 6 & 7 Will. 4, c. 71, ss. 55, 64, ante, pp. 704, 706; 2 & 3 Vict. c. 62, s. 22, post, p. 721.

(b) See further provisions as to boundaries, 2 & 3 Vict. c. 62, ss. 34, 35, 36, post, and the cases there cited; 3 & 4 Vict. c. 15, s. 28, post, p. 731; 5 & 6 Vict. c. 54, s. 5, post, p. 733; 9 & 10 Vict. c. 73, s. 21, post, p. 742. This section, and the 34th section of 2 & 3 Vict. c. 62, may both be in operation separately and independently, the former applying to cases where an old and existing boundary is to be ascertained; the latter, to cases where a new boundary is to set out. Therefore, where the commissioner made an award purporting to be made under this Act, and also stated, on affidavit, that he had proceeded under this Act, and had no intention of setting out a new boundary, the award was held to be good under this Act, although the boundary line defined by him was part of the boundary line of a county, and the provisions of the latter Act were not pursued (*In re Dent Commutation*, 8 Q. B. 43).

(c) Where within the ancient boundary of the township of S. was included a tract of land claimed to belong to another township, B., and which for nearly one hundred years had been rated and assessed to the poor and highway rates of the latter township, a notice under this section, signed by two-thirds of the landowners of S., not including the said tract of land, was held insufficient, and the award made in pursuance thereof invalid (*Reg.* v. *Hobson*, 19 L. J. Q. B. 262).

1 Vict. c. 69. said commissioners, or any assistant commissioner specially appointed under their hands and seal for that purpose, shall, by examination of witnesses upon oath (which oath the said commissioners or assistant commissioner are and is hereby empowered to administer), and also using any other powers contained in the said Act, and by such other legal ways and means as they or he shall think proper, inquire into, ascertain, and set out the boundaries of that parish or district: Provided always, that such commissioners or assistant commissioner (before they or he proceed to set out the boundaries of such parish or district) shall give public notice of their or his intention, by writing under their or his hands or hand, to be affixed on the most public doors of the churches of that parish or district, and of every parish and district thereunto adjoining, and also by advertisement to be inserted in some newspaper circulated in the county in which such parish or district is situated, and also by writing to be delivered to or left ten days at least before the time of setting out such boundaries at the last or usual place of abode of the respective landowners, or the respective agents of such landowners, through or abutting upon whose lands the boundaries of such parish or district are supposed to pass; and such commissioners or assistant commissioner shall, within one month after ascertaining and setting out the boundaries, publish the same by causing a description thereof in writing to be delivered to or left at the place of abode of one of the churchwardens or overseers of the poor of the parish or district of which the boundary shall be so set out, and of every parish or district thereunto adjoining, and also of every landowner or his agent through or abutting upon whose lands the boundary so set out shall pass (*a*).

Judgment of commissioners respecting boundaries may be removed by certiorari (*b*).

3. That any person interested in the judgment or determination of the said commissioners or assistant commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may within six calendar months next after the publication of the said boundaries, by delivering or leaving such description as aforesaid, move the court of queen's bench to remove the said judgment by certiorari into the said court, the party making such application giving eight days' notice of such application, and of the matter and ground thereof, in writing, to the said commissioners; and the decision of the said commissioners or assistant commissioner, or, in case of removal as aforesaid, the decision of the said court therein, shall be final and conclusive, as to the boundaries of such parish or district, for all purposes whatsoever; and after the expiration of the said term of six calendar months the judgment shall not be removed or removable by certiorari or any other writ or process whatsoever into any of her majesty's courts of record at Westminster or elsewhere; and no certiorari shall be allowed to remove any such judgment unless the party prosecuting the certiorari shall before allowance thereof enter into a recognisance before one of the justices of the said court, in the sum of 50*l.*, with condition to prosecute the same without wilful delay, and to pay to the said commissioners their full costs and charges within one calendar month after the judgment shall be confirmed, to be taxed according to the custom of the court.

The apportionment need not contain the several amounts of corn charged on each estate.

4. That it shall not be necessary to state in any instrument of apportionment the several quantities of wheat, barley, and oats charged upon the estate of any landowner, or upon any portion of such estate included in such apportionment; provided that the whole sum agreed or awarded to be paid by way of rent-charge instead of the tithes of the whole parish or district be therein stated, and the whole number of bushels of wheat, barley, and oats ascertained to be the fixed quantity of corn of which the variable value is to be paid in money by way of rent-charge, and also the several sums of money which were at the time of the confirmation of the apportionment of equal value with the quantities of wheat, barley, and oats apportioned on each estate or each separate portion thereof, according to the provisions of the said Act, be also stated therein.

Particulars of land not necessary to be stated in instruments of voluntary apportionments, if three-fourths of the landowners so request.

5. That it shall not be necessary to state in any instrument of voluntary apportionment made in consequence of a parochial agreement, whether the several lands are then cultivated as arable, meadow, or pasture land, or as wood land, common land, or howsoever otherwise, nor to state the amount charged on the several closes of every individual landowner, if three-fourths of the landowners interested in the said apportionment shall by some writing under their hands request the commissioners to direct that such statements be omitted.

When only one landowner, no draft of apportionment nor meeting for objections necessary.

6. That it shall not be necessary for the commissioners to send a copy of any draft of voluntary apportionment made in consequence of a parochial agreement for the inspection of any parties, nor to hold any meeting to hear any objection thereto, when one landowner shall be seised, either in fee simple or fee tail, of the whole of the lands that are not glebe lands in such parish.

(*a*) The award must state, on the face of it, that the tithes were to be commuted; and also that the request to the commissioners on the subject of the boundaries was agreed to at a parochial meeting called pursuant to the 6 & 7 Will. 4, c. 71 (*In re Dent Commutation*, 8 Q. B. 43).

(*b*) See 2 & 3 Vict. c. 62, s. 35, post, p. 724. The court will enter into objections raised on the face of the award (*In re Dent Commutation*, 8 Q. B. 43).

1 Vict. c. 69.

Prices at which conversion from money into corn is to be made.

7. That the prices at which the conversion from money into corn is to be made at the time of the confirmation of each apportionment, according to the provisions of the said Act, are 7*s.* 0½*d.* for a bushel of wheat, 3*s.* 11½*d.* for a bushel of barley, and 2*s.* 9*d.* for a bushel of oats (*a*).

For the assessment and recovery of rates.

8. That all rates and charges to which any rent-charge payable in lieu of tithes shall be liable may be assessed upon the owner of the rent-charge, and the whole or any part thereof may be recovered from any one or more of the occupiers of the lands out of which such rent-charge shall issue, in case the same shall not be sooner paid by the owner of the rent-charge upon whom the same shall be assessed, in like manner as any poor-rate assessed on such occupier or occupiers in respect of such lands may be recovered, upon giving to such occupier twenty-one days' notice in writing previous to any one of the half-yearly days of payment of the rent-charge, and the collector's receipt for the payment of such rates and charges, or of any part thereof, shall be received in satisfaction of so much of the rent-charge by the owner thereof; but no occupier shall be liable to pay at any one time, in respect of such rates and charges, any greater sum than the rent-charge payable in respect of the lands occupied by him in the same parish shall amount to for the current half-year in which such notice shall have been given (*b*).

For determining the lands chargeable with rent-charge.

9. That in all cases where the same person or body politic is not entitled to the perception of the whole of the tithes of any parish, and the liability of the lands to the payment of tithes is not in dispute, but the lands out of which each titheowner is entitled to the perception of his portion or parcel of tithes are not well defined, and also in all cases where such lands lie dispersedly throughout the parish, it shall be lawful, at any time before the confirmation of any apportionment under the provisions of the said Act, for the landowners and titheowners having any interest in such lands or tithes (with the consent of the diocesan and of the patron of the living, whenever tithes payable to any spiritual person in right of his benefice are in question) to agree, or for the tithe commissioners to determine, in case the commutation shall have been made by their award, that the several rent-charges which shall be made payable in lieu of tithes to each of the titheowners respectively shall be fixed and apportioned upon such particular lands as to them shall seem convenient, so that no lands are charged with more than their due proportion of rent-charge, when the determination shall be by the compulsory award of the commissioners; and every agreement or determination to that effect, when confirmed by the tithe commissioners, shall be binding upon and conclusive against all persons and bodies politic, notwithstanding any doubt as to the identity of the lands out of which the tithes originally issued in lieu whereof such distinct rent-charges are made payable (*c*).

Provision for the period intervening between the end of former compositions and the commutation.

10. That with the first payment of rent-charge under any agreement for the commutation of tithes shall also be paid any sum which shall be agreed to be paid in consideration of the time (if any) which may intervene between the termination of any previous agreement or composition for the payment of tithe and the time at which, by the said agreement for commutation, the lands shall be discharged from the payment of tithe, regard being had to the whole annual amount of rent-charge agreed to be paid, and to the other circumstances of each case (*d*).

Parties to a parochial agreement may fix when it shall begin to operate.

11. That the parties to a parochial agreement may agree thereby, or by any supplemental agreement (*e*) made and confirmed in like manner, that the lands included in the said agreement shall be discharged from the payment of tithes (except as excepted in the said Act), from the 1st day of January next preceding, or from the 1st day of April, or 1st day of July, or 1st day of October preceding or following the confirmation of the apportionment, instead of the 1st day of January next following the confirmation: Provided always, that in every case the first payment of rent-charge shall be made and recoverable by the means provided in the said Act, on the expiration of six calendar months from the time from which such lands are discharged from the payment of tithes (*f*).

Deeds not chargeable with stamp duty.

12. That no deed or declaration authorised by the said Act for the commutation, release, or merger of tithes, shall be chargeable with any stamp duty.

Assistant commissioner may be sworn before two justices or a master in chancery.

13. That any assistant commissioner appointed to assist in carrying the said Act into execution may take the oath required of him by the said Act before any two justices for the county, riding, division, liberty, or jurisdiction wherein such assistant commissioner shall be resident at the time of his appointment, or before a master extraordinary in her majesty's high court of chancery; and every such oath so taken shall be as valid and effectual as if the same had been taken before one of the judges of her majesty's court of queen's bench or common pleas or one of the barons of the court of exchequer.

This Act to be taken as part of 6 & 7 W. 4, c. 71.

14. That this Act shall be taken to be a part of the said Act for the commutation of tithes in England and Wales.

(*a*) See 6 & 7 Will. 4, c. 71, s. 57, ante, p. 704.

(*b*) See 6 & 7 Will. 4, c. 71, ss. 69, 70, ante, p. 707; 2 & 3 Vict. c. 62, s. 3, post, p. 717.

(*c*) See 6 & 7 Will. 4, c. 71, s. 58, ante, p. 705.

(*d*) See 6 & 7 Will. 4, c. 71, s. 89, ante, p. 712; 2 & 3 Vict. c. 62, s. 10, post, p. 718.

(*e*) See forms, Shelford, Appendix.

(*f*) See 2 & 3 Vict. c. 62, s. 10, post, p. 718; 3 & 4 Vict. c. 15, s. 13, post, p. 728; 5 & 6 Vict. c. 54, s. 3, post, p. 733.

1 & 2 Vict. c. 64.

1 & 2 Vict. c. 64. An Act to facilitate the Merger of Tithes in Land (a). [4th August, 1838.]

6 & 7 W. 4, c. 71, s. 71.

"Whereas by an Act passed in a session of parliament of the sixth and seventh years of the reign of his late majesty king William the fourth, intituled 'An Act for the Commutation of Tithes in England and Wales,' it was (amongst other things) provided that it should be lawful for any person seised in possession of an estate in fee simple or fee tail of any tithes, or rent-charge in lieu of tithes, by any deed or declaration under his hand and seal, to be made in such form as the tithe commissioners for England and Wales should approve, and to be confirmed under their seal, to release, assign, or otherwise dispose of the same so that the same might be absolutely merged and extinguished in the freehold and inheritance of the lands on which the same should have been charged (b): And whereas it is expedient that the aforesaid provision should be extended in manner hereinafter mentioned:" BE IT THEREFORE ENACTED, That from and after the passing of this Act it shall be lawful for any person or persons who shall, either alone or together, be seised of or have the power of acquiring or disposing of the fee-simple in possession of any tithes, or rent-charge in lieu of tithes, by any deed or declaration under his or their hand and seal or hands and seals, to be made in such form as the tithe commissioners for England and Wales shall approve, and to be confirmed under their seal, to convey, appoint, or otherwise dispose of the same, so that the same may be absolutely merged and extinguished in the freehold and inheritance of the lands out of or on which the same shall have been issuing or charged; and every such deed or declaration as aforesaid shall be valid and effectual for the purpose aforesaid, although the same may not be executed or made in the manner or with the formalities or requisites which if this Act had not been passed would have been essential to the validity of any instrument by which such person or persons could have acquired or disposed of the fee simple in possession of such tithes, or rent-charge in lieu of tithes.

Persons having the power of appointment over tithes may merge them in the land.

Deeds not chargeable with duty.

2. That no deed or declaration authorised by this Act for the merging of tithes shall be chargeable with any stamp duty.

Where tithes and the lands charged therewith are settled to same uses, the tenant for life may cause them to merge in the land.

3. That in all cases where tithes, or rent-charge in lieu of tithes, and the lands out of which the same are payable, are both settled to the same uses, it shall be lawful for any person in possession of an estate for life in both such lands and tithes, or rent-charge in lieu of tithes, by any deed or declaration under his hand and seal, to be made in such form as the said commissioners shall approve, and to be confirmed under their seal, to release, assign, or otherwise dispose of such tithes or rent-charge, so that the same may be absolutely merged and extinguished in the freehold and inheritance of the lands out of which such tithes shall have been issuing or on which such rent-charge shall have been charged.

Tithes may be merged in copyhold lands.

4. "And whereas doubts have been entertained whether according to the true construction of the said Act, any tithes, or rent-charge in lieu of tithe, can be merged in lands of copyhold tenure, and it is expedient that such doubts should be removed:" BE IT ENACTED, That the provisions in the said Act and this Act contained as to the merger of any tithe, or rent-charge in lieu of tithe, shall be deemed and taken to extend to all lands, being copyhold of inheritance or copyhold for lives, or of any other tenure whatsoever (c).

Meaning of words, "person," "lands," "tithes."

5. That in the construction and for the purposes of this Act the several words "person," "lands," and "tithes," shall respectively mean and include whomsoever and whatsoever the same words would have meant and included if the enactment hereinbefore made had been contained in the said recited Act instead of this Act.

Limits of Act.

6. That this Act shall only extend to England and Wales.

2 & 3 Vict. c. 62.

2 & 3 Vict. c. 62. An Act to explain and amend the Acts for the Commutation of Tithes in England and Wales. [17th August, 1839.]

6 & 7 W. 4, c. 71. 1 Vict. c. 69. 2 Vict. c. 64.

"Whereas an Act was passed in the seventh year of the reign of his late majesty king William the fourth, intituled 'An Act for the Commutation of Tithes in England and Wales:' And whereas an Act was passed in the first year of the reign of her present majesty to amend the recited Act: And whereas an Act was passed in the second year of

---

(a) See also 2 & 3 Vict. c. 62, ss. 1, 6, 7, post, p. 717; 9 & 10 Vict. c. 73, ss. 18, 19, 20, post, p. 741.

(b) See form of declaration for merging tithes, Shelford, Appendix.

(c) By 2 & 3 Vict. c. 62, s. 7, post, p. 717, provision is made for deducting the value of tithes and rent-charge from arbitrary fines in cases of merger of tithes or rent-charge in copyholds.

the reign of her present majesty, intituled 'An Act to facilitate the Merger of Tithes in Land:' And whereas it is expedient to explain and amend the said Acts in certain respects:" BE IT ENACTED, That in every case where any tithes or rent-charge shall have been or shall hereafter be released, assigned, or otherwise conveyed or disposed of under the provisions of the said Acts, or any of them, or of this Act, for merging or extinguishing the same, the lands in which such merger or extinguishment shall take effect shall be subject to any charge, incumbrance, or liability which lawfully existed on such tithes or rent-charge previous to such merger to the extent of the value of such tithes or rent-charge; and any such charge, incumbrance, or liability shall have priority over any charge or incumbrance existing on such lands at the time of such merger taking effect; and such lands, and the owners thereof for the time being, shall be liable to the same remedies for the recovery of any payment and the performance of any duty in respect of such charge, incumbrance, or liability, or of any penalty or damages for non-payment or non-performance thereof respectively, as the said tithes or rent-charge, or the owner thereof for the time being, were or was liable to previous to such merger.

2 & 3 Vict. c. 62.

On merger of tithes or rent-charge, the charges thereon to be charges on lands.

2. That every person entitled to exercise the powers for merger of tithes or rent-charge in land under the said Acts or any of them, or of this Act, may, with the consent of the tithe commissioners for the time being, under their hands and seal of office, and of the person to whom the lands in which such merger or extinguishment shall take effect shall belong, either by the deed or other instrument or declaration by which such merger shall be effected, or by any separate deed, instrument, or declaration, to be made in such form as the commissioners shall approve, specially apportion the whole or any part of any such charge, incumbrance, or liability affecting the said tithes or rent-charge so merged or extinguished, or proposed to be merged or extinguished in such lands, upon the same or any part thereof, or upon any other lands of such person held under the same title and for the same estate in the same parish, or upon the several closes or portions of such lands, or according to an acreable rate or rates upon lands of different quality, in such manner and proportion, and to the exclusion of such of them, as the person intending to merge the same, with such consent as aforesaid, may by any such deed, instrument, or declaration direct: Provided always, that no land shall be so exclusively charged unless the value thereof shall in the opinion of the said commissioners be at least three times the value of the amount of the charge, incumbrance, or liability charged or intended to be charged thereon, over and above all other charges and incumbrances, if any, affecting the same.

Power for special apportionment of such charge on lands being of three times the value of the charge.

3. That the assessor or collector of any rate or tax shall, within forty days after the receipt of a notice in writing signed by any landowner or titheowner interested therein, specify in his assessment made for the purpose of collecting and levying such rate or tax the names of the several occupiers of tithes, lands, and tenements subject to such rate or tax, as well as the sum assessed on the tithes, lands, or tenements held by each such occupier (a).

Name of each occupier, and sum charged on him, to be specified by assessor, on notice from owner.

4. That where the whole of the great tithes or the whole of the small tithes, or the respective rent-charges in lieu thereof, shall be lawfully subject to any such charge, incumbrance, or liability, and the person entitled to such tithes or rent-charge respectively shall be desirous of apportioning such charge, incumbrance, or liability respectively, exclusively upon any part of such tithes or rent-charge, although such person has not the power or does not intend to merge the same under the said Acts or this Act, such person may, with the like consent of the said commissioners, and in such manner as they shall see fit and prescribe, and also with the consent of the bishop of the diocese, specially apportion such charge, incumbrance, or liability respectively upon any part or portion of the tithes or rent-charge respectively subject thereto, not being in the opinion of the said commissioners less than three times the value of the said charge, incumbrance, or liability, or of such part thereof as shall be so apportioned thereon, or intended so to be.

Power of special apportionment on tithes or rent-charge.

5. That in every such case of special apportionment the costs and expenses of or incident thereto shall be borne by the party at whose instance the same shall have been made, and shall be recoverable as other costs of apportionments are recoverable under the provisions of the said recited Acts or either of them, or of this Act (b).

Expenses of special apportionment to be borne by parties applying for same.

6. That the provisions of the said Acts and this Act for merger or extinguishment of tithes or rent-charge instead of tithes in the lands out of which such tithes shall have been issuing, or whereon such rent-charge shall be fixed, do and shall extend to glebe or other land, in all cases where the same and the tithes or rent-charge thereof shall belong to the same person in virtue of his benefice, or of any dignity, office, or appointment held by him.

Tithes and rent-charge of glebe may be merged.

7. That in every case of merger of tithes or rent-charge issuing out of land of copyhold tenure, and subject to arbitrary fine, it shall be lawful for the said commissioners, on the application of the owner of such land, to ascertain, by such ways and means as they shall think fit, the annual value of the tithes or rent-charge so merged or intended to be merged; and the said commissioners shall in such case cause to be indorsed on the deed, declaration, or other instrument effecting such merger, a certificate under their

Provision for deducting value of tithes and rent-charge from arbitrary fines n

(a) See 6 & 7 Will. 4, c. 71, ss. 62, 70, ante, p. 707; 1 Vict. c. 69, s. 8, ante, p. 715.

(b) See 6 & 7 Will. 4, c. 71, s. 76, ante, p. 709; and s. 18 of this Act, post, p. 721.

2 & 3 Vict. c. 62.

cases of merger in copyholds. 1 & 2 Vict. c. 64, s. 4.

hands and seal, setting forth such annual value so ascertained; and in every case of future assessment of fine on the lands which before such merger were subject to such tithes or rent-charge, the parties entitled to such fine shall assess the same as if such lands were subject to the tithes or rent-charge of which the annual value shall be so endorsed; and the production of such deed, declaration, or instrument of merger, or of a duplicate thereof, with such certificate endorsed, or of an office copy of such deed, declaration, or instrument and certificate endorsed thereon, shall be sufficient evidence of the annual value of such tithes or rent-charge.

Power to make award by way of supplement to parochial agreement in cases of fraud, &c.

8. That, notwithstanding anything in the said Acts or any of them contained, in any case where a parochial agreement for rent-charge or for giving land instead of tithes, or any compulsory award, has been duly confirmed by the said commissioners, and it shall appear to them, at any period before the confirmation of the apportionment of such rent-charge, that by reason of fraud, or by the omission or insertion through error of the tithes or lands of any party thereto, or of the name of any person, whether as titheowner or landowner, who ought, or, as the case may be, who ought not, to have been party thereto, or any other manifest error, that such agreement or award would be unjust, and that if such fraud, omission, insertion, or other manifest error had not occurred the said commissioners would have come to a different conclusion in respect of such agreement or award, and would have declined to confirm or would have varied the same previous to such confirmation, it shall be lawful for the said commissioners, if they shall see fit, and in their sole discretion, but not otherwise, by a separate award to rectify such agreement or award in any of the matters aforesaid, in such manner as to them shall seem just; and all the provisions and powers of the recited Acts relating to compulsory awards shall be applied in every such case, in respect of the matter so dealt with, in as full a manner as if no such agreement or award had been made, or as if the same were made in respect of a separate district: Provided always, that in every such separate award the matter so dealt with, and the grounds on which the commissioners shall have seen fit to make the same, shall be recited or otherwise set forth in the draft thereof, in addition to the other particulars required by the said Acts, or any of them, to be set forth in compulsory awards; and every such award shall, in the notice of meeting for hearing objections thereto, be called a separate award by way of supplement to the parochial agreement or award in the parish to which such separate award relates.

Power after award to make parochial agreement for Easter offerings, &c. 6 & 7 W. 4, c. 71, s. 90.

9. That it shall be lawful, at any time before the confirmation of any apportionment after a compulsory award in any parish, for the landowners and titheowners, having such interest in the lands and tithes of such parish as is required for the making a parochial agreement, to enter into a parochial agreement for the commutation of Easter offerings, mortuaries, or surplice fees, or of the tithes of fish or fishing, or mineral tithes, and all the provisions, conditions, limitations, and powers of the said recited Acts or any of them, relating to parochial agreements, so far as the same shall in the judgment of the commissioners be applicable to the subject of the proposed commutation, shall be observed and applied in every such case as if no previous award had been made; and every such agreement may fix the period at which the rent-charge to be paid under such agreement shall commence, but so nevertheless that the same and the subsequent payments thereof shall be made on some day fixed for the payment of the rent-charge awarded in such parish, and shall be recoverable from time to time by the means provided in the said Acts or either of them for the recovery of the rent-charges in the said parish.

Power to fix commencement of rent-charge.

10. That it shall be lawful for the commissioners in any compulsory award, or by any supplementary award, in cases where the parties shall not have fixed the same by parochial agreement, as under the said secondly recited Act is provided, to fix, or where the commissioners shall not have so fixed, for the landowners and titheowners, having such an interest in the land and tithes of any parish as is required for making a parochial agreement, to enter into a supplementary agreement for fixing, such sum as to them respectively shall seem fit to be paid in consideration of the time (if any) which may intervene between the termination of any previous agreement or composition for the payment of tithe and the time at which the rent-charge shall commence, either under such compulsory award or parochial agreement where the same shall have been previously made, and also for the said commissioners by their said award to fix, or for the landowners and titheowners having such interest in the lands and tithes of any parish as is required for the making a parochial agreement, at any time after such award, and before the confirmation of the apportionment, to enter into a supplementary agreement for fixing the period at which the rent-charge to be paid under such award shall commence, in like manner and subject in both cases to the like conditions as are provided in the secondly-recited Act, enabling parties to agree to pay any such sum, or to fix the period at which any rent-charge shall commence (*a*).

(*a*) See 6 & 7 Will. 4, c. 71, s. 67, ante, p. 707; 1 Vict. c. 69, s. 11, ante, p. 715; 3 & 4 Vict. c. 15, ss. 1, 11, 12, 13, post, pp. 725, 728.

The tithe commissioners, in their circular letter of 27th August, 1839, recommend all titheowners to take care that the first instalment of their rent-charge is made due, and that tithe should cease to exist, on some quarter-day *after* the confirmation of the apportionment. This will pre-

11. That where lands are exempted from the payment of tithes, or of rent-charge instead of tithes, whilst in the occupation of the owner of such lands, by reason of having been parcel of the possessions of any privileged order, it shall be lawful for the respective owners of the said lands and tithes or rent-charge, by the parochial agreement for the rent-charge, or by a supplemental agreement in cases where the parochial agreements or any award shall have been confirmed by the said commissioners, to be made in such form as the commissioners shall direct or approve, to agree to the payment, or for the commissioners in the case of a compulsory award, with the consent of the respective owners of the said lands and tithes, to award the payment of a fixed and continuing rent-charge, without regard to the change of occupation or manurance of such lands, equivalent in value, according to the judgment of the commissioners, to such contingent rent-charge; and such lands shall, from the date of the confirmation by the commissioners of such parochial agreement or supplemental agreement or award, as the case may be, or from such date as shall be fixed by the parties, with the approval of the said commissioners, in any such agreement or supplemental agreement, be subject to such fixed rent-charge instead of the contingent tithes or rent-charge to which such lands were subject previous to such agreement or supplemental agreement or award being made; and every such fixed rent-charge shall from such period respectively be paid and recoverable by the means provided in the said Acts, in like manner as if the same had been the rent-charge originally fixed in any parochial agreement or award in respect of the said tithes (*a*).

2 & 3 Vict. c. 62.

Fixed rent-charge may be substituted for contingent rent-charge on lands partially exempt. 6 & 7 W. 4, c. 71, s. 71.

12. "And whereas certain crown lands, by reason of their being of the tenure of ancient demesne or otherwise, are exempted from payment of tithes whilst in the tenure, occupation, or manurance of her majesty, her tenants, farmers, or lessees, or their under-tenants, as the case may be, but become subject to tithes when aliened or occupied by subjects not being tenants, farmers, or lessees of the crown, and doubts have arisen how far the provisions of the said first-recited Act, relating to lands heretofore parcel of the possessions of any privileged order, or in the nature of glebe, or otherwise in like manner privileged and partially exempt, are applicable to such crown lands;" BE IT DECLARED AND ENACTED, That all and every the said provisions of the said first-recited Act do extend to such crown lands, and that the provision lastly in this Act contained for substituting a fixed rent-charge instead of a contingent rent-charge on lands partially exempt from tithes shall extend and be applicable to such crown lands as aforesaid: Provided always, that no such fixed rent-charge shall be substituted instead of such contingent rent-charge on such crown lands without the consent of the persons or officers who are by the said first-cited Act respectively required to be substituted in cases of commutation of tithes where the ownership of lands or tithes is vested in her majesty (*b*).

Provisions of 6 & 7 W. 4, c. 71, ss. 43 & 71, for substituting fixed rent-charge extended to crown lands.

13. "And whereas large tracts of land called lammas lands (*c*) are in the occupation of certain persons during a portion of the year only, and are liable to the tithes of the produce of the said lands increasing and growing thereon during such occupation, and at other portions of the year are in the occupation of other persons, and in their hands liable to different kinds of tithes arising from the agistment, produce, or increase of cattle or stock thereon; and by reason of such change of occupation such last-mentioned tithes cannot be commuted for a rent-charge issuing out of or fixed upon the said lands, and the said recited Acts are thereby rendered inoperative in the several parishes where such lammas lands lie: And whereas the said Acts are in like manner inoperative in certain cases where a personal right of commonage, or a right of common in gross, is vested in certain persons by reason of inhabitancy or occupation in the parish where any common may lie, or by custom or vicinage, but without having such right of common so annexed or appurtenant to or arising out or in respect of any lands on which any rent-charge could be fixed instead of the tithes of the cattle or stock, or their produce, increase, or agistment, on such common, annexed to such personal right:" for remedy thereof, BE IT ENACTED, That in every case where by reason of the peculiar tenure of such lands, and the change during the year of the occupiers thereof, or of such right of commonage, a rent-charge cannot, in the judgment of the said commissioners, be fixed on the said lands in respect of cattle and stock received and fed thereon, or of the produce and increase of such cattle and stock, at such portion of the year as the said lands are thrown open, or where such right of commonage alone exists, it shall be lawful

Provision for tithes of lammas lands, &c.

---

vent the possibility of there being an interval between the signing of the agreement and the confirmation of the apportionment, during which they may find it practically very difficult to collect either tithe or rent-charge.

(*a*) See 6 & 7 Will. 4, c. 71. s. 21, ante, p. 494; s. 43, p. 699; s. 71, p. 707; 3 & 4 Vict. c. 15, s. 14, post, p. 729.

(*b*) This section removes a doubt which existed, whether or not the 43rd and 71st sections of the 6 & 7 Will. 4, c. 71, authorised a contingent rent-charge in lieu of tithes to be fixed in respect of crown lands, which are now exempt from tithes, but which may hereafter become subject to tithes, when aliened or occupied by subjects not being tenants, farmers, or lessees of the crown. The tithes of such crown lands may now be dealt with in the same manner as the tithes of lands parcel of the possessions of privileged orders.

(*c*) See 2 Bla. Comm. 34.

2 & 3 Vict. c. 62.

for the parties interested in such lands or commons and the tithes thereof in the case of a parochial agreement, or for the commissioners in the case of a compulsory award, in every such parochial agreement or award respectively, or by any supplemental agreement in the nature of a parochial agreement, or by a supplemental award, as the case may be, where any parochial agreement or award has been already made, to fix a rent-charge instead of the tithes of such lammas land or commons, to be paid during the separate occupation thereof by the separate occupiers, in like manner as other rent-charges are fixed by the said Acts or any of them, and to declare in such agreement or award, or supplemental agreement or award, as the case may be, such a sum or rate per head to be paid for each head of cattle or stock turned on to such lammas land or commons by the parties entitled to the occupation thereof after the same shall have been so thrown open, or by the parties entitled to such right of commonage as aforesaid: and every such sum shall be ascertained and fixed upon a calculation of the tithes received in respect of such last-mentioned occupation or right for the period and according to the provisions for fixing rent-charges in the said recited Acts, and shall be due and payable by the owner of such cattle or stock on the same being first turned upon such lands or commons, and shall be recoverable by the persons entitled thereto by distress and impounding of the cattle or stock in respect of which such sum shall be due, in like manner as cattle are distrained and impounded for rent, and be subject to the same provisions as to distress and replevin of the same as are by law provided in cases of distress for rent: Provided always, that nothing herein contained shall extend to lammas lands where no tithes or payments instead of tithes have been taken during the seven years ending at Christmas, 1835, in respect of the cattle or stock received and fed thereon, or of the produce and increase of such cattle or stock at such portion of the year as the said lands are thrown open (*a*).

Rent-charge in respect of tithes of common appurtenant to be a charge on the allotments made in respect of the lands to which right of common attached.

14. "And whereas in certain cases of commons hereafter to be inclosed allotments may be made in respect of tenements and hereditaments to which a right of going on such common is appendant or appurtenant, the tithes whereof would be chargeable on the tenements or hereditaments in respect of which such allotments may be made, and such tenements or hereditaments are not of themselves an adequate security for the rent-charge to be fixed in respect of such tithes:" BE IT THEREFORE ENACTED, That in every such case the rent-charge to be fixed instead of such tithes shall be a charge upon and recoverable out of any allotments to be in future made in respect of such rights, as well as upon such tenements or hereditaments in respect of which such allotments are made, and by the same ways and means as are provided for the recovery of rent-charges by the said Acts or any of them, or this Act (*b*).

Recited Acts extended to collegiate bodies, &c., notwithstanding restraining statute. 6 & 7 W. 4, c. 71, s. 87.

15. That all the provisions in the recited Acts or any of them in any way relating to or enabling the pulling down or sale of barns and buildings generally used for housing tithes paid in kind, and the sale of the materials and the site thereof, either with or without any farm buildings or homesteads thereto belonging, and for the conveyance and delivery thereof, and for securing the consideration money for the benefit of the persons thereunto entitled, shall apply to and may be made available by any corporate body or person, whether as trustees or otherwise, by any master and fellows of any college, dean and chapter of any cathedral or collegiate church, master or guardian of any hospital, parson, vicar, or any other having any spiritual or ecclesiastical living, being seised or possessed of any such barns or buildings, or the site thereof, notwithstanding anything in a certain statute made in the thirteenth year of the reign of queen Elizabeth, for making void fraudulent deeds made by spiritual persons to defeat their successors of remedy for dilapidations, or in any other statute.

13 Eliz. c. 10.

6 & 7 W. 4, c. 71, s. 77, extended to corporate and collegiate bodies.

16. That so much of the said Acts or any of them as enables any owner of a particular estate in lands or tithes to charge so much of the expenses of the commutation as is defrayed by him, or any part thereof, and the interest thereon, upon the lands whereof the tithes are commuted, or upon the rent-charge to be received by him instead of such tithes respectively, shall in like manner extend and be applicable to and may be made available by any corporate body or person, master or fellows of any college, dean and chapter of any cathedral or collegiate church, master or guardian of any hospital, parson, vicar, or any other having any spiritual or other ecclesiastical living, and whether seised in fee or for a limited estate in such lands, tithes, or rent-charge, anything in the said statute of queen Elizabeth, or any other restraining statute, or in the tenure by which such lands, tithes, or rent-charge respectively are holden, to the contrary notwithstanding, but so nevertheless that the charge upon such lands or rent-charge respectively shall be lessened in every year following such commutation by one twentieth part at least of the whole original charge thereon.

Colleges and corporations aggregate may charge expenses on other lands

17. That it shall be lawful for any ecclesiastical corporation aggregate, or any collegiate body, with the consent of the said commissioners testified under their hands and seal, to charge with the amount of the expenses of commuting the tithes of any lands of which they are owners, or any part of such expenses, with interest thereon, on any other lands holden by them to the same uses or on the same trusts as the lands in respect of

---

(*a*) By 3 & 4 Vict. c. 15, s. 15, post, p. 729, the powers given by this section may be exercised by supplemental agreement after award, and by supplemental award after agreement.

(*b*) See 5 & 6 Vict. c. 54, s. 14, post, p. 735.

which such expenses were incurred, but so nevertheless that the charge upon such lands shall be lessened in every year following by one-twentieth part at the least of the whole original charge thereon.

2 & 3 Vict. c. 62.

than those in respect of which such expenses are incurred.

18. That payment of the expenses of or incident to making any apportionment, or any other expenses which the said commissioners are authorised, and may have ordered or may order to be paid by any owner of lands under and by virtue of the recited Acts, or any of them, or this Act, may be enforced by the same ways and means as payment of rent-charge in arrear may be enforced under the provisions of the said Acts or either of them (*a*).

For recovery of expenses of apportionment.

19. That so much of the said first-recited Act as enables any landowner, either by parochial agreement or individually, to give land instead of tithes or rent-charge at any time before the confirmation of any instrument of apportionment, shall be and the same is hereby extended, and the powers and provisions for that purpose may be exercised in every such case at any time, as well after as before such confirmation of the apportionment as aforesaid, during the continuance of the commission constituted and with the consent of the commissioners appointed and acting under the said first-recited Act.

Extension of 6 & 7 W. 4, c. 71, ss. 29, 62, for giving land in lieu of tithes.

20. That in any case where any land shall have been or shall hereafter be taken by any ecclesiastical titheowner under any agreement for the commutation of any tithes, or for giving land instead of any rent-charge, under the recited Acts, or any of them, or this Act, such land shall upon the confirmation of such agreement vest absolutely in such titheowner and his successors, free from all claims of any person or body corporate, and without being thereafter subject to any question as to any right, title, or claim thereto, or in any manner affecting the same; and the commissioners shall cause to be inserted in or endorsed upon every such agreement the amount of the rent-charge instead of which such land was given, and the lands upon which the same was chargeable; and every person who if this Act had not been made would have been entitled to recover any such land given instead of rent-charge, or any rents or profits issuing out of such land, shall be entitled to recover against the party or parties giving such land instead of tithes or rent-charge, his, her, or their heirs, executors, or administrators, by way of damages, in an action on the case, such compensation as he or she may be entitled to for any loss thereby sustained; and such damages, and all costs and expenses awarded to the plaintiff in such action, shall forthwith attach upon and be payable out of the lands exonerated by such agreement.

Lands taken by ecclesiastical titheowners instead of tithes to vest absolutely in them.

21. That all agreements and other assurances which shall be made for the purpose of effecting the taking of land instead of rent-charge under the provisions of the said recited Acts, or any of them, or this Act, shall be valid and effectual for the purpose of vesting an estate of inheritance as to such lands in such ecclesiastical titheowner and his successors, notwithstanding the same be made by any corporation sole or aggregate, or any trustees or feoffees for charitable purposes, otherwise restrained from or incapable of making any such valid conveyance or assurance (*b*).

Corporations, trustees, and feoffees to charitable uses may convey lands.

22. That the provisions and conditions of the said secondly-recited Act, whereby the said commissioners are enabled to confirm any instrument of voluntary apportionment, although they shall not be satisfied of the accuracy of any map or plan annexed thereto, or that the several quantities of land specified in such apportionment or agreement are therein truly stated, shall extend to enable the commissioners, if they shall think fit, to confirm any compulsory apportionments to which any existing map or plan, agreed to be adopted at a parochial meeting, shall be annexed, although the said commissioners shall not be satisfied of the accuracy of such map or plan, or that the several quantities of land specified in such apportionment are truly stated in such map or plan (*c*).

Apportionments may be confirmed though commissioners not satisfied of accuracy of maps. 7 W. 4 & 1 Vict. c. 69, s. 1.

23. "And whereas in and by the said first-recited Act the words 'landowner' or 'titheowner,' or 'owner of lands,' or 'owner of tithes,' are defined to mean and include every person who shall be in the actual possession or receipt of the rents or profits of any lands or tithes, except (amongst other exceptions) any tenant for life or lives, or for years, holding under a lease or agreement for a lease on which a rent of not less than two-thirds of the clear yearly value of the premises therein shall have been reserved, and that without regard to the real amount of interest of such person; and in every case in which any tithes or lands shall have been leased or agreed to be leased to any person for life or lives, or for years, by any lease or agreement for a lease on which a rent less than two-thirds of the clear yearly value of the premises comprised therein shall have been reserved, the person in receipt of such rent shall, jointly with the person liable to the payment thereof, be deemed for the purposes of the said Act to be the owner of such tithes or lands: And whereas certain allowances and expenses to surveyors and tithe valuers necessary for making any award, and all other expenses of or incident to making an award, are by the said recited Acts, or some of them, directed to be paid by the landowners and titheowners interested in the said award, in such proportion, time,

Expenses of apportionment to be borne in certain cases as commissioners may direct. 6 & 7 W. 4, c. 71, ss. 12, 74, 75.

Sect. 74.

(*a*) See 6 & 7 Will. 4, c. 71, ss. 81—85, ante, pp. 710, 711.

(*b*) See 3 & 4 Vict. c. 15, s. 17, post, p. 729.

(*c*) The 1 Vict. c. 69, s. 1, ante, p. 713, authorised the commissioners to confirm any *voluntary* apportionment, although they were not satisfied as to the accuracy of the maps. This section gives the same power with respect to *compulsory* apportionments.

2 & 3 Vict. c. 62.

Sect. 75.

and manner as the commissioners or assistant commissioners shall direct; and the expenses of or incident to making any apportionment are by the said first-recited Act to be paid by owners of lands in rateable proportions to the sums charged on the said lands in lieu of tithes by such apportionment: AND WHEREAS cases have occurred and may occur where by reason of the rent reserved in certain leases or agreements for leases not being less than two-thirds of the clear yearly value of the premises thereby demised or agreed to be demised at the date or time of coming into operation of such leases or agreements, but which premises are at the time of putting in force the provisions of the said recited Acts of improved yearly value, so that the rent originally reserved or agreed for is less than two-thirds thereof, but by the operation of the said recited words, as defined in the said first-recited Act as aforesaid, such expenses, or a part thereof, would under the said Acts be chargeable on the original lessor or original lessee, and not on the intermediate or sub-lessors or lessees, whose beneficial interest in the said lands and tithes, or rent-charge in lieu of tithes, is proposed to be or has been dealt with under the said recited Acts, or some or one of them, or this Act: And whereas certain other cases have occurred and may occur in which it is expedient that the commissioners should be empowered to vary and fix the proportion of the expenses of apportionment, including therein the expenses of or incident to the map or plan annexed thereto, and the copies thereof, between the owners of the lands affected thereby, as such owners are defined in the said first-recited Act as aforesaid, and according to such principles as to the said commissioners shall seem just and equitable:" BE IT ENACTED, That, notwithstanding anything in the said Acts or any of them contained, it shall be lawful for the commissioners, in such cases as they may deem it just and equitable, to order and direct that such expenses of or incident to any award, or any part thereof, shall be borne and paid in such proportion and manner, by and amongst the persons interested in the lands, tithes, or rent-charge respectively dealt with in such award, and that such expenses of or incident to any apportionment, or any part thereof, shall be borne and paid by and amongst the persons interested in the lands, in such proportions and manner respectively as the said commissioners shall direct; and such expenses and every or any part thereof shall in every such case be recoverable in like manner as expenses, or the share thereof to be borne by any person, are or is recoverable under the provisions of the said first-recited Act or this Act.

Award may be made of rent-charge to certain owners of tithes by general description. 6 & 7 W. 4, c. 71, ss. 12, 21, 50.

24. "And whereas in certain cases of compulsory award where tithes are held by one titheowner in different rights, or where by reason of owners of land having purchased or otherwise acquired such a beneficial interest in the tithes arising out of the same, for life or lives or for years, as under the said provisions of the said first-recited Act requires that such persons respectively should be dealt with and distinguished in such award as joint owners with the lessor of or the person having the reversionary interest in such tithes, but great difficulties have arisen in distinguishing the sums payable to each such titheowner, as also in distinguishing the respective lands out of which the tithes accruing to any such titheowner, either as holding such tithes in different rights or as joint titheowner, arise, or whereon any several rent-charge should be awarded, and the completion of such award has been thereby impeded:" BE IT ENACTED, That in any such case it shall not be necessary in any such award to distinguish the lands or award a several rent-charge to each such owner of the tithes by name, or otherwise to distinguish such titheowner, but it shall be sufficient to award a gross rent-charge to such owner of tithes in different rights in respect of such tithes so held by him, or, as the case may be, to the original lessor of such tithes, or the person in whom the ultimate reversion thereof shall be, by his proper name and description, and in any such case of joint ownership to the several persons claiming under him, and being so respectively joint owners of such tithes, by such general terms and description as to the commissioners or assistant commissioner making such award shall seem fit: Provided always, that the name of each such titheowner, and the lands out of which his respective tithes, or the portion of such gross rent-charge instead of such tithes, shall respectively accrue or issue, shall be distinguished in the instrument of apportionment made in pursuance of such award; and every such titheowner shall be as fully entitled to take, hold, and recover such portion of the rent-charge as shall be so apportioned in such instrument of apportionment, upon the several lands the tithes or rent-charge whereof are so held by him respectively, according to his respective term and interest in such tithes or the rent-charge, in as ample a manner as if such titheowner and lands had been respectively named and distinguished in such award under the provisions of the said first-recited Act (*a*).

Commissioners may adjourn meeting

25. That it shall be lawful for the said commissioners to adjourn any meeting by notice in writing under their hands or the hands of any two of them to be affixed and published in manner provided for notices in the said firstly-recited Act (*b*), without any

---

(*a*) The commissioners have made the following order in reference to this provision:—"Ordered, that if any assistant commissioner shall find it expedient in an award to assign only one rent-charge to a person or persons holding parcels of tithes under different titles, he shall, previously to doing so, make a report of the circumstances of the case to this board, and wait for an especial permission before he proceed further."

(*b*) 6 & 7 Will. 4, c. 71, s. 20, ante, p. 694.

commissioner or assistant commissioner giving attendance for the purpose of making such adjournment. 2 & 3 Vict. c. 62.

without attending to adjourn.

26. That in case any of the lands in a parish the tithes whereof shall be in course of commutation under the provisions of the said first-recited Act shall be orchards or fruit plantations, and notice in writing, under the hands of any of the owners thereof whose interest therein shall not be less than two-thirds of the whole of the orchards and fruit plantations in such parish, shall be given to the valuers or commissioners or assistant commissioner by whom any apportionment provided for by the said Act shall be made at any time before the draught of such apportionment shall be framed, that the tithes thereof should be distinguished into two parts, the amount which shall be charged by any such apportionment upon the several orchards and fruit plantations in such parish shall be distinguished into two parts accordingly, and the same shall be called the ordinary charge and the extraordinary fruit charge; and the extraordinary charge shall be a rate per imperial acre, and so in proportion for less quantities of ground, according to the discretion of the valuers or commissioners or assistant commissioner by whom such apportionment shall be made as aforesaid. Provision for dividing the tithe of fruit plantations in certain cases.

27. That all lands the tithes whereof shall have been commuted under the said Act, which shall be situate within the limits of any parish in which an extraordinary fruit charge shall have been distinguished as aforesaid at the time of commutation, and which shall be newly cultivated as orchards or fruit plantations at any time after such commutation, shall be charged with an additional amount of rent-charge per imperial acre equal to the extraordinary fruit charge per acre in that parish: Provided always, that no such additional amount shall be charged in respect of any plantation of apples, pears, plums, cherries, and filberts, or of any one or more of those fruits, during the first five years, and half only of such additional amount during each of the next succeeding five years, of such new cultivation thereof; and that no such additional amount shall be charged in respect of any plantation of gooseberries, currants, and raspberries, or of any one or more of those fruits during the first two years, and half only of such additional amount during each of the next succeeding two years, of such new cultivation thereof; and that no such additional amount shall be charged in respect of any mixed plantation of apples, pears, plums, cherries, or filberts, and of gooseberries, currants, or raspberries during the first three years, and half only of such additional amount during each of the next succeeding three years, of such new cultivation thereof. Newly cultivated fruit plantations to be charged an additional sum.

28. That all lands the tithes whereof shall have been commuted as aforesaid, which shall be situated within the limits of any parish in which an extraordinary fruit charge shall have been distinguished as aforesaid, and which shall cease to be cultivated as orchards or fruit plantations at any time after such commutation, shall be charged, after the 31st day of December next following such change of cultivation, only with the ordinary charge upon such lands. Fruit plantations when displanted to be relieved from additional charge.

29. Provided also, That in case any lands within the limits of a parish in which an extraordinary fruit charge shall have been distinguished as aforesaid shall have been or shall at any time be planted with fruit, and also with hops, the same shall, during the continuance of such mixed plantation of hops and fruit, be liable to the extraordinary hop charge only, or to the extraordinary first charge only, payable in respect of the same lands, not to both those charges; and that the extraordinary charge to which the lands so planted shall be liable shall be the higher of the two for the time being. Provision for mixed plantations of hops and fruit.

30. That where any land liable to any such extraordinary charge for the tithes of a mixed plantation of hops and fruit shall at the time of the commutation produce both rectorial and vicarial tithes payable to different persons, the apportionment shall set out the same, distinguishing the amount of ordinary and extraordinary charge payable to each titheowner, and shall divide the whole acreable extraordinary charge between such titheowners, according to the quantity of land producing rectorial tithe, and the quantity producing vicarial tithe. When land subject to rectorial and vicarial tithe, acreable rent-charge to be fixed.

31. That in all cases in which there shall be hereafter mixed plantations of hops and of such fruit as aforesaid in any parish or district in which an extraordinary fruit charge shall have been declared, the rectorial and vicarial tithes whereof but for the commutation would have been payable to different owners, the extraordinary charge payable in respect of the tithes of such mixed plantation shall be divided between such owners in proportion to the extent of land occupied by that produce which would have paid tithes to each of them respectively: Provided always, that payment of the share of each titheowner, when so ascertained, shall be taken to be subject to the provisions contained in the said first-recited Act and in this Act for lessening the amount of extraordinary charge payable in respect of hop gardens and orchards respectively at the beginning of such cultivation. Provision for future mixed plantations.

32. That for the purpose of fixing any charge for the tithes of hops or fruit, or of any mixed plantation as aforesaid, the commissioners may, if they see fit, assign the parish or lands in respect of which due notice shall have been given, requiring the tithes thereof to be separately valued, as required by the said first-recited Act, or any part or parts of such parish or lands, as a district under the provisions of the said Act, and may fix a charge upon such lands in respect of the tithes of hops or fruit as the rent-charge to prevail and to be established in respect of the same, without specific reference in the award to any other parish or lands, but having regard nevertheless to the general How the rent-charge for hops and fruit may be fixed in certain cases.

2 & 3 Vict. c. 62.

amount of compositions which they shall find to have prevailed in other parishes of a similar description, and not to the money payments in the parish under consideration, or the value of the tithes in kind therein (*a*).

Provision for giving effect to parochial agreements and proceedings thereon in certain cases of extraordinary charge.

33. That the provisions of the said first-recited Act for distinguishing rent-charges apportioned upon lands cultivated as hop grounds into two parts, and for relieving lands from and subjecting the same to an extraordinary charge when ceased to be cultivated, and when newly cultivated as such respectively, shall be held to extend to parochial agreements already or hereafter made, and to the proceedings consequent thereupon, and to the lands discharged from tithes by virtue thereof; and that every such agreement and proceeding, whereby any district has been or shall be assigned for establishing or distinguishing into two parts any rent-charge in respect of lands cultivated as aforesaid, shall be deemed valid, operative, and effectual for all the purposes of the said recited Acts and of this Act, and that every district assigned by virtue thereof shall be deemed a district duly assigned, and every rent-charge created thereby a valid rent-charge for the like purposes.

For the settlement of disputes as to boundaries.

34. That in case there shall be any question between any parishes or townships, or between any two or more landowners, touching the boundaries of such parishes or townships, or the lands of such landowners respectively, or if such parishes or townships or landowners shall be desirous of having such boundaries ascertained or a new boundary line defined, it shall be lawful for the said commissioners, or any assistant commissioner, on the application in writing of a majority of not less than two-thirds in number and value of the landowners of such parishes or townships in the case of parochial or township boundaries, or on the like application of such two or more landowners in the case of boundaries between their lands, to deal with any dispute or question concerning such boundaries, and to ascertain, adjust, set out, and define the ancient boundaries between such parishes or townships or the lands of such landowners respectively, or draw and define a new line of boundary, as they may see fit; and in every such case the powers and provisions of the said recited Acts and of this Act, so far as the same may, in the judgment of the said commissioners or assistant commissioner respectively, be applicable, shall extend and may be applied by them or him to such question; and the boundary line so ascertained or newly defined by the said commissioners or assistant commissioner shall thenceforward be the boundary line of and between such parishes, townships, or lands of such landowners respectively for all purposes whatsoever: Provided always, that nothing in this provision contained shall extend to any boundary or part of a boundary being also the boundary line or part of the boundary line of any county, or to the boundary line of any copyhold or customary land, unless the consent in writing of the lord of the manor whereof such land is holden to such application being dealt with by the said commissioners or assistant commissioner shall have been first sent to them or him for such purpose: Provided also, that every such boundary line shall be duly set out and delineated on the map annexed to the schedule of appointment (*b*), or upon a separate plan to be attached thereto, with proper descriptions and references, showing in what respects such map so annexed to the apportionment is varied, and in what respect the several closes whereon any rent-charge is fixed are affected thereby; and such map shall in every such case be deemed to be varied by such plan, and be as valid for all purposes as if the same had been originally drawn and sealed or certified by the said commissioners with such variation (*c*).

How questions of boundary removed before queen's bench are to be dealt with.

35. That in every case in which any judgment or determination of the commissioners or of any assistant commissioner respecting the boundary of any parish, district, or lands shall have been or shall be removed into the court of queen's bench, it shall be lawful (*d*) for the court to direct the trial of one or more feigned issues upon such points as the court shall think fit, and also to direct who shall be the plaintiff or plaintiffs and who shall be the defendant or defendants on such trial, or determine the same in a

---

(*a*) By 3 & 4 Vict. c. 15, s. 18, post, p. 721, parties to a parochial agreement and the commissioners may declare the amount of extraordinary charge to be payable in respect of hop grounds, &c.

(*b*) This should have been *apportionment*.

(*c*) See 6 & 7 Will. 4, c. 71, s. 45, ante, p. 700; 1 Vict. c. 69, s. 2, ante, p. 713; *In re Dent Commutation*, 8 Q. B. 43, and *Reg.* v. *Hobson*, 19 L. J., Q. B. 262, *Id.*; 3 & 4 Vict. c. 15, s. 28, post, p. 731.

An award under the 1 Vict. c. 69, and this Act, as to the boundary of a parish, is not conclusive as to what was the boundary before the award was made (*Reg.* v. *Inhabitants of Madeley*, 15 Q. B. 43).

Where, in one of two adjoining parishes in different counties, the commutation of tithes had been made by voluntary agreement, and in the other by a compulsory award of the tithe commissioners, and before and at the time of the commutations a dispute had existed as to the boundary line between the two parishes, the same line being also the boundary line between the two counties, and the commissioners, against the consent of one of the parishes, proceeded to make an award to settle the boundary, it was held that they had no power, under the 1 Vict. c. 69, or this Act, to do so, and the court restrained them by writ of prohibition (*In re Ystradgunlais Commutation*, 8 Q. B. 32).

(*d*) This gives the court a *discretion* whether they will direct an issue or not (*Reg.* v. *Merson*, 3 Q. B. 895).

summary manner, or otherwise to dispose of the question or questions in dispute, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable. 2 & 3 Vict. c. 62.

36. That it shall be lawful for the said commissioners and for such assistant commissioner as aforesaid, to order and direct that all reasonable costs, charges, and expenses already or hereafter to be incurred by any parties interested in or about any inquiry into any boundary which the said commissioners or such assistant commissioner are or is authorised to settle, shall be borne and paid in such proportion and manner by and amongst the several other parties interested therein (as well those who shall have signed a request to the tithe commissioners that the said commissioners should inquire into and settle such boundaries, as every other person interested, who shall, either personally, or by his or her counsel, attorney, or agent, appear upon such inquiry before the said commissioners or before such assistant commissioner) as the said commissioners or any such assistant commissioner shall direct; and such costs, charges, and expenses, and every part thereof, shall in every such case be recoverable in the like manner as expenses or the share thereof to be borne by any person are or is recoverable by the recited Acts or this Act. Commissioners may award costs of inquiry into boundaries.

37. That this Act shall be taken to be a part of the first-recited Act for the commutation of tithes in England and Wales, and of the secondly-recited Act for amending the same, and of the said thirdly-recited Act to facilitate the merger of tithes; and that in the construction of this Act, unless there be something in the subject or context repugnant to such construction, the several words used in this Act shall have and bear the same interpretation as is given to such words respectively in the said recited Acts or either of them (a); and whenever a word importing the singular number or masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as one matter or thing respectively, and the converse. This Act to be taken as part of 6 & 7 W. 4, c. 71.

3 & 4 Vict. c. 15. An Act further to explain and amend the Acts for the Commutation of Tithes in England and Wales.

[4th June, 1840.]

3 & 4 Vict. c. 15.

"Whereas by an Act passed in the seventh year of the reign of his late majesty king William the fourth, intituled 'An Act for the Commutation of Tithes in England and Wales,' IT IS ENACTED, that from the 1st day of January next following the confirmation of any apportionment in any parish under the said Act the lands of such parish shall be absolutely discharged from tithes, except as in the said Act is provided in certain cases, and instead thereof there shall be payable to the person entitled to such tithes, and in that behalf mentioned in the said apportionment, a sum of money in the nature of a rent-charge issuing out of the lands charged therewith; and by an Act passed in the first year of the reign of her present majesty, intituled 'An Act to amend an Act for the Commutation of Tithes in England and Wales,' provision is made for the lands in a parish being discharged from tithes (except as in the said first-recited Act is excepted) by agreement between the parties to any parochial agreement or supplemental agreement, from certain days preceding or following the confirmation of the apportionment, instead of the said 1st day of January next following such confirmation, but so that the first payment of the rent-charge be made and recoverable at the expiration of six calendar months from the time from which such lands are discharged from the payment of tithes; and by an Act passed in the last session of parliament the commissioners appointed under the said first-recited Act are enabled by their award, and the landowners and titheowners by supplemental agreement, in like manner to fix the period at which any rent-charge shall commence: And whereas, after an agreement for or award of rent-charge has been made and confirmed by the said commissioners, much delay is often occasioned in settling and adjusting the apportionment before the same can be confirmed by the commissioners; and, to avoid the loss of the proportion of tithes or composition for the period intervening between the expiration of any former agreement or composition and the commencement of such rent-charge, the titheowner is compelled to have recourse to taking tithes in kind, or to a suit in equity; and in other cases, by reason of the lands so remaining subject to tithes, or composition for tithes, during such period, such tithes continue to be taken in kind, or may be so taken on the determination of any composition existing at the date of such agreement or award, notwithstanding that the parties have agreed for, or the commissioners awarded, the sum which under the provisions of the said Acts ought to be taken as the permanent rent-charge payable instead of such tithes; and great hardship is thereby occasioned, contrary to the spirit and intent of the said Acts: And whereas it is expedient to make provision for remedy thereof, and otherwise to explain and amend the said recited Acts, in manner hereinafter mentioned:" BE IT THEREFORE ENACTED, That in every case where an annual sum by way of rent-charge shall have been fixed in any parish, instead of the tithes of such parish, either by agreement or award, it shall be lawful for the said

6 & 7 W. 4, c. 71, s. 67.

1 Vict. c. 69, s. 11.

2 & 3 Vict. c. 62, s. 10.

Power to declare lands discharged

(a) See 6 & 7 Will. 4, c. 71, s. 12, ante, p. 691; 1 & 2 Vict. c. 64, s. 5, ante, p. 716.

3 & 4 Vict. c. 15.

from tithes in certain cases after confirmation of the award or agreement for gross rent-charge.

commissioners, by a declaration in writing under their hands and seal of office, or the hands of any two of them, at any period after the confirmation of any such agreement or award respectively, and before the confirmation of the apportionment to be made in respect of the rent-charge so fixed, upon the application in writing of any landowner or occupier, and upon such security being given to the said commissioners as they shall in their discretion think sufficient for the due payment to the parties entitled thereto of such rent-charge from the day to be fixed in such declaration, to declare that the lands in such parish shall be discharged from the liability to payment or render of tithes, or composition or rent in the nature thereof instead of tithes, and that instead thereof the annual payment or rent-charge so fixed by any such award or agreement respectively shall be paid to the person entitled to the same by half-yearly payments, commencing and calculating from such day of discharge named in such declaration as aforesaid: Provided always, that the day to be fixed in such declaration of the said commissioners as aforesaid shall, in every case in which any agreement for a composition or rent in the nature thereof instead of tithes shall be in force at the time of making such application to them as aforesaid, be the day on which such composition or rent shall determine, and in every other case shall be either the 1st day of January, the 1st day of April, the 1st day of July, or the 1st day of October, either before or after the day on which the agreement or award fixing the amount of such rent-charge shall bear date, as to the said commissioners shall appear most just and equitable: Provided also, that when such period of discharge shall have been fixed to take effect from any of such days preceding the date of such agreement or award, the said commissioners shall cause due inquiry to be made, and shall allow and deduct from the first payment to be made under such security the value of any tithes which shall have been rendered in kind, and the amount of any payment in respect of tithes or composition or rent as aforesaid, which shall have been made between such day and the date of such first payment of rent-charge.

As to the time of commencing such rent-charge.

Intermediate payments, &c., to be deducted.

Leases of tithes granted before 25th March not to be affected by this Act.

2. Provided also, that nothing in this Act shall extend or be construed to extend to annul or make void any lease or leases of tithes granted before the 25th day of March, and which shall end or determine on or before the 1st day of January next; and that in any parish or place where such lease or leases shall have been granted as aforesaid, no tithepayer shall be at liberty to make the application hereby authorised to be made, until after the expiration of such lease or leases respectively, except in respect of lands the tithes whereof are not included in such lease.

Notice of declaration to be published.

3. That the said commissioners shall, within ten days after the receipt of such application, cause notice thereof to be given to the titheowner to whom such rent-charge will be payable, and shall cause notice of such declaration to be twice published in some newspaper having circulation in the county where such parish is situated within twenty-one days from the date of such declaration, and from and after the expiration of such twenty-one days all the provisions of the said recited Acts applicable to the rent-charge payable after the confirmation of the apportionment shall be applicable to the rent-charge payable by virtue of the provisions hereinbefore contained from the period fixed by any such declaration.

Provision for landowner paying estimated proportion of rent-charge in aid of security.

4. That if any owner of lands so discharged from such liability shall be desirous of paying, in exoneration of such security, the proportion of rent-charge to which the whole of such lands, whether in his own occupation or in the occupation of any tenant, shall be liable, it shall be lawful for such owner to apply in writing to the valuer or valuers appointed to apportion such rent-charge, at any time after they shall have subscribed the declaration required in that behalf in the said first-recited Act (a), and before the confirmation of the apportionment, and to demand of such valuer or valuers a statement of the probable amount of such proportion, and such valuer or valuers shall and he or they is or are hereby required to furnish the same accordingly, and shall distinguish therein the probable amount to which the whole of the lands in the occupation of any tenant under such owner would be liable; and on receipt thereof such owner may cause a copy of such statement, or an extract of such parts thereof as shall relate to the lands in the occupation of any tenant, who, but for such declaration of discharge, would be liable to the render or payment of tithe in respect of such lands, to be served on such tenant by leaving the same at his usual place of abode, with an undertaking subscribed thereto by such owner to pay the amount set forth in such statement in aid or exoneration of such security; and in every such case such tenant shall thenceforward be liable to pay to such owner, by way of additional rent, such estimated proportion at the half-yearly days of payment fixed in the award or agreement for payment of rent-charge; and such owner shall be entitled to demand and recover the same as rent by all the usual remedies for recovery of rent in arrear, until the half-yearly payment falling due next after the confirmation of the apportionment: Provided always, that it shall be lawful for any such landlord or tenant at any time within six months after the date of such confirmation, to apply to the said commissioners to take an account of the amount paid by any such tenant, and certify the amount of the difference, if any, between the amount so paid and the amount of rent-charge calculated as finally apportioned on such lands for the same period as such estimated amount has been paid, and if the rent-charge finally apportioned shall be greater than the amount so paid it shall be lawful for such owner to demand and recover the difference accordingly; but if such tenant shall

(a) 6 & 7 Will. 4, c. 71, s. 34, ante, p. 696.

have paid more than the amount of such rent-charge, then it shall be lawful for such tenant, or (in case of his death) for his executors or administrators, to deduct the excess so verified as aforesaid from the next payment of rent accruing after the date of such certificate: Provided also, that in the event of the expiration or other sooner determination of the period of tenancy before the confirmation of the appointment such excess shall be deemed a debt due to the tenant, his executors or administrators, and shall be recoverable in an action of debt to be brought against such landowner as aforesaid, or his personal representatives. 3 & 4 Vict. c. 15.

5. That in every such case the production of such certificate as aforesaid, or of an office copy thereof sealed or stamped with the seal of the said commissioners, shall be sufficient evidence of the right to recover or retain the amount or excess in payment which shall appear by such certificate to have been made by the landowner or his tenant respectively. Certificate of commissioners to be evidence of right of recovery or retainer.

6. "And whereas it may happen that a tenant, being an occupier of lands, who shall by virtue of the provisions of the said first-recited Act be entitled to deduct the amount of any rent-charge from the rent payable by him to his landlord, may be desirous of paying, in exoneration of such security as aforesaid, the proportion of rent-charge to which the lands in his occupation shall be liable (*a*);" BE IT ENACTED, That upon the application in writing of any such tenant, the valuer or valuers shall, in like manner as aforesaid, furnish to such tenant a statement of the probable amount of such proportion of rent-charge as aforesaid, and on receipt thereof the tenant may cause a copy of such statement to be served on his landlord by leaving the same at his usual place of abode, accompanied by a written notice of his intention to undertake the payment of such proportion of rent-charge as aforesaid; and in case the landowner shall not, within twenty-one days after the service of such copy and notice, undertake, by some writing subscribed by him or his agent lawfully authorised, and served in like manner as aforesaid upon the tenant, to pay the amount set forth in such statement, it shall be lawful for the tenant to undertake the payment thereof, and from time to time to deduct the amount paid by him from his rent until the period at which the half-yearly payment of rent-charge to be made next after the confirmation of the apportionment shall have become due: Provided always, that in every such case the provisions hereinafter contained for taking accounts between the person who shall have given such security as aforesaid and the owners of lands subject to the rent-charge shall be applicable to the case of every such landowner from whose rental such deductions shall have been made as aforesaid. Provision for occupying tenant paying (in the place of his landlord) estimated proportion of rent-charge in aid of security.

7. That in every such case, if the person liable under such security shall not make due payment to the person entitled to the same according to the tenor of such security, it shall be lawful for the said commissioners, from time to time, as and when any half-yearly payment of such rent-charge shall accrue, and the same or any part thereof shall remain unpaid for the space of twenty-one days from any day fixed for payment thereof, and notwithstanding execution shall have been previously issued in respect of any former arrears, to sue for and recover any such half-yearly payment, or so much thereof as shall from time to time remain unpaid in respect thereof, against the person liable under such security, by taking out a summons returnable before a judge of any of the superior courts of common law, to compute what is due in respect of such rent-charge; and it shall be lawful for any judge of such courts, on hearing the parties, or such of them as shall appear, and on production of such security, and proof by affidavit of the amount so due as aforesaid, and of the service of the summons on such person or on any occupier of any of the lands of such person in any such parish, by delivery of the same personally, or by leaving the same at his place of abode, to order that it be referred to the masters of the court to compute what is due in respect of such security, and to tax the costs of such application, and all such orders shall have the effect of judgments in the superior courts of common law in like manner as rules of such courts (*b*), and execution may issue accordingly, and such security shall be available against such person liable under the same up to and including the half-yearly payment accruing due next before the confirmation of such apportionment, and shall be in full force notwithstanding any change in the party entitled to such rent-charge. Provision for recovery of such rent-charge from persons giving security for same.

8. That in every such case the said commissioners shall make due inquiry as to any payment of rent-charge made by any such person in respect of such security previous to the confirmation of the apportionment of such rent-charge, and shall indorse on such apportionment a certificate of such payment, and that the parties entitled to such rent-charge have been duly paid the amount thereof according to the tenor of such security; and such person shall thereupon, after the confirmation of such apportionment, be entitled to recover the amount specified in such certificate as having been paid by him against the lands of the said parish subject to such rent-charge, in the proportions fixed for payment of rent-charge by such apportionment, by distress and entry on such lands respectively, and shall have the like remedies or modes of recovery as are given to owners of rent-charge for recovery thereof in the said recited Acts or any of them (*c*): Remedy for the landowner, against whom execution has issued.

(*a*) See 6 & 7 Will. 4, c. 71, s. 79, ante, p. 709.

(*b*) See 1 & 2 Vict. c. 110, s. 18, ante, Vol. I. p. 91, tit. "ARBITRATION."

(*c*) See 6 & 7 Will. 4, c. 71, ss. 81, 82, ante, p. 710.

3 & 4 Vict. c. 15.

Provision for taking accounts between the person giving security and the landowners liable to contribute thereto.

Provided always, that if the owner or occupier of any such lands shall have contributed to the payment of such rent-charge, or of any part thereof, or of the arrears thereof, under such security, or in exoneration thereof, it shall be lawful for him to take out a summons, returnable before any judge as aforesaid, to stay any proceedings taken by the person liable under such security as aforesaid, for the purpose of taking an account of what he shall have so contributed or paid in respect of such rent-charge or arrears; and it shall be lawful for any judge as aforesaid to refer it to the masters of the court to take such account and make all just allowances between the parties; and if on taking such account, such owner or occupier shall be found to have paid his due proportion, or any amount exceeding the same, according to the proportionate amount of rent-charge fixed on such lands, then it shall be lawful for any judge as aforesaid to stay proceedings, and order payment by the person liable under such security, of the amount, if any, so overpaid by such owner or occupier, as the case may require, and every such order shall have the effect of a judgment as aforesaid; but if on taking such account the whole or any balance shall be found due from such owner or occupier, then it shall be lawful for such judge to allow the same against such owner or occupier, whose lands shall thereupon be liable to the repayment thereof to the person liable under such security, and who shall be entitled to the said remedies in respect thereof accordingly; and the cost of every such proceeding shall be in the discretion of the judge hearing the same, and shall be added to the amount found due on such order, if he shall see fit so to direct: Provided also, that no such security shall be available by the person liable under the same against any such lands for more than two years' payment or arrear of such rent-charge, unless the said commissioners shall, previous to the expiration of two years from the date of such security, have enlarged the operation thereof for any period not exceeding twelve months by indorsement thereon under their hands or the hands of any two of them, and which they are hereby authorised to do if they shall so think fit.

Period for which security to be available against such owners.

If security insufficient, arrears may be recovered as if accruing after apportionment.

9. That if such security shall be insufficient to meet the full amount of payments which shall accrue due in respect thereof, or the person liable under the same shall fail to make good the amount due thereon, by the space of twenty-one days next after the date of the confirmation of the apportionment of such rent-charge, it shall be lawful for the person entitled to the benefit thereof to recover the same against the lands of the said parish subject to such rent-charge, in the proportions fixed in such apportionment, by the said remedies or modes of recovery given by the said recited Acts, or either of them, in respect of rent-charge fixed under any confirmed apportionment, in like manner as if the amount so due and in arrear had accrued subsequent to the confirmation.

Security to be free of stamp duty.

10. That every security taken by the said commissioners, by virtue of the provisions of this Act, and every assignment thereof, shall be free of stamp duty.

Extension of power to fix sum to be paid after determination of composition. 2 & 3 Vict. c. 62, s. 10.

11. "And whereas by the lastly-recited Act the said commissioners are empowered, by any award, or by a supplemental award, after a parochial agreement in certain cases, and under certain provisions, to fix the sum to be paid in consideration of the time, if any, which may intervene between the termination of any previous agreement or composition for tithes and the time at which any such rent-charge shall commence; and it is expedient to extend such power in manner hereinafter mentioned;" BE IT ENACTED, That it shall be lawful for the said commissioners at any time before the confirmation of the apportionment of any rent-charge, to exercise the said powers so given to them for fixing the sum to be paid for such intervening time as aforesaid, by a supplemental award after an award.

Particulars to be specified as to payment of such sum.

12. That when any such sum shall be fixed to be paid in consideration of such intervening time as aforesaid, either by parochial agreement or supplemental agreement, or by award or supplemental award, the parties by and to whom such sum is to be paid, and the lands in respect of which the same shall be payable, as also the proportionate amount to be paid by each party, shall be specified and set forth in the instrument fixing such sum, or in the instrument of apportionment to be made in pursuance thereof; and in default thereof such sum shall be payable by and to the parties and in the proportions fixed in such apportionment in respect of the rent-charge therein provided for.

Extension of powers to fix period for commencement of rent-charge 2 & 3 Vict. c. 62, s. 10.

13. "And whereas by the said lastly-recited Act the said commissioners are enabled by their award, and the titheowners and landowners by a parochial agreement after an award, are enabled to fix the period at which the rent-charge shall commence, and it is expedient to extend such power in manner hereinafter mentioned;" BE IT ENACTED, That it shall be lawful for the commissioners, by supplemental award, to exercise the powers so given to them for fixing the period at which any rent-charge shall commence, as well after an award as after a parochial agreement, where the same shall not have been previously fixed by any such award or agreement, or by any supplemental award or agreement, under the said recited Acts, or either of them, or this Act: Provided always, that where the said commissioners shall not have fixed that the period at which any rent-charge shall commence shall be the 1st day of January next following the confirmation of the apportionment, such period shall be fixed by them on the 1st day of January preceding such confirmation, or on the 1st day of April, the 1st day of July, or the 1st day of October preceding or following such confirmation, whichever of such days may happen nearest to the termination of any previous agreement or composition, or of any customary year of tithing in the parish or district to which such rent-charge shall relate: Provided also, that when any period of commencement shall have been so fixed by the said com-

missioners in any award or supplemental award, or any day preceding the date thereof, the commissioners shall cause due inquiry to be made as to the value of any tithes rendered in kind, and the amount of any payment in respect of tithe which shall have been made subsequent to such period of commencement, and prior to the first day fixed for payment of such rent-charge, and shall take into account and allow such value or amount to be deducted from such payment accordingly.

& 4 Vict. c. 15.

14. "And whereas by the said lastly-recited Act powers are given to landowners and titheowners, and also to the said commissioners, to substitute a fixed rent-charge in certain cases instead of a contingent rent-charge, where lands are partially exempted from the payment of tithes or rent-charge by reason of having been parcel of the possessions of a privileged order, and it is desirable to extend such powers in manner hereinafter mentioned;" BE IT ENACTED, That such power shall extend to all cases where, by reason of lands being partially exempted from the payment of tithes, by custom or otherwise, or by being subject to a shifting or leaping modus, or other customary payment, or rendered due only on certain contingencies, a contingent rent-charge has been already fixed or would, according to the provisions of the said firstly-recited Act, be fixed in respect of such lands; and it shall be lawful for the said commissioners, with such consent of both landowners and titheowners as in the said lastly-recited Act is required in that respect, at any time before the confirmation of the apportionment of any rent-charge, by any award, or by a supplemental award, where an award or parochial agreement has been made before the passing of this Act, or for the landowners or titheowners, by a parochial agreement or supplemental agreement where a parochial agreement or award has already been made in respect of such lands, to exercise such powers, in such manner and subject to the same conditions as are given by the said lastly-recited Act in cases of lands formerly part of the possessions of a privileged order: Provided always, and it is hereby declared, that nothing herein-contained extends to cases of change of cultivation only, nor to cases of prescription relating to woodland.

Extension of powers to substitute fixed rent-charge instead of contingent rent-charge. 2 & 3 Vict. c. 62, s. 11.

15. "And whereas by the said lastly-recited Act certain provisions are made, and powers given in respect of the tithes of lammas and common lands, which powers are to be exercised by the landowners and titheowners by parochial agreement, or by a supplemental agreement after a parochial agreement, and by the commissioners by compulsory award, or by a supplement award after an award:" BE IT ENACTED, That such provisions may be carried into effect and such powers exercised at any time before the confirmation of the apportionment of any rent-charge, by the landowners and titheowners by a supplemental agreement after an award, or by the commissioners by supplemental award after a parochial agreement.

Extension of powers in respect of lammas and common lands. 2 & 3 Vict. c. 62, s. 13.

16. That in every case where it shall be the intention of the commissioners to proceed in any parish under this Act by supplemental award after a parochial agreement, either to fix the period of the commencement of such rent-charge or to carry into effect the provisions and powers of the said lastly-recited Act in respect of the tithes of lammas and common lands, they shall cause the like notice of their intention to be given in such parish as is required by the said first-recited Act in the case of an award (a); and if at any time after giving such notice, and before the expiration thereof, any proceedings shall be had under the said recited Acts, or either of them, or this Act, by the landowners and titheowners in such parish, towards making and executing any parochial agreement or supplemental agreement in respect of the matters specified in such notice, the commissioners shall refrain from acting on the same until the result of such proceeding shall appear.

Commissioners to give notice to proceed by supplemental award.

17. That so much of the said lastly-recited Act as relates to the vesting of an estate of inheritance as to any lands in any ecclesiastical titheowner and his successors, notwithstanding the same be made by any corporation sole or aggregate, or any trustees or feoffees for charitable purposes, otherwise restrained from or incapable of making any such valid conveyance or assurance, extends to churchwardens and overseers, or to trustees or feoffees of parish property, or of property held by or vested in such trustees or feoffees for parochial or other uses or purposes in the nature of a parochial or public trust.

Extension of powers of conveyance of lands to trustees and feoffees for parochial purposes. 2 & 3 Vict. c. 62, s. 21.

18. That in any case where the parties to a parochial agreement, or the commissioners in the case of an award, shall have proceeded, according to the provisions of the said recited Acts, to ascertain and fix a rent-charge in any parish wherein any of the lands shall at the time of making such agreement or award be cultivated as hop grounds or market gardens, and in case of proceeding by award when notice shall have been given that the tithes of any of the lands so cultivated should be separately valued, it shall be lawful for the said parties to declare in such agreement, or for the said commissioners to declare in such award, the amount of extraordinary charge per acre to be in future payable in respect of hop grounds and market gardens respectively in such parish or any district therein; and the rent-charge mentioned in every such agreement or award respectively shall, subject to the addition of such acreable extraordinary charge, consist of the amount agreed for or awarded in respect of the tithes in such parish, other than the tithes of the lands cultivated therein as hop grounds and market gardens respectively, and the ordinary charge in respect of the lands so cultivated as hop grounds and market gardens respectively added thereto: Provided always, that no such extraordinary charge

Power for parties to parochial agreement and for commissioners to declare the amount of extraordinary charge to be payable in respect of hop grounds, &c.

No extra-

(a) 6 & 7 Will. 4, c. 71, ss. 36, 37, ante, p. 697.

3 & 4 Vict. c. 15

shall be payable in respect of any such hop grounds and market gardens during the first year, and only half such extraordinary charge during the second year, in which they shall be newly cultivated as such, whether such new cultivation shall have commenced before or after the making of such parochial agreement or award as aforesaid.

Ordinary charge payable on hop grounds, &c. for the first year of their being cultivated as such, &c.

Extraordinary rent-charge need not be distinguished on separate lands in apportionment.

19. That it shall not be necessary to distinguish in any apportionment the amount o extraordinary rent-charge to be charged upon the lands of each individual landowner which shall be cultivated as hop grounds, market gardens, orchards, fruit plantations, or mixed plantations of hops and fruit, provided that the acreable amount of extraordinary charge for all the lands so cultivated respectively in any district which shall have been assigned, or in any parish wherein any extraordinary rent-charge shall have been declared, previous to the confirmation of the instrument of apportionment, shall be inserted therein.

Half-yearly payments of rent-charge to be regulated by averages dec

20. That every half-yearly payment of rent-charge under the said recited Acts, or either of them, or this Act, shall from time to time be regulated by the averages published under the provisions of the said first-recited Act in the month of January next preceding every such half-yearly day of payment.

ared under 6 & 7 W. 4, c. 71, s. 67.

Instrument of apportionment to distinguish the amount of rent-charge payable in respect of each close.

21. That unless a majority in value of the owners of lands included in any apportionment shall, by writing under their hands, request the commissioners to omit the same, the instrument of apportionment shall distinguish the amount or portion of rent-charge payable in respect of the several closes of the said lands, and such closes shall be laid down in the map or plan annexed to such apportionment: Provided always, that nothing in this provision contained shall apply to any instrument of apportionment the valuers for effecting which shall have been appointed previous to the passing of this Act; and no such last-mentioned instrument of apportionment shall be deemed invalid if made in conformity with the instructions given to the valuers for making the same, although the amount of rent-charge payable in respect of the several closes of land shall not have been distinguished therein, nor such closes laid down in the map or plan annexed thereto (*a*).

Act not to extend to cases in which valuers are already appointed

For recovery of expenses in certain cases.

22. That every occupier whose lands or goods shall be liable to distress in respect of any expenses chargeable under the said recited Acts or either of them, or this Act, against any landlord or lessor of the lands in his occupation, shall be entitled to recover the amount of any such expenses which he shall pay, with interest on such payment from time to time at four per centum per annum, and may deduct the same from any rent or renewal fines payable to such landlord or lessor (*b*); and where the estate of such landlord or lessor in the lands in respect whereof such payment shall have been made shall be less than an immediate estate of fee simple or fee tail, or subject by settlement to any uses or trusts, he shall be entitled to charge such amount and interest upon such estate in like manner and subject to the same restrictions and provisions as are contained in the said recited Acts or any of them in relation to owners of particular estates, or of estates settled to the same uses and trusts as the lands in respect of which such expenses have been incurred respectively.

Power to charge expenses of commutation, in certain cases, on renewal fines, &c.

23. That every person, as defined in the said first-recited Act (*c*), who is empowered under the said recited Acts or any of them, or this Act, to charge upon his lands or rent-charge any expenses of commutation payable by him, may exercise such powers, in the case of expenses incurred, as well in respect of the commutation of tithes payable to him as the owner thereof as of tithes to which any lands whereof he is owner are liable; and the word "lands" shall, in the construction of the said Acts and of this Act, be construed to extend to and include any income or sum receivable by or accruing to such person from redeemed land tax, or from fines or other sums of money payable on the renewal of any term or estate in lands, tithes, or rent-charge holden of or by him to the same uses and upon the same trusts as the lands, tithes, or rent-charge in respect of which such expenses of commutation are incurred (*d*).

Provision for discovery of books and documents relating to commutation. 6 & 7 W. 4, c. 71, s 10.

24. That notwithstanding anything in either of the said Acts contained, in all cases where under the said recited Acts or any of them the said commissioners or any assistant commissioner may examine persons upon oath, and cause to be produced before them or him all books and other documents, as therein mentioned (*e*), relating to the commutation of tithes, the said commissioners or assistant commissioner may, by summons under their or his hand, require the attendance of and examine any party interested in the lands or tithes of any parish, or any other person, and require the production also of all deeds and documents in the custody or power of either party, and allow such portions only of them to be read as in their or his judgment shall be thought proper; and also that in all cases where under the said Acts parties in a feigned issue are required to produce to each other,

---

(*a*) See 1 Vict. c. 69, s. 5, ante, p. 714.

(*b*) See 6 & 7 Will. 4, c. 71, s. 80, ante, p. 710; 2 & 3 Vict. c. 62, s. 18, ante, p. 721.

(*c*) 6 & 7 Will. 4, c. 71, s. 12, ante, p. 691.

(*d*) See 2 & 3 Vict. c. 62, ss. 16, 17, ante, p. 720.

(*e*) See 6 & 7 Will. 4, c. 71, s. 10, ante, p. 691.

and their respective attorneys or counsel, at such time or place as any judge may order before trial, and also to the court and jury upon the trial of such issue, all deeds, books, and other documents, as in the said Act mentioned, relating to the matters in issue in their respective custody or power, the parties shall be obliged to produce only such documents, and such portions of them only shall be inspected or read, as the judge shall think proper, who may order the parties to discover the documents in their possession, upon oath, if he shall think fit; and it shall be lawful for the judge, and also for the commissioners or assistant commissioner, in the cases aforesaid respectively, to direct copies or extracts to be taken or furnished of the same documents, at the expense of the person requiring the same, at the rate of sixpence for every common law folio: Provided always, that in no case shall any person be compellable to produce any part of the deeds or documents in his possession which relate to the title to the property therein referred to, but only such parts thereof as relate to the matter immediately in issue; and such person may, if he see fit, withhold any such deeds, or documents, or any portion thereof, on making an oath that the deeds or documents or parts thereof so withheld do not relate to the matter so in issue as aforesaid. 3 & 4 Vict. c. 15.

25. "And whereas in many cases titheowners have, during the seven years of average prescribed by the said first-recited Act, forborne to take the tithes of lands used and occupied as gardens, lawns, or the like, or compositions in lieu thereof, on account of such lands being of small extent, and the tithes thereof being of inconsiderable value:" BE IT ENACTED, That where in such cases the tithes of a parish or district have been commuted, whether by a parochial agreement or by a compulsory award, and it shall be shown to the satisfaction of the said commissioners that the rent-charge or rent-charges specified in the said agreement or award has or have been based upon the average value of the tithes of the said parish or district during the said seven years of average, exclusive of any tithes in respect of such gardens, lawns, or such-like small holdings, according to the provisions of the said first-recited Act, and that no part of the said rent-charge or rent-charges has been agreed to be given or awarded in respect of the tithes of such gardens, lawns, or other such-like small holdings, it shall be lawful for the said commissioners, if they think fit, to order and direct that no part of the said rent-charge or rent-charges shall be apportioned upon such gardens, lawns, or other such-like small holdings. Gardens or lawns of small extent may be exempted from rent-charge.

26. "And whereas it hath happened that in cases where, during the seven years of average prescribed by the said first-recited Act, tithes shall not have been demanded of certain tenements, by reason of their small extent or of the small amount of such tithes, such tenements have notwithstanding been included in the apportionment of the rent-charge for the parish, whereby the occupiers of such tenements have become liable to have their goods distrained upon, and the titheowner has been subjected to much increased difficulty and expense in the collection of the rent-charge, contrary to the true intent and meaning of the said first-recited Act; and it is therefore expedient, under certain restrictions, to give relief in such cases;" BE IT ENACTED, That in any such case in which the apportionment shall have included any number of small tenements, exceeding in the whole one hundred, from which tenements no tithe or composition for tithe shall have been demanded or taken (notwithstanding their liability thereto) during the period of seven years next preceding Christmas in the year 1835, it shall be lawful for the commissioners, and they are hereby authorised, if they shall see fit, upon the application in writing of any ten or more of the owners or occupiers of such small tenements, or of the titheowner, and after satisfactory proof shall have been given that no part of the rent-charge has been agreed to be given or awarded in respect of the tithes of such small tenements, to cause a new apportionment to be made of the said rent-charge, and to order and direct that no part thereof shall be apportioned upon such small tenements; and the provisions in the said first-recited Act contained for hearing and determining objections to apportionments, and for rendering the same, or any map or plan therein referred to, final and conclusive, shall be and are hereby respectively made applicable to every such new apportionment; and, subject to such provisions, such new apportionment shall commence and take effect from the half-yearly day of payment of the said rent-charge which shall happen next before the confirmation of the same apportionment: Provided always, that no payment of such rent-charge, or right to arrears thereof, which shall have become due or accrued on or before the said half-yearly day of payment, nor any remedy in case of non-payment, shall in anywise be affected by any such new apportionment. The commissioners to cause a new apportionment to be made in cases in which the apportionment shall have included tenements from which no tithe has been taken during seven years previous to Christmas, 1835.

27. That the costs of and attending every such new apportionment shall be paid and borne by the parties making such application, in such proportions as the commissioners shall direct, and shall be recoverable in like manner as the costs of any apportionment under the said first-recited Act (a); and as to any part of such costs as may be borne by the titheowner, such titheowner, being an ecclesiastical beneficed person, may charge or assign the rent-charge as a security for the repayment of such costs in like manner as for the costs of the commutation under the said Act. Provision for the costs of new apportionment.

28. "And whereas by the said lastly-recited Act powers are given to the said commissioners or any assistant commissioner, upon the application in writing of not less than Commissioners may

(a) See 6 & 7 Will. 4, c. 71, s. 76, ante, p. 709.

3 & 4 Vict. c. 15.

two-thirds in number and value of the landowners in any parishes or townships, to set out and define the boundaries of such parishes or townships in manner in the said Act provided; and it is expedient to extend such power in manner hereinafter mentioned;" BE IT ENACTED, That it shall be lawful for the said commissioners or assistant commissioner, but at the sole discretion of the said commissioners, and only in such manner as they shall see fit and proper, to exercise all and every the powers so given by the said lastly-recited Act relating to boundaries of parishes or townships, on the application in writing of two-thirds in number and value of the landowners of any one parish, place, or township whose boundary shall be in question, notwithstanding the landowners in the parish, place, or township adjoining such boundary shall not join in such requisition: Provided always, that in every such case the said commissioners or assistant commissioner shall, twenty-one days at least before proceeding to make inquiry and adjudicate on such question of boundary, cause a notice to be sent by the post, or otherwise given, addressed to the churchwardens and overseers, and also to the surveyors of the highways of every parish, place, or township adjoining such boundary, of the intention of the said commissioners or assistant commissioner to proceed on the question of such boundary, and shall specify in such notice a time and place of meeting so to proceed therein, and shall annex to each copy of such notice a copy of the application of the landowners requiring the commissioners to make such inquiry and adjudication, and shall also cause a copy of such notice to be inserted, once at least in two successive weeks previous to the day of such meeting, in some newspaper having circulation in the county where such parish, place, or township is situated; and no assistant commissioner shall proceed in any such inquiry without exhibiting at such meeting the papers containing the advertisement of such notice, and also a certificate, under the hands of the said commissioners, or any one or two of them, of one copy of such notice having been respectively sent to such churchwardens and overseers, and a copy to such surveyors as aforesaid; and the assistant commissioner shall thereupon proceed in all respects, and his proceedings shall be as valid and binding, as if the said inquiry had been instituted on the application in writing of two-thirds in number and value, as well of the landowners of the parish, place, or township to which such notice shall have been so sent, as of the parish, place, or township causing such inquiry to be instituted: Provided nevertheless, that upon the application in writing, addressed to the said commissioners during the interval of such twenty-one days, of not less than two-thirds in number and value of the landowners in any parish, place, or township adjoining such boundary, and not being parties to any such application as aforesaid, objecting to the said commissioners or assistant commissioner proceeding under the same in the matter of such boundary, all proceedings which shall have been instituted upon the application of such single parish, place, or township under this Act shall forthwith be stayed.

adjudicate parochial boundaries on requisition of landowners of any parish. 2 & 3 Vict. c. 62, ss. 34 & 35.

Proviso.

This Act to be taken as part of the recited Acts and of 1 & 2 Vict. c. 64.

29. That this Act shall be taken to be a part of the said recited Acts, and also of an Act passed in the second year of the reign of her present majesty, intituled "An Act to facilitate the Merger of Tithes;" and in the construction of this Act, unless there be something in the subject or context repugnant to such construction, the several words used in this Act shall have and bear the same interpretation as is given to such words respectively in the said Acts or either of them; and whenever a word importing the singular number or masculine gender only is used, the same shall be understood to include and shall be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as one matter or thing respectively, and the converse.

5 & 6 Vict. c. 54.

5 & 6 Vict. c. 54. An Act to amend the Acts for the Commutation of Tithes in England and Wales, and to continue the Officers appointed under the said Acts for a Time to be limited.

[30th July, 1842.]

6 & 7 W. 4, c. 71, s. 6.

"Whereas by an Act passed in the seventh year of the reign of his late majesty, intituled 'An Act for the Commutation of Tithes in England and Wales,' it was among other things enacted, that no commissioner or assistant commissioner, secretary, assistant secretary, or other officer or person appointed under the said Act, should hold his office for a longer period than five years next after the day of the passing of the said Act, and thenceforth until the end of the then next session of parliament; and that after the expiration of the said period of five years and of the then next session of parliament so much of the said Act as authorises any such appointment should cease: And whereas by an Act passed in the last session of parliament it was among other things provided, that so much of the last-recited Act as is hereinbefore recited should be repealed, and that no commissioner or assistant commissioner, secretary, assistant secretary, or other officer or person so to be appointed, should hold his office for a longer period than until the 31st day of July, 1842; and that after the said 31st day of July so much of the last-recited Act as authorises any such appointment should cease: And whereas it is expedient that the said commission be further continued:" BE IT ENACTED, That so much of the last-recited Act as is hereinbefore recited shall be repealed, except so far as it repeals any part of the first-recited Act; and that no commissioner or assistant commissioner, secretary, assistant secretary, or other officer

5 Vict. c. 7.

Last recited Act in part repealed.

Continuance

or person so appointed or to be appointed, shall hold his office for a longer period than the 31st day of July in the year 1847, and to the end of the then next session of parliament.

5 & 6 Vict. c. 54.

of tithe commission.

2. "And whereas by the first-recited Act power is given to the landowners and titheowners of any parish to make and execute an agreement for the commutation of the tithes of that parish as therein specified; and power is also given to the said commissioners, after the 1st day of October in the year 1838, to make compulsory awards for the commutation of tithes in any parish in which no such agreement shall have been made as aforesaid, and confirmed by the said commissioners (a): And whereas doubts have been entertained whether, pending the proceedings toward a compulsory award, the landowners and titheowners can make and execute a voluntary agreement which, if confirmed by the said commissioners, shall be valid, and it is expedient that such doubts be removed:" BE IT ENACTED, That a parochial agreement for the payment of a rent-charge instead of tithes, as provided by the said Act, may be made in the manner therein specified, at any time before the confirmation of any award for the commutation of the tithes of the same parish; and such agreement may contain provisions for declaring how the expenses of the parties, or any of them, shall be defrayed, which shall have been incurred in contesting the award; and every such agreement, whether made before or after the passing of this Act, if confirmed by the commissioners, shall be as valid as if made and executed before any proceedings had been taken toward making a compulsory award, and shall have the effect of making null and void all the proceedings toward such compulsory award, or incident thereunto, except so far as the same shall be adopted in such agreement.

Agreements may be made pending proceedings toward an award.

3. That in all cases where no time is fixed by any award or agreement commuting the tithes of a parish for the commencement of the rent-charge or rent-charges therein awarded or agreed upon, it shall be lawful, notwithstanding that the apportionment of the said rent-charge or rent-charges may have been confirmed, for the landowners and titheowners, having such an interest in the land and tithes of the parish as is required for making a parochial agreement, to enter into a supplemental agreement for fixing the period at which the rent-charge or rent-charges to be paid under such award or agreement shall commence: Provided always, that such supplemental agreement shall be of no force or effect unless the same shall be confirmed by the said commissioners under their hands and seal; and a copy of every such supplemental agreement shall be deposited with the registrar of the diocese, and in the parish, in like manner as instruments of apportionment are deposited under the said first-recited Act (c).

Parties may make a supplemental agreement as to commencement of rent-charge (b).

Such agreement to be confirmed, and a copy deposited.

4. "And whereas by the first-recited Act power is given to the said commissioners to make awards in cases reserved for special adjudication, having regard to the average rate which shall be awarded in respect of lands of the like description and similarly situated in the neighbouring parishes (d): And whereas it sometimes happens that voluntary agreements for the commutation of tithes have been made in the greater part of such neighbouring parishes:" BE IT ENACTED, That, in awarding the rent-charge in any case so reserved, the commissioners shall be empowered to have regard to the average rate of commutation in respect of lands of the like description and similarly situated, not only in the neighbouring parishes in which there has been an award by the commissioners, but also in those in which there has been a parochial agreement for the commutation of tithes.

In making special adjudication, an account may be taken of parochial agreement.

5. "And whereas it will be beneficial to both titheowners and landowners if the tithe commissioners are empowered to define the glebe lands in those cases in which the quantity of glebe is known, but cannot be identified, and also to exchange the glebe lands or part thereof for other land;" BE IT ENACTED, That for the purpose of defining and settling the glebe lands of any benefice (e), on the application of the spiritual person to whom the same belongs in right of such benefice, and with the consent of the landowner or landowners having or claiming title to the land so defined as glebe, and being in possession thereof, the tithe commissioners shall, during the continuance of the commission, as well before as after the completion of any commutation, have the same powers which they have for ascertaining, drawing, and defining the boundaries of the lands of any landowners on their application (f); and also upon the like application of any spiritual person the said commissioners shall have power to exchange the glebe lands, or any part thereof, for other land within the same or any adjoining parish, or otherwise conveniently situated, with the consent of the ordinary and patron of the benefice and of the landowner or landowners having or claiming title to the land so to

Powers for defining and exchanging glebe (e).

(a) 6 & 7 Will. 4, c. 71, ss. 17, 36, ante, pp. 693, 697.

(b) See 6 & 7 Will. 4, c. 71, s. 67, ante, p. 707; 2 & 3 Vict. c. 62, s. 10, ante, p. 718; 3 & 4 Vict. c. 15, s. 13, ante, p. 728.

(c) See 6 & 7 Will. 4, c. 71, s. 67, ante, p. 707; 1 Vict. c. 69, s. 11, ante, p. 718; 2 & 3 Vict. c. 62, s. 10, ante, p. 718; 3 & 4 Vict. c. 15, s. 13, ante, p. 728.

(d) See 6 & 7 Will. 4, c. 71, s. 30, ante, p. 698.

(e) See also 9 & 10 Vict. c. 73, s. 22, post, p. 742.

(f) 6 & 7 Will. 4, c. 71, s. 24, ante, p. 694; 1 Vict. c. 69, ss. 2, 3, ante, p. 714; 2 & 3 Vict. c. 62, ss. 34—36, ante, p. 724; 3 & 4 Vict. c. 15, s. 28, ante, p. 731.

5 & 6 Vict. c. 54.

be given in exchange for the glebe lands, and being in actual possession thereof as aforesaid, such consent to be testified as their consent under the first-recited Act is testified to anything for which their consent is therein required; and in every such case the tithe commissioners shall make an award in like manner as awards are made under the first-recited Act (*a*), setting forth the contents, description, and boundary of the glebe lands as finally settled by them, and of the lands awarded to the several parties to whom any lands theretofore part or reputed part of the glebe lands are to be awarded; and every such award shall have all the incidents of an agreement confirmed by the said commissioners for giving land instead of tithes, and in every case of exchange shall operate as a conveyance of the lands theretofore part or reputed part of the glebe lands to the several persons to whom the same shall be awarded, and to their heirs and successors, executors and administrators, as the case may be; and such lands shall thereupon be holden by the same tenure, and upon the like uses and trusts, and subject to the like incidents, as the land awarded as glebe in exchange for the same was formerly holden; and the expense of so defining, exchanging, and settling any glebe lands shall be borne in such manner as the tithe commissioners shall think just (*b*).

Extending power of giving land for tithes.

6. "And whereas the power of giving land instead of tithes has been found beneficial to both titheowners and landowners, but such power has been inoperative in a great degree by reason that the landowners by giving land instead of vicarial tithe cannot free their lands from the liability to rectorial tithe, and the converse:" BE IT ENACTED, That it shall be lawful for any titheowner, with the consent of the patron and ordinary in the case of spiritual tithes, to be testified as their consent under the first-recited Act is testified to anything for which their consent is therein required, and subject in that case to the limitation of quantity of land provided by the first-recited Act, and subject to the approval of the tithe commissioners, to agree for the assignment to any other owner of tithes issuing out of the same lands of so much of his tithes arising within the same parish, or of the rent-charge agreed or awarded to be paid instead of such tithes, as shall be an equivalent for the tithes belonging to such other titheowner issuing out of the same lands, or for the rent-charge agreed or awarded to be paid instead thereof, for the purpose of enabling any landowner who shall be desirous of giving land instead of tithes to free his lands, or any part thereof, from both rectorial and vicarial tithes, and from the payment of any rent-charge in respect thereof; and every such agreement shall be carried into effect by means of an award or supplemental award, to be made by the said commissioners either before or after the confirmation of the apportionment, in like manner as awards or supplemental awards are made by them pursuant to the powers vested in them before the passing of this Act (*c*).

Confirmation of old agreements for giving land for tithes.

7. That where any agreement shall have been made before the passing of the first-recited Act for giving land or money, or both, instead of tithes or glebe or commonable or other rights or easements, which is not of legal validity, and such lands or money, or both, shall appear to the commissioners to be a fair equivalent for the said tithes or glebe, or rights, or easements, they shall be empowered to confirm and render valid such agreement; and in case the same shall not appear to be a fair equivalent, the said commissioners shall nevertheless be empowered to confirm such agreement, and also to make an award for such rent-charge, which with the said land or money, or both, will be a fair equivalent for the said tithes or glebe, or rights or easements, and, subject to such confirmation and award, to extinguish the right of the titheowners to the perception of the said tithes, or his title to the said glebe, rights, or easements, or to the receipt of any rent-charge instead thereof, other than the rent-charge awarded over and above the lands or money, or both, so confirmed to them (*d*).

Power to charge expenses of commutation on benefices extended.

8. That in every case in which any spiritual person shall have died or vacated his benefice before exercising the powers vested in him of borrowing money for the purpose of defraying so much of the expenses of commutation as is to be defrayed by him, and of charging the rent-charge with the repayment of the money borrowed, it shall be lawful for the tithe commissioners, with the consent of the ordinary, to borrow money for that purpose, and to charge the repayment thereof upon the rent-charge, or so much thereof as they, with the like consent, shall think just, with interest thereupon, and for that purpose to assign the rent-charge in like manner as such spiritual person, if living or in possession of his benefice, could himself have done; and the person in whose favour such charge shall have been made, and his assigns, shall have the like remedies for enforcing payment of the principal and interest of the money so borrowed, in case of any arrear in the payment of the said charge, as if such charge had been made by the person so dying or vacating his benefice (*d*).

(*a*) See 6 & 7 Will. 4, c. 71, ss. 50—52, ante, p. 703.

(*b*) The Act authorising the exchange of glebe lands is 55 Geo. 3, c. 147, amended by many subsequent Acts; see ante, Vol. I. p. 541, n. (*a*).

(*c*) See 6 & 7 Will. 4, c. 71, s. 62, ante, p. 706; 2 & 3 Vict. c. 62, ss. 19—21, ante, p. 721.

(*d*) In the cases to which this section applies, the commissioners have not a discretion, but are bound to confirm according to its provisions: it applies only to such agreements as are being acted on, or only questioned in pending suits, and not to agreements which have long since been abandoned (*Reg.* v. *Tithe Commissioners*, 19 L. J., Q. B. 177).

9. That in all cases, whether the tithes of any parish have been commuted or not, where any question as to the liability of any lands to the render of tithes, or as to the existence of any modus or composition real, or prescriptive or customary payment, or any claim of exemption from or non-liability to the payment of tithes in respect of any lands, shall have been heard and determined by the said commissioners, or by any assistant commissioner, after the time for appeal to a court of law from the said determination has elapsed, or, in case there has been such appeal, after the judgment of the court on such appeal, to make an award, founded on the decision of the said commissioners or assistant commissioner, or the judgment of any court of law to which appeal shall have been made from the decision of the said commissioners or assistant commissioner, for the determination of all questions of arrears of tithes claimed in any suit which may be pending in any court of equity for the purpose of trying, as to the same lands, such liability, or the legality of such claim, modus, composition, or customary payment, and of the liability of any of the parties to payment of the costs of the proceedings in such suit, for which purpose they respectively shall have all the powers which under the said recited Acts or any of them they have for ascertaining the value of the tithes of such lands; and such award shall have the effect of the verdict of a jury, on an issue directed by the court of chancery satisfactory to the judge or court directing the same, and shall be received by the court of chancery as conclusive evidence of the liability or non-liability of such lands, and of the amount of such arrears, and of the liability of the several parties to the payment of costs in such suit; and any order of the court of chancery made thereon shall be binding on all parties, and no appeal to any other judge or court shall be brought against such order.

5 & 6 Vict. c. 54.

For settling questions of arrears and costs in suits in equity.

10. That where any question is or shall be brought for the decision of the tithe commissioners or any assistant commissioner, relative to any of the matters mentioned in an Act passed in the third year of the reign of his late majesty, intituled "An Act for shortening the Time required in Claims of Modus Decimandi, or Exemption from or Discharge of Tithes," as to which any such suit shall have been commenced and shall be pending as would have prevented the operation of the said recited Act, such recited Act shall not have any operation as to any award or decision respecting such question to be made by the said tithe commissioners or any assistant commissioner.

The Act 2 & 3 W. 4, c. 100, not to have any operation as to any award of the commissioners in certain cases.

11. That in any parish where any rent-charge has been agreed or awarded to be paid instead of tithes, and security has been given for payment of such rent-charge, and the lands in such parish have been discharged from payment or render of tithes or composition, or rent in the nature thereof, instead of tithes, before the apportionment of such rent-charge, it shall be lawful for the tithe commissioners, by a declaration in writing under the hands of any two of them, and their seal of office, to fix the same half-yearly days of payment of the whole rent-charge after apportionment thereof; and in consideration that the payment of some sums will be thereby accelerated, and the payment of other sums will be thereby deferred and retarded, to make such alterations and allowances in the payments to be made in the first year after the apportionment, both by way of interest for every sum of which payment will be thereby deferred, and by way of discount to be allowed for every sum of which payment will be thereby accelerated, as to the commissioners shall seem just.

Provision for fixing the same days of payment of all parts of the same rent-charge.

12. That it shall be lawful for any owner of rent-charge, having taken possession of any land for non-payment of the rent-charge under the provisions of the first-recited Act, from time to time during the continuance of such possession to let such land, or any part thereof, for any period not exceeding one year in possession, at such rent as can be reasonably obtained for the same; and the restitution of such land, on payment or satisfaction of the rent-charge, costs, and expenses, shall be subject, and without prejudice to any such tenancy.

Power to owner of rent-charge to let land taken under writ of possession. 6 & 7 W. 4, c. 71, s. 82.

13. That it shall be lawful for any board of guardians of any parish or union, with the consent of the poor law commissioners, and subject to such conditions as the said poor law commissioners may prescribe, to pay out of the rates of any parish any portion of the cost of making or providing any map or plan which shall have been confirmed under the hands and seal of the tithe commissioners, or any other sum of money by way of consideration for the use of the said map or plan, for the purpose of estimating the net annual value of property in respect of which rates may be assessed for the relief of the poor; and after the tithe commissioners shall have certified in writing that such money has been paid, the overseers of the parish, or any person authorised by them in writing, or any officer of the said board of guardians, or any person authorised by them in writing, shall at all reasonable times have access to the copy of the said map or plan deposited with the incumbent and church or chapel wardens of the parish, or other persons approved by the said tithe commissioners, and may inspect and make copies or extracts from the said copy, without paying anything for such access or inspection, or for making such copies or extracts.

Power in certain cases to use tithe commutation maps for parochial purposes.

14. "And whereas by the first-recited Act power is given for altering apportionments of rent-charge by the commissioners of land tax, on the application of the owner of the lands charged therewith, and it is expedient that the power thereby given should be extended, and also that during the continuance of the tithe commission the like power should be vested in the tithe commissioners:" BE IT ENACTED, That if at any time after the confirmation of any instrument of apportionment it shall appear that the lands charged with one entire rent-charge belong to or have become vested in several owners, and that any of the owners of such lands shall be desirous that the apportionment

Power to alter apportionments. 6 & 7 W. 4, c. 71, s. 72.

5 & 6 Vict. c. 54.

thereof should be altered, it shall be lawful for the commissioners of land tax for the county or place where the said lands are situated, or any three of them, to appoint, by notice under their hands, a time and place for hearing the parties to such application, and all other parties interested therein; and upon satisfactory proof of such notice having been served on all parties interested full twenty-one days before the day of hearing, to proceed to alter the apportionment in such manner and in such proportion amongst the said lands as to them shall seem just, subject nevertheless to the consent of two justices of the peace, as in the said first-recited Act provided; and further, that upon such application being made to the said tithe commissioners, they shall have the same power of making such alteration as by the said first-recited Act and by this Act is vested in the commissioners of land tax, and that without any such consent of two justices of the peace: Provided, that no alteration of any apportionment shall be made under the first-recited Act or this Act whereby any rent-charge shall be subdivided, so that any subdivision thereof shall be less than five shillings.

Copy of instrument of altered apportionment to be sent to tithe office.

15. "And whereas it is expedient to make further provision for recording all such alterations of apportionment:" BE IT ENACTED, That the registrar of every diocese, as soon as conveniently may be after the passing of this Act, shall cause to be made and sent to the office of the tithe commissioners a copy, certified under his hand, of every instrument of altered apportionment in his custody which was made before the passing of this Act, the reasonable cost of making and sending which copy shall be defrayed by the tithe commissioners as part of the expense of putting in execution the Acts for the commutation of tithes; and after the passing of this Act, three counterparts shall be made of every instrument of altered apportionment at the expense of the landowner desiring the alteration; and two of the said counterparts shall be sent as provided by the first-recited Act, and the third shall be sent to or deposited in the office of the tithe commissioners, or, after the expiration of the tithe commission, shall be sent to and kept by the person having custody of the records and papers of the said commission, and shall be annexed to the instrument of apportionment in the custody of the said commissioners, or the person having the custody of their records and papers (a).

Remedy for enforcing payment of contribution to rent-charge.

16. That in case any land charged with one amount of rent-charge shall belong to two or more landowners in several portions, and the owner of any one of such portions, or his tenant, shall have paid the whole of such rent-charge, or any portion thereof greater than shall appear to him to be his just proportion, and contribution thereto shall have been refused or neglected to be made by any other of the said landowners, or his tenant, after a demand in writing made on them, or either of them, for that purpose, it shall be lawful for any justice of the peace acting for the county or other jurisdiction in which the land is situated, upon the complaint of any such landowner, or his tenant or agent, to summon the owner so refusing or neglecting to make contribution, or his tenant, to appear before any two or more such justices of the peace, who, upon proof of the demand and of service of the summons, as hereinafter provided, whether or not the party summoned shall appear, shall examine into the merits of the complaint, and determine the just proportion of the rent-charge so paid as aforesaid which ought to be contributed by the landowner of such other portion of the said land, and by order (b) under their hands and seals shall direct the payment by him of what shall in their judgment be due and payable in respect of such liability to contribution, with the reasonable costs and charges of such proceedings, to be ascertained by such justices; and thereupon it shall be lawful for the complainant to take the like proceedings for enforcing payment of the said amount of contribution and costs, and with the like restriction as to the arrears recoverable (c), as are given to the owner of the rent-charge by the said first-mentioned Act or this Act for enforcing payment of the rent-charge.

Service of summons, &c.

17. That service of the said demand in writing, and summons, or of any notice to distrain, or copy of writ to assess the arrears of rent-charge or notice of the execution thereof under the said first-recited Act, or the several Acts to amend the same, or this Act, upon any person occupying or residing on the land chargeable with the rent-charge, or in case no person shall be found thereon, then affixing the same in some conspicuous place on the land, shall be deemed good service of any such summons, notice, writ, or other proceeding.

Provision for general avowry in actions of replevin for rent-charge.

18. That it shall be lawful for all defendants in replevin, brought on any distress for rent-charge payable under the said first-recited Act, or the several Acts to amend the same, or this Act, to avow or make cognisance generally that the lands and tenements whereon such distress was made were chargeable with or liable to the payment of a certain yearly amount of rent-charge under the provisions of the statutes for the commutation of tithes in England and Wales, which rent-charge, or some part thereof, was in arrear and unpaid for the space of twenty-one days next after some half-yearly day of payment thereof, and after ten days' notice in writing, as required by the said Acts, and that a certain amount of such rent-charge, according to the prices of corn, as directed by

---

(a) See 6 & 7 Will. 4, c. 71, s. 72, ante, p. 708.

(b) The order must adjudicate that the complaint is true, before it proceeds to determine the proportion, &c. (*Reg.* v. *Williams*, 21 L. J., M. C. 150).

(c) Two years' arrears; 6 & 7 Will. 4, c. 71, ss. 81, 82, ante, p. 710.

the said Acts, was at the time of the said distress due to the person entitled to the rent charge (a) 5 & 6 Vict c 54

19. That where any distress shall be made for any rent charge payable under the said recited Acts or any of them, or this Act, and justly due, and any irregularity or unlawful Act shall be afterwards done by the party distraining or his agent, in the conduct, sale, or disposition of the distress, the distress itself shall not be therefore deemed to be unlawful, nor the party making it deemed a trespasser from the beginning, but the party aggrieved by such unlawful act or irregularity may recover full satisfaction for the special damage in an action upon the case Provided nevertheless, that no plaintiff shall recover in any action for any such unlawful act or irregularity, if ten days notice in writing (b) shall not have been given to the defendant by the plaintiff of his intention to bring such action before the commencement thereof, or if tender of sufficient amends has been made by the party distraining, or his agent, before such action brought, or if after action brought a sufficient sum of money shall have been paid into court, with costs, by or on behalf of the defendant (c) Irregularity not to vitiate proceedings

20 That this Act shall be construed with and as part of the first recited Act, as amended by the several Acts passed for the amendment thereof and by this Act, and that all provisions in any of the said Acts relating to land of copyhold tenure shall apply to land of customary tenure (d), or any other tenure subject to arbitrary fine, and that all provisions in the said Acts or in this Act relating to glebe land shall apply to all land holden by any spiritual person in right of his benefice Act to be construed with 6 & 7 W 4 c 71 Application of certain provisions

9 & 10 Vict. c 73. An Act further to amend the Acts for the Commutation of Tithes in England and Wales. 9 & 10 Vict c 73

[26 August, 1846.]

"Whereas an Act was passed in the session of parliament held in the sixth and seventh years of the reign of his late majesty king William the fourth, intituled 'An Act for the Commutation of Tithes in England and Wales,' and the said Act has been amended, and the provisions thereof have been extended, by Acts passed in the sessions of parliament held in the first year, the second and third years, the third year, and the fifth and sixth years of the reign of her present majesty And whereas an Act was passed in the session of parliament held in the first and second years of the reign of her present majesty, intituled 'An Act to facilitate the Merger of Tithes in Land' And whereas it is expedient that the said Acts should be amended as hereinafter mentioned" BE IT ENACTED, That where, under any agreement or award which has been or hereafter shall be confirmed by the commissioners, the amount of the rent charge agreed or awarded to be paid instead of the tithes of any parish shall not exceed the sum of fifteen pounds, and shall not have been apportioned, or the apportionment of such rent charge shall not have been confirmed by the commissioners, it shall be lawful for the owners of the land chargeable therewith, or any of them, with the consent of the person or persons for the time being entitled to the receipt thereof, or, in the case of an infant, feme covert, or lunatic, with the consent of the guardian, husband, or committee of the estate of the person so under disability, to redeem such rent charge on payment, in manner herein after mentioned (within such time as the commissioners shall in each case limit in this behalf), of a sum of money not less than twenty four times the amount of such rent charge 6 & 7 W 4 c 71 1 & 2 Vict c 64 Power to landowners to redeem a rent-charge not apportioned where the amount does not exceed fifteen pounds

2 That in every case in which any such rent charge, not exceeding fifteen pounds as aforesaid, has been or shall be awarded to be paid, the commissioners shall give notice, in such manner as they shall think fit, of the time within which it shall be lawful for the owners of the land charged therewith, or any of them, to redeem such rent charge, and when it shall appear to the commissioners that the consideration money for the redemption of such rent charge as aforesaid shall have been paid, according to the provisions of this Act, within the time limited by them in this behalf, or within any enlarged time which the commissioners may by any order under their hands and seal allow for that purpose, no apportionment of the rent charge shall be made, but the commissioners shall, by a certificate under their hands and seal, certify that such rent charge has been redeemed, and that the parish is discharged of such rent charge, and of the tithes in lieu of which such rent charge was agreed or awarded to be paid, as from such time as the commissioners shall think reasonable and declare, and such parish shall be thenceforth discharged according to the terms of such certificate Upon payment of the consideration money, commissioners to certify that the parish is discharged of tithes

3 That in every case in which, by any instrument of apportionment confirmed under the provisions of the said Acts, any rent charge or portion of rent charge has been or Power to redeem rent

---

(a) This provision is analogous to the 11 Geo 2, c 19, s 22, ante, Vol II p 1126

(b) As to what is sufficient notice under this section, see *Howard* v *Remer*, 2 E & B 915, 23 L J Q B 60

(c) See 11 Geo 2, c 19, ss 19, 20, ante, Vol II p 1125

(d) See 1 & 2 Vict. c 64, s 4, ante, p 716, 2 & 3 Vict c 62, s. 7, ante, p 717

9 & 10 Vict. c. 73.

Charge erroneously apportioned on lands not chargeable therewith (a).

shall have been (by reason of error as to boundary or otherwise) charged on lands not within the parish in respect of the tithes of which the aggregate rent-charge the apportionment of which shall have been so confirmed was agreed or awarded to be paid, such rent-charge or portion of rent-charge so charged on lands not within the parish shall be redeemable on payment by the owners of the lands charged with the residue of such aggregate rent-charge, or any of them, of a sum of money equal to twenty-four times the amount of the rent-charge or portion of rent-charge hereby made redeemable, and it shall be lawful for the commissioners before they shall proceed to direct a new apportionment to give notice that the rent-charge or portion of rent-charge so erroneously apportioned on lands not within the parish may be redeemed, under the provisions of this Act, within a time in such notice to be limited in this behalf.

After redemption of the rent-charge erroneously apportioned, the apportionment of the remainder to be valid.

4. That when it shall appear to the commissioners that the consideration money for the redemption of the rent-charge or portion of rent-charge so charged by such instrument of apportionment on lands not within the parish shall have been paid, according to the provisions of this Act, within the time which shall have been limited by the commissioners in this behalf, or within any enlarged time which the commissioners may by order under their hands and seal allow for that purpose, and that the arrears thereof (if any) have been paid, the commissioners shall under their hands and seal certify that such rent-charge or portion of rent-charge has been redeemed, and thenceforth, except as respects the lands so erroneously charged, and the rent-charge or portion of rent-charge apportioned thereon, the apportionment and charges made by such instrument of apportionment shall be valid and effectual in such and the same manner as if the aggregate rent-charge had originally consisted only of the sum of the portions charged on the lands within the parish, and had been apportioned on such lands, and no others, in the portions in the instrument of apportionment expressed.

Separate rent-charges, not exceeding twenty shillings in amount, may be redeemed after apportionment.

5. That in every case in which, under any confirmed instrument of apportionment or any altered apportionment under the powers of the said Acts, the whole amount of the rent-charge or separate portion of rent-charge with which the lands of any owner shall be charged in respect either of all tithes or of any kind of tithes payable to separate titheowners shall be a sum not exceeding twenty shillings, it shall be lawful for such owner at his option, and with the consent of the person or persons for the time being entitled to the receipt thereof, or, in the case of an infant, feme covert, or lunatic, with the consent of the guardian, husband, or committee of the estate of the person so under disability, at any time to redeem such rent-charge or separate portion of rent-charge on payment, according to the provisions of this Act, of such a sum of money as shall be not less than twenty-four times the amount of the rent-charge or portion of rent-charge; and after payment of such consideration money according to the provisions of this Act the commissioners shall certify that such rent-charge or portion of rent-charge has been redeemed, and the same, from and after the payment of the half-yearly portion of such rent-charge or portion of rent-charge which shall next accrue due subsequently to the time of the payment of such consideration money, shall cease and be extinguished: Provided always, that no such redemption as last aforesaid shall extinguish or affect any extraordinary rent-charge which would become payable in respect of such land upon any change of the cultivation thereof.

Extraordinary charge not to be affected.

Commissioners to certify the amount of consideration money for redemption.

6. That in every case in which a rent-charge is redeemable under the provisions of this Act, the commissioners shall, upon the request of the owners of land chargeable with such rent-charge or any of them, certify under the hands and seal of the commissioners the sum of money in consideration of which such rent-charge may be redeemed; and when it shall appear to the commissioners that payment or tender of such consideration money has been duly made, it shall be lawful for the commissioners to certify that such rent-charge has been redeemed under the provisions of this Act, and such certificate shall be final and conclusive: Provided that if any consideration money shall be paid for the redemption of a rent-charge to a person not entitled under the provisions of this Act to receive the same, the land which was charged with such rent-charge before the redemption thereof shall be charged in equity with the payment of such consideration money to the person rightfully entitled thereto as if the same were purchase money for such land remaining unpaid; but the same remedies may be had against the person who shall have wrongfully received such money as purchasers are entitled to by the rules of law and equity.

Consideration money for redemption, how payable.

7. That where the person entitled to a rent-charge redeemable under the provisions of this Act shall be absolutely entitled thereto in fee simple in possession, or shall be enabled to dispose of the fee simple in possession independently of the provisions of this Act, and shall not be a spiritual person entitled in respect of his benefice or cure, or a corporation prevented from aliening such rent-charge otherwise than under the provisions of this Act, a payment or tender to the person so entitled, or to the proper officer of the corporation so entitled, of the sum of money certified by the commissioners as aforesaid, shall be deemed a due payment of the consideration money; and in every other case the payment of the sum of money so certified according to the provisions hereinafter contained shall be deemed a due payment of the consideration money.

(a) Sec 10 & 11 Vict. c. 104, s. 3, post, p. 743.

9 & 10 Vict. c. 73.

Consideration for redemption of rent-charges payable to spiritual owners to be paid to governors of Queen Anne's bounty, to be applied in augmentation of benefices.

8. That the consideration money for the redemption under this Act of any rent-charge agreed or awarded to be paid or payable under any apportionment to any spiritual person in respect of his benefice or cure shall be paid to the "governors of queen Anne's bounty for the augmentation of the maintenance of the poor clergy," and such consideration money shall be applied and disposed of by the said governors as money in their hands appropriated for the augmentation of such benefice or cure should by law and under the rules of the said governors be applied and disposed of; and the receipt of the treasurer of the said governors shall be a sufficient discharge for such consideration money, and the person paying the same to such treasurer shall not be concerned to see to the application or disposal thereof.

Consideration money in case of owners under disability, how payable.

9. That in all other cases in which the person for the time being entitled to any rent-charge or apportioned rent-charge subject to be redeemed under the provisions of this Act shall be only entitled thereto for a limited estate or interest therein, or shall be under any disability, or shall be a corporation not authorized to make an absolute sale of such rent-charge otherwise than under the provisions of this Act, the consideration money to be paid for the redemption thereof shall be applied in manner hereinafter provided: (that is to say,) shall, at the option of the person for the time being entitled as aforesaid, be paid into the bank of England in the name and with the privity of the accountant-general of the court of chancery, to be placed to his account there *ex parte* the tithe commissioners, pursuant to the method prescribed by any Act for the time being in force for regulating moneys paid into the said court, and such moneys shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,) in the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the rent-charge in respect of which such money shall have been paid, or the tithes for which the same shall have been substituted, or affecting other hereditaments settled therewith, to the same or the like uses, trusts, or purposes; or in the purchase of other lands, to be conveyed, limited, and settled upon the like uses, trusts, purposes, and in the same manner, as the rent-charge for redemption of which such money shall have been paid stood settled; or in payment to any party becoming absolutely entitled to such money; and such money may be so applied as aforesaid upon an order of the court of chancery made on the petition of the party who would have been entitled to the receipt of the rent-charge in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said accountant-general in the purchase of three per centum consolidated or three per centum reduced bank annuities, or in government or real securities, and the dividends thereof paid to the party who would for the time being have been entitled to the rent-charge in case the same had not been redeemed, or otherwise such consideration money may be paid, at the like option of the person for the time being so entitled, to the trustees acting under the will, conveyance, or settlement under which such person having such limited interest shall be entitled to or interested in such rent-charge, or if there are no such trustees, then into the hands of trustees to be nominated under the hands and seal of the said commissioners; and the money, when so paid to such trustees, shall be applied by the said trustees, with the consent of the said commissioners, in the manner hereinbefore directed concerning any money to be paid for redemption into the bank of England in the name and with the privity of the said accountant-general; and upon every vacancy in the office of such trustee some other fit person shall be appointed by the said commissioners in like manner.

As to consideration money under 20*l.*

10. Provided also, that when any consideration money so to be paid as last hereinbefore mentioned shall not exceed the sum of twenty pounds for the redemption of all the rent-charge which shall be redeemable under this Act, and shall not be payable to the governors of queen Anne's bounty as aforesaid, the same shall be paid, if the said commissioners shall so direct, to the person for the time being entitled to the rent-charge, for his own use and benefit, or in case of coverture, infancy, idiocy, lunacy, or other incapacity of the person for the time being entitled, then such money shall be paid, for the use of the person so entitled, to the husband, guardian, committee, or trustee of such person; and in case any dispute shall arise as to the proper application, appropriation, or investment of any money according to the intention of this Act, it shall be lawful for the said commissioners to decide such question, and their decision shall be final and conclusive thereon.

Power to persons entitled for limited interests to charge expenses of redemption.

11. That every owner of an estate in land less than an immediate estate in fee-simple or fee tail, or which may be settled upon any uses or trusts, may, with the consent of the commissioners, or in such manner as they shall direct, charge so much of the consideration money and other moneys payable in respect of the redemption of a rent-charge, or any part thereof, with interest after the yearly rate of four pounds by the hundred, upon the lands of such owner which would have been subject to such rent-charge, or to an apportioned part thereof, but so, nevertheless, that the charge upon such land shall be lessened in every year after the redemption of such rent-charge by one twentieth part at least of the whole original charge thereon.

Commissioners' certificates of redemption to show amount of

12. That every certificate of the commissioners of the redemption of a rent-charge under the provisions of this Act shall be under the hands and seal of the commissioners, and shall show the amount of the consideration money for the redemption thereof, and to whom or in what manner the same shall have been paid; and copies of every such certificate shall be made, and sealed with the seal of the commissioners, and

9 & 10 Vict. c. 73.

shall be deposited in the like custody and in like manner as by the said first-recited Act is provided concerning every confirmed instrument of apportionment; and copies of and extracts from any copy of such certificate shall be furnished in like manner as copies of any copy of a confirmed instrument of apportionment; and every recital or statement in any such certificate, or in any sealed copy thereof, shall be evidence of the matters therein recited.

Consideration for the same.

Alteration of apportionment may be made after inclosure, &c.

13. That where lands now charged or hereafter to be charged with rent-charges or portions of rent-charges under confirmed instruments of apportionment have been or shall be (after the confirmation of such apportionment) inclosed or divided, allotted or exchanged, by agreement or award made under the powers of any general or local Act of inclosure (or otherwise) in such manner that the apportionment shall appear to the commissioners to be inconvenient with reference to the altered distribution of the land among the several owners thereof, it shall be lawful for the commissioners, upon the application of the owners of such lands, or the majority in number and value of such owners, or upon the application of the person or persons entitled to such rent-charges or portions of rent-charges, or any of them, to make or confirm an altered instrument of apportionment adapted to the altered distribution of the lands, in order that the rent-charges or portions of rent-charges originally charged on the several portions of land which shall have been taken or allotted away from the former owners on such inclosure, division, allotment, or exchange shall be charged on the lands which shall have been allotted or received in the way of substitution or compensation for the lands so taken or allotted away from the former owners thereof, or as near thereto as circumstances will admit; and every such altered apportionment, when confirmed under the hands and seal of the commissioners, shall be valid as from the date of such confirmation, and shall be taken to be an amendment of the original apportionment.

Such alteration, when confirmed, to be valid.

Expenses of alteration of apportionment shall be borne by owners of lands to which it shall relate.

14. That all the expenses of the altered apportionment last aforesaid shall be borne by the owners of the lands to which such altered apportionment shall relate, and shall be recovered in the same manner as expenses chargeable on the same owners in or about the making of an original apportionment of the sum of the rent-charges charged on the same lands respectively would have been recoverable; and all the provisions of the said Acts in relation to such of the expenses of or incident to making an apportionment of a rent-charge as are payable by the owners of the land included therein shall extend and be applicable to the expenses of such altered apportionment.

Supplemental apportionment of a rent-charge as made payable to one owner in respect of tithes belonging to several owners or held in separate rights.

15. That where by any agreement or award made under the provisions of the said Acts a rent-charge has been or shall have been agreed or awarded to be paid to any person in lieu of any tithes, and after the apportionment of such rent-charge shall have been made and confirmed under the provisions of the said Acts, it shall appear that some tithes included in the aggregate tithes in lieu of which such rent-charge shall have been so agreed or awarded to be paid, or some portion or undivided share of some tithes so included, were or was at the time of such agreement or award the property of some person other than the person to whom the same rent-charge was so agreed or awarded to be paid, or that the whole of the tithes included in the aggregate in respect of which such rent-charge was agreed or awarded to be paid were not held by the person to whom such rent-charge was so agreed or awarded to be paid in the same right and for the same estate, or were not subject after the determination of the estate of such person to the same limitations or estates legal and equitable, it shall be lawful for the commissioners in any of the cases aforesaid, in pursuance of or in accordance with the decree or direction of a court of equity of competent jurisdiction, or on the request in writing of the parties who for the time being in case there had been no commutation would have been the owners of all the tithes included in such aggregate, to make or confirm a supplemental award or apportionment of such rent-charge in such manner that, without altering the aggregate amount of rent-charge to which any owner of land may be subject, separate rent-charges, or separate portions of rent-charge, may be made payable to the parties who would have been owners of the tithes in case they had not been extinguished in lieu of the several tithes or portions of tithe included in such aggregate which would belong to different persons, or be held in different rights, or be subject to different limitations or estates; and by such supplemental award and apportionment the commissioners, if they shall so think fit, may apportion or award to be paid to one of the respective owners, or to the owner in lieu of one of his respective rights, the whole of any rent-charges payable under the original instrument of apportionment out of specific lands, instead of dividing each rent-charge made payable in lieu of the aggregate of the tithes of each parcel of land between or among the owners of the separate tithes arising out of such parcel; and such supplemental award and apportionment, when confirmed by the commissioners under their hands and seal, shall take effect from the half-yearly day of payment which shall happen next after the confirmation thereof.

Commissioners empowered to declare that lands as to which doubts have arisen, shall be considered a separate district for

16. That where by any confirmed agreement or award a rent-charge shall have been agreed or awarded to be paid instead of the tithes of any parish, or of any of such tithes, and before the apportionment of such rent-charge shall have been confirmed it shall appear to the commissioners that by reason of any question or doubt which after the confirmation of such agreement or award shall be raised or shall exist in respect of any actual or supposed exemption from tithes, modus, composition real, or prescriptive or customary payment, applicable only to a part of the lands in such parish, or by reason of any other question or doubt whatsoever applicable only to a part of the lands in such parish, or by reason of any question or doubt touching the boundaries of such parish,

9 & 10 Vict. c. 73.

it cannot be immediately ascertained whether the agreement or award might require any and what rectification in respect of the matters to which such question or doubt shall relate, it shall be lawful for the commissioners by a separate award by way of supplement to the agreement or award to declare that the lands to which such doubt or question shall be applicable shall be considered a separate district for the commutation of the tithes thereof, and that the residue of the parish, or the parish exclusively of the lands to which the question or doubt touching the boundaries may be applicable, shall remain subject to the agreement or original award, with such variation as in the award by way of supplement shall be directed; and the commissioners, in case they shall find that in estimating or fixing the amount of the rent-charge so agreed or awarded to be paid any sum was included or added in respect of the lands which they shall have directed to be considered a separate district, shall declare what sum was so added, and shall direct the residue of the rent-charge, after deducting such sum, to be apportioned on the lands composing the residue of the parish, or on the parish exclusively of the lands which they shall have formed into a separate district; but if they shall find that by reason of exemption or supposed exemption or otherwise, no sum was so included or added in respect of the lands which they shall have formed into a separate district, they shall direct the whole of such rent-charge to be apportioned on the lands comprising the residue of the parish, or on the parish exclusively of the lands which they shall have formed into a separate district; and all awards by way of supplement under this section shall be subject to the provisions of the said Act of the session of parliament holden in the second and third years of the reign of her majesty, concerning the separate awards by way of supplement to a parochial agreement or award.

commutation, and the residue of the parish to remain subject to the original award.

Place of deposit of copy of confirmed apportionment may be altered by quarter sessions.

17. That where the place of deposit of the copy of a confirmed instrument of apportionment which by the said Act of the session of parliament holden in the sixth and seventh years of the reign of king William the fourth is directed to be deposited with the incumbent and church or chapel wardens for the time being, or such other fit person as the commissioners shall approve, shall be alleged to be inconvenient to the majority of the persons interested therein, or otherwise inconvenient or unsafe, it shall be lawful for any person interested in the lands or rent-charge to which such apportionment shall relate to apply to the court of general quarter sessions of the peace of the county, riding, division, or place in which such deposit shall be situate for an order for the deposit of such copy in some more convenient or secure custody or place, and fourteen days' notice in writing of every such application shall be given to the persons in whose custody such copy shall at the time of such application be deposited; and it shall be lawful for the court at the quarter session for which such place of notice shall be given to hear and determine such application in a summary way, or they may, if they think fit, adjourn it to the following session; and upon the hearing of such application the court may, if they think fit, order such copy to be removed from the custody of the persons with whom the same shall have been deposited, and to be deposited with such other persons or in such other custody as the court, having reference to the security and due preservation of such copy, and to the convenience of the parties interested therein, may think fit, and may make such order concerning the notice to be given of such removal and deposit, and concerning the costs of such application, or of any opposition thereto, as they may think reasonable.

Tithes or rent-charge in lieu thereof may be merged after agreement or award, but before apportionment.

18. That where by any agreement or award already made or hereafter to be made a rent-charge shall have been agreed or awarded to be paid instead of the tithes of any parish, or instead of any of such tithes, and shall not have been apportioned, it shall be lawful for the person who under the provisions of the said recited Acts would have been enabled in case such agreement or award had not been made to merge the tithes in lieu of which such rent-charge shall have been agreed or awarded to be paid, or such of the same tithes as were payable out of part of the said lands, by any deed or declaration, to be made in such form as the commissioners shall approve, and to be confirmed under their hands and seal, to declare that the tithes which he would have been so entitled to merge shall, so far as respects all the lands, or, if he shall think fit, so far as respects only any specified part of the lands out of which the same were payable, and the rent-charge or portion of rent-charge which shall have been awarded or ought to be apportioned in lieu thereof on such lands, or specified parts of such lands, as the case may be, shall be merged, and such merger shall take effect accordingly; and in case such merger shall extend to all the lands which would have been chargeable with such rent-charge, no apportionment of such rent-charge shall be made under the provisions of the said recited Acts; but in case such merger shall extend to part only of the lands which would have been chargeable with such rent-charge, then such portion of the rent-charge shall be apportioned among the other lands which would have been chargeable with such rent-charge as such other lands would have been subject to in case such merger had not taken place; and the owner of the land to which such merger shall extend shall pay such portion of the expenses of or incident to the apportionment as the commissioners or any assistant commissioner may under the special circumstances order to be paid by such owner, instead of the rateable proportions to which he would have been liable in case the whole of such rent-charge had been apportioned.

Powers relating to the merger, &c. of any tithes may be executed

19. That all powers relating to the merger and extinguishment of any tithes, or rent-charge instead thereof, may be executed by a person entitled in equity to such tithes or rent-charge in all respects and with the same consequence as he could have done if he had been legally entitled thereunto; and every instrument already executed and purporting to be made in pursuance of the powers of the said Acts or any of them by any

9 & 10 Vict. c. 173.

by a person entitled in equity (a).

person so entitled in equity shall in every respect be as effectual and have the same consequence as if he had been legally entitled to the said tithes or rent-charge at the time of the execution of such instrument, subject nevertheless in every case to any charge, incumbrance, or liability which lawfully or equitably existed on such tithes or rent-charge to the extent of the value of such tithes or rent-charge; and any such charge, incumbrance, or liability shall have such priority, and the lands and the owners thereof for the time being shall be liable in the same manner in respect of such rent-charge, incumbrance, or liability, or of any penalty or damages for non-payment or non-performance thereof respectively, as by the said Act of the session of parliament held in the second and third years of the reign of her present majesty is provided in the case of such merger or extinguishment as therein-mentioned; and every instrument purporting to merge any tithes or rent-charge, and made with the consent of the said commissioners before the passing of this Act, shall be hereby absolutely confirmed and made valid both at law and in equity in all respects, subject nevertheless to any charge, incumbrance, or liability in all respects as is lastly hereinbefore provided.

1 & 2 Vict. c. 64, to be construed as part of the tithe commutation Acts.

20. That the said Act of the session of parliament holden in the first and second years of the reign of her majesty shall be construed with and as part of the first-recited Act as amended by the several Acts passed for the amendment thereof and by this Act.

Decisions concerning boundary not appealed against to be valid notwithstanding informality.

21. That in every case in which the judgment or determination of the commissioners or of any assistant commissioner already given respecting the boundary of any parish, township, district, or lands shall not have been removed into the court of queen's bench by *certiorari* within the time limited in that behalf, such judgment or determination shall be valid and conclusive notwithstanding any want of form in such judgment or determination, or in the award in which the same may be set forth, and although it may not appear on the face of such award, judgment, or determination, or otherwise, that the commissioners or assistant commissioner had jurisdiction in relation to such boundary.

Glebe lands may be exchanged although no commutation be pending.

22. That the provisions of the said Act of the session of parliament holden in the fifth and sixth years of the reign of her majesty for the exchange of glebe lands for other lands shall authorize and be deemed to have authorized the exchange of glebe lands for other lands, although at the time of such exchange, or of the applications in relation thereto, no proceedings for or concerning the commutation of tithes in the parish in which such glebe lands may be situate shall have been pending, and whether the commutation of tithes in such parish shall or shall not have been completed.

Act to be construed as part of 6 & 7 W. 4, c. 71, &c.

23. That this Act shall be construed with and as part of the first-recited Act as amended by the several Acts passed for the amendment thereof and by this Act.

10 & 11 Vict. c. 104.

10 & 11 Vict. c. 104. An Act to explain the Acts for the Commutation of Tithes in England and Wales, and to continue the Officers appointed under the said Acts until the First day of October, 1850, and to the end of the then next Session of Parliament. [22nd July, 1847.]

6 & 7 W. 4, c. 71.
5 Vict. c. 7.
5 & 6 Vict. c. 54.

"Whereas by an Act passed in the seventh year of the reign of his late majesty, intituled 'An Act for the Commutation of Tithes in England and Wales,' tithe commissioners for England and Wales were appointed, and by the said Act, and by sundry Acts since passed for the amendment thereof, and for continuance of the said commission, the powers of the said commissioners now stand limited, and will expire at the end of the session of parliament next after the 31st day of July, 1847; and it is expedient that the same be further continued:" BE IT ENACTED, That so much of any of the recited Acts as limits the time during which any tithe commissioner, assistant commissioner, secretary or assistant secretary, or other officer or person appointed or to be appointed under the first-recited Act, shall hold his office to the said 31st day of July, shall be repealed; and that the commissioners and assistant commissioners, secretary, assistant secretary and other officers and persons appointed or to be appointed under the first-recited Act, may continue to hold their several offices, if not sooner removed by lawful authority, until the first day of October, 1850, and until the end of the then next session of parliament; and that all the powers of the said commissioners and their assistant commissioners, secretary, assistant secretary, officers, and servants for the time being, shall continue in force according to

So much of recited Acts as limits the duration of tithe commission repealed.

Powers of commissioners, &c.

(a) This section is not limited to cases in which the person executing the instrument has a title to tithe, but operates where he has no estate, and where his estate is insufficient to effect the merger. Lands which, on the agreement and apportionment under the Tithe Commutation Acts, are treated as free from tithe, cannot afterwards be made subject to tithe, and where the declaration of merger has been made with the proper consent, the parties affected by it are left to their remedy against the party making it (*Walker* v. *Bentley*, 9 Hare (V.-Ch.), 629).

the provisions of the said several Acts, as amended by this Act, until the said 1st day of October and the end of the then next session of parliament, unless her majesty shall be pleased sooner to determine the said commission. 10 & 11 Vict. c. 104.

to continue in force till Oct. 1, 1850, unless sooner determined.

2. "And whereas by the first-recited Act it was enacted, for the quieting of titles, that no confirmed agreement, award, or appointment shall be impeached after the confirmation thereof by reason of any mistake or informality therein, or in any proceeding relating thereunto, and doubts have been entertained as to the full meaning and extent of such enactment:" BE IT DECLARED AND ENACTED, That notwithstanding any exception in the said Act contained every instrument purporting to be an instrument of apportionment, confirmed under the hands and seal of the said tithe commissioners, shall be hereby absolutely confirmed and made valid, both at law and in equity, in all respects, subject nevertheless to the powers given to the tithe commissioners in the first-recited Act, or in any Act passed for the amendment thereof, for alteration of any instrument of apportionment. Confirmed apportionments to stand good.

3. Provided always, That if it shall be shown to the satisfaction of the said tithe commissioners, that any lands have been improperly included or improperly charged with rent-charge in any confirmed instrument of apportionment, it shall be lawful for the said tithe commissioners to correct such apportionment, and the deposited copies thereof, either by excluding such lands so improperly charged from the apportionment, and re-distributing any rent-charge imposed upon such lands, on lands legally liable to the payment thereof, or by sanctioning the redemption of the rent-charge so improperly charged by the persons capable of redeeming the same, under the provisions of an Act of the last session of parliament, intituled "An Act further to amend the Acts for the Commutation of Tithes in England and Wales;" and all costs and expenses attendant upon the correction of any confirmed instrument of apportionment shall be borne and paid by such persons, and in such proportions as the said tithe commissioners shall direct, and shall be recoverable from the person or persons declared liable by the said tithe commissioners to the payment of the same, in such manner as expenses attendant upon original instrument of apportionment are recoverable. Instruments of apportionment may be corrected if any lands shall have been improperly included or charged with rent-charge therein. 9 & 10 Vict. c. 73.

4. That for the purposes of such correction, or of recording any such redemption, the person or persons having the custody of any copy of any instrument of apportionment shall be bound, upon application of the tithe commissioners, to deliver to the said tithe commissioners, any copy of a confirmed instrument of apportionment which shall have been deposited with them respectively. Instruments to be delivered up for the purpose of such correction.

14 & 15 Vict. c. 53. An Act to consolidate and continue the Copyhold and Inclosure Commissions, and to provide for the Completion of Proceedings under the Tithe Commutation Acts. [1st August, 1851.]

14 & 15 Vict. c. 53.

[See this Act, ante, Vol. I., p. 868, tit. "COPYHOLD."]

23 & 24 Vict. c. 93. An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales. [13th August, 1860.]

23 & 24 Vict. c. 93.

"Whereas an Act was passed in the session of parliament held in the sixth and seventh years of the reign of his late majesty king William the fourth, intituled 'An Act for the Commutation of Tithes in England and Wales,' and the said Act has been amended, and the provisions thereof have been extended, by Acts passed in the sessions of parliament held in the first year, the first and second years, the second and third years, the third year, the fifth and sixth years, the ninth and tenth years, and the tenth and eleventh years of the reign of her present majesty: and whereas it is expedient that the said Acts should be amended, and that the provisions thereof should be further extended in manner hereinafter mentioned:" BE IT ENACTED as follows; 6 & 7 W. 4, c. 71.

1. Where corn rents are payable by virtue of any local Act of parliament, in commutation of the whole or part of the tithes of any parish, and such corn rents shall be subject to variation at certain periods under the provisions of the same Act, the commissioners, upon the application in writing of the owners of lands liable to the payment of the major part in value of such corn rents, or of the persons to whom a major part in value of such rents are payable, at any time at which the said corn rents might be subjected to variation under such local Act, or at any other time, upon the joint application in writing of the owners of lands liable to the payment of the major part in value of such corn rents, and of the persons to whom a major part in value of such rents are payable, may by an award under their hands and seal convert the same into a rent-charge, to be thenceforth and for ever thereafter payable, in like manner and subject to the like incidents as rent-charges awarded under the said-recited Acts are payable and subject to: Provided always, that nothing in this Act contained shall be construed to render any such rent-charge liable to parochial or other rates or taxes from which the Corn rents under local Acts may be converted into tithe rent-charge.

23 & 24 Vict. c. 93.

corn rents in respect of which such rent-charge shall have been awarded were free and exempt.

County or towns from whose returns average to be calculated.

2. Wherever the local Act provides that the average prices upon which any corn rents shall be varied shall be taken from any county or from towns from which corn returns are made, the commissioners shall calculate the rent-charge to be awarded by them in lieu of such corn rents upon the returns for such county or such towns; and where no corn returns are made from the towns so named, the commissioners shall select two towns in the same or any adjoining county from which there are returns, and give notice thereof in such manner as to them shall seem fit, and shall appoint a time (being not less than twenty-one days from the date of the notice) within which objections to such selection may be signified in writing to the commissioners by any person interested, and if there be any such objections the commissioners shall consider the same, and shall either confirm the selection, or select some other towns, as they may think fit.

How average to be calculated.

3. The commissioners shall calculate the rent-charge to be awarded in lieu of any such corn rents upon the average prices for the number of years next preceding the date of the application to them, which shall be provided by such local Act as the basis of variation, having due regard to the average prices upon which such corn rents were ascertained, and such calculation, where practicable, shall be made with reference to the particular grain mentioned in the local Act under which such corn rents are payable, or if there shall be no returns of such grain, upon the average prices of wheat, barley, and oats.

Commissioners to apportion rent-charge.

4. The commissioners shall apportion the rent-charge to be awarded by them in lieu of corn rents upon and among the lands heretofore subject to such corn rents, either by a general schedule or a schedule in detail of the same lands, to be annexed to and form part of their award, and with or without a map of the same lands or any part thereof, but the commissioners shall not require a map unless the same shall in their opinion be rendered necessary for the identification of any such lands; and the commissioners shall deposit a draft of such award for inspection in the same manner as by the said recited Acts is required in reference to an instrument of apportionment, and shall cause notice of such deposit to be given in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed award may be signified to the commissioners; and in case any notice of objections shall be given within the time limited as aforesaid, the commissioners shall appoint a time and place for hearing such objections, and shall by themselves or by an assistant commissioner take such objections into their consideration; and if there be no notice of objections, or when the said commissioners or assistant commissioner shall have heard and determined all such objections, the commissioners shall confirm such award, with or without amendments, as they shall see fit, and such award shall thenceforth be binding and conclusive on all persons whomsoever, subject to the provision hereinafter contained, and shall be conclusive evidence on every matter in the said award set forth and contained.

Power of appeal to a court of law.

5. Any person dissatisfied with the said award, and who shall be desirous of appealing against the same, shall have the same power of appeal as is given by the said first recited Act in the case of a decision given under the forty-fifth section of such Act, notwithstanding that the yearly payment in dispute shall be less than twenty pounds; and the court is hereby empowered to amend such award, or to remit the same to the commissioners to be amended by them in such manner as the said court shall direct, and the commissioners shall thereupon amend the same, in conformity to such direction, and the award so amended shall be binding and conclusive on all persons whomsoever.

Comptroller of corn returns to furnish information.

6. The commissioners shall have access to the books of the comptroller of corn returns for the time being, and shall be furnished by him with such information as they may require for the purposes of any award of rent-charge in lieu of corn rents.

Commissioners to have same powers as in tithe commutations.

7. In making any such award, and any inquiries incident thereto, the commissioners shall have the same powers as to the attendance and examination of witnesses, the production of documents, and all other matters, as are given by the said recited Acts in matters relating to the commutation of tithes; and all expenses of or incident to any such award or any part thereof shall be borne and paid by and amongst the owners of lands heretofore liable to such corn rents, and the persons to whom the same were payable respectively, in such proportion and manner as the commissioners shall direct, and be recoverable in like manner as expenses under the said recited Acts are recoverable.

As to expenses of awards, &c.

Copies of award to be deposited, &c.

8. The commissioners shall cause to be made two copies of every such award of rent-charge in lieu of corn rents, which copies shall be sealed by them and be deposited in like manner and subject to all the like incidents as provided by the said recited Acts in reference to the sealed copies of an instrument of apportionment.

As to recovery of rent-charges awarded in lieu of corn rents.

9. The payment of any rent-charge awarded in lieu of corn rents which shall be in arrear may be enforced by the same ways and means as payment of rent-charge in arrear may be enforced under the provisions of the said recited Acts, or may be enforced, at the option of the person to whom the same rent-charge is payable, by the same ways and means as are provided by the local Act for the recovery of the corn rents in lieu of which such rent-charge shall have been awarded.

23 & 24 Vict c 93

10 In any case of altered apportionment in which the consent of the whole of the landowners interested in such alteration shall not be signified thereto, the commissioners shall, in lieu of the service of notice required by the said Acts, cause a draft of the proposed altered apportionment to be deposited for inspection, in the same manner as by the said first recited Act is required in reference to an instrument of apportionment, and shall cause notice to be given of such deposit in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty one days) within which objections in writing to such proposed altered apportionment may be signified to the commissioners, and in case any notice of objection shall be given within the time limited as aforesaid, the commissioners shall appoint a time and place for hearing such objection, and shall, by themselves or by an assistant commissioner, take such objection into their consideration, and if there be no notice of objection, or when the said commissioners or assistant commissioner shall have heard and determined every such objection, the commissioners shall confirm such altered apportionment, with or without amendments, as they shall see fit

Where consents not given draft of proposed altered apportionment to be deposited for inspection.

In case of objection commissioners to appoint a time for hearing the same

11 With the consent of the owner or owners of any lands charged with rent charge under any instrument of apportionment, whether payable to one or more owners of rent charge, and without regard to the mode in which the same rent charge is apportioned by the said instrument, the commissioners may by an altered apportionment reapportion and redistribute the same rent charge over and amongst the said lands or any part thereof, and to the exclusion of any of such lands, but no rent charge shall be charged upon any land to the exclusion of other land of the same owner, unless the land so charged with rent charge is held for an estate in fee simple or fee tail in possession, or unless the same and the land so excluded are settled to the same uses

Rent charge may be reapportioned and redistributed on the same or on other lands

12 Where, through the removal or alteration of fences between land charged with rent charge under any instrument of apportionment and land upon which no rent charge is now charged, or which is tithe free, it becomes impossible or difficult to distinguish the limits of the land so charged with rent charge, the commissioners may, with the consent of the owner of the said lands, include the whole of such lands in any instrument of altered apportionment to be made by the said commissioners, and may apportion the rent charge as well on the said land not heretofore charged as on the said land heretofore liable to the payment thereof, or on any part thereof, provided that the whole of the lands on which such rent charge is apportioned are held for an estate in fee simple or fee tail in possession, or are settled to the same uses

Where fences removed rent charge may be apportioned on land tithe-free jointly with other land.

13 No land shall be charged with rent-charge payable to a different owner than the rent charge previously charged thereon was payable to, without the consent in writing of the owner of the rent charge so proposed to be charged, except in cases of altered apportionment after inclosure

Land not to be charged to a different owner than before without consent

14 It shall not be necessary to obtain the consent of any landowner to an altered apportionment whose lands are not charged with rent charge by such altered apportionment

Consent of landowner not required where his lands are not charged.

15 Whenever it shall appear to the commissioners that any instrument of apportionment shall have been altered by successive instruments of altered apportionment, so as in the judgment of the commissioners to render the collection of the rent charge upon the lands included in such apportionment and altered apportionments unreasonably inconvenient or difficult, the commissioners may, upon the application of the person or persons entitled to such rent charge or any part thereof, and without notice to or the consent of any owner of such lands, make a further instrument of altered apportionment as regards the whole of the said lands, or such portions thereof, as to them shall seem fit, but without making any alteration in the amount charged on the lands of any particular owner, and the altered apportionment so made by the commissioners shall be taken to be an amendment of and in substitution for so much of the said original apportionment and altered apportionments as relates to the lands included in the said lastly made altered apportionment

Power to commissioners to alter apportionment where successive alterations have made it inconvenient or difficult, but not to alter amount, &c

16 Whenever any new boundaries of parishes shall have been or shall be set out upon any inclosure or otherwise, and it shall appear to the commissioners that the apportionment of the rent charge in such parishes is thereby rendered inconvenient, the commissioners may make and confirm an altered instrument of apportionment adapted to the altered distribution of the lands in such parishes or any of them, and to the new boundaries which shall have been so set out, or otherwise the commissioners may, by an order under their hands and seal, declare the lands which shall be affected by such alteration of boundaries, either with or without any other lands comprised in such inclosure, and whether such lands are situate in one or more parishes, to be a separate district for the purposes hereinafter mentioned, and may make and confirm an altered instrument of apportionment adapted to the altered distribution of such lands, with reference to the owners both of the lands and rent charge in such district, and the commissioners may determine that the amount of rent charge payable to each of the owners of rent charge in such district shall be fixed and apportioned upon such particular lands as to them shall seem convenient, so that no lands are charged with more than their due proportion of rent charge, and every such determination shall be binding and conclusive, and such altered apportionment when confirmed, shall be annexed to the original apportionment for that parish from which the greatest amount of rent charge is payable under the altered apportionment, and counterparts thereof shall be annexed to the original apportionment for each of the other parishes comprised in such district, and copies thereof

Power to commissioners to alter apportionment where boundaries of parishes have been altered

23 & 24 Vict c. 93.

shall be deposited in respect of each several parish comprised in the district, in conformity with the provisions of the said recited Acts.

Powers for altering apportionments or awards.

17. All the powers given by the said recited Acts or by this Act in relation to the alteration of instruments of apportionment shall extend to all altered apportionments and to awards of rent-charge in lieu of corn rents, and to awards under local Acts by which any rent-charge is awarded in lieu of tithes, glebe, or commonable or other rights or easements.

Tithes commuted for a sum or rate per head may be converted into a rent-charge.

18. In any case in which tithes have been commuted for a sum or rate per head to be paid for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common, during the whole of the year, the commissioners may, upon the application in writing of any person entitled to receive such sum or rate per head, or of any person who may be liable to pay the same or any part thereof, by a supplemental award and apportionment, by way of supplement to the apportionment under which such rate per head shall be now payable, convert the same into a gross rent-charge, to be thereafter payable out of such land.

Gross rent-charge may be apportioned on gated or stinted pastures.

19. Where a gross rent-charge has been made payable in respect of the tithes of any gated or stinted pasture, and such gates or stints are rated to the relief of the poor, the commissioners may, by the instrument of apportionment to be made of such rent-charge, or by a supplemental award and apportionment, where an apportionment shall have been already made, upon the application in writing of the person entitled to such rent-charge, or of any owner of a gate or stint, apportion such gross rent-charge pro rata upon the gates or stints, and after such apportionment or supplemental award and apportionment the owner of such rent-charge shall have the same powers for the recovery of any arrears thereof, by distress on the goods and chattels of the person rated to the relief of the poor in respect of the gates or stints the rent-charge upon which is in arrear, as are given by the said recited Acts for the recovery of rent-charge in arrear, and such powers of distress may be exercised upon the goods and chattels of such person, whether found upon the said pasture or elsewhere.

Rent-charge on commons may be commuted for a part of the land, or redeemed.

20. In every other case in which a gross rent-charge is charged upon any land subject to common rights, or held or enjoyed in common during the whole of the year, the commissioners shall, upon the application in writing of the person entitled to such rent-charge or of any person liable to pay the same or any part thereof, convene a meeting of the owners of such land and persons liable to pay such rent-charge, of which twenty-one days' notice shall be given, in such manner as to the commissioners shall seem fit; and the majority in value of the persons attending such meeting may determine whether such rent-charge shall be commuted for an equivalent part of the land on which it is chargeable, or be redeemed for a sum equal to twenty-five times the amount of such rent-charge, to be paid by a time to be limited by the commissioners, and may further determine, if the rent-charge is to be redeemed, whether the redemption money shall be raised by rate on the persons liable to such rent-charge, or by sale of a portion of such land: Provided always, that if no determination be come to at such meeting the commissioners may proceed to commute the rent-charge for land as hereinafter provided.

If rent-charge is commuted for land, commissioners to set out the land and to vest the same in owner.

21. If the rent-charge is to be commuted for land, the commissioners shall define and set out the land to be so given, and shall vest the same in the owner of the rent-charge by an award, to be made by them in like manner as awards of exchange of glebe for other land are made under the said recited Acts, and subject to all the like incidents.

Commissioners to set out land to be sold for purposes of redemption

22. If the rent-charge is to be redeemed for a sum to be raised by the sale of a portion of the land liable to such rent-charge, the commissioners may define and set out such part of the land as may be sufficient in value to meet the redemption money and the expenses of sale, and may sell and dispose of the same by public auction or private contract, as they may think expedient.

Conveyance of land sold to be executed by commissioners.

23. Upon every such sale the commissioners shall sign and deliver to each purchaser a receipt for his purchase money, which shall be a sufficient discharge for the same, and upon receipt of the whole purchase money for any of the lands which shall be sold as aforesaid the commissioners shall convey such lands and the fee simple and inheritance thereof in possession by conveyance under their hands and seal to such uses and in such manner as such purchasers shall direct, and after such conveyance the premises conveyed shall be freehold of inheritance, and shall be held to the uses and in manner expressed in such conveyance; and any such conveyance may be to the effect set forth in the schedule to this Act, and shall be evidence of the regularity of the sale in pursuance of which such conveyance shall be made.

Where rate per head is in arrear the same may be recovered by distress.

24. Wherever a sum or rate per head shall be in arrear, the arrears shall be recoverable by distress and impounding of any cattle, stock, goods or chattels belonging to the person in respect of whose cattle or stock such sum or rate per head is in arrear, wherever the same may be found.

Upon inclosure, rate per head may be co-

25. Where any lands in respect to the cattle or stock upon which any sum or rate per head shall be payable shall be inclosed, divided, allotted or exchanged, under the powers of any general or local Act of inclosure or otherwise, the commissioners may, by the altered apportionment which may be made by them, adapted to the altered distribution

of the said lands, charge a rent-charge equivalent to the amount of the sum or rate per head which shall have been previously payable, upon the lands which shall have been allotted under the said inclosure in lieu of the rights in respect of which the said sum or rate per head was made payable, which rent-charge shall be thereafter payable out of the same lands, in such manner and proportion as the said altered apportionment shall direct.

23 & 24 Vict. c. 93.

verted into rent-charge.

26. Where by reason of the size of the map annexed to any instrument of apportionment or other circumstances, the commissioners shall be of opinion that it is expedient that such map shall be detached and held separate from the said instrument, the commissioners may, by an order under their hands, direct that the said map shall be so detached, and they may make the like order upon the application of the incumbent and churchwardens of any parish or either of them, or the registrar of any diocese, in reference to the sealed copy of any instrument of apportionment belonging to any such parish, or held in the custody of such registrar, and thereupon every map so detached shall have the same force and effect and be referred to as if the same were annexed to the said apportionment, or the sealed copies thereof.

Power to commissioners to order maps to be detached from instruments of apportionments.

27. In any case in which an instrument of apportionment or any part thereof shall have been damaged or defaced, the commissioners may by an order under their hands require the sealed copy thereof which shall be deposited in the parish or registry of the diocese to be delivered up to them, for a time to be limited by such order, for the purpose of enabling them to restore such portions of the said instrument as shall have been so damaged or defaced, or of making an entire copy of the said instrument, which instrument so restored, or entire copy so made by them, being certified under their hands and seal, shall be of the same force and have the same effect as the said confirmed instrument of apportionment.

Provision for restoration of damaged instrument of apportionment.

28. Whenever any person, other than the persons legally entitled to the possession of the same, shall have possession of the sealed copy of any confirmed instrument of apportionment, it shall be lawful for any two justices of the peace for the county or other jurisdiction within which the lands mentioned in the said apportionment are situate, upon the application of any person interested in the lands or rent-charge, and upon fourteen days' notice in writing (*a*) of such application to the person or persons in whose custody such copy shall be at the time of such application, to hear and determine such application; and upon hearing such application the said justices may order such copy to be removed from the custody of the person holding the same, and to be deposited in such other custody as the said justices, having reference to the security and due preservation of such copy, and to the convenience of the parties interested therein, may think fit, and may impose a fine, not exceeding twenty shillings, for each day that any such copy shall be retained, contrary to the terms of such order, upon the person so retaining it, and may make such further order concerning the notice to be given of such removal and deposit, and concerning the costs of such application and the said fine, or of any opposition thereto, as they may think reasonable.

Justices may order an instrument of apportionment to be restored to proper custody.

29. If a rent-charge shall at any time be in arrear and unpaid, and in order to enforce payment thereof it shall become necessary for the person entitled to the same to give notice of his intention to distrain upon the lands liable to the payment thereof for the arrears of the said rent-charge, according to the provisions of the said recited Acts, the owner of the rent-charge shall in all cases be entitled to two shillings and sixpence for and in respect of such notice which shall have been so issued, and such sum shall be deemed and taken to be part of the rent-charge which is in arrear and unpaid, and shall be recoverable accordingly, in like manner as the said arrears of rent-charge are recoverable.

Expenses of recovering rent-charge.

30. Notice of intention to distrain may be given in the manner provided by the said recited Acts, or by sending it by the post in a registered letter to the office or usual place of abode of the person to whom the same is addressed.

Notice of intention to distrain may be sent by post.

31. Where, under any agreement or award which has been or hereafter shall be confirmed by the commissioners, the amount of the rent-charge agreed or awarded to be paid instead of the tithes of any parish, and which shall not have been apportioned, shall not exceed the sum of fifteen pounds, the commissioners may, if they shall see fit, (and without the consents of the owner or owners of the lands chargeable with the said rent-charge, or of the person or persons for the time being entitled to the receipt thereof,) by an order under their hands and seal, direct that such rent-charge shall be redeemed by the payment by the owners of the lands chargeable therewith, within such time as the commissioners shall by such order direct and appoint, of a sum equal to twenty-five times the amount of such rent-charge.

Commissioners may order a rent-charge not exceeding 15*l.* to be redeemed before apportionment.

32. Whenever lands charged with rent-charge under any instrument of apportionment or altered apportionment shall be divided for building or other purposes into numerous plots, and it shall appear to the commissioners that no further apportionment of the said

Where land divided, commissioners may

(*a*) Such notice refers to a notice of an application that has already been made; and where fourteen days' notice had been given of an intention to apply to the justices, and they heard the application ex parte, and made an order, the court granted a writ of certiorari to quash it (*Reg.* v. *Sayers*, 3 L. T. N. S. 405, Q. B.).

28 & 24 Vict. c. 93.

Order rent-charge to be redeemed after apportionment.

rent-charge can conveniently be made, the commissioners may, if they shall see fit, upon the application of any one owner of the said lands, and without the consent of any other owner, or of the person for the time being entitled to the receipt of the said rent-charge, and without limitation as to the amount thereof, by an order under their hands and seal direct that such rent-charge shall be redeemed by the payment by the owners of the lands chargeable therewith, within such time as the commissioners shall by such order direct and appoint, of a sum equal to twenty-five times the amount of such rent-charge.

Provision in cases where rent-charge has been charged on lands which in consequence of error in boundary are not within the parish where aggregate charge is awarded.

33. Whenever it shall be shown to the satisfaction of the commissioners that by reason of error as to boundary or otherwise any rent-charge or portion of rent-charge shall have been charged by any confirmed instrument of apportionment on lands not within the parish in respect of the tithes of which the aggregate rent-charge, the apportionment of which shall have been so confirmed, was agreed or awarded to be paid, the commissioners may, if they shall see fit, upon the application of the owner or owners of the said lands, and without the consent of any owner of land in the said parish, or of the person for the time being entitled to the receipt of the said rent-charge, by an order under their hands and seal, direct that such rent-charge or portion of rent-charge so charged on lands within the parish shall be redeemed by the payment by the owners of lands charged with the residue of the said rent-charge by the said apportionment, or any of them, within such time as the said commissioners shall by such order direct and appoint, of a sum equal to twenty-five times the amount of such rent-charge; and if there shall be any question touching the situation or boundary of the lands which shall be alleged to have been erroneously included in the said apportionment, the commissioners shall have the same powers for hearing and determining the same as are given by the said first-recited Act for hearing and determining any difference whereby the making of an award of rent-charge in lieu of tithes is hindered.

Provision for charging rent-charge where land made chargeable for more than one parish.

34. Where any land has been made chargeable with rent-charges in lieu of tithes for more than one parish, the commissioners, on being satisfied thereof, may determine in respect of which parish the rent-charge ought to have been charged, and may, by order, direct such rent-charge to be paid in respect of such parish only.

Commissioners shall give notice of their intention to order compulsory redemption.

35. Before the commissioners shall order the compulsory redemption of any rent-charge, they shall cause notice to be given of their intention in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed order may be signified to them; and in case any notice of objections shall be given within the time limited as aforesaid, the commissioners shall, by themselves or an assistant commissioner, take such objections into their consideration.

If person refuse to receive redemption money, to be dealt with as if under disability.

36. If the person absolutely entitled to the redemption money refuses to receive the same, or if the rent-charge be subject to incumbrances, and the commissioners shall consider that the incumbrancers should be protected, such redemption money shall be dealt with as is provided in cases where the owner of the rent-charge is only entitled thereto for a limited estate.

Trustees may be appointed to receive sums not exceeding 200*l.* payable to corporation.

37. Where the money to be paid for the redemption of any rent-charge does not exceed two hundred pounds, and the person for the time being entitled to such rent-charge shall be a corporation not authorized to make an absolute sale of such rent-charge otherwise than under the provisions of the said recited Acts, the redemption money may be paid into the hands of trustees to be nominated by the commissioners, by order under their hands and seal, and the money when so paid shall be applied by the trustees, with the consent of the commissioners, to the purposes to which money to be paid for the redemption of any rent-charge into the bank of England in the name of the accountant-general is by the said recited Acts directed to be applied, and upon every vacancy in the office of such trustees some other person shall be appointed by the said commissioners in like manner.

Provisions of recited Acts applicable to redemptions under this Act.

38. The provisions of the said recited Acts, respecting the redemption of rent-charge (except as otherwise by this Act is provided), shall be applicable to all cases of redemption of rent-charge effected under this Act.

Expenses and redemption money, how to be raised.

39. For the purposes of making any altered apportionment, supplemental award and apportionment, or award of rent-charge in lieu of corn rents, or for the purpose of collecting any redemption money which may have been fixed as hereinbefore provided, and not paid by the time in that behalf limited, and of assessing the same redemption money, and all expenses of or incidental to any such altered apportionment, supplemental award and apportionment, or award, or of any such redemption (including, if the commissioners shall see fit, the expense of the assistant commissioner's attendance at any meetings which may be necessary in the matter of any such altered apportionment, supplemental award and apportionment, or award, or of any such redemption), between the owners of the lands liable to the rent-charge to be re-apportioned or redeemed, or to the rent-charge awarded in lieu of corn rents, or persons to whom the said corn rents were payable, the commissioners or an assistant commissioner may employ such land surveyors and tithe valuers or other persons as to them shall seem fit, and all the powers and provisions of the said recited Acts concerning the valuers appointed for the purposes of an original apportionment of rent-charge, and concerning the assessment and recovery

of the expenses of [an original award of rent-charge or apportionment, so far as in the discretion of the commissioners shall seem fit, shall be and the same are hereby made applicable to the land surveyors, tithe valuers, or other persons so employed, and to the assessment, collection and recovery of any such redemption money, and of all expenses incidental to any such altered apportionment, supplemental award and apportionment, or award, or to any such redemption; but the commissioners shall, before they proceed to collect any such redemption money or expenses, cause a schedule showing the total amount thereof, and the share thereof to be borne by each person interested, to be deposited for inspection, in the same manner as by the said recited Acts is required in reference to an instrument of apportionment, and shall cause notice to be given of such deposit in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed apportionment of the redemption money and expenses may be signified to the commissioners; and in case any notice of objections shall be given within the time limited as aforesaid, the commissioners shall, by themselves or by an assistant commissioner, take such objections into their consideration; and if there be no such objections, or when the said commissioners or assistant commissioner shall have heard and determined all such objections, the commissioners shall proceed to collect the said redemption money and expenses as hereinbefore provided. 23 & 24 Vict. c. 93.

40. Whenever land or money payments, or both, have been given to the titheowners of any parish, and are now holden by them, instead of tithes or glebe or commonable or other rights or easements, and it shall appear that such land or money payments, or both, shall have been so given by virtue of any Act of parliament the provisions of which have not been fully carried out, or by virtue of any arrangement which is not of legal validity, the commissioners may, if it shall appear just and expedient, having regard to all the circumstances of or incident to the case, by an award confirm the titheowner in possession of the said land or money, or both, and may confirm and render valid any such arrangement, and may also award a rent-charge, subject to the provisions of the said recited Acts, when and in such cases as to them shall seem fit; and, subject to such confirmation and award, the commissioners may extinguish the right of the titheowners to the perception of the said tithes, or his title to the said glebe rights or easements, or to the receipt of any rent-charge instead thereof, other than the rent-charge, if any, awarded over and above the lands or money, or both, so confirmed to them. Informal arrangements may be confirmed.

41. So much of the said recited Acts as provides that the land given to any spiritual person in exchange for glebe of any benefice shall be free from incumbrances, and shall not be of copyhold or customary tenure, subject to arbitrary fine or the render of heriots, shall be repealed, and all conditions, charges, incumbrances and every other incident affecting the land so given, shall upon such an exchange be transferred to the said glebe taken in exchange for the same land; and the glebe land taken in exchange for any copyhold or customary land shall be held of the lord of the same manor, under the same rent, custom and services as the said copyhold or customary land previously was or ought to have been held, and without any new admittance in respect thereof, but the consent of the lord of the same manor shall be necessary to any exchange in which any land of copyhold or customary tenure shall be included. Copyhold and other lands may be exchanged for glebe.

42. Whenever the commissioners are requested in the manner provided by the said recited Acts to charge an additional rent-charge by way of extraordinary charge upon any hop grounds or market gardens newly cultivated as such beyond the limits of any district for which an extraordinary charge for hop grounds or market gardens respectively shall have been already distinguished, the commissioners may declare the lands in the parish in which such newly cultivated hop grounds or market gardens are situate a district within which the extraordinary charge to be then fixed by them shall be thereafter payable. Formation of district within which extraordinary charge in respect of hop grounds and market gardens shall be payable.

43. For the purpose of ascertaining the extent of the land cultivated as hop grounds or market gardens, the person to whom any extraordinary charge upon such land is or would be payable, his agents or servants, at all reasonable times, may enter upon the said land, and make an admeasurement and plan of the same, without being subject to any action or molestation for so doing. Power to enter on land.

44. This Act shall be taken and construed as part of the said first-recited Act, as amended and extended by the several Acts passed for the amendment thereof, and by this Act. Recited Acts and this to be as one.

The SCHEDULE to which this Act refers.

Form of Conveyance by Commissioners.

In the matter of

We, the tithe commissioners for England and Wales, by virtue of an Act of parliament passed in the year of the reign of queen Victoria, intituled [*here insert the title of this Act*], and in consideration of the sum of paid into our hands by being the purchase money of the hereditaments hereinafter

23 & 24 Vict. c. 93.

described, do by these presents convey unto his heirs and assigns, all that [*here describe the premises*], with the appurtenances, to hold the same unto the said his heirs and assigns [*here state the uses, trusts, or purposes of the conveyance, as the case may require*].

In witness whereof we have hereunto set our hands and affixed our seal this day of

THEATRES.

6 & 7 Vict. c. 68.

6 & 7 Vict. c. 68. An Act for regulating Theatres.

[22nd August, 1843.]

"Whereas it is expedient that the laws now in force for regulating theatres and theatrical performances be repealed, and other provisions be enacted in their stead:" BE IT ENACTED [Repeal of 3 Jac. 1, c. 21; part of 10 G. 2, c. 19; 10 G. 2, c. 28; (*a*) 28 G. 3, c. 30; proviso as to licences now in force].

All theatres for the performance of plays must be licensed.

2. That, except as aforesaid, it shall not be lawful for any person to have or keep any house or other place of public resort in Great Britain, for the public performance of stage plays (*b*), without authority by virtue of letters patent from her majesty, her heirs and successors, or predecessors, or without licence from the lord chamberlain of her majesty's household for the time being, or from the justices of the peace as hereinafter provided; and every person who shall offend against this enactment shall be liable to forfeit such sum as shall be awarded by the court in which or the justices by whom he shall be convicted, not exceeding twenty pounds for every day on which such house or place shall have been so kept open by him for the purpose aforesaid, without legal authority (*c*).

What licences shall be granted by the lord chamberlain.

3. That the authority of the lord chamberlain for granting licences shall extend to all theatres (not being patent theatres) within the parliamentary boundaries of the cities of London and Westminster, and of the boroughs of Finsbury and Marylebone, the Tower Hamlets, Lambeth, and Southwark, and also within those places where her majesty, her heirs and successors, shall, in their royal persons, occasionally reside: Provided always, that, except within the cities and boroughs aforesaid, and the boroughs of New Windsor, in the county of Berks, and Brighthelmstone in the county of Sussex, licences for theatres may be granted by the justices as hereinafter provided, in those places in which her majesty, her heirs and successors, shall occasionally reside; but such licences shall not be in force during the residence there of her majesty, her heirs and successors; and during such residence it shall not be lawful to open such theatres as last aforesaid (not being patent theatres) without the licence of the lord chamberlain.

Fee for lord chamberlain's licence.

4. That for every such licence granted by the lord chamberlain a fee not exceeding ten shillings for each calendar month during which the theatre is licensed to be kept open according to such scale of fees as shall be fixed by the lord chamberlain, shall be paid to the lord chamberlain.

Licences may be granted by justices.

5. That the justices of the peace within every county, riding, division, liberty, cinque port, city, and borough in Great Britain beyond the limits of the authority of the lord chamberlain, in which application shall have been made to them for any such licence as is hereinafter mentioned, shall within twenty-one days next after such application shall have been made to them in writing signed by the party making the same, and countersigned by at least two justices acting in and for the division within which the property proposed to be licensed shall be situate, and delivered to the clerk to the said

---

(*a*) See the cases on this statute, 3 Har. Dig., p. 1314, tit. "THEATRE."

(*b*) A booth theatre, which is taken to pieces and carried from place to place for theatrical performances, is not a "house or other place of public resort for the public performance of stage plays," within the meaning of this sect. (*Davys* v. *Douglas*, 4 H. & N. 180; 28 L. J., Exch., 193; see *Fredericks* v. *Payne*, post, p. 751 n. (*a*)).

(*c*) The plaintiff was convicted under this sect. and fined 5*l.*: he was then ordered to be detained in custody, and a warrant of distress, reciting that he had been adjudged to pay a penalty of 5*l.* and 12*s.* costs, was issued to levy the amount. Under this warrant the plaintiff's goods were seized on the same day, and he was discharged out of custody on the following morning; and within a few days his goods were sold to satisfy the penalty and costs. The conviction was quashed on appeal. In trespass against the convicting justices it was held, by Coleridge and Wightman, J.J., that, assuming they had power, under sect. 1 of the 5 Geo. 4, c. 18, to detain the plaintiff until it was ascertained whether he had goods to satisfy the distress, the order for the detention of the plaintiff was made without jurisdiction, being indefinite as to time and object (*Leary* v. *Patrick*, 15 Q. B. 266; 19 L. J., M. C., 211); it was also held by the Court that, assuming that costs could be awarded in addition to the penalty, the warrant of distress was issued without jurisdiction, notwithstanding sect. 19 of this statute, because the conviction was silent as to costs. (*Ib.*)

justices hold a special session in the division, district, or place for which they usually act, for granting licences to houses for the performance of stage plays, of the holding of which session seven days' notice shall be given by their clerk to each of the justices acting within such division, district, or place; and every such licence shall be given under the hands and seals of four or more of the justices assembled at such special session, and shall be signed and sealed in open court, and afterwards shall be publicly read by the clerk, with the names of the justices subscribing the same. 6 & 7 Vict. c. 68.

6. That for every such licence granted by the justices a fee, not exceeding five shillings for each calendar month during which the theatre is licensed to be kept open, according to such scale of fees as shall be fixed by the justices, shall be paid to the clerk of the said justices. Fee for justices' licence.

7. And be it enacted, That no such licence for a theatre shall be granted by the lord chamberlain or justices to any person except the actual and responsible manager for the time being of the theatre in respect of which the licence shall be granted; and the name and place of abode of such manager shall be printed on every play bill announcing any representation at such theatre; and such manager shall become bound himself in such penal sum as the lord chamberlain or justices shall require, being in no case more than five hundred pounds, and two sufficient sureties, to be approved by the said lord chamberlain or justices, each in such penal sum as the lord chamberlain or justices shall require, being in no case more than one hundred pounds, for the due observance of the rules which shall be in force at any time during the currency of the licence for the regulation of such theatre, and for securing payment of the penalties which such manager may be adjudged to pay for breach of the said rules, or any of the provisions of this Act. To whom licences shall be granted.

8. That in case it should appear to the lord chamberlain that any riot or misbehaviour has taken place in any theatre licensed by him, or in any patent theatre, it shall be lawful for him to suspend such licence or to order such patent theatre to be closed for such time as to him shall seem fit; and it shall also be lawful for the lord chamberlain to order that any patent theatre or any theatre licensed by him shall be closed on such public occasions as to the lord chamberlain shall seem fit; and while any such licence shall be suspended, or any such order shall be in force, the theatre to which the same applies shall not be entitled to the privilege of any letters patent or licence, but shall be deemed an unlicensed house. Rules for the theatres under the control of the lord chamberlain.

9. That the said justices of the peace at a special licensing session, or at some adjournment thereof, shall make suitable rules for ensuring order and decency at the several theatres licensed by them within their jurisdiction, and for regulating the times during which they shall severally be allowed to be open, and from time to time, at another special session, of which notice shall be given as aforesaid, may rescind or alter such rules; and it shall be lawful for any one of her majesty's principal secretaries of state to rescind or alter any such rules, and also to make such other rules for the like purpose, as to him shall seem fit; and a copy of all rules which shall be in force for the time being shall be annexed to every such licence; and in case any riot or breach of the said rules in any such theatre shall be proved on oath before any two justices usually acting in the jurisdiction where such theatre is situated, it shall be lawful for them to order that the same be closed for such time as to the said justices shall seem fit; and while such order shall be in force the theatre so ordered to be closed shall be deemed an unlicensed house. Rules for enforcing order in the theatres licensed by the justices.

10. Provided always, and be it enacted, That no such licence shall be in force within the precincts of either of the universities of Oxford or Cambridge, or within fourteen miles of the city of Oxford or town of Cambridge, without the consent of the chancellor or vice-chancellor of each of the said universities respectively: and that the rules for the management of any theatre which shall be licensed with such consent within the limits aforesaid shall be subject to the approval of the said chancellor or vice-chancellor respectively; and in case of the breach of any of the said rules, or of any condition on which the consent of the chancellor or vice-chancellor to grant any such licence shall have been given, it shall be lawful for such chancellor or vice-chancellor respectively to annul the licence, and thereupon such licence shall become void. Proviso for the universities of Oxford and Cambridge.

11. That every person who for hire shall act or present, or cause, permit, or suffer to be acted or presented, any part in any stage play, in any place (a) not being a patent theatre or duly licensed as a theatre, shall forfeit such sum as shall be awarded by the court in which or the justices by whom he shall be convicted, not exceeding ten pounds for every day on which he shall so offend. Penalty on persons performing in unlicensed places.

12. That one copy of every new stage play, and of every new act, scene, or other part added to any old stage play, and of every new prologue or epilogue, and of every new part added to an old prologue or epilogue, intended to be produced and acted for hire at any theatre in Great Britain, shall be sent to the lord chamberlain of her majesty's household for the time being, seven days at least before the first acting or presenting thereof, with an account of the theatre where and the time when the same is intended to be first acted or presented, signed by the master or manager, or one of the masters or managers No new plays or additions to old ones to be acted until submitted to

(a) A booth used as a temporary and portable theatre, is a "place" within the meaning of this section (*Fredericks* v. *Payne*, 32 L. J., M. C).

6 & 7 Vict. c. 68.

the lord chamberlain.

of such theatre; and during the said seven days no person shall for hire act or present the same, or cause the same to be acted or presented; and in case the lord chamberlain either before or after the expiration of the said period of seven days, shall disallow any play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, it shall not be lawful for any person to act or present the same, or cause the same to be acted or presented, contrary to such disallowance.

Fees to be paid for examination of plays, &c.

13. That it shall be lawful for the lord chamberlain to charge such fees for the examination of the plays, prologues, and epilogues, or parts thereof, which shall be sent to him for examination, as to him from time to time shall seem fit, according to a scale which shall be fixed by him, such fee not being in any case more than two guineas, and such fees shall be paid at the time when such plays, prologues, and epilogues, or parts thereof, shall be sent to the lord chamberlain; and the said period of seven days shall not begin to run in any case until the said fee shall have been paid to the lord chamberlain, or to some officer deputed by him to receive the same.

The lord chamberlain may forbid any play.

14. That it shall be lawful for the lord chamberlain for the time being, whenever he shall be of opinion that it is fitting for the preservation of good manners, decorum, or of the public peace so to do, to forbid the acting or presenting any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, anywhere in Great Britain, or in such theatres as he shall specify, and either absolutely or for such time as he shall think fit.

Penalty for acting plays before they are allowed or after they have been disallowed.

15. That every person who for hire shall act or present, or cause to be acted or presented, any new stage play, or any act, scene, or part thereof, or any new prologue or epilogue, or any part thereof, until the same shall have been allowed by the lord chamberlain, or which shall have been disallowed by him, and also every person who for hire shall act or present, or cause to be acted or presented, any stage play, or any act, scene, or part thereof, or any prologue or epilogue, or any part thereof, contrary to such prohibition as aforesaid, shall for every such offence forfeit such sum as shall be awarded by the court in which or the justices by whom he shall be convicted, not exceeding the sum of fifty pounds; and every licence (in case there be any such) by or under which the theatre was opened, in which such offence shall have been committed, shall become absolutely void.

What shall be evidence of acting for hire.

16. That in every case in which any money or other reward shall be taken or charged, directly or indirectly, or in which the purchase of any article is made a condition for the admission of any person into any theatre to see any stage play, and also in every case in which any stage play shall be acted or presented in any house, room, or place in which distilled or fermented exciseable liquor shall be sold, every actor therein shall be deemed to be acting for hire.

Proof of licence in certain cases to lie on the party accused.

17. That in any proceedings to be instituted against any person for having or keeping an unlicensed theatre, or for acting for hire in an unlicensed theatre, if it shall be proved that such theatre is used for the public performance of stage plays, the burden of proof that such theatre is duly licensed or authorized shall lie on the party accused, and until the contrary shall be proved such theatre shall be taken to be unlicensed.

Proceedings begun before the passing of this Act may be discontinued.

18. That after the passing of this Act it shall be lawful for any person against whom any action or information shall have been commenced, for the recovery of any forfeiture or pecuniary penalty incurred under the said Act of the tenth year of the reign of king George the Second, to apply to the court in which such action or information shall have been commenced, if such court shall be sitting, or if such court shall not be sitting to any judge of either of the superior courts at Westminster, for an order that such action or information shall be discontinued, upon payment of the costs thereof incurred to the time of such application being made, such costs to be taxed according to the practice of such court; and every such court or judge (as the case may be), upon such application, and proof that sufficient notice has been given to the plaintiff or informer, or to his attorney, of the application, shall make such order as aforesaid; and upon the making such order, and payment or tender of such costs as aforesaid, such action or information shall be forthwith discontinued.

Penalties, how to be recoverable (a).

19 That all the pecuniary penalties imposed by this Act for offences committed in England may be recovered in any of her majesty's courts of record at Westminster, and for offences committed in Scotland by action or summary complaint before the court or session or justiciary there, or for offences committed in any part of Great Britain in a summary way before two justices of the peace for any county, riding, division, liberty, city, or borough where any such offence shall be committed, by the oath or oaths of one or more credible witness or witnesses, or by the confession of the offender, and in default of payment of such penalty together with the costs, the same may be levied by distress and sale of the offender's goods and chattels, rendering the overplus to such offender, if any there be above the penalty, costs, and charge of distress; and for want of sufficient distress the offender may be imprisoned in the common gaol or house of correction of any such county, riding, division, liberty, city, or borough for any time not exceeding six calendar months.

Appeal.

20. That it shall be lawful for any person who shall think himself aggrieved by any order of such justices of the peace to appeal therefrom to the next general or quarter

---

(a) See *Leary* v. *Patrick*, ante, p. 750, n. (c).

session of the peace to be holden for the said county, riding, division, liberty, city, or borough, whose order therein shall be final. 6 & 7 Vict. c. 68.

21. That the said penalties for any offence against this Act shall be paid and applied in the first instance toward defraying the expenses incurred by the prosecutor, and the residue thereof (if any) shall be paid to the use of her majesty, her heirs and successors. Appropriation of penalties.

22. Provided always, that no person shall be liable to be prosecuted for any offence against this Act unless such prosecution shall be commenced within six calendar months after the offence committed. Limitation of actions.

23. That in this Act the word "stage-play" (a) shall be taken to include every tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of the stage, or any part thereof; Provided always that nothing herein contained shall be construed to apply to any theatrical representation in any booth or show which by the justices of the peace, or other persons having authority in that behalf, shall be allowed in any lawful fair, feast, or customary meeting of the like kind. Interpretation of Act.

24. That this Act shall extend only to Great Britain. Limits of the Act.

TOLLS.

23 & 24 Vict. c. 51. An Act to provide for an annual Return of Rates, Taxes, Tolls and Dues levied for local Purposes in England. [23rd July, 1860.]

23 & 24 Vict. c. 51.

"Whereas rates, taxes, tolls, and dues to a large amount are levied for purposes of local government and improvements in England, and it is proper that parliament should be informed annually of all sums so levied, and the expenditure thereof, but in many cases no sufficient provision has been made for that purpose;" BE IT THEREFORE ENACTED as follows:

1. The clerk to any corporation, justices, commissioners, district or other board, vestry, inspectors, trustees or other body or persons authorised to levy or to order to be levied any of the rates, taxes, tolls or dues mentioned in the schedule to this Act, or any other compulsory rates, taxes, tolls or dues in England (other than such as are levied for the public revenue of the united kingdom), shall make a return of the sums levied or received by or in respect of such rates, taxes, tolls and dues, and of the expenditure thereof, to one of her majesty's principal secretaries of state in the month of June in every year; the first return to be made in the month of June, one thousand eight hundred and sixty-one. Clerks of bodies empowered to levy rates, &c., to make annual returns to secretary of state.

2. Such returns shall be made for the latest period of twelve months preceding the month of June in each year for which the accounts of the corporation, justices, commissioners, boards, inspectors, trustees or other body or persons shall be made up, and shall show the amounts levied and expended respectively, with such other particulars and in such form as shall from time to time be ordered by such secretary of state. Returns to be made for the latest year for which accounts are made up.

3. Where no clerk is appointed or acting, the treasurer or other officer keeping the accounts of the receipts and expenditure of the corporation, justices, commissioners, board, vestry, inspectors, trustees, or other body or persons by whom any rates, taxes, tolls or dues hereinbefore mentioned are levied or ordered to be levied, shall make the returns in relation thereto; and where any such rates, taxes, tolls or dues are levied and expended or to be accounted for by churchwardens, chapelwardens or any officers or persons not authorised to act as a board, such returns as hereinbefore mentioned in respect of such rates, taxes, tolls or dues, and the expenditure thereof, shall be made by such churchwardens, chapelwardens or other officers or persons, and they shall be severally liable in respect of any neglect to make the same. Who are to make returns in certain cases.

4. Any clerk, treasurer, churchwarden, officer or other person required as aforesaid to make such return who neglects so to do in the month of June in any year shall be liable to a penalty not exceeding twenty pounds for every such offence, to be recoverable on summary conviction thereof before two justices. Penalty for default.

5. Where any annual return is now by law required to be made to the secretary of state, or to any public department, under any Act of parliament, this Act shall not render necessary any further or other return in respect of the same matters: Provided always, that the said secretary of state may, by his order published in the London Gazette, direct that all or any of such returns now required as aforesaid shall in future be made under this Act, and shall be subject to the provisions and penalties thereof. Saving for returns already required.

6. The said secretary of state shall every year cause the returns transmitted to him under this Act to be abstracted, and the abstract thereof to be laid before both houses of parliament. Abstracts of returns to be laid before parliament.

(a) A dramatic performance (a duologue) by two persons, is a stage-play, within this section (*Thorne* v. *Colson*, 3 L. T., N. S., 697, Q. B.)

23 & 24 Vict. c. 51.

Poor rate returns to be made to poor law board as heretofore.

7. That this Act shall not extend to the rates levied for the relief of the poor, or the expenditure thereof, but the returns thereof shall continue to be made to the poor law board, as by the orders of such board shall from time to time be directed.

Saving for joint stock companies and private rights of toll, &c.

8. This Act shall not extend to any tolls or dues taken by any railway, canal or joint stock company as profits of their undertaking, or to any tolls or dues taken by prescription or otherwise as private property.

SCHEDULE.

Church rates and chapel rates; whether made by the common law or under the church building Acts, or under any other Act of parliament.

Sewers rates and "General Sewers Tax," and all rates, scots and taxes levied by courts or commissioners of sewers; whether levied under the Acts of 3 & 4 Will. 4, c. 22, and 4 & 5 Vict. c. 45, or under any other Act of parliament, or by charter, usage or custom.

Rates under the Act for the lighting and watching of parishes, 3 & 4 Will. 4, c. 90.

Rates levied by improvement commissioners or other commissioners, or by any trustees or corporation acting under any local Act for the paving, draining, cleansing or watching, improvement or regulation of any town or district.

Rates levied by or under the order of any vestry or district board, under the Act 18 & 19 Vict. c. 120, for the better local management of the metropolis.

Tolls and dues levied under the authority of parliament in respect of markets, bridges, or harbours.

TOWNS IMPROVEMENT ACTS.

See "PUBLIC IMPROVEMENT."

10 & 11 Vict. c. 34.

10 & 11 Vict. c. 34. An Act for consolidating in one Act certain Provisions usually contained in Acts for paving, draining, cleansing, lighting, and improving Towns. [21st June, 1847.]

"Whereas it is expedient to comprise in one Act sundry provisions usually contained in Acts of parliament for paving, draining, cleansing, lighting and improving towns and populous districts, and that as well for avoiding the necessity of repeating such provisions in each of the several Acts relating to such towns or districts as for ensuring greater uniformity in the provisions themselves;" BE IT ENACTED, That this Act shall extend only to such towns or districts in England or Ireland as shall be comprised in any Act of parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied (a) or excepted by any such Act, shall apply to the town or district which shall be comprised in such Act, and to the commissioners appointed for improving and regulating the same, so far as such clauses shall be applicable thereto respectively, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Extent of Act.

Interpretations in this Act:

And with respect to the construction of this Act, whether incorporated in whole or in part with any other Act, and of any Act incorporated therewith, BE IT ENACTED as follows:

"the special Act:"

"prescribed:"

"the commissioners."

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed for the improvement or regulation of any town or district, or of any class of towns or districts defined or comprised therein, and with which this Act shall be incorporated; and the word "prescribed" used in this Act, in reference to any matter herein stated, shall be construed to refer to such matters as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used; and the expression "the commissioners" shall mean the commissioners, trustees, or other persons or body corporate intrusted by the special Act with powers for executing the purposes thereof.

Interpretations in this and the special Act:

3. The following words and expressions, in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

(a) See *Blackburn Mayor of*, v. *Parkinson*, 1 E. & E. 71.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number: 10 & 11 Vict. c. 34.

Words importing the masculine gender shall include females: number: gender:

The word "person" shall include a corporation, whether aggregate or sole: "person:"

The word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure: "lands:"

The word "street" shall extend to and include any road, square, court, alley, and thoroughfare within the limits of the special Act: "street:"

The word "month" shall mean calendar month: "month:"

The expression "superior courts" shall mean her majesty's superior courts of record at Westminster or Dublin, as the case may require, and shall include the court of common pleas of the county palatine of Lancaster, and the court of pleas of the county of Durham: "superior courts:"

The word "oath" shall include affirmation in the case of quakers, and any declaration lawfully substituted for an oath in the case of any other person allowed by law to make a declaration instead of taking an oath: "oath:"

The word "county" shall include riding or other division of a county having a separate commission of the peace, and shall also include county of a city or county of a town: "county:"

The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognisance of any such justice arises; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together: "justice:" "two justices:"

The expression "quarter sessions" shall mean quarter sessions as defined in the special Act, and if such expression be not there defined shall mean the court of general or quarter sessions of the peace which shall be held in or at the place nearest to the district in which the matter arises requiring the cognisance of any such court, and having jurisdiction over such district: "quarter sessions:"

The word "owner," used with reference to any lands or buildings in respect of which any work is required to be done, or any rate to be paid, under this or the special Act, shall mean the person for the time being entitled to receive, or who, if such lands or buildings were let to a tenant at rack rent, would be entitled to receive, the rack rent from the occupier thereof: "owner:"

The word "cattle" shall include horses, asses, mules, sheep, goats, and swine. "cattle."

And with respect to citing this Act, or any part thereof, BE IT ENACTED as follows:

4. In citing this Act in other Acts of parliament, and in legal instruments, it shall be enough to use the expression "The Towns Improvement Clauses Act, 1847." Short title of this Act.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act, and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates. Form in which portions of this Act may be incorporated with other Acts.

And with respect to the officers to be appointed by the commissioners or under any general town improvement Act, BE IT ENACTED as follows:

6. When by this or the special Act any matter is required to be submitted to, or to be done with the approval of, the inspector, such inspector shall be understood to mean an inspector appointed under any general Act passed in this or any future session of parliament authorising the appointment of inspectors for inspecting or superintending works connected with paving, draining, or improving towns or populous districts; and until such an officer is appointed under any such general Act, the commissioners, unless it be otherwise provided by the special Act, may proceed in the execution of this and the special Act without the approval of such officer, and as if no such officer had been mentioned in this or the special Act. Until an inspector is appointed under some general Act, execution of works may be proceeded with without his approval.

7. The commissioners shall appoint, subject to the prescribed approval, or, where no approval is prescribed, subject to approval by one of her majesty's principal secretaries of state, a person, duly qualified, to act as a local surveyor of the paving, drainage, and other works authorised under the provisions of this and the special Act, and of any Act to be incorporated therewith, and with the like approval, shall fix the salary to be paid to such surveyor, and shall pay such salary out of the rates levied under this or the special Act; and if any such surveyor die, resign, or be removed, the commissioners shall, with the like approval, appoint another person, so duly qualified, in the room of the surveyor so dying, resigning or removed; and the commissioners, with the like approval, may remove any such surveyor. Commissioners to appoint, subject to approval, a surveyor.

8. Every such surveyor upon his appointment, and before he enters upon the duties of his office, shall make and subscribe before the chairman of the commissioners a declaration to the effect following; (that is to say,) Surveyor before entering upon office, to make the following declaration.

"I A. B., the surveyor of the town [*or* district] of [*here name the town or district*] under the [*here name the special Act*], do declare, That I will diligently, faithfully, and impartially perform the duties of my office, and to the utmost of my power, skill, and

10 & 11 Vict. c. 34.

ability endeavour to cause the several provisions of the said Act, and of the Towns Improvement Clauses Act, 1847, to be strictly observed, and that without favour or affection, prejudice or malice, to any person whomsoever."

Commissioners shall appoint an inspector of nuisances.

9. The commissioners shall appoint some person, by the title of "inspector of nuisances," to superintend and enforce the due execution of all duties to be performed by the scavengers appointed under this or the special Act, and to report to the commissioners any breach of the provisions of this or the special Act, or of any Act incorporated therewith, or of the byelaws, rules, and regulations of the commissioners, and the existence of any nuisances within the limits of the special Act; and the commissioners shall duly publish the name of any inspector of nuisances appointed by them, and shall require him to provide and keep a book in which shall be entered all reasonable complaints made by any householder of the district within the limits of the special Act of any breach of the provisions of this or the special Act, or of any Act incorporated therewith, or of the byelaws, rules, and regulations made by the commissioners for the preservation of due order and cleanliness or for the suppression of nuisances; and the inspector of nuisances shall forthwith inquire into the truth of such complaints, and report upon the same to the commissioners at their next meeting; and such report, and the order of the commissioners thereon, shall be entered in the said book, which shall be kept at the office of the commissioners, and shall be open at all reasonable times to the inspection of any inhabitant of the said district or other person interested; and it shall be the duty of such inspector of nuisances, subject to the direction of the commissioners, to make complaints before justices, and take legal proceedings for the punishment of any person who has committed any offence under this or the special Act, or under any byelaws made by virtue thereof.

Surveyor and inspector of nuisances.

10. The commissioners may, if they think fit, appoint the same person to be both surveyor and inspector of nuisances.

Commissioners to provide offices for surveyor and inspector.

11. The commissioners shall provide offices for the use of the said surveyor and inspector in some convenient place within the limits of the special Act, either in connection with their own office or otherwise, as may be most convenient, and shall cause due notice thereof to be given twice at the least in some newspaper circulating within the said limits.

Power to appoint, subject to approval, an officer of health.

12. The commissioners may, if they think fit, appoint, subject to the prescribed approval, or, where no approval is prescribed, subject to the approval of one of her majesty's principal secretaries of state, a person of competent skill and experience, who shall be styled "the officer of health," whose duty it shall be to ascertain the existence of diseases within the limits of the special Act, especially epidemics and contagious diseases, and to point out any nuisances or other local causes likely to cause and continue such diseases, or otherwise injure the health of the inhabitants, and to point out the best means for checking or preventing the spread of such diseases within the limits aforesaid, and also the best means for the ventilation of churches, chapels, schools, registered lodging houses, and other public buildings within the limits aforesaid, and from time to time, as required by the commissioners, to report to them upon the matters aforesaid, and to perform any other duties of a like nature which may be required of him; and the commissioners, with the same approval which is necessary for the appointment of the officer of health, shall fix the salary to be paid to such officer, and shall pay such salary out of the rates to be levied under this or the special Act; and the commissioners, with the like approval, may discontinue such office, or remove any such officer of health.

And with respect to plans of the district within the limits of the special Act, and of the works to be executed under the powers of this and the special Act, BE IT ENACTED as follows:

Commissioners to cause a map of the district within the limits of the special Act to be made, and to be open to inspection.

13. The commissioners shall, as soon as conveniently may be after the passing of the special Act, procure or cause to be made a survey and map of the district within the limits of the special Act on a scale of not less than sixty inches to a mile, and shall cause to be marked thereon the course of all the existing sewers and drains belonging to them or under their care or management, and, as far as can be ascertained, the lines of pipes or conduits for the collection and distribution of water, the course of the pipes for the distribution of gas, and such other works, with such other particulars as may be necessary in order to show the underground works within the said district, and shall cause the said map to be from time to time corrected, and such additions to be made thereto as may show the sewers and drains for the time being belonging to the commissioners, and such other pipes and underground works as aforesaid; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when it was so corrected, shall be kept in the office of the commissioners, and shall be open at all seasonable hours to the inspection of the owners or occupiers of any lands within such district.

Ordnance may furnish commissioners with maps, or cause surveys to be made.

14. The principal officers of her majesty's ordnance may, if they think fit, on the application of the commissioners, and at their expense, furnish for the use of the said commissioners one or more copies of any map of such district, or any part thereof, which shall have been made under the direction of the said ordnance officers, or may cause a survey to be made of the said district on a scale of not less than sixty inches to the mile by surveying officers appointed by them, for such remuneration as shall previously be agreed upon between the said principal officers and the commissioners.

10 & 11 Vict. c. 34.

Level lines to be marked on map, and bench marks to be made for denoting the same.

15. The commissioners shall cause to be marked on the map so procured or caused to be made by them a series of marks and figures at convenient distances on the said map, denoting the height of the ground at every such mark above or below the level of a particular spot within the limits of the special Act, which may be easily found and identified, the position of which spot shall be described on the map, and shall also cause to be drawn, wherever practicable, lines of equal altitude at every four feet of elevation, or at such other intervals as may appear, upon due inquiry, to be the best adapted for the guidance of works of sewerage and drainage, for the collection and distribution of water, and for other purposes within such district, for which a knowledge of the levels of the district may be necessary, and shall also cause proper bench marks for denoting the levels to be inscribed and marked at convenient distances and places, at the corners of streets, on posts, houses, or other prominent objects within such district.

Commissioners may cause maps to be engraved, &c. and pay expenses out of rates.

16. The commissioners may cause every such plan to be copied, engraved, or printed and coloured in such manner as appears to them most convenient, and may defray the costs of any surveys and maps made under their direction, and any costs incurred by them in regard to any such ordnance map, out of the rates authorised to be levied under this and the special Act.

Commissioners to cause plans to be prepared of new works or alterations of existing works.

17. The commissioners shall cause their surveyor to prepare plans of any new works, and additions to or alterations of existing works, that may be required for the effectual drainage of the houses and streets within such district, including provision for properly trapped drains or channels for the removal of all waste water and refuse from the houses and from the surface of the streets, and also to draw on such plans the lines that appear to him most advantageous for main sewers, and the best outfalls for clearing the whole district of surface moisture, and effecting the drainage of the subsoil, and to point out the most appropriate means and sites for the collection and sale of filth and refuse for agricultural or other purposes, and also to set forth any other matters which may assist the commissioners in carrying into execution, in an economical and effective manner, the several works required to be carried into execution under the provisions of this and the special Act, or which appear to be necessary for the health and convenience of the inhabitants of such district.

Before giving notice of construction of works, plans to be prepared, and deposited in the office of the commissioners.

18. Before giving notice of their intention to construct any work of which by this or the special Act they are required to give notice, the commissioners shall cause plans of the intended work to be made, under the direction of their surveyor, on a scale not less for a horizontal plan than one inch to eighty-eight feet, and for a vertical section not less than one inch to two feet, and in the case of a sewer, showing the depth of such sewer below the surface of the ground; and such plans shall be deposited in the office of the commissioners, or some other convenient place appointed for that purpose, and shall be open at all reasonable hours for the inspection of all persons interested therein during the time for which such notice is required to be given.

And with respect to taking lands, and the compensation to be made by the commissioners for damage done by them in execution of the powers of this and the special Act, BE IT ENACTED as follows:

The taking of lands to be subject to the provisions of this Act and the Lands Clauses Consolidation Act, 1845.

19. Where by this or the special Act the commissioners shall be empowered to take or use for the purposes thereof any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the powers so given, be subject to the provisions and restrictions contained in this Act and in the Lands Clauses Consolidation Act, 1845; and the commissioners shall make to the owners and occupiers of and all other parties interested in any such lands taken or used for the purposes of this or the special Act full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, and other parties by reason of the exercise, as regards such lands, of the powers vested in the commissioners by this or the special Act, or any Act incorporated therewith; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the said Lands Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the last-mentioned Act shall be applicable to determine the amount of any such compensation, and to enforce the payment or other satisfaction thereof.

Errors and omissions in plans, &c. may be corrected by justices, who shall certify the same.

Certificate to be deposited.

20. If any omission, misstatement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands mentioned in any schedule to the special Act, the commissioners, after giving ten days' notice to the owners, lessees, and occupiers of the lands affected by such proposed correction, may apply to two justices for the correction thereof; and if it appear to such justices that such omission, misstatement, or wrong description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, misstatement, or wrong description; and such certificate, with the other documents to which it relates, shall be deposited with the clerk of the peace of the county in which the lands affected thereby are situated, and such certificate shall be kept by such clerk of the peace with the other documents to which it relates, and thereupon such schedule shall be deemed to be corrected according to such certificate; and the commissioners may take any lands in accordance with such certificate, as if such omission, misstatement, or wrong description had not been made.

Commissioners to make compensation

21. The commissioners shall make good all damage to any buildings or land by reason of altering the level of any street, or otherwise carrying into execution any of the powers of this or the special Act, or of any Act incorporated therewith, and shall pay to the

10 & 11 Vict. c. 34.

for damage done.

If parties cannot agree as to compensation, the same to be determined in manner provided by 7 & 8 Vict. c. 18.

owners, lessees, and occupiers of any such buildings or lands respectively such amount of compensation for such injury as shall be agreed upon between such owners, lessees, and occupiers and the commissioners; and if such owners, lessees, and occupiers and the commissioners cannot agree as to the amount of such compensation, and the proportions thereof to be paid to such owners, lessees, and occupiers respectively, then the amount of such compensation, and also the proportions which the persons claiming the same are entitled to, shall be determined in the manner provided by the Lands Clauses Consolidation Act, 1845, for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the last-mentioned Act shall be applicable to determine the amount of any such compensation, and to enforce payment or other satisfaction thereof.

And with respect to making and maintaining the public sewers, BE IT ENACTED as follows:

Management of sewers and other works vested in the commissioners.

22. All public sewers and drains within the limits of the special Act, and all sewers and drains in and under the streets, with all the works and materials thereunto belonging, whether made at the time of the passing of the special Act, or at any time thereafter, and whether made at the cost of the commissioners or otherwise, and the entire management of the same, shall vest in and belong to the commissioners.

Drainage districts to be formed, subject to approval of inspector.

23. The commissioners shall from time to time, subject to the approval of the inspector, divide the whole town or district within the limits of the special Act, if and as occasion shall require, into separate drainage districts, having regard in such division to the nature of the ground, to the main lines of sewers by which such separate drainage districts are or shall be drained, and to the equal benefit as far as may be of all the lands and buildings to be comprised in any such drainage district, and shall cause their surveyor to define and describe the several drainage districts on a plan of the town or district within the limits of the special Act to be made as aforesaid.

Power to commissioners to construct sewers where none exist, making compensation to owners of property.

24. The commissioners shall from time to time, subject to the restrictions herein contained as to the notice to be given, and the plans and estimates to be prepared, cause to be made under the streets such main and other sewers as shall be necessary for the effectual draining of the town or district within the limits of the special Act, and also all such reservoirs, sluices, engines, and other works as shall be necessary for cleansing such sewers, and, if needful, they may carry such sewers through and across all underground cellars and vaults under any of the streets, doing as little damage as may be, and making full compensation for any damage done; and if for completing any of the aforesaid works it be found necessary to carry them into or through any inclosed or other lands, the commissioners may carry the same into or through such lands accordingly, making full compensation to the owners and occupiers thereof, and they may also cause such sewers to communicate with and empty themselves into the sea, or any public river, or they may cause the refuse from such sewers to be conveyed by a proper channel to the most convenient site for its collection and sale for agricultural or other purposes, as may be deemed most expedient, but so that the same shall in no case become a nuisance.

Commissioners may alter sewers from time to time.

25. The commissioners may from time to time, as they see fit, enlarge, alter, arch over, and otherwise improve all or any of the sewers vested in them, and if any of such sewers at any time appear to them to have become useless, the commissioners, if they think fit to do so, may demolish and discontinue such sewer, provided that it be so done as not to create a nuisance.

Commissioners not to destroy existing sewers, &c. without providing others.

Penalty for neglect.

26. If any person, by means of any enlargement, alteration, or discontinuance of any sewer, or other proceeding of the commissioners, be deprived of the use of any sewer or drain which such person was theretofore lawfully entitled to use, the commissioners shall provide some other sewer or drain equally effectual for such purpose; and if the commissioners refuse or do not within seven days next after notice in writing served upon them begin and thereupon diligently proceed to restore to its former effective state such drain or sewer, the use whereof has been affected by the acts of the commissioners, or to provide such other sewer or drain as aforesaid, they shall forfeit to the person aggrieved any sum not exceeding forty shillings for every day after the expiration of such seven days during which he is deprived of the use of the drain or sewer to which he was so entitled, and is not provided with such other drain or sewer as aforesaid.

Commissioners to cause estimates to be prepared, and submitted to the inspector.

27. Before entering into any contract for executing any such work as aforesaid the commissioners shall procure from their surveyor an estimate of the probable expense of constructing the same in a substantial manner, and of the yearly expense of maintaining the same in repair, and each surveyor shall accompany such estimate with a report as to the most advantageous mode of constructing such work, whether under a contract for constructing the same merely, or a contract for constructing the same and maintaining it in repair during a given term of years; and the commissioners shall submit the plan and estimate of every such work, together with the report of their surveyor, to the inspector, who shall make in writing such observations or suggestions thereupon as may seem to him to be expedient; and if the commissioners do not regard or do not act in conformity with such observations or suggestions, they shall enter upon the minutes of their proceedings their reason for not so doing.

As to the expense of

28. The expense of making any new sewer shall be defrayed as hereinafter provided by special sewer rates to be levied on the occupiers of all lands and buildings within the

drainage district in which such sewer is situated: Provided always, that where in the judgment of the commissioners, and by allowance of the inspector, any lands or buildings were sufficiently drained before the making of such new sewer, the occupiers thereof shall be entitled to have such deduction made from the special sewer rates to which they would otherwise be liable in respect of the making of such new sewer, and for such time as the commissioners, with the approval of the inspector, shall deem to be just, having regard to the cost of making such new sewer, and to the value and efficiency of such old sewer; and whenever any old sewer is enlarged, or open sewer closed, the expense of such enlargement, or of closing such open sewer, shall be defrayed in like manner as if it had been incurred in making a new sewer.

10 & 11 Vict. c. 34.

making new sewers.

Where lands, &c. were sufficiently drained before making new sewer, occupier to have a reduction made in his rates.

29. The expense of maintaining and cleaning all sewers vested in the commissioners and all other expenses connected with such sewers and not hereinbefore provided for, or which may not be fully defrayed by the special sewer rates, shall be defrayed by general sewer rates to be levied as hereinafter provided on the occupiers of all lands and buildings within the drainage district in which such sewers are severally situated.

As to the expense of maintaining sewers, &c.

30. Every person, not being employed for that purpose by the commissioners, who shall make any drain into any of the sewers or drains so vested in the commissioners shall forfeit to the commissioners a sum not exceeding five pounds, and the commissioners may cause such branch drain to be re-made as they think fit, and all the expense incurred thereby shall be paid by the person making such branch drain, and shall be recoverable by the commissioners as damages.

Penalty for making unauthorised drains.

31. No building shall be erected over any sewer belonging to the commissioners, and no vault, arch, or cellar shall be made under the carriageway of any street, without the consent of the commissioners first obtained in writing, and all such vaults, arches, and cellars shall be substantially made, and so as not to interfere or communicate with any sewers belonging to the commissioners; and if after the passing of the special Act any building be erected, or any vault, arch, or cellar be made contrary to the provisions herein contained, the commissioners may demolish or fill up the same, and the expenses incurred thereby shall be paid by the person erecting such building, or making such vault, arch, or cellar, and shall be recoverable as damages.

Vaults and cellars under streets not to be made without the consent of the commissioners.

32. The commissioners may stop any street, and prevent all persons from passing along and using the same, for a reasonable time during the construction, alteration, repair, or demolition of any sewer or drain in or under such street.

Streets may be stopped for repairs.

33. All sewers and drains within the limits of the special Act, whether public or private, shall be provided by the commissioners or other persons to whom they severally belong with proper traps or other coverings or means of ventilation so as to prevent stench.

All sewers, &c. to be covered with traps.

34. Any person, being the owner or occupier of any lands beyond the limits of the special Act, and in respect of which he would not be liable to the payment of the rates authorised to be levied under this and the special Act, may, with the consent of the commissioners first obtained in writing, upon payment to them of a reasonable sum of money to be agreed upon between them, at his own expense, and under the superintendence of the surveyor of the commissioners, cause to branch into and to communicate with any of the sewers belonging to the commissioners any sewer or drain in respect of the said property which may be lawfully made therefrom of such size and in such manner and form of communication as the commissioners approve of: Provided always that nothing in this or the special Act contained shall affect any right theretofore acquired by such owner or occupier to use any of the sewers or drains belonging to the commissioners under the provisions of this or the special Act.

Sewers may be used by owners and occupiers of land beyond limits of town or district.

And with respect to the drainage of houses, be it enacted as follows:

35. If any house or building within the limits of the special Act be at any time not drained by a sufficient drain or pipe communicating with some sewer, or with the sea or some public river, to the satisfaction of the commissioners, and if there shall be such means of drainage within one hundred feet of any part of such house or building, the commissioners shall construct or lay from such house or building a covered drain or pipe of such materials, of such size, at such level, and with such fall, as they think necessary for the drainage of such house or building, its areas, waterclosets, privies, and offices; provided that the cost of executing such work shall not, without the written consent of the owner, exceed one year's rackrent of such house or building; and the expenses incurred by the commissioners in respect thereof, if not forthwith paid by the owner or occupier, shall be defrayed by the drainage rates hereinafter mentioned.

Commissioners empowered to construct drains from houses, charging owner, &c. with the expense.

36. No house or building within the limits of the special Act shall be built upon a lower level than will allow of the drainage of the wash and refuse of such house or building into some sewer belonging to the commissioners either then existing or marked out upon the map hereinbefore directed to be made by them, or into the sea, or some public river into which the commissioners are empowered to empty their sewers; and if there be such means of drainage existing within one hundred feet of such intended house or building, the commissioners shall cause a drain leading thereunto from the intended site of such house to be made of such materials, of such size, at such level, and with such fall, as they think fit, or if there be no such means of drainage within one hundred feet of any part of the said intended site of such house or building, then such drain shall be made so as to lead into such covered cesspool or other place as the commissioners direct, not being under any dwelling-house, and constructed to the satisfaction of the commissioners, so as effectually to prevent the escape of the contents thereof, until such sewer as aforesaid is

No house to be hereafter built without drains being constructed.

10 & 11 Vict. c. 84.

made by the commissioners, when they shall make a drain to communicate with such new-made sewer, and shall demolish and fill up any such cesspool.

Where houses are rebuilt, the level shall be sufficient to allow a drain to be constructed.

37. Whenever any house is rebuilt within the limits of the special Act, the level of the cellar or other lowest floor of such house shall be raised sufficiently to allow of the construction of such a drain as is hereinbefore provided in the case of houses to be built after the passing of the special Act; and whenever any house is taken down as low as the floor of the first story for the purpose of being built up again, such building shall be deemed a rebuilding within the meaning of this Act.

Notice of buildings and rebuildings to be given to the commissioners.

38. Before beginning to build any new house, or to rebuild any existing house, within the limits of the special Act, the person intending to build or rebuild such house shall give to the commissioners notice thereof in writing, and shall accompany such notice with a plan showing the level at which the foundation of such house is proposed to be laid by reference to some level ascertained under the direction of the commissioners.

Commissioners may signify disapproval within fourteen days.

39. Within fourteen days after receiving such notice the commissioners may signify their disapproval of the level at which it is proposed to lay the foundation of any such house, and in case of such disapproval may within the said fourteen days fix the level at which the same is to be laid, subject to such right of appeal as is hereinafter mentioned.

Houses built without notice, or contrary to provisions of this or the special Act, may be altered.

40. In default of sending such notice and plan, or if such building be begun or made at any level different from that fixed by the commissioners within the said fourteen days, or determined on appeal as after mentioned, or in any other respect contrary to the provisions of this or the special Act, the commissioners may, if necessary, cause such building to be altered or demolished, as the case requires, and the expense incurred by the commissioners in respect thereof shall be repaid to them by the person failing to comply with the provision aforesaid, and shall be recoverable as damages.

If commissioners fail to signify their approval, &c. within fourteen days parties may proceed without.

41. Provided always, That if the commissioners fail to signify in writing their approval or disapproval of the level shown on such plan as aforesaid within fourteen days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding anything hereinbefore contained, proceed to build or rebuild the house therein referred to according to the level shown on such plan, provided that such building or rebuilding be otherwise in accordance with the provisions of this and the special Act.

Commissioners may require owners of houses to provide privies and ashpits for the same.

42. The commissioners shall require the owner of every house within the said limits to which no sufficient privy and ashpit, with proper door and coverings, is attached, to provide, where it appears to them that there is room enough for the purpose, such privy and ashpit in such situation, not disturbing any building then already erected, as the commissioners deem necessary for the use of the inmates and occupiers thereof; and every such privy and ashpit shall be constructed to the satisfaction of the commissioners, so as effectually to prevent the escape of the contents thereof: Provided always, that where a privy and ashpit is used in common by the inmates and occupiers of two or more such houses, the commissioners may, if they think fit, dispense with the provision of a privy and ashpit for each such house.

Penalty for neglecting to provide privy, &c.

43. The owner of any such house shall provide the same with a privy, with such door and covering to the same, and with such ashpit as aforesaid, to the satisfaction of the commissioners, within one month next after notice in writing for that purpose given by the commissioners to him or to the occupier of such house, and in default thereof the commissioners shall cause such privy and ashpit to be provided, so nevertheless that the cost of executing such work shall not, without the written consent of the owner, exceed one year's rackrent of such house or building; and the expense incurred thereby shall be defrayed by the drainage rates hereinafter mentioned.

Drains, privies, and cesspools to be kept in good order by owners.

44. All branch drains as well within as without the lands or buildings to which they belong, and all privies, ashpits, and cesspools within the limits of the special Act, shall be under the survey and control of the commissioners, and shall be altered, repaired, and kept in proper order at the costs and charges of the owners of the lands and buildings to which the same belong, or for the use of which they are constructed or continued; and if the owner and occupier of any land or buildings to which any such drain, privy, ashpit, or cesspool belongs neglect, during fourteen days after notice in writing for that purpose, to alter, repair, and to put the same into good order in the manner required by the commissioners, the commissioners may cause such drain, privy, ashpit, or cesspool to be altered, repaired, covered, and put in good order; and the expense incurred by the commissioners in respect thereof shall be repaid to them by the owners by whom the same ought to have been done, and shall be recoverable as damages.

If owners neglect, commissioners may cause the same to be done, and charge the owners with the expense.

As to the inspection of drains, privies, and cesspools.

45. The surveyor of the commissioners may inspect any drain, privy, ashpit, or cesspool within the limits of the special Act, and for that purpose, at all reasonable times in the daytime, after twenty-four hours notice in writing to the occupier of the premises to which such drain, privy, ashpit, or cesspool is attached, may enter upon any lands and buildings, with such assistants and workmen as are necessary, and cause the ground to be opened where he thinks fit, doing as little damage as may be; and if such drain, privy, ashpit, or cesspool be found to be in proper order and condition, he shall cause the ground to be closed and made good as soon as may be; and the expenses of opening, closing, and

making good such drain, privy, ashpit, or cesspool shall in that case be defrayed by the commissioners. 10 & 11 Vict. c. 34.

46. If any such drain, privy, or cesspool be on inspection found to have been constructed, after the passing of the special Act, contrary to the directions and regulations of the commissioners, or contrary to the provisions of this or the special Act, or if any person, without the consent of the commissioners, construct, rebuild, or unstop any drain, privy, or cesspool which has been ordered by them to be demolished or stopped up or not to be made, every person so doing shall be liable to a penalty not exceeding five pounds; and the commissioners may cause such amendment or alteration to be made in any such drain, privy, or cesspool as they think fit; and the expense attending any such amendment or alteration shall be paid by the person by whom such sewer was improperly constructed, rebuilt, or altered, and shall be recoverable from him as damages. Penalty on persons making or altering drains, &c. contrary to the orders of the commissioners.

And with respect to paving and maintaining the streets, BE IT ENACTED as follows:

47. The management of all the streets, which at the passing of the special Act are or which thereafter become public highways, and the pavements and other materials as well in the footways as carriageways, of such streets, and all buildings, materials, implements, and other things provided for the purposes of the said highways, by the surveyors of highways or by the commissioners, shall belong to the commissioners. Management of streets vested in the commissioners.

48. The commissioners, and none other, shall be the surveyors of all highways within the limits of the special Act, and within those limits shall have all such powers and authorities, and be subject to all such liabilities, as any surveyors of highways are invested with or subject to by virtue of the laws for the time being in force; and the inhabitants of the district within the said limits shall not, in respect of any lands situate within the said district, be liable to the payment of any highway rate, grand jury cess, or other payment in respect of making and repairing roads within the other parts of the parish, township, barony, or place in which the said district or any part thereof is situate. Commissioners to be surveyors of highways (a).

49. The commissioners shall be deemed guilty of a misdemeanor for refusing or neglecting to repair any public highway within the limits of the special Act, and shall be liable to be indicted for such misdemeanor in the same manner as the inhabitants thereof, or of any parish, township, or other district therein, were liable before the passing of the special Act. Commissioners liable to indictment for want of repairs.

50. The trustees of any turnpike road shall not collect any toll on any road within the limits of the special Act, or lay out any money thereon. Road trustees not to collect tolls within limits of Act (b).

51. The commissioners may from time to time cause all or any of the streets under their management, or any part thereof respectively, to be paved, flagged, or otherwise made good, and the ground or soil thereof to be raised, lowered, or altered, in such manner and with such materials as they think fit; and they may also pave or make, with such materials as they think fit, any footways for the use of passengers in any such street, and cause such streets and footways to be repaired from time to time. Power for the commissioners to pave public streets.

52. The commissioners shall from time to time place such fences and posts on the side of the footways of the streets under their management as may be needed for the protection of passengers on such footways, and they may place posts in the carriageways of such streets, so as to make the crossing thereof less dangerous for foot passengers; and they shall from time to time repair any such fences or posts, or remove the same, or any obstructions to any such carriageway or footway, as they think fit. Commissioners may place fences to footways.

53. If any street, although a public highway at the passing of the special Act, have not theretofore (c) been well and sufficiently paved and flagged or otherwise made good, the commissioners may cause such street, or the parts thereof not so paved and flagged or otherwise made good, to be paved and flagged or otherwise made good, in such manner Where public streets have not heretofore been paved,

---

(a) See *Reg.* v. *Slater*, 18 Q. B. 398; 21 L. J. M. C. 185.

(b) The General Board of Health made a provisional order, extending the Public Health Act, 1848, to T., a district within which were parts of the S. turnpike roads, made under local turnpike Acts. A local sanitary Act also applied to the district. The provisional order altered the local sanitary Act, and directed, *inter alia*, that from and after the passing of any Act of Parliament confirming that order, this section should be incorporated with the local sanitary Act. The order was improved by statute, "so far as authorised by the Public Health Act." The surveyor of the Local Board of T., by their order, removed the S. turnpike gates within the district. The clerk of the S. turnpike trustees sued him in trespass for so doing. On a case stating the above facts: it was held, by Coleridge, Erle, and Crompton, Js., that the part of the order incorporating this Act, was not authorised by the Public Health Act, 1848, and was void. (Lord Campbell, C. J., *dissentiente*). (*Clayton* v. *Fenwick*, 6 E. & B. 114; 25 L. J. Q. B. 226).

(c) When a street has been paved, flagged, or made good before the passing of this Act, the commissioners have no power to assess the occupiers of the adjoining property to a special improvement rate under this section (*Reg.* v. *Great Western Railway Company*, 28 L. J. M. C. 246).

10 & 11 Vict. c. 34.

Commissioners may cause them to be paved at the expense of the occupiers of adjoining lands.

as they think fit, and the expenses incurred by the commissioners in respect thereof shall be repaid to them by the occupiers of the lands abutting on such street, or such parts thereof as have not been theretofore well and sufficiently paved and flagged or otherwise made good, and such expenses shall be recoverable from such occupiers respectively as hereinafter provided with respect to private improvement expenses, and thereafter such street shall be repaired by the commissioners out of the rates levied under this or the special Act.

Future streets may be declared highways.

54. If any street, not being a public highway at the passing of the special Act, be then or thereafter paved, flagged, or otherwise made good, to the satisfaction of the commissioners, then, on the application of the greater part in value of the occupiers of the houses and lands in such street, the commissioners shall, by writing, under their common seal if they be incorporated, or, if they be not incorporated, then under the hands of five of the commissioners, declare the same to be a public highway, and thereupon the said street shall become a public highway, and shall be thereafter repaired by the commissioners out of the rates levied under this and the special Act; and such declaration shall be entered among the proceedings of the commissioners, and notice of such declaration shall be put up in some conspicuous place in or near such street.

Commissioners, upon completion of two-thirds of any street, may, upon application, require remaining one-third to be completed by owners of houses.

55. If any street, not being a public highway at the passing of the special Act, be thereafter to the extent of two-third parts thereof paved and flagged or otherwise made good to the satisfaction of the commissioners, then, on the application of the owners of the lands abutting on such parts of the said street as have been so made good, the commissioners may require the owners of the buildings or lands abutting on the remainder of the said street to pave and flag or otherwise make good to the satisfaction of the commissioners such remainder of the said street, or such parts thereof as front such last-mentioned buildings and lands, within a reasonable time, to be fixed by the commissioners; and if such remainder of the said street, or any such part thereof as aforesaid, be not made good as aforesaid within the time so fixed, the commissioners may cause the part not so made good to be made good, and the expenses which shall be incurred by the commissioners in respect thereof shall be repaid to them by the owners by whom such paving ought to have been done respectively; and such expenses, if not forthwith repaid by such owners, shall be recoverable from the occupiers of such buildings and lands as hereinafter provided with respect to private improvement expenses; and when the whole of the said street is paved and made good to the satisfaction of the commissioners, they shall, by writing, under their common seal if they be incorporated, or, if they be not incorporated, then under the hands of five of the commissioners, declare the same to be a public highway, and thereupon the said street shall become a public highway, and shall for ever afterwards be repaired by the commissioners, and such declaration shall be entered among the proceedings of the commissioners.

Penalty on persons altering pavements without the consent of the commissioners.

56. Every person who wilfully displaces, takes up, or makes any alteration in the pavement, flags, or other materials of any street under the management of the commissioners, without their consent in writing, or without other lawful authority, shall be liable to a penalty not exceeding five pounds, and also a further sum not exceeding five shillings for every square foot of the pavement, flags, or other materials of the street exceeding one square foot so displaced, taken up, or altered.

And with respect to laying out new streets, BE IT ENACTED as follows:

Notice of intention to lay out new streets to be given to commissioners.

57. Every person who intends to make or lay out any new street shall give notice thereof to the commissioners, in order that the level of such street may be fixed by the commissioners.

Levels to be fixed by the surveyor to the commissioners.

58. The level of every new street shall be fixed under the direction of the surveyor of the commissioners, subject to such right of appeal as hereafter mentioned; and the level so fixed, if not altered on appeal, shall be kept thereafter by every person raising any house or other building in such street.

If the commissioners fail to fix the level, the party may proceed without.

59. If the commissioners do not fix such level within six weeks from the time of the delivery of such notice as aforesaid, unless the fixing of such level be delayed by the appeal hereinafter provided, the person giving such notice may proceed to lay out the street at any level which will allow of compliance with the other provisions of this and the special Act, as if such level had been fixed by the commissioners; and in such case every change of the level which the commissioners afterwards deem requisite, and the works consequent thereon, shall be made by the commissioners; and the expense thereof, and any damage which any person sustains in consequence of such alteration, shall be defrayed by them.

Persons laying out streets without notice to be liable to the expenses of subsequent alterations of levels.

60. Every person who makes or lays out any such new street as aforesaid, without causing such notice to be given to the commissioners as aforesaid, shall be liable to defray all the expenses consequent upon any change of the level of the said street deemed requisite by the commissioners; and every person who in building any house or other building in such street does not keep the level fixed by the commissioners shall be liable to defray all the expenses consequent upon any change of the level of that part of the street on which such house or building abuts which the commissioners deem requisite.

Situation of gas and

61. For the purpose of this or the special Act, if the commissioners deem it necessary to raise, sink, or otherwise alter the situation of any water pipe, or gas pipe, or other

waterworks or gasworks, laid in any of the streets, they may from time to time, by notice in writing, require the person to whom any such pipes or works belong, to cause forthwith, as soon as conveniently may be, any such pipes or works to be raised, sunk, or otherwise altered in position in such manner as the commissioners direct; provided that such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and full compensation for every damage done thereby, shall be paid by the commissioners as well to the persons to whom such pipes or works belong as to all other persons.

10 & 11 Vict. c. 34.

Water pipes to be altered at the expense of the commissioners.

62. If the person to whom any such pipes or works belong do not proceed forthwith, or as soon as conveniently may be after the receipt of such notice, to cause the same to be raised, sunk, or altered, in such manner as the commissioners require, the commissioners may themselves cause such pipes or works to be raised, sunk, or altered as they think fit; provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

If gas or water company neglect to make the alteration, the commissioners may cause the same to be done.

63. It shall not be lawful to make or lay out any new street unless the same be of the prescribed width, or where no width is prescribed, unless the same, being a carriage road, be at least thirty feet wide, or not being a carriage road, be at least twenty feet wide.

As to the width of new streets.

And with respect to naming the streets and numbering the houses, BE IT ENACTED as follows:

64. The commissioners shall from time to time cause the houses and buildings in all or any of the streets to be marked with numbers as they think fit, and shall cause to be put up or painted on a conspicuous part of some house, building, or place at or near each end, corner, or entrance of every such street the name by which such street is to be known; and every person who destroys, pulls down, or defaces any such number or name, or puts up any number or name different from the number or name put up by the commissioners, shall be liable to a penalty not exceeding forty shillings for every such offence.

Houses to be numbered and streets named.

65. The occupiers of houses and other buildings in the streets shall mark their houses with such numbers as the commissioners approve of, and shall renew such numbers as often as they become obliterated or defaced; and every such occupier who fails, within one week after notice for that purpose from the commissioners, to mark his house with a number approved of by the commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding forty shillings, and the commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to them by such occupier, and shall be recoverable as damages.

Numbers of houses to be renewed by occupiers.

And with respect to improving the line of the streets, and removing obstructions, BE IT ENACTED as follows:

66. The commissioners may allow, upon such terms as they think fit, any building within the limits of the special Act to be set forward, for improving the line of the street in which such building, or any building adjacent thereto, is situated.

Houses may be set forward for improving line of street.

67. The commissioners may agree with the owners of any lands within the limits of the special Act for the absolute purchase thereof, for the purpose of widening, enlarging, or otherwise improving any of the streets, and they shall re-sell any parts of the land so purchased which shall not be wanted for the enlargement of the street.

Commissioners may purchase houses or ground for effecting additional improvements.

68. When any house or building, any part of which projects beyond the regular line of the street, or beyond the front of the house or building on either side thereof, has been taken down in order to be rebuilt or altered, the commissioners may require the same to be set backwards to or toward the line of the street, or the line of the adjoining houses or buildings, in such manner as the commissioners direct, for the improvement of such street: Provided always, that the commissioners shall make full compensation to the owner of any such house or building for any damage he thereby sustains.

Houses projecting beyond line of street, when taken down to be set back.

69. The commissioners may give notice to the occupier of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign post, sign iron, showboard, window shutter, wall, gate, or fence, or any other obstruction or projection erected or placed, after the passing of the special Act, against or in front of any house or building within the limits of the special Act, and which is an obstruction to the safe and convenient passage along any street: and such occupier shall within fourteen days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the commissioners, and in default thereof shall be liable to a penalty not exceeding forty shillings; and the commissioners in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default, and shall be recoverable as damages: Provided always, that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building.

Future projections of houses, &c., to be removed on notice.

70. If any such obstructions or projections were erected or placed against or in front of any house or building in any such street before the passing of the special Act, the com-

Commissioners may

10 & 11 Vict. c. 34.

missioners may cause the same to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such obstruction or projection shall be thirty days before such alteration or removal is begun, and if such obstructions or projections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Cause existing projections to be removed, and compensation to be made.

Doors in future to be made to inwards.

71. All doors, gates, and bars put up after the passing of the special Act within the limits thereof, and which open upon any street, shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the commissioners allow such doors, gates, or bars to be otherwise hung or placed; and if, except as aforesaid, any such door, gate, or bar be hung or placed so as to open outwards on any street, the occupier of such house, building, yard, or land shall, within eight days after notice from the commissioners to that effect, cause the same to be altered so as not to open outwards; and in case he neglect so to do, the commissioners may make such alteration, and the expenses of such alteration shall be paid to the commissioners by such occupier, and shall be recoverable from him as damages, and he shall, in addition, be liable to a penalty not exceeding forty shillings.

Doors opening outwards may be altered.

72. If any such door, gate, or bar was before the passing of the special Act hung so as to open outwards upon any street, the commissioners may alter the same, so that no part thereof when open shall project over any public way.

Coverings for cellar doors to be made by occupier.

Penalty for neglect.

73. When any opening is made in any pavement or footpath within the limits of the special Act, as an entrance into any vault or cellar, a door or covering shall be made by the occupier of such vault or cellar, of iron or such other materials, and in such manner as the commissioners direct, and such door or covering shall from time to time be kept in good repair by the occupier of such vault or cellar; and if such occupier do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the direction of the commissioners, or if he do not keep the same when properly made in good repair, he shall for every such offence be liable to a penalty not exceeding five pounds.

Waterspouts to be affixed to houses or buildings.

74. The occupier of every house or building in, adjoining, or near to any street shall, within seven days next after service of an order of the commissioners for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house or with a pipe or trunk, to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath; and in default of compliance with any such order within the period aforesaid such occupier shall be liable to a penalty not exceeding forty shillings for every day that he shall so make default.

And with respect to ruinous or dangerous buildings, BE IT ENACTED as follows:

Ruinous or dangerous buildings to be taken down or secured by owners, &c.

If owner, &c., neglect to repair, commissioners may cause the same to be done, charging owner, &c., with the expenses.

75. If any building or wall, or anything affixed thereon, within the limits of the special Act, be deemed by the surveyor of the commissioners to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbouring buildings, such surveyor shall immediately cause a proper board or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner of such building or wall, if he be known or resident within the same limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, the said surveyor may make complaint thereof before two justices, and it shall be lawful for such justices to order the owner, or in his default the occupier (if any), of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same or such part thereof as appears to them to be in a dangerous state, within a time to be fixed by such justices; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the commissioners shall with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof.

The expenses to be levied by distress on the owner.

76. If such owner can be found within the limits of the special Act, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress, and any justice may issue his warrant accordingly.

If owner cannot be found, com-

77. If such owner cannot be found within the said limits, or sufficient distress of his goods and chattels within the said limits cannot be made, the commissioners, after giving twenty-eight days' notice of their intention to do so, by posting a printed or

written notice in a conspicuous place on such building, or on the land whereon such building stood, may take such building or land, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation to the owner of such building or land in the manner provided by the Lands Clauses Consolidation Act, 1845, in the case of lands taken otherwise than with the consent of the owners and occupiers thereof; and the commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the same building or land for the purposes of this Act.

10 & 11 Vict. c. 34.

Commissioners may take the house or ground, making compensation provided by 7 & 8 Vict. c. 18.

78. If any such house or building as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, the commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house or building; and the commissioners shall restore any overplus arising from such sale to the owner of such house or building, on demand; nevertheless, the commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Commissioners may sell the materials, restoring to the owner overplus arising from the sale.

And with respect to precautions during the construction and repair of the sewers, streets, and houses, BE IT ENACTED as follows:

79. The commissioners shall, during the construction or repair of any of the streets vested in them, and during the construction or repair of any sewers or drains, take proper precaution for guarding against accident by shoreing up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the streets, to prevent the passage of carriages and horses while such works are carried on, as to them shall seem proper; and the commissioners shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night, so as to prevent accidents; and every person who takes down, alters, or removes any of the said bars or chains, or extinguishes any light, without the authority or consent of the commissioners, shall for every such offence be liable to a penalty not exceeding five pounds.

Bars to be erected across streets while repairs or alterations are making, and lights placed at night.

80. Every person intending to build or take down any building within the limits of the special Act, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be so done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall before beginning the same cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers, outside of such hoard or fence, and shall continue such hoard or fence, with such platform and handrail as aforesaid, standing and in good condition, to the satisfaction of the commissioners, during such time as the public safety or convenience requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night; and every such person who fails to put up such fence or hoard, or platform with such handrail as aforesaid, or to continue the same respectively standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted in the night, or who does not remove the same, when directed by the commissioners, within a reasonable time afterwards, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

Hoards to be set up during repairs.

81. When any building materials, rubbish, or other things are laid, or any hole made in any of the streets, whether the same be done by order of the commissioners or not, the person causing such materials or other things to be so laid, or such hole to be made, shall at his own expense cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising while such materials or hole remain; and such person shall, at his own expense, cause such materials or other things and such hole to be sufficiently fenced and inclosed until such materials or other things are removed or the hole filled up or otherwise made secure; and every such person who fails so to light, fence, or inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued.

Penalty for not lighting deposits of building materials or excavations.

82. In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding five pounds to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and a further penalty not exceeding forty shillings for every day during which such offence is continued after the conviction for such offence; and in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Penalty for continuing deposits of building materials or excavations an unreasonable time.

83. If any building or hole or any other place near any street be, for want of sufficient repair, protection, or inclosure, dangerous to the passengers along such street, the commissioners shall cause the same to be repaired, protected, or inclosed, so as to prevent

Dangerous places to be repaired or inclosed.

10 & 11 Vict. c. 34.

danger therefrom; and the expenses of such repair, protection, or inclosure shall be repaid to the commissioners by the owner of the premises so repaired, protected, or inclosed, and shall be recoverable from him as damages.

And with respect to objections to the works to be constructed by or subject to the approval of the commissioners, BE IT ENACTED as follows:

Commissioners to give notice of new levels or sewers.

84. Twenty-eight days at the least before fixing the level of any street which has not become a public highway, or any street which has not been theretofore levelled or paved, and before making any sewer where none was before, or altering the course or level of or abandoning or stopping any sewer, the commissioners shall give notice of their intention by posting a printed or written notice in a conspicuous place at each end of every such street through or in which such work is to be undertaken, which notice shall set forth the name or situation of the street intended to be levelled or paved, and the names of the places through or near which it is intended that the new sewer shall pass, or the existing sewer be altered or stopped up, and also the places of the beginning and the end thereof, and shall refer to plans of such intended work, and shall specify a place where such plans may be seen, and a time when and place where all persons interested in such intended work may be heard thereupon; and they shall at the same time give to the inspector notice of the said intended work, and of the time and place appointed for hearing objections thereto.

Meeting of commissioners to hear objections in the presence of the inspector.

85. The commissioners shall meet at the time and place mentioned in the said notice, to consider, in the presence of the inspector, or of the surveyor of the commissioners, any objections made against such intended work, and all persons interested therein, or likely to be aggrieved thereby, shall be entitled to be heard before the commissioners at such meeting; and thereupon the commissioners may, with the concurrence of the inspector, if any inspector has been appointed and is present at such meeting, or in the absence of the inspector, or if no inspector have been appointed, then in their discretion, abandon or make such alterations in the said intended work as they judge fit; and no such work to which any objection is made at such meeting at which any such inspector shall be present shall be executed unless the inspector, or if no inspector have been appointed, then unless the surveyor of the commissioners, after the person making such objection or his agent has been heard, certify that the work in his judgment ought to be executed, nor shall such work be begun until the end of seven days after an order for the execution thereof has been duly made by the commissioners and entered in their books.

Persons aggrieved by order of commissioners may appeal to quarter sessions.

86. Any person liable to pay or to contribute towards the expense of any of the works aforesaid, or otherwise aggrieved by any order of the commissioners relating thereto, may, at any time within seven days next after the making of any such order, give notice in writing to the commissioners that he intends to appeal against such order to the court of quarter sessions holden next after the expiration of ten days next after such notice, and along with such notice he shall give a statement in writing of the grounds of the appeal; and if within four days next after giving such notice the party enter into a recognisance before some justice, with two sufficient sureties, conditioned to try the appeal, and abide the order of the court, and pay such costs as shall be awarded by the court thereupon, the work so appealed against shall not be begun until after the judgment of the court upon such appeal; and such court, upon due proof of such notice and of such recognisance having been given and entered into, shall hear and determine the matter of the appeal, and shall make such order thereon, either confirming, quashing, or varying the same, and shall award such costs to either of the parties, as the court in its discretion thinks fit: Provided always, that the appellant shall not be heard in support of such appeal unless such notice and statement have been given and such recognisance entered into as aforesaid, nor on the hearing of such appeal shall he go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

And with respect to cleansing the streets, BE IT ENACTED as follows:

Commissioners to cause streets to be cleansed, and dust and ashes to be removed from the houses.

87. The commissioners shall cause all the streets, together with the foot pavements, from time to time, to be properly swept and cleansed, and all dust and filth of every sort found thereon to be collected and removed, and shall cause all the dust, ashes, and rubbish (*a*) to be carried away from the houses and tenements of the inhabitants of the town or district within the limits of the special Act, at convenient hours and times, and shall cause the privies and cesspools within the said town or district to be from time to time emptied and cleansed in a sufficient and proper manner: Provided always, that the occupier of any house or tenement within the limits of the special Act may keep and remove any such soil, ashes, or rubbish as shall be made on his own premises, and shall be kept for manure, so that the same be not a nuisance to the inhabitants residing near such premises, and that the same be removed at such times and in such manner as shall be approved of by the commissioners.

Occupiers to cause footways to be swept.

88. The occupiers of buildings and lands within or adjoining the streets shall once in every day (Sundays excepted), before eight of the clock in the forenoon of each day, cause to be swept and cleansed the footways and pavements in front or at the side of their

(*a*) This does not extend to the dust and ashes the exclusive produce of manufactories (*Lyndon* v. *Standbridge*, 2 H. & N. 45; 26 L. J. Exch. 386).

respective buildings and lands; and every such occupier making default herein shall for every such offence be liable to a penalty not exceeding five shillings; and for the purpose aforesaid, when any house shall be let in separate apartments, the person letting such apartments shall be deemed the occupier. 10 & 11 Vict. c. 34. Penalty for neglect.

89. The commissioners may compound, for such time as they think fit, with any person liable to sweep or clean any footway under the provisions of this or the special Act, for sweeping and cleaning the same in the manner directed by this or the special Act. Commissioners may compound for sweeping footways.

90. The dust and filth which the commissioners shall cause to be collected from the streets, privies, sewers, and cesspools, and all the dust, ashes, and rubbish which the commissioners shall cause to be collected and carried away from the houses or elsewhere within the said limits, shall be the property of the commissioners, and the commissioners shall have power to sell and dispose of the same as they think proper, and the money arising from the sale thereof shall be applied toward the purposes of the special Act. Dust, &c., collected to be vested in the commissioners.

91. The commissioners may from time to time provide places convenient for the deposit of the night soil, dung, ashes, and other filth and rubbish to be collected under the authority of this or the special Act, and for stabling and keeping all horses, carts, implements, and other things required for the purposes of this or the special Act, or of any Act to be incorporated therewith; and for any of such purposes the commissioners may purchase or hire any lands or buildings by them considered necessary, or they may cause any new building to be made upon any land which shall be purchased or hired by them under the provisions of this or the special Act. Commissioners may provide lands, &c., for deposit of soil and materials.

92. The commissioners, if they think fit so to do, may cause any number of moveable or fixed dustboxes or other conveniences wherein dust and ashes may be deposited until removed and carried away, to be provided and placed in such of the streets as they shall judge necessary, and may require the occupiers of houses or tenements within such streets to cause all their dust and ashes to be deposited daily in the said dustboxes or other conveniences; and every person who, after such dustboxes or conveniences have been so provided, shall deposit or cause or permit to be deposited any ashes or dust in any part of any street, except in some of the said dustboxes or other conveniences, and every person who shall lay or cause to be laid any dirt, dung, or other filth in any part of any street, shall for every such offence forfeit and pay a sum not exceeding ten shillings. Dustboxes to be erected by commissioners.

93. The commissioners may erect such public urinals within the limits of the special Act, and in such situations as they think fit, and may defray the expense thereof, and of keeping the same in good order, and may make compensation for any injury occasioned to any person by the erection thereof, out of the moneys to be levied under this and the special Act. Commissioners may cause public conveniences to be erected.

94. The commissioners shall, as often as occasion requires, cause the streets to be watered, and they may contract with any water company or other party for a supply of water for that purpose, and for cleansing the sewers and drains, and, if necessary, they may place pipes, conduits, and pumps in any of the streets, or provide any other works and engines proper for that purpose, and remove and alter the same when and as they think proper. Commissioners to cause streets to be watered, and wells, pumps, &c., to be provided.

95. The commissioners shall appoint and employ a sufficient number of scavengers, or contract with any company or other person to employ scavengers, for sweeping, cleansing, and watering the streets, and for removing all dust, ashes, rubbish, and filth therefrom, and from the houses and tenements therein, and for emptying privies and cesspools, in the manner by this or the special Act directed; and such scavengers shall, on such days and at such hours, and in such manner as the commissioners from time to time appoint, sufficiently execute all such works and duties as they have respectively contracted or been employed to perform; and every such contractor who fails to sweep and properly cleanse or water any street which he has contracted to sweep, cleanse, or water, or who fails to clean out and empty any privy, cesspool, or sewer which he has contracted to clean out and empty, at the time and in the manner appointed by the commissioners, or to collect or remove any dirt, ashes, or rubbish which he has contracted to remove at the time and in the manner prescribed by the commissioners for that purpose, or who lays any of such soil, dust, ashes, rubbish, or filth in any other place than such as are appointed by the commissioners for that purpose, shall for every such offence be liable to a penalty not exceeding five pounds. Commissioners to appoint scavengers.

96. Every occupier of any building or land within the said limits, and every other person who refuses to permit the said scavengers to remove such dirt, ashes, or rubbish as by this or the special Act they are authorised to do, or who obstructs the said scavengers in the performance of their duty, shall for every such offence be liable to a penalty not exceeding five pounds. Penalty for obstructing scavengers.

97. Every person, other than the person employed by the commissioners, or by some person contracting with the commissioners for that purpose, who collects or carries away any night soil, dust, ashes, rubbish, or filth by this or the special Act directed to be removed by persons employed by the commissioners, from any street or public place within the limits of the special Act, shall be liable to a penalty not exceeding forty shillings for every such offence. Penalty on persons other than scavengers removing dirt.

98. The commissioners may from time to time fix the hours within which only it shall be lawful to empty privies or remove offensive matter within the limits of the special Act; Penalty for conveying

10 & 11 Vict. c. 34.

Offensive matter at improper times.

and when the commissioners have fixed such hours, and given public notice thereof, every person who within the limits of the special Act empties or begins to empty any privy, or removes along any thoroughfare within the said limits any offensive matter, at any time except within the hours so fixed, and also every person who at any time, whether such hours have been fixed by the commissioners or not, uses for any such purpose any cart or carriage not having a covering proper for preventing the escape of the contents of such cart, or of the stench thereof, or who wilfully slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been placed, or unavoidably slopped or spilled, shall be liable to a penalty not exceeding forty shillings, and in default of the apprehension of the actual offender the driver or person having the care of the cart or carriage employed for any such purpose shall be deemed to be the offender.

And with respect to the prevention of nuisances, BE IT ENACTED as follows:

Stagnant pools of water and other annoyances to be removed.

99. No person shall suffer any waste or stagnant water to remain in any cellar or other place within any house belonging to or occupied by him within the limits of the special Act, so as to be a nuisance; and every person who so suffers any such water to remain for forty-eight hours after receiving notice from the commissioners to remove the same, and every person who allows the contents of any privy or cesspool to overflow or soak therefrom, to the annoyance of the occupiers of any adjoining property, shall for every such offence be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding five shillings for every day during which such nuisance continues; and the commissioners may drain and cleanse out any stagnant pools, ditches, or ponds of water within the limits of the special Act, and abate any such nuisance as aforesaid, and for that purpose may enter, by their officers and workmen, into and upon any building or land within the said limits at all reasonable times, and do all necessary acts for any of the purposes aforesaid; and the expenses incurred thereby shall be paid by the person committing such offence, or occupying the building or land whence such annoyance proceeds, and if there be no occupier, by the owner of such building or land, and shall be recoverable as damages.

Regulations to prevent accumulation of dung, &c.

100. If the dung or soil of any stable, cowhouse, or pigstye, or other collection of refuse matter, elsewhere than in any farmyard, be at any time allowed to accumulate within the limits of the special Act for more than thirty days, or for more than seven days after a quantity exceeding one ton has been collected in any place not allowed by the commissioners, such dung, soil, or refuse, if not removed within forty-eight hours after notice from any officer of the commissioners for that purpose, shall become the property of the commissioners, and they, or any person with whom they have at that time any subsisting contract for the removal of refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the special Act.

On certificate of the officer of health, filth to be removed.

101. If at any time the officer of health, or, if for the time being there be no officer of health, any two surgeons or physicians, or one surgeon and one physician, residing within the limits of the special Act, certify under his or their hand to the commissioners that any accumulation of dung, soil, or filth, or other noxious or offensive matter, within the limits of the special Act, ought to be removed as being injurious to the health of the inhabitants, the clerk to the commissioners shall forthwith give notice to the owner or reputed owner of such dung, soil, or filth, or to the occupier of the land where the same are, to remove the same within twenty-four hours after such notice; and in case of failure to comply with such notice the said dung, soil, or filth shall thereupon become vested in the commissioners, and they, or any person with whom they have at that time contracted for the removal of all such refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the special Act.

Houses to be white-washed and purified, on

102. If at any time the officer of health, or, if for the time being there be no officer of health, any two surgeons or physicians, or one surgeon and one physician, residing within the said limits, certify under his or their hands to the commissioners that any

---

any house or building or any part thereof would tend to prevent or check infectious or contagious disease therein, or that any drain, privy, or cesspool is in such a defective state that the health of the neighbours is thereby affected or endangered, the commissioners shall order the occupier of such house or part thereof to whitewash, cleanse, and purify the same, and the owner of such drain, privy, or cesspool to amend the condition thereof, in such manner and within such time as the commissioners deem reasonable; and if such occupier or owner do not comply with such order he shall be liable to a penalty not exceeding ten shillings for every day's neglect thereof; and in such case the commissioners may cause such house or any part thereof to be whitewashed, cleansed, and purified, or the condition of such drain, privy, or cesspool to be amended, and may recover the expense thereof from such occupier or owner in the same manner as damages.

No interment in any grave without leaving

103. No coffin containing a corpse shall be buried in any grave within the limits of the special Act, not being a vault or catacomb, without at least thirty inches of soil between the ordinary surface of such burial-ground and the upper side of the coffin; and

if the person having the preparation or the immediate charge of the preparation of the grave to receive such coffin permit the coffin to be buried in such grave, or if the person having the control of the burial ground knowingly permit any coffin to be buried in any grave in which there is not left after the burial thereof thirty inches at the least of soil, measuring from the ordinary surface of such burial ground to the upper side of the coffin, the person having the immediate charge of the preparation of the grave, and the person having the control of the burial ground in which such burial is made, shall for every such offence be liable to a penalty not exceeding five pounds

10 & 11 Vict c 34

two feet six inches clear of soil above the coffin

104 If any candle house, melting house, melting place, or soap house, or any slaughter house, or any building or place for boiling offal or blood, or for boiling or crushing bones, or any pigstye, necessary house, dunghill, manure heap, or any manufactory, building, or place of business within the limits of the special Act, be at any time certified to the commissioners by the inspector of nuisances or officer of health, or, if for the time being there be no inspector of nuisances or officer of health by any two surgeons or physicians, or one surgeon and one physician, to be a nuisance or injurious to the health of the inhabitants, the commissioners shall direct complaint to be made before two justices, and any justice may summon before any two justices the person by or on whose behalf the work complained of is carried on, and such justices shall inquire into such complaint, and they may, by an order in writing under their hands order such person to discontinue or remedy the nuisance within such time as to them shall appear expedient Provided always, that if it appear to such justices that in carrying on any business complained of the best means then known to be available for mitigating the nuisance or the injurious effects of such business have not been adopted, they may suspend their final determination, upon condition that the person so complained against shall undertake to adopt, within a reasonable time, such means as the said justices shall judge to be practicable, and order to be carried into effect, for mitigating or preventing the injurious effects of such business

Justices may order nuisances to be abated

105 If any such nuisance, or the cause of any such injurious effects as aforesaid, be not discontinued or remedied within such time as shall be ordered by the said justices, the person by or on whose behalf the business causing such nuisance is carried on shall be liable to a penalty not exceeding five pounds for every day during which such nuisance shall be continued or unremedied after the expiration of such time as aforesaid Provided always, that when any person who thinks himself aggrieved by any such order shall, according to the provisions of this or the special Act, appeal against any such order such person shall not be liable to discontinue or remedy the nuisance or cause of the injurious effects mentioned therein or to pay any penalty, until after the expiration of five days after the determination of such appeal and the confirmation of such order, unless such appeal cease to be prosecuted

Penalty for disobedience of orders of justices

106 The commissioners may direct any prosecution for any public nuisance whatsoever, created, permitted, or suffered within the limits of the special Act and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this or the special Act, or of any Act incorporated therewith, and may order the expenses of such prosecution or other proceedings to be paid out of the rates authorized to be imposed under the provisions of this and the special Act

Commissioners to order costs of prosecutions to be paid out of the rates

107 Nothing in this Act contained shall be construed to render lawful any Act or omission on the part of any person which is, or but for this Act would be, deemed to be a nuisance at common law nor to exempt any person guilty of nuisance at common law from prosecution or action in respect thereof, according to the forms of proceeding at common law, nor from the consequences, upon being convicted thereof

Act not to affect nuisances at common law

And with respect to the prevention of smoke, BE IT ENACTED as follows

108 Every fireplace or furnace constructed after the passing of the special Act, in order to be used within the limits of such Act in the working of engines by steam, or in any mill, factory dyehouse, brewery, bakehouse, gaswork, or in any manufactory whatsoever (although a steam engine be not used or employed therein) shall be so constructed as to consume the smoke arising from the combustibles used in such fireplace or furnace, and every such fireplace or furnace existing within the said limits at the date of the passing of the special Act, used for the purposes aforesaid, not so constructed as to consume the smoke arising from such fireplace or furnace shall within the prescribed period, or if no period be prescribed then within two years after the passing of the special Act, be so altered in its construction as to consume such smoke, and if after such period any person use for any of the purposes aforesaid any fireplace or furnace not so constructed as aforesaid, or if at any time any person use any such fireplace or furnace constructed after the passing of the special Act, and not so constructed as aforesaid or so negligently use any such fireplace or furnace as not to consume the smoke arising from the combustibles used therein, every person so offending shall be liable to a penalty of forty shillings for every day during any part of which such furnace or fireplace shall be so used and continued after one month's notice in writing shall have been given to the owner or occupier of such furnace or fireplace by the commissioners to remedy or discontinue the use of the same

Fireplaces of factories &c to consume their own smoke.

And with respect to the construction of houses for prevention of fire, BE IT ENACTED as follows

109 The party walls of all buildings erected after the passing of the special Act within the limits thereof shall be carried through and above the roof, to form a parapet

Party walls to be carried

10 & 11 Vict. c. 34

up through the roof.

Walls of buildings and coverings of roofs to be made of incombustible materials.

of not less than twelve inches in height, measured at right angles with the slope of the roof, above the covering of the roof of the highest building to which such party walls belong; and all such party walls, and the external walls of all buildings, erected after the passing of the special Act, in or near any street, or within the curtilage of any house adjoining any street, shall be constructed of incombustible materials, and the coverings of the roof thereof shall not, without the previous consent in writing of the commissioners, be constructed of combustible materials; and it shall not be lawful for the owner of any building within the limits of the special Act, having at the passing of the special Act a roof covered with thatch or other combustible material, and contiguous to or adjoining to any other building, to suffer such covering to such roof to remain for a longer period than seven years after the passing of the special Act, unless with the consent in writing of the commissioners; and every person who shall erect any building, or cover any roof, or suffer the covering of any roof to continue, contrary to the provision herein contained, and who shall not remove or alter the same within one month after notice given to him for that purpose by the commissioners, shall be liable to a penalty not exceeding one pound for every day that such building or covering to such roof shall so continue.

And with respect to supplying buildings with fresh air, BE IT ENACTED as follows:

Regulating construction of buildings intended as places for public meetings.

No person to begin to build until plan has been approved by commissioners.

110. Before beginning to build any building intended to be used as a church, chapel, or school, or a place of public amusement or entertainment, or for holding large numbers of people for any purpose whatsoever, within the limits of the special Act, the person intending to build the same shall give fourteen days' notice in writing to the commissioners, and shall accompany such notice with a plan and description of the manner proposed for its construction, with respect to the means of supplying fresh air to such building; and no person shall begin to build such building until the manner proposed for its construction, with respect to the means for supplying fresh air, have been approved of by the commissioners; and in default of sending such notice, or if any such building be erected without such approval, the commissioners may cause such building, or such part of it as they consider necessary, to be pulled down or altered, at the expense of the owner; and any expense incurred by the commissioners in so doing may be recovered as hereinbefore provided with respect to ruinous or dangerous buildings taken down or repaired by the commissioners.

If commissioners fail to signify their approval of plan within fourteen days, party may proceed to build.

111. Provided always, that if the commissioners fail to signify in writing their approval or disapproval of the manner of construction of such building, with respect to the means of supplying fresh air shown on such plan and description as aforesaid, within fourteen days after receiving such notice, accompanied by such plan and description, the person giving such notice may, notwithstanding anything herein contained, proceed to build the building therein referred to in the manner shown on such plan and description; provided that such building be otherwise in accordance with the provisions of this and the special Act.

Persons may appeal against determination of commissioners.

112. Provided also, that if the person so intending to build be dissatisfied with the determination of the commissioners as to the said proposed manner of construction, he shall have the same right of appeal against the determination of the commissioners, and such appeal shall be followed by the same incidents, as hereinbefore provided in the case of appeals against any order of the commissioners with respect to works to be constructed by or subject to the approval of the commissioners.

Cellars in courts not to be occupied as dwellings after letting prohibited.

113. It shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied as a dwelling place, any cellar under any house in any court within the limits of the special Act, after the commissioners have given notice to the owners thereof that the letting of cellars as dwelling places in such court is prohibited from that time forth; and it shall be the duty of the commissioners to issue such notices from time to time, as soon as is convenient, until such notice has been given with respect to every court within the limits of the special Act.

No cellars under the height of seven feet from the floor to the ceiling to be let as dwellings.

114. It shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied as a dwelling place, any cellar or room under any house within the said limits, although not situated in a court, which cellar or room shall be less in height from the floor to the ceiling than seven feet, or which shall be less than one-third of its height above the level of the street or ground adjoining the same, or otherwise shall not have two feet at least of its height from the floor to the ceiling above the said level, with an open area of two feet wide from the level of the floor of such cellar or room up to the level of the said street or ground, or which shall not have appurtenant thereto the use of a watercloset or privy and ashpit, according to the enactment herein contained, or which shall not also have a glazed window made to open to the full extent of the half thereof, the area of which is not less than six feet clear of the frame, and a fireplace, with a chimney or flue; or which cellar, being an inner or back cellar let or occupied along with a front cellar as part of the same letting or occupation, has not a ventilating flue (unless such inner or back cellar shall be part of a house built before the passing of the special Act), or which shall not be well and effectually drained by means of a drain the bottom of which is one foot at least below the level of the floor of such cellar or room.

Penalty on letting such cellars as dwelling places.

115. Every person who lets separately (except as aforesaid), or who knowingly suffers to be occupied for hire, as a dwelling place, any cellar or room within the limits of the special Act, contrary to the provisions of this and the special Act, shall be liable to a penalty not exceeding twenty shillings, and a further penalty, not exceeding five

shillings, for every day during which such cellar or room is so occupied after conviction of the first offence.

10 & 11 Vict. c. 34.

And with respect to lodging houses, BE IT ENACTED as follows:

For the regulation and inspection of lodging houses.

116. It shall not be lawful to keep or use as a public lodging house within the limits of the special Act any house, not being a licensed victualling house, which shall be rated to the relief of the poor on a less sum than ten pounds, nor in any case unless such house shall have been registered as a lodging house in a book to be kept by the commissioners for that purpose; and every house shall be deemed a public lodging house within the meaning of this Act in which persons are harboured or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any term less than a week.

Commissioners to keep a register of lodging house keepers, and make rules for promoting cleanliness and ventilation.

117. The commissioners shall cause a register to be kept in which shall be entered the names of all such persons as apply to have the houses occupied by them registered as lodging houses, and the situations of such houses; and the commissioners shall from time to time fix the number of lodgers who may be received into each such lodging house, and make rules for promoting cleanliness and ventilation in such lodging house; and they shall order that a ticket containing the number of lodgers allowed to be received into the house, and a table of rules for promoting cleanliness and ventilation, shall be hung up or placed in a conspicuous part of each room into which lodgers are received; and the keepers of all such lodging houses shall at all times observe the said rules, and give access to such lodging houses, when required by any persons appointed by the commissioners, for the purpose of inspection thereof, or for the purpose of performing therein any disinfecting process which the commissioners may order.

Penalty on lodging house keepers not complying with the provisions of the Act.

118. Every person who shall keep any lodging house, and receive lodgers therein, without such lodging house having been duly registered, or who shall receive into the same more lodgers than shall be allowed by the commissioners, or who shall fail to keep such ticket or such table of rules as aforesaid hung up or displayed as required by the commissioners, or who shall neglect to cause such rules to be observed in any such lodging house, or who shall refuse to admit to such lodging house at all reasonable times any person appointed by the commissioners for any of the purposes aforesaid, or who shall wilfully obstruct any such person in performing any disinfecting process therein which the commissioners may order, shall be liable to a penalty not exceeding forty shillings for each such offence.

And with respect to lighting the town or district, BE IT ENACTED as follows:

Commissioners may contract for lighting the streets.

119. The commissioners may contract for the prescribed period, or (where no period shall be prescribed) for any period not exceeding three years at any one time, with the owners of any gasworks, or with any other person, for the supply of such gas or oil or other means of lighting, and may provide such lamps, lamp posts, and other works as the commissioners think necessary for lighting such streets.

For ascertaining price to be paid for gas in case of dispute.

120. If the commissioners, and the owners of any gasworks authorized by Act of parliament to supply gas within the limits of the special Act, and with whom the commissioners may be desirous of contracting, shall not agree as to the price to be paid for such supply, then such price shall be settled by arbitration; and for that purpose the clauses of the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated in this and the special Act.

And with respect to the supply of water, BE IT ENACTED as follows:

Power to commissioners to construct public cisterns and pumps for supply of water to baths and washhouses.

121. The commissioners shall cause all existing public cisterns, pumps, wells, conduits, and other waterworks used for the gratuitous supply of water to the inhabitants within the limits of the special Act, to be continued, maintained, and supplied with water, or they shall substitute other such works equally convenient, and shall cause them to be maintained and supplied with water, and such public cisterns and other works shall be vested in the commissioners, and be under their management and control; and the commissioners may construct any number of new cisterns, pumps, conduits, and other waterworks, for the gratuitous use of any persons who choose to carry the same away, not for sale, but for their own private use, and may supply with water any public baths or washhouses; provided that the commissioners shall not construct any such new works without the prescribed approval, or, if no approval be prescribed, without the approval of the commissioners of her majesty's woods and forests, land revenues, works, and buildings; and before giving their approval to the construction of any such new works the last-mentioned commissioners shall cause a local inquiry to be made in the manner prescribed by an Act of the last session of parliament, intituled "An Act for making preliminary Inquiries in certain Cases of Application for Local Acts," and shall withhold their approval if upon such inquiry they shall be satisfied that an equally good and abundant supply of water for such public purposes can be procured as cheaply by any other means than by the construction of such new works.

Commissioners not to construct such new works without approval.

9 & 10 Vict. c. 106.

Commissioners may contract for supply of water.

122. The commissioners may contract for the prescribed period, or (where no period shall be prescribed) for any period not exceeding three years at one time, with the owners of any waterworks or any other person for such supply of water as the commissioners shall think necessary for the purposes of this or the special Act.

For ascertaining price to be paid for

123. If the commissioners, and the owners of any waterworks authorized by Act of parliament to supply water within the limits of the special Act, with whom the commissioners may be desirous of contracting, do not agree as to the price to be paid for

10 & 11 Vict. c. 34.

such supply, then such price (except where by the Act authorizing such waterworks some other mode of determining such price shall be provided) shall be settled by arbitration, and for that purpose the clauses of the Lands Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration, shall be incorporated with this and the special Act.

Water in case of dispute.

Commissioners to cause fireplugs, &c., to be provided and maintained.

124. The commissioners shall cause fireplugs, and all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire, to be provided and maintained, and for this purpose they may enter into any agreement with any water company or other party, and they shall paint or mark on the buildings and walls within the streets words or marks near to such fireplugs to denote the situation thereof, and do such other things for the purposes aforesaid as they may from time to time deem expedient.

And with respect to slaughterhouses, BE IT ENACTED as follows:

Commissioners may license slaughter houses, &c.

125. The commissioners may license such slaughter houses and knackers' yards as they from time to time think proper for slaughtering cattle within the limits of the special Act.

No new slaughter-houses in future to be erected without a licence.

126. No place shall be used or occupied as a slaughter house or knacker's yard within the said limits which was not in such use and occupation at the time of the passing of the special Act, and has so continued ever since, unless and until a licence for the erection thereof, or for the use and occupation thereof as a slaughter house or knacker's yard, have been obtained from the commissioners; and every person who, without having first obtained such licence as aforesaid, uses as a slaughter house or knacker's yard any place within the said limits not used as such at the passing of the special Act, and so continued to be used ever since, shall for each offence be liable to a penalty not exceeding five pounds, and a like penalty for every day after the conviction for such offence upon which the said offence is committed.

Existing slaughter houses, &c., to be registered.

127. Every place within the limits of the special Act which shall be used as a slaughter house or knacker's yard shall, within three months after the passing of such Act, be registered by the owner or occupier thereof at the office of the commissioners, and on application to the commissioners for that purpose the commissioners shall cause every such slaughter house or knacker's yard to be registered in a book to be kept by them for that purpose; and every person who after the expiration of the said three months, and after one week's notice of this provision from the commissioners, uses or suffers to be used any such place as a slaughter house or knackers' yard, without its being so registered, shall be liable to a penalty not exceeding five pounds for such offence, and a penalty not exceeding ten shillings for every day after the first day during which such place shall be used as a slaughter house or knacker's yard without having been so registered.

Commissioners may make bye-laws for regulation of slaughter-houses, &c.

128. The commissioners shall from time to time, by bye-laws, to be made and confirmed in the manner hereinafter provided, make regulations for the licensing, registering and inspection of the said slaughter houses and knackers' yards, and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and requiring them to be provided with a sufficient supply of water, and they may impose pecuniary penalties on persons breaking such bye-laws; provided that no such penalty exceed for any one offence the sum of five pounds, and in the case of a continuing nuisance the sum of ten shillings for every day during which such nuisance shall be continued after the conviction for the first offence.

Justices may suspend licence of slaughter houses, &c., in addition to penalty imposed.

129. The justices before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this or the special Act, or of the non-observance of any of the bye-laws or regulations made by virtue of this or the special Act, in addition to the penalty imposed on such person under the authority of this or the special Act, may suspend for any period not exceeding two months the licence granted to such person under this or the special Act, or in case such person be the owner or proprietor of any registered slaughter house or knacker's yard, may forbid for any period not exceeding two months the slaughtering of cattle therein; and such justices, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed under the authority of this or the special Act, declare the licence granted under this or the special Act revoked, or, if such person be the owner or proprietor of any registered slaughterhouse, may forbid absolutely the slaughtering of cattle therein; and whenever the licence of any such person is revoked as aforesaid, or whenever the slaughtering of cattle in any registered slaughter house or knacker's yard is absolutely forbidden as aforesaid, the commissioners may refuse to grant any licence whatever to the person whose licence has been so revoked, or on account of whose default the slaughtering of cattle in any registered slaughter house has been forbidden.

Penalty for slaughtering cattle during suspension of licence, &c.

130. Every person who during the period for which any such licence is suspended, or after the same is revoked as aforesaid, slaughters cattle in the slaughter house or knacker's yard to which such licence relates, or otherwise uses such slaughter house or knacker's yard, or allows the same to be used as a slaughter house or knacker's yard, and every person who during the period that the slaughtering of cattle in any such registered slaughter house or knacker's yard is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters any cattle in any such registered slaughter-house, shall be liable to a penalty not exceeding five pounds for such offence, and a further penalty of five pounds for every day on which any such offence is committed after the conviction for the first offence.

131. The inspector of nuisances, the officer of health, or any other officer appointed by the commissioners for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any building or place whatsoever within the said limits kept or used for the sale of butchers' meat, or for slaughtering cattle, and examine whether any cattle, or the carcase of any such cattle, is deposited there; and in case such officer shall find any cattle, or the carcase or part of the carcase of any beast, which appears unfit for the food of man, he may seize and carry the same before a justice, and such justice shall forthwith order the same to be further inspected and examined by competent persons; and in case, upon such inspection and examination, such cattle, carcase, or part of a carcase be found to be unfit for the food of man, such justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man; and such justice may adjudge the person to whom such cattle, carcase, or part of a carcase belongs or in whose custody the same is found, to pay a penalty not exceeding ten pounds for every such animal or carcase or part of a carcase so found; and the owner or occupier of any building or place kept or used for the sale of butchers' meat, or for slaughtering cattle, and every other person, who obstructs or hinders such inspector or other officer from entering into and inspecting the same, and examining, seizing, or carrying away any such animal or carcase or part of a carcase so appearing to be unfit for the food of man, shall be liable to a penalty not exceeding five pounds for each offence.

10 & 11 Vict. c. 34.

Officers may enter and inspect slaughter-houses, &c.

And with respect to things to be done by the commissioners by special order only, BE IT ENACTED as follows:

132. Where by this or the special Act the commissioners are empowered to do any thing by special order only, it shall not be lawful for them to do such thing unless the resolution to do the same have been agreed to by the commissioners in some meeting whereof special notice has been given, and has been confirmed in a subsequent meeting held not sooner than four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings in some newspaper circulating within the limits of the special Act, and of which special notice in writing has been given to each of the commissioners.

As to certain matters authorized to be done by the commissioners by special order only.

133. Provided always, that after any resolution has been confirmed in a subsequent meeting as aforesaid the commissioners shall not proceed to carry the same into effect until after the expiration of one month from the date of such second meeting, and during such month such resolution shall be advertised once at least in each week in some newspaper circulating within the limits of the special Act, and public notice thereof shall also be given by means of placards posted in public places within the said limits, and reference shall in such advertisement and notice be made to some place provided by the commissioners where the plan or particulars of the work or matter to which such resolution relates may be gratuitously seen by the ratepayers; and if before the expiration of such month a remonstrance in writing against carrying into effect such resolution or any part thereof, signed by a majority of the ratepayers having votes in the election of the commissioners (such majority being computed with reference to the number of votes to which in such election each ratepayer is entitled under the special Act, or any Act incorporated therewith), be presented to the commissioners, such resolution, or such part thereof as such remonstrance applies to, shall not be carried into effect, and where any such remonstrance applies to part only of any such resolution, the commissioners may either carry into effect the remainder of such resolution, or rescind the same, as they think fit.

Final resolution not to be carried into effect for one month, nor then if a majority of the ratepayers remonstrate against the same.

134. The commissioners may from time to time, with the concurrence in writing of the inspector, and by special order as herein defined, but not otherwise, purchase, rent, build, or otherwise provide such slaughter houses and knackers' yards as they think proper for slaughtering cattle within the limits of the special Act.

Commissioners may purchase slaughter-houses, &c.;

135. The commissioners may by a special order, as herein defined, but not otherwise, purchase, rent, or otherwise provide lands, grounds, or other places, either within the limits of the special Act, or at a reasonable distance therefrom, not exceeding three miles from the centre of the principal market place, if any, or from the principal office of the commissioners, and in a situation to be approved of by the inspector, to be used as a pleasure ground or place of public resort or recreation; and the commissioners may from time to time level, drain, plant, and otherwise lay out and improve any such public lands or grounds for the more convenient use and enjoyment thereof.

and places for public recreation.

136. The commissioners may from time to time by special order as herein defined, but not otherwise, purchase, rent, or otherwise provide, either within the limits of the special Act, or at a reasonable distance therefrom, suitable and convenient land and buildings in a situation and according to plans to be approved of by the inspector, to be used for public baths and washhouses, and public open bathing places and public drying grounds, for the use and accommodation of the inhabitants within the limits of the special Act, in washing and drying clothes and other articles, and may fit up the same respectively with all requisite and proper conveniences, and from time to time enlarge, renew, and repair the same respectively, and afford the use thereof respectively to such inhabitants at such reasonable charges, and under and subject to such regulations, as the commissioners may deem expedient; and every person who offends against any such regulations shall be liable to a penalty not exceeding forty shillings for every offence.

Public bathing places and drying grounds.

137. Provided always, that the number of baths for the use of the working classes in

Proportion

10 & 11 Vict. c. 34.

any building provided by the commissioners shall not be less than twice the number of the other baths of any higher class.

of baths for the working classes.

Charges for the use of baths.

138. The commissioners may from time to time make such reasonable charges for the use of such baths, bathing places, washhouses, and drying grounds, as they think fit, but as regards the working classes, not exceeding the charges, if any, mentioned in the special Act, unless for the use of any washing tub or trough for more than two hours in any one day, in which case any charge may be made which the commissioners deem reasonable.

Recovery of charges for the use of baths, &c.

139. For the recovery of the charges at such washhouses and drying grounds, the officers, servants, and others having the management thereof may, at the period of using the same, or at any subsequent time, detain the clothes or other goods and chattels in or upon any such washhouse or drying ground of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made; and in case such payment be not made within seven days, the commissioners may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge, and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person.

Publication of bye-laws in regard to baths, &c.

140. A printed copy or sufficient abstract of the bye-laws made by the commissioners relating to the use of such baths, bathing places, and washhouses, so far as regards every such bath, bathing place, or washhouse, shall be put up in such bath room, bathing place, and washhouse.

Sale of baths, &c., on discontinuing them.

141. Whenever any of such public baths, bathing places, washhouses, or drying grounds are deemed by the commissioners to be unnecessary or too expensive to be kept up, the commissioners may, by special order as herein defined, but not otherwise, discontinue the same, and sell the lands, buildings, and materials for the best price that can reasonably be obtained, and convey the same accordingly; and the purchase money shall be paid to the treasurer of the commissioners, and be disposed of as the commissioners direct.

Application to be made to parliament if additional powers necessary.

142. If it appear that any works which the commissioners deem necessary for promoting the health or convenience of the inhabitants of the district within the limits of the special Act cannot lawfully be carried into effect by the commissioners, under the powers vested in them by this or the special Act, by reason either that the moneys authorized to be raised by them are insufficient for the purpose, or that any lands are required which the commissioners are not by this or the special Act authorized to take or use, or for any other reason, the commissioners may, by special order as herein defined, but not otherwise, cause application to be made to parliament for an Act to enable them to execute such works, and may defray the expenses of such application out of the rates authorized to be levied by them under this and the special Act.

Power to commissioners to provide public clocks.

143. And with respect to clocks, BE IT ENACTED, That the commissioners may from time to time provide such clocks as they consider necessary, and cause them to be fixed upon or against any public building, or, with the consent of the owner and occupier, upon or against any private building the situation of which may be convenient for that purpose, and may cause the dials thereof to be lighted at night, and from time to time alter and remove any such clocks to such other like situation as they shall consider expedient.

And with respect to entry by the commissioners or their officers in execution of this or the special Act, BE IT ENACTED as follows:

Commissioners empowered to enter upon lands for the purposes of this act.

144. The commissioners shall, for the purposes of this or the special Act, have power, by themselves or their officers, to enter at all reasonable hours in the daytime into and upon any buildings or lands within the limits of the special Act, as well for the purpose of inspection as for the purpose of executing any work authorized to be executed by them under this or the special Act, or any Act incorporated therewith, without being liable to any legal proceedings on account thereof: Provided always, that, except when herein or in the special Act it is otherwise provided, the commissioners or their officers shall not make any such entry, unless with the consent of the occupier, until after the expiration of twenty-four hours' notice for that purpose given to the occupier.

Penalty on persons obstructing commissioners in their duty.

145. Every person who shall at any time obstruct the commissioners or any person employed by them in the performance of anything which they are respectively empowered or required to do by this or the special Act, or any Act to be incorporated therewith, shall be liable to a penalty not exceeding five pounds.

And with respect to ensuring the execution of the works by this or the special Act required to be done by the owners or occupiers of houses or lands, BE IT ENACTED as follows:

As to service of notice on owners and occupiers of buildings and lands.

146. Where under this or the special Act any notice is required to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such building or land, or left with some inmate of his abode, or, if there be no occupier, may be put up on some conspicuous part of such building or land; and it shall not be necessary in any such notice to name the occupier or the owner of such building or land: Provided always, that when the owner of any such building or land, and his residence, are known to the commissioners, it shall be the duty of the commissioners, if such owner be residing within the limits of the special Act, to cause every notice required to be given to the owner to be served on such

owner, or left with some inmate of his abode; and if such owner be not resident within the limits of the special Act they shall send every such notice by the post, addressed to the residence of such owner. 10 & 11 Vict. c. 34.

147. Whenever, under the provisions of this or the special Act, or any Act incorporated therewith, any work of any kind is required to be executed by the owner or occupier of any house or lands, and default is made in the execution of such work, the commissioners may cause such work to be executed, and the expense incurred by the commissioners in respect thereof shall, except in the case in which such expenses are hereinbefore directed to be defrayed by drainage rates, be repaid to them by the person by whom such work ought to have been executed. Commissioners, in default of owner or occupier, may execute works, and recover expenses.

148. Whenever default is made by the owner of any buildings or lands in the execution of any work by this or the special Act, or any Act incorporated therewith, required to be executed by him, the occupier of such buildings or lands may, with the approval of the commissioners, cause such work to be executed, and the expense thereof shall be repaid to such occupier by the owner of the buildings or lands, and such occupier may deduct the amount of such expense out of the rent from time to time becoming due from him to such owner. Occupier, in default of owner, may execute works, and deduct expenses from his rent.

149. If the owner of any buildings or lands made liable by this or the special Act for the repayment to the commissioners of any expenses incurred by them, do not, as soon as the same become due and payable from him, repay all such expenses to the commissioners, the commissioners may recover the same from such owner in the same manner as damages, or in an action of debt in any of the superior courts, or in any other court having jurisdiction. How expenses are to be recovered from owner (a).

150. The commissioners may, by way of additional remedy, whether any such action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then or at any time thereafter occupies any such buildings or lands under such owner; and in default of payment thereof by such occupier, on demand, the same may be levied by distress and sale of the goods and chattels of such occupier, in the same manner as any rate may be recovered from him under this or the special Act; and every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses. Power to levy charges on occupier, who may deduct the same from his rent.

151. Provided always, That no occupier of any buildings or lands shall be liable to pay more money in respect of any expenses charged by this or the special Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand, and notice not to pay the same to his landlord, have accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall lie upon such occupier: Provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid. Occupier not to be liable for more than the amount of rent due.

152. Where any such expenses payable to the commissioners by any owner of any such building or lands amount to more than half the amount of the net annual value of such building or lands, the commissioners may, if they think fit, at the request of any such owner, allow time for the repayment of such expenses, and receive the same by such instalments as they, under the circumstances of the case, consider reasonable, but so that the same be repaid by annual instalments of not less than one-seventh part of the whole sum originally due, with interest for the principal money from time to time remaining unpaid after the yearly rate of five pounds in the hundred during the period of forbearance; but all such sums remaining due, notwithstanding the commissioners have agreed to allow any time for the repayment thereof as aforesaid, shall from time to time, at the expiration of the several times so allowed for repayment thereof, be recoverable in like manner as such respective amounts would have been recoverable if no such time had been allowed for repayment thereof. Commissioners may allow time for repayment by owners of improvement expenses.

153. If the occupier of any buildings or lands within the limits of the special Act prevent the owner thereof from carrying into effect in respect of such buildings or lands any of the provisions of this or the special Act, or of any Act incorporated therewith, after notice of his intention so to do has been given by the owner to such occupier, any justice, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such buildings or lands as may be necessary for carrying into effect the provisions of this and the special Act, or of any Act incorporated therewith; and if after the expiration of ten days from the date of such order such occupier continue to refuse to permit such owner to execute such works, such occupier shall for every day during which he so continues to refuse be liable to a penalty not exceeding five pounds; and every such owner during the continuance of such refusal shall Proceedings in case of tenants opposing the execution of this act.

(a) See *Mayor of Blackburn* v. *Parkinson*, 1 E. & E. 71.

10 & 11 Vict. c. 34.

be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Respecting existing contracts for building.

154. Nothing herein or in the special Act contained shall extend to avoid any agreement in writing entered into before the passing of the special Act for erecting or altering any building, but the same shall be performed with such alterations as may be rendered necessary by this or the special Act, and as if such alterations had been stipulated for in such agreement; and the difference between the cost of the work according to the agreement and the cost of such work as executed according to the provisions of this and the special Act shall be ascertained by the parties to the respective agreements, and paid for, or deducted, as the case may require; and if the said parties do not agree upon the amount of such difference, the same shall, on the request of either party (notice being given to the other), be decided by the surveyor to the commissioners, and for his trouble in making such decision each of the said parties shall pay to the said surveyor such sum not exceeding one pound, and to be disposed of for such purposes of the special Act as the commissioners shall direct.

Respecting contracts for leases.

155. Nothing herein or in the special Act contained shall affect any lease or agreement for a lease whereby any person may be bound to erect buildings upon any building ground within the limits of the special Act, but the buildings mentioned in such lease or agreement shall be built according to the conditions which may be rendered necessary by this or the special Act, in the same manner as if this and the special Act had been passed and in operation at the time of making such lease or agreement, and the same had been made subject thereto, and that without either party being entitled to any compensation.

And with respect to the rates directed by this Act to be made for sewers, drains, and private improvements, BE IT ENACTED as follows:

As to the recovery of private improvement expenses.

156. Where by this or the special Act the occupiers of any lands or buildings are made liable to the payment of any expenses which are directed to be recoverable as private improvement expenses, the commissioners may charge the occupiers of such lands and buildings respectively with special rates, over and above any other rates to which such persons may be liable under this and the special Act, after the yearly rate of six pounds ten shillings in the hundred pounds on the cost of such private improvements respectively, such special rates to be payable during thirty years next after such expenses have been incurred.

Where new sewers are made commissioners may make special sewer rates.

157. Whenever any new sewer shall be made the commissioners may charge the occupiers of all lands and buildings liable to contribute to the rates for making the same with special sewer rates, over and above any other rates to which such persons may be liable under this or the special Act, after the yearly rate of six pounds ten shillings in the hundred pounds on the cost of making such new sewer, such special sewer rates to be payable during thirty years next after such expenses have been incurred.

Commissioners to make a general sewer rate distinct from other rates.

158. Except where it shall be otherwise provided by the special Act, the commissioners shall make a sewer rate, to be called the general sewer rate, distinct from any other rate which they may be authorized to make under the special Act, and the money to be raised by such general sewer rates shall be applied in maintaining and clearing the sewers, and all other expenses connected with such sewers not hereinbefore provided for, or which may not be fully defrayed by the special sewer rates, and for securing and paying off any moneys which may be borrowed for the purpose aforesaid on security of the special sewer rates under the provisions of this or the special Act, or of any Act incorporated therewith, and the interest of such moneys which the special sewer rates shall be insufficient to defray.

Commissioners may borrow money by mortgage of sewer rates.

159. The commissioners may borrow money by mortgage of the special and general sewer rates for making new sewers, or inclosing open sewers, and also for any private improvement expenses, by mortgage of the rates respectively applicable to defray such expenses, and for that purpose the clauses of the "Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act; and in order to discharge the principal money borrowed as aforesaid on security of any such rates, the commissioners shall in every year pay off not less than one-thirtieth part of any principal sum so borrowed.

Sewer rate to be of such amount as to pay off moneys borrowed thereon in thirty years.

160. The commissioners shall from time to time, unless it be otherwise provided by the special Act, make the general sewer rate of such amount as will with the special sewer rates raise money sufficient not only to defray the current expenses of maintaining the sewers that shall have been purchased or made, but also to keep down the interest of any moneys borrowed on security of the special and general sewer rate, and to pay off the principal of such moneys within a period not longer than thirty years.

Cases where rates may be charged upon separate and distinct districts.

161. Where by this or the special Act the commissioners are authorized to order that any rate shall be levied by assessments to be made for separate and distinct districts, the commissioners from time to time may order assessments to be made in respect of the rates authorized to be so levied upon separate and distinct districts, and in such case the commissioners shall cause their surveyor to describe and define in the plan of the town or district within the limits of the special Act every such separate and distinct district for the purposes of separate rating as aforesaid, and so from time to time as occasion shall require.

Rates to be

162. The commissioners may in such case, instead of making one assessment for

the whole town or district within the limits of the special Act, make separate and distinct assessments, as occasion shall require, for every such separate and distinct district respectively, and may appoint, if they see fit, surveyors, collectors, and other officers for every such district, and they shall cause separate and distinct accounts to be kept of all moneys collected and received under any rate in each distinct district, and of all payments and disbursements in respect thereof, and they shall, unless otherwise provided by the special Act, apply the moneys to be collected and received from each distinct district under any such rate as aforesaid for the several purposes to which the same may be lawfully applied under the authority of this and the special Act, but so nevertheless that each district shall, as near as may be, bear its own expenses; and in case any such expenses shall apply to or be incurred in respect of two or more districts, the same shall be apportioned and divided between such districts in a fair and equitable manner.

levied on separate and distinct districts.

163. In all cases when the commissioners have paid or become liable to the payment of any expenses in constructing or laying any drain or pipe from any house or building, or in providing any privy, ashpit, or cesspool for the use of the occupiers thereof, and when neither the owner nor occupier of such house or building is willing to defray the said expenses forthwith, the commissioners shall lay drainage rates on the occupiers of such houses and buildings respectively, to be continued for six successive years and no longer; and the sum to be annually levied by every such drainage rate shall be one-fifth part of the whole expense incurred in constructing, laying, or providing such drain, privy, ashpit, or cesspool as aforesaid, and shall be applied in satisfaction thereof; and the amount of any such drainage rate may be added to any other rate levied from the occupiers of such houses and buildings, and recovered therewith by the like ways and means.

Drainage rates.

164. Every occupier of any such house or building at a rent not less than the rackrent who has paid any such drainage rate shall be entitled to deduct three-fourths of the rate so paid by him from the rent payable by him to his landlord: every occupier at a rent less than the rackrent who has paid any such drainage rate shall be entitled to deduct from the rent payable by him to his landlord such proportion of three-fourths of the rate so paid by him as the rent payable by him bears to the rackrent.

Occupiers may deduct a proportion of drainage rate from their rent.

165. Every landlord, from whom any part of his rent has been deducted on account of such drainage rate, and who is himself liable to the payment of rent, shall be entitled to deduct from the rent payable by him such proportion of the sum so deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord receiving rent, and also liable to pay rent on account of such house or building; provided that no landlord, being also a tenant, shall be entitled under this provision to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Landlords, being also tenants, may deduct proportion of drainage rate from their rent.

166. Without the written consent of the owner of any such house or building, the commissioners shall not be empowered to expend during any term of six successive years more in the whole than one year's rackrent thereof in constructing or laying any such pipe or drain, or in providing any such privy, cesspool, or ashpit.

Limitation of expenditure for house drains, &c.

And with respect to the manner of making rates authorized by this or the special Act, BE IT ENACTED as follows:

167. Every rate which the commissioners are by this or the special Act authorized to make or levy shall be made and levied by them yearly, half-yearly, or such other periods as they think fit, upon every person who occupies any of the prescribed kinds of property, or (if no property be prescribed) any house, shop, warehouse, counting-house, coach-house, stable, cellar, vault, building, workshop, manufactory, garden, land, or tenement whatsoever (except as hereinafter is excepted) within the limits of the special Act, or of the district where such rate is assessed on the occupiers of lands and buildings of a separate district as hereinbefore provided, according to the full net annual value thereof respectively; and the said rates shall be vested in the commissioners, and shall be payable at such times as they appoint: Provided always, That every person occupying lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens or nursery grounds, shall be rated in respect of the same in the prescribed proportion only, if no proportion be prescribed, in the proportion of one-third part only of such net annual value thereof as aforesaid.

Rates to be levied on persons holding, using, or occupying houses, &c.

Proportion to be paid by holders of lands, nursery grounds, &c.

168. Provided also, That no person shall be rated to any rate made in pursuance of this or the special Act in respect of tithes, or of any church, chapel, meeting-house, or other building exclusively used for public worship, or any building exclusively used for the purposes of gratuitous education of the poor or of public charity, or any building or land belonging to the commissioners.

Exemptions from rates.

169. The commissioners may make any such rate as aforesaid prospectively in order to raise money to pay charges and expenses to be incurred thereafter, or retrospectively in order to raise money to pay charges and expenses already incurred.

Rates may be prospective or retrospective.

170. The commissioners from time to time, before proceeding to make any rate which by this or the special Act, or any Act incorporated therewith, they are authorized to levy, shall cause an estimate to be prepared of the money required for the several purposes in respect of which they are authorized to levy such rate, showing the several sums required, the rateable value of the property assessable, and the rate on each pound of such value necessary to raise the money required, which estimate, after the same has been approved

Commissioners to cause estimates to be prepared before making a rate.

10 & 11 Vict. c. 34.

of by the commissioners, shall be forthwith entered on the rate-book to be kept by the commissioners as hereinafter provided.

Notice of rate to be given.

171. Notice of the intention of making every rate authorized to be made under the provisions of this or the special Act, or any Act incorporated therewith, and of the time at which the same is intended to be made, and of a place where a statement of the proposed rate is deposited for inspection by the ratepayers, shall be given by the commissioners by placards posted up in public places, and shall be advertised in some newspaper circulating within the limits of the special Act, in the week immediately previous to such rate being made, or as nearly so as may be.

Form of rate.

172. Every such rate shall be fairly transcribed in a book to be kept for that purpose, and may be in the form given in the schedule (A) annexed to this Act, or as near thereto as the circumstances of the case will admit of; and every such rate shall contain an account of every particular set forth at the head of the respective columns, so far as the same can be ascertained; and every such rate shall be signed by not less than six of the commissioners.

Rate to be open to inspection of ratepayers, who may take copies, &c.

173. The statement of the proposed rate, and the rate immediately after the same is made, shall be open to the inspection of any person interested or rated in such rate at all reasonable times, and any such person may take copies or extracts from such statement or rate without paying any thing for the same; and any person having the custody of such statement or rate who refuses or does not permit any person so interested or rated as aforesaid to take copies or extracts from such statement or rate shall for every such offence be liable to a penalty not exceeding five pounds.

Rates may be amended.

174. The commissioners may from time to time amend any rate made by virtue of this or the special Act by inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting therein the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if it appear to them that such person has been underrated or overrated, or by making such other amendments therein as will make such rate conformable to this and the special Act, and no such amendment shall be held to avoid the rate: Provided always, that every person aggrieved by any such alteration shall have the same right of appeal therefrom as he would have had if his name had been originally inserted in such rate, and no such alteration had been made; and as respects such person the rates shall be considered to have been made at the time when he received notice of such alteration; and every person whose rates are altered shall be entitled to seven days' notice of such alteration before the rate shall be payable by him.

Value of property to be ascertained according to poor rate.

175. The annual value of all property rateable under this or the special Act shall be ascertained according to the next preceding assessment for the relief of the poor within the limits of the special Act, except in such cases as are hereinafter mentioned.

If poor rate an unfair criterion, a valuation to be made.

176. Provided always, That if at any time the rate for the relief of the poor within the limits of the special Act be in the judgment of the commissioners an unfair criterion by which the said rates should be made, they may cause a valuation to be made of all the rateable property within the limits of the special Act, or of any such separate district as aforesaid, by some competent person appointed by them for that purpose, and the rates made by the commissioners for the purposes of this Act shall be made upon such valuation; and in every such valuation the property rateable shall be computed at its net annual value, as defined by an Act made in the seventh year of his late majesty, intituled "An Act to regulate Parochial Assessments," or any other Act for the time being in force for regulating parochial assessment.

6 & 7 W. 4, c. 96.

Person appointed a valuer to make a declaration before acting.

177. Before any such valuation shall be made the person appointed to make it shall make and subscribe a solemn declaration to make such valuation fairly and impartially according to the best of his judgment, and an entry or minute shall be made in the book of proceedings of the commissioners of the making and subscribing of such declaration, and of the date thereof, and any justice to whom application is made for that purpose shall administer such declaration.

Poor rates to be open to inspection by commissioners.

178. The commissioners, or any person by them authorized, may from time to time inspect any of the rates for the relief of the poor in any parish, township, or other district within the limits of the special Act, and the books in which are contained all the assessments by which the same are made, and may take copies thereof or extracts therefrom respectively; and any person having the custody of such rates or assessments who does not suffer the commissioners, or any person authorized by them, to inspect the same at reasonable times, or to take copies thereof or extracts therefrom, shall be liable to a penalty not exceeding five pounds for every such offence.

Owner of property unoccupied to be assessed to the sewer rate.

179. When any property in respect of which the occupier would be liable to be rated to any sewer rate made under the provisions of this or the special Act is unoccupied at the time of making such rate, the commissioners shall rate and assess the owner of such unoccupied premises to such rate, and every such owner shall pay the amount of such rate: Provided always, that nothing herein contained shall affect the right herein reserved to recover any arrears of such rates from any future occupier of such premises.

Unoccupied premises to be included in the rates; and if the

180. When any property in respect of which any person is liable to be assessed as occupier to any rate under the provisions of this or the special Act, or any Act incorporated therewith, other than the sewer rate, is unoccupied at the time of making any such rate, the commissioners shall in every such case include such property in the said rate,

describing it in the column appropriated to the name of the occupier as being "empty;" and if any person afterwards occupy such property during any part of the period for which such rate was made, the commissioners shall insert in such rate the name of such occupier, and collect from such occupier or from the owner, if he be liable to pay the same, a portion of the said rate proportioned to the time during which such person occupies such property, and every such person shall thereupon be deemed to all intents and purposes to be properly rated; and all such rates may be collected and recovered from the person liable to pay the same under the provisions of this or the special Act in the same manner as other rates made payable thereunder: Provided always, that any person whose name is so inserted in such rate, and such owner as last aforesaid, may appeal against such rate to the justices at special sessions, or to the next quarter sessions holden after such insertion of his name as aforesaid admitting of such appeal, in the same manner as he might have appealed if named in the rate: Provided also, that, except as aforesaid, no rate other than the sewer rate shall be payable by any person in respect of unoccupied premises.

Premises are afterwards occupied a portion of rates to be paid.

181. The owners of all rateable property, of which the full net annual value does not exceed the prescribed sum, or (where no sum is prescribed) the sum of ten pounds, or which are let to weekly or monthly tenants, or in separate apartments, shall be rated to and pay the rates by this or the special Act directed to be made, instead of the occupiers thereof.

Owners of property not exceeding 10*l.* per annum net annual value to pay rates instead of occupier.

182. Whenever the name of any owner liable to be rated under the provisions of this or the special Act is not known to the commissioners, or to the person making the rates, it shall be sufficient to rate such owner in the rate book of the commissioners as the owner of the property to be rated by the designation of "the owner," without stating his name.

Not necessary to name the owner where unknown.

183. Provided always, That when any owner is rated in respect of any rateable property in the occupation of any tenant under any lease or agreement made prior to the passing of the special Act, such tenant shall repay to the owner all sums paid by him during the continuance of such lease on account of any rates under this or the special Act payable by the occupier, unless it have been agreed that the owner shall pay all rates in respect of such property; and every sum so payable by the tenant to the owner may be recovered, if not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

Tenants under existing leases to repay the owner.

184. Provided also, That the occupiers of any rateable property, being tenants thereof from year to year, may demand to be assessed for the same, and to pay the rates in respect thereof made under the authority of this or the special Act, and the commissioners shall assess every such occupier so long as he duly pays the said rates.

Occupiers may be rated if they think fit.

And with respect to the appeal to be made against any rate, BE IT ENACTED as follows:

185. If any person think himself aggrieved by any rate on the ground of inequality, unfairness, or incorrectness in the valuation of any rateable property included therein, or in the amount assessed thereon, he may at any time within one month after such rate is made appeal to the justices at any special sessions holden for the division within which the rateable property is situated for the purpose of considering appeals against the poor rates, or in Ireland may appeal to the justices of the petty sessions of the district, or to the justices acting for the district within which the rateable property is situated; but no such appeal shall be entertained by such justices unless seven days' notice in writing of such appeal be given by the aggrieved party to the commissioners; and at the sessions for which such notice is given, or any adjournment thereof, the justices there present shall hear and determine all objections to any such rate on the ground of inequality, unfairness, or incorrectness in the valuation of any property included therein, or in the amount assessed thereon, of which notice has been so given, but no other objection; and their decision shall be final, unless the party impugning such decision, within fourteen days after the same is made, give notice in writing to the other party of his intention to appeal against such decision, stating in such notice the nature and grounds of such appeal, and within five days after giving such notice enter into a recognizance before some justice of the peace, with sufficient sureties, conditioned to try such appeal at the then next quarter sessions at which the same can be tried, and to abide the order of and pay such costs as shall be awarded by the court at such sessions, or any adjournment thereof.

Persons aggrieved may appeal to petty sessions on the ground of incorrectness, &c., of valuation.

Their decision to be final, unless appealed from to quarter sessions.

186. If any person think himself aggrieved by any rate made under the authority of this or the special Act, or by any matters included in or omitted from the same, he may, at any time within one month after the same is made, give notice of his intention to appeal to the next quarter sessions holden not less than fourteen days after such notice; but no such appeal shall be entertained at such quarter sessions unless fourteen days' notice in writing of such appeal, stating the nature and grounds thereof, be given by the aggrieved party to the commissioners: Provided always, that no such notice of appeal shall prevent the issuing of the warrant of distress for recovery of any such rate as hereinafter provided, or the execution thereof.

Parties may appeal to the quarter sessions against a rate.

187. The court shall hear and determine the appeal in a summary way at the quarter sessions for which any such notice of appeal is given, or at the following sessions, when the court thinks fit to adjourn the appeal to the following sessions, and the decision of the court shall be final and conclusive on all parties.

Quarter sessions to hear appeal, whose decision shall be final.

10 & 11 Vict c. 34.

No order of justices to be in force pending appeal.

188. No order of the said justices shall be of any force pending any appeal touching the same subject-matter to the court of quarter sessions having jurisdiction to try such appeal, or in opposition to the order of any such court on such appeal.

On appeal the quarter sessions and petty sessions to have same power of amending and quashing rates, and of awarding costs, as in appeals against poor rates.

189. The said justices and the court of quarter sessions respectively shall in any such appeal as aforesaid have the same powers of amending or quashing the rate in respect of which the appeal is made as are by law vested in courts of quarter sessions for amending or quashing the rates for the relief of the poor within their jurisdiction upon appeals against such rates, and shall likewise have respectively, in any appeal against any rate made under the authority of this or the special Act, the same powers of awarding costs to be paid by or to any of the parties to the appeal, and of recovering such costs, as are now vested in them respectively for awarding and recovering costs in an appeal against any rate for the relief of the poor within their jurisdiction: Provided always, that if the said justices or court shall quash the rate in respect of which the appeal is made, then, notwithstanding the quashing of such rate, all sums of money charged by such rate on any person charged by such rate may, if the justices or court so order, be levied by such means and in the same manner as if no appeal had been made against such rate; and the money which any person charged on such rate pays, or which is recovered from him, shall be taken as a payment on account of the next effective rate made on him for the same purposes for which the rate so quashed was made.

Order of justices not to be removed by *certiorari*.

190. No order of the said justices or court of quarter sessions upon any such appeal as aforesaid shall be removed by *certiorari* or otherwise into any of her majesty's courts of record at Westminster.

And with respect to the recovery of rates, BE IT ENACTED as follows:

Rates to be recovered by distress.

191. If any person rated under the authority of this or the special Act fail to pay any of the said rates due from him for the space of fourteen days after demand thereof in writing by the commissioners or their collector, any justice, on the application of the commissioners or their collector, may summon such person to appear before him at a time to be mentioned in the summons, to show cause why the rates due from him should not be paid; and in case no sufficient cause for the non-payment of such rate be shown, the same shall be levied by distress, and such justice shall issue his warrant accordingly, or the commissioners may recover the same by action of debt; provided that if no sufficient distress whereon to levy the amount due in respect of such rates can be found within the jurisdiction of the said justice, then, upon oath thereof made before any justice of any other county or jurisdiction in which any goods or chattels of the person not paying the said rates may be found, such justice shall certify the said oath by indorsing the said warrant, and thereupon the amount due in respect of the said rates, and unpaid by the said person, may be levied by distress of the goods and chattels of such person as assessed in the last-mentioned county or jurisdiction.

Form of warrant of distress.

192. The warrant of distress for the recovery of any rate made payable by this or the special Act may be in the form or to the effect mentioned in schedule (B) to this Act annexed; and in all cases where a distress is hereby authorized to be made, every constable authorized by the warrant to levy any sum mentioned therein shall, upon being required by a collector of the rates, aid in making a distress or sale pursuant to such warrant; and every constable who refuses to do so shall be liable to a penalty not exceeding five pounds.

Constables to assist in making distress.

Rate books to be evidence.

193. In any proceeding to levy and recover or consequent on the levying or recovering of any rate under the provisions of this or the special Act, the books of rates of the commissioners, and all entries made therein in manner by this or the special Act directed, by the production thereof alone, and without any evidence that the notices and other requirements of this or the special Act have been given or complied with, on proof of the seal of the commissioners if they are incorporated, or if not, then on proof of the signatures of the commissioners whose names appear thereon or subscribed therein, shall be received as evidence of such rate and of the contents thereof.

Remedy against persons quitting before payment of rates.

194. If any person quit, or be about to quit, any rateable property before he has paid the rates then payable by him in respect thereof, and do not pay the same to the commissioners or their collector, on demand, any justice having jurisdiction where such person resides or his goods are found may summon such person to appear before him at a time mentioned in the summons to show cause why the rates should not be paid, and if no sufficient cause for the non-payment of such rates be shown accordingly, the same shall be levied by distress, and such justice shall issue his warrant accordingly.

Rates to be apportioned on holder quitting.

195. When any rate has been made for a particular period, and the owner or occupier who is rated to such rate ceases to be the owner or occupier of the property in respect whereof he is rated before the end of such period, such owner or occupier shall be liable to pay a portion only of the rate payable for the whole of such period proportionate to the time during which he continued to be owner or occupier; and in every such case, if any person after the making of such rate become the owner or occupier of any property so rated as aforesaid during part of the period for which such rate was made, such person shall pay a portion of such rate proportioned to the time during which he held or occupied the property so rated, and the same shall be recovered from him in the same manner as if he had been originally rated for such property.

Rates due from owner

196. When the owner of any rateable property is rated in respect thereof under the authority of this or the special Act, and the rate remains unpaid for three months, the

commissioners or their collector may demand the amount of such rate from the occupier for the time being of such rateable property, and on non-payment thereof may recover the same by distress and sale of his goods and chattels, in like manner as rates may be recovered from the occupier of any property liable to be rated; and every such occupier shall be entitled to deduct from the rent payable by him to such owner so much as was so paid by or recovered from him. 10 & 11 Vict. c. 34. may be recovered from occupier.

197. Provided always, That no such occupier shall be required to pay, nor shall his goods and chattels be distrained for, any further sum than the amount of rent due from him at the time of the demand made upon him for such amount of rate, or which after such demand, and after notice not to pay the same to his landlord, at any time accrues and becomes payable by him, unless he refuse, on application being made to him for that purpose by or on behalf of the commissioners, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie upon such occupier. Occupier not to be required to pay more than the amount of rent owing by him.

198. If, on the request of the commissioners, or of the collector of the said rates, the occupier of any property refuses or wilfully omits to disclose, or wilfully mis-states to the commissioners or collector making such request, the name of the owner of such property, or of the person receiving or authorized to receive the rents of the same, any justice of the peace, on oath made before him of such request, and of such refusal or wilful omission or mis-statement, may summon the person who has so refused or wilfully omitted or mis-stated as aforesaid to appear at a time and place to be mentioned in such summons before such justice, or before some other justice; and if the person so summoned neglect or refuse to attend at the time and place mentioned in the summons, or if he attend and do not show good cause to the justice then present for such his refusal or wilful omission or mis-statement, such justice, upon proof, in case of the neglect or refusal to attend as aforesaid, of the due service of the said summons, or on such attendance, may impose a penalty upon such person who has so refused, or wilfully made such omission or mis-statement, not exceeding the sum of five pounds. Occupier refusing to give name of owner liable to a penalty.

199. The several persons who at the time of the passing of the special Act are surveyors of highways for any township or other district within the limits of the special Act may proceed for the recovery of any highway rate made in such township or district, and then remaining unpaid, in the same manner as they might have done if this and the special Act had not been passed, and they shall apply the money which they so recover, in the first place, in reimbursing themselves any expenses which they have incurred as such surveyors as aforesaid, and in discharge of any debts legally owing from them in respect of the highways within such township or district; and the surplus, if any, arising from any buildings or lands within the limits of the special Act, or a proportionate part thereof, shall be paid by them to the treasurer to the commissioners, and shall be applied to the same purposes as the rates by this or the special Act authorized to be levied are directed to be applied. Surveyors of highways may proceed for the recovery of arrears of highway rates.

And with respect to the bye-laws to be made by virtue of this or the special Act, be it enacted as follows:

200. The commissioners may from time to time make such bye-laws as they think fit for the several purposes for which they are hereinbefore or by the special Act empowered to make bye-laws, and from time to time repeal, alter, or amend any such bye-laws, provided such bye-laws be not repugnant to the laws of that part of the united kingdom where the same are to have effect, or the provisions of this or the special Act, and be reduced into writing, and have affixed thereto the common seal of the commissioners if they be a body corporate, or the signatures of two of the commissioners if they be not a body corporate, and, if affecting other persons than the officers or servants of the company, be confirmed and published as herein provided. Bye-laws.

201. The commissioners, by the bye-laws so to be made by them, may impose such reasonable penalties as they think fit, not exceeding forty shillings for each breach of such bye-laws: Provided always, that such bye-laws be so framed as to allow the justices before whom any penalty imposed thereby is sought to be recovered to order the whole or part only of such penalty to be paid, or to remit the whole penalty. Bye-laws may be enforced by imposition of penalties.

202. No bye-law made by the commissioners under the authority of this or the special Act, except such as relate solely to the commissioners or their officers or servants, shall come into operation until the same be confirmed in the prescribed manner, and if no manner of confirmation be prescribed, then not until it be allowed by some judge of one of the superior courts or by the justices in quarter sessions; and it shall be incumbent on such justices, on the request of the commissioners, to inquire into any bye-laws tendered to them for that purpose, and to allow or disallow of the same as they think meet. Bye-laws to be confirmed.

203. No such bye-laws shall be confirmed unless notice of the intention to apply for a confirmation of the same have been given in one or more newspapers circulating within the limits of the special Act one month at least before the hearing of such application; and any person desiring to object to any such bye-law, on giving to the commissioners notice of the nature of his objection ten days before the hearing of the application for the allowance thereof, may, by himself or his counsel, attorney, or agent, be heard thereon, but not so as to allow more than one objecting party to be heard on the same matter of objection. Notice of confirmation to be given.

204. For one month at least previous to any such application for confirmation of any A copy of

10 & 11 Vict. c. 34.

proposed bye-laws to be open to inspection.

bye-law a copy of the proposed bye-laws shall be kept at the principal offices of the commissioners, and all persons may at all reasonable times inspect such copy without fee or reward; and the commissioners shall furnish every person who applies for the same with a copy thereof, or any part thereof, on payment of sixpence for every one hundred words so to be copied.

Publication of bye-laws.

205. Such bye-laws, when confirmed, shall be published in the prescribed manner, and when no manner of publication is prescribed they shall be printed, and the clerk to the commissioners shall deliver a printed copy thereof to every person applying for the same without charge; and a copy thereof shall be painted or placed on boards, which shall be hung up on the front or in some conspicuous part of the principal office of the commissioners, and also on some conspicuous part of the works or locality to which the same relate; and such boards, with the bye-laws thereon, shall be from time to time renewed as occasion requires, and shall be open to inspection without fee or reward; and any such clerk who does not allow the same to be inspected at all reasonable times shall for every such offence be liable to a penalty not exceeding five pounds.

Bye-laws to be binding on all parties.

206. Such bye-laws, when so confirmed and published, shall be binding upon and be observed by all parties, and shall be sufficient to justify all parties acting under the same.

Evidence of bye-laws.

207. The production of a written or printed copy of the bye-laws requiring confirmation by a judge of the superior courts or the court of quarter sessions, authenticated by the signature of the judge or of the chairman of the court which approved of the same, and a written or printed copy of the bye-laws not requiring such confirmation authenticated by the common seal of the commissioners if they be incorporated, or, if not incorporated, authenticated by the signatures of two commissioners, shall be evidence of the existence and of the due making of such bye-laws in all prosecutions under the same, without adducing proof of the signature of such judge or chairman, or the common seal or signatures of the commissioners; and with respect to the proof of the publication thereof it shall be sufficient to prove that a board containing a copy thereof was affixed and continued in the manner by this Act directed, and in case of its being afterwards displaced or damaged, that such board was placed or restored as soon as conveniently might be, unless proof be adduced by the party complained against that such painted board did not contain a copy of the bye-law under which he is prosecuted, or that it was not duly affixed or continued as required by this Act.

Penalty on pulling down boards.

208. Any person who destroys, pulls down, injures, or defaces any board on the premises of the commissioners on which any bye-law of the commissioners is painted or placed shall for every such offence be liable to a penalty not exceeding five pounds.

Tender of amends.

209. And with respect to the tender of amends, BE IT ENACTED, That if any party have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender have been made it shall be lawful for the defendant by leave of the court where such action is pending, at any time before issue joined, to pay into court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, BE IT ENACTED as follows:

Clauses of 8 & 9 Vict. c. 23, as to recovery of damages and penalties incorporated with this and special Act, &c.

210. The clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and penalties, and to the determination of any other matter referred to justices, shall be incorporated in this and the special Act; and such clauses shall apply to the town or district within the limits of the special Act, and to the commissioners, and shall be construed as if the word "commissioners" had been inserted therein instead of the word "company."

In Ireland part of penalties to be paid to guardians of unions.

211. Provided always, That in Ireland, in the case of any penalty imposed by justices where the application is not otherwise provided for, such justices may award not more than one-half of such penalty to the informer, and shall award the remainder to the guardians of the poor of the union within which the offence was committed, to be applied in aid of the poor rates of such union.

All things required to be done by two justices may, in certain cases, be done by one.

212. All things herein or in the special Act, or any Act incorporated herewith, authorized or required to be done by two justices, may and shall be done by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices.

Persons giving false evidence liable to penalties of perjury.

213. Every person who, upon examination upon any oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

And with respect to affording access to the special Act, BE IT ENACTED as follows:

214. The commissioners shall at all times, after the expiration of six months after the passing of the special Act, keep in their principal office of business a copy of the special Act, printed by the printers to her majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace of the county in which the town or district within the limits of the special Act is situated a copy of such special Act, so printed as aforesaid; and the said clerk of the peace shall receive, and he and the commissioners respectively shall retain, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the first year of the reign of her present majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

10 & 11 Vict. c. 34

Copies of special Act to be kept by commissioners at their office, and deposited with the clerks of the peace, &c., and be open to inspection 7 W. 4 & 1 Vict. c. 83.

215. If the commissioners shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy is not so kept or deposited.

Penalty on commissioners failing to keep or deposit such copies.

SCHEDULE (A.)—Sect. 172.

Form of Rate.

An assessment to the sewer rate [*or* other rate, &c., *as the case may be*,] for the [*name the district or town*], made this day of in the year of our Lord 18 , after the rate of pence in the pound, by virtue of the [*name of special Act.*]

No. on the Rate.	Name of Person rated.	Name of the Owner of property rated.	Description and situation of property.	Gross annual value.	Full net annual value.	Rate at d. in the Pound.	Amount of Drainage Rate (if any).

Signed by us, this day of in the year of our Lord

A. B. &c., Improvement Commissioners.

SCHEDULE (B.)—Sect. 192.

Form of Warrant of Distress for the Recovery of a Rate.

County of
[*or* borough, *&c.*]
to wit.

Whereas complaint hath been duly made by one of the collectors of rates to the improvement commissioners, that of, *&c.* hath not paid and has refuse to pay the sum of duly assessed upon him in and by a certain rate for the said town [*or* district], called the [*here name the rate*], bearing date on or about the of in the year of our Lord one thousand eight hundred and , and duly made according to the directions and for the purposes of [*here name the special Act*], although the same hath been duly demanded of him; And whereas it appears to me one of her majesty's justices of the peace in and for the said county [*or* borough, *&c.*], as well upon the oath of one of the said collectors of rates, as otherwise, that the said sum of hath been duly demanded in writing by him from the said and that the said hath refused to pay the same, for the space of fourteen days after such demand made, and doth refuse to pay the same: And whereas the said having appeared before me, in pursuance of my summons for that purpose, hath not shown to me any sufficient cause why the same should not be paid [*or*, And whereas it hath been duly proved to me upon oath that the said hath been duly summoned to appear before me to show cause why he refuseth to pay the said rate or assessment, but he the said hath neglected to appear according to the said summons, and hath not shown to me any sufficient cause why the same should not be paid]: These are therefore, in her majesty's name, to command you to levy the said sum of by distress of the goods and chattels of the said ; and if the same shall

10 & 11 Vict c 34

not be paid within the space of days next after such distress by you taken, together with the reasonable charges of taking and keeping the same, that then you do sell the said goods and chattels by you distrained, and out of the money arising by such sale that you do detain the sum of and also your reasonable charges of taking, keeping, and selling the said distress, rendering to him the said the overplus, on demand, and, if sufficient distress cannot be found of the goods and chattels of the said whereon to levy the said sum of that then you certify the same to me, together with this warrant, to the end that such further proceedings may be had therein as to the law doth appertain Given under my hand and seal, this day of in the year of of our Lord 18 .

J P. (L S.)

21 & 22 Vict c 98.

21 & 22 Vict c. 98. An Act to amend the Public Health Act, 1848, and to make further Provision for the Local Government of Towns and Populous Districts. [2nd August, 1858]

[See this Act, ante, Vol II p 492, tit "Health, Public"]

23 & 24 Vict c 30

23 & 24 Vict c. 30 An Act to enable a Majority of Two Thirds of the Ratepayers of any Parish or District duly assembled, to rate their District in aid of Public Improvements for general Benefit within their District [31d July, 1860]

[See this Act, ante, Vol III, tit "Public Improvement"]

26 & 27 Vict c. 13

26 & 27 Vict c. 13. An Act for the Protection of certain Gardens or Ornamental Grounds in Cities and Boroughs [4th May, 1863.]

"Whereas it is expedient to make provision for the better protection and charge of enclosed garden or ornamental grounds which have been set apart for the use of the inhabitants of any public square, crescent, circus, street, or other public place surrounding or adjoining such gardens or grounds in any city or borough Be it enacted as follows

Gardens in squares &c of fifty years standing may be freed from neglect, encroachments &c, and vested in the Metropolitan Board of Works or other corporate authority,

1 Where in any city or borough any enclosed garden or ornamental ground has been set apart otherwise than by the revocable permission of the owner thereof in any public square crescent, circus, street, or other public place, for the use or enjoyment of the inhabitants thereof, and where the trustees, commissioners, or other body appointed for the care of the same have neglected to keep it in proper order, or where such garden or ground has not been vested in or placed under the management of any trustees, commissioners, or other body for the care of the same, and from the want of such care, or from any other cause has been neglected, the metropolitan board of works, where the same is in any place under their jurisdiction, except the city of London (where the provisions of this Act shall be carried into effect by the corporation of the said city) and the corporate authorities in any other city or borough shall take charge of the same putting up a notice or notices to that effect in such garden or ornamental ground, and if after due enquiry the person entitled to any estate of freehold in the same cannot be found, or if it shall be vested in any person by whom it is held subject to any condition or reservation for keeping the same as and for a garden or pleasure ground, or that the same shall not be built upon but not otherwise shall cause any buildings or other encroachment made therein within the period of twenty years before the passing of this Act to be removed, and (if requested by a majority of two thirds of the owners and of the occupiers of the houses surrounding the same) shall vest such garden or ornamental ground in a committee consisting of not more than nine nor fewer than three of the ratepayers inhabitants of such houses to be chosen annually by such inhabitants, in order that the same may be kept as a garden or ornamental ground for the use of such inhabitants; and the vestry or board of any and every parish or district within which the same or any part thereof is situate shall from time to time cause to be raised the sums required by such committee for defraying the expenses of the maintenance and management of such enclosed garden or ornamental ground, or of such part thereof as is situate within their parish or district, by an addition to the general rate to be assessed on the occupiers of such houses or, if the said owners and occupiers shall not agree as aforesaid to undertake the charge of such garden or ornamental ground, the metropolitan board of works or corporate authority aforesaid shall, within six months after the notice hereinbefore mentioned shall have been put up within the same, or within such further time as the said board or authority may think it expedient to allow for such agreement to be come to vest the same in such vestries or boards, who shall thenceforth take charge of and maintain the same as an open place or street in such manner as shall appear to them most advantageous to the public, subject to the approval of the metropolitan board of works or corporate authority, as the case may require, saving and always reserving to every person and persons, his and their heirs, executors, administrators, and assigns,

or vested in a committee of rated inhabitants

all such estate, right, title, and interest as he, she, or they would or ought to have had and enjoyed of, in, to, from, or out of the gardens and grounds aforesaid in case this Act had not passed. 26 & 27 Vict. c. 13.

2. And whereas it is expedient that the same should be carefully protected from undue encroachment, when any right to require that any garden or ornamental ground as aforesaid be kept and maintained as such, or that the same shall not be built upon, shall belong to any person in right of any house or other property, and he shall by notice in writing signed by him addressed to the metropolitan board of works where the same is in any place under their jurisdiction, except the city of London, where the same shall be addressed to the corporation of the said city, or to the corporate authorities in any other city or borough, requesting the said metropolitan board of works or corporate authority to protect the right before mentioned, the said metropolitan board of works or corporate authority, after due inquiry, may, if they shall think fit, accede to such request, and then and thereupon the right of such person to require that such garden or ornamental ground to be maintained as such, or that the same shall not be built upon, shall thenceforth be vested in such metropolitan board of works or corporate authority, who shall be fully empowered, for and in their own name, to exercise all the rights, powers, and privileges in relation thereto, and take such legal proceedings for asserting, defending, and protecting the same, as the said person might have exercised or taken. Protection of open spaces from encroachment.

3. Any charge incurred by the metropolitan board of works in the execution of this Act shall be deemed to be expenses of the said board for payment whereof provision is made by the Act for the better local management of the metropolis; and the expenses incurred by any corporate authority shall be deemed to be expenses necessarily incurred by them in carrying into execution within and for their city or borough the Act intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any other Act amending the same. Expenses, how to be defrayed. 5 & 6 W. 4, c. 76.

4. Where any such garden or ground is managed by any committee of the inhabitants of any square, crescent, circus, street, or place, such committee may make, and from time to time revoke and alter, byelaws for the management of the same, and for the preservation of the trees, shrubs, plants, flowers, rails, fences, seats, summer-houses, and other things therein, which byelaws shall be entered in a book kept for that purpose by the committee, signed by the chairman of the meeting at which the same shall be passed, and which book shall and may be produced and read, and taken as evidence of such byelaws, in all courts whatever, and any inhabitant or servant, or other person admitted to such garden by any inhabitant, offending against the same, after they shall have been duly allowed, as herein-after provided, upon proof thereof before a magistrate acting for the district in which such garden is situate, shall be liable for each offence to a penalty not exceeding five pounds: Provided always, that such byelaws shall not come into operation until the same shall have been allowed by some judge of one of the superior courts, or by the justices in quarter sessions; and it shall be incumbent on such judge or justices, on the request of such committee, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow the same as they think meet. Byelaws for management of garden, &c.

5. Any police constable who shall see any person throwing any rubbish into any such garden, or trespassing therein, or getting over the railings or fence, or stealing or damaging the flowers or plants, or committing any nuisance therein, may apprehend such person, under the authority hereby given to him; and any person convicted before any magistrate acting for the district shall be liable for each and every offence aforesaid to a penalty not exceeding forty shillings, or to imprisonment for any period not exceeding fourteen days; and in case it shall be necessary to state in any proceedings the ownership of the property of such garden, flowers, or plants, it shall be sufficient to describe the same as the property of the committee by the name of *A. B.* and others. Penalty for injuring garden

6. The provisions contained in the two hundred and twenty-fifth, two hundred and twenty-sixth, two hundred and twenty-seventh, and two hundred and twenty-eighth sections of the Act passed in the session of parliament held in the eighteenth and nineteenth years of the reign of her most gracious majesty the queen, chapter one hundred and twenty, shall be incorporated in this Act, and shall apply to any penalty or forfeiture imposed by this Act, or any byelaw made in pursuance thereof, in and for every matter or thing done or omitted to be done within the metropolitan district; and the Act passed in the twelfth year of the reign of her majesty the queen, chapter forty-three, shall apply to every penalty or forfeiture imposed by this Act, or any byelaw made in pursuance thereof, for any matter or thing done or omitted to be done within any other part of England and Wales. Certain provisions of 18 & 19 Vict. c. 120, to be incorporated with this Act, and to apply to penalties, &c. imposed by this Act. 11 & 12 Vict. c. 43, also to apply.

7. Nothing in this Act shall extend to or include any garden, ornamental ground, or other land belonging to her majesty in right of her crown or of her duchy of Lancaster, or any garden, ornamental ground, or other land for the time being under the management of the commissioners for the time being of her majesty's works and public buildings, or of the commissioners for the time being acting under the Crown Estate Paving Act, 1851, or to any garden, ornamental or other ground, for which special provision is made for the due care and protection thereof by any public or private act of parliament. Act not to extend to property of the crown or to property under the management of the commissioners of Works, &c.

8. Nothing in this Act shall extend to Scotland or Ireland. Extent of Act

TRADE MARKS (COUNTERFEITING.)

25 & 26 Vict. c. 88.

25 & 26 Vict. c. 88. An Act to amend the Law relating to the fraudulent marking of Merchandise. [7th August, 1862.]

"Whereas it is expedient to amend the laws relating to the fraudulent marking of merchandise, and to the sale of merchandise falsely marked for the purpose of fraud:" BE IT THEREFORE ENACTED as follows:

Construction of words: "person;" "mark;" "trade mark;" "misdemeanor."

1. In the construction of this Act the word "person" shall include any person, whether a subject of her majesty or not, and any body corporate or body of the like nature, whether constituted according to the law of this country or of any of her majesty's colonies or dominions, or according to the law of any foreign country, and also any company, association, or society of persons, whether the members thereof be subjects of her majesty or not, or some of such persons subjects of her majesty and some of them not, and whether such body corporate, body of the like nature, company, association, or society be established or carry on business within her majesty's dominions or elsewhere, or partly within her majesty's dominions and partly elsewhere; the word "mark" shall include any name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, or other mark of any other description; and the expression "trade mark" shall include any and every such name, signature, word, letter, device, emblem, figure, sign, seal, stamp, diagram, label, ticket, or other mark as aforesaid lawfully used by any person to denote any chattel, or (in Scotland) any article of trade, manufacture, or merchandise, to be an article or thing of the manufacture, workmanship, production, or merchandise of such person, or to be an article or thing of any peculiar or particular description made or sold by such person, and shall also include any name, signature, word, letter, number, figure, mark, or sign which in pursuance of any statute or statutes for the time being in force relating to registered designs is to be put or placed upon or attached to any chattel or article during the existence or continuance of any copyright or other sole right acquired under the provisions of such statutes or any of them; the word "misdemeanor" shall include crime and offence in Scotland; and the word "court" shall include any sheriff or sheriff substitute in Scotland.

Forging a trade mark or falsely applying any trade mark with intent to defraud, a misdemeanor.

2. Every person who, with intent to defraud, or to enable another to defraud any person, shall forge or counterfeit, or cause or procure to be forged or counterfeited, any trade mark, or shall apply, or cause or procure to be applied, any trade mark or any forged or counterfeited trade mark to any chattel or article not being the manufacture, workmanship, production, or merchandise of any person denoted or intended to be denoted by such trade mark, or denoted or intended to be denoted by such forged or counterfeited trade mark, or not being the manufacture, workmanship, production, or merchandise of any person whose trade mark shall be so forged or counterfeited, or shall apply, or cause or procure to be applied any trade mark or any forged or counterfeited trade mark to any chattel or article, not being the particular or peculiar description of manufacture, workmanship, production, or merchandise denoted or intended to be denoted by such trade mark or by such forged or counterfeited trade mark, shall be guilty of a misdemeanor, and every person so committing a misdemeanor shall also forfeit to her majesty every chattel and article belonging to such person to which he shall have so unlawfully applied, or caused or procured to be applied, any such trade mark or forged or counterfeited trade mark as aforesaid, and every instrument in the possession or power of such person, and by means of which any such trade mark, or forged or counterfeited trade mark as aforesaid, shall have been so applied, and every instrument in the possession or power of such person for applying any such trade mark or forged or counterfeit trade mark as aforesaid, shall be forfeited to her majesty; and the court before which any such misdemeanor shall be tried may order such forfeited articles as aforesaid to be destroyed or otherwise disposed of as such court shall think fit.

Applying a forged trade mark to any vessel, case, wrapper, &c. in or with which any article is sold or intended to be sold, a misdemeanor.

3. Every person who, with intent to defraud, or to enable another to defraud, any person, shall apply or cause or procure to be applied any trade mark or any forged or counterfeited trade mark to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, on, or with which any chattel or article shall be intended to be sold or shall be sold or uttered or exposed for sale, or intended for any purpose of trade or manufacture, or shall enclose or place any chattel or article, or cause or procure any chattel or article to be enclosed or placed, in, upon, under, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeited trade mark shall have been applied, or shall apply or attach or cause or procure to be applied or attached to any chattel or article any case, cover, reel, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeited trade mark shall have been applied, or shall enclose, place, or attach any chattel or article, or cause or procure any chattel or article to be enclosed, placed, or attached, in, upon, under, with, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing having thereon any trade mark of any other person, shall be guilty of a misdemeanor, and every person so committing a misdemeanor shall also forfeit to her majesty every such chattel and article, and also every such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing as aforesaid in the possession or power of such person; and every other

similar cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing made to be used in like manner as aforesaid, and every instrument in the possession or power of such person, and by means of which any such trade mark or forged or counterfeited trade mark as aforesaid shall have been applied, and also every instrument in the possession or power of such person for applying any such trade mark or forged or counterfeit trade mark as aforesaid, shall be forfeited to her majesty; and the court before which any such misdemeanor shall be tried may order such forfeited articles as aforesaid to be destroyed or otherwise disposed of as such court shall think fit. 25 & 26 Vict. c. 88.

4. Every person who, after the thirty-first day of December one thousand eight hundred and sixty-three, shall sell, utter, or expose either for sale or for any purpose of trade or manufacture, or cause or procure to be sold, uttered, or exposed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, which he shall know to be forged or counterfeited, or together with the trade mark of any other person applied or used falsely or wrongfully or without lawful authority or excuse, knowing such trade mark of another person to have been so applied or used as aforesaid, and that whether any such trade mark or forged or counterfeited trade mark as aforesaid, together with which any such chattel or article shall be sold, uttered, or exposed for sale or other purpose as aforesaid, shall be in, upon, about, or with such chattel or article, or in, upon, about, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, upon, about, or with which such chattel or article shall be so sold or uttered or exposed for sale or other purpose as aforesaid, shall for every such offence forfeit and pay to her majesty a sum of money equal to the value of the chattel or article so sold, uttered, offered, or exposed for sale or other purpose as aforesaid, and a further sum not exceeding five pounds and not less than ten shillings. Selling articles with forged or false trade marks after 31st December, 1863, penalty equal to value of article sold, and a sum not exceeding 5*l.* nor less than 10*s.*

5. Every addition to and every alteration of, and also every imitation of any trade mark which shall be made, applied, or used with intent to defraud, or to enable any other person to defraud, or which shall cause a trade mark with such alteration or addition, or shall cause such imitation of a trade mark to resemble any genuine trade mark so or in such manner as to be calculated or likely to deceive, shall be and be deemed to be a false, forged, and counterfeited trade mark within the meaning of this Act; and every Act of making, applying, or otherwise using any such addition to or alteration of a trade mark or any such imitation of a trade mark as aforesaid done by any person with intent to defraud, or to enable any other person to defraud, shall be and be deemed to be forging and counterfeiting a trade mark within the meaning of this Act. Additions to and alterations of trade marks made with intent to defraud to be deemed forgeries.

6. Where any person who, at any time after the thirty-first day of December, one thousand eight hundred and sixty-three, shall have sold, uttered, or exposed for sale or other purpose as aforesaid, or shall have caused or procured to be sold, uttered, or exposed for sale or other purpose as aforesaid, any chattel or article, together with any forged or counterfeited trade mark, or together with the trade mark of any other person used without lawful authority or excuse as aforesaid, and that whether any such trade mark, or such forged or counterfeited trade mark as aforesaid, be in, upon, about, or with such chattel or article, or in, upon, about, or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing in, upon, about, or with which such chattel or article shall have been sold or exposed for sale, such person shall be bound upon demand in writing delivered to him or left for him at his last known dwelling house, or at the place of sale or exposure for sale by or on the behalf of any person whose trade mark shall have been so forged or counterfeited, or used without lawful authority or excuse as aforesaid, to give to the person requiring the same, or his attorney or agent, within forty-eight hours after such demand, full information in writing of the name and address of the person from whom he shall have purchased or obtained such chattel or article, and of the time when he obtained the same; and it shall be lawful for any justice of the peace, on information on oath of such demand and refusal, to summon before him the party refusing, and on being satisfied that such demand ought to be complied with to order such information to be given within a certain time to be appointed by him; and any such party who shall refuse or neglect to comply with such order shall for every such offence forfeit and pay to her majesty the sum of five pounds, and such refusal or neglect shall be primâ facie evidence that the person so refusing or neglecting had full knowledge that the trade mark, together with which such chattel or article was sold, uttered, or exposed for sale or other purpose as aforesaid, at the time of such selling, uttering, or exposing was a forged, counterfeited, and false trade mark, or was the trade mark of a person which had been used without lawful authority or excuse, as the case may be. Any person who, after 31st December, 1863, shall have sold an article having a false trade mark to be bound to give information where he procured it; power to justices to summon parties refusing to give information. Penalty for refusal 5*l.*

7. Every person who, with intent to defraud or to enable another to defraud, shall put or cause or procure to be put upon any chattel or article, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which any chattel or article shall be intended to be or shall be sold or uttered or exposed for sale, or for any purpose of trade or manufacture, or upon any case, frame, or other thing, in or by means of which any chattel or article shall be intended to be or shall be exposed for sale, any false description, statement or other indication of or respecting the number, quantity, measure, or weight of such chattel or article, or any part thereof, or of the place or country in which such chattel or article shall have been made, manufactured, or produced, or shall put or cause or procure to be put upon any such chattel or article, cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, Marking any false indication of quantity, &c., upon an article with intent to defraud, penalty a sum equal to the value of the article and a further sum

25 & 26 Vict. c. 88

not exceeding 5*l* and not less than 10*s*.

ticket, label, or thing as aforesaid, any word, letter, figure, signature, or mark for the purpose of falsely indicating such chattel or article, or the mode of manufacturing or producing the same, or the ornamentation, shape, or configuration thereof, to be the subject of any existing patent, privilege, or copyright, shall for every such offence forfeit and pay to her majesty a sum of money equal to the value of the chattel or article so sold or uttered or exposed for sale, and a further sum not exceeding five pounds and not less than ten shillings.

Selling or exposing for sale after the 31st December, 1863, articles with false statement of quantities, &c., penalty not more than 5*l*. or less than 5*s*

8. Every person who, after the thirty-first day of December, one thousand eight hundred and sixty-three, shall sell, utter, or expose for sale or for any purpose of trade or manufacture, or shall cause or procure to be sold, uttered, or exposed for sale or other purpose as aforesaid, any chattel or article upon which shall have been, to his knowledge, put, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing, together with which such chattel or article shall be sold or uttered or exposed for sale or other purpose as aforesaid, shall have been so put, or upon any case, frame, or other thing used or employed to expose or exhibit such chattel or article for sale shall have been so put, any false description, statement, or other indication of or respecting the number, quantity, measure, or weight of such chattel or article or any part thereof, or the place or country in which such chattel or article shall have been made, manufactured, or produced, shall for every such offence forfeit and pay to her majesty a sum not exceeding five pounds and not less than five shillings.

Proviso that it shall not be an offence to apply names or words known to be used for indicating particular classes of manufactures.

9. Provided always, that the provisions of this Act shall not be construed so as to make it any offence for any person to apply to any chattel or article, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing with which such chattel or article shall be sold or intended to be sold, any name, word, or expression generally used for indicating such chattel or article to be of some particular class or description of manufacture only, or so as to make it any offence for any person to sell, utter, or offer or expose for sale any chattel or article to which, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label, or other thing sold therewith, any such generally used name, word, or expression as aforesaid shall have been applied.

Description of trade marks and forged trade marks in indictments, &c

10. In every indictment, pleading, proceeding, and document whatsoever in which any trade mark shall be intended to be mentioned, it shall be sufficient to mention or state the same to be a trade mark without further or otherwise describing such trade mark, or setting forth any copy or fac-simile thereof; and in every indictment, pleading, proceeding, and document whatsoever in which it shall be intended to mention any forged or counterfeit trade mark it shall be sufficient to mention or state the same to be a forged or counterfeit trade mark without further or otherwise describing such forged or counterfeit trade mark, or setting forth any copy or fac simile thereof.

Conviction not to affect any right or civil remedy.

11. The provisions in this Act contained of or concerning any act, or any proceeding, judgment, or conviction for any act hereby declared to be a misdemeanor or offence, shall not nor shall any of them take away, diminish, or prejudicially affect any suit, process, proceeding, right, or remedy which any person aggrieved by such act may be entitled to at law, in equity, or otherwise, and shall not nor shall any of them exempt or excuse any person from answering or making discovery upon examination as a witness or upon interrogatories, or otherwise, in any suit or other civil proceeding: Provided always, that no evidence, statement, or discovery which any person shall be compelled to give or make shall be admissible in evidence against such person in support of any indictment for a misdemeanor at common law or otherwise, or of any proceeding under the provisions of this Act.

Intent to defraud, &c any particular person need not be alleged in an indictment, &c. or proved.

12. In every indictment, information, conviction, pleading, and proceeding against any person for any misdemeanor or other offence against the provisions of this Act in which it shall be necessary to allege or mention an intent to defraud, or to enable another to defraud, it shall be sufficient to allege or mention that the person accused of having done any act which is hereby made a misdemeanor or other offence did such act with intent to defraud, or with intent to enable some other person to defraud, without alleging or mentioning an intent to defraud any particular person; and on the trial of any such indictment or information for any such misdemeanor, and on the hearing of any information or charge of or for any such other offence as aforesaid, and on the trial of any action against any person to recover a penalty for any such other offence as aforesaid, it shall not be necessary to prove an intent to defraud any particular person, or an intent to enable any particular person to defraud any particular person, but it shall be sufficient to prove with respect to every such misdemeanor and offence that the person accused did the act charged with intent to defraud, or with intent to enable some other person to defraud, or with the intent that any other person might be enabled to defraud.

Persons who aid in the commission of a misdemeanor to be also guilty.

13. Every person who shall aid, abet, counsel, or procure the commission of any offence which is by this Act made a misdemeanor shall also be guilty of a misdemeanor.

Punishment for misdemeanor under this Act

14. Every person who shall be convicted or found guilty of any offence which is by this Act made a misdemeanor shall be liable, at the discretion of the court and as the court shall award, to suffer such punishment by imprisonment for not more than two years, with or without hard labour, or by fine, or both by imprisonment, with or without

hard labour and fine, and also by imprisonment until the fine (if any) shall have been paid and satisfied. 25 & 26 Vict. c. 88.

15. In every case in which any person shall have committed or done any offence or act whereby he shall have forfeited or become liable to pay to her majesty any of the penalties or sums of money mentioned in the provisions of this Act, every such penalty or sum of money shall or may be recovered in England, Wales, or Ireland in an action of debt, which any person may as plaintiff for and on behalf of her majesty commence and prosecute to judgment in any court of record, and the amount of every such penalty or sum of money to be recovered in any such action shall or may be determined by the jury (if any) sworn to try any issue in such action, and if there shall be no such jury then by the court or some other jury, as the court shall think fit, or instead of any such action being commenced such penalty or sum of money shall or may in England or Wales be recovered by a summary proceeding before two justices of the peace having jurisdiction in the county or place where the party offending shall reside or have any place of business, or in the county or place in which the offence shall have been committed; and shall or may in Ireland be recovered in like manner by civil bil in the civil bill court of the county or place in which the offence was committed, or in which the offender shall reside or have any place of business; and shall or may in Scotland be recovered by action before the court of session in ordinary form or by summary action before the sheriff of the county where the offence shall have been committed or the offender may reside or have any place of business, which sheriff, upon proof of the offence, either by the confession of the person offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable in the penalty or penalties aforesaid as also in expenses; and it shall be lawful for the sheriff in pronouncing such judgment for the penalty or penalties and costs to insert in such judgment a warrant in the event of such penalty or penalties and costs not being paid to levy and recover the amount of the same by poinding: Provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzing the defender, to find the complainer liable in expenses, and any judgment so to be pronounced by the sheriff in such summary action shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise. Recovery of penalties.

16. In every case in which any such penalty or sum of money forfeited to her majesty as hereinbefore mentioned shall be sought to be recovered by a summary proceeding before two justices of the peace, the offence or act by the committing or doing of which such penalty or sum of money shall have been so forfeited shall be and be deemed to be an offence and act within the meaning of a statute passed in the twelfth year of the reign of her present majesty, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders;" and the information, conviction of the offender, and other proceedings for the recovery of the penalty or sum so forfeited shall be had according to the provisions of the said Act. Summary proceedings before justices to be within 11 & 12 Vict. c. 43.

17. In every case in which judgment shall be obtained in any such action as aforesaid for the amount of any such penalty or sum of money forfeited to her majesty, the amount thereof shall be paid by the defendant to the sheriff or the officer of the court, who shall account for the same in like manner as other moneys payable to her majesty, and, if it be not paid, may be recovered, or the amount thereof levied, or the payment thereof enforced, by execution or other proper proceeding, as money due to her majesty; and the plaintiff suing on behalf of her majesty, upon obtaining judgment, shall be entitled to recover and have execution, for all his costs of suit, which shall include a full indemnity for all costs and charges which he shall or may have expended or incurred in, about or for the purposes of the action, unless the court, or a judge thereof, shall direct that costs of the ordinary amount only shall be allowed. In actions penalties to be accounted for in like manner as other monies payable to the crown, and plaintiffs to recover full costs of suit.

18. No person shall commence any action or proceeding for the recovery of any penalty, or procuring the conviction of any offender in manner hereinbefore provided, after the expiration of three years next after the committing of the offence, or one year next after the first discovery thereof by the party proceeding. Limitations of actions, &c.

19. In every case af which at any time after the thirty-first day of December, one thousand eight hundred and sixty-three, any person shall sell or contract to sell (whether by writing or not) to any other person any chattel or article with any trade mark thereon, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing together with which such chattel or article shall be sold or contracted to be sold, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vendor to or with the vendee that every trade mark upon such chattel or article, or upon any such cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing as aforesaid, was genuine and true, and not forged or counterfeit, and not wrongfully used, unless the contrary shall be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee. After 31st December, 1863, vendor of an article with a trade mark to be deemed to contract that the mark is genuine.

20. In every case in which at any time after the thirty-first day of December, one thousand eight hundred and sixty-three, any person shall sell or contract to sell (whether by writing or not) to any other person any chattel or article upon which, or upon any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or thing together with which such chattel or article shall be sold or contracted to be sold, any description, statement or other indication of or respecting the number, quantity, measure or weight of such chattel or article, or the place or country in which such chattel or After 31st December, 1863, vendor of an article with description upon it of its quantity to be

25 & 26 Vict. c. 88.

deemed to contract that the description was true.

article shall have been made, manufactured or produced, the sale or contract to sell shall in every such case be deemed to have been made with a warranty or contract by the vendor to or with the vendee that no such description, statement or other indication was in any material respect false or untrue, unless the contrary shall be expressed in some writing signed by or on behalf of the vendor, and delivered to and accepted by the vendee.

In suits at law or in equity against persons for using forged trade marks, court may order articles to be destroyed, and may award injunction, &c.

21. In every case in any suit at law or in equity against any person for forging or counterfeiting any trade mark, or for fraudulently applying any trade mark, to any chattel or article, or for selling, exposing for sale, or uttering any chattel or article with any trade mark falsely or wrongfully applied thereto, or with any forged or counterfeit trade mark applied thereto, or for preventing the repetition or continuance of any such wrongful act, or the committal of any similar act, in which the plaintiff shall obtain a judgment or decree against the defendant, the court shall have power to direct every such chattel and article to be destroyed or otherwise disposed of; and in every such suit in a court of law the court shall or may upon giving judgment for the plaintiff award a writ of injunction or injunctions to the defendant commanding him to forbear from committing and not by himself or otherwise to repeat or commit any offence or wrongful act of the like nature as that of which he shall or may have been convicted by such judgment, and any disobedience of any such writ of injunction or injunctions shall be punished as a contempt of court; and in every such suit at law or in equity it shall be lawful for the court or a judge thereof to make such order as such court or judge shall think fit for the inspection of every or any manufacture or process carried on by the defendant in which any such forged or counterfeit trade mark, or any such trade mark as aforesaid, shall be alleged to be used or applied as aforesaid, and of every or any chattel, article or thing in the possession or power of the defendant alleged to have thereon or in any way attached thereto any forged or counterfeit trade mark, or any trade mark falsely or wrongfully applied, and every or any instrument in the possession or power of the defendant used or intended to be or capable of being used for producing or making any forged or counterfeit trade mark, or trade mark alleged to be forged or counterfeit, or for falsely or wrongfully applying any trade mark; and any person who shall refuse or neglect to obey any such order shall be guilty of a contempt of court.

Persons aggrieved by forgeries may recover damages against the guilty parties.

22. In every case in which any person shall do or cause to be done any of the wrongful acts following; (that is to say,) shall forge or counterfeit any trade mark, or for the purpose of sale, or for the purpose of any manufacture or trade, shall apply any forged or counterfeit trade mark to any chattel or article, or to any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or thing in or with which any chattel or article shall be intended to be sold or shall be sold or uttered or exposed for sale, or for any purpose of trade or manufacture; or shall inclose or place any chattel or article in, upon, under or with any cask, bottle, stopper, vessel, case, cover, wrapper, band, reel, ticket, label or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeit trade mark shall have been applied; or shall apply or attach to any chattel or article any case, cover, reel, wrapper, band, ticket, label, or other thing to which any trade mark shall have been falsely applied, or to which any forged or counterfeit trade mark shall have been applied; or shall inclose, place, or attach any chattel or article in, upon, under, with or to any cask, bottle, stopper, vessel, case, cover, reel, wrapper, band, ticket, label or other thing having thereon any trade mark of any other person; every person aggrieved by any such wrongful act shall be entitled to maintain an action or suit for damages in respect thereof against the person who shall be guilty of having done such act or causing or procuring the same to be done, and for preventing the repetition or continuance of the wrongful act, and the commital of any similar act.

Defendant obtaining a verdict to have full indemnity for costs.

23. In every action in which any person shall under the provisions of this Act commence as plaintiff for or on behalf of her majesty for recovering any penalty or sum of money, if the defendant shall obtain judgment, he shall be entitled to recover his costs of suit, which shall include a full indemnity for all the costs, charges, and expenses by him expended or incurred in, about, or for the purposes of the action, unless the court or a judge thereof, shall direct that costs of the ordinary amount only shall be allowed.

A plaintiff suing for a penalty may be compelled to give security for costs.

24. In any action which any person shall, under the provisions of this Act, commence as plaintiff for or on behalf of her majesty for recovering any penalty or sum of money, if it shall be shown to the satisfaction of the court or a judge thereof that the person suing as plaintiff for or on behalf of her majesty has no ground for alleging that he has been aggrieved by the committing of the alleged offence in respect of which the penalty or sum of money is alleged to have become payable, and also that the person so suing as plaintiff is not resident within the jurisdiction of the court, or not a person of sufficient property to be able to pay any costs which the defendant may recover in the action, the court or judge shall or may order that the plaintiff shall give security by the bond or recognizance of himself and a surety, or by the deposit of a sum of money, or otherwise, as the court or judge shall think fit, for the payment to the defendant of any costs which he may be entitled to recover in the action.

Act not to affect the corporation of cutlers of

25. Nothing in this Act contained shall be construed to affect the rights and privileges of the corporation of cutlers of the liberty of Hallamshire in the county of York, nor shall anything in this Act contained be construed in any way to repeal or make void any of the

provisions contained in the fifty-ninth George third, chapter seven, intituled "An Act to regulate the Cutlery Trade in England." 5 & 26 Vict. c. 88.

Hallamshire, nor to repeal 59 Geo. 3, c. 7.

26. The expression "The Merchandise Marks Act, 1862," shall be a sufficient description of this Act. Short title.

TRANSFER OF LAND.

[24 & 25 Vict. c. 35; see ante, Vol. I. tit. "CONVEYANCES."]

TRIAL, WRIT OF.

See "PLEADING, PRACTICE, &c."]

TRUCK ACT.

[See ante, Vol. III. p. 319, tit. "MASTER AND SERVANT."]

TRUSTEES, &c.

[See as to Frauds by Trustees, 24 & 25 Vict. c. 96, s. 80, ante, p. (211), tit. "CRIMINAL LAW;" Stamps on Appointment of New Trustees, ante, p. 628, tit. "STAMPS."]

10 & 11 Vict. c. 96. An Act for better securing Trust Funds, and for the Relief of Trustees (a). [22nd July, 1847.]

10 & 11 Vict. c. 96.

"Whereas it is expedient to provide means for better securing trust funds, and for relieving trustees from the responsibility of administering trust funds in cases where they

---

(a) Extended to Ireland, 11 & 12 Vict. c. 68.

See Headlam's Trustee Acts; Hill on Trustees; Lewin on Trusts; Morgan's Ch. Acts, 52; Appach on Trustees; Bythew. Sup. p. 1; Macpherson on the Law of Infants; and ante, tits. "INFANTS," and "LUNATICS."

"All that this Act of parliament has done is to facilitate the mode of getting money into court: it saves the expense of a suit in many cases, and the expense of appointing new trustees; it saves, also, all those proceedings that are necessarily expensive and productive of delay, where, after a bill filed and on their answer, trustees are permitted to pay money into court. The money being in court under this Act is just as if it were there in any other form. Now, suppose the money was paid into court in a suit, and the right to the property depended on a future contingent interest. In such a case the parties would be at liberty to apply when the contingency happened. If it was a matter of great doubt or difficulty, the court would direct a bill to be filed; but if it was a matter which the court could safely dispose of on petition, it would do so in order to save the expense of a suit. It makes no difference how the money comes into court: the mode of adjudicating upon the rights of the parties remains the same" (*per* Lord Cottenham, *In re Bloye's Trust*, 1 Mac. & Gor. 500; see *Goode* v. *West*, 9 Hare, 378).

The purchaser of an estate subject to a pecuniary charge has been held not to be entitled to pay the arrears of the charge into court under this Act (*In re Buckley*, 17 Beav. 110; but see *Cox* v. *Cox*, 1 Kay & J. 251).

Trustees of a fund applicable in emergencies arising from war to the maintenance of a volunteer corps, the income of which, after cessation of such emergencies, was applicable to the benefit of the poorer members of the corps, their wives and children, may pay it into court under this section, and ask for a scheme for its future management, without the certificate of the Charity Commissioners, under 16 & 17 Vict. c. 137, s. 17 (*In re St. Giles's and St. George's, Bloomsbury*, 27 L. J. Ch. 560; *In re Lister*, 6 De Gex M. & G. 184).

In proceeding under this Act, an executor must take upon himself the responsibility of saying that the fund belongs to those to whose particular account he desires the fund to be carried, but that he declines to take upon himself the responsibility of ascertaining the persons or making the payment. It is very important that this distinction should be generally known (*per* Master of the Rolls, *In re Joseph's Will*, 11 Beav. 625).

And the trustees must take upon themselves the responsibility of separating the fund finally and for ever, not only from the other assets, but from all the other trusts of the will (*In re Everett*, 12 Beav. 485).

An executor paid money into court, supposing it to be a clear residue; but other debts being afterwards found, the court, upon his petition,

10 & 11 Vict. c. 96. Trustees

are desirous of being so relieved:" BE IT ENACTED, That all trustees, executors, administrators, or other persons, having in their hands any moneys belonging to any trust whatsoever, or the major part of them (*a*), shall be at liberty, on filing an affidavit, shortly

---

and with the consent of the parties beneficially interested, ordered payment of the sum to the executor, he undertaking to apply it according to the trusts of the will (*Ex parte Tournay*, 3 De Gex & S. 677).

Executors, having paid money into court, are bound to attend and assist the court in its distribution; and they are entitled to their costs of paying it in, as between solicitor and client, out of the fund (*In re Cawthorne*, 12 Beav. 56; and see *Ex parte Fletcher*, 17 L. J. Ch. 169).

It would seem that a trustee cannot sell out the stock and pay the proceeds into court, unless he has authority, express or implied, to sell (*Mitchell* v. *Cobb*, 17 L. T. 125. See *Ex parte Stutely*, 1 De Gex & Sm. 703; *In re Ross's Trust*, 15 Jur. 241; *In re Masseline's Trust*, 17 L. T. 150; *In re Woods*, 15 Sim. 469.

A testator bequeathed some stock for the benefit of A. for life, directing that after her death the stock should fall into the residue. A. and her husband assigned her life interest. The stock was transferred into court under this Act. On a petition by the assignee for the payment of the dividends and costs (no persons interested under the will having been served with the petition), Knight-Bruce, V.-C., refused to deal with the capital in the absence of the other parties interested (*Ex parte Peart*, 17 L. J. Ch. 168).

Where, under this Act, a tenant for life petitioned for payment of the dividends to her, and the general personal estate of the testatrix was exhausted, the costs of the petition were ordered to be paid out of the dividends, and not out of the corpus (*In re Lorimer*, 12 Beav. 521). And where, a sum of money having been paid into court, a petition was presented by the tenant for life on payment of the dividends, it was held that the corpus of the fund was not liable to bear the costs of the application (*In re Bangley's Trust*, 21 L. J. Ch. 875). However, on this point the judges appear to differ (see *ib.* *per* Kindersley, V.-C., and 15 Jur. 242).

The costs of an application by tenant for life to obtain payment of the income of funds paid into court under this Act were held to be payable out of the income, and not out of the corpus (*In re Hamersley's Settlement*, 23 Beav. 267). On a petition by tenant for life, for payment of the income, her costs were ordered to be paid out of the income, and those of the trustee out of the corpus (*Re Hadland's Settlement*, 23 Beav. 266).

The court has jurisdiction to make an order that the trustee himself shall bear the costs (*In re Woodburn's Trusts*, 1 De Gex & J. 333, 26 L. J. Ch. 522; see also *In re Headington's Trust*, 27 L. J. Ch. 175; *In re Jones*, 3 Drew; *In re Bendyche*, 3 Jur. N. S.; *Handley* v. *Davis*, 28 L. J. Ch. 873).

And where a trustee vexatiously paid money into court, he was ordered to pay the costs of the petitioner for obtaining payment (*Cater, In re*, 25 Beav. 361).

So where a trustee paid trust funds into court, under this Act, merely because other trustees to whom it was payable declined to give a release: he was ordered to pay the costs of getting the money out of court (*Cater, In re*, 25 Beav. 366).

A trustee paid money into court without making inquiries for the parties entitled to the fund: he was ordered to pay the costs which the *cestuis que trust* had been put to in obtaining payment of the money out of court (*Knight, In re*, 27 Beav. 45, 28 L. J. Ch. 625).

Where trustees paid the ascertained share of a residue for a married woman into court, under this Act, the court refused to make the trustees pay the costs, observing that it was not desirable to act too strictly in such cases (*Re Brocklesby*, 30 Beav. 652).

A trustee who has paid funds into court under this Act, and has been served with petition, is entitled to his costs (*Erskine's Trust, In re*, 1 Kay & J. 302, 24 L. J. Ch. 327).

The costs incurred by trustees in paying money into court, and also the costs of their appearing on paying it out, are subject to taxation (*Hue, In re*, 28 L. J. Ch. 893).

If a trustee pay money into court where the title of the *cestui que trust* is clear, though he may be entitled to the cost of paying it in, he will not to the cost of appearing on the petition (*In re Hemming*, 3 Kay & J. 40; *In re Caseneau*, 2 *Ib.* 249).

A petitioner claiming a fund under this Act has been allowed his costs although his claim failed (*Birch, In re*, 2 Kay & J. 369; *In re Dickson*, 1 Sim, N. S. 47).

Applications may be made under this Act in *formâ pauperis* (*In re Money*, 13 Beav. 109).

(*a*) Stock standing in the joint names of surviving and deceased trustees may be transferred by the survivors to the accountant-general under this Act (*In re Parry*, 6 Hare, 306). And so far they will be held to have given up their trust (*In re Williams*, 4 K. & J. 87; *In re Coe*, *ib.* 199); and cannot prevent an application of the fund (*In re Wright*, 3 K. & J. 419).

A trustee who has paid money into court may afterwards apply by petition, that the fund may be dealt with as in an administration suit (*Trower, In re*, 1 L. T., N. S., 54, V.-C. W.). So a

10 & 11 Vict. c. 96.

may pay trust moneys or transfer stocks and securities into the court of chancery.

describing the instrument creating the trust, according to the best of their knowledge and belief (*a*), to pay the same, with the privity of the accountant-general of the high court of chancery, into the bank of England, to the account of such accountant-general in the matter of the particular trust (describing the same by the names of the parties, as accurately as may be, for the purpose of distinguishing it), in trust to attend the orders of the said court: and that all trustees or other persons having any annuities or stocks standing in their name in the books of the governor and company of the bank of England or of the East India company, or South Sea company, or any government or parliamentary securities standing in their names, or in the names of any deceased persons of whom they shall be personal representatives, upon any trust whatsoever, or the major part of them, shall be at liberty to transfer or deposit such stocks or securities into or in the name of the said accountant-general, with his privity, in the matter of the particular trust (describing the same as aforesaid), in trust to attend the orders of the said court; and in every such case the receipt of one of the cashiers of the said bank for the money so paid, or, in the case of stocks or securities, the certificate of the proper officer, of the transfer or deposit of such stocks or securities, shall be a a sufficient discharge to such trustees or other persons for the money so paid (*b*), or the stocks or securities so transferred or deposited.

Receipt of bank cashier, or certificate of proper officer, to be sufficient discharge.

Court of chancery to make orders on petition, without bill, for application of trust moneys and administration of trust (*d*).

2. That such orders as shall seem fit shall be from time to time made by the high court of chancery in respect of the trust moneys, stocks, or securities so paid in, transferred, and deposited as aforesaid, and for the investment and payment of any such moneys, or of any dividends or interest on any such stocks or securities, and for the transfer and delivery out of any such stocks and securities, and for the administration of any such trusts generally, upon a petition (*c*) to be presented in a summary way to the lord chancellor or the master or the rolls, without bill, by such party or parties as to the court shall appear to be competent and necessary in that behalf, and service of such petition shall be made upon such person or persons as the court shall see fit and direct; and every order made upon any such petition shall have the same authority and effect, and shall be enforced and subject to re-hearing and appeal, in the same manner as if the same had been made in a suit regularly instituted in the court; and if it shall appear that any such trust funds cannot be safely distributed without the institution of one or more suit or suits, the lord chancellor or master of the rolls may direct any such suit or suits to be instituted.

3. [Regulating salary of accountant general.]

Lord chancellor, with master of the rolls, &c., may make general orders (*e*).

4. That the lord chancellor, with the assistance of the master of the rolls or of one of the vice-chancellors, shall have power and is hereby authorised to make such orders as from time to time shall seem necessary for better carrying the provisions of this Act into effect.

Construction of expression "lord chancellor."

5. That in the construction of this Act the expression "the lord chancellor" shall mean and include the lord chancellor, lord keeper, and lords commissioners for the custody of the great seal of Great Britain for the time being.

12 & 13 Vict. c. 74. An Act for the further Relief of Trustees. [28th July, 1849.]

12 & 13 Vict. c. 74.

"Whereas difficulties have arisen in the transfer of securities vested in trustees in

---

cestui que trust, notwithstanding the payment into court, may file a bill to have his rights declared (*Thorp* v. *Thorp*, 1 K. & J. 438).

(*a*) Before G. O. 1848, no order was necessary (*In re Biggs*, 11 Beav. 27. As to the affidavits, see (*In re Waring*, 21 L. J. Ch. 784; *In re Woodburn*, 26 L. J. Ch. 522).

(*b*) A trustee paying in part of the trust fund is discharged *pro tanto* (*Goode* v. *West*, 9 Hare, 378).

(*c*) Not upon motion (*Harrison* v. *Masselin*, 21 L. J. Ch. 53).

A judge in chambers is not empowered, under the 20th section of 15 & 16 Vict. c. 80, to entertain applications with reference to funds paid into court under these acts; such applications must originate in and be founded upon a petition presented to the court (*Hodges, In re*, 4 De G. Mac. & G. 491, 1 Jur. N. S. 73).

(*d*) Where the trustees for a pauper lunatic had paid a certain sum into court, the guardians of the poor-law union presented a petition praying a transfer of what might be necessary to reimburse them the sums which had been expended on behalf of the lunatic. The Lord Chancellor thought that the trustees might, under the authority of the 27th section of the 7 & 8 Vict. c. 101, have themselves paid the sum in question to the poor-law guardians; and considering that, by the payment to the accountant-general under this Act, the court was placed in the position of the trustees, he made the order (*In re Upfull's Trust*, 3 Mac. & Gor. 281).

When trustees have paid moneys into court under these Acts, the remedy of a plaintiff as to the sum paid in can be prosecuted only under these statutes, and not under the ordinary jurisdiction of the court by bill or claim (*Goode* v. *West*, 21 L. J. Ch. 127).

(*e*) See the Cons. Ord. 41, 1848, Morgan's Acts, p. 575.

12 & 13 Vict. c. 74.
10 & 11 Vict. c. 96.

Court of chancery may, upon application by majority of trustees, &c., order payment or transfer of trust moneys, stocks, or securities into court of chancery.

certain cases under the provisions of an Act passed in the session of parliament holden in the tenth and eleventh years of the reign of her present majesty, intituled 'An Act for better securing Trust Funds, and for the Relief of Trustees,' and it is expedient to make further provision for carrying into effect the objects of the said recited Act:" BE IT THEREFORE ENACTED, That if upon any petition presented to the lord chancellor or master of the rolls in the matter of the said Act it shall appear to the judge of the court of chancery before whom such petition shall be heard that any moneys, annuities, stocks, or securities are vested in any persons as trustees, executors, or administrators, or otherwise, upon trusts within the meaning of the said recited Act, and that the major part of such persons are desirous of transferring, paying, or delivering the same to the accountant general of the high court of chancery under the provisions of the said recited Act, but that for any reason the concurrence of the other or others of them cannot be had, it shall be lawful for such judge as aforesaid to order and direct such transfer, payment or delivery to be made by the major part of such persons without the concurrence of the other or others of them; and where any such moneys or government or parliamentary securities shall be deposited with any banker, broker, or other depository, it shall be lawful for such judge as aforesaid to make such order for the payment or delivery of such moneys, government or parliamentary securities, to the major part of such trustees, executors, administrators, or other persons as aforesaid, for the purpose of being paid or delivered to the said accountant general as to the said judge shall seem meet; and every transfer of any annuities, stocks, or securities, and every payment of money or delivery of securities, in pursuance of any such order, shall be as valid and effectual as if the same had been made on the authority or by the Act of all the persons entitled to the annuities, stocks, or securities so transferred, or the moneys or securities so paid or delivered respectively, and shall fully protect and indemnify the governor and company of the bank of England, the East India company, and the South Sea company, and all other persons acting under or in pursuance of such order.

13 & 14 Vict. c. 60.

13 & 14 Vict. c. 60. An Act to consolidate and amend the Laws relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees (a).

[5th August, 1850.]

11 G. 4 & 1 W. 4, c. 60.
4 & 5 W. 4, c. 23.
1 & 2 Vict. c. 69.

"Whereas an Act was passed" [reciting 11 Geo. 4 & 1 Will. 4, c. 60; 4 & 5 Will. 4, c. 23; 1 & 2 Vict. c. 69], That the said recited Acts shall be and the same are hereby repealed: Provided always, that the several Acts repealed by the said recited Acts shall not be revived, and that such repeal shall only be on and after this Act coming into operation.

Interpretation clause.

2. "And whereas it is expedient to define the meaning in which certain words are hereinafter used:" IT IS DECLARED, That the several words hereinafter named are herein used and applied in the manner following respectively; (that is to say,)

The word "lands" shall extend to and include manors, messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein:

The word "stock" (b) shall mean any fund, annuity, or security transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein (c):

The word "seised" shall be applicable to any vested estate for life or of a greater description, and shall extend to estates at law and in equity (d), in possession or in futurity, in any lands:

The word "possessed" shall be applicable to any vested estate less than a life estate, at law or in equity, in possession or in expectancy, in any lands:

The words "contingent right," as applied to lands, shall mean a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent:

The words "convey" and "conveyance," applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another lands whereof such person is seised or entitled to a contingent

---

(a) See Lord St. Leonards' Statutes, p. 411, Morgan's Ch. Acts, 65.

This Act is extended to the county palatine of Lancaster, by 17 & 18 Vict. c. 82, s. 11, ante, Vol. I. p. 1143, tit. "COUNTIES PALATINE."

(b) Shares in ships registered under "The Merchant Shipping Act, 1854," are made "stock" within this Act. 18 & 19 Vict. c. 91, s. 10, ante, p. 389.

(c) See *In re Angelo*, 5 De Gex & S. 278.

(d) See *In re Williams*, 5 De Gex & S.; *Lechmere* v. *Clamp*, 30 Beav. 218, 9 W. R. 860.

right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of an Act passed in the fourth year of the reign of his late majesty king William the fourth, intituled "An Act for the Abolition of Fines and Recoveries, and the Substitution of more simple Modes of Assurance," and including also surrenders and other acts which a tenant of customary or copyhold lands can himself perform preparatory to or in aid of a complete assurance of such customary or copyhold lands (*a*). 13 & 14 Vict. c. 60. 3 & 4 W. 4, c. 74.

The words "assign" and "assignment" shall mean the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring lands of which such person is possessed, either for the whole estate of the person so possessed or for any less estate:

The word "transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock can transfer such stock from himself to another:

The words "lord chancellor" shall mean as well the lord chancellor of Great Britain as any lord keeper or lords commissioners of the great seal for the time being:

The words "lord chancellor of Ireland" shall mean as well the lord chancellor of Ireland as any keeper or lords commissioners of the great seal of Ireland for the time being:

The word "trust" shall not mean the duties incident to an estate conveyed by way of mortgage (*b*); but with this exception, the words "trust" and "trustee" shall extend to and include implied and constructive trusts (*c*), and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of personal representative of a deceased person:

The word "lunatic" shall mean any person who shall have been found to be a lunatic upon a commission of inquiry in the nature of a writ *de lunatico inquirendo*:

The expression "person of unsound mind" shall mean any person, not an infant, who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs:

The word "devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the lands of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent:

The word "mortgage" shall be applicable to every estate, interest, or property in lands or personal estate which would in a court of equity be deemed merely a security for money (*d*):

(*a*) See *Rowley* v. *Adams*, 14 Beav. 130; *Ayler* v. *Cox*, 17 Beav.; *In re Wise*, 5 De Gex & S.

(*b*) It was decided, under 11 Geo. 4 & 1 Will. 4, c. 60, that a mortgagee did not come within the description of a person "seised of land upon any trust" (see *In re Goddard*, 1 Myl. & K. 25; *In re Stanley*, 5 Sim. 320, 7 Sim. 170; *In re Dearden*, 3 Myl. & K. 508; *Ex parte Payne*, 6 Sim. 645; *Ex parte Whitton*, 1 Keen, 278).

A mortgagee in fee of real estate, having died intestate as to the mortgaged premises, which descended on his death to his infant heir; the court, upon petition by his executors, one of whom was a married woman, made an order under this Act, vesting the legal estate in the petitioners to such uses as they should appoint, and, in default, to the use of petitioners in fee, subject to the equity of redemption, in order to enable them to re-convey to the mortgagor without the necessity of having the deed acknowledged by the married woman under the Act 3 & 4 Will. 4, c. 74 (*Re Powell*, 4 K. & J. 388).

(*c*) See *In re Angelo*, 5 De Gex & S. 278; *Weston* v. *Filor*, 5 De Gex & S.; *In re Burt*, 9 Hare, 289; *In re Carpenter*, 1 Kay; *In re Weeding*, 4 Jur. N. S. 707; *In re Probert*, 1 Kay, and the cases cited, Morgan's Ch. Acts, 69.

(*d*) In consideration for money lent, real estate was conveyed to the lender, his heirs, and assigns, upon trust, in case the principal money and interest should be repaid by a given day, for the borrower, his heirs, or assigns; but, in case default should be made, then upon trusts for sale; and the trusts of the purchase money were declared to be for payment of the principal money, interest, and costs, and subject thereto for the borrower, "his executors, administrators, or assigns." Default having been made, it was held, that the trust of the surplus being for the borrower, "his executors, administrators, or assigns," and not for him, "his heirs or assigns," the deed operated to convert the property as between his real and personal representatives. It was, therefore, more than "merely a security for money," more, that is, than a "mortgage" as defined by this section. It was a deed of "trust" within the meaning of the 15th section, and the lender having died intestate, and it being impossible to find his heir, the court had power to make a vesting order under that section (*Re Underwood*, 3 Kay & J. 745; and see

13 & 14 Vict. c. 60.

The word "person" used and referred to in the masculine gender shall include a female as well as a male, and shall include a body corporate?

And generally, unless the contrary shall appear from the context, every word importing the singular number only shall extend to several persons or things, and every word importing the plural number shall apply to one person or thing, and every word importing the masculine gender only shall extend to a female.

Lord chancellor may convey estates of lunatic trustees and mortgagees.

3. That, when any lunatic or person of unsound mind shall be seised or possessed of any lands upon any trust or by way of mortgage (*a*), it shall be lawful for the lord chancellor (*b*), intrusted by virtue of the queen's sign manual with the care of the persons and estates of lunatics, to make an order that such lands be vested in such person or persons in such manner and for such estate as he shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate (*c*).

may convey contingent rights.

4. That when any lunatic or person of unsound mind shall be entitled to any contingent right in any lands upon any trust or by way of mortgage, it shall be lawful for the lord chancellor, intrusted as aforesaid, to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said lord chancellor shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

Lord Chancellor may transfer stock of lunatic trustees and mortgagees (*d*).

5. That when any lunatic or person of unsound mind shall be solely entitled to any stock or to any chose in action upon any trust or by way of mortgage, it shall be lawful for the lord chancellor, intrusted as aforesaid, to make an order (*e*) vesting in any person or persons the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof; and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or chose in action upon any trust or by way of mortgage, it shall be lawful for the said lord chancellor to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said lord chancellor may appoint.

Power to transfer stock of deceased person whose personal representative is a lunatic.

6. That when any stock shall be standing in the name of any deceased person whose personal representative is a lunatic or person of unsound mind, or when any chose in action shall be vested in any lunatic or person of unsound mind as the personal representative of a deceased person, it shall be lawful for the lord chancellor (*f*), intrusted as aforesaid, to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action or any interest in respect thereof, in any person or persons he may appoint.

Court of chancery

7. That where any infant shall be seised or possessed of any lands upon any trust or by way of mortgage, it shall be lawful for the court of chancery to make an order vesting

---

Lawrence v. *Golsworthy*, 3 Jur. N. S.; *In re King*, 16 Jur.).

(*a*) See *In re Smales* (Headlam's Trustee Act, 12).

(*b*) See *In re Waugh*, 2 De Gex M. & G. 279, and 15 & 16 Vict. c. 87, s. 15, ante, vol. III., tit. "PLEADING, PRACTICE, &c. IN EQUITY."

(*c*) Where, in a suit for the partition of lands, in which the lunatic was entitled to an undivided share, a partition had been made and the lunatic declared a trustee within this Act, it was held, on a petition by the lunatic to have the petition carried into effect, that the Lords Justices could, under this Act, and the Lunacy Regulation Act, direct the committee to convey according to the partition (*Singleton* v. *Hopkins*, *Re Bloomar*, 2 De Gex & J. 88, 27 L. J. Ch. 173; see *In re Arrowsmith*, 25 L. J. Ch. 704).

Where the mortgagee is a lunatic, the costs of obtaining the order must be defrayed out of the mortgage money (*In re Biddle*, 23 L. J. Ch. 23; *Hawkins* v. *Perry*, 25 L. J. Ch. 656; see Morgan's Ch. St. 71).

(*d*) The committee of the estate of the lunatic must be served with the petition (*In re Saumarez*, 25 L. J. Ch. 575; *Re Wood*, 7 Jur. N. S.).

(*e*) The court will in the first instance direct a reference to the Master, to inquire whether the trustee was of unsound mind, and incompetent to the management of his affairs, and whether he was possessed of the trust fund, and for whom, within the meaning of this Act (*In re Were*, 3 Mac. & Gor. 233; *In re Buckle*, 15 L. J. Ch. 289).

(*f*) The power to appoint new trustees in the place of trustees of unsound mind, but not so found by inquisition, is by these Acts given, not to the court of chancery, but to the lord chancellor, or other the persons intrusted with the care of lunatics (*In re Ormrod*, 2 De Gex & J. 249, 28 L. J. Ch. 55; *In re Irby*, 17 Beav. 385).

such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the infant trustee or mortgagee had been twenty-one years of age, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate. 13 & 14 Vict. c. 60.

may convey estates of infant trustees and mortgagees (a).

8. That where any infant shall be entitled to any contingent right in any lands upon any trust or by way of mortgage, it shall be lawful for the court of chancery to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said court shall direct; and the order shall have the same effect as if the infant had been twenty-one years of age, and had duly executed a deed so releasing or disposing of the contingent right.

Contingent rights of infant trustees and mortgagees.

9. That when any person solely seised or possessed of any lands upon any trust shall be out of the jurisdiction (b) of the court of chancery, or cannot be found (c) it shall be lawful for the said court to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

Court of chancery may convey the estate of a trustee out of the jurisdiction of the court.

10. That when any person or persons shall be seised or possessed of any lands jointly with a person out of the jurisdiction of the court of chancery, or who cannot be found, it shall be lawful for the said court to make an order vesting the lands in the person or persons so jointly seised or possessed, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance or assignment of the lands in the same manner for the same estate (d).

Court may make order in cases where persons are seised of lands jointly with parties out of jurisdiction of court, &c.

(a) It seems that real estate may be ordered to go to uses to bar dower in favour of the *cestui que trust* (*In re Lush*, 1 De Gex & S. 436; *Davey* v. *Miller*, 1 Sm. & Gif. Ap. 19; *In re Howard*, 5 De Gex & S. 435).

A mortgage in fee was made of real estate: the mortgagor died, having devised the estate to an infant: a claim of foreclosure was filed by the mortgagee against the infant, and an order for sale was made therein. A petition for a vesting order under this section was dismissed as unnecessary (*In re Williams*, 5 De Gex & S. 551, 21 L. J. Ch. 437).

A vesting order, under this Act, will, if consented to by the protector of the settlement, bar all estates in remainder, and not pass a base fee only under the Fines and Recoveries Abolition Act (*Powell* v. *Matthews*, 1 Jur. N. S. 973—V.-C. W.; see *In re Ellithorp*, 18 Jur. 669).

A mortgagee in fee of real estate having died intestate as to the mortgaged premises, which descended on his death to his infant heir, the court, upon petition by his executors, one of whom was a married woman, made an order under this section, vesting the legal estate in the petitioners to such uses as they should appoint, and in default to the use of petitioners in fee, subject to the equity of redemption, in order to enable them to reconvey to the mortgagor without the necessity of having the deed acknowledged by the married woman under the 3 & 4 Will. 4, c. 74 (*Powell, In re*, 4 Kay & J. 338).

Upon the 11 Geo. 4 & 1 Will. 4, c. 60, an infant mortgagee was allowed the costs of the reference, to be paid by the mortgagor (*Ex parte Ommaney*, 10 Sim. 298; see *Bowra* v. *Wright*, 20 L. J. Ch. 216. See the cases under 15 & 16 Vict. c. 55, s. 3, post).

(b) See *Hutchinson* v. *Stephens*, 5 Sim. 498, n., p. 798, n. (a), post.

After a decree in a creditor's suit for the sale of the real estate of the testator, and the application of the proceeds in payment of the debt, and after a sale under that decree, there being two devisees, one lunatic, and the other out of the jurisdiction of the court, they were held trustees of the estate within the meaning of 11 Geo. 4 & 1 Will. 4, c. 60 (*Jackson* v. *Milfield*, 5 Hare, 538; see *King* v. *Leach*, 2 Hare, 57; *In re Milfield*, 2 Phill. 254; *Hood* v. *Hall*, 19 L. J., Ch. 312).

(c) Where a testator devised real estates to trustees, upon trust to sell and pay debts, and apply the surplus as therein mentioned. The trustees disclaimed the trusts by deed; the heir-at-law of the testator could not be found:—It was held, in a suit for the sale of the estates and administration, that the case fell within the meaning of this section; and that an order appointing a party to convey to a purchaser, was correct (*Wilks* v. *Groom*, 6 De G. Mac. & G. 205).

(d) In cases where a new trustee is appointed, under this Act, to act jointly with continuing trustees, the court will make orders vesting lands in the new trustee, jointly with the continuing trustees, notwithstanding the doubts suggested, *In re Watt*, 9 Hare, 106, and *Plyer, In re* (9 Hare, 220); *Bute* (*Marquis*), *In re*, 1 Johnson, 15, *Smith* v. *Smith*, 3 Drew. 72.

Wherever there remains any portion of the trusts of an instrument to be executed, the court has invariably declined to administer the trust. The 22nd section of the Act 1 Will. 4, c. 60, only authorized the lord chancellor to appoint a new trustee in the place of the lunatic; and the reference must, therefore, be extended to the appointment of a new trustee (*In re Ward*, 2 Mac. & Gor. 73).

18 & 14 Vict. c. 60.

Contingent rights of trustees.

11. That when any person solely entitled to a contingent right in any lands upon any trust shall be out of the jurisdiction of the court of chancery, or cannot be found, it shall be lawful for the said court to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance so releasing or disposing of the contingent right.

Court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the court to a contingent right in lands.

12. That when any person jointly entitled with any other person or persons to a contingent right in any lands upon any trust shall be out of the jurisdiction of the court of chancery (*a*), or cannot be found, it shall be lawful for the said court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons, together with any other person or persons; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

When it is uncertain which of several trustees was the survivor.

13. That where there shall have been two or more persons jointly seised or possessed of any lands upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the court of chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance or assignment of the lands in the same manner for the same estate (*b*).

When it is uncertain whether the last trustee be living or dead.

14. That where any one or more person or persons shall have been seised or possessed of any lands upon any trust, and it shall not be known, as to the trustee last known to have been seised or possessed, whether he be living or dead, it shall be lawful for the court of chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the last trustee had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

When trustee dies without an heir (*c*).

15. That when any person seised of any lands upon any trust shall have died intestate as to such lands without an heir, or shall have died and it shall not be known who is his heir or devisee, it shall be lawful for the court of chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the lands in the same manner for the same estate.

Contingent right of unborn trustee.

16. That when any lands are subject to a contingent right in an unborn person or class of unborn persons who upon coming into existence would in respect thereof become seised or possessed of such lands upon any trust, it shall be lawful for the court of chancery to make an order which shall wholly release and discharge such lands from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would upon coming into existence be seised or possessed of in such lands (*d*).

Power to convey in place of a refusing trustee (*e*).

17. That where any person jointly or solely seised or possessed of any lands upon any trust, shall after a demand by a person entitled to require a conveyance or assignment of such lands, or a duly authorised agent of such last-mentioned person, have stated in writing that he will not convey or assign the same (*f*), or shall neglect or refuse to convey or assign such lands for the space of twenty-eight days next after a proper deed (*g*) for conveying or assigning the same shall have been tendered to him by any person entitled to require the same, or by a duly authorised agent of such last-mentioned person, it shall be lawful for the court of chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Power to convey in place of person entitled to contingent right (*e*).

18. That where any persons jointly or solely entitled to a contingent right in any lands upon any trust shall, after a demand for a conveyance or release of such contingent right by a person entitled to require the same, or a duly authorised agent of such last-mentioned person, have stated in writing that he will not convey or release such contingent right, or shall neglect or refuse to convey or release such contingent right for the

---

(*a*) Where a trustee commanded a merchant vessel, and was on his voyage to India, it was held that he was not out of the jurisdiction, within the meaning of the 11 Geo. 4 & 1 Will. 4, c. 60, s. 15 (*Hutchinson* v. *Stephens*, 5 Sim. 498).

(*b*) *In re Anderson*, 1 Llo. & Goo. 27.

(*c*) See *Underwood, In re*, 3 Kay & J. 745, ante sec. 2.

(*d*) See *Wake* v. *Wake*, 17 Jur. 545.

(*e*) These sections are repealed by 15 & 16 Vict. c. 55, s. 2, post, p. 806, and new provisions made.

(*f*) See *Rowley* v. *Adams*, 12 Beav. 130, infra.

(*g*) The tender of a notice requiring a trustee to surrender a copyhold is not sufficient within this section; but the tender of a deed appointing an attorney to surrender may possibly be sufficient.

space of twenty-eight days next after a proper deed for conveying or releasing the same shall have been tendered to him by any person entitled to require the same, or by a duly authorized agent of such last-mentioned person, it shall be lawful for the court of chancery to make an order releasing or disposing of such contingent right in such manner as it shall direct; and the order shall have the same effect as if the trustee so neglecting or refusing had duly executed a conveyance so releasing or disposing of the contingent right. 13 & 14 Vict. c. 60.

19. That when any person to whom any lands have been conveyed by way of mortgage shall have died without having entered into the possession (*a*) or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance of such lands, then in any of the following cases it shall be lawful for the court of chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; (that is to say,) Power to convey in place of mortgagee.

When an heir or devisee of such mortgagee shall be out of the jurisdiction of the court of chancery, or cannot be found:

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such lands or a duly authorised agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such lands shall have been tendered to him by a person entitled as aforesaid, or a duly authorised agent of such last-mentioned person:

When it shall be uncertain which of several devisees of such mortgagee was the survivor:

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee whether he be living or dead:

When such mortgagee shall have died intestate as to such lands, and without an heir, or shall have died and it shall not be known who is his heir or devisee:

And the order of the said court of chancery made in any one of the foregoing cases shall have the same effect as if the heir or devisee or surviving devisee, as the case may be, had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

20. That in every case where the lord chancellor intrusted as aforesaid, or the court of chancery, shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance or assignment of any lands, or having the effect of a release or disposition of the contingent right of any person or persons born or unborn, it shall also be lawful for the lord chancellor intrusted as aforesaid, or the court of chancery (*b*), as the case may be, should it be deemed more convenient, to make an order appointing a person to convey (*c*) or assign such lands, or release or dispose of such contingent right; and the conveyance or assignment, or release or disposition, of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect in conveying or assigning the lands, or releasing or disposing of the contingent right, as an order of the lord chancellor intrusted as aforesaid, or the court of chancery, would in the particular case have had under the provisions of this Act; and in every case where the lord chancellor intrusted as aforesaid, or the court of chancery, shall under the provisions of this Act be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of the governor and company of the bank of England, or of any other company or society established or to be established, it shall also be lawful for the lord chancellor intrusted as aforesaid, or the court of chancery, if it be deemed more convenient, to make an order directing the secretary, deputy secretary, or accountant general for the time being of the governor and company of the bank of England, or any officer of such other company or society, at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to the governor and company of the bank of England, and all other companies or societies, and their officers and servants, for all acts done or permitted to be done pursuant thereto. Power to appoint a person to convey in certain cases.

21. That as to any lands situated within the duchy of Lancaster or the counties palatine of Lancaster or Durham, it shall be lawful for the court of the duchy chamber As to lands in Lancaster

---

(*a*) On the petition of the executors of a mortgagee in fee, who had not been in possession of the mortgaged premises, but had died intestate as to the legal estate, and leaving an heir who could not be found, the Court, under this section, the mortgage debt remaining unpaid, made an order vesting the mortgaged estate in such executors, subject to the equity of redemption (*In re Bowden*, 1 De G. M. & G. 57, 9 Hare 820; *In re Quinlan*, 9 Ir. C. R., overruling *In re Meyrick's Estate*, 9 Hare, 116).

(*b*) Under similar words in 1 Will. 4, c. 60, s. 8, it was held that the appointment must be made by the Court, and not by the Master (*Fowler* v. *Ward*, 8 Beav. 488).

(*c*) See *Wilks* v. *Groom*, 6 D. G. M. & G., ante, p. 797, n. (*e*).

13 & 14 Vict. c. 60.

and Durham.

of Lancaster, the court of chancery in the county palatine of Lancaster, or the court of chancery in the county palatine of Durham, to make a like order in the same cases as to any lands within the jurisdiction of the same courts respectively, as the court of chancery has under the provisions hereinbefore contained been enabled to make concerning any lands; and every such order of the court of the duchy chamber of Lancaster, the court of chancery in the county palatine of Lancaster, or the court of chancery in the county palatine of Durham, shall, as to such lands, have the same effect as an order of the court of chancery: Provided always, that no person who is anywhere within the limits of the jurisdiction of the high court of chancery shall be deemed by such local courts to be an absent trustee or mortgagee within the meaning of this Act.

When trustee of stock out of the jurisdiction.

22. That when any person or persons shall be jointly entitled (*a*) with any person out of the jurisdiction of the court of chancery (*b*), or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead (*c*), to any stock (*d*) or chose in action upon any trust, it shall be lawful for the said court to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof (*e*), or to sue for or recover such chose in action, or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said court may appoint; and when any sole trustee of any stock or chose in action shall be out of the jurisdiction of the said court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said court to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, in any person or persons the said court may appoint.

When trustee of stock refuses to transfer.

23. That where any sole (*f*) trustee of any stock or chose in action shall neglect or refuse to transfer such stock, or to receive the dividends (*g*) or income thereof, or to sue for or recover such chose in action, or any interest in respect thereof, according to the direction of the person absolutely (*h*) entitled thereto, for the space of twenty-eight days next after a request in writing (*i*) for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the court of chancery to make an order vesting the sole right to transfer such stock (*k*), or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, in such person or persons as the said court may appoint.

When one of several trustees.

24. That where any one of the trustees of any stock or chose in action shall neglect or refuse to transfer such stock, or to receive the dividends or income thereof, or to sue

---

(*a*) See *In re Dennison's Trust*, 22 L. J. Ch. 180.

(*b*) This extends to the husband of an executor out of the jurisdiction (*In re Bradshaw*, 2 De Gex M. & G. 900). This section does not authorise the removal of a trustee merely because he is out of the jurisdiction. The words of the Act are certainly very general; but it never could have been the intention of the legislature that a trustee should be removed without some further reason than his being out of the jurisdiction, there being no evidence to show that he does not intend to return (*per* Kindersley, V.-C., *In re Mais*, 21 L. J. Ch. 875; *In re Harrison's Trust*, 5 De Gex & S. 114).

(*c*) This did not extend to infants (*Cramer* v. *Cramer*, 5 De Gex & S. 312, post, p. 807; see 15 & 16 Vict. c. 55, s. 3).

(*d*) Shares in a joint stock banking company are within this description (*In re Angelo*, 5 De Gex & S.; *In re Baxter*, 2 Sm. & Giff., Appendix V.).

(*e*) This section applies to a future as well as a past dividend (*Peyton, In re*, 25 Beav. 317. Affirmed on appeal, 2 De G. & J. 290; 27 L. J. Ch. 476).

Bank stock was standing in the names of four trustees, one of whom was abroad, and inaccessible. There being some inconvenience in removing him, the Court under this section vested the right to receive the past and future dividends in the three other trustees during their joint lives (*Ib.*).

(*f*) See *In re Hartnall*, 2 De Gex & S. 114; *Randall's Will*, 1 Drew. 401.

(*g*) Then due and not future (*In re Hartnall*, 5 De Gex & S. 111; but see *In re Peyton*, supra, n. (*e*)).

(*h*) Where the surviving trustee of a settlement had refused to transfer certain trust funds to two new trustees duly appointed, it was held that the new trustees were to be considered the persons "*absolutely entitled*" (*Ex parte Russell*, 1 Sim. N. S. 404; see *In re Hartnall's Trust*, 5 De Gex & S. 111).

(*i*) By the person entitled to the *whole* fund (*Ibid.*; *Ex parte Russell*, supra).

Stock was standing in the names of A. and B. upon trust for C. for life, with remainders over. By an order made in a cause instituted by C. against A. and B., with respect to the stock, it was ordered that A. and B. should transfer the stock to the credit of the cause. A. refused to make the transfer. On petition by C. under this Act, and in the cause, praying that the right to transfer might be vested in B. alone, it was held that the Court had no jurisdiction to make the order (*Mackenzie* v. *Mackenzie*, 5 De Gex & S. 338, 21 L. J. Ch. 385).

(*k*) See *Ex parte Russell*, supra, n. (*h*).

for or recover such chose in action according to the directions of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him or her by such person, it shall be lawful for the court of chancery to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, in the other trustee or trustees of the said stock or chose in action, or in any person or persons whom the said court may appoint jointly with such other trustee or trustees.

13 & 14 Vict. c. 60.

tees of stock refuses to transfer or receive and pay over dividends (*a*).

25. That when any stock shall be standing in the sole name of a deceased person, and his or her personal representative shall be out of the jurisdiction of the court of chancery, or cannot be found, or it shall be uncertain whether such personal representative be living or dead, or such personal representative shall neglect or refuse to transfer such stock, or receive the dividends or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the court of chancery to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, in any person or persons whom the said court may appoint.

When stock is standing in the name of a deceased person.

26. That where any order shall have been made under any of the provisions of this Act vesting the right to any stock in any person or persons appointed by the lord chancellor intrusted as aforesaid, or the court of chancery, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorised and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock into his or their own name or names, or otherwise, or relating to the receipt of the dividends thereof, to the extent and in conformity with the terms of such order; and the bank of England, and all companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as the said bank of England, or such companies, associations, or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made; and after notice in writing of any such order of the lord chancellor intrusted as aforesaid, or of the court of chancery, concerning any stock, shall have been given, it shall not be lawful for the bank of England, or any company or association whatever, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made in any matter whatever relating to the transfer of such stock, or the payment of the dividends or produce thereof.

Effect of an order vesting the legal right to transfer stock (*b*).

27. That where any order shall have been made under the provisions of this Act, either by the lord chancellor intrusted as aforesaid, or by the court of chancery, vesting the legal right to sue for or recover any chose in action or any interest in respect thereof in any person or persons, such legal right shall vest accordingly, and thereupon it shall be lawful for the person or persons so appointed to carry on, commence, and prosecute, in his or their own name or names, any action, suit, or other proceeding at law or in equity for the recovery of such chose in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such chose in action.

Effect of an order vesting legal right in a chose in action.

28. That whensoever, under any of the provisions of this Act, an order shall be made, either by the lord chancellor intrusted as aforesaid, or the court of chancery, vesting any copyhold or customary lands in any person or persons, and such order shall be made with the consent (*d*) of the lord or lady of the manor whereof such lands are holden, then the lands shall, without any surrender or admittance in respect thereof, vest accordingly; and whenever, under any of the provisions of this Act, an order shall be made either by the lord chancellor intrusted as aforesaid, or the court of chancery, appointing any person or persons to convey or assign any copyhold or customary lands, it shall be lawful for such person or persons to do all acts and execute all instruments for

Effect of an order vesting copyhold lands, or appointing any person to convey copyhold lands (*c*).

(*a*) See *In re Davies' Trust*, 3 Mac. & Gor. 278.

A trustee having refused to convey certain shares to new trustees duly appointed, a notice was served upon him under this section, and on a petition being afterwards presented which was not served on the recusant trustee, the Court made a vesting order (*In re Baxter's Will*, 2 Sm. & G. App., v.). This Act was held to apply to a case in which the executor of a surviving trustee had not proved the will, and had neglected to transfer stock on the requisition of new trustees appointed out of Court (*Re Ellis' Settlement*, 24 Beav. 426).

(*b*) See *In re Smyth*, 4 De Gex & S. 499.

(*c*) See *In re Hey's Will*, 9 Hare, 221.

The court will, on a petition to appoint a new trustee, direct copyholds to vest in the trustees appointed by the court, without requiring the parties to get the consent of the lord (*In re Flitcroft*, 1 Jur. N. S. 418—V.-C. W.). But see *Cooper* v. *Jones*, 25 L. J. Ch. 240, 2 Jur. N. S. 59.

The lord need not appear in court to consent (*Ib.; Ayles* v. *Cox*, 17 Beav. 584).

(*d*) See *Cooper* v. *Jones*, 25 L. J. Ch. 240.

13 & 14 Vict. c. 60.

the purpose of completing the assurance of such lands; and all such acts and instruments so done and executed shall have the same effect, and every lord and lady of a manor, and every other person, shall, subject to the customs of the manor and the usual payments, be equally bound and compellable to make admittance to such lands, and to do all other acts for the purpose of completing the assurance thereof, as if the persons in whose place an appointment shall have been made, being free from any disability, had duly done and executed such acts and instruments (*a*).

When a decree is made for sale of real estate for payment of debts (*b*).

29. That when a decree shall have been made by any court of equity directing the sale of any lands for the payment of the debts of a deceased person, every person seised or possessed of such lands, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed to be so seised or possessed or entitled, as the case may be, upon a trust within the meaning of this Act; and the court of chancery is hereby empowered to make an order wholly discharging the contingent right, under the will of such deceased debtor, of any unborn person.

Court to declare what parties are trustees of lands comprised in any suit, and as to the interests of persons unborn (*c*).

30. That where any decree shall be made by any court of equity for the specific performance of a contract concerning any lands, or for the partition or exchange of any lands, or generally when any decree shall be made for the conveyance or assignment of any lands either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said court to declare that any of the parties to the said suit wherein such decree is made are trustees of such lands or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be trustees within the meaning of this Act, and thereupon it shall be lawful for the lord chancellor intrusted as aforesaid, or the court of chancery, as the case may be, to make such order or orders as to the estates, rights, and interests of such persons, born or unborn, as the said court or the said lord chancellor might under the provisions of this Act make concerning the estates, rights, and interests of trustees born or unborn.

Power to make directions how the right to transfer stock to be exercised.

31. That it shall be lawful for the lord chancellor intrusted as aforesaid, or the court of chancery, to make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act shall be exercised; and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to appoint new trustees.

32. That whenever it shall be expedient to appoint a new trustee or new trustees (*d*), and it shall be found inexpedient, difficult, or impracticable so to do without the assistance of the court of chancery, it shall be lawful for the said court of chancery to

---

(*a*) See *Rowley* v. *Adams*, 14 Beav. 130.

In the appointment, under this section, of a new trustee of copyholds, where the consent of the lord of the manor is not obtained, the customary heir of the last surviving trustee will be ordered to do all such acts as will duly vest the copyholds in the new trustee (*In re Hey's Will*, 9 Hare, 221; 22 L. J. Ch. 248).

(*b*) Where copyholds devised to an infant for life, remainder to his first and other sons in tail, were decreed to be sold to pay the debts of the testator, and an order was made in the cause and pursuant to the 1 Will. 4, c. 47, that the guardian of the infant should surrender them to the purchaser: it was held that the purchaser was entitled to require that an order should be made discharging the contingent rights of the unborn issue of the infant under this section (*Wood* v. *Beetlestone*, 1 Kay & J. 213).

An order under this Act may be made in a cause without petition (*Ib.*).

(*c*) As to the form of decree for partition, where infants are parties to the suit, see *Bowra* v. *Wright*, 20 L. J. Ch. 216.

(*d*) This section does not give power to the Court of Chancery to remove a trustee who is unwilling to retire; but such a trustee is entitled to have his accounts taken in the presence of all parties interested, so that they may be bound, and to have any balance due to him ascertained and paid in the same manner as before the passing of the Act (*In re Blanchard* and *In re Le Doulcet*, 30 L. J. Ch. 516).

Where a power of sale to be exercised after the death of the testator's widow, was given by will to two trustees, one of whom was an infant, and the widow died before the infant came of age, and it was desirable that the property should be sold, the court appointed a new trustee in the place of the infant (*In re Porter's Trusts*, 25 L. J. Ch. 482).

The court will appoint more than one trustee, though the will creating the trust only nominates one (*Ex parte Tunstall*, 15 Jur. 645).

A settlement contained a power to appoint a new trustee in case any trustee should become incapable of acting. A trustee became of unsound mind. Upon petition under this Act, the court made an order for appointing a new trustee, and empowering the continuing trustee to transfer the trust fund (*In re Cooper*, 25 L. J. Ch. 685; *In re Saumarez*, 25 L. J. Ch. 575.

make an order appointing a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees (*a*).

13 & 14 Vict. c. 60.

33. That the person or persons who, upon the making of such order as last aforesaid, shall be trustee or trustees, shall have all the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

The new trustees to have the powers of trustees appointed by decree.

34. That it shall be lawful for the said court of chancery, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to direct that any lands subject to the trust shall vest in the person or persons who upon the appointment shall be the trustee or trustees, for such estate as the court shall direct; and such order shall have the same effect as if the person or persons who before such order were the trustee or trustees (if any) had duly executed all proper conveyances and assignments of such lands for such estate.

Power to court to vest lands in new trustees (*b*).

35. That it shall be lawful for the said court of chancery, upon making any order for appointing a new trustee or new trustees either by the same or by any subsequent order, to vest the right to call for a transfer of any stock subject to the trust, or to receive the dividends or income thereof, or to sue for or recover any chose in action, subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the trustee or trustees (*c*).

Power to court to vest right to sue at law in new trustees.

36. That any such appointment by the court of new trustees, and any such conveyance, assignment, or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have done.

Old trustees not to be discharged from liability.

37. That an order, under any of the hereinbefore contained provisions for the appointment of a new trustee or trustees, or concerning any lands, stock, or chose in action subject to a trust, may be made upon the application of any person beneficially interested (*d*) in such lands, stock, or chose in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof; and

Who may apply.

(*a*) Where there is a power of appointing new trustees, which the donee is capable of exercising, the court will not exercise the power of appointing new trustees. It was not the intention of the legislature to take estates out of trustees without the observance of every necessary and proper precaution; and it is a reasonable inference that it was not intended to take away a legal power vested in a party without a similar degree of caution being observed. This statute was not intended to give the court jurisdiction to remove a trustee where he states that he is desirous of continuing in the trust. The Act empowers the court, whenever it is expedient, to appoint new trustees; but that provision is confined to the appointment, and does not extend to the discharge of a trustee who is willing to remain (*per* Sir G. Turner, *In re Hodson's Settlement*, 9 Hare, 118; *In re Hadley*, 5 De Gex & S. 67).

The mere circumstance, however, that there is a power in the settlement for the appointment of new trustees, which might be exercised, is no reason against an application to the court (*In re Davies*, 3 Mac. & Gor. 278. See *In re Cooper's Settlement*, 25 L. J. Ch. 685).

A donee of a power of jointuring under a settlement was ordered in a specific performance suit instituted by his wife, to execute the power by a deed to be approved of by the master. On his refusal to obey the decree, it was held that he might be declared a trustee of all the rights, interests, estates, and property acquired by him under the settlement; and the court appointed a person to execute the requisite deed in his place, under this Act (*Mornington (Countess of), Ex parte*, 4 De G. Mac. & G. 537).

The order may be made in a cause without a petition (*Wood* v. *Beetlestone*, 1 Kay & J. 213), though a petition is the proper mode (*Thomas* v. *Walker*, 18 Beav. 521).

This section is applicable to a case where all the original trustees disclaim (*In re Tyler's Trusts*, 21 L. J. Ch. 16; 5 De Gex & S. 56; see 15 Vict. c. 55, s. 9, post, p. 808.

(*b*) The real estates subject to the trust ought to be conveyed to the new trustees by deed, and the vesting order ought to be resorted to only when it is inconvenient to obtain a conveyance (*Langhorn* v. *Langhorn*, 21 L. J. Ch. 860; *In re Watts*, 9 Hare, 106).

(*c*) Where a petition was presented for the appointment of new trustees and a vesting order under this Act, and the trust fund was a sum of stock, and no representation had been taken out to the surviving trustee, the court refused to make the order (*In re Frost's Trust*, 20 L. J. Ch. 112).

An order under this section, vesting the "right to call for a transfer of stock," amounts only to a declaration by the court that the new trustees were the proper persons to have the stock transferred to them (*In re Smyth*, 15 Jur. 644).

(*d*) See *In re Richards*, 5 De Gex & S. 636.

Whether, where a purchaser has paid his purchase-money into court, the petition should be presented by the plaintiff or the purchaser, has been doubted (*Rowley* v. *Adams*, 14 Beav. 130); however, the objection may be removed by making them co-petitioners (*Ib.*).

13 & 14 Vict. c. 60.

that an order under any of the provisions hereinbefore contained concerning any lands, stock, or chose in action, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by such mortgage.

Power to go before the master in the first instance (a).

38. That when any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, either from the lord chancellor intrusted as aforesaid, or from the court of chancery, it shall be lawful for him to exhibit before any one of the masters of the high court of chancery a statement of the facts whereon such order is sought to be obtained, and adduce evidence in respect thereof; and if such evidence shall be satisfactory to the said master, he shall, at the request of the person adducing such evidence, give a certificate under his hand of the several material facts found by him to be true, and of his opinion that such person is entitled to an order in the form set forth in such certificate.

Power to petition the court or the lord chancellor.

39. That any person who shall have obtained such certificate may apply by motion to the court of chancery, or to the lord chancellor intrusted as aforesaid, for an order to the effect set forth in such certificate, or for such other order as such person may deem himself entitled to upon the facts found by the master.

Power to present petition in the first instance (b).

40. That any person or persons entitled in manner aforesaid to apply for an order from the said court of chancery, or from the lord chancellor intrusted as aforesaid, may, should he so think fit, present a petition in the first instance to the court of chancery, or to the lord chancellor intrusted as aforesaid, for such order as he may deem himself entitled to, and may give evidence by affidavit or otherwise in support of such petition before the said court, or the lord chancellor intrusted as aforesaid, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

What may be done upon petition.

41. That upon the hearing of any such motion or petition it shall be lawful for the said court, or for the said lord chancellor, should it be deemed necessary, to direct a reference to one of the masters in ordinary of the court of chancery to inquire into any facts which require such an investigation, or it shall be lawful for the said court or for the said lord chancellor to direct such motion or petition to stand over, to enable the petitioner or petitioners to adduce evidence or further evidence before the said court or before the said lord chancellor, or to enable notice or any further notice of such motion or petition to be served upon any person or persons.

Court may dismiss petition with or without costs.

42. That upon the hearing of any such motion or petition, whether any certificate or report from a master shall have been obtained or not, it shall be lawful for the court, or the lord chancellor intrusted as aforesaid, to dismiss such motion or petition, with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Power to make an order in a cause.

43. That whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by a report of one of the masters of the court of chancery (c), the facts necessary for an order under this Act shall appear to such court to be sufficiently proved, it shall be lawful for the said court, either upon the hearing of the said cause, or of any petition or motion in the said cause or matter, to make such order under this Act.

Orders made by the court of chancery, founded on certain allegations, to be conclusive evidence of the matter contained in such allegations.

44. That whenever any order shall be made under this Act, either by the lord chancellor intrusted as aforesaid, or by the court of chancery, for the purpose of conveying or assigning any lands, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the jurisdiction of the court of chancery or cannot be found, or that it is uncertain which of several trustees, or which of several devisees of a mortgagee, was the survivor, or whether the last trustee, or the heir or last surviving devisee of a mortgagee, be living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the lord chancellor intrusted as aforesaid, or the court of chancery, has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any court of law or equity upon any question as to the legal validity of the order: Provided always, that nothing herein contained shall prevent the court of chancery directing a re-conveyance or re-assignment of any lands conveyed or assigned by any order under this Act, or a re-disposition of any contingent

---

(a) A new trustee may be appointed by the court without a reference, on proof of his fitness, and on his consent (*Robinson's Trust*, 15 Jur. 187).

The court will not, on motion or petition under this Act, or without suit, declare the infant heir of a deceased partner trustee for the surviving partner of such of the partnership assets as consisted of freehold and copyhold estate vested in partners as tenants in common, the share in which of the deceased partner, the survivor, under a power in the partnership deed, had elected to take at a valuation (*In re Burt*, 22 L. J. Ch. 153; 9 Hare, 289).

(b) On a petition to appoint new trustees under this Act, all the cestuis que trust and the old trustees were required to appear (*In re Sloper*, 18 Beav. 596).

(c) *In re Were*, 3 Mc. & Gord. 233.

right conveyed or disposed of by such order: and it shall be lawful for the said court to direct any of the parties to any suit concerning such lands or contingent right to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained. 13 & 14 Vict. c. 60.

45. That it shall be lawful for the lord chancellor intrusted as aforesaid, or the court of chancery, to exercise the powers herein conferred for the purpose of vesting any lands, stock, or chose in action in the trustee or trustees of any charity or society over which charity or society the said court of chancery would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said court of chancery, or by order made upon a petition to the said court under any statute authorising the said court to make an order to that effect in a summary way upon petition. Trustees of charities.

46. (*a*) That no lands, stock, or chose in action vested in any person upon any trust or by way of mortgage, or any profits thereof, shall escheat or be forfeited to her majesty, her heirs or successors, or to any corporation, lord or lady of a manor, or other person, by reason of the attainder or conviction for any offence of such trustee or mortgagee, but shall remain in such trustee or mortgagee, or survive to his or her co-trustee, or descend or vest in his or her representative, as if no such attainder or conviction had taken place. No escheat of property held upon trust or mortgage.

47. That nothing contained in this Act shall prevent the escheat or forfeiture of any lands or personal estate vested in any such trustee or mortgagee, so far as relates to any beneficial interest therein of any such trustee or mortgagee, but such lands or personal estate, so far as relates to any such beneficial interest, shall be recoverable in the same manner as if this Act had not passed. Act not to prevent escheat or forfeiture of beneficial interest.

48. (*b*) That where any infant or person of unsound mind shall be entitled to any money payable in discharge of any lands, stock, or chose in action conveyed, assigned, or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the bank of England, in the name and with the privity of the accountant-general, in trust in any cause then depending concerning such money, or, if there shall be no such cause, to the credit of such infant or person of unsound mind, subject to the order or disposition of the said court; and it shall be lawful for the said court, upon petition in a summary way, to order any money so paid to be invested in the public funds, and to order payment or distribution thereof, or payment of the dividends thereof, as to the said court shall seem reasonable; and every cashier of the bank of England who shall receive any such money is hereby required to give to the person paying the same a receipt for such money, and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received. Money of infants and persons of unsound mind to be paid into court.

49. (*c*) That where, in any suit commenced or to be commenced in the court of chancery it shall be made to appear to the court, by affidavit, that diligent search and inquiry has been made after any person made a defendant, who is only a trustee, to serve him with the process of the court, and that he cannot be found, it shall be lawful for the said court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to them to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the court, and had appeared and filed his answer thereto, and had also appeared by his counsel and solicitor at the hearing of such cause: Provided always, that no such decree shall bind, affect, or in anywise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators, for or in respect of any estate, right, or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a trustee as aforesaid. Court may make a decree in the absence of a trustee.

50. That when any person shall, under the provisions of this Act, apply to one of the masters of the court of chancery in the first instance, and adduce evidence, for the purpose of obtaining the certificate of such master as a foundation for an order of the said lord chancellor intrusted as aforesaid, or the said court of chancery, it shall be lawful for the said master to order service of such application upon any person, or to dismiss such application, and to direct that the costs of any persons consequent thereon shall be paid by the person making the same; and all orders of the master under this Act shall be enforced by the same process as orders of the court made in any suit against a party thereto. Powers of the master.

51. (*d*) That the lord chancellor intrusted as aforesaid, and the court of chancery, may order the costs and expenses of and relating to the petitions, orders, directions, convey- Costs may be paid out of the estate.

(*a*) This clause and the following one merely re-enact the 3rd and 5th sects. of 4 & 5 Will. 4, c. 23.

(*b*) See 1 Will. 4, c. 60, s. 14.

(*c*) This is the same as 1 Will. 4, c. 60, s. 24.

(*d*) This section is the same as 1 Will. 4, c. 60, s. 25 (see *In re Lewes*, 1 Mac. & Gor. 23; *In re Townshend, Ibid.* 686; *In re Biddle*, 23 L. J. Ch. 23; *Hawkins* v. *Perry*, 25 L. J. Ch. 656, ante, p. 796, n. (*c*)).

The court has no jurisdiction to award costs adversely against third parties cited to appear as respondents upon a petition to appoint new trustees under this Act (*In re Primrose*, 23 Beav. 590; but see *In re Woodburn*, 1 De G. & J. 383; 26 L. J. Chanc. 522; *Att.-Gen.* v. *Merdock*, 2 Ray & J. 571, Morgan's Acts, p. 101).

13 & 14 Vict. c. 60.

ances, assignments, and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the lands or personal estate, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said lord chancellor or court shall think proper.

Commission concerning person of unsound mind.

52. That upon any petition being presented under this Act to the lord chancellor intrusted as aforesaid concerning a person of unsound mind, it shall be lawful for the said lord chancellor, should he so think fit, to direct that a commission in the nature of a writ *de lunatico inquirendo* shall issue concerning such person, and to postpone making any order upon such petition until a return shall have been made to such commission.

Suit may be directed.

53. That upon any petition under this Act being presented to the lord chancellor intrusted as aforesaid, or to the court of chancery, it shall be lawful for the said lord chancellor or the said court of chancery to postpone making any order upon such petition until the right of the petitioner or petitioners shall have been declared in a suit duly instituted for that purpose.

Powers of court of chancery to extend to property in the colonies.

54. (*a*) That the powers and authorities given by this Act to the court of chancery in England shall extend to all lands and personal estate within the dominions, plantations, and colonies belonging to her majesty (except Scotland) (*b*).

Powers given to court of chancery may be exercised by that court in Ireland.

55. (*c*) That the powers and authorities given by this Act to the court of chancery in England shall and may be exercised in like manner and are hereby given and extended to the court of chancery in Ireland with respect to all lands and personal estate in Ireland.

Powers of lord chancellor in lunacy to extend to property in the colonies.

56. (*d*) That the powers and authorities given by this Act to the lord chancellor of Great Britain intrusted as aforesaid shall extend to all lands and personal estate within any of the dominions, plantations, and colonies belonging to her majesty (except Scotland and Ireland).

Powers of lord chancellor in lunacy may be exercised by lord chancellor of Ireland (*f*).

57. (*e*) That the powers and authorities given by this Act to the lord chancellor of Great Britain intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the lord chancellor of Ireland intrusted as aforesaid, with respect to all lands and personal estate in Ireland.

Short title.

58. That in citing this Act in other Acts of parliament, and in legal instruments and in legal proceedings, it shall be sufficient to use the expression "The Trustee Act, 1850."

Commencement of Act.

59. That this Act shall come into operation on the first day of November, 1850.

15 & 16 Vict. c. 55.

15 & 16 Vict. c. 55. An Act to extend the Provisions of "The Trustee Act, 1850" (*g*). [30th June, 1852.]

"Whereas it is expedient to extend the provisions of the Trustee Act, 1850:" BE IT ENACTED,

Court of chancery may make an order for vesting the estate, in lieu of conveyance by a party to the suit after a decree or order for sale (*h*).

1. That when any decree or order shall have been made by any court of equity directing the sale of any lands for any purpose whatever, every person seised or possessed of such land, or entitled to a contingent right therein, being a party to the suit or proceeding in which such decree or order shall have been made, and bound thereby, or being otherwise bound by such decree or order, shall be deemed to be so seised or possessed or entitled (as the case may be), upon a trust within the meaning of the Trustee Act, 1850 (*i*), and in every such case it shall be lawful for the court of chancery, if the said court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such lands or any part thereof, for such estate as the court shall think fit, either in any purchaser or in such other person as the court shall direct; and every such order shall have the same effect as if such person so seised or possessed or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such lands for such estate.

Power to make an order for vesting the estate, on

2. That sections numbered seventeen and eighteen in the queen's printers' copy of the Trustee Act, 1850, be repealed; and in every case where any person is or shall be jointly or solely seised or possessed of any lands or entitled to a contingent right therein upon any trust, and a demand shall have been made upon such trustee by a person entitled

---

(*a*) This is the same as 1 Will. 4, c. 60, s. 29.

(*b*) See *In re Davies*, 3 Mac. & Gor. 278, infra, n. (*f*).

(*c*) This is the same as 1 Will. 4, c. 60, s. 31.

(*d*) This is the same as 1 Will. 4, c. 60, s. 26.

(*e*) This is the same as 1 Will. 4, c. 60, s. 27.

(*f*) Having regard to this section, it was not intended by the 54th to give the lord chancellor of Great Britain, sitting in lunacy, a concurrent jurisdiction over lands in Ireland (*In re Davies*, 3 Mac. & Gor. 278).

(*g*) Extended to the County Palatine of Lancaster by 17 & 18 Vict. c. 82. s. 11, ante, Vol. I., p. 1143, tit. "COUNTIES PALATINE."

(*h*) See *Wake* v. *Wake*, 17 Jur. 545.

(*i*) See *Weston* v. *Filer*, 5 De Gex & S. 608.

to require a conveyance or assignment of such lands, or a duly authorised agent of such last-mentioned person, requiring such trustee to convey or assign the same, or to release such contingent right, it shall be lawful for the court of chancery, if the said court shall be satisfied that such trustee has wilfully refused or neglected to convey or assign the said lands for the space of twenty-eight days after such demand, to make an order vesting such lands in such person, in such manner and for such estate as the court shall direct, or releasing such contingent right in such manner as the court shall direct; and the said order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands, or a release of such right, in the same manner and for the same estate.

15 & 16 Vict. c. 55.

refusal or neglect of a trustee to convey or release.

3. That when any infant shall be solely entitled to any stock upon any trust, it shall be lawful for the court of chancery to make an order vesting in any person or persons the right to transfer such stock, or to receive the dividends or income thereof; and when any infant shall be entitled jointly with any other person or persons to any stock upon any trust, it shall be lawful for the said court to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, either in the person or persons jointly entitled with the infant, or in him or them, together with any other person or persons the said court may appoint.

Power to make an order for the transfer or receipt of dividends of stock in name of an infant trustee (*a*).

4. That where any person shall neglect or refuse to transfer any stock, or to receive the dividends or income thereof, or to sue for or recover any chose in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the court of chancery for that purpose shall have been served upon him, it shall be lawful for the court of chancery to make an order vesting all the right of such person to transfer such stock, or to receive the dividends or income thereof, or to sue for and recover such chose in action, or any interest in respect thereof, in such person or persons as the said court may appoint.

On neglect to transfer stock for 28 days, order may be made vesting right to transfer in such person appoint (*b*).

5. When any stock shall be standing in the sole name of a deceased person, and his personal representative shall refuse or neglect to transfer such stock or receive the dividends or income thereof for the space of twenty-eight days next after an order of the court of chancery for that purpose shall have been served upon him, it shall be lawful for the court of chancery to make an order vesting the right to transfer such stock, or to receive the dividends or income thereof, in any person or persons whom the said court may appoint (*c*).

On like neglect by executer, similar order may be made.

6. When any order being or purporting to be under this Act, or under the Trustee Act, 1850, shall be made by the lord chancellor intrusted as aforesaid, or by the court of chancery, vesting the right to any stock, or vesting the right to transfer any stock, or vesting the right to call for the transfer of any stock, in any person or persons, in every such case the legal right to transfer such stock shall vest accordingly; and the person or persons so appointed shall be authorised and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock into his or their own name or names, or otherwise, to the extent and in conformity with the terms of the order; and the bank of England, and all companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such persons or person so appointed as aforesaid, to the extent and in conformity with the terms of such order, as the said bank of England, or such companies, associations, or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Bank of England and companies to comply with such orders.

7. That every order made or to be made, being or purporting to be made under this or the Trustee Act, 1850, by the lord chancellor intrusted as aforesaid, or by the court of chancery, and duly passed and entered, shall be a complete indemnity to the bank of England, and all companies and associations whatsoever, and all persons, for any act done pursuant thereto; and it shall not be necessary for the bank of England, or such company, or association, or person, to inquire concerning the propriety of such order, or whether the lord chancellor intrusted as aforesaid, or the court of chancery, had jurisdiction to make the same.

Indemnity to bank and companies so obeying.

8. That when any person is or shall be jointly or solely seised or possessed of any lands or entitled to any stock upon any trust, and such person has been or shall be convicted of felony, it shall be lawful for the court of chancery, upon proof of such conviction, to appoint any person to be a trustee in the place of such convict, and to make an order for vesting such lands, or the right to transfer such stock, and to receive

Power to appoint new trustees in lieu of persons con-

(*a*) Before the passing of this Act, the court could not make a vesting order with regard to stock held by an infant sole trustee, out of the jurisdiction (*Cramer* v. *Cramer*, 5 De Gex & Sm. 312; *In re Peyton*, 25 Beav).

The sole trustee of money for A. and B., invested it in stock in the joint names of himself and B. (an infant); after the death of the trustee and A., the infant was held to be a trustee within the 13 & 14 Vict. c. 60, and this section, and a vesting order was made (*Sanders* v. *Homer*, 25 Beav. 467).

(*b*) See *Mackenzie* v. *Mackenzie*, 5 De Gex & S. 338.

The court will make an order under this section, upon motion made in the matter as well as in a cause (*In re Holbrook*, 29 L. J. Ch. 200).

(*c*) *In re Smith*, 4 De Gex & S.

15 & 16 Vict. c. 55.

victed of felony.

the dividends or income thereof, in such person to be so appointed trustee; and such order shall have the same effect as to lands as if the convict trustee had been free from any disability, and had duly executed a conveyance or assignment of his estate and interest in the same.

Power to the court to appoint new trustees where there is no existing trustee

9. That in all cases where it shall be expedient to appoint a new trustee, and it shall be found inexpedient, difficult (*a*), or impracticable so to do without the assistance of the court of chancery, it shall be lawful for the said court to make an order appointing a new trustee or new trustees, whether there be any existing trustee or not at the time of making such order (*b*).

Chancellor may make order for appointment of trustees without it being necessary that it should be made in chancery, &c.

10. In every case in which the lord chancellor intrusted as aforesaid has jurisdiction under this Act, or the Trustee Act, 1850, to order a conveyance or transfer of land or stock, or to make a vesting order, it shall be lawful for him also to make an order appointing a new trustee or new trustees, in like manner as the court of chancery may do in like cases, without its being necessary that the order should be made in chancery as well as in lunacy, or be passed and entered by the registrar of the court of chancery.

As to powers of persons intrusted with the care of lunatics.

11. That all the jurisdiction conferred by this Act on the lord chancellor, intrusted by virtue of the queen's sign manual with the care of the persons and estates of lunatics, shall and may be had, exercised and performed by the person or persons for the time being intrusted as aforesaid.

Act to be construed as part of Trustee Act, 1850.

12. That this Act shall be read and construed according to the definitions and interpretations contained in the second section of the Trustee Act, 1850, and the provisions of the said last-mentioned Act (except so far as the same are altered by or inconsistent with this Act) shall extend and apply to the cases provided for by this Act, in the same manner as if this Act had been incorporated with and had formed part of the said Trustee Act, 1850.

All orders made under Trustee Act, 1850, or this Act, to be chargeable with the same stamp duty as deeds of conveyance.

13. That every order to be made under the Trustee Act, 1850, or this Act, which shall have the effect of a conveyance or assignment of any lands, or a transfer of any such stock as can only be transferred by stamped deed, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed by the person or persons seised or possessed of such lands, or entitled to such stock; and every such order shall be duly stamped for denoting the payment of the said duty.

22 & 23 Vict. c. 35.

22 & 23 Vict. c. 35. An Act to further amend the Law of Property, and to relieve Trustees (*c*). [13th August, 1859.]

Trustees and Executors.

Trustee, &c. making payment under power of attorney not to be liable by reason of death of party giving such power

26. No trustee, executor or administrator making any payment or doing any act *bonâ fide* under or in pursuance of any power of attorney shall be liable for the moneys so paid or the act so done, by reason that the person who gave the power of attorney was dead at the time of such payment or act, or had done some act to avoid the power, provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such trustee, executor or administrator was not known to him: provided always, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made, but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he would have had against the trustee, executor or administrator if the money had not been paid away under such power of attorney.

As to liability of executor or administrator in respect of rents, covenants, or agreements (*d*).

27. Where an executor or administrator, liable as such to the rents, covenants or agreements, contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised

---

(*a*) Lunacy is a sufficient case of difficulty (*In re Davies*, 3 De Gex M. & G.; *In re Cooper*, 25 L. J. Ch. 685).

(*b*) The court has no power under this Act to discharge a trustee who is willing to remain, and if there is power to appoint new trustees, and the party is willing to execute it, the court cannot deprive him of that power (*In re Hudson*, 9. Hare; *In re Blanchard*, 7 Jur. N. S.).

Where a trustee of a term died many years ago, and there were difficulties in procuring a personal representative of the trustee, the court appointed a new trustee under this section (*Davis v. Chanter*, 27 L. J. Ch. 577—V. C. K.).

(*c*) This Act was framed by Lord St. Leonards.

See on it the treatises of Lord St. Leonards, Mr. Lewin, Mr. Hunter, and Mr. William Rogers.

See the previous sections, ante, Vol. I., p. 829, tit. "CONVEYANCES."

(*d*) Funds which had been set apart out of the

22 & 23 Vict. c. 35.

or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and amongst the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased to meet any future liability under the said lease or agreement for a lease; and the executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease; but nothing herein contained shall prejudice the right of the lessor or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor, &c., in respect of rents, &c., in conveyances on rents-charge.

28. In like manner, where an executor or an administrator, liable as such to the rent, covenants or agreements, contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance, or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed or ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and amongst the parties entitled thereto respectively, without appropriating any part or any further part (as the case may be) of the personal estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance; but nothing herein contained shall prejudice the right of the grantor or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

As to distribution of the assets of testator or intestate after notice given by executor or administrator.

29. Where an executor or administrator shall have given such or the like notices as in the opinion of the court in which such executor or administrator is sought to be charged would have been given by the court of chancery in an administration suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices or the last of the said notices for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be; but nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

Trustee, executor, &c., may apply by petition to judge of chancery for opinion, advice, &c., in management, &c., of trust property (a).

30. Any trustee, executor or administrator, shall be at liberty, without the institution of a suit, to apply by petition to any judge of the high court of chancery, or by summons upon a written statement to any such judge at chambers, for the opinion, advice or direction of such judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate, such application to be served upon or the hearing thereof to be attended by all persons interested in such application, or such of them as the said judge shall think expedient; and the trustee, executor or administrator, acting upon the opinion, advice or direction given by the said judge, shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, executor or administrator, in the subject matter of the said application; provided

---

residue to indemnify executors in respect of leaseholds of a testator, were ordered to be paid out to a residuary legatee, such indemnity, since this Act, being no longer necessary (*Dodson* v. *Sammell*, 1 Drew. & Sm. 575; 30 L. J. Ch. 779).

This section is retrospective in its operation (*Ib. In re Green*, 2 De Gex F. & J. 121; *Smith* v. *Smith*, 1 Drew. & Sm. 387).

(*a*) This section is retrospective in its operation (*In re Simpson*, 1 Johns. & H. 89).

When a petition is presented under this section, the petitioners must serve such persons as they think proper, and must not bring on the petition merely in order to ascertain who ought to be served (*In re Green*, 29 L. J. Chanc. 716).

The Court will not, under this section, give its opinion for the guidance of trustees on the effect of a limitation contained in an instrument (*re Mary Hooper*, 29 Beav. 656; *In re Evans*, 30 Beav. 235); nor will it upon matters of detail, which cannot be

22 & 23 Vict. c. 35

nevertheless, that this Act shall not extend to indemnify any trustee, executor or administrator, in respect of any act done in accordance with such opinion, advice or direction, as aforesaid, if such trustee, executor or administrator, shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction; and the costs of such application as aforesaid shall be in the discretion of the judge to whom the said application shall be made.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the trustees.

31. Every deed, will or other instrument creating a trust either expressly or by implication shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following; that is to say, "That the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects or defaults, and not for those of each other, nor for any banker, broker, or other person, with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument."

As to investments by trustees (a).

32. When a trustee, executor or administrator shall not, by some instruments creating his trust, be expressly forbidden to invest any trust fund on real securities, in any part of the united kingdom, or on the stock of the bank of England or Ireland, or on East India stock, it shall be lawful for such trustee, executor or administrator, to invest such trust fund on such securities or stock; and he shall not be liable on that account as for a breach of trust, provided that such investment shall in other respects be reasonable and proper.

Extent of Act.

Act not to extend to Scotland.

33. This Act shall not extend to Scotland.

23 & 24 Vict. c. 38.

23 & 24 Vict. c. 38. An Act to further amend the Law of Property. [23rd July, 1860.]

Form of

9. (b) Where any trustee, executor or administrator shall apply for the opinion, advice

---

properly dealt with without the superintendence of the Court, and the assistance of affidavits (*In re Barrington*, 1 Johns. & H. 142; 29 L. J. Chanc. 807).

Where trustees of a settlement, having a power of purchasing lands on the request of tenants for life, desired the opinion of the court as to the propriety of applying 1200*l.* on such request, in repairs and permanent improvement, no answer was given on the petition; but it was intimated that, on a bill filed, there would be no objection on principle to the course proposed to be taken, and subsequently the order was made in a suit instituted for the purpose. (*Ib.*)

Where an application was made in chambers by trustees, for the direction of the Court as to certain repairs of a permanent nature proposed to be made on the property mentioned in the will, the Vice-Chancellor directed that the matter should be brought before him in court upon petition, it not being, in his opinion, intended that the Court should deal with questions of this kind without the assistance of counsel (*In re Dennis*, 5 Jur. N. S., 1388).

(a) This section was not retrospective (*In re Miles*, Will. 27, Beav. 579); but see now 23 & 24 Vict. c. 38, s. 12, post, p. 811.

The sanction of the Court was refused to an investment under this section, of a trust fund in the purchase of India Stock created under 22 & 23 Vict. c. 39, Wood, V. C., being of opinion that such investment would not be East India Stock within the meaning of this section, and the Court on Appeal concurred (*In re Colne Valley and Halstead Company*, 1 De G. F. & J. 53; 1 John. 528, 29 L. J. Ch. 33).

Trustees of a will of a testator, who died in 1845, had power to invest in "real securities in England or Wales, but not in Ireland." The Court declined advising the trustee to invest under the powers contained in this section, on a mortgage of Scotch estate (*In re Mill*, 27 Beav. 579; 29 L. J. Ch. 47; *In re Simson*, 1 Johns. & H. 89; *Ungless* v. *Tuff*, 30 L. J. Chanc. 784).

Where there was a power to invest trust funds in government or real securities, the Court sanctioned an investment in Bank Stock and in East India Stock (*Bishop* v. *Bishop*, 30 L. J. Chanc. 624, 848; *The Equitable Insurance Company* v. *Fuller*, *ib.*, 497; 1 Johns. & H. 379; *In re Langford*, 2 Johns. & H. 458; 31 L. J. Chanc. 334; *Hume* v. *Richardson*, 8 Jur. N. S. 686; 31 L. J. Chanc. 713).

This section enabling trustees, in certain cases, to invest their funds in bank stock or East India stock, does not apply where the trust fund is already invested in bank annuities, and the trustee has no power, independently of the Act, to vary any investment (*In re Warde*, 2 Johns. & H. 191).

(b) See the first five sections of this statute,

or direction of a judge of the court of chancery under the 30th section of the Act of the twenty-second and twenty-third of her present majesty, chapter thirty-five, the petition or statement shall be signed by counsel, and the judge by whom it is to be answered may require the petitioner or applicant to attend him by counsel either in chambers or in court where he deems it necessary to have the assistance of counsel. 23 & 24 Vict. c. 38. applying for advice of judge, &c. under sect 30 of 22 & 23 Vict c. 35.

10. It shall be lawful for the lord chancellor, lord keeper or lords commissioners for the custody of the great seal of England, with the advice and assistance of the master of the rolls, the lords justices of the court of appeal in chancery, and the vice-chancellors of the said court, or any three of them, and for the lord chancellor of Ireland, with the advice and assistance of the lords justices of appeal and the master of the rolls in Ireland, to make such general orders from time to time as to the investment of cash under the control of the court, either in the three per cent. consolidated or reduced or new bank annuities, or in such other stocks, funds or securities, as he or they shall, with such advice or assistance, see fit; and it shall be lawful for the lord chancellor, lord keeper or lords commissioners in England, and for the lord chancellor in Ireland, to make such orders as he or they shall deem proper for the conversion of any three per cent. bank annuities now standing or which may hereafter stand in the name of the accountant-general of the said court of chancery, in trust in any cause or matter, into any such other stocks, funds or securities upon which, by any such general order as aforesaid, cash under the control of the court may be invested; all orders for such conversion of bank annuities into other funds or securities to be made upon petition to be presented by any of the parties interested in a summary way, and such parties shall be served with notice thereof as the court shall direct. Power to lord chancellors, &c., of England and Ireland to make general orders as to investment of cash under the control of the court. (a).

11. When any such general order as aforesaid shall have been made it shall be lawful for trustees, executors or administrators, having power to invest their trust funds upon government securities, or upon parliamentary stocks (a), funds or securities, or any of them, to invest such trust funds, or any part thereof, in any of the stocks, funds or securities, in or upon which by such general order cash under the control of the court may from time to time be invested. Trustees, &c., to invest trust funds in the stocks, &c., in which cash under the control of the court may be invested.

12. Clause thirty-two of the said Act of the twenty-second and twenty-third of queen Victoria, chapter thirty-five, shall operate retrospectively. Clause 32 of 22 & 23 Vict. c. 35, to act retrospectively.

23 & 24 Vict. c. 145. An Act to give to Trustees, Mortgagees, and others certain Powers now commonly inserted in Settlements, Mortgages, and Wills. [28th August, 1860.]

23 & 24 Vict. c. 145.

Whereas it is expedient that certain powers and provisions which it is now usual to insert in settlements, mortgages, wills and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument: BE IT ENACTED as follows:

PART I.

Powers of Trustees for Sale, &c., and Trustees of renewable Leaseholds.

1. In all cases where by any will, deed or other instrument of settlement it is expressly declared that trustees or other persons therein named or indicated shall have a power of sale, either generally, or in any particular event, over any hereditaments named or referred to in or from time to time subject to the uses or trusts of such will, deed, or other instrument, it shall be lawful for such trustees or other persons, whether such hereditaments be vested in them or not, to exercise such power of sale by selling such hereditaments either together or in lots, and either by auction or private contract, and either at one time or several times, and (in case the power shall expressly authorise an exchange) to exchange any hereditaments which for the time being shall be subject to the uses or trusts aforesaid for any other hereditaments in England or Wales or in Ireland (as the case may be), and upon such exchange to give or receive any money for equality of exchange. Trustees empowered to sell may sell in lots, and either by auction or private contract.

2. It shall be lawful for the persons making any such sale or exchange to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale or exchange, as they shall think fit, and also to buy in the hereditaments or any part thereof at any sale by auction, and to rescind or vary any contract for sale or exchange, and to re-sell the hereditaments which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for Sale may be made under special conditions, and trustees may buy in, &c.

ante, Vol. II., p. 908, tit. "JUDGMENTS;" and see 6—15, ante, Vol. I., p. 832, tit. "CONVEYANCES."

(a) See 22 & 23 Vict. c. 35, s. 32, ante, p. 810, and *The Equitable Co.* v. *Fuller*, 1 Johns. & H. 379; 30 L. J. Ch. 848; *Bishop* v. *Bishop*, *ib.*, 624; *Cohen* v. *Waley*, 7 Jur. N. S. 937; *Cockburn* v. *Peel*, 30 L. J. Ch. 575; *Hume* v. *Richardson*, 31 L. J. Ch. 713.

28 & 24 Vict. c. 145.

any loss which may be occasioned thereby, and no purchaser under any such sale shall be bound to inquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase money in the purchase of any other hereditaments or otherwise.

Trustees exercising power of sale, &c., empowered to convey.

3. For the purpose of completing any such sale or exchange as aforesaid, the persons empowered to sell or exchange as aforesaid shall have full power to convey or otherwise dispose of the hereditaments in question, either by way of revocation and appointment of the use or otherwise, as may be necessary.

Moneys arising from sales, &c., to be laid out in other lands;

4. The money so received upon any such sale or for equality of exchange as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale or exchange, or if no such indication be therein contained as to all or any part of such money, then the same shall with all convenient speed be laid out in the purchase of other hereditaments in fee simple in possession to be situate in England or Wales or in Ireland (as the case may be), or of lands of a leasehold or copyhold or customary tenure, which, in the opinion of the persons making the purchase, are convenient to be held therewith or with any other hereditaments for the time being, subject to the subsisting uses or trusts of the same will, deed or other instrument of settlement in which the power of sale or exchange was contained; and all such hereditaments so to be purchased or taken in exchange as aforesaid as shall be freeholds of inheritance shall be settled and assured to the uses, upon and for the trusts, intents and purposes, and with, under and subject to the powers, provisoes and declarations, to which the hereditaments sold or given in exchange were or would have been subject, or as near thereto as the deaths of parties and other intervening accidents will admit of, but not so as to increase or multiply charges; and all such hereditaments so to be purchased or taken in exchange as aforesaid as shall be of leasehold or copyhold or customary tenure shall be settled and assured upon and for such trusts, intents and purposes, and with, under and subject to such powers, provisoes and declarations, as shall as nearly as may be correspond with and be similar to the aforesaid uses, trusts, intents and purposes, powers, provisoes and declarations, but not so as to increase or multiply charges, and so that if any of the hereditaments so to be purchased shall be held by lease for years the same shall not vest absolutely in any tenant in tail by purchase who shall not attain the age of twenty-one years; and any such purchase as aforesaid may be made subject to any special conditions as to title or otherwise: provided that no leasehold tenement shall be purchased under the powers hereinbefore contained which is held for a less period than sixty years.

or in payment of incumbrances.

5. Provided nevertheless, that it shall be lawful for the persons exercising any such power as aforesaid, if they shall think fit, to apply any money to be received upon any sale or for equality of exchange as aforesaid, or any part thereof, in lieu of purchasing lands therewith, in or towards paying off or discharging any mortgage or other charge or incumbrance which shall or may affect all or any of the hereditaments which shall then be subject to the same uses or trusts as those to which the hereditaments sold or given in exchange were or was subject.

Money arising from sales, &c., not to be laid out, nor lands exchanged elsewhere than in the country in which lands sold or exchanged are situated.

6. No money arising from any such sale or exchange of lands or hereditaments in England or Wales shall be laid out in the purchase of lands or hereditaments situate elsewhere than in England or Wales, and no lands situate in England or Wales shall, under any such power as aforesaid, be exchanged for any lands or hereditaments situate elsewhere than in England or Wales; and no money arising from any such sale or exchange of lands in Ireland shall be laid out in the purchase of lands or hereditaments situate elsewhere than in Ireland, and no lands or hereditaments situate in Ireland shall, under any such power as aforesaid, be exchanged for any lands or hereditaments situate elsewhere than in Ireland.

Until purchase of lands, &c. money to be invested at interest.

7. Until the money to be received upon any sale or for equality of exchange as aforesaid shall be disposed of in the manner herein mentioned, the same shall be invested at interest for the benefit of the same parties who would be entitled to the hereditaments to be purchased therewith as aforesaid, and the rents and profits thereof, in case such purchase and settlement as aforesaid were then actually made.

Trustees of renewable leaseholds may renew.

8. It shall be lawful for any trustees of any leaseholds for lives or years which are renewable from time to time, either under any covenant or contract or by custom or usual practice, if they shall in their discretion think fit, and it shall be the duty of such trustees, if thereunto required by any person having any beneficial interest, present or future or contingent, in such leaseholds, to use their best endeavours to obtain from time to time a renewed lease of the same hereditaments on the accustomed and reasonable terms, and for that purpose it shall be lawful for any such trustees from time to time to make or concur in making such surrender of the lease for the time being subsisting, and to do all such other acts as shall be requisite in that behalf, but this section is not to apply to any case where by the terms of the settlement or will the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew the lease or to contribute to the expense of renewing the same.

Money for equality of exchange

9. In case any money shall be required for the purpose of paying for equality of exchange as aforesaid, or for renewal of any lease as aforesaid, it shall be lawful for the persons effecting such exchange or renewal to pay the same out of any money which may

then be in their hands in trust for the persons beneficially interested in the lands to be taken in exchange, or comprised in the renewed lease, whether arising by any of the ways and means hereinbefore mentioned or otherwise, and notwithstanding the provisions for the application of money arising from sales or exchanges hereinbefore contained; and if they shall not have in their hands as aforesaid sufficient money for the purposes aforesaid, it shall be lawful for such persons to raise the money required by mortgage of the hereditaments to be received in exchange or contained in the renewed lease (as the case may be), or of any other hereditaments for the time being subject to the subsisting uses or trusts to which the hereditaments taken in exchange or comprised in the renewed lease (as the case may be) shall be subject, and for the purpose of effecting such mortgage such persons shall have the same powers of conveying or otherwise assuring as are herein contained with reference to a conveyance on sale; and no mortgagee advancing money upon such mortgage purporting to be made under this power shall be bound to see that such money is wanted, or that no more is raised than is wanted for the purposes aforesaid.

23 & 24 Vict. c. 145. and for renewal of leases, may be raised by mortgage, &c.

10. No such sale or exchange as aforesaid, and no purchase of hereditaments out of money received on any such sale or exchange as aforesaid, shall be made without the consent of the person appointed to consent by the will, deed or other instrument, or if no such person be appointed, then of the person entitled in possession to the receipt of the rents and profits of such hereditaments, if there be such a person under no disability; but this clause shall not be taken to require the consent of any person where it appears from the will, deed or other instrument to have been intended that such sale, exchange or purchase should be made by the person or persons making the same without the consent of any other person.

No sale, &c., to be made without consent of tenant for life, &c.

Part II.

Powers of Mortgagees.

11.–24. [See these sections, ante, Vol. III., p. 444, tit. "Mortgages."]

Part III.

Provisions as to Investment of Trust Funds, Appointment and Powers of Trustees and Executors, &c.

25. Trustees having trust money in their hands which it is their duty to invest at interest shall be at liberty, at their discretion, to invest the same in any of the parliamentary stocks or public funds, or in government securities, and such trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: Provided always, that no such original investment as aforesaid (except in the three per cent. consolidated bank annuities), and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

On what securities trust funds may be invested.

26. In all cases where any property is held by trustees in trust for an infant, either absolutely or contingently on his attaining the age of twenty-one years, or on the occurrence of any event previously to his attaining that age, it shall be lawful for such trustees, at their sole discretion, to pay to the guardians (if any) of such infant, or otherwise to apply for or towards the maintenance or education of such infant, the whole or any part of the income to which such infant may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: Provided always, that it shall be lawful for such trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

Trustees may apply income of property of infants, &c., for their maintenance.

27. Whenever any trustee, either original or substituted, and whether appointed by the court of chancery or otherwise, shall die, or desire to be discharged from or refuse or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor or administrators or administrator of the last surviving and continuing trustee, or for the last retiring trustee, by writing, to appoint any other person or persons to be a trustee or trustees in the place of the trustee or trustees so dying, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid;

Provisions for appointment of new trustees on death, &c.

23 & 24 Vict. c. 145.

and so often as any new trustee or trustees shall be so appointed as aforesaid all the trust property (if any) which for the time being shall be vested in the surviving or continuing trustees or trustee, or in the heirs, executors or administrators of any trustee, shall with all convenient speed be conveyed, assigned and transferred, so that the same may be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees or trustee, as the case may require; and every new trustee or trustees to be appointed as aforesaid, as well before as after such conveyance or assignment as aforesaid, and also every trustee appointed by the court of chancery either before or after the passing of this Act, shall have the same powers, authorities and discretions, and shall in all respects act as if he had been originally nominated a trustee by the deed, will or other instrument creating the trust.

Appointment of new trustees in cases herein named.

28. The power of appointing new trustees hereinbefore contained may be exercised in cases where a trustee nominated in a will has died in the lifetime of the testator.

Trustees' receipts to be discharges.

29. The receipts in writing of any trustees or trustee for any money payable to them or him by reason or in the exercise of any trusts or powers reposed or vested in them or him shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Executors may compound, &c.

30. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security, real or personal, for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give and execute such agreements, instruments of composition, releases and other things, as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Part IV.

General Provisions.

Tenants for life, &c., may execute powers, notwithstanding incumbrances.

31. For the purposes of this Act a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of land or personal property, although his estate may be charged or incumbered, either by himself or by former owner, or otherwise howsoever to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Powers, &c., hereby given may be negatived by express declaration.

32. None of the powers or incidents hereby conferred or annexed to particular offices, estates or circumstances shall take effect or be exerciseable if it is declared in the deed, will or other instrument creating such offices, estates or circumstances, that they shall not take effect; and where there is no such declaration, then if any variations or limitations of any of the powers or incidents hereby conferred or annexed are contained in such deed, will or other instrument, such powers or incidents shall be exerciseable or shall take effect only subject to such variations or limitations.

No persons other than those entitled under the settlement, &c., to be affected.

33. Nothing in this Act contained shall be deemed to empower any trustees or other persons to deal with or affect the estates or rights of any persons soever, except to the extent to which they might have dealt with or affected the estates or rights of such persons if the deed, will or other instrument under which such trustees or other persons are empowered to act had contained express powers for such trustees or other persons so to deal with or affect such estates or rights.

Commencement of Act.

34. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil or other instrument, executed after the passing of this Act, or under a will or codicil confirmed or revived by a codicil executed after that date.

Extent of Act.

35. This Act shall not extend to Scotland.

25 & 26 Vict. c. 108.

25 & 26 Vict. c. 108. An Act to confirm certain Sales, Exchanges, Partitions, and Enfranchisements by Trustees and others.

[7th August, 1862.]

"Whereas trustees and others, in the intended exercise of trusts or powers authorising them to dispose of land by sale, exchange, partition, or enfranchisement, have disposed of land subject to such trusts or powers, with an exception or reservation of minerals, and either with or without rights and powers for or incidental to the working, getting, and carrying away of such minerals, or otherwise relating thereto, or have so disposed of minerals with or without such rights and powers separately from the residue of the land, such mode of disposition not being expressly authorised nor forbidden by

the instrument creating the trust or power: and whereas it is expedient to confirm such dispositions as aforesaid:" BE IT ENACTED as follows:

25 & 26 Vict. c. 108.

1. No sale, exchange, partition, or enfranchisement at any time heretofore of land by any trustee or other person, expressed or intended to be made in exercise of any trust or power authorising the sale, exchange, partition, or enfranchisement of land and not forbidding the reservation of minerals, and which sale, exchange, partition, or enfranchisement shall have been made with an exception or reservation of minerals, and with or without rights or powers for or incidental to the working, getting, and carrying away of such minerals, or otherwise relating thereto, shall be invalid on the ground only that the trust or power did not expressly authorise such exception or reservation, but such sale, exchange, partition, or enfranchisement shall be deemed to have taken effect in the same manner as if the exception or reservation had been authorised by the trust or power; and no sale, exchange, or partition heretofore made as aforesaid of any minerals separately from the residue of the land subject to the trust or power intended to have been exercised, and either with or without such rights or powers as aforesaid, shall be invalid on the ground only that the trust or power did not expressly authorise such sale, exchange, or partition, but such sale, exchange, or partition shall be deemed to have taken effect in the same manner as if such minerals, rights, and powers (if any) had been expressly authorised to be so dealt with separately from the residue of such land; but this enactment shall not be deemed to confirm any sale, exchange, partition, or enfranchisement already declared by a court of competent jurisdiction to be invalid, nor to confirm or effect any sale, exchange, partition, or enfranchisement as to the validity of which any suit or other proceeding is now pending.

Powers of sale, &c., not to be invalid on the ground of want of express mention of exception of reservation of minerals, &c.

Not to confirm sales, &c., declared invalid or pending.

2. And whereas it is expedient that trusts and powers to dispose of land by way of sale, exchange, partition, or enfranchisement should be extended in the manner hereinafter appearing:

Every trustee and other person now or hereafter to become authorised to dispose of land by way of sale, exchange, partition, or enfranchisement may, unless forbidden by the instrument creating the trust or power, so dispose of such land with an exception or reservation of any minerals (*a*), and with or without rights and powers of or incidental to the working, getting, or carrying away of such minerals, or may (unless forbidden as aforesaid) dispose of by way of sale, exchange, or partition the minerals with or without such rights or powers separately from the residue of the land, and in either case without prejudice to any future exercise of the authority with respect to the excepted minerals, or (as the case may be) the undisposed-of land; but this enactment shall not enable any such disposition as aforesaid without the previous sanction of the court of chancery, to be obtained on petition in a summary way of the trustee or other person authorised as aforesaid, which sanction once obtained shall extend to the enabling from time to time of any disposition within this enactment of any part or parts of the land comprised in the order to be made on such petition, without the necessity of any further or other application to the court.

Trustees may dispose of land or minerals separately, without the residue, &c.

Sanction of court of chancery requisite (*b*).

3. This Act shall not extend to Ireland or Scotland.

Extent of Act.

TURNPIKES.

[See "HIGHWAYS."]

UNIVERSITIES (*c*).

23 & 24 Vict. c. 59. An Act to extend the Provisions of the Universities and College Estates Act (1858), and of the Copyhold

23 & 24 Vict. c. 59.

(*a*) Before this Act it was held that a power to sell or convey in exchange all or any part of the manors, lands, tenements, hereditaments and premises, and the inheritance thereof, did not enable trustees to sell the lands with an exception or reservation of the mines and minerals under them (*Buckley* v. *Howell*, 30 L. J. Ch. 524; 29 Beav. 546).

(*b*) Upon all applications to the Court under this section, the beneficiaries must appear and consent thereto (*Re Brown's Trust Estate*, 32 L. J. Ch. 275). Under this section the Court will make an order (on petition) authorising the sale of land with a reservation of the minerals, or of the minerals apart from the land, in general terms, without reference to any particular sale (*Re Willway's Trust*, 32 L. J. Ch. 226).

(*c*) The following are the principal statutes relating to the universities:—13 Eliz. c. 29 confirming the charters and privileges of Oxford and Cambridge, repealed in part by 22 & 23 Vict. c. 19:

Oxford and Cambridge to have presentation of benefices in gift of Popish recusants, 3 Jac. 1, c. 5, s. 19, *et seq.*, ante, Vol. I., p. 526, tit. "CLERGY;" and in gift of persons refusing to subscribe declaration; or of trustees for recusants or persons disabled, 1 W. & M. sess. 1, c. 26, ante, Vol. I., p. 527, tit. "CLERGY;" 12 An. stat. 2, c. 14, ante, Vol. I., p. 528, tit.

23 & 24 Vict. c. 59.

Acts, and of the Act of the Third and Fourth Years of the Reign of Her Majesty, Chapter One Hundred and Thirteen, and of the Seventeenth and Eighteenth Years of the same Reign, Chapter Eighty-four, so far as the same relate to Universities and Colleges. [6th August, 1860.]

21 & 22 Vict. c 44 (a).

"Whereas it is expedient that the provisions of 'The Universities and Colleges Estates Act, 1858,' should be extended, and that power should be given to universities and colleges, with the consent hereafter required, to raise moneys by mortgage under proper restrictions to provide compensation for the loss of fines or non-renewal of leases:" BE IT ENACTED as follows:

Power to raise moneys by mortgage by way of compensation for loss of fines on non renewal of leases.

1. Whenever any lease of any lands belonging to the universities of Oxford, Cambridge or Durham respectively, or any college therein respectively, or the colleges of St. Mary of Winchester near Winchester, or of king Henry the sixth at Eton, the leases of which have been customarily renewed on payment of a fine, shall from any cause whatever (other than the refusal of the university or college entitled to the reversion of such lands to accept such a sum of money by way of fine as shall be deemed reasonable by the copyhold commissioners, and shall be tendered by the lessee at the first and each successive time of renewal after the commencement of this Act, or within three months of such time, for the renewal of any lease theretofore regularly renewed), remain unrenewed at any customary period of renewal, or whenever any loss of fines shall have been occasioned by the surrender of any lease upon any transaction by way of sale or exchange between the said universities or colleges and their lessees, under the fourth section of "The Universities and College Estates Act, 1858," it shall be lawful for the said universities and colleges respectively from time to time, with the consent of the copyhold commissioners (such consent to be evidenced by an order to be issued under their hands and the common seal of their board), to raise by mortgage of any lands belonging to such university or college for any term of years (determinable as hereinafter provided) such sum or sums of money (together with all reasonable costs and expenses incidental to such raising) as shall be required, and be stated in such order, with interest thereon not exceeding the rate to be specified in such order, for the purpose of paying, by way of indemnity, to the then existing members of such university or college the same amount of money which would have accrued to the said members if any such lease as aforesaid had been renewed in manner theretofore accustomed: provided always, that the said power of raising moneys by mortgage shall not be exercised for the purpose of providing for the loss of more than two fines in respect of the same lands, and that upon the creation of any such mortgage provision shall be made by such university or college, with the approval of the said copyhold commissioners, for the discharge of the borrowed moneys by some or one of the modes prescribed by the twenty-eighth section of "The Universities and College Estates Act, 1858," or otherwise so and in such manner as that the principal money to be borrowed at each customary period of renewal in respect of the same lands may be discharged with the mesne interest of such money within or at the expiration of thirty years from the borrowing thereof; provided also, that in every such mortgage there shall be contained a proviso that when the whole of such principal moneys, interest and costs shall be discharged, the mortgage term thereby created shall absolutely cease: provided always, that after any sum shall have been raised under the power hereinbefore contained in lieu of the fines payable in

---

"CLERGY;" 11 Geo. 2, c. 17, s. 5, *ib.* p. 531.

For the better preservation of the peace and good order in, by the appointment of constables, &c., 6 Geo. 4, c. 97.

For the good government and extension of the University of Oxford, 17 & 18 Vict. c. 81; 18 & 19 Vict. c. 36; 19 & 20 Vict. c. 31; 20 & 21 Vict. c. 25.

For the good government and extension of the University of Cambridge, 19 & 20 Vict. c. 88; s. 48, repealed; 21 & 22 Vict. c. 44, s. 5; powers of first-mentioned Act continued to 1st Jan. 1851; 22 & 23 Vict. c. 34.

Universities of Oxford, Cambridge, and Durham, and Winchester and Eton may sell, enfranchise, and exchange lands, and grant leases, &c. 21 & 22 Vict. c. 44; extended by this Act.

Providing for the consideration of an ordinance laid before parliament in a report of the Oxford University commissioners, 23 & 24 Vict. c. 23.

As to the Craven scholarships (Oxford), and enabling the university to retain the custody of certain testamentary documents, 23 & 24 Vict. c. 91, ante, Vol. I., p. 1238, tit. "COURTS OF PROBATE."

Making provision for the good government and extension of the University of Durham, 24 & 25 Vict. c. 82.

Polling at elections, 16 & 17 Vict. c. 86. Voting may be recorded by means of voting paper, 24 & 25 Vict. c. 53, ante, Vol. III., tit. "PARLIAMENT."

Stamp duties on matriculation and degrees in Cambridge, repealed (21 & 22 Vict. c. 11).

(a) Ante, Vol. III., tit. "LEASES."

respect of any lease of any lands, no fine shall thenceforth be taken for the renewal or grant of any lease of the same lands. 23 & 24 Vict. c. 99.

2. The order to be issued by the said commissioners pursuant to the foregoing provisions shall be similar to the "form of order authorising a mortgage," contained in the schedule to the said "Universities and College Estates Act, 1858," with such variations only as the circumstances of the case shall necessarily require. Form of order to be issued by copyhold commissioners evidencing their consent

3. Where any lands belonging to any such university or college as aforesaid shall at any time have been leased at the best and most improved yearly rent without fine, no fine, premium or foregift, or anything in the nature thereof, shall thereafter be taken by such university or college for the grant or renewal of any lease of the same lands. Lands once leased at rackrent not thereafter to be leased upon fines

4. And whereas it is expedient that certain provisions of the copyhold Acts, so far as the same provisions relate to universities and colleges, should be amended and explained as hereafter provided: BE IT FURTHER ENACTED, that where any manor belonging to any of the universities of Oxford, Cambridge and Durham respectively, or any college therein respectively, or the colleges of St. Mary of Winchester near Winchester, or king Henry the sixth at Eton, shall be held by any person or persons on lease for a life or lives, or for a term of years, granted by any such university or college, the university or college entitled to such manor in reversion expectant on such lease, and the lessee thereof as aforesaid, shall jointly constitute "the lord" of such manor within the meaning of "The Copyhold Acts;" and all consideration moneys payable to the lord of any such manor under the same Acts shall be dealt with in the manner directed by the thirty-ninth section of "The Copyhold Act, 1852," or the sixteenth section of "The Copyhold Act, 1858," (due notice of any such dealing being previously given to the university or college entitled as aforesaid,) until the time when the reversionary interest of such university or college in the manorial rights of such manor would, if the same had not been extinguished, have come into possession when the said consideration moneys, or any securities in which the same may have been invested, shall, upon petition to the court of chancery or on application to the trustees in whom the same shall then be vested (as the case may be), be paid or transferred to the copyhold commissioners to the account of the university or college entitled thereto, in the same manner and to be applied for the same purposes as enfranchisement moneys payable for the benefit of any university or college are directed to be paid and applied by the first section of "The Universities and College Estates Act, 1858." Amendment of certain provisions of the copyhold Acts with respect to universities and colleges.

5. When any lands shall be vested in any person or persons being a member or members of any of the said universities or colleges in trust or for the benefit of the university or college, or the head or any other member thereof, it shall be lawful for such person or persons (with the consent of the said copyhold commissioners, to be signified by any writing under their hands and the common seal of their board) to convey and transfer such lands in such manner as that the same may be vested in the university or college in its corporate capacity, upon the trusts nevertheless affecting the same lands respectively. Power to transfer lands vested in individual members of universities or colleges to the university or college in its corporate capacity upon like trusts.

6. Any two of the copyhold commissioners shall form a board for the exercise of the powers and authorities conferred on the said commissioners by "The Universities and College Estates Act, 1858," and this Act; and any order, power of attorney, or other instrument issued or executed pursuant to the provisions of the said Acts, which shall have been or shall hereafter be signed by any two of the said commissioners, and sealed with the common seal of their board, shall be valid and sufficient for all purposes whatsoever. Two copyhold commissioners to form a board for exercise of powers under 21 & 22 Vict. c. 44

7. And whereas it is expedient that the provisions of the Act of the third and fourth years of the reign of her majesty (chapter one hundred and thirteen), and also of the Act of the seventeenth and eighteenth years of the same reign (chapter eighty-four (a)), so far as the same relate to universities and colleges, should be extended and amended as hereafter provided: BE IT FURTHER ENACTED, that section sixty-nine of the said Act of the third and fourth years of her majesty shall be construed to extend to and shall include as well benefices with cure of souls as ecclesiastical rectories, prebends, and other preferments without cure of souls, advowsons and rights of patronage, whether exclusive or alternate, impropriate rectories, and other lands and hereditaments annexed or belonging to, or held either wholly or partly by, or in trust for, any of the universities of Oxford, Cambridge and Durham, or any college therein respectively, or either of the colleges of St. Mary of Winchester near Winchester, and of king Henry the sixth at Eton, or the head or any other member of any such college, and also to extend to and to include and to authorise sales by each of the same universities, as well as each of the colleges therein respectively, and the said colleges of St. Mary of Winchester near Winchester, and of king Henry the sixth at Eton, and shall also be construed to enable the said universities or colleges to sell advowsons of benefices, the patronage whereof shall be vested in any person or persons in trust for any of the said universities or colleges, or for the benefit of the head or any other member thereof respectively, and also to authorise, under the authority hereinafter mentioned, the annexation of the whole or any Extension of certain provisions of the 3 & 4 Vict. c. 113, with respect to universities and colleges.

(a) Ante, Vol. I., p. 585, tit. "CLERGY."

23 & 24 Vict. c. 59.

part of the lands or other hereditaments or endowments belonging to any such ecclesiastical rectory, prebend or other preferment without cure of souls, impropriate rectories, and other lands and hereditaments aforesaid, or the application of the proceeds of any sale thereof, and also the application of the proceeds of any sale of advowsons and rights of patronage, or any part of the proceeds of any such sales, which may be made under the said section of the said last-mentioned Act, or "The Universities and College Estates Act, 1858," or under any other authority, or of any moneys, stocks, funds or securities belonging to such university, college, head or member, by way of endowment or augmentation of any benefice with cure of souls, the patronage whereof shall belong to or be held in trust for or for the benefit of such university or college, or the head or other member thereof: provided nevertheless, that the powers conferred by this clause shall not be exercised to the prejudice of the existing interest of any such head or other member of a college without his consent; and in case of any diminution being occasioned in the income of any such head or other member of a college by any sale, annexation, purchase or investment that may be made under the provisions of the said Acts, arrangements may be made under the like authority for giving to such head or other member adequate compensation for such diminution of his income out of the revenues of such college, or out of the proceeds of any such sale or investment; and the said section of the said last-mentioned Act shall extend to authorise under the like authority the purchase out of any of the corporate funds or revenues of any such university or college of advowsons of benefices, and also of any rights of perpetual presentation or nomination to benefices, whether such benefices be or be not annexed to or held by or in trust for any of the said universities, or any such college as aforesaid, or the head or other member of any such college, to be added to those in the patronage of such university or college; and the words "colleges" and "college" in the said section of the said last-mentioned Act shall include the cathedral or house of Christ church in Oxford, and the words "proper securities" in the same section shall be construed to extend to authorise and shall include the purchase of lands in fee simple, and also an investment on any of the parliamentary stocks or public funds of Great Britain; and all such securities, lands and stocks or funds shall be settled, held, applied or disposed of in such manner as by the university or college effecting such sale, purchase or investment, and by the like authority, shall be arranged and determined in that behalf; and every endowment or augmentation which shall be made by any university or college of any benefice with cure of souls under the authority of this section, or by virtue of the provisions of the Act of the first and second years of his late majesty king William the fourth (chapter forty-five), or any other Act or Acts of parliament, shall be valid notwithstanding the clear annual value of such benefice shall at the time of such endowment or augmentation exceed or be thereby made to exceed the limits prescribed by the sixteenth section of the said Act of the first and second years of king William the fourth, or any other Act or Acts of parliament: provided, that no such augmentation or endowment beyond the clear annual value of five hundred pounds shall be made under the said Act of the first and second years of king William the fourth, except with the consent of the ecclesiastical commissioners for England (to be testified by writing under their common seal), in addition to such other consents as may be otherwise required thereto.

Provision as to right of patronage severed.

8. On the sale or annexation under the last preceding clause of any ecclesiastical rectory, prebend or other preferment without cure of souls, or of any impropriate rectory to which any right of patronage shall belong, and which is not intended to be included in such sale or to accompany such annexation, such right of patronage shall immediately after such sale or annexation be separated from and be no longer exercised by the holder of such ecclesiastical rectory, prebend or other preferment without cure of souls, or impropriate rectory, but shall by force of this Act be absolutely transferred to and vested in the university or college, the former patrons or owners of such ecclesiastical rectory, prebend, or other preferment or impropriate rectory.

8 & 9 Vict. s. 18, incorporated.

9. The Lands Clauses Consolidation Act, 1845 (except such parts thereof as relate to the purchase of lands otherwise than by agreement, and to the recovery of forfeitures, penalties and costs, and to the sale of superfluous lands), shall be incorporated with and form part of the said section sixty-nine of the said Act of the third and fourth years of her majesty (chapter one hundred and thirteen) as extended by this Act, and as if the corporate name or denomination of the university or college in each particular case had been inserted therein, instead of "the promoters of the undertaking:" provided that the powers by the said Act vested in "the promoters of the undertaking" shall be exercised only by such university or college with the consent of the ecclesiastical commissioners for England testified as aforesaid.

The ecclesiastical commissioners constituted "the authority" referred to.

10. "The authority" hereinbefore and in the said Act of the third and fourth years of her majesty provided shall, so far as relates to universities and colleges, be and be deemed to be "The Ecclesiastical Commissioners for England," and such authority shall be deemed to be sufficiently exercised and evidenced by any writing under their common seal.

Power to substitute land or other permanent endowment

11. Where any rent or annual sum of money granted, reserved or made payable, or to be granted, reserved, or made payable, under any of the powers of the said Act of the seventeenth and eighteenth years of her majesty (chapter eighty-four), or of the several Acts therein mentioned or otherwise, to the incumbent of any church or chapel, by way of endowment, or in augmentation of the endowment of any such church or chapel, is or

shall be charged upon or made payable out of any rectory impropriate tithes, annual revenues, lands, tenements or other hereditaments belonging to any of the said universities or colleges respectively, it shall be lawful for the said universities and colleges respectively, with the consent of the incumbent for the time being of the said church or chapel, and also with the consent of the archbishop or bishop of the diocese within which the said church or chapel shall be situate, and also of the patron or patrons of the said church or chapel (such consent to be signified by the said consenting parties respectively executing the deed or deeds hereinafter mentioned), and notwithstanding any statute or law to the contrary, by deed duly executed, to appropriate and annex in perpetuity to such church or chapel any lands, tithes or portion of tithes, or other hereditaments belonging to any such university or college as aforesaid, to the intent that the same may be held and enjoyed by the incumbent for the time being of such church or chapel in lieu of and substitution for such rent or annual sum of money as aforesaid; and it shall be lawful for the said incumbent for the time being to accept to him and his successors such substituted endowment or augmentation, and thereupon by the same or any other deed duly executed by him, and with such consents and so signified as aforesaid, to release any impropriate rectory tithes, annual revenues, lands, tenements or other hereditaments theretofore charged with the said rent or annual sum of money, and the premises so released shall be thenceforth wholly discharged from the said rent or sum of money, and from all powers and remedies for the recovery thereof: provided always, that no consent of any archbishop or bishop shall be given to any such annexation and release respectively as aforesaid unless such substituted endowment or augmentation shall be proved to the satisfaction of the said archbishop or bishop to produce an income which shall exceed or be fully equal to the rent or annual sum of money for which the same shall be substituted and be expressed to be so proved in the deed by which such consent shall be signified: provided also, that when any lands, tithes or portions of tithes, or other hereditaments, which shall be so annexed as aforesaid shall be comprised in any subsisting lease or leases previously granted thereof, such annexation shall not prejudice or affect any such subsisting lease or leases; but in every such case any rent or rents reserved by any such lease or leases, or a proportionate part thereof (in case other hereditaments shall also be comprised in such lease or leases), shall during the continuance of the said lease or leases be payable to the incumbent for the time being of the church or chapel to which the premises shall be annexed as aforesaid, and such incumbent for the time being shall have all the same powers for the recovery of the said rent or rents, or of the proportionate part thereof, as aforesaid, as the university or college by whom the annexation shall have been made might have had in case the premises had not been so annexed.

23 & 24 Vict. c. 59.

In lieu of annual rents or other payments, in extension of certain provisions of 17 & 18 Vict. c. 84.

12. This Act shall be read and construed according the definitions and interpretations contained in the thirty-first and thirty-second sections of "The Universities and College Estates Act, 1858," and the word "college" in the said Act of the third and fourth years of her majesty and in this Act shall be interpreted to include any "hall" in the said universities or either of them.

Interpretation of terms.

13. It shall be sufficient for all purposes to cite this Act as "The Universities and College Estates Act Extension, 1860."

Short title.

USES AND TRUSTS.

[See "PROPERTY (LAW OF);" "TRUSTEES."]

27 Hen. 8, c. 10. An Act concerning Uses and Wills (a).

27 H. 8, c. 10.

[A.D. 1535-6.]

"Where the common laws of this realm, lands, tenements, and hereditaments be not devisable by testament, nor ought to be transferred from one to another, but by solemn livery and seisin, matter of record, writing sufficient made *bonâ fide*, without covin or fraud; yet nevertheless divers and sundry imaginations, subtle inventions and practices have been used, whereby the hereditaments of this realm have been conveyed from one to another by fraudulent feoffments, fines, recoveries, and other assurances craftily made to secret uses, intents, and trusts; and also by wills and testaments, sometime made by *nude parolx* and words, sometime by signs and tokens, and sometime by writing, and for the most part made by such persons as be visited with sickness, in their extreme agonies and pains, or at such time as they have scantly had any good memory or remembrance; at which times they being provoked by greedy and covetous persons lying in wait about them, do many times dispose indiscreetly and unadvisedly their lands and inheritances; by reason whereof, and by occasion of which fraudulent feoff-

(a) See the general doctrines arising upon this statute, in Lord Bacon's Reading on the Statute, vol. 13, p. 313; Gilbert's Law of Uses and Trusts; Sanders' Treatise on Uses and Trusts; Bythewood's Conveyancing, vol. 3, p. 449; Cruise's Digest; Sugden on Powers; Blackstone's Commentaries, vol. 2, c. 20, p. 327; Burton on Real Property, p. 33; and Coke upon Litt. 271 b. 19th ed.

27 H. 8, c. 10. ments, fines, recoveries, and other like assurances to uses, confidences and trusts, divers and many heirs have been unjustly at sundry times disherited, the lords have lost their wards, marriages, reliefs, harriots, escheats, aids *pur fair fitz chivalier, et pur file marier*, and scantly any person can be certainly assured of any lands by them purchased, nor know surely against whom they shall use their actions or executions for their rights, titles, and duties; also men married have lost their tenancies by the curtesy, women their dowers, manifest perjuries by trial of such secret wills and uses have been committed; the king's highness has lost the profits and advantages of the lands of persons attainted, and of the lands craftily put in feoffments to the use of aliens born, and also the profits of waste for a year and a day of lands of felons attainted, and the lords their escheats thereof; and many other inconveniences have happened, and daily do increase among the king's subjects, to their great trouble and inquietness, and to the utter subversion of the ancient common laws of this realm, for the extirping and extinguishment of all such subtle practised feoffments, fines, recoveries, abuses, and errors heretofore used and accustomed in this realm, to the subversion of the good and ancient laws of the same, and to the intent that the king's highness, or any other his subjects of this realm, shall not in any wise hereafter by any means or inventions be deceived, damaged, or hurt, by reason of such trusts, uses, or confidences:" it may please the king's most royal majesty that IT MAY BE ENACTED, That where any person or persons (*a*) stand or be seised (*b*), or at any time hereafter shall happen to be seised, of and in any honours, castles, manors, lands, tenements (*c*), rents, services, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any other person or persons (*d*), or of any body politick (*e*), by reason of any bargain, sale, feoffment, fine, recovery, covenant, contract, agreement, will, or otherwise, by any manner* means whatsoever it be; that in

The possession of lands shall be in him or them that have the use.

Sic in Act.

(*a*) Where the party seised to the use and the *cestui que use* is one person, he never taketh by this statute, except there be a direct impossibility or impertinency for the use to take effect by the common law (Bac. Tr. 352).

The king or queen regent cannot be seised to a use (Gilb. [8], 11); nor the queen consort (Bac. Uses, 59). And a corporation cannot take by conveyance to the use of another; but it seems that they may pass their own estates by conveyances operating only by the Statute of Uses, as by the common conveyance of lease by way of bargain and sale and release; and that the usual precautions of conveying by lease at common law, and actual entry, as the foundation of a release, or by feoffment, are not necessary; see Sug. Note Gilb. [5].

(*b*) By force of this word, which only extends to freehold interests, the statute does not affect assignments of terms of years, although a term may be newly created by conveyance operating under the statute, as is evident from the common case of a bargain and sale for a year (see Gilb. [79]; 2 Bla. Com. 336; Bac. Tr. 335). But a man may limit the uses of a freehold for years, and the use shall be executed by the statute. As if A., seised in fee, bargain and sell to B. for 500 years, the statute will transfer the use into possession. But if B. afterwards assign the term to C. to the use of D., the legal estate will remain in C., and D. will take a mere trust in equity (Gilb. 80, n. 7). The purpose of vesting a term of years in a person already possessed thereof with others as joint-tenants (as in the usual case of a change of trustees for public institutions), can only be accomplished by a previous assignment to a third person, and from such person to the original assignor in conjunction with others. This double transfer only occasions the expense of an additional and very short deed, for the re-transfer is invariably made by indorsement (Sug. Gilb. [71], 150).

(*c*) The statute does not apply to copyholds and customary estates (Burton on Real Property, p. 405, 7th ed.).

(*d*) The statute only executes the first use (2 Bla. Com. 335, 336; Gilb. 161; *Tyrrell's case*, Dyer 155 a); and therefore where an estate was limited to A. and his heirs, to the use of A. and his heirs for B., it was held that the legal estate was vested in A. and not in B. (*Doe* v. *Passingham*, 6 B. & C. 305).

A bargain and sale for pecuniary consideration, and a covenant to stand seised to the use of a wife or relation, are at this day perfect conveyances of lands and tenements; for the deed or agreement gives the use, and the statute immediately adds the legal estate. In the same manner, when any of the old common law assurances by which the seisin is transferred, as a feoffment, grant, &c., is accompanied with a declaration of uses, the legal estate follows that declaration, and if there be no such declaration, and no consideration for the conveyance, as the use would before the statute have resulted to the conveying party, so now will the legal estate immediately return to him (Burton on Real Property, p. 37).

(*e*) Money (no other consideration) given by the governors of a hospital is a good consideration to raise a use to them in their public capacity; and though a body politic cannot be seised to a use, yet upon a bargain and sale to them a trust may be limited that they shall dispose of the rents and profits of the same amongst the poor of the said corporation (Gilb. [286]).

Though mention is made of persons being seised to the use, &c., of bodies politic, nothing is said of bodies politic being seised to the use

every such case, all and every such person and persons, and bodies politick, that have or hereafter shall have any such use, confidence, or trust, in fee-simple, fee-tail, for term of life or for years or otherwise, or any use, confidence, or trust in remainder or reverter, shall from henceforth stand and be seised, deemed, and adjudged in lawful seisin, estate, and possession of and in the same honours, castles, manors, lands, tenements, rents, services, reversions, remainders, and hereditaments, with their appurtenances, to all intents, constructions, and purposes in the law, of and in such like estates as they had or shall have in use, trust, or confidence of or in the same; and that the estate, title, right, and possession that was in such person or persons, that were or hereafter shall be seised of any lands, tenements, or hereditaments, to the use, confidence, or trust of any such person or persons, or of any body politick, be from henceforth clearly deemed and adjudged to be in him or them that have or hereafter shall have such use, confidence, or trust, after such quality, manner, form, and condition as they had before, in or to the use, confidence, or trust that was in them (*a*). 27 H. 8, c. 10.

2. That where divers and many persons be, or hereafter shall happen to be, jointly seised of and in any lands, tenements, rents, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any of them that be so jointly seised, that in every such case that those person or persons which have or hereafter shall have any such use, confidence, or trust in any such lands, tenements, rent, reversions, remainders, or hereditaments, shall from henceforth have, and be deemed and adjudged to have, only to him or them that have or hereafter shall have any such use, confidence, or trust, such estate, possession, and seisin, of and in the same lands, tenements, rents, reversions, remainders, and other hereditaments, in like nature, manner, form, condition, and course, as he or they had before in the use, confidence, or trust of the same lands, tenements, or hereditaments; saving and reserving to all and singular persons and bodies politick, their heirs and successors, other than those person or persons which be seised or hereafter shall be seised of any lands, tenements, or hereditaments, to any use, confidence, or trust, all such right, title, entry, interest, possession, rents, and action as they or any of them had or might have had before the making of this Act. And also saving to all and singular those persons, and to their heirs, which be or hereafter shall be seised to any use, all such former right, title, entry, interest, possession, rents, customs, services, and action as they or any of them might have had to his or their own proper use, in or to any manors, lands, tenements, rents, or hereditaments, whereof they be or hereafter shall be seised to any other use, as if this present Act had never been had nor made; any thing contained in this Act to the contrary notwithstanding (*b*). Assurance made of divers persons to the use of one or some of them. Saving of the right of feoffees to use.

3. (*c*) "And where also divers persons stand and be seised of and in any lands, tenements or hereditaments, in fee-simple or otherwise, to the use and intent that some other person or persons shall have and perceive yearly to them, and to his or their heirs, one annual rent of *x li* or more or less, out of the same lands and tenements, and some other person one other annual rent to him and his assigns for term of life or years, or for some other special time, according to such intent and use as hath been heretofore declared limited and made thereof:" BE IT ENACTED, That in every such case the same persons, their heirs and assigns, that have such use and interest, to have and perceive Land assured to the use

---

of others; and it seems that before the statute such bodies were not thought capable of being trustees. It follows that if lands are given at this day to a corporation upon any trust, this statute does interfere (Bac. Tr. 334; 1 Saund. U. & T. 81; Burton on Real Property, 34).

(*a*) When uses are actually declared by will, it has been disputed whether the Statute of Uses is applicable to them. For though the statute has very comprehensive words for including every seisin to uses, however it may originate, yet it has been thought that a devise by will is not within its purview, because, not having been yet introduced into the general system of law, it could not have been contemplated by the legislature of 27 Hen. 8. However, as the intention of the testator appearing in his will is the rule of its operation, there can be no doubt that where the ordinary language of deeds is adopted in a will for the manifest purpose of ascertaining in whom the legal estate shall vest, the effect will correspond to that purpose, and the better opinion seems to be that the statute will always operate in furtherance of the intention, though not in opposition to it (Burton on Real Property, 103).

(*b*) By virtue of this saving, if a termor for years be made a feoffee to uses, his term is saved by the statute, and not merged; and it is not material that the termor holds the lease in trust (see *Cheyney's case*, Mo. 196; 2 Ander. 192). And where a termor for years was made a tenant to the *præcipe*, it was held, that although the freehold vested in him drowned the term until the recovery was suffered, yet when the recovery was perfected the term should revive (*Ferrers* v. *Fermor*, 2 Rol. Rep. 245; Cro. Jac. 643; *Terrie's case*, 1 Ventr. 200, cited). The same rule must, it is conceived, prevail, even when the conveyance is by lease and release (Sug. n. Gilb. [80]).

(*c*) In many editions of the statutes this is printed as the 4th section, and the saving of the last section as the 3rd; but see the Statutes of the Realm, vol. 3, p. 540.

27 H. 8, c. 10. that rent should be paid out thereof to some other.

any such annual rents out of any lands, tenements, or hereditaments, that they and every of them, their heirs and assigns, be adjudged and deemed to be in possession and seisin of the same rent of and in such like estate as they had in the title, interest, or use of the said rent or profit, and as if a sufficient grant or other lawful conveyance had been made and executed to them, by such as were or shall be seised to the use or intent of any such rent to be had, made, or paid according to the very trust and intent thereof; and that all and every such person and persons as have or hereafter shall have any title, use, and interest in or to any such rent or profit, shall lawfully distrain for non-payment of the said rent, and in their own names make avowries, or by their bailiffs or servants make conisances and justifications, and have all other suits, entries, and remedies for such rents, as if the same rents had been actually and really granted to them, with sufficient clauses of distress, re-entry, or otherwise, according to such conditions, pains, or other things limited and appointed, upon the trust and intent for payment or surety of such rent (*a*).

(*a*) The following note upon this subject is given by Sir Ed. Sugden, in Gilbert's Law of Uses and Trusts, 193 [86].

"The statute has two provisions for the execution of rents; the first for rents *in esse* limited to uses, which are executed in the same manner as uses of corporeal hereditaments; the other for rents limited in use out of the seisin in the land of some other person, *e.g.*, where any person stands seised of any lands, to the use that some other person may receive a rent thereout, which the statute executes in the same manner as if a sufficient grant had been made to him by the person seised to the use, and gives the *cestui que use* a power of distress (see *Bascawen* v. *Cook*, 1 Mod. 223; *Cook* v. *Herle*, 2 Mod. 138). This clause, it has been held, relates as well to rents limited since the statute as to rents *in esse* (*Anon.*, 362 b, pl. 21; *Danby* v. *Conyers*, 1 And. 51; Bendl. 315, pl. 299). Therefore, if lands be conveyed to A. and his heirs, to the use that B. and his heirs may receive a given rent, the use will be executed by the statute; but any ulterior use would be void. Where a rent is intended to be limited to uses in strict settlement, it is desirable first to grant it to a stranger in fee, to the intent that he may re-grant it to the intended uses (see Mr. Butler's Notes to Co. Litt. 271, b); which avoids any question whether distinct rents are granted (see *Whitfield* v. *Fausset*, 1 Ves. 387); or it may be granted to a stranger to the uses at once (see *Bascawen* v. *Cook*, 1 Mod. 223; *Cook* v. *Herle*, 2 Mod. 138); although if limited by way of use to the stranger, the ulterior intended uses would be mere trusts (see *Chaplin* v. *Chaplin*, 3 P. Wms. 229).

"A rent cannot be granted by a bargain and sale; that is, a mere bargain and sale of a new rent would be void; but upon a conveyance of the estate itself by bargain and sale, a rent may be limited out of the estate created, for although a use had only passed by the common law, yet now by the statute the use and possession pass together, and so it amounts to a grant of the land itself. This was adjudged in *Wicks* v. *Tillard*, Co. Litt. 144, a; Cro. Eliz. 595; and see *Puttenham's case*, 1 And. 18. And the reservation, as if out of the estate executed by the statute, will not be deemed a use upon a use (*Cromwell's case*, 2 Coke, 72 b; *Chomley's case*, 2 Coke Rep. 54 a; 2 Inst. 673; Cro. Eliz. 595). This construction appears to have depended on that clause in the Act, which executes rents where any person is seised of land to the intent that another may have a rent; and on the same principle, in the case of *Rivett* v. *Godson* (W. Jones, 179), where there was a covenant to stand seised, in consideration of natural love, of certain lands to the use of the covenantor for life, with remainders over, and to the intent that his son should have a rent during his father's life, it was decided by Dodderidge, Jones, and Whitlock, that by the clause in this statute, where any one was seised to the intent that another should have a rent, the son in that case had a good rent as well upon a covenant as a feoffment; so if a bargain and sale was rendering rent, that, they said, was within the clause, for which they referred to *Cromwell's case*. At first sight these cases appear to establish that a rent may be newly granted by a bargain and sale or covenant to stand seised; but they merely decided that a rent may be limited or reserved out of an estate actually raised by either of those conveyances, although they do not operate by transmutation of possession.

[The word "*profit*," in sect. 5, appears to meet the objection, that a rent cannot be *created* by bargain and sale; and it may also be considered whether the deed, even if it contained no other operative words than "bargain and sale," would not at this day be construed as a GRANT to and to the use of the bargainee (Burton on Real Property, p. 350, 7th ed.).]

"A new rent may, like the estate itself, be limited to commence *in futuro* within the line of perpetuity because it hath no existence until that time, and so there is no suspension of any freehold; but it is otherwise where an old rent is granted for life or in fee to commence *in futuro*, for there the grant is void, because there is a rent *in esse*, and so the freehold of that rent will be suspended, and therefore such grant is void (*Osmere* v. *Sheafe*, Carth. 307; and see *Rex* v. *Kemp*, 2 Salk. 465, 4th Resol.).

"It may still be observed, that although a

4. (a) [A woman shall not have both a jointure and dower of her husband's lands (b).] 27 H. 8, c. 10.
5. [A woman shall be endowed, whose jointure is recovered (b).]
6. [Women heretofore married (b).]
7. [A jointure after marriage may be taken or refused by the wife (b).]

8. Provided also, That this present Act or anything herein contained, extend nor be at any time hereafter interpreted, expounded, or taken to extinct, release, discharge, or suspend any statute, recognisances or other bond, by the execution of any estate of or in any lands, tenements, or hereditaments by the authority of this Act, to any person or persons or bodies politick: any thing contained in this Act to the contrary thereof notwithstanding.

This statute shall extinguish no statute of recognisance, &c.

9. "And forasmuch as great ambiguities and doubts may arise of the validity and invalidity of wills heretofore made of any lands, tenements, and hereditaments to the great trouble of the king's subjects:" BE IT ENACTED, That all manner true and just wills and testaments heretofore made by any person or persons deceased, or that shall decease before the 1st day of May, that shall be in the year of our Lord God 1536, of any lands, tenements or other hereditaments, shall be taken and accepted good and effectual in the law, after such fashion, manner, and form as they were commonly taken and used at any time within forty years next afore the making of this Act; any thing contained in this Act or in the preamble thereof, or any opinion of the common law to the contrary thereof, notwithstanding.

Wills made before the statute, or shortly after, how they shall be taken.

10. Provided always, That the king's highness shall not have, demand, or take any advantage or profit for or by occasion of the executing of any estate only by authority of this Act, to any person or persons or bodies politick which now have, or on this side the said 1st day of May, which shall be in the year of our Lord God 1536, shall have any use or uses, trusts or confidences in any manors, lands, tenements or hereditaments holden of the king's highness, by reason of primer seisin, livery, *ouster le main*, fine for alienation, relief or harriot; but that fines for alienations, reliefs and harriots shall be paid to the king's highness, and also liveries and *ouster le mains* shall be sued for uses, trusts, and confidences to be made and executed in possession by authority of this Act, after and from the 1st day of May, of lands and tenements, and other hereditaments holden of the king in such like manner and form, to all intents, constructions, and purposes as hath heretofore been used or accustomed by the order of the laws of this realm.

How fines for alienation, reliefs, and harriots, shall be paid to the king.

11. Provided also, That no other person or persons or bodies politick, of whom any *lands*, tenements, or hereditaments, be or hereafter shall be holden mediate or immediate, shall in anywise demand or take any fine, relief, or harriot, for or by occasion of the executing of any estate by the authority of this Act, to any person or persons, or bodies politick before the said 1st day of May, which shall be in the year of our Lord God 1536.

Other lords' fines, reliefs, and harriots.

12. That all and singular person and persons and bodies politick, which at any time on this side the said 1st day of May, which shall be in the year of our Lord God 1536, shall have any estate unto them executed of, and in any lands, tenements, or hereditaments, by the authority of this Act, shall and may have, and take the same or like advantage, benefit, voucher, aid prayer, remedy, commodity, and profit by action, entry, condition, or otherwise, to all intents, constructions, and purposes, as the person or persons seised to their use of or in any such lands, tenements, or hereditaments so executed, had, should, might, or ought to have had at the time of the execution of the estate thereof, by the authority of this Act, against any other person or persons, of or for any waste, disseisin, trespass, condition broken, or any other offence, cause, or thing concerning or touching the said lands or tenements so executed by the authority of this Act.

Cestui que use may take all such advantages as his feoffees might have had.

13. Provided also, That actions now depending against any person or persons seised of or in any lands, tenements, or hereditaments, to any use, trust, or confidence, shall not abate ne be discharged for or by reason of executing of any estate thereof by authority of this Act before the said 1st day of May, which shall be in the year of our Lord God 1536; any thing contained in this Act to the contrary notwithstanding.

Actions now depending.

14. Provided also, That this Act, nor any thing therein contained, shall not be prejudicial to the king's highness for wardships of heirs now being within age nor for liveries or for *ouster le mains*, to be sued by any person or persons now being within age or of full age, of any lands or tenements unto the same heir or heirs now already descended; any thing in this Act contained to the contrary notwithstanding.

Wardships, liveries, or ouster le main, of any now being within age, or of full age.

---

mere tenancy in tail in land be created and the reversion be left in the donor, yet a recovery by the tenant in tail will bar as well the estate tail as the reversion over; but a bare limitation of a rent upon its creation to one in tail, without a remainder over in fee, will not enable the donee to acquire more than a base fee in the rent, determinable upon failure of the issue (see *Smith* v. *Farnaby*, 2 Keb. 29, 55, 84; *Weeks* v. *Peach*, 2 Lutw. 1218, 2 Salk. 577; *Chaplin* v. *Chaplin*, 3 P. Wms. 229).

"For the nature of an estate in a rent in fee, with powers of distress and entry, see *Havergill* v. *Hare*, Cro. Jac. 510."

(a) See the Statutes of the Realm, vol. 3, p. 540.

(b) See these sections, ante, Vol. I., tit. "DOWER."

27 H. 8, c. 10.

Recognisances taken to the king's use concerning recoveries.

15. Provided also, That all and singular recognisances heretofore knowledged, taken or made to the king's use, for or concerning any recoveries of any lands, tenements, or hereditaments heretofore sued or had by writ or writs of entry upon disseisin *in le post*, shall from henceforth be utterly void and of none effect, to all intents, constructions and purposes.

Estates of lands executed to persons born in Wales.

16. Provided also, That this Act, nor any thing therein contained, be in any wise prejudicial or hurtful to any person or persons born in Wales, or the marches of the same, which shall have any estate to them executed by authority of this Act, in any lands, tenements, or other hereditaments within this realm, whereof any other person or persons now stand or be seised to the use of any such person or persons born in Wales, or the marches of the same; but that the same person or persons born in Wales, or the marches of the same, shall or may lawfully have, retain and keep the same lands, tenements, or other hereditaments, whereof estate shall be so unto them executed by the authority of this Act, according to the tenor of the same: any thing in this Act contained, or any other Act or provision heretofore had or made to the contrary notwithstanding.

27 H. 8, c. 16.

27 Hen. 8, c. 16. An Act concerning Enrolments of Bargains and Contracts of Lands and Tenements (*a*). [A.D. 1535-6.]

No land shall pass by bargain and sale, unless it be by writing indented, sealed, and inrolled.

That from the last day of July, A. D. 1536, no manors, lands, tenements or other hereditaments, shall pass, alter, or change from one to another, whereby any *estate of inheritance or freehold* shall be made or take effect in any person or persons, or any use *thereof* to be made, by reason only of any bargain and sale *thereof* (*b*), except the same bargain and sale be made by writing indented (*c*), sealed and inrolled (*d*) in one of the king's courts of record at Westminster, or else within the same county or counties where the same manors, lands, or tenements so bargained and sold lie or be, before the *custos rotulorum* and two justices of the peace, and the clerk of the peace of the same county or counties, or two of them at least, whereof the clerk of the peace to be one; and the same inrolment to be had and made within six months next after the date of the same writings indented; the same *custos rotulorum* or justices of the peace and clerk, taking for the inrolment of every such writing indented before them, where the land comprised in the same writing exceeds not the yearly value of forty shillings, *ii s.* that is to say, *xij d.* to the justices, and *xij d.* to the clerk; and for the inrolment of every such writing indented before them, wherein the land comprised exceeds the sum of *xl s.* in the yearly value *v. s.* that is to say, *ii s. vi. d.* to the said justices, and *ii s. vi. d.* to the said clerk for the inrolling of the same: And that the clerk of the peace for the time being, within every such county, shall sufficiently inrol and ingross in parchment the same deeds or writings indented as is aforesaid; and the rolls thereof at the end of every year shall deliver unto the said *custos rotulorum* of the same county for the time being, there to remain in the custody of the said *custos rotulorum* for the time being, amongst other

Fee for inrolment in the county.

(*a*) Mr. Fearne, in his reading of this statute (inserted in his posthumous works), insists that a rent or reversion, which would not pass at common law by mere grant without attornment, cannot now pass by grant, although the necessity of attornment is taken away by stat. 4 Anne, c. 16, and that it is a conveyance of such interest as must be made either by lease and release, or by bargain and sale inrolled. But Mr. Evans, in his Collection of Statutes, tit. "USES," shows that this opinion is erroneous, and it is controverted by Mr. Sanders, in his Treatise on Uses, Vol. 2, p. 39, and by Mr. Sugden in his note to Gilbert, [105], 226. The following summary of the question is extracted from the note just mentioned. "The true state of the law seems to be simply this: the Statute of Inrolments only extended to proper bargains and sales; a grant of a reversion was a common law conveyance, and not within the purview of it; because the necessity of attornment, which then existed, was equivalent to livery of seisin where the estate was in possession. The statute of Anne took away the necessity of attornment to a grant of a reversion, but did not affect the operation of the grant itself, which still, as formerly, will, as a common law conveyance, transfer the reversion, and will now be sufficient without any attornment of the tenants."

(*b*) These words are the origin of the assurance by lease and release. And it was concluded, that if a bargain and sale were first made for an estate less than freehold (as for one year), and then the inheritance or freehold were superadded by a separate deed of release, the transaction could not be affected by the statute, and that such release to the bargainee would be valid without his entry upon the lands, the strong words in this statute converting all vested uses at once into estates (*Barker* v. *Keat*, Burton on Real Property, 40).

(*c*) The 8 & 9 Vict. c. 106, s. 5 (Vol. I. p. 825, tit. "CONVEYANCES"), declares that a deed executed after the 1st October, 1845, purporting to be an indenture, shall have the effect of an indenture although not actually indented.

(*d*) See 1 Prest. Conv. 38. The deed may be enrolled upon proof of its due execution, without the concurrence of the bargainor (*Taylor* v. *Jones*, 1 Salk. 389).

records of every of the same counties where any such inrolment shall be so made, to the intent that every party that hath to do therewith, may resort and see the effect and tenor of every such writing so enrolled. 27 H. 8, c. 16.

2. Provided always, That this Act, nor any thing therein contained, extend to any manor, lands, tenements, or hereditaments, lying or being within any city, borough or town corporate, within this realm, wherein the mayors, recorders, chamberlains, bailiffs, or other officer or officers have authority, or have lawfully used to inrol any evidences, deeds or other writings within their precinct or limits; any thing in this Act contained to the contrary notwithstanding. Towns corporate, &c., may inrol (a).

5 Eliz. c. 26. An Act for the Inrolment of Indentures of Bargain and Sale in the Queen's Majesty's Courts of the Counties of Lancaster, Chester, and Bishoprick of Durham, shall be good in Law. [A.D. 1563.]

5 Eliz. c. 26.

29 Car. 2, c. 3. An Act for Prevention of Frauds and Perjuries. [A.D. 1676.]

29 Car. 2. c. 3.

7. [Declarations or creations of trusts shall be in writing (b).]

4 & 5 Ann. c. 16. An Act for the amendment of the Law, and the better advancement of Justice. [A.D. 1705.]

4 & 5 Ann. c. 16.

15. "And whereas it hath been doubted whether, since the making of the said last-mentioned Act of Parliament (c), the declarations or creations of uses, trusts or confidences of any fines or common recoveries manifested by deed made after the levying or suffering of such fines or recoveries, are good and effectual in law:" IT IS HEREBY DECLARED, That all declarations or creations of uses, trusts or confidences of any fines or common recoveries of any lands, tenements or hereditaments, manifested and proved, or which hereafter shall be manifested and proved, by any deed already made, or hereafter to be made, by the party who is by law enabled to declare such uses or trusts, after the levying or suffering of any such fines or recoveries, are and shall be as good and effectual in the law, as if the said last-mentioned Act had not been made. Declarations of uses, trusts, &c. of fines or recoveries.

USURY (d).

12 Ann. st. 2, c. 16. An Act to reduce the Rate of Interest, without any prejudice to Parliamentary Securities (e). [A.D. 1713.]

12 Ann. st. 2, c. 16.

That no person or persons whatsoever from and after the 29th day of September, in the year of our Lord 1714, upon any contract which shall be made from and after the No person shall take

---

(a) The 10 Anne, c. 18, s. 3, provides that a copy of the enrolment signed by the proper officer shall be of the same effect as the original indenture.

(b) See this and the following sections, ante, Vol. II., tit. "FRAUDS (STATUTE OF)."

(c) *i. e.* The Statute of Frauds.

(d) See Plowden, Ord, and Comyn, on Usury; Com. Dig., tit. Usury; Bac. Ab., tit. Usury; Bentham on Usury; Chitty on Bills, and Chitty's Com. L.

All laws against usury are repealed by 17 & 18 Vict. c. 90, post, p. 833; but this repeal is not to affect previous transactions, or any statute which relates to pawnbrokers (*Ib.* ss. 2, 4, post).

(e) This Act had the effect of extending the statutes against usury to Scotland (*Surtees* v. *Allan*, 2 Dowl. P. C. 254).

The operation of this statute and the other Acts was—first, to prohibit and render void the usurious contract; and secondly, to subject the party who actually took more than legal interest upon an usurious contract to the penalty of treble the sum forborne.

First, there must have been an usurious contract, with intent to take more than the law authorised, and a plea of usury must have alleged *quod corrupte agregatum fuit* (*Nevison* v. *Whitly*, Cro. Car. 501). The taking or stipulating to take excessive interest, arising from an error in computation, or the mistake or even wilful misconduct of an agent, unauthorised in that particular by the principal, was not usury (*Nevison* v. *Whitly*, Cro. Car. 501; *Bush* v. *Buckingam*, 2 Vent. 83; *Buckle* v. *Millerd*, *ib.* 107; *Glasfurd* v. *Laing*, 1 Camp. 149; *Murray* v. *Harding*, 2 W. Bla. 859). But a mistake of the law would constitute no excuse (*Marsh* v. *Martindale*, 3 Bos. & P. 159; *Enderby* v. *Gilpin*, 5 B. Moo. 288, 571; *Barnard* v. *Young*, 17 Ves. jun. 47).

It is in general for a jury to decide, even in the case of an express stipulation in a deed,

12 Ann. st. 2, c. 16. said 29th day of September, take (*a*) directly or indirectly for loan (*b*) of any monies, wares, merchandises or other commodities whatsoever above the value of five pounds for above 5*l.* per cent. interest.

---

whether the contract was entered into with an usurious intent, or whether the excess above legal interest was really and fairly intended as a remuneration for some trouble or expense, or in the nature of a partnership, or whether the excess was paid by the borrower in consequence of his considering himself under an honorary engagement to pay a part of a third person's debt, or an agreement to pay extra reasonable costs as between attorney and client in consideration of forbearance (all of which may be legal), or whether the bargain was a mere colour for usury (*Carstairs* v. *Stein*, 4 M. & Sel. 192; *Enderby* v. *Gilpin*, 5 B. Moo. 571; *Palmer* v. *Baker*, 1 M. & Sel. 56; *Le Grange* v. *Hamilton*, 4 T. R. 613; *Solarte* v. *Melville*, 7 B. & C. 430; 1 Man. & Ry. 198; *Doe d. Grimes* v. *Gooch*, 3 B. & Ald. 664; *Ferguson* v. *Sprang*, 1 Ad. & E. 576; 3 Nev. & M. 665; *Ex parte Guillebert*, 3 Mont. & Ayr. 455). Consequently the circumstance of seeming usury appearing on the face of the instrument is not conclusive, and the defendant cannot demur, but must plead the usury specially and particularly, and which is a matter to be tried and found by a jury (*Ferrall* v. *Shaen*, 1 Saund. 295 (*a*) in notes; see *ib.* n. (*h*); and the observations in *Deardon* v. *Binns*, 1 Man. & Ry. 125, n. (*c*); *Hill* v. *Montagu*, 2 M. & Sel. 377; *Nichols* v. *Lee*, 3 Anst. 940).

(*a*) See *Adlington* v. *Cann*, 1 Atk. 154.

(*b*) An advance out of the funds of a friendly association, made pursuant to its rules, to one of its members, having in common with other members an interest in the fund out of which the advance is made, and in the money to be repaid by him, is not a loan of money, but a dealing with the partnership fund, and not usurious (*Silver* v. *Barnes*, 6 Bing. N. C. 180; see *Cutbill* v. *Kingdon*, 1 Exch. 494; *Burbidge* v. *Cotton*, 21 L. J. Ch. 201; 5 De Gex & S. 17).

It is not absolutely necessary that money should be lent, for a bond or other assurance to pay more than legal interest for the forbearance of any pre-existing debt due on any account, would be invalid under the Act. In *Spurrier* v. *Mayoss* (1 Ves. jun. 531), Lord Commissioner Eyre said, "Usury is taking more than the law allows upon a loan, or as I read it, for forbearance of a debt" (see 4 Bro. Ch. 28). And Mr. Evans observes, that even the latter part of the definition is more confined than some of the undisputed authorities respecting it would seem to require; for in a case where A. was indebted to B. and B. to C., and C. accepted a premium for accepting A. as a debtor instead of B., and taking his notes for a year; it was held that this transaction was equivalent to a loan to A., and C. was guilty of usury (*Wade* v. *Wilson*, 1 East, 195). So where a surety for a debt gave a sum of money for forbearance of the debt, the transaction was ruled to be equivalent to a loan to him (*Manners* v. *Postan*, 3 Bos. & P. 343; see *Belcher* v. *Vardon*, 2 Col. 162).

There must, however, be either a loan and forbearance, or a forbearance of a debt. Therefore it is not usury for an acceptor to discount his own acceptance, for there is no loan or forbearance (*Barclay* v. *Walmsley*, 4 East, 55). Nor was it usury for an agent at Gibraltar, to whom goods had been assigned, to charge and receive six pounds per cent. for advances on account of the goods, by bills made to the principal by the agent's correspondent in England, such advances not being in the nature of loans, but rather anticipations of payment, and the rate of interest being usual on Gibraltar transactions (*Harvey* v. *Archbold*, 3 B. & C. 626; 4 D. & R. 500). And where, upon the sale of an estate, it was agreed that the purchase-money should be paid by instalments with interest at six pounds per cent., it was held that such payments, though reserved under the name of interest, were in substance part of the purchase-money, and not usurious, unless the sale was colourable (*Beete* v. *Bidgood*, 1 Man. & Ry. 143; 7 B. & C. 453; and *Floyer* v. *Edwards*, Cowp. 112). So the *bonâ fide* sale of a bill for a less sum than the money payable was held not usurious, there being no loan or forbearance; but if the sale were colourable it was otherwise (*Rex* v. *Ridge*, 4 Price, 50; *Massa* v. *Dauling*, 2 Stra. 1243).

A reversioner in fee, expectant on the death of a tenant for life aged sixty-one, mortgaged in 1819 his reversion, by way of trust to secure repayment of an advance of 500*l.* on the death of the tenant for life, with 500*l.* more if the tenant for life died within five years, and twice as much more if he died after that period: it was held, under the law then in force, that the security was void as usurious (*Mansfield* (*Earl*) v. *Ogle*, 7 De G. Mac. & G. 181).

If the real object and intention of the parties is the loan or forbearance of money, the legal consequence of usury will attach whatever form or colour may be apparently given to the transaction, and the intention is a question of fact to be determined by a jury, upon consideration of all the circumstances of the case (see the observations of Lord Tenterden in *Solarte* v. *Melville*, 1 Man. & R. 203; 7 B. & C. 430). The statute 37 Hen. 8 refers to any corrupt bargain, loan, exchange, chevisance shifts, interest of any wares or merchandise, or other thing whatsover. The statute of Car. 2 and 12 Anne, in addition to those terms, refer more comprehensively to "any deceitful way or means, or any covin, engine, or

deceitful conveyance. See upon this subject *Floyer* v. *Edwards*, Cowp. 112; *Murray* v. *Harding*, 2 W. Bla. 859; 3 Wils. 390; *Barker* v. *Vansommer*, 1 Bro. C. C. 149.

It would be beyond the limits of this note to give all instances of bargains usurious or not so; it is only proposed to give the general rules. As to usury by requiring the borrower, &c. to take goods instead of money, see *Davis* v. *Hardacre*, 2 Camp. 375; *Coombe* v. *Miles*, *ib.* 553. As to usury under colour of the sale of goods, see *Floyer* v. *Edwards*, Cowp. 112; *Ex parte Aynsworth*, 4 Ves. jun. 678; *Harvey* v. *Archbold*, 3 B. & C. 626; *Beete* v. *Bidgood*, 1 Man. & Ry. 143; 7 B. & C. 453; *Gregg* v. *Stoker*, Forrest, 4. Under colour of sale or transfer of stock, *Tate* v. *Wellings*, 3 T. R. 531; *Sanders* v. *Kentish*, 8 T. R. 162; *Forrest* v. *Elwes*, 4 Ves. 492; *Barnard* v. *Young*, 17 Ves. 44; *White* v. *Wright*, 3 B. & C. 273; *Boldero* v. *Jackson*, 11 East, 612; *Smedley* v. *Roberts*, 2 Camp. 607; *Pike* v. *Ledwell*, 5 Esp. 164. Under colour of the sale and purchase of an interest in the land, *Doe d. Grimes* v. *Gooch*, 3 B. & Ald. 664; *Doe* v. *Chambers*, 4 Camp. 1; *Meredith* v. *Saunders*, 2 Dow. 514; *Brown* v. *Odea*, 1 Sch. & Lef. 115; *Drew* v. *Power*, *ib.* 182; *Molloy* v. *Irwin*, *ib.* 310; see *Spurrier* v. *Mayoss*, 4 Bro. Ch. C. 28, where it was held that a contract to pay interest above legal interest, if the purchaser did not complete the purchase at the fixed day, was not usurious, because there was no forbearance of a debt, and the contract was for sale. Under colour of acting as factor or agent in a purchase, *Harris* v. *Boston*, 2 Camp. 348; or of guaranteeing a discounted bill, *Lee* v. *Cass*, 1 Taunt. 511; or under colour of a lease at an exorbitant rent, *Bedo* v. *Sanderson*, Cro. Jac. 440; *Jestens* v. *Brooks*, Cowp. 793; *Brown* v. *Odea*, 1 Sch. & Lef. 115; *Drew* v. *Power*, *ib.* 182; *Molloy* v. *Irwin*, *ib.* 310; *Gubbins* v. *Creed*, 2 Sch. & Lef. 218; *Meredith* v. *Saunders*, 2 Dow. 514; *Prior* v. *Dumphy*, 1 Ball & B. 27; *Clancarty* v. *Latouche*, *ib.* 420; *Corbett* v. *Segrave*, 2 Ball & B. 98. And under colour of a partnership, or sale of a partnership interest, *Enderby* v. *Gilpin*, 5 B. Moore, 571; *Grace* v. *Smith*, 2 Bla. 998; *Morse* v. *Wilson*, 4 T. R. 353; *Tarleton* v. *Backhouse*, Coop. Ch. Rep. 231.

The contract is not tainted with usury, where the principal is either sunk or put in danger; therefore a *bonâ fide* grant of an annuity, whether for life or years, where there is no compulsory obligation to re-purchase, and the grantor has the option, however inadequate or improvident, is not usurious (*Murray* v. *Harding*, 2 Bla. 859; *Holland* v. *Pelham*, 1 C. & J. 575; *Tanfield* v. *Finch*, Cro. Eliz. 27; *Marsh* v. *Martindale*, 3 Bos. & P. 154). And a *bonâ fide* grant of an annuity for a sum in gross for a term certain seems not usurious, if not intended as a shift to cover usury; but if the deed is a shift for the purpose of evading the statute, and the jury come to that conclusion, it is void (*per* Sir E. Sugden, C., *Kenny* v. *Lynch*, 8 Ir. Eq. R. 211). Where the owner of a leasehold for fifty years unexpired, in consideration of 300*l.*, granted an annuity of 45*l.*, charged on the leasehold, and assigned the latter to secure the annuity, and the annuitant covenanted at any time on payment of 300*l.*, and on getting six months' notice, to reconvey, the transaction was held usurious (*Kenny* v. *Lynch*, 9 Ir. Eq. Rep. 530; and see *S. C.* with all the authorities on this subject reviewed and commented on (*Ibid.*; 8 Ir. Eq. Rep. 207; *Dowling* v. *Legh*, 9 *ib.* 413; *Chillingworth* v. *Chillingworth*, 8 Sim. 404; *Fereday* v. *Wightwick*, 1 Russ. & M. 45).

And any contract of loan, where the principal sum is in hazard by the obligation to pay being contingent, is not usurious (*Roberts* v. *Trenayne*, Cro. Jac. 507; *Earl of Chesterfield* v. *Janssen*, 2 Ves. 125; *Hawkins* v. *Bennett*, 7 C. B. N. S. 507, 30 L. J. C. P. 193). Nor is a post obit bond usurious, however extortionate (*Matthews* v. *Lewis*, 1 Anst. 7; *Earl of Chesterfield* v. *Janssen*, 2 Ves. 125; 1 Atk. 301; 1 Wils. 286). But this question was under consideration in *Wilson* v. *Marsack*, in K. B., M. T. 1828. And in all cases where it is in the election of a party borrowing to avoid the usurious interest, it is not usury (Hawk. P. C. b. 1, ch. 29, s. 36; *per* Turner, V.-C., *Long* v. *Storie*, 9 Hare, 542).

The circumstance of a third person taking brokerage or remuneration for obtaining the loan or forbearance of money, will not affect the security of the creditor (*Dagnall* v. *Wigley*, 11 East, 43; 2 Camp. 33; *Jones* v. *Davison*, Holt, C. N. P. 256). But if the lender was to anticipate in the excessive brokerage (*Id.*), or if he personally introduced the broker into the transaction, in order that the latter might receive the illegal profit, the principal could not recover on the bill or contract (*per* Lord Tenterden in *Meago* v. *Symonds*, Sittings at Westminster, A.D. 1828).

This statute declares that all bonds, contracts, and assurances for the payment of any principal money, &c., whereupon or whereby illegal interest shall be reserved or taken, shall be utterly void. Therefore, between the original parties, neither the contract nor the securities for this performance could be enforced (*Roberts* v. *Trenayne*, Cro. J. 507; *Harrison* v. *Hannel*, 5 Taunt. 780). And at law as well as in bankruptcy, the creditor is not left a creditor, even for what he actually advanced, nor can he by any means recover the same (see *Benfield* v. *Solomans*, 9 Ves. jun. 84; *Ex parte Scrivener*, 3 Ves. & B. 14; *Fitzroy* v. *Gwillim*, 1 T. R. 153). But in equity, if the borrower apply for relief and to get back title deeds or securities, it has been considered that the court will not in general relieve, except upon the terms of his paying the principal with legal interest (see *Benfield* v. *Solo-*

12 Ann. st. 2, c. 16.

Bonds, &c., for a greater interest shall be void; and

the forbearance (*a*) of one hundred pounds for a year, and so after that rate for a greater or lesser sum, or for a longer or shorter time; and that all bonds, contracts, and assurances whatsoever made after the time aforesaid for payment of any principal or money to be lent or covenanted to be performed upon or for any usury whereupon or whereby there shall be reserved (*b*) or taken above the rate of five pounds in the hundred as aforesaid, shall be utterly void (*c*); and that all and every person or persons whatso-

---

mans, 9 Ves. jun. 84; and *Ex parte Scrivener*, 3 Ves. & B. 14). And where the plaintiff lent the defendant a sum of money on his bond and an equitable deposit, the bond on the face of it was usurious, and an action having been brought on it, the plaintiff failed; he afterwards came into equity, showing that the bond had been erroneously prepared, and that in fact the contract was not usurious, and praying that the instrument might be reformed and effect given to the equitable deposit; the court, being satisfied of the error, declared that the plaintiff was entitled to the relief he asked (*Hodgkinson* v. *Wyatt*, 9 Beav. 566).

At law, it has been held that an action of trover is not sustainable for goods deposited for securing an usurious contract, without first tendering the principal money and legal interest (*Fitzroy* v. *Gwillim*, 1 T. R. 153). And where usurious securities had been acted upon, and a warrant of attorney given, the court refused to set aside a judgment and execution thereon, but upon the terms of the defendant's repaying the principal and legal interest (*Hindle* v. *O'Brien*, 1 Taunt. 413). But these decisions seem questionable, as the statute declares that the contract and securities shall be utterly void; and accordingly, in *Roberts* v. *Goff* (4 B. & Ald. 92), the court set aside a judgment founded on an usurious security, without compelling the defendant to repay the principal and interest; and Bayley, J., said, "We cannot enforce such terms. The instrument is void; it is not good at law. I have reason to know that some of the learned persons who argued the above case in the common pleas were not at the time at all satisfied with the decision" (*Barnard* v. *Young*, 17 Ves. 44).

It is competent to the parties to cancel an usurious contract, and give a valid security for the principal money and legal interest (*Barnes* v. *Hedley*, 2 Taunt. 184). But in such renewed security a deduction must be made of all sums paid usuriously under the former security (*Wicks* v. *Gogerley*, Ry. & M. 123; *Wright* v. *Wheeler*, 1 Camp. 165; and see *Preston* v. *Jackson*, 2 Stark. 237).

A subsequent usurious contract will not invalidate the right to enforce a previous legal one; as where the plaintiff sold to the defendant two oxen for 6*l.* 6*s.* 8*d.* to be paid at All Saints, and at that day the defendant required of him a longer time for payment, and the plaintiff gave him till the 1st of May next, paying to him for the forbearance of his money three quarters of wheat, which was above the value of the then legal rate of interest: it was held, that though the last contract was void, the first remained valid, and the action for the price of the oxen was sustainable (*Pollard* v. *Scoly*, Cro. Eliz. 20; and see the several cases in 1 Saund. 294). So if a *bonâ fide* debt is mingled with an usurious contract relating to it, the same will not be destroyed (*Gray* v. *Fowler*, 1 H. Bl. 462; *Phillips* v. *Cockayne*, 3 Camp. 119). So the subsequent taking illegal interest on a valid bond will not invalidate the same, though the party will be liable to pay treble value (*Ferrall* v. *Shaen*, 1 Saund. 294). But the taking excessive interest is *prima facie* evidence of an original illegal contract (*Ibid.* note 1, and Lord Tenterden's observations in *Solarte* v. *Melville*, 7 B. & C. 430; 1 Man. & Ry. 204; *Fussil* v. *Brookes*, 2 Car. & P. 318).

As to pleading usury, see *Hill* v. *Montague*, 2 M. & Sel. 377; *Nichols* v. *Lee*, 3 Anst. 940; *Tate* v. *Wellings*, 3 T. R. 538; *Robson* v. *Fallows*, 3 Bing. N. C. 396; *Downes* v. *Green*, 12 M. & W. 480; *Turquand* v. *Mosedon*, 7 M. & W. 504; *Derry* v. *Toll*, 5 Exch. 741; *Washbourne* v. *Burrowes*, 1 Exch. 107; *Hodgkinson* v. *Wyatt*, 4 Q. B. 749.

(*a*) A licence by a creditor to his debtor is not a forbearing of a debt (*O'Brien* v. *Lord Kenyon*, 6 Exch. 382).

(*b*) See *Long* v. *Storie*, 9 Hare, 542.

(*c*) These words are so operative, that it was held that every security given upon an usurious consideration was so contaminated by it that it could not be enforced by any person, however innocent, and therefore it was held that a bill of exchange or a promissory note given upon an usurious consideration was void, even in the hands of an indorsee for a valuable consideration, without notice of the usury (*Lowe* v. *Waller*, 2 Doug. 736; *Ackland* v. *Pearce*, 2 Camp. 599; *Lowes* v. *Mazzaredo*, 1 Stark. 385; but see 5 & 6 Will. 4, c. 41, ante, Vol. II. p. 269, tit. "GAMING"). However, a substituted security to a *bonâ fide* holder might be enforced, if he was ignorant of the usury at the time he took such fresh security (*Cuthbert* v. *Haley*, 8 T. R. 390); but if he was aware of the usury at the time he took the fresh security, it would be equally invalid (*Chapman* v. *Black*, 2 B. & Ald. 588). In favour of a *bonâ fide* holder of bills, ignorant of the usury, the 58 Geo. 3, c. 93, was passed (see the Act, and decisions thereon, post, p. 830).

ever which shall after the time aforesaid upon any contract to be made after the said 29th day of September, take, accept, and receive by way or means of any corrupt bargain, loan, exchange, chevisance, shift, or interest of any wares, merchandise, or other thing or things whatsoever, or by any deceitful way or means, or by any covin, engine or deceitful conveyance for the forbearing or giving day of payment for one whole year, of and for their money or other thing above the sum of five pounds for the forbearing of one hundred pounds for a year, and so after that rate for a greater or lesser sum or for a longer or shorter term, shall forfeit and lose for every such offence the treble value of the monies, wares, merchandises and other things so lent, bargained, exchanged, or shifted (*a*).

12 Ann. st. 2, c. 16.

persons taking above shall forfeit treble the value of the monies, &c.

2. That all and every scrivener and scriveners, broker and brokers, solicitor and solicitors, driver and drivers of bargains for contracts, who shall after the 29th day of September take or receive directly or indirectly any sum or sums of money or other reward or thing for brokage, soliciting, driving or procuring the loan or forbearing of any sum or sums of money over and above the rate or value of five shillings for the loan or forbearing of one hundred pounds for a year, and so rateably, or above twelve pence over and above the stamp duties for making or renewing of the bond or bill for loan or forbearing thereof, or for any counterbond or bill concerning the same, shall forfeit for every such offence twenty pounds with costs of suit and suffer imprisonment for half a year (*b*), the one moiety of all which forfeitures to be to the queen's most excellent majesty, her heirs and successors, and the other moiety to him or them that will sue for the same in the same county where the several offences are committed and not elsewhere, by action of debt, bill, plaint, or information, in which no essoign, wager of law or protection shall be allowed.

No scrivener, &c., shall take above 5*s* for 100*l.* for a year, for brokerage, &c., nor above 12*d.* besides stamp duties for making or renewing any bond, &c.

14 Geo. 3, c. 79. An Act for explaining an Act made in the Twelfth Year of the Reign of Queen Anne, intituled "*An Act to reduce the Rate of Interest, without any Prejudice to Parliamentary Securities.*" [A.D. 1774.]

14 Geo. 3, c. 79.

1. That all mortgages and securities which by any of his majesty's subjects already have been made and executed in Great Britain, of or concerning any lands (*c*), tenements, hereditaments, slaves, cattle, or other things lying and being in the kingdom of Ireland, or in any of the said colonies, plantations, or dominions, or any estate or interest therein to any of his majesty's subjects for securing the repayment of the sums of money thereon respectively, really and *bonâ fide* advanced and lent with interest for the same; and all bonds, covenants, and securities for payment of the same sums of money and interest respectively, and all transfers or assignments which have been made and executed in Great Britain of such mortgages, securities, or bonds to any of his majesty's subjects, shall be as good, valid, and effectual to all intents and purposes whatsoever, as such mortgages, securities, bonds, covenants, transfers, or assignments would have been, if the same had been made and executed in the kingdom, island, plantation, country, or place where the lands, tenements, hereditaments, slaves, cattle, or other things mentioned and comprised in any such mortgage, security, transfer, or assignment as aforesaid, severally lie or are; and that none of his majesty's subjects in Great Britain shall be subject or liable to any of the penalties or forfeitures in the said Act made in the twelfth year of her said late majesty's reign, by receiving or taking interest for the sum or sums of money really and *bonâ fide* advanced, or lent on any such mortgage, security, bond, covenant, transfer, or assignment as aforesaid, at the rate of interest allowed and established by the law of the kingdom, colony, plantation, country, or place wherein the mortgaged premises respectively lie or are.

Mortgages, &c., of lands in Ireland, or the colonies, &c., already made, to be as effectual as if executed in the place, &c.;

and no British subject liable to penalties.

2. That all mortgages and securities which by any of his majesty's subjects, after the passing of this Act, shall be made and executed in Great Britain of or concerning any lands, tenements, hereditaments, slaves, cattle or other things lying and being in the kingdom of Ireland, or in any of the said colonies, plantations or dominions, or any

Mortgages and transfers hereafter to be executed,

(*a*) The cases on the penal clauses of this statute have become practically unimportant. See them collected in the previous edition, p. 1505.

(*b*) A broker might be indicted for taking more than the prescribed brokerage, under the stat. (repealed) 17 Geo. 3, c. 26, s. 7 (*Rex* v. *Gillham*, 6 T. R. 265).

(*c*) In *Dewar* v. *Span* (3 T. R. 425) it was held that this Act related solely to securities on land in Ireland and the colonies. And see the observations of Bayley, J., to that effect, in *Beete* v. *Bidgood*, 1 Man. & Ry. 150, where A. contracted with B. for the sale of an estate in the West Indies, and it was agreed that part of the purchase-money should remain secured by the bond of B. and C., and that bond was cancelled, and another executed in England by B. and D., reserving 6*l.* per cent. interest in the same manner as the former one: this was held usurious. Mr. Evans, in his Collection of Statutes, tit. "Usury," doubts the propriety of this decision. And see *Spurrier* v. *Mayoss*, 4 Bro. C. C. 28; 1 Ves. jun., 527; *Beete* v. *Bidgood*, 1 Man. & Ry. 143; 7 B. & C. 453. See further, as to foreign interest, 3 Bing. 193, and stat. 3 Geo. 4, c. 47, post.

14 G. 3, c. 79. shall be valid.

estate or interest therein, to any of his majesty's subjects for securing the repayment of the sums of money thereon respectively to be really and *bonâ fide* advanced and lent, with interest for the same, and all bonds, covenants, and securities for payment of the same sums of money and interest respectively, and all transfers or assignments which, after the passing of this Act, shall be made and executed in Great Britain of such mortgages, securities, or bonds to any of his majesty's subjects shall be as good, valid, and effectual to all intents and purposes whatsoever, as such mortgages, securities, bonds, covenants, transfers or assignments would be if the same were made and executed in the kingdom, island, plantation, country or place where the lands, tenements, hereditaments, slaves, cattle or other things to be mentioned or comprised in any such mortgage, security, transfer, or assignment as aforesaid severally lie or are; and that none of his majesty's subjects in Great Britain shall be subject or liable to any of the penalties or forfeitures in the said Act made in the twelfth year of her said late majesty's reign, by receiving or taking interest for the sum or sums of money to be really and *bonâ fide* advanced or lent on any such mortgage, security, bond, covenant, transfer, or assignment as aforesaid, so as the interest so to be received or taken do not exceed the rate of six pounds for one hundred pounds for a year; the aforesaid Act of parliament or any other law or statute to the contrary notwithstanding.

Not to make good such mortgage, if advanced more than lands worth.

3. Provided always, That this Act shall not make good, valid, or effectual any such mortgage, security, bond, covenant, transfer, or assignment where the lender or lenders of any sum or sums of money has or have knowingly advanced or lent, or shall knowingly advance or lend thereon more money than the lands, tenements, hereditaments, slaves, cattle or other things in such mortgages, securities, transfers, or assignments mentioned or comprised, or to be mentioned or comprised, was, were, or shall be at the time or times of advancing or lending such sum or sums of money as aforesaid really and *bonâ fide* worth, to be sold.

Borrowing sums exceeding the value, &c., to forfeit triple the value.

4. That all and every person or persons borrowing any sum or sums of money under the authority of this Act upon any such lands, tenements, hereditaments, slaves, cattle or other things as aforesaid, exceeding the value which the same shall be, at the time of borrowing such sum or sums of money, really and *bonâ fide* worth to be sold over and above all incumbrances which shall then affect the same, shall forfeit triple the value of the sum borrowed; the one half to be paid to the informer, the other half to the treasurer of the royal hospital for seamen at Greenwich, in the county of Kent, or to his sufficient deputy or agent, for the use of the said hospital.

Mortgages to be registered in the colony, &c.

5. Provided also, That all such mortgages or other securities granted under the authority of this Act, by which such lands, tenements, hereditaments, slaves, cattle or other things are intended to be charged or affected, shall be registered within the kingdom, island, colony, plantation, country or place where the said lands, tenements, hereditaments, slaves, cattle or other things severally lie or are within the time limited by the laws of such kingdom, island, colony, plantation, country or place, otherwise the same shall be subject to the several provisions and penalties contained in the said Act, made in the twelfth year of her late majesty queen Anne, in such manner as the same would have been if this Act had never been passed, unless the mortgagee or other person or persons for whose behoof such mortgage or other security shall have been made or granted shall have *bonâ fide* used his or their utmost endeavour to cause the same to be registered within the time hereinbefore limited for that purpose.

58 G. 3, c. 93.

58 Geo. 3, c. 93. An Act to afford Relief to the *bonâ fide* Holders of negotiable Securities, without Notice that they were given for a usurious Consideration. [10th June, 1818.]

"Whereas by the laws now in force all contracts and assurances whatsoever for payment of money made for a usurious consideration are utterly void: And whereas in the course of mercantile transactions negotiable securities often pass into the hands of persons who have discounted the same without any knowledge of the original considerations for which the same were given; and the avoidance of such securities in the hands of such *bonâ fide* indorsees without notice is attended with great hardship and injustice:" for remedy thereof BE IT ENACTED, That no bill of exchange or promissory note that shall be drawn or made after the passing of this Act shall, though it may have been given for a usurious consideration or upon a usurious contract, be void in the hands of an indorsee for valuable consideration (*a*), unless such indorsee had at the time of discounting or paying such consideration for the same actual notice that such bill of exchange or promissory note had been originally given for a usurious consideration or upon a usurious contract.

Bill of exchange or promissory note given for a usurious consideration not void in the hands of an indorsee if he had no notice thereof.

(*a*) See *Vallance* v. *Siddel*, 6 Ad. & E. 941.

3 Geo. 4, c. 47. An Act to repeal an Act of his present Majesty, for explaining an Act made in the Twelfth Year of Queen Anne, to Reduce the Rate of Interest without Prejudice to Parliamentary Securities, and to substitute other Provisions in lieu thereof. [24th June, 1822.] 3 G. 4, c. 47.

3 & 4 Will. 4, c. 98. An Act for giving to the Corporation of the Governor and Company of the Bank of England certain Privileges for a limited Period under certain Conditions (*a*). [29th August, 1833.] 3 & 4 W. 4, c. 98.

Bills not having more than three months to run, not subject to usury laws (*b*).

7. That no bill of exchange or promissory note made payable at or within three months after the date thereof (*c*) or not having more than three months to run, shall, by reason of any interest taken thereon, or secured thereby, or any agreement to pay or receive or allow interest in discounting, negociating, or transferring the same, be void, nor shall the liability of any party to any bill of exchange or promissory note be affected (*d*) by reason of any statute or law in force for the prevention of usury, nor shall any person or persons drawing, accepting, indorsing, or signing any such bill or note, or lending or advancing any money, or taking more than the present rate of legal interest in Great Britain and Ireland respectively for the loan of money on any such bill or note, be subject to any penalties under any statute or law relating to usury, or any other penalty or forfeiture; anything in any law or statute relating to usury in any part of the united kingdom to the contrary notwithstanding.

(*a*) Virtually repealed by 17 & 18 Vict. c. 90, post, p. 833.

(*b*) This statute was not repealed by 2 & 3 Vict. c. 37, s. 1; and bills not having more than three months to run, reserving more than legal interest, and though there was further security on land, were not void (*Clack* v. *Sainsbury*, 21 L. J. C. P. 41; *Nixon* v. *Phillips*, 7 Exch. 188; *Lane* v. *Howlock*, 25 L. J. Ch. 253; 5 H. L. C. 580).

(*c*) A bill payable on demand is a note payable within three months after date thereof (*Vallance* v. *Siddell*, 6 Ad. & E. 932). Where A. made an advance to B. on his promissory note, payable three months after date, renewable for the same period at the option of the bankrupt, but so as not to exceed the period of eighteen months in the whole, the bankrupt undertaking to pay 7½ per cent. interest, and 3*l.* per cent. insurance; the note was renewed four times successively, and on each renewal the same rate was deducted for interest and insurance; the court held, that this transaction was protected by this statute (*Ex parte Terrewest*, 4 Deac. 144). So where A. agreed with B. to lend him 200*l.*, at interest after the rate of 1*s.* in the pound per month (60*l.* per cent. per annum), to be secured as follows: whenever any portion of the money should be advanced the borrower was to deliver a promissory note, payable one month after date, to be renewed so often as it should fall due; and for each renewal 1*s.* in the pound was to be paid by way of discount; it was held, that the promissory notes so given were within the protection of this statute (*Holt* v. *Miers*, 5 M. & W. 168).

Where the defendant lent T. 500*l.*, and received from him a document whereby he promised to pay the defendant or his order, on demand, 500*l.*, with 7*l.* per cent. interest, and also to give the defendant a life policy, and the lease of a house; the lease and policy were deposited within a few days, and some weeks afterwards T. executed an assignment of the lease to the defendant, as a security for repayment of the 500*l.*, and interest at 5*l.* per cent.; T. subsequently made several payments of interest at 7*l.* per cent.; it was held, that the above document was not within the protection of this statute, for it was not a promissory note, inasmuch as it contained a promise to pay money, and also to do another act; that the loan was not protected by the 2 & 3 Vict. c. 37, because it was accompanied by a real security; and that the assignment being part of the same transaction, the whole was usurious and void, and the assignees of T., who had become bankrupt, were entitled to recover both the lease and the policy (*Follett* v. *Moore*, 4 Exch. 410).

This statute contemplates the case of interest taken upon or secured by a bill of exchange or promissory note as the real and *bonâ fide* ground of the debt; and does not extend to the case of a bill of exchange given in addition to a security of another nature, not protected by the statute, upon which the debt was really contracted (see *per* Tindal, C. J., *Berrington* v. *Collis*, 5 Bing. N. C. 337).

(*d*) See *Vallance* v. *Siddel*, 6 Ad. & E. 941. A warrant of attorney given to secure the amount of an usurious bill at three months, which has been dishonoured at maturity, was within the protection of this section (*Connop* v. *Meaks*, 2 Ad. & E. 326; see *Ex parte Knight*, 1 Deac. 459; *King* v. *Braddon*, 10 Ad. & E. 675).

5 & 6 W. 4, c. 41.

5 & 6 Will. 4, c. 41. An Act to amend the Law relating to Securities given for Considerations arising out of gaming, usurious, and certain other illegal Transactions (*a*). [31st August, 1835.]

2 & 3 Vict. c. 37.

2 & 3 Vict. c. 37. An Act to amend, and extend until the First day of January, One thousand eight hundred and forty-two, the Provisions of an Act of the First Year of Her present Majesty for exempting certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury (*b*). [29th July, 1839.]

Bills of exchange and contracts for loans or forbearance of money above 10*l.* not to be affected by usury laws.

That from and after the passing of this Act (*c*) no bill of exchange or promissory note made payable at or within twelve months after the date thereof, or not having more than twelve months to run, nor any contract for the loan or forbearance of money, above the sum of ten pounds sterling (*d*), shall, by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive or allow interest in discounting, negociating, or transferring any such bill of exchange or promissory note, be void, nor shall the liability of any party to any such bill of exchange or promissory note, nor the liability of any person borrowing any sum of money as aforesaid, be affected, by reason of any statute or law in force for the prevention of usury; nor shall any person or persons or body corporate drawing, accepting, indorsing or signing any such bill or note, or lending or advancing or forbearing any money as aforesaid, or taking more than the present rate of legal interest, in Great Britain and Ireland respectively, for the loan or forbearance of money as aforesaid, be subject to any penalties under any statute or law relating to usury, or any other penalty or forfeiture; anything in any law or statute relating to usury, or any other law whatsoever in force in any part of the united kingdom, to the contrary notwithstanding: Provided always, that nothing herein contained shall extend to the loan or forbearance of any money upon security of any lands, tenements, or hereditaments, or any estate or interest therein (*e*).

(*a*) See this Stat., ante, Vol. II. p. 269, tit. "GAMING." So much of this Act as relates to usury is repealed by 17 & 18 Vict. c. 90.

(*b*) The 13 & 14 Vict. c. 56, by which this statute was continued, is repealed by 17 & 18 Vict. c. 90.

The effect of this statute was to take out of the operation of the statute of Anne all contracts which were rendered usurious by that statute, except such as affect land (*per* Parke, B., *Thibault* v. *Gibson*, 12 M. & W. 96).

(*c*) This statute has been holden to operate retrospectively (*Hodgkinson* v. *Wyatt*, 4 Q. B. 749; but see *Bell* v. *Coleman*, 2 C. B. 268; *Turquand* v. *Mosedon*, 7 M. & W. 504).

(*d*) A loan of money exceeding 10*l.* upon the security of goods, upon such terms as to interest, &c., as are authorised by the usury laws, is not invalid merely because the lender is a pawnbroker (*Hitch* v. *Rochfort*, 1 Mac. & Gor. 184; and see *Pennell* v. *Attenborough*, 4 Q. B. 868; *Tregoning* v. *Attenborough*, 7 Bing. 97; *Cowie* v. *Harris*, 1 M. & Malk. 141).

Where A. became indebted to B. in 1000*l.* upon bills discounted at usurious interest, and being afterwards pressed for payment, deposited with B., as a collateral security, a deed for securing an annuity payable out of real property; nothing being said at the time as to the rate of interest to be paid for the further forbearance; a bill for 1000*l.* was afterwards given by A. to B. in respect of the debt, and renewed from time to time at 10*l.* per cent. interest; all this took place prior to the passing of this statute. It was held, that the subsequent dealing in respect of the bills did not invalidate the deposit of the deed (*Bell* v. *Coleman*, 2 C. B. 268).

Where a builder, being equitable lessee of land agreed to be demised to him on a building lease, on advances made by the defendant, agreed that the leases should be made to him, and that he would become sub-lessee at a rent of 8*l.* per cent. on the amount of the advances, and himself personally and his assets after his death were to be liable for the rent; the transaction was held to be usurious (*Belcher* v. *Vardon*, 2 Coll. 162; and see *Fereday* v. *Whightwick*, 1 Russ. & M. 45; *Wise* v. *Kishenkoomar*, 4 Moore's Appl. Cases, 201).

(*e*) It was held by Turner, L. J., and by Kindersley, V. C., and Wood, V. C., that the effect of this statute was to make valid all bills of exchange, &c., whether there was a security on land or not, and that the proviso at the end of this section only invalidated the security on the land, and not the contract itself between the parties (*Ex parte Warrington*, 22 L. J. Bank. 33; 2 De Gex, M. & G. 159; *Lane* v. *Horlock*, 1 Drew. 587; *Bond* v. *Bell*, 4 Drew. 157; *Gore* v. *Spotten*, 7 Ir. Ch. R. 508; 22 L. J., Ch. 995; *James* v. *Rice*, 23 L. J. Ch. 243; Kay, 231). But the court of Queen's Bench, in *Hodgkinson* v. *Wyatt*, 4 Q. B. 749, and the Court of Exchequer, in *Fussel* v. *Daniel*, 24 L. J. Ex. 130; 10 Ex. 581; and *Langton* v. *Haynes*, 25 L. J. Ex. 319; 1 H. & N. 366, put a different construction upon this proviso, and held that the existence of a security on land invalidated the whole contract; see also *Lane* v. *Horlock*, 25 L. J. Ch. 253; 5

2. Provided always, That nothing in this Act contained shall be construed to enable any person or persons to claim, in any court of law or equity, more than five per cent. interest on any account or on any contract or engagement, notwithstanding they may be relieved from the penalties against usury, unless it shall appear to the court that any different rate of interest was agreed to between the parties. 2 & 3 Vict. c. 37. Five per cent. to be considered the legal rate of interest, except, &c.

3. Provided always, That nothing herein contained shall extend or be construed to extend to repeal or affect any statute relating to pawnbrokers, but that all laws touching and concerning pawnbrokers shall remain in full force and effect, to all intents and purposes whatsoever, as if this Act had not been passed. Not to affect the law as to pawnbrokers.

17 & 18 Vict. c. 90. An Act to repeal the Laws relating to Usury and to the Enrolment of Annuities. [10th August, 1854.]

17 & 18 Vict. c. 90.

"Whereas it is expedient to repeal the laws at present in force relating to usury:" BE IT ENACTED as follows:

1. The several Acts and parts of Acts made in the parliaments of England and Scotland, Great Britain and Ireland, mentioned in the schedule hereto, and all existing laws against usury, shall be repealed. Acts, &c., named in schedule repealed.

2. Provided always, that nothing herein contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done previously to the passing of this Act. Transactions previous to passing of this Act not to be affected.

3. Where interest is now payable upon any contract, express or implied, for payment of the legal or current rate of interest, or where upon any debt or sum of money interest is now payable by any rule of law, the same rate of interest shall be recoverable as if this Act had not been passed. Legal or current rate of interest to mean the same as if this Act had not passed.

4. Provided always, that nothing herein contained shall extend or be construed to extend to repeal or affect any statute relating to pawnbrokers, but that all laws touching and concerning pawnbrokers shall remain in full force and effect, to all intents and purposes whatsoever, as if this Act had not been passed. Not to affect the law as to pawnbrokers.

SCHEDULE referred to by the foregoing Act.

Acts and parts of Acts of the Parliaments of England, Great Britain, and the United Kingdom of Great Britain and Ireland.

37 Hen. 8	The whole.
13 Eliz. c. 8	The whole.
21 Jac. 1, c. 17, made perpetual by 3 Car. 1, c. 4, s. 5.	So much of 3 Car. 1 as enacts that 21 Jac. 1 be made perpetual.
12 Car. 2, c. 13 . .	The whole.
Confirmed by 13 Car. 2, stat. 1, c. 14.	So much of 13 Car. 2 as confirms the 12 Car. 2.
12 Anne, stat. 2, c. 16 .	The whole.
53 Geo. 3, c. 141 . .	The whole, except so much thereof as repeals the 17 Geo. 3.
3 Geo. 4, c. 92 . .	The whole.
7 Geo. 4, c. 75 . . .	The whole.
5 & 6 Will. 4, c. 41 .	So much as relates to securities given for considerations arising out of usurious transactions.
13 & 14 Vict. c. 56 . .	The whole.

H. L. C. 580.

It has been held, that this proviso extends to cases both of collateral securities and of equitable mortgages (*Hodgkinson* v. *Wyatt*, 4 Q. B. 749; see *Ex parte Warrington*, 3 De Gex, M. & G. 159; 22 L. J., Bk. 33). But that where the primary object of the parties is the discounting of a bill, the giving of a mortgage as a collateral security for the repayment of the money, which the law would compel to be paid, would not bring it within this proviso (*Doe d. Haughton* v. *King*, 11 M. & W. 333; see *Berrington* v. *Collis*, 5 Bing. N. C. 332, n.; *Turquand* v. *Mosedon*, 7 M. & W. 504; *Nixon* v. *Phillips*, 7 Exch. 188; and *Ex parte Warrington*, supra).

A loan on the discount of bills, payment of which is secured by warrant of attorney authorising the entering up of immediate judgment, is not a loan on the security of land within this proviso, notwithstanding 1 & 2 Vict. c. 110, ss. 13, 19 (*Lane* v. *Horlock*, 4 Dowl. & L. 408; 5 H. of L. C. 580; see *Baker* v. *Allen*, 10 Ir. Eq. R. 226; *Boughton* v. *Jervis*, 3 Gif. 144). A sale of growing underwood is a sale of an interest in land (*Rhodes* v. *Baker*, 1 I. L. R., N. S. 488; *Washbourne* v. *Burrowes*, 1 Exch. 107; *Derry* v. *Toll*, 1 L. M. & P. 590). As to what is an interest in land within the Statute of Frauds, see ante, Vol. II., p. 142, tit. "FRAUDS, STATUTE OF."

17 & 18 Vict. c. 90.

Acts of the Parliament of Scotland.

11 Jac. 6, c. 52.	16 Jac. 6, c. 7.
14 Jac. 6, c. 222.	23 Jac. 6, c. 28.
15 Jac. 6, c. 251.	

Acts of the Parliament of Ireland.

10 Car. 1, sess. 2, c. 22.	8 Geo. 1, c. 13.
2 Anne, c. 16.	5 Geo. 2, c. 7.

VACCINATION.

3 & 4 Vict. c. 29.

3 & 4 Vict. c. 29. An Act to extend the Practice of Vaccination. [23rd July, 1840.]

Poor law guardians to contract with their medical officers, or other medical practitioners, for vaccination.

Whereas it is expedient to extend the practice of vaccination: BE IT THEREFORE ENACTED, That from and after the passing of this Act it shall be lawful for the guardians of every parish or union, and for the overseers of every parish in which relief to the poor shall not be administered by guardians, in England and Wales, and they are hereby directed, to contract with the medical officers of their several unions or parishes respectively, or with any legally qualified medical practitioner or practitioners, for the vaccination of all persons resident in such unions or parishes respectively: Provided always, that it shall be a condition of every such contract that the amount of the remuneration to be received under the same shall depend on the number of persons who, not having been previously successfully vaccinated, shall be successfully vaccinated by such medical officers or practitioners respectively so contracting.

Guardians to conform to the regulations of the poor law commissioners.

2. That in making such arrangements as may be required for the execution of this Act, such guardians and overseers, and all other officers engaged in the administration of the laws for the relief of the poor, shall conform to the regulations which may from time to time be issued by the poor law commissioners in that behalf, which regulations the said commissioners are hereby authorised and required to make and issue.

Medical officers to report the number of persons vaccinated, &c.

3. That such medical officers or practitioners shall make a report to such guardians or overseers from time to time of the number of persons successfully vaccinated by them respectively, and shall make such further report, with respect to the persons so vaccinated, as such guardians and overseers, under the direction of the poor law commissioners, shall require.

Copies of contracts to be sent to commissioners.

4. That such guardians or overseers shall forthwith, after the conclusion of any such contract as before mentioned, transmit a copy thereof to the poor law commissioners.

Annulling of contracts.

5. That if such commissioners shall not annul such contract within fourteen days from the receipt thereof, such contract shall thenceforth not be liable to be annulled by such commissioners.

Guardians of poor law unions in Ireland to divide their unions into districts, &c.

6. That as soon as may be after the passing of this Act the guardians of every poor law union in Ireland shall (subject to the approbation of the poor law commissioners) divide such union into districts of convenient extent, and may alter the same from time to time, subject to the like approbation, and shall (subject to such approbation as aforesaid) contract with competent medical practitioners for the period of one year, and so from year to year as such contract may expire, for the vaccination of all persons who may come to such medical practitioners for that purpose.

Previous provisions with respect to unions in England and Wales to apply to Ireland.

7. That all the provisions hereinbefore made with respect to England and Wales for the making of reports of such medical officers or medical practitioners shall apply to all such contracts as may be made under this Act by the guardians of any poor law union in Ireland; and such guardians, and all other officers engaged in the administration of relief to the destitute poor, shall conform to the regulations and instructions of the poor law commissioners, in like manner as is hereinbefore directed with respect to guardians, overseers, and other officers in England and Wales.

Persons inoculating or otherwise producing small pox to be subject to one month's imprisonment.

8. That any person who shall from and after the passing of this Act produce or attempt to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article, or thing impregnated with variolous matter, or wilfully by any other means whatsoever produce the disease of small pox in any person in England, Wales, or Ireland, shall be liable to be proceeded against and convicted summarily before any two or more justices of the peace in petty sessions assembled, and for every such offence shall, upon conviction, be imprisoned in the common gaol or house of of correction for any term not exceeding one month.

Interpretation of words.

4 & 5 W. 4, c. 76.

9. That every word in such part of this Act as refers to England and Wales shall be interpreted in like manner as such word is directed to be interpreted in an Act passed in the fourth and fifth years of his late majesty king William the fourth, intituled "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales;" and that every word used in such part of this Act as relates to

Ireland shall be interpreted in like manner as such word is directed to be interpreted in an Act passed in the first and second year of the reign of her present majesty, intituled "An Act for the more effectual Relief of the destitute Poor in Ireland." 3 & 4 Vict. c. 29. 1 & 2 Vict. c. 56.

4 & 5 Vict. c. 32. An Act to amend an Act to extend the Practice of Vaccination. [21st June, 1841.]

4 & 5 Vict. c. 32.

Whereas an Act was passed in the fourth year of the reign of her present majesty, intituled "An Act to extend the Practice of Vaccination"; but no express provision was thereby made for defraying the expenses of carrying the same into execution: BE IT THEREFORE DECLARED AND ENACTED, That it shall be and be deemed to have been lawful for the guardians of every parish or union in England and Ireland, and the overseers of every parish in England, by whom the contracts for vaccination may respectively be or have been made under the provisions of the said Act, to defray the expenses incident to the execution of the said Act out of any rates or monies which may come or may have come into their hands respectively for the relief of the poor. 3 & 4 Vict. c. 29. Expenses of vaccination to be defrayed out of the poor rates.

2. That the vaccination, or surgical or medical assistance incident to the vaccination, of any person resident in any union or parish, or of any of his family, under the said Act, shall not be considered to be parochial relief, alms, or charitable allowance to such person, and that no such person shall by reason of such vaccination or assistance be deprived of any right or privilege, or be subject to any disability or disqualification whatsoever. Vaccination declared not to be parochial relief.

16 & 17 Vict. c. 100. An Act further to extend and make compulsory the Practice of Vaccination. [20th August, 1853.]

16 & 17 Vic c. 100.

Whereas an Act was passed in the fourth year of the reign of her present majesty, intituled "An Act to extend the Practice of Vaccination:" And whereas an Act was passed in the fifth year of the same reign, intituled "An Act to amend an Act to extend the Practice of Vaccination:" And whereas it is expedient that the practice of vaccination should be still further extended: BE IT THEREFORE ENACTED, as follows: 3 & 4 Vict. c. 29. 4 & 5 Vict. c. 32.

1. Within six weeks after the passing of this Act the guardians of every parish or union, and the overseers of every parish in which relief to the poor shall not be administered by guardians, in England and Wales, shall, subject to the approval of the poor law board, divide such parish or union, if need be, into convenient districts for the purpose of affording increased facilities for the vaccination of the poor, and shall appoint a convenient place in each such district for the performance of such vaccination, and shall take the most effectual means for giving from time to time to all persons resident within such district due notice of the days and hours at which the medical officer or practitioner contracted with for such purpose will attend at such place to vaccinate all persons not already successfully vaccinated who may then appear there, and also of the days and hours at which such medical officer or practitioner will attend at such place to inspect the progress of such vaccination in the persons so vaccinated. Parishes or unions to be divided into districts for the purpose of vaccination and places appointed for the performance of vaccination.

2. The father or mother of every child born in England or Wales after the first day of August in the year of our Lord one thousand eight hundred and fifty-three shall within three calendar months after the birth of the said child, or in the event of the death, illness, absence, or inability of the father and mother, then the person who shall have the care, nurture, or custody of the said child shall within four calendar months after the birth of such child, take or cause to be taken the said child to the medical officer or practitioner appointed in the union or parish in which the said child is resident according to the provisions of the first-recited Act for the purpose of being vaccinated, unless he shall have been previously vaccinated by some duly qualified medical practitioner, and the vaccination duly certified, and the said medical officer or practitioner so appointed shall and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate the said child. Parents and guardians of children born after 1st August, 1853, to have such children vaccinated within three or four months after birth.

3. Upon the eighth day following the day on which any child has been vaccinated as aforesaid the father or mother, or other person having the care, nurture, or custody of the said child, shall again take or cause to be taken the said child to the medical officer or practitioner by whom the operation was performed, in order that such medical officer or practitioner may ascertain by inspection the result of such operation. Children to be taken for inspection by medical officer on eighth day after the operation.

4. Upon and immediately after the successful vaccination of any child the medical officer or practitioner who shall have performed the operation shall deliver to the father or mother of the said child, or to the person who shall have the care, nurture, or custody of the said child, a certificate under his hand, according to the form of schedule hereinafter inserted, marked (A.), that the said child has been successfully vaccinated, and shall also transmit a duplicate of the said certificate to the registrar of births and deaths of the sub-district in which the operation was performed; and such certificate shall, without further proof, be admissible as evidence of the successful vaccination of such child in any information or complaint which shall be brought against the father or mother of the said child, or against the person who shall have had the care, nurture, or custody of such child as aforesaid, for noncompliance with the provisions of this Act. Certificate of successful vaccination to be delivered.

16 & 17 Vict. c. 100.

If the child be not in a fit state for vaccination, the medical officer to deliver a certificate to that effect to be in force for two months.

5. If any medical officer or practitioner shall be of opinion that any child is not in a fit and proper state to be successfully vaccinated, he shall thereupon and immediately deliver, without fee or reward, to the father or mother of such child, or the person having the care, nurture, or custody of the said child, a certificate under his hand according to the form of schedule hereinafter inserted, marked (B), that the child is in an unfit state for successful vaccination, and such certificate shall remain in force for two calendar months from its delivery as aforesaid; and the father or mother of the said child, or the person having the care, nurture, or custody of the said child, shall, unless they shall within each succeeding period of two months have obtained from a medical officer or practitioner a renewal of such certificate, within two months next after the delivery of the said certificate as aforesaid, and if the said child be not vaccinated at or by the termination of such period of two months then during each succeeding period of two calendar months until such child has been successfully vaccinated, take or cause to be taken to the said medical officer or practitioner such child to be vaccinated by him; and if the said medical officer or practitioner deem the said child to be then in a fit and proper state for successful vaccination, he shall forthwith vaccinate it accordingly, and shall deliver to the father or mother of such child, or person having the care, nurture, or custody of such child, a certificate under his hand according to the form of schedule hereinafter inserted, marked (A.), that such child has been successfully vaccinated; but if the said medical officer or practitioner be of opinion that the child is still in an unfit state for successful vaccination, then he shall again deliver to the father or mother of such child, or person having the care, nurture, or custody of the said child, a certificate under his hand, according to the said form of schedule (B.), that the child is still in an unfit state for successful vaccination; and the said medical officer or practitioner, so long as such child remains in an unfit state for vaccination, and unvaccinated, shall at the expiration of every succeeding period of two calendar months deliver, if required, to the said father or mother of such child, or person having the care, nurture, or custody of such child, a fresh certificate under his hand according to the said form of schedule; and the production of such certificate shall be a sufficient defence against any complaint which shall be brought against the said father or mother, or person having the care, nurture, or custody of such child, for noncompliance with the provisions of this Act.

Rates of payment for vaccination in contracts by guardians or overseers.

6. In all contracts to be hereafter made under the provisions of the first-recited Act by any guardians or overseers of the poor with any medical officers or practitioners for the vaccination of the persons resident in their respective unions or parishes the sums contracted to be paid shall not be less than the following rates; that is to say, for every person successfully vaccinated at the residence of such medical officer or practitioner, or within two miles therefrom by the nearest public road, a sum not less than one shilling and sixpence, and for every person successfully vaccinated at any place more than two miles distant from such residence any sum not less than two shillings and sixpence.

Child's incapacity to receive the vaccine disease to be certified.

7. In the event of any medical practitioner acting under the provisions of this Act being of opinion that any child that has been vaccinated by him is insusceptible of the vaccine disease, he shall deliver to the father or mother, or person having the care, nurture, or custody of such child, a certificate under his hand according to the form of schedule hereinafter inserted, marked (D.); and the production of such certificate shall be a sufficient defence against any complaint which may be brought against the said father, mother, or person having the care, nurture, or custody of such child for noncompliance with the provisions of this Act.

Registrars of births and deaths to keep a register of cases of successful vaccination, of which searches and extracts may be made.

8. The registrar of births and deaths in every sub-district in which the operation has been performed shall keep a register of the persons of whose successful vaccination a certificate shall have been transmitted to him as above provided by the said medical officer or practitioner, and shall at all reasonable times allow searches to be made of any such register book in his keeping, and shall give a copy, certified under his hand, of any entry or entries in the same, on payment of the fee of one shilling for each search, and sixpence for each certificate.

Notice to be given of the requirement of vaccination, and on failure of parent or guardian to comply therewith, penalty.

9. The registrar of births and deaths in every sub-district shall, on or within seven days after the registration of the birth of any child not already vaccinated within the said sub-district, give notice in writing in manner hereinafter directed, and according to the form of schedule hereinafter inserted, marked (C.), to the father or mother of such child, or in the event of the death, illness, absence, or inability from sickness or otherwise of the father and mother, then to the person upon whom the care, nurture, or custody of such child shall have devolved, that it is the duty of such father or mother, or person having the care, nurture, or custody of such child as aforesaid, to take care that the said child shall be vaccinated in the manner directed by this Act, and shall together therewith deliver to such person a notice of the days, hours, and places within the district of such registrar at which the medical officer or practitioner as hereinbefore provided will attend for the purpose of vaccination; and if after such notice the father or mother of the said child, or the person so having as aforesaid the care, nurture, or custody of the said child, shall not cause such child to be vaccinated, or shall not on the eighth day after the vaccination has been performed take or cause to be taken such child for inspection according to the provisions in this Act respectively contained, then such father or mother, or person having the care, nurture, or

custody of such child as aforesaid, so offending, shall forfeit a sum not exceeding twenty shillings. 16 & 17 Vict. c. 100.

10. A fee of threepence shall be paid to such registrar for each child vaccinated in respect of which he shall have performed the duties required in this Act; and he shall keep a book, to be provided as hereinafter directed, containing a minute of his having duly given such notice as hereinbefore directed; and the said fee shall be payable in the same manner as the fee now payable to such registrar for registering the birth of such child as aforesaid is paid. Fee to registrar.

11. The registrar general for England and Wales shall and he is empowered and directed, within two months after the passing of this Act, to frame and provide such books, forms, and regulations as he may deem requisite for carrying into full effect the provisions of this Act, and shall transmit the same to the superintendent registrars of each district in England and Wales, who shall deliver to the medical officers so appointed as aforesaid, and other duly qualified medical practitioners in the said district, such of the said books, forms, and regulations as they may require for the performance of the duties imposed upon them by this Act; and the expenses to be incurred by the registrar general under the provisions of this Act shall be defrayed in the same manner as the expenses under the Act of the sixth and seventh years of king William the fourth, chapter eighty-five. Registrar-general to provide books and forms for carrying out the provisions of this Act.

12. All penalties by this Act imposed shall be recoverable before any two justices of the peace for the county, city, borough, or place where the offence may have been committed; and the provisions of the Act of the twelfth year of her present majesty, chapter forty-three, shall be applicable to the recovery of such penalties. Recovery of penalties.

13. All penalties recovered under this Act shall be applied in aid of the funds applicable to the relief of the poor in the parish or place maintaining its own poor wherein the offence may have been committed. Application of penalties.

SCHEDULES referred to by this Act.

SCHEDULE (A).

I, the undersigned, hereby certify, that the child of aged of the Parish of in the County of has been successfully vaccinated by me.

Dated this day of 18 .

(Signed) *A. B.*
Surgeon of the Union *or* Parish
(*or other Medical Practitioner, as the Case may be*).

SCHEDULE (B).

I, the undersigned, hereby certify, that I am of opinion that the Child of of the Parish of in the County of aged is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the Vaccination until the day of

Dated this day of 18 .

(Signed) *A.B.*
Surgeon of the Union *or* Parish
(*or other Medical Practitioner, as the Case may be*).

SCHEDULE (C).

I, the undersigned, hereby give you Notice, and require you to have *C.D.* vaccinated within Three (or Four, *as the Case may be, according to the Second Section of this Act,*) Months after the Birth, pursuant to the Provisions and Directions of the Act of the 16 Victoria, cap. As witness my hand this day of 18 .

J.B.
Registrar of Births and Deaths for the Sub-district (*as the Case may be*).

SCHEDULE (D).

I, the undersigned, hereby certify, that I am of opinion that the Child of of the Parish of in the County of is insusceptible of the Vaccine Disease.

Dated this day of 18 .

(Signed) *A.B.*
Surgeon of the Union *or* Parish of
(*or other Medical Practitioner, as the Case may be*).

24 & 25 Vict. c. 59. **24 & 25 Vict. c. 59. An Act to facilitate Proceedings before Justices under the Acts relating to Vaccination. [1st August, 1861.]**

"Whereas it is expedient to make further provisions in relation to proceedings before justices under the following Acts; (that is to say,)

3 & 4 Vict. c. 29. "An Act passed in the session holden in the third and fourth years of the reign of her present majesty, chapter twenty-nine, intituled 'An Act to extend the Practice of Vaccination:'

4 & 5 Vict. c. 32. "An Act passed in the session holden in the fourth and fifth years of the reign of her present majesty, chapter thirty-two, intituled 'An Act to amend an Act to extend the Practice of Vaccination:'

16 & 17 Vict. c. 100. "An Act passed in the session holden in the sixteenth and seventeenth years of the reign of her present majesty, chapter one hundred, intituled 'An Act further to extend and make compulsory the Practice of Vaccination:'"

BE IT ENACTED as follows:

1. This Act may be cited for all purposes as "The Vaccination Acts Amendment Act, 1861."

As to institution of legal proceedings and payment of expenses of the same.

2. The guardians of any union or parish, or the overseers of any parish where the relief to the poor is not administered by guardians, may appoint some person to institute and conduct proceedings for the purpose of enforcing obedience to the said Acts or any of them within their union or parish; and as to all expenses incurred by any person so appointed, or by any registrar of births and deaths, or by any medical officer of health appointed under an Act of Parliament, in proceedings for enforcing penalties under the said Acts or any of them, if the justices or court before whom such proceedings are had certify that such expenses ought to be allowed, such court or justices shall ascertain the amount thereof, and such amount shall be payable out of the rates for the relief of the poor of the parish where the person for the time being dwells in respect of whose default or offence the same were instituted: and the court or justices shall ascertain the amount of such expenses. And proceedings for enforcing penalties under any of the said Acts, on account of neglect to have a child vaccinated, may be taken at any time during which the parent or guardian is in default.

VAGRANTS.

[See "CRIMINAL LAW."]

VENDORS AND PURCHASERS.

[See ante, Vol. I. tit. "CONVEYANCES," and ante, Vol. III. tit. "PROPERTY, LAW OF."]

VESTRIES (a).

[See "METROPOLITAN (MANAGEMENT)."]

58 G 3, c. 69. **58 Geo. 3, c. 69. An Act for the Regulation of Parish Vestries. [3rd June, 1818.]**

"Whereas it is expedient to regulate the manner of holding parish vestries, and the right of voting therein;" BE IT ENACTED, That from and after the first day of July, 1818, no vestry or meeting of the inhabitants in vestry of or for any parish shall be

Three days' notice to be given of vestries, by publication in church and affixing on church door.

(a) As to vestries in general, see Shaw's Par. Law; Prideaux's Churchwarden's Guide; Steer's Par. Law, 2nd ed.; Burn's Ec. Law; and Bere & Chit. Burn's J., 29th ed. Vol. 4, p. 341.

A vestry, properly speaking, is the assembly of the whole parish met together in some convenient place for the despatch of the affairs and business of the parish; and this meeting, being commonly held in the vestry adjoining to or belonging to the church, it thence takes the name of vestry, as the place itself doth, from the priest's vestments, which are usually deposited and kept there (Shaw's Par. Law, c. 17). By the common and general law, all the parishioners who pay scot and lot have a right to be of the vestry. But by immemorial custom this right may be restrained to a select number, then usually termed a select vestry, and it is highly convenient in populous parishes that it should be so, but still it cannot be done except by immemorial custom (*per* Lord Kenyon, *Berry* v. *Banner*, Peake, 160).

A select vestry cannot be constituted by a faculty from the bishop, which is *proprio vigore* a dead letter, though it may be evidence of the antecedent right (*per* Lord Kenyon, *Berry* v. *Banner*, Peake, 161). These select vestries originated from the practice of choosing a certain number of persons yearly, to ma-

holden until public notice (*a*) shall have been given of such vestry, and of the place and 58 G. 3, c. 69.

nage the concerns of the parish for that year, which by degrees became a fixed method, and the parishioners lost not only their right to concur in the public management, but also the right of electing the managers, and such a custom has been adjudged valid (Gibs. Cod. 219). And even a custom for the select vestry to choose one another has been supported (4 Burn's Ec. Law, 10). See some instances in which select vestries by custom have been established (*Batt* v. *Watkinson*, Lutw. 1027; Shaw's Par. Law, c. 17).

A custom that there shall be a select vestry of an indefinite number of persons, continued by election of new members made by itself, and not by the parishioners, is valid in law. But it seems that it must be part of such custom that there should always be a reasonable number, and that the reasonableness of the number must be decided with reference to long-established usage, and to the population of the parish, such a custom having existed from time immemorial in a parish (*Golding* v. *Fenn*, 7 B. & C. 765). And where, in the year 1662, by a faculty granted by the Bishop of London, forty-nine persons, together with the vicar and churchwardens, were named as the select vestry; and that number was to be kept up by elections, to be made by ten at least of those forty-nine, together with the vicar and churchwardens; in the year 1673 this number of ten was, by another faculty, reduced to seven; and these faculties were acted upon ever afterwards; ten out of the fourteen vestrymen, exclusive of the vicar and churchwardens, who were present at the vestry holden next before the promulgation of the first faculty, were part of the forty-nine named in that faculty; it was held, that as the vestry appointed by the faculty, and since continued, was not inconsistent with the vestry previously existing by the custom, the custom was not destroyed by the parish having accepted the faculty and acted upon it ever since, the faculty not being binding in law, and the vestry having power at any time to depart from its directions (*Golding* v. *Fenn*, 7 B. & C. 765).

A select vestry for the management of parochial affairs, existing by ancient custom, cannot elect another select vestry for the management of the poor, within the statute 59 Geo. 3, c. 12 (*Rex* v. *Woodman*, 4 B. & Ald. 507). See further, on this subject, *Rex* v. *Churchwardens of St. Bartholomew the Great*, 2 B. & Ad. 506; *Rex* v. *Churchwardens of St. Martin's-in-the-Fields*, 3 B. & Ad. 907; *Cockburn* v. *Harvey*, 2 B. & Ad. 797; *Gibbs* v. *Flight*, 3 C. B. 581.

In general, the ordinary rules and principles of law which relate to common vestries are also applicable to select vestries.

It is not essential to the validity of a vestry meeting that it should be held in the vestry of the church, and it might, before 13 & 14 Vict. c. 57, be convened in the church itself (Steer's Par. Law, 266); but if it be held in either of those places, the ecclesiastical court has jurisdiction *ratione loci* (*Wennouth* v. *Collins*, 2 Ld. Raym. 850; *Reg.* v. *Surrey Justices*, 4 Jur. 1056) over any misconduct or disorder committed therein (*Wilson* v. *M'Math*, 3 B. & Ald. 241); though more licence is permitted in the vestry room than would be considered excusable in the church, as the vestry is the place for parish business; and the court would not interpose in such case further than might be necessary for the preservation of due order and decorum (*Hutchins* v. *Deaziloc*, 1 Hag. Ec. Rep. 185).

Even before 1 & 2 Will. 4, c. 60, s. 29, post, p. 849, & 13 & 14 Vict. c. 57, post, p. 852, a vestry might be convened in any other place in the parish, even although the place fixed on be *private* property, provided the parishioners had free access to it (*Baker* v. *Wood*, 1 Curt. 507; *Rex* v. *Archdeacon of Chester*, 1 Ad. & E. 342).

(*a*) These meetings are usually assembled as the exigencies of the parish may require, and though it was formerly considered fit and proper, if anything peculiar was to be done, that notice should be given of the specific purpose for which a vestry was called, it was afterwards held not to be absolutely necessary to give such notice (*Chilton* v. *Cherry*, 2 Phill. Ec. c. 373). It is also said, in the older books, that this notice ought to be given publicly on the Sunday before the meeting is to take place, either in the church, after divine service is ended, or else at the church door, as the parishioners come out (Wats. c. 39). And it has been decided that proclamation during divine service for the meeting of a vestry, or of the purport of such meeting, is convenient and proper, though it would be indecorous to announce the result in the same way (*Thompson* v. *Tapps*, 4 Burn's Ec. Law, 8). And that, in whatever way the notice is given of such meeting, the time and place of assembling of it should be stated, and it will be fairest then also to declare for what business the meeting is to be held, that none may be surprised, but that all may have full time before to consider of what is to be proposed at the meeting (Wats. c. 39). All doubt, however, upon this subject is now terminated by this statute, and 7 Will. 4 & 1 Vict. c. 45, s. 2, ante, Vol. III. tit. "Poor."

It is stated to be usual, for half an hour before the meeting begins, for one of the church bells to be tolled, to give the parishioners notice of their assembling together (Shaw's Par. L. c. 17).

Vestries for church matters regularly are to be called "by the churchwardens with the consent of the minister." The above Act of parliament neither altered the general authority under which,

58 G. 3, c. 69.

hour of holding the same (*a*), and the special purpose thereof (*b*), three days at the least (*c*) before the day to be appointed for holding such vestry, by the publication of such notice in the parish church or chapel (*d*), on some Sunday during or immediately after divine service, and by affixing the same, fairly written or printed, on the principal door of such church or chapel.

Chairman of vestries appointed (*e*), to have casting vote.

2. And for the more orderly conduct of vestries, BE IT FURTHER ENACTED, That in case the rector or vicar or perpetual curate shall not be present, the persons so assembled in pursuance of such notice shall forthwith nominate and appoint by plurality of votes, to be ascertained as hereinafter is directed, one of the inhabitants of such parish to be chairman of and preside in every such vestry; and in all cases of equality of votes upon any question arising therein, the chairman shall (in addition to such vote or votes as he may by virtue of this Act be entitled to give in right of his assessment) have the casting vote; and minutes of the proceedings and resolutions of every vestry shall be fairly and distinctly entered in a book (to be provided for that purpose by the

Minutes to be entered and signed (*f*).

---

nor the persons by whom, vestries are to be called; it only adding some further formalities in the mode of calling. Therefore a private parishioner has no right during the time of divine service, and of his own authority, to publish a notice for a vestry to choose new churchwardens, or any other notice in the church (*Dawe* v. *Williams*, 2 Add. 138).

An allegation in an indictment, "that A. was duly elected treasurer of the said parish," is supported by an entry in the parish book, stating the election to have been at a vestry duly held in pursuance of notice (*Rex* v. *Martin*, 2 Camp. 100; see *Thomas* v. *Morris*, 1 Ad. 470).

Notice was given on a Friday for a vestry meeting to elect churchwardens on the following Tuesday. The vestry met and elected two churchwardens; but in consequence of doubts as to the notice convening the vestry being in accordance with the provisions of this Act, another notice was given on the next Sunday, calling a vestry meeting for the same purpose on the following Thursday, on which day the inhabitants again met and elected the same churchwardens, who entered upon the office and performed its duties. Upon a rule for a mandamus to the inhabitants to elect churchwardens, on the ground that both elections were invalid—It was held, without deciding which of the two was the valid election, that assuming the first to be bad, the second was good (*Reg.* v. *St. Faith*, 2 Jur., N. S., 212; 25 L. J., Q. B., 168.

(*a*) This statute does not say who is to give the notice; the chairman seems the fit person (*per* Lord Denman, *Reg.* v. *D'Oyly*, 12 Ad. & E. 139).

(*b*) See *Smith* v. *Deighton*, 8 Moore, P. C. C. 179.

Notice of a vestry meeting affixed on a parish church door, and addressed "to the churchwardens, overseers, and principal inhabitants of this parish," is a valid notice, though it does not name the parish, and although it is addressed to the principal inhabitants (*Rand* v. *Green*, 9 C. B., N. S., 470; 30 L. J., C. P., 80).

(*c*) That is, clear days (*Reg.* v. *Best*, 2 C. B. Rep. 90; 5 D. & L. 40; 16 L. J., M. C. 338).

Where notice of the purpose of a vestry meeting has been duly given, for a certain business, and the meeting has begun, but is not completed, and the meeting is regularly adjourned, such business may lawfully be completed at the adjourned meeting, though the notice for summoning such adjourned meeting does not state the purpose for which it is summoned (*Scadding* v. *Lorant*, 3 H. L. Ca. 418; *S. C.* in court below, 13 Q. B., 706).

(*d*) By 7 Will. 4 & 1 Vict. c. 45, s. 2, ante, p. 479, tit. "OUTLAWRY," and Vol. III. tit. "POOR," so much of this Act as directs publication of notices is repealed.

(*e*) The minister has a right to preside at all vestry meetings (*Baker* v. *Wood*, 1 Curt. 522; *Reg.* v. *D'Oyly*, 12 Ad. & E. 139), for he is not a mere individual of the vestry; on the contrary, he is always described as the first, and as an integral part of the parish, the form of citing a parish being "the minister, churchwardens, and parishioners," and that he and any other individual should be put in competition for the office of chairman would be placing him in a degraded situation, in which he is not placed by the constitutional establishment of this country. In sound legal principle he is head and *præses* of the meeting (*Wilson* v. *M'Math*, 3 Phill. Ec. C. 87; 3 B. & Ald. 247). But he is not an essential part of the vestry (*Mawley* v. *Barbet*, 2 Esp. 687).

Vestrymen incur no separate or individual responsibility for anything which may be done in pursuance of a resolution of vestry signed by them; thus it has been determined, that vestrymen who signed a resolution, ordering the parish surveyor to take steps for defending an indictment for not repairing a road, were not to be responsible for the payment of the attorney employed by the surveyor (*Sprott* v. *Powell*, 3 Bing. 478); for in signing the resolution, they act merely as vestrymen, without any intention of becoming individually responsible (*Lanchester* v. *Tricker*, 1 Bing. 201; 8 Moore, 20; *Lanchester* v. *Frewer*, 2 Bing. 361; 9 Moore, 688); unless indeed the resolution guarantee the payment of expenses, in which case they have been held to be personally liable (*Heudebourck* v. *Langton*, 3 Car. & P. 566).

(*f*) See *Bradshaw* v. *Murphy*, 7 Car. & P. 612.

churchwardens and overseers of the poor), and shall be signed by the chairman and by such other of the inhabitants present as shall think proper to sign the same. 58 G. 3, c. 69.

3. That in all such vestries every inhabitant (*b*) present, who shall by the last rate which shall have been made for the relief of the poor, have been assessed (*c*) and charged upon or in respect of any annual rent, profit, or value not amounting to fifty Manner of voting in vestries (*a*).

(*a*) See *Sprott* v. *Powell*, 3 Bing. 438; *Nightingale* v. *Marshall*, 3 D. & R. 549; 2 B. & C. 313; *Attorney-General* v. *Wilkinson*, 3 Brod. & B. 266; 7 Moore, 187; *Faulkner* v. *Elger*, 4 B. & C. 449; 6 D. & R. 317; *Lanchester* v. *Fricker*, 1 Bing. 201; *Lanchester* v. *Frewer*, 2 Bing. 361.

The acts of one vestry are not absolutely binding on a succeeding vestry, and they may be confirmed or rescinded by such succeeding vestry; but the confirmation of the succeeding vestry is not necessary to make the acts of a preceding one valid (*Mawley* v. *Barbet*, 2 Esp. 687). Where it appeared to be the custom of the parish so to do, Sir W. Scott said it was highly proper to give the orders of vestry a second consideration (*Groves and Wright* v. *Rector of Hornsey*, 1 Hag. Rep. 190).

The vestry as such has no authority whatever in the distribution of pews; the churchwardens are not bound to follow their directions; at the same time, the sense and opinion of the vestry ought to have weight with them. The vote of the vestry is of itself no authority as to the question of right, but it marks the opinion of the parish (*per* Sir John Nicholl, in *Pettman* v. *Bridger*, 1 Phill. 316).

On an issue whether a churchwarden ought to be elected by the select vestry, a record between a former churchwarden and another person is admissible as evidence (*Berry* v. *Banner*, Peake, 156).

A mandamus to the churchwardens to deliver a vestry book to a vestry clerk has been refused (*Anon.*, 2 Chitty's Rep. 255; and see also *Rex* v. *Croydon*, 5 T. R. 713; *May* v. *Gwynne*, 4 B. & Ald. 301).

(*b*) Anciently at common law every parishioner who paid to the church rate, or scot and lot, and no other person, had a right to come to these meetings. But this must not be misunderstood to exclude the minister, who hath a special duty incumbent on him, and is responsible to the bishop, and therefore in every parish meeting he presides for the regulating and directing the same, and this equally prevails whether he be rector or vicar (Shaw's Par. L. c. 17).

Residence within the parish is not a necessary qualification, as all out-dwellers occupying land in the parish have a vote in the vestry, as well as the inhabitants (Johns. 19). Nor is the payment of church-rates essential to entitle a person to vote at vestry meetings; and where, at a meeting of the parishioners duly convened for the purpose of electing a fit person to a perpetual curacy, it was resolved before the election began that parishioners who had not paid church rates should not be allowed to vote, and in consequence several persons legally qualified to vote did not tender their votes, and the votes of others were rejected, because they had not paid their church rates; it was held, that the election was not according to the custom, and that non-payment of church rates did not disqualify a parishioner from voting in vestry, and that it was not competent to the parishioners assembled to narrow the custom by passing a bye-law, which would have the effect of making it depend upon the will of particular persons whether a person had a right to vote or not (*Faulkner* v. *Elger*, 4 B. & C. 449; 6 D. & R. 517).

An inhabitant may be a member of a select vestry, although he be a magistrate acting within the parish (*Rex* v. *Kent*, 2 Ad. & E. 409; 4 Nev. & Man. 209). And an overseer may be a select vestryman, by virtue of an election by the parishioners, although he be also a member of the select vestry by virtue of his office (*Ibid.*).

If a vestry be convened, every parishioner is bound to attend, and if he do not, he is bound by the acts of the majority of those who do (*Chilton* v. *Cherry*, 2 Phill. Ec. C. 380). It seems therefore both reasonable and just, that whoever impedes or obstructs them in the exercise of this right, should be held responsible as for a personal injury. And to this effect is the case of *Phillybrown* v. *Ryland*, as reported in 1 Stra. 624; Vin. Ab. tit. Vestry (though in Lord Raym. 1388, and Andr. 325, it is said the court gave no opinion upon this point): "The plaintiff brought a special action on the case for excluding him from the vestry room, and upon demurrer the court made no difficulty, but that such an action was maintainable; however in this case they gave judgment for the defendant, it not being averred that the parish had any property in the room, or right to meet there, so that for aught appears it might be the defendant's own house, and then he might let in whom he pleased, and refuse the rest."

(*c*) Where the 13 & 14 Vict. c. 99, has been adopted in a parish, an owner of a tenement of a value not exceeding 6*l.*, who has been assessed to the poor-rate instead of the occupier, is, by virtue of this Act entitled to vote at all vestry meetings in respect of such tenement; but the occupier has no such vote. But for whatever number of tenements such owner is assessed, he can, at the most, give no more than six votes, the restriction in this section being applicable (*Richardson* v. *Gladwin*, 1 El. Bl. & El. 138; 27 L. J., M. C. 192).

At an election of churchwardens, the votes of

58 G. 3, c. 69. pounds, shall have and be entitled to give one vote and no more (a); and every inhabitant

tenants of small tenements, the owners of which were rated to the poor and highway rates by virtue of the 13 & 14 Vict. c. 99, tendered on behalf of one of the candidates, were rejected; it was held, that a mandamus to convene a vestry for the election of churchwardens would not lie to try the question whether such tenants were entitled to vote, it not being shown that the result of the election would have been different if their votes had been received (*Mawby* or *Joyce* (*Ex parte*), 3 El. & Bl. 718; 23 L. J., M. C., 153).

(a) Where, however, in the parish of W., the poor rates had, according to an ancient custom, been always assessed without regard to the annual value of property in the parish, but according to the supposed ability of the party assessed, it was held that persons so rated were not entitled to the benefit conferred by this Act as to the plurality of votes, although assessed in respect of property exceeding the annual value of 50*l.* (*Nightingale* v. *Marshall*, 3 D. & R. 549; 2 B. & C. 313; *Rex* v. *Clerkenwell*, 1 Ad. & E. 317).

And where feoffees of a charity were directed to do certain acts only in a vestry or meeting of the said feoffees, and of ten of the inhabitants of the parish who should be vestrymen in the said parish and not feoffees; it was held that the votes were to be taken *per capita*, and not according to this Act (*Att.-Gen.* v. *Wilkinson*, 3 Bro. & B. 266; 7 Moore, 187; see *Edenborough* v. *Abp. of Canterbury*, 2 Russ. 93).

The mode of voting may also be of importance to the validity of the proceedings. The common law mode of election is by show of hands or by poll, and the party electing is then said to have a voice in the election. It is clear that at common law, where parties have the right of voting, the restriction of voting by ballot cannot be imposed; it presents an insurmountable difficulty to a scrutiny, because no person can tell for whom a particular individual voted (see *Faulkner* v. *Elger*, 4 B. & C. 449; 6 D. & R. 517). Besides, under the Vestry Act, where one person may have any number of votes to the amount of six, other objections might present themselves to voting by ballot. It is therefore evident that the common law mode of voting ought to be adhered to.

The proper way of taking the vote at a vestry is by a poll, the meeting being adjourned for that purpose, if necessary or convenient (*Egham Burial Board, In re*, 3 Jur., N. S., 956—V. C. W. *Reg.* v. *St. Mary, Lambeth*, 3 N. & P. 416; 2 Jur. 373).

Generally, a poll is demandable as of right, if for a legal purpose (*Rex* v. *St. Saviour's*, 1 Ad. & E. 380). The president of the meeting is the person to grant it (*Reg.* v. *D'Oyly*, 12 Ad. & E. 139; *Campbell* v. *Maund*, 5 Ad. & E. 865; *Beechey* v. *Quentery*, 10 M. & W. 65). In the absence of other business, the poll should be taken immediately; if time does not allow for that, there must be an adjournment for the purpose, and the president is the proper person to determine that. It is on him that it devolves both to preserve order in the meeting, and to regulate the proceedings, so as to give all persons entitled a reasonable opportunity of voting (*per* Lord Denman, *Reg.* v. *D'Oyly*, supra).

In *Houghton* v. *Reynolds*, Str. 1045, it was adjudged that the right of *adjourning* the vestry is not in the minister or any other person as chairman, nor in the churchwardens, but in the whole assembly, where all are upon an equal footing, and the same must be decided (as other matters there) by a majority of votes; but see *Reg.* v. *D'Oyly*, supra.

Although the right of adjourning the business in progress at a vestry meeting is in the meeting at large, and not in the chairman, yet where the adjournment forms part of the original notice of the meeting, such adjournment will be legal (*Rex* v. *Archdeacon of Chester*, 1 Ad. & E. 342; 3 Nev. & Man. 413; *Baker* v. *Wood*, 1 Curt. 507). And see further on this subject, Rogers on Ec. Law, 874; *Rex* v. *Churchwardens of St. Mary, Lambeth*, 1 Ad. & E. 346, n.; *Reg.* v. *St. Margaret, Leicester*, 8 Ad. & E. 889.

The decision of the chairman on a show of hands is not conclusive, but he is bound on a requisition to take steps to ascertain the numbers (*Reg.* v. *St. Pancras*, 11 Ad. & E. 15).

At a vestry held under this Act for the purpose of electing surveyors of highways, of which public notice had been given, it was agreed that the vote should be taken by a show of hands, leaving it open to any one to propose that the votes should be taken according to the statute. A. and B. were proposed and seconded for the office of surveyor, and on a show of hands A. had a majority. It was then proposed and seconded on behalf of B. that the votes should be taken according to the statute. No objection was made, and on the votes being so taken, B. had a majority, and was declared duly elected. A. then demanded a poll of the whole parish: it was held, that the meeting having agreed to a poll being taken according to the statute, no one was entitled afterwards to demand a poll of the whole parish, that the election of B. was valid, and that a mandamus for another meeting to elect would not lie (*Reg.* v. *Hillingdon*, 18 Q. B. 718).

As a general rule of law, the poll is required to be of the parishioners generally who are entitled to vote; and this rule of law was held not to be controlled by a local Act, which required a vestry meeting to be called on Easter

there present, who shall in such last rate have been assessed (*a*) or charged upon or in respect of any annual rent or rents, profit or value, amounting to fifty pounds or upwards (whether in one or in more than one sum or charge), shall have and be entitled to give one vote for every twenty-five pounds of annual rent, profit, and value upon or in respect of which he shall have been assessed or charged in such last rate, so nevertheless that no inhabitant shall be entitled to give more than six votes (*b*): and in cases where two or more of the inhabitants present shall be jointly rated, each of them shall be entitled to vote according to the proportion and amount which shall be borne by him of the joint charge; and where one only of the persons jointly rated shall attend, he shall be entitled to vote according to and in respect of the whole of the joint charge. 58 G. 3, c. 69.

4. Provided, That when any person shall have become an inhabitant of any parish, or become liable to be rated therein, since the making of the last rate for the relief of the poor thereof, he shall be entitled to vote for and in respect of the lands, tenements, and property for which he shall have become liable to be rated, and shall consent to be rated in like manner, as if he should have been actually rated for the same. Inhabitants coming into a parish since the last rate may vote.

5. Provided also, That no person who shall have refused or neglected to pay any rate for the relief of the poor, which shall be due from and shall have been demanded of him, and (*c*) shall be entitled to vote or to be present in any vestry of the parish for which such rate shall have been made, until he shall have paid the same (*d*). Inhabitants refusing payment of poor-rates excluded.

6. That as well the books hereby directed to be provided, and kept for the entry of the proceedings of vestries, as all former vestry books, and all rates and assessments, accounts, and vouchers of the churchwardens, overseers of the poor, and surveyors of the highways, and other parish officers; and all certificates, orders of courts and of justices, and other parish books, documents, writings, and public papers of every parish except the registry of marriages, baptisms, and burials, shall be kept by such person and persons, and deposited in such place and manner, as the inhabitants in vestry assembled shall direct; and if any person in whose hands or custody any such book, rate, assessment, account, voucher, certificate, order, document, writing, or paper shall be, shall wilfully or negligently destroy, obliterate, or injure the same, or suffer the same to be destroyed, obliterated, or injured, or shall, after reasonable notice and demand, refuse or neglect to deliver the same to such person or persons, or to deposit the same in such place as shall by the order of any such vestry be directed, every person so offending, and being lawfully convicted thereof on his own confession or on the oath of one or more credible witness or witnesses, by and before two of his majesty's justices of the peace, upon complaint thereof to them made, shall for every such offence forfeit and pay such sum, not exceeding fifty pounds, nor less than forty shillings, as shall by such justices be adjudged and determined; and the same shall be recovered and levied by warrant of such justices in such manner, and by such ways and means, as poor's rates in arrear are by law to be recovered and levied, and shall be paid to the overseers of the poor of the parish against which the offence shall be committed, or to some of them, and be applied for and towards the relief of the poor thereof: Provided nevertheless, that every person who shall unlaw- Parish books and papers preserved. Retaining or injuring parish books, &c. Penalty. And subject

---

Tuesday in every year, "at which said vestry meeting" the vacancies in the list of governors and guardians of the poor were to be filled up, and "the inhabitants in vestry assembled in such manner and at such time as aforesaid are to nominate and choose" certain persons to be governors and guardians in the room of those resigning (*Rex* v. *St. Mary, Newington*, 6 Dowl. & L. 162).

The poll must be kept open sufficiently long to enable one and all to exercise the privilege, regard being had to numbers and distance; and it is not competent to a majority of the electors assembled at the time of the election to narrow the period which the common law would allow (*Rex* v. *Commissary of Bishop of Winchester*, 7 East, 573).

All qualified inhabitants, whether they were present at the show of hands or not, are entitled to vote at the poll, though the qualified inhabitants present at the time of granting the poll resolve that the poll be confined to those present (*Reg.* v. *St. Mary, Lambeth*, 8 Ad. & E. 356; *Griffin* v. *Ellis*, 4 Jur. 409; *Reg.* v. *Hedger*, 4 Per. & D. 61).

A local Act of parliament empowered the vestrymen of a parish, or the major part of them, to remove the poor law collector of the parish from his office: it was held (affirming the decision of the Queen's Bench, 26 L. J., M. C., 68), that the majority must be an actual majority of the vestrymen assembled, and that it was not sufficient at a meeting of thirty-five vestrymen for sixteen to vote for the removal, and eleven against it, the remaining eight abstaining from voting altogether (*Reg.* v. *Christchurch* (*overseers*), 7 El. & Bl. 409; 27 L. J., M. C., 23—Exch. Cham.).

(*a*) Where a man is rated for property held by him in his individual capacity, and also for property held by him as executor, the two may be lumped together, so as to give him an additional vote for an additional 25*l.* of annual value (*Reg.* v. *Kirby*, 31 L. J., Q. B., 3).

(*b*) See *Richardson* v. *Gladwin*, supra, p. 841, n. (*c*).

(*c*) This word "and" was inserted by mistake (59 Geo. 3, c. 85, s. 3, post, p. 845).

(*d*) Non-payment of rates which have become due within three months will not now disqualify from voting (16 & 17 Vict. c. 65, post, p. 854).

58 G. 3, c. 69.

to other proceedings.

fully retain in his custody, or shall refuse to deliver to any person or persons authorised to receive the same, or who shall obliterate, destroy, or injure, or suffer to be obliterated, destroyed, or injured, any book, rate, assessment, account, voucher, certificate, order, document, writing, or paper belonging to any parish, or to the churchwardens, overseers of the poor, or surveyors of the highways thereof, may in every such case be proceeded against in any of his majesty's courts, civilly or criminally, in like manner as if this Act had not been made.

Provisions in relation to parishes extended to townships, &c.

7. Provided always, That all provisions, authorities, and directions in this Act contained in relation to parishes shall extend, and be construed to extend, to all townships, vills, and places, having separate overseers of the poor, and maintaining their poor separately, and that all the directions and regulations herein contained in regard to vestries shall extend and be applied to all meetings, which may by law be holden of the inhabitants of any parish, township, vill, or place for any of the purposes in this Act expressed; and that the notices by this Act required to be given of every vestry may, in places in which there is or shall be no parish church or chapel, or where there shall not be divine service in such church or chapel, be given and published in such manner as notices of the like nature shall have been there usually given and published, or as shall be most effectual for communicating the same to the inhabitants of every such parish, township, vill, or place respectively.

Manner of giving notice of vestries and meetings in special cases.

Time for holding vestries specially directed, not altered.

8. Provided, That nothing in this Act contained shall extend or be construed to extend to alter the time of holding any vestry, parish, or town meeting, which is by the authority of any Act required to be holden on any certain day, or within any certain time in such Act prescribed and directed; nor shall anything in this Act contained extend to take away, lessen, prejudice, or affect the powers of any vestry or meeting holden in any parish, township, or place, by virtue of any special Act or Acts, or of any ancient and special usage or custom, or to change or affect the right or manner of voting in any vestry or meeting so holden (a).

Proviso for special vestries:

and for London,

9. Provided, That nothing in this Act contained shall extend to any parish within the city of London.

and Southwark.

10. Provided, That nothing in this Act contained shall extend to any parish in the borough of Southwark (b).

Act to extend only to England and Wales.

11. That this Act shall extend only to that part of the united kingdom called England and Wales; and that the same shall be a public Act, and be judicially taken notice of as such by all judges, justices, and others, without specially pleading the same.

59 G. 3, c. 85.

59 Geo. 3, c. 85. An Act to amend and correct an Act of the last Session of Parliament, for the Regulation of Parish Vestries in England. [7th July, 1819.]

58 G. 3, c. 69.

Persons rated to the poor though not parishioners, may vote in vestry according to the value of the premises rated.

"Whereas an Act was passed in the last session of parliament, intituled 'An Act for the Regulation of Parish Vestries,' and it is expedient to amend the same:" BE IT ENACTED, That from and after the passing of this Act, any person who shall be assessed and rated for the relief of the poor in respect of any annual rent, profit, or value arising from any lands, tenements, or hereditaments, situate in any parish in which any vestry shall be holden under the said recited Act, although such person shall not reside in or be an inhabitant of such parish, shall and may lawfully be present at such vestry, and such person shall have and be entitled to give such and so many vote or votes at such vestry, in respect of the amount of such rent, profit, or value, as by the said Act any inhabitant of such parish present at such vestry, might or ought to have and be entitled to give in respect of such amount, and to all intents and purposes, as if such person were an inhabitant of such parish, anything in the said recited Act to the contrary in anywise notwithstanding.

Clerk or agent of corporation, &c., may vote in vestry according to the value of the premises rated.

2. That in all cases where any corporation, or body politic or corporate, or company, shall be charged to the rate for the relief of the poor of such parish, either in the name of such corporation, or of any officer of the said corporation, it shall and may be lawful for the clerk, secretary, steward, or other agent duly authorised for that purpose, of such corporation, or body politic or corporate, or company, to be present at any vestry to be holden in the said parish under the said recited Act; and such clerk, secretary, steward, or agent shall be entitled to give such and so many vote or votes at such vestry in respect of the amount of the rent, profit, or value of such lands, tenements, or hereditaments as by the said Act any inhabitant assessed to such rate present at such vestry, might or ought to have and be entitled to in respect of such amount, anything in the said recited Act to the contrary in anywise notwithstanding.

(a) This proviso was held to except only vestries having a peculiar constitution or power (*Rex* v. *Clerkenwell*, 1 Ad. & E. 317; 3 Nev. & M. 411; see *Campbell* v. *Maund*, 5 Ad. & E. 865).

(b) It is believed that most, if not all, of the parishes of London and in the borough of Southwark are regulated by select vestries (Prideaux, Churchwardens' Guide, p. 83).

3. "And whereas by the said Act it was intended to be enacted, that no person should be present at or vote at any vestry, who should have refused to pay any assessment that had become due and had been demanded of such person, but the word 'and' was by mistake so inserted in the said Act, as to make the same in that respect ambiguous;" now to rectify such mistake BE IT FURTHER ENACTED, That no person who shall have refused or neglected to pay any rate for the relief of the poor, which shall be due from and shall have been demanded of him, shall be entitled to vote or to be present in any vestry of the parish for which such rate shall have been made until he shall have paid the same, nor shall any such clerk, secretary, steward, or agent, be entitled to be present or to vote, nor shall be present or vote at any vestry in such parish, unless all rates for the relief of the poor, which shall have been assessed and charged upon or in respect of the annual rent, profit, or value, in right of which any such clerk, secretary, steward, or agent shall claim to be present and vote, which shall be due, and which shall have been demanded at any time before the meeting of such vestry, shall have been paid and satisfied (a).

59 G. 3, c. 85.

58 G. 3, c. 69, s. 5.

Non-payment of rates to disqualify from being present or voting in vestry.

1 & 2 Will. 4, c. 60. An Act for the better Regulation of Vestries and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales (b). [20th October, 1831.]

1 & 2 W. 4, c. 60.

"Whereas it is expedient to provide for the election of vestries and of auditors of parish accounts in certain parishes of England and Wales:" BE IT ENACTED, That this Act and the several provisions thereof shall apply to and may be adopted, under and subject to the regulations herein contained, by any parish (c) or parishes in England and Wales.

Act may be adopted by any parish.

2. That when in any parish certain of the ratepayers thereof may desire that the said parish should come under the operation of this Act, then and in that case any number of ratepayers (d) amounting at least to one-fifth of the ratepayers of such parish, or any number of ratepayers amounting at least to fifty parishioners, may, on some day between the 1st day of December and the 1st day of March, deliver a requisition, by them signed, and describing their places of residence, to the churchwardens or to one of them, serving for the said parish, requiring of the said churchwardens to ascertain, according to the manner hereinafter mentioned whether or not a majority of the ratepayers of the said parish do wish and require that this Act and the provisions thereof should be adopted therein; and which requisition may be in the form or to the tenor and effect following (that is to say),

Manner of adopting it in parishes where inhabitants do not assemble in vestry.

"To the churchwardens of the parish of [*insert here the name of the parish.*]

"We whose names are hereunto subscribed, being ratepayers resident in the said parish, and respectively rated or assessed to the relief of the poor thereof, do hereby require you the said churchwardens to ascertain and determine the adoption or non-adoption of an Act of the second year of the reign of king William the fourth, chapter , intituled 'An Act' [*here insert the title of the Act.*]

"Dated this day of , in the year of our Lord

Form of requisition.

3. That the said churchwardens of the said parish shall on the first Sunday in the month of March next after the receipt of such requisition affix or cause to be affixed a notice to the principal doors of every church and chapel within the said parish, specifying some day not earlier than ten days and not later than twenty-one days after such Sunday, and at what place or places within the said parish the ratepayers are required to signify their votes for or against the adoption of this Act; which votes shall be received on three successive days, commencing at eight of the clock in the forenoon, and ending at four of the clock in the afternoon of each day; and the said notice shall be to the following effect:

Upon receipt of requisition, churchwarden to give notice of time and place for receiving votes.

"The churchwardens of this parish [*insert here the name of the parish*] having received a requisition duly signed according to the provisions of an Act of the second year of the reign of William the fourth, chapter , for the better regulation of vestries, the ratepayers of this parish of [*insert here the name of the parish*] are hereby required, all and each of them, on the day of next, and the two following days, to signify to the said churchwardens by a declaration, either printed or written, or partly printed or partly written, addressed and delivered to one of the churchwardens at [*insert here the place*], their votes for or against the adoption of the aforesaid Act for the better regulation of vestries by the ratepayers of this parish.

"(Signed) Churchwardens."

Form of notice.

(a) See 16 & 17 Vict. c. 65, post, p. 854.

(b) This is usually called Hobhouse's Act. See 4 & 5 Will. 4, c. 76, ss. 53, 54, ante, Vol. III. tit. "Poor."

This Act is repealed, as far as regards the metropolitan parishes, by 18 & 19 Vict. c. 120, s. 1, ante, Vol. III., p. 353, tit. "METROPOLITAN 'MANAGEMENT.'"

(c) As to the adoption of this Act by a portion of a parish, severed from the rest by Act of parliament, see *Reg.* v. *Bassett*, 17 Q. B. 332.

(d) The requisition must come from the poor-rate payers (*Hall* v. *Maule*, 2 Jur. 887).

1 & 2 W. 4, c. 60.

Form of declaration.

4. That the said declaration shall be to the following effect:

"I, A. B., of street [*or* place *or* house], in this parish of, , vote [for *or* against, *as the case may be*], the adoption of the Act of the second year of the reign of William the fourth, chapter , for the better regulation of vestries by this parish."

Churchwardens to declare whether the votes are in favour of adopting this Act (*a*).

5. That the said churchwardens shall carefully examine the votes to them delivered as aforesaid, and shall compare them with the last rate made for the relief of the poor of the said parish, and shall be empowered to call before them and examine any parish officer touching the said votes, or any ratepayer so giving his vote, and after a full and fair summing up of the said votes shall, by public notice according to the form and manner hereinafter prescribed, declare whether or not two-thirds of the votes given have been given in favour of the adoption of the said Act: Provided always, that the whole number of persons voting shall be a clear majority of the ratepayers of the parish: Provided also, that the adoption or non-adoption of this Act shall be decided by such number of votes as aforesaid.

Ratepayers may inspect votes.

6. Provided always, That any of the ratepayers of the aforesaid parish, not exceeding five together, may inspect, at or in the vestry room, or in some convenient place within the same parish, and they are hereby empowered to inspect the votes so given for and against the adoption of this Act, at all reasonable times within one month after such notice shall have been given; and the churchwardens of the said parish are hereby required carefully to preserve the said votes, and freely to permit and allow the examination thereof by the aforesaid ratepayers of the said parish at such reasonable times within the period aforesaid.

No person to vote unless he has been rated one year.

7. Provided always, That no person shall be deemed a ratepayer, or be entitled to vote, or do any other act, matter, or thing as such under the provisions of this Act, unless he or she shall have been rated to the relief of the poor for the whole year immediately preceding his so voting or otherwise acting as such ratepayer, and shall have paid all the parochial rates, taxes and assessments due from him or her at the time of so voting or acting, except such as have been made or become due within the six months immediately preceding such voting.

Notice of adoption of the Act.

8. That notice of the adoption of this Act by any parish shall be forthwith given by the churchwardens for the time being in the said parish in the "London Gazette" and in one or more of the public newspapers circulating in the county in which the said parish may be situated, and by affixing a notice of the same to the principal doors of every church and chapel within the said parish; which notice shall be to the following effect:

"Parish of [*here insert the name of parish*].

"Notice is hereby given, that the above-named parish has adopted the Act of the second year of the reign of king William the fourth, chapter , intituled 'An Act' [*here insert the title of the Act*]; and that the numbers of the majority and minority of votes given for and against the adoption of the said Act are as follows; that is to say, votes for the adoption thereof, and votes against the adoption thereof.

"Dated this day of , in the year of our Lord.

"(Signed) Churchwardens."

No similar requisition to be made within three years.

9. Provided always, That if the ratepayers shall determine, in the manner as aforesaid, against the adoption of this Act, then and in that case it shall not be lawful to make another requisition for the same purposes within three years after such determination.

This Act to take effect when adoption notified.

10. That in any parish in which public notice of the adoption of this Act in the manner as aforesaid shall be so made and given, this Act shall immediately become the law for electing vestrymen and auditors of accounts of the said parish in manner hereinafter mentioned.

Penalties on churchwardens and others refusing to call meetings, &c. (*b*).

11. That if any churchwarden, rate collector, overseer, or other parish officer, shall refuse to call meetings according to the provisions of this Act, or shall refuse or neglect to make and give the declarations and notices directed to be made and given by this Act, or to receive the vote of any ratepayer as aforesaid, or shall in any manner whatsoever alter, falsify, conceal or suppress any vote or votes as aforesaid, such churchwarden, rate collector, overseer, or other parish officer, shall be deemed and taken to be guilty of a misdemeanor.

Notices of election to be given.

12. That on some Sunday at least twenty-one days previously to the day of annual election of vestrymen, notice of election, pursuant to this Act, signed by the churchwardens, shall be affixed to the principal doors of every church and chapel of the said parish, and at other usual places, in the following terms:

(*a*) See *Rex* v. *St. James's, Westminster*, 5 Ad. & E. 391.

(*b*) The court refused to grant a mandamus to churchwardens to assemble the parishioners for the purpose of taking a poll upon a motion carried by a show of hands, at a vestry meeting, to do an illegal act; as to apply a portion of a fund held in trust for charitable purposes, to the erection of a monument to the memory of the donor of the fund (*Rex* v. *St. Saviour's, Southwark*, 1 Ad. & E. 380; 3 Nev. & Man. 878).

"Parish of [*here insert the name of parish*].

"The parishioners duly qualified according to the provisions of the Act of the second year of the reign of king William the fourth, intituled 'An Act' [*here insert the title of the Act*], are hereby required to meet at on the day of , conformably to the provisions of the said Act, and then and there to consider of and elect fit and proper persons to be vestrymen and auditors of accounts of the parish of for the ensuing year; that is to say,

" , Members of the Vestry,

" , Auditors of Accounts."

1 & 2 W. 4, c. 60.

13. That the churchwardens may summon the rate collectors to attend them on the said day of annual election, in order to assist them in ascertaining that the persons presenting themselves to vote are parishioners rated to the relief of the poor of the said parish, and duly qualified to vote at the said election.

Rate collectors, &c., may be summoned to assist at the election.

14. That on the day of annual election for vestrymen and auditors in any parish adopting this Act, each parishioner then rated, and having been rated to the relief of the poor one year, desirous of voting, do meet at the place appointed for such election, then and there to nominate eight ratepayers of the said parish as fit and proper persons to be inspectors of votes, four of such eight to be nominated by the churchwardens, and the other four to be nominated by the meeting, and after such nomination the said parishioners shall elect such parishioners duly qualified as may be there proposed for the offices of vestrymen and auditors; and the chairman shall at such meeting declare the names of the parishioners who have been elected by a majority of votes at such meeting.

Form of proceeding at annual elections.

15. Provided always, That any five ratepayers may then and there in writing or otherwise demand a poll, which shall be taken by ballot, each ratepayer delivering to the aforesaid inspectors two folded papers, one of which papers shall contain the names of the persons for whom such parishioner may vote as fit and proper to be members of the vestry, and the other shall contain the names of the persons for whom such parishioner may vote as fit and proper to be auditors of accounts: Provided always, that each ratepayer shall have one vote and no more for the members of the vestry, and one vote and no more for the auditors of accounts to be chosen in the said parish.

A ballot may be demanded (a).

16. That the inspectors of votes shall deposit the said folded lists, without previously opening the same, in two separate sets of balloting glasses or boxes, one set for the vestry lists, and another for the auditors' lists; and that the said balloting glasses or boxes shall be closed at the time fixed for the termination of the voting, that is, at four of the clock of the afternoon of the last day of election.

Mode of voting.

17. That, after the close of the said ballot, the aforesaid inspectors shall proceed to examine the said votes, and if necessary shall continue the examination by adjournments, from day to day, not exceeding four days, Sunday excepted, until they shall have decided upon the persons duly qualified according to the provisions of this Act who may have been chosen to fill the aforesaid offices.

Duty of inspectors.

18. That if an equality of votes should appear to the aforesaid inspectors to be given for any two or more persons to fill any or either of the said offices, in that case the inspectors shall decide by lot upon the person or persons so to be chosen.

In case of equality of votes.

19. That if any person do forge or in any way falsify any name or writing in any paper or list purporting to contain the vote or votes of any parishioner as aforesaid so voting for vestrymen or auditors, or do by any contrivance attempt to obstruct or prevent the purposes of such mode of election, the person so offending shall, upon information laid, and conviction before any two or more justices of the peace having jurisdiction in the parish so adopting this Act, be liable to a penalty of not less than ten, and not more than fifty pounds, and in default of payment thereof shall be imprisoned for a term not exceeding six nor less than three months; and any fine so levied shall be given, half to the informer who shall have informed against the person so offending, and the other half to the poor of the parish in which the said offence shall have been committed.

Penalty for forging or falsifying any voting list or obstructing the election.

20. That the aforesaid inspectors shall immediately after they shall have decided upon whom the aforesaid elections have fallen, deliver to the churchwardens, or to one of them, serving for the parish so adopting this Act, a list of the persons chosen by the parishioners to act as vestrymen and auditors of accounts; and the said list or a copy thereof shall be affixed to the doors of the churches and chapels or other places chosen for the purpose of public notice in the said parish.

Public notice to be given of vestrymen and auditors chosen by parishioners.

21. That if any inspector as aforesaid shall wilfully make or cause to be made an incorrect return of the said votes, every such offender shall, upon information laid by any person before two or more justices of the peace having jurisdiction in the said parish, and upon conviction for such offence, be liable to a penalty of not less than twenty-five pounds, and not exceeding fifty pounds.

Penalty on inspector for making incorrect return.

22. That in all parishes adopting this Act the meeting of parishioners for the election of the vestrymen and auditors of accounts by the parishioners shall take place in the

Elections to be annual.

(a) See *Reg. v. St. Pancras*, 11 Ad. & E. 15, ante, p. 842.

As to the right of demanding a poll at an election under a local Act, see *Campbell v. Maud*, 5 Ad. & E. 865; Nev. & P. 558, ante, p. 842.

1 & 2 W. 4, c. 60

month of May in every year: Provided always, that when a ballot is demanded at such election, the same shall commence on the following day, and continue for three successive days, commencing at eight of the clock in the forenoon and closing at four of the clock in the afternoon on each day: Provided also that the day on which such elections shall commence shall in the first instance be appointed by the churchwardens of the parishes adopting this Act, but in every subsequent year shall be appointed by the vestry: Provided always, than when by reason of the populousness of any parish the said parish shall have been or shall be divided into districts for ecclesiastical or other purposes, then and in that case the said votes shall be taken according to the aforesaid mode of election, in some convenient place, at the discretion of the churchwardens, in each of the several districts of the said parish (*a*).

Vestry to consist of not less than 12 nor more than 120 householders.

23. That in all parishes adopting this Act, the vestry appointed and elected as hereinbefore mentioned shall, when the said Act shall come into full effect, consist of a certain number of resident householders; that is to say, twelve vestrymen for every parish in which the number of rated householders shall not exceed one thousand; and twelve other additional vestrymen, that is, twenty-four vestrymen, for every parish in which the rated householders shall exceed one thousand: and twelve other additional vestrymen, that is, thirty-six vestrymen, for every parish in which the number of rated householders shall exceed two thousand; and so on at the proportion of twelve additional vestrymen for every thousand rated householders: Provided always, that in no case the number of vestrymen shall exceed one hundred and twenty: Provided always, that in any parish wherein a greater number of vestrymen are given by special Act of Parliament than the proportions aforesaid will amount to, that* then the number of vestrymen shall remain the same as given by such Act of parliament. And provided always, that the rector, district rectors, vicar, perpetual curate, and churchwardens of the said parish, shall constitute a part of the said vestry, and shall vote therein, in addition to the vestrymen as aforesaid elected under this Act: Provided always, that no more than one such rector or other such rector as aforesaid, from any one parish or ecclesiastical district as aforesaid, shall *ex officio* be a part of or vote at any vestry meeting.

*Sic.

Proportion of existing vestry to go out of office at each of three first elections under this Act (*b*).

24. That at the first election for vestrymen after the adoption of this Act in any parish, one-third of the then existing vestry, or the nearest number thereto, but not exceeding the same, shall retire from office (such portion to be determined by lot), and the parishioners duly qualified shall elect a number of vestrymen equal to one-third of the vestry to be chosen according to the provisions of this Act; and that on the next ensuing annual election for vestrymen one-half, or as nearly as may be one-half, of the remaining part of the first aforesaid vestry shall retire from office (such portion to be determined by lot), and the parishioners duly qualified shall again elect a number of vestrymen equal to one-third of the vestry to be chosen according to the provisions of this Act; and that on the next, that is to say, the third annual election for vestrymen, the last remaining portion of the vestry as aforesaid shall retire from office, and the parishioners duly qualified shall elect vestrymen in like manner and number as at the two preceding elections, so as to fill up the vestry to the exact number of vestrymen prescribed by this Act.

Vestrymen to quit office after three years, and one-third to be elected annually

25. That at every subsequent annual election, those vestrymen who have been three years in office shall go out of office, and the parishioners shall elect, according to the provisions of this Act, other vestrymen, to the number of one-third of the total number of which such vestry shall consist, as also fill up any vacancies which may have occurred from death or other causes: Provided always, that any or all of the vestrymen so going out by rotation may be immediately eligible for re-election.

Qualifications of vestrymen (*c*).

26. That the vestry elected under this Act in any parish not within the metropolitan police district or the city of London shall consist of resident householders rated or assessed to the relief of the poor upon a rental of not less than ten pounds; and no

---

(*a*) A parish is not "divided into districts for ecclesiastical or other purposes" within this section, where a small portion of the parish is annexed to a chapelry created in an adjoining parish or where the parish has been, for the convenience of collecting the poor rates, divided into four districts, which districts have been adopted by the returning officer of a borough (within which the parish is situated) for the purpose of taking the poll at an election for members of parliament (*Rex* v. *St. Pancras*, 1 Ad. & E. 80; 3 Nev. & M. 425).

(*b*) In parishes which have adopted this Act, the number of vestrymen to be lotted out at the first election of vestrymen under it is one-third of those vestrymen who at the time of the election were in actual existence, and not one-third of a complete vestry, nor one-third of a complete vestry deducting from such third the number of the vacancies (*Rex* v. *St. Pancras*, 1 Ad. & E. 80; 3 Nev. & M. 425).

(*c*) It is not necessary, in order to render a party eligible as vestryman under this section, that he should be rated in respect of property in his own possession; it is sufficient if he be rated as landlord. It would also seem, that the same mode of assessment would suffice to enable a party to act as vestryman under the second branch of the above section; but supposing it would not, that clause does not apply to parishes within the metropolitan district. The qualification must be complete at the time of the election (*Rex* v. *St.*

person shall be capable of acting as one of the said vestry unless he shall be the occupier of a house, lands, tenements, or hereditaments rated or assessed upon the afore-mentioned amount of rental within the parish for which he is to serve: Provided always, that if the parish adopting this Act should be within the metropolitan police district or the city of London, or if the resident householders therein should amount to more than three thousand, then and in that case the vestry elected under this Act shall consist of resident householders, rated or assessed to the relief of the poor of such parish upon a rental of not less than forty pounds per annum. 1 & 2 W. 4, c. 60

Vestries appointed after the adoption of this Act to exercise the authority of former vestries

27. That from and after the adoption of this Act in any parish, the vestry shall exercise the powers and privileges held by any vestry now existing in such parish, and the authority of such vestry may be pleaded before any justice or justices of the peace, or in any court of law, in regard to all parochial property, or moneys due, or holdings or contracts, or other documents of the like nature, formerly under the control or in the keeping of the said vestry of the said parish; and all parish officers or boards shall account to them in like manner as they have accounted to the said vestry: Provided always, that nothing in this Act shall be deemed, construed, or taken to repeal, alter, or invalidate any local Act for the government of any parish by vestries, or for the management of the poor by any board of directors and guardians, or for the due provision for divine worship within the parish, and the maintenance of the clergy officiating therein, otherwise than is by this Act expressly enacted regarding the election of vestrymen and auditors of accounts.

Not to affect local Acts regarding vestries, divine worship, &c., except (a).

The acts of a quorum of the vestry at any meeting to be considered as the acts of the vestry.

28. That all powers or duties to be performed by the vestry of any parish adopting this Act may be exercised and performed respectively by the major part of such vestry assembled at any meeting, there not being less than five vestrymen present at a meeting of a vestry which consists of twelve or more elected vestrymen and not exceeding twenty-three, and not being less than seven vestrymen present at a meeting of a vestry which consists of twenty-four or more elected vestrymen and not exceeding thirty-five, and not being less than nine vestrymen present at a meeting of a vestry which consists of thirty-six elected vestrymen or upwards; and all orders and directions given and all contracts and engagements entered into by the vestrymen present at any such meeting or the major part of them then assembled, shall be as valid and effectual as if the same were done by all the said vestrymen for the time being, and shall be binding and conclusive on all such vestrymen, provided that the same is confirmed at the next subsequent meeting of the vestry.

Meetings not to be held in the church.

29. That in any case in which the vestry room of any parish in any city or town shall not be sufficiently large and commodious for any vestry-meeting, such meeting shall be held elsewhere within the said parish or place, but not in the church or chapel thereof.

Meeting to elect a chairman.

30. That at every meeting of any vestry, in the absence of the persons authorised by law or custom to take the chair, the members present shall elect a chairman for the occasion before proceeding to other business.

Proceedings to be entered in books, to be open to inspection

31. That the vestry of every parish adopting this Act shall cause to be provided and kept a proper book or books, and proper entries to be made therein of the names of the several vestrymen who shall attend the respective meetings of the vestry, and of all orders and proceedings made or taken at such meetings; and all such books shall at all reasonable times be open to the inspection of the said vestrymen, and of any person rated or assessed to the relief of the poor of the said parish, and of any creditor on the rates of the said parish, without fee or reward; and the said vestrymen, persons, and creditors, or any of them, shall and may take copies of or extracts from such books respectively, without paying anything for the same; and in case the clerk to the said vestry, or other person having the care of such books, shall refuse to permit or shall not permit the said vestrymen or such persons or creditors to inspect the same, or to take such copies or extracts as aforesaid, such clerk or other person shall forfeit and pay any sum of money not exceeding ten pounds for every such offence.

Account books to be kept, and be open to inspection (b).

32. That the said vestry shall and they are hereby required to cause a book or books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and disbursed for or on account of parochial purposes, and of the several articles, matters, and things for which such sums of money shall have been so received and disbursed; which book or books shall at all seasonable times be open to the

---

Pancras, 1 Ad. & E. 80; 3 Nev. & M. 425). Vestrymen elected under the above Act cannot be required to take an oath directed by a former local Act (*Ibid.*).

(a) In *Rex* v. *Clerkenwell*, 1 Ad. & E. 413; 1 Nev. & M. 411; the proviso in the 58 Geo. 3, c. 69, s. 8 (*antè*, p. 844), was held to except only vestries having a peculiar constitution or power.

(b) The court cannot compel the officers of a parish to permit the rate-payers of the parish to take copies of, or extracts from, a book containing all parochial rates and accounts of all moneys received for parochial purposes, but not containing any account of parochial disbursements, kept under the directions of a local Act (*Rex* v. *St. Mary-Bone*, 5 Ad. & E. 268, 6 Nev. & M. 600).

By 23 & 24 Vict. c. 51, the amount of rates levied by or under the order of any vestry, must be annually returned to a secretary of state (*antè*, p. 753, tit. "Tolls").

1 & 2 W. 4, c. 60.

inspection of the said vestrymen, and of any person or persons rated to the relief of the poor of the said parish, and of any creditor or creditors on the same, without fee or reward; and the said vestrymen and persons and creditors as aforesaid, or any of them, shall and may take copies of or extracts from the said book of books, or any part or parts thereof, without paying any thing for the same; and in case the clerk to the said vestrymen, or other person with whom such books shall remain, shall on any reasonable demand refuse to permit or shall not permit the said vestrymen, persons, or creditors, or any of them, to inspect the said book or books, or to take such copies or extracts as aforesaid, such clerk or other person as aforesaid shall forfeit and pay any sum not exceeding ten pounds for every such offence.

Auditors to be chosen annually.

33. That in any and every parish adopting this Act, the parishioners duly qualified to vote for vestrymen as aforesaid shall elect five ratepayers of the said parish who shall have signified in writing their assent to serve to be auditors of accounts, which auditors shall be so elected on the first day on which the vestrymen shall be chosen after such parish shall have adopted this Act, and according to the same forms of voting as are hereinbefore prescribed for the election of the said vestry: Provided always, that no person shall be eligible to fill the said office of auditor of accounts who shall not be qualified according to the provisions of this Act, as hereinbefore stated, to fill the office of vestryman for the said parish: And provided always, that no person shall be eligible to fill the said office of auditor of accounts who shall be one of the vestry for the said parish; and if any person on the day of annual election shall be chosen to be both a member of the vestry and an auditor of accounts, the said vestry at their first meeting after such election shall declare the said person incapable of acting as vestryman: Provided also, that no person shall be eligible to fill the said office of auditor of accounts who shall be interested, either directly or indirectly, in any contract, office, business, or employ, or in providing or supplying any materials or articles for the parish for which he is to serve; and any person who shall be discovered after his election to be so interested shall cease to be an auditor.

Qualification.

Further qualifications of auditors.

Disqualification.

Mode of audit.

34. That the aforesaid auditors of accounts shall meet twice at least in each year, at the board room (*a*) of the vestry, and (a majority of the said auditors being present at such meetings) shall proceed to audit the accounts of the said vestry for the preceding half year, in presence of the vestry clerk; and the said vestry are hereby required, by their said clerk, to produce and lay before the said auditors at every such meeting a true and just statement or account in writing, accompanied with proper vouchers, of all sums of money which may have come to the hands of the said vestry or of their treasurer, and also of all moneys paid, laid out, or expended by them, or by any churchwardens, overseers, surveyors, or other persons by them employed, and responsible to the said vestry, since the last period up to which the accounts of the said vestry were audited; and in all parishes in which other boards shall have control over any part of the parochial expenditure, the said auditors shall have the same power of examining the accounts and officers thereof as of examining the accounts and officers of the vestry, and shall audit the accounts of the said boards in the same manner as they audit the accounts of the said vestries (*b*).

Auditors may call for persons and books (*c*).

35. That the said auditors shall have power to summon and call before them, by a writing for that purpose, signed by any one of them, or by the clerk of the vestry of any parish adopting this Act, any parish officer or other person or persons whatsoever concerned in the said accounts, and to require of him or her or them to attend the said auditors at any meeting or adjourned meeting, and to bring with them all books of accounts, writings, papers, and documents required, which may concern the said accounts,

(*a*) Auditors of parish accounts, appointed under this Act, can hold meetings in the board-room of the vestry only; and therefore a mandamus to appear, and produce and explain accounts to auditors, cannot direct the parties to appear, &c., "at such time and place as the auditors may appoint and give notice thereof" (*Rex* v. *Trustees of St. Pancras New Church*, 3 Ad. & E. 535; 5 Nev. & M. 219).

(*b*) The trustees appointed and acting under a local Act of parliament for building a church, which authorises them to levy rates upon the inhabitants of the parish, and directs that the accounts shall be audited and allowed by the quarter sessions, are nevertheless compellable under this Act to produce and explain their accounts before the auditors of the parish accounts, appointed under and in consequence of the adoption of this Act (*Rex* v. *Trustees of St. Pancras*, 3 Ad. & E. 535; 5 Nev. & M. 219; and 6 Ad. & E. 314; 1 Nev. & P. 507). And *semble*, that all boards, &c., having power to levy rates on the inhabitants of a parish which adopts this Act, are compellable to produce and explain their accounts before the auditors (*Ibid.*).

(*c*) Where a mandamus recited that it was the duty of the trustees, who had been required to produce accounts, &c. (in the terms of this section), and that they had refused to do so, and then ordered them to produce accounts which they were ordered to keep by local Acts: it was held, that the mandamus was bad in ordering more than was warranted, either by the grievance recited, or this Act (*Rex* v. *Church Trustees of St. Pancras*, 6 Ad. & E. 314; 1 Nev. & P 507).

and to give such information as to the particulars of such accounts as he, she, or they shall be enabled to give; and any parish officer or other person refusing so to attend, or otherwise wilfully obstructing the purposes of such inquiry, shall be deemed guilty of a misdemeanour. 1 & 2 W. 4, c. 60.

36. That the said accounts, when audited and approved by the said auditors or by the major part of them, shall be by them signed in the presence of the clerk of the aforesaid vestry of any parish adopting this Act, and the said clerk of the vestry shall also affix his signature to the same; and it shall be lawful for the aforesaid auditors to subjoin such remarks thereto as to them shall seem meet. Accounts to be signed by auditors.

37. That the said accounts, when so audited and signed, shall remain at the office of the clerk of the said vestry; and that the said accounts shall after such audit be open and accessible for the examination, at all seasonable times, of any person rated to the relief of the poor of the said parish, and of any creditor on the rates thereof; Provided always, that nothing in this Act contained relative to the appointment and duty of auditors shall debar the parishioners from any remedy by them before possessed by the law of the land. Accounts after audit to be open to inspection.

38. That an abstract of the accounts of all moneys received and disbursed by the vestry in any parish adopting this Act shall twice in every year, within fourteen days after the same shall have been audited in manner in this Act mentioned, be made out by the said vestry, either in writing or in print, and a copy of such abstract shall be delivered to all persons applying for the same, and rated or assessed to the relief of the poor of the said parish, such person paying one shilling for the same; and which copies the said clerk is hereby required to cause to be published either in writing or print, and distributed accordingly. Abstracts of accounts to be published fourteen days after being audited.

39. That in any parish adopting this Act the vestry shall cause to be made out, once at least in every year, a list of the several freehold, copyhold, and leasehold estates, and of all charitable foundations and bequests, if any, belonging to the said parish, and under the control of the said vestry, the said list to contain a true and detailed account of the place where such estate or charitable foundation may be situate, or in what mode and security such bequest may be invested, specifying also the yearly rental of each, and the particular appropriation thereof, together with the names of the persons partaking of their benefit (except where such benefit shall be allotted to the poor of the parish generally), and to what amount in each case, and also stating the name and description of the persons in whom such estates are vested, and the names and description of the trustees for each charity: Provided always, that the aforesaid list shall be open for the inspection of the rate payers, at the office of the vestry clerk, at the same time with the accounts, when audited according to the provisions of this Act. Vestry to make out and publish yearly a list of estates, charities, and bequests, &c. with the application thereof.

40. Provided always, That this Act or anything therein contained shall not extend or be construed to extend to invalidate or avoid any ecclesiastical law or constitution of the church of England, save and except so far as concerns the appointment of vestries, or to destroy any of the rights or powers belonging to the archbishops, bishops, deans, or other of the clergy of the said established church, either as individuals or as corporate bodies, or in anywise to abridge or control their ordinary jurisdiction over or relating to any matter or thing respecting the ministers thereof. Saving of ecclesiastical jurisdiction.

41. "And in order to remove doubts as to the meaning of certain words in this Act," BE IT ENACTED, That the word "justice" shall be deemed to mean justice of the peace; and that the words "person" and "party" shall be deemed to include any number of persons or parties; and that the words "justices of the peace of the county or city" shall be deemed to include justices of the peace of any division of a county, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, or town corporate; and that the word "parish" shall be deemed to include any liberty, precinct, township, hamlet, tithing, vill, extraparochial place, or any place maintaining its own poor; and that the word "rate payers" shall include "ley payers;" and that the meaning of the several words in this Act shall not be restricted, although the same may be subsequently referred to in the singular number or masculine gender only. Meaning of terms used in this Act.

42. That the words "church or chapel," insomuch as regards the affixing of notices as by this Act directed, shall be deemed to include all places of religious worship according to the forms of the established church; and that in any parish or place not having a parish church or chapel as aforesaid, the said notices shall be affixed to some public building within the limits of the said parish or place. As to affixing notices.

43. Provided always, That nothing in this Act contained shall extend to any parish not being within or being part of any city or town in which parish there shall not be a greater number than eight hundred persons rated as householders, and having paid the rates for the relief of the poor within the year preceding that in which the provisions of this Act may be desired to be put in execution within such parish. Act not to extend where not more than 800 rate-payers, except in cities.

44. Public Act.

7 Will. 4 & 1 Vict. c. 45. An Act to alter the mode of giving Notices for the holding of Vestries and of making Proclamations in Cases of Outlawry, and of giving Notices on Sundays with respect to various Matters. [12th July, 1837.] 7 W. 4 & 1 Vict. c. 45.

[See this Act, ante, p. 479, tit. "OUTLAWRY," "POOR."]

13 & 14 Vict. c. 57.

13 & 14 Vict. c. 57. An Act to prevent the holding of Vestry or other Meetings in Churches, and for regulating the Appointment of Vestry Clerks. [5th August, 1850.]

"Whereas the holding of vestry or other parochial meetings in the parish church or chapel, or in the vestry room attached to such church or chapel, is productive of scandal to religion and other great inconveniences:" For remedy thereof BE IT ENACTED, That it shall be lawful for the commissioners for administering the laws for relief of the poor in England, at any time or times after the passing of this Act, upon application in writing of the churchwardens, or, where there are no churchwardens, of the overseers of any parish in England the population whereof exceeds two thousand persons according to the then last preceding census, such application being made pursuant to a resolution of the vestry of such parish, to make an order under their seal of office that this Act or any part thereof shall be applied to and be put in force within such parish; and a copy of such order shall be published in such newspaper or gazette, or both, as the said commissioners may direct, and shall be deposited with the churchwardens or overseers (where there are no churchwardens) of any such parish.

Poor law commissioners, upon application of churchwardens, &c., of any parish where population exceeds 2000, may make an order to put this Act in force.

On expiration of 12 months from the publishing of any such order certain meetings prohibited from being held in churches and chapels.

2. That from and after the expiration of twelve calendar months from the making and publishing of any such order no meeting of the inhabitants of the parish for the purpose of holding a vestry, or for any other purpose than that of divine worship, or some ecclesiastical or charitable object, or some other purpose approved by the bishop of the diocese, shall be holden in any parish church or chapel, or other consecrated church or chapel, nor in the chancel thereof, nor, except in case of urgency, and with the previous approval of the said commissioners, in the vestry room attached to such church or chapel, in any parish or place named in such order, any public or private Act of parliament to the contrary notwithstanding.

Power to provide other places of meeting.

3. That where any vestry or other meeting, by virtue of any statute, law, or custom, has heretofore been holden in the church or chapel of any parish or place named in any such order as aforesaid, or in the vestry room of such church or chapel, any such vestry or other meeting shall from and after the making and publishing of such order be holden in such other room or place within the parish or place as shall be provided for the holding thereof in pursuance of the provisions of this Act, and all Acts done in such other room or place as aforesaid shall be as good, valid, and effectual in the law, to all intents and purposes whatsoever, as if such vestry meeting had been held in the vestry room of such church or chapel or in the body of such church or chapel as aforesaid.

Power to purchase lands, &c., under 8 & 9 Vict. c. 18.

4. That the churchwardens and overseers, or overseers alone, as the case may require, of any parish, with the sanction of the said commissioners and of a majority of the vestry, may by agreement hire any room or purchase or take upon lease or exchange any lands or buildings, or sell lands belonging to such parish, and invest the proceeds of such sale in the purchase of other lands and buildings, or erect suitable buildings, for the purpose of holding of any vestry and other meeting for the transaction of any business of or relating to the parish; and the Lands Clauses Consolidation Act, 1845 (a), except the parts and enactments of that Act with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the recovery of forfeitures, penalties, and costs, and with respect to lands acquired by the promoters of the undertaking, but which shall not be wanted for the purpose thereof, shall, in so far as the same is consistent with this Act, be incorporated with this Act; and for the purposes of this Act the expressions "the promoters of the undertaking" or "the secretary," whenever used in that Act, shall respectively mean the churchwardens and overseers, or overseers as aforesaid; and the expression "tolls or rates," whenever used in the said first-mentioned Act, shall mean moneys to be raised for the relief of the poor mentioned in this Act; and all lands and premises which shall be so purchased or taken on lease by the churchwardens and overseers, or overseers as aforesaid, of any parish shall be conveyed, demised, and assured to such churchwardens and overseers, or overseers alone as aforesaid, and their successors, in trust for the purposes of this Act, and shall be accepted, taken, and held by them as a body corporate, and the yearly rent reserved by any lease shall be chargeable upon and paid out of the moneys to be raised for the relief of the poor of any such parish, and shall be paid by the churchwardens and overseers, or overseers as aforesaid, of such parish as such rent becomes payable; and if at any time any such rent be not paid within thirty days after it so becomes payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the said churchwardens and overseers, or overseers as aforesaid, with costs of suit, by action of debt in any court of law, or may levy the same by distress of the goods and chattels of any of the said churchwardens and overseers, or overseers as aforesaid.

(a) Ante, Vol. II., p. 1148, tit. "LANDS CLAUSES," &c.

5. That it shall be lawful for the poor law commissioners, by an order under their hands and seal, upon the receipt of a copy under the hands of the said churchwardens, or, where there are no churchwardens, of the overseers of any parish, of a resolution passed at a vestry duly convened and held for the purpose, after public notice of the time and place and purpose of holding such vestry shall have been given in like manner as notices of vestry meetings are published and given, consenting to the issue of such order, to direct the churchwardens and overseers, or where there are no churchwardens, the overseers, and such churchwardens and overseers, as the case may be, are hereby required, if so directed by such order and resolution as aforesaid, to borrow any sum of money which may be required for the purposes of this Act, and to charge the poor rates of the said parish with the repayment of the sum borrowed for such purpose and the interest thereof, so nevertheless that the sum so borrowed shall be repaid by equal annual instalments not exceeding ten.

13 & 14 Vict. c. 57.

Poor law commissioners, on receipt of a resolution of the vestry, authorised to require money to be borrowed for the purposes of the Act.

6. "And whereas in parishes whereof the population exceeds two thousand persons as aforesaid various duties are by law imposed upon and required to be performed by the officers of parishes, and much business transacted at vestry meetings, and the parish officers and vestries require the assistance of a vestry clerk in respect of such duties and business; and it is expedient that provision should be made for regulating the appointment and for the payment of such vestry clerks:" BE IT THEREFORE ENACTED, That the churchwardens or other persons to whom it belongs to convene meetings of the vestry in any such parish shall, within the space of one calendar month from and after the making and publishing of any order of the commissioners so applied for, if such order extend to the appointment of vestry clerk as aforesaid, and also, in case of any subsequent vacancy in the office of vestry clerk, within one calendar month next after such vacancy, convene a meeting of the vestry of any parish named in such order, for the special purpose of electing a vestry clerk, to perform such of the duties hereinafter mentioned as shall be applicable to such parish, in addition to those which are or may be imposed upon vestry clerks by any Act or Acts of parliament; and public notice of such vestry, and the place of holding the same, and the special purpose thereof, shall be given in the usual manner in which notice of the meetings of the vestry is now given, at least seven days before the day to be appointed for holding such vestry; and at such meeting the vestry shall proceed to elect some fit and competent person to be vestry clerk, and the person so elected shall not be removable from office except by a resolution passed at a vestry to be called for that special purpose in the manner hereinbefore mentioned, and with the consent of the said commissioners for administering the laws for the relief of the poor in England, or by an order under the seal of the said commissioners.

Churchwardens, &c., within one month after publication of order to convene a meeting for electing a vestry clerk.

Vestry clerk elected at such meeting not to be removeable except by resolution of vestry and consent of poor law board, &c.

7. That it shall be the duty of such vestry clerk, unless otherwise directed by the poor law commissioners,

Duties of vestry clerk.

To give notice of and attend the meetings of vestry and committees appointed thereat:

To summon and attend meetings of the churchwardens and overseers when required, and to enter the minutes thereof respectively:

To keep the account of all charity moneys which the churchwardens or overseers are authorized or are accustomed to distribute:

To keep the vestry books, and the parish deeds and documents, and the rate books and accounts which are closed, and to give copies of and extracts from the same to any person entitled thereto, such person paying for the same at the rate of fourpence for every seventy-two words or figures, and to permit any person or persons rated to the relief of the poor of the said parish, at all reasonable times to inspect the same or any of them, on pain of dismissal for neglecting to give such copies or permit such inspection:

To make out, when required by the vestry, the church rate, and procure the same to be signed and completed, and to retain the custody thereof, and, where there is no collector of poor rates or assistant overseer, to make out the poor rate, and procure the same to be allowed, and to make all the subsequent entries in the rate books, and to give the notices thereof required by law:

To prepare and issue the necessary process for recovering of arrears of such rates respectively before the justices, and procure the summons to be served, and to attend the justices thereon, and advise the churchwardens and overseers as to the recovery of such arrears:

To keep and make out the accounts of the churchwardens, and to present such accounts to the vestry or other legal authority, to be passed, and to examine the church rate collectors' accounts and returns of arrears:

To assist the overseers in making out their accounts (whenever required by them), and, subject to the rules and regulations of the commissioners for administering the laws for the relief of the poor, to examine from time to time the accounts of the assistant overseers or collectors of poor rates, and their returns of arrears:

To attend the audit of accounts of the overseers, and conduct all correspondence arising therefrom:

To assist the churchwardens or overseers in preparing and making out all other parochial assessments and accounts, and in examining the accounts of the collectors of such assessments:

13 & 14 Vict. c. 57.

To ascertain and make out the list of persons liable to serve on juries, and to cause them to be printed and duly published, and return it to the justices:

To give the notices for claims to vote for members of parliament, and to make out lists of voters, and get the same printed and published, and duly returned, according to law, and to attend the court for revising them, and to prepare, make out, and publish the burgess lists and the lists of constables:

To make all returns required of the churchwardens or of the overseers by law or proper authority:

To advise the churchwardens and overseers in all the duties of their office; and also to perform such other duties and services of a like nature as the said commissioners for administering the laws for the relief of the poor in England, from time to time, at the request of the churchwardens or overseers of any such parish, or otherwise, shall prescribe and direct to be performed by such vestry clerk.

Salary of vestry clerk to be fixed by poor law commissioners.

8. That the amount of salary or other remuneration to be paid to the vestry clerk, as well as the days and times on which and the persons by whom the same shall be payable, shall be fixed by the said commissioners, and altered from time to time as there shall be occasion; and such salary or remuneration shall be chargeable upon and paid out of the moneys to be raised for the relief of the poor of any such parish; and where the said commissioners shall deem requisite, such vestry clerk shall give such security and to such persons as the said commissioners shall by their order under seal direct: Provided always, that where, under the provisions of any local Act or Act of parliament, any person or persons shall be paid for the performance of any of the duties of vestry clerk, or for assisting in the performance of any of the duties of churchwardens or overseers of the poor, nothing herein contained respecting the duties of the vestry clerk shall apply to or be deemed to apply to the performance of such duties while the same are so performed, or while payment shall be made for the performance of them as aforesaid.

Churchwardens and overseers not to be discharged from performance of duty.

9. That nothing herein contained shall exempt or discharge, or be construed to exempt or discharge, any churchwarden or overseer of the poor from the performance of any duty required of him by law, nor oblige him to avail himself of the assistance of any vestry clerk to be appointed as aforesaid in the performance of his duties, unless he shall think fit so to do.

Interpretation of terms.

10. That in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say), "parish" shall mean every place having separate overseers of the poor, and maintaining its own poor, and also every parish or place having a separate ecclesiastical jurisdiction, and in which a vestry shall have been heretofore constituted and held for parochial as well as ecclesiastical purposes, either separately or jointly with any other parish; "churchwarden" shall mean also chapelwardens or other persons discharging the duties of churchwardens in any parish or place as last aforesaid; "vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry elected under an Act passed in the fifty-ninth year of the reign of king George the third, intituled "An Act to amend the Laws for the Relief of the Poor," or elected under an Act passed in the second year of the reign of his late majesty, intituled "An Act for the better Regulation of Vestries, and for the appointment of Auditors of Accounts, in certain Parishes in England and Wales," or elected under the provisions of any local Act of parliament for the government of any parish by vestries, or under or by virtue of any prescriptive custom or otherwise, in which parishes it shall mean select vestry; "lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure; words importing the masculine gender shall include the feminine; words of the plural number shall include the singular; words of the singular number shall include the plural.

59 G. 3, c. 12.

1 & 2 W. 4, c. 60.

16 & 17 Vict. c. 65.

16 & 17 Vict. c. 65. An Act to amend the Acts for the Regulation of Parish Vestries. [15th August, 1853.]

Rates which have become due less than three months previous to a vestry meeting not required to be paid before voting.

1. From and after the passing of this Act no person shall be required, in order to be entitled to vote or be present at any vestry meeting held under the provisions of the said Acts of the fifty-eighth and fifty-ninth years of king George the third, to have paid any rate for the relief of the poor of the parish in which such meeting shall be held, which shall have been made or become due within three calendar months immediately preceding such vestry meeting.

VOLUNTEER ACT, 1863.

26 & 27 Vict. c. 65.

26 & 27 Vict. c. 65. An Act to consolidate and amend the Acts relating to the Volunteer Force in Great Britain.

[21st July, 1863.]

WARRANT OF ATTORNEY.

3 Geo. 4, c. 39. An Act for preventing Frauds upon Creditors, by secret Warrants of Attorney to confess Judgment (a).

3 G. 4, c. 39.

[24th June, 1822.]

"Whereas injustice is frequently done to creditors by secret warrants of attorney to confess judgments for securing the payment of money; whereby persons in a state of insolvency are enabled to keep up the appearance of being in good circumstances, and the persons holding such warrants of attorney have the power of taking the property of such insolvents in execution at any time, to the exclusion of the rest of their creditors:" for remedy whereof, BE IT ENACTED, That from and after the 29th day of September next, if the holder thereof shall think fit, every warrant of attorney to confess judgment in any personal action, or a true copy thereof, and of the attestation thereof, and the defeasance and indorsements thereon, in case such warrant of attorney shall be given to confess judgment in his majesty's court of king's bench at Westminster, or such a true copy thereof as aforesaid, in case such warrant of attorney shall be given to confess judgment in any other court, shall, within twenty-one days after the execution (b) of such warrant of attorney, be filed, together with an affidavit of the time of the execution thereof, with the clerk of the docquets and judgments in the said court of king's bench.

Warrants of attorney in personal actions to be filed within 21 days.

2. That from and after the said 29th day of September next, if at any time after the expiration of twenty-one days next after the execution of such warrant of attorney, a commission of bankrupt shall be issued against the person who shall have given such warrant of attorney, under which he shall be duly found and declared a bankrupt, then and in such case, unless such warrant of attorney, or a copy thereof, shall have been filed as aforesaid, within the said space of twenty-one days from the execution thereof, or unless judgment shall have been signed, or (c) execution issued on such warrant of attorney, within the same period, such warrant of attorney, and the judgment and execution thereon, shall be deemed fraudulent and void against the assignees under such commission (d), and such assignees shall be entitled to recover back and receive, for the use of the creditors of such bankrupt at large, all and every the moneys levied (e) or effects seised under and by virtue of such judgment and execution (f).

Where a commission of bankrupt shall issue against the person giving a warrant of attorney, the warrant shall be deemed fraudulent and void, unless the same shall have been filed as before directed (g).

(a) This statute is not repealed by statute 6 Geo. 4, c. 16, s. 81 (*Wilson* v. *Whitaker*, Moo. & M. 8).

As to the stamp on, see 13 & 14 Vict. c. 97, ante, p. 589, tit. "STAMP."

A judgment signed on an unstamped warrant of attorney is not available against subsequent judgments, and will be set aside on the application of a judgment creditor (*Semple* v. *Nicholson*, 4 H. & N. 298; 28 L. J. Exch. 217); and the court will not permit the warrant of attorney to be taken off the file for the purpose of being stamped on payment of the penalty, until the judgment signed on it is first set aside (*Ib.*).

(b) The twenty-one days for filing are exclusively of the day of execution (*Williams* v. *Burgess*, 12 Ad. & E. 635).

(c) If a warrant of attorney to confess judgment be given by a party who becomes bankrupt more than twenty-one days afterwards, and such warrant is not filed under this statute, but judgment is signed within twenty-one days after the execution of the warrant, a *fi. fa.* under such judgment is valid as against the assignees, though not issued till more than twenty-one days after the execution of the warrant (*Green* v. *Wood*, 7 Q. B. 178; *Godson* v. *Sanctuary*, 4 B. & Ad. 255; but see now 12 & 13 Vict. c. 106, s. 136; and *Acraman* v. *Herniman*, 16 Q. B. 999; 20 L. J. Q. B. 355, post, p. 862).

(d) That is, as against assignees under a valid commission (*Aircton* v. *Davis*, 9 Bing. 740; *Brooke* v. *Mitchell*, 8 Scott, 738).

It is not necessary that the petitioning creditor's debt should have accrued within the twenty-one days (*Everett* v. *Wells*, 9 Dowl. 424; 2 Man. & G. 269).

(e) A cognovit not filed, and upon which no judgment has been signed within twenty-one days, is void as against the assignees under this Act, although the cognovit was given in a suit *commenced* adversely, and although the proceeds of the execution were paid over to the judgment creditor before the insolvency (*Biffin* v. *Yorke*, 5 Man. & G. 428; 6 Scott, N. R. 222; *Bittleston* v. *Cooper*, 14 M. & W. 399).

(f) This section makes the warrant of attorney and the judgment and execution void as against assignees, unless there be an affidavit filed of the time of execution of the warrant of attorney, as required by the first section (*Dillon* v. *Edwards*, 2 M. & P. 550; 7 L. J. C. P. 110; *Robinson* v. *Robinson*, 3 Dowl. & L. 134).

(g) Where a defendant had given a warrant of attorney upon which judgment was signed and execution issued and levied, but the instrument was not duly filed pursuant to this statute, and the defendant afterwards became insolvent and petitioned the insolvent debtors court under 5 & 6 Vict. c. 116, under which petition assignees

3 G. 4, c. 39.

Every *cognovit actionem* to be filed in like manner, or void against creditors.

3. "And whereas the object of the said provision may be defeated by any person giving a *cognovit actionem* instead of a warrant of attorney to confess judgment:" BE IT ENACTED, That every *cognovit actionem*, given by any defendant in any personal action, in case the action in which such *cognovit actionem* shall be given shall be in the said court of king's bench, or a true copy of such *cognovit actionem* in case the action wherein the same is given shall be in any other court, shall, together with an affidavit of the time of the execution thereof, be filed with the said clerk, in like manner as such warrants of attorney, or copies thereof and affidavits, within the space of twenty-one days after such *cognovit actionem* shall have been executed, otherwise such *cognovit actionem*, and any judgment entered up thereon, and any execution taken out on such judgment, shall be deemed fraudulent and void against the assignees of the person giving such *cognovit actionem*, under a commission of bankrupt issued against him, after the expiration of the said space of twenty-one days, in like manner as warrants of attorney (*a*) and judgments and executions thereon, are deemed and taken to be fraudulent and void by this Act.

Defeasance of every warrant of attorney or cognovit to be written on the same paper (*c*).

4. That if such (*b*) warrant of attorney or *cognovit* shall be given subject to any defeasance or condition, such defeasance or condition shall be written on the same paper or parchment on which such warrant of attorney, or *cognovit actionem* shall be written, before the time when the same or a copy thereof respectively shall be filed, otherwise such warrant of attorney, or *cognovit actionem*, shall be null and void to all intents and purposes.

Officer of court to keep a book containing particulars of each warrant of attorney, &c.

5. That the said officer of the said court of king's bench shall cause every warrant of attorney and *cognovit actionem* in any personal action, and every copy thereof filed in the said office, to be numbered, and shall keep a book or books in his said office in which he shall cause to be fairly entered an alphabetical list of every such warrant of attorney or *cognovit*, containing therein the names and additions and descriptions of the respective defendants or persons giving such warrants of attorney or *cognovits*, and also the names, additions, and descriptions of the plaintiff or persons in whose favour the same shall have been given, together with the number and the dates of the execution and filing of the same, or of a copy thereof respectively, and the sums for which judgment is to be entered up, and also the sums which are specified to be paid by the defeasances or conditions in each warrant of attorney or *cognovit actionem*, and the times when the same are thereby made payable according to the form contained in the schedule to this Act; which said book or books, and every warrant of attorney and *cognovit actionem*, or copy thereof, filed in the said office, shall be searched and viewed by all

---

were appointed; the court refused to set aside the judgment and execution, holding that such instrument was not void as against the assignees by reason of the non-filing thereof, as it did not fall within this section, the 7 Geo. 4, c. 57, s. 33, nor the 1 & 2 Vict. c. 110; and that the 5 & 6 Vict. c. 116, ss. 1 and 7, contained no words extending the provisions of these enactments to such an instrument (*Lawrence* v. *Lawrence*, 1 Dowl. & L. 219).

(*a*) This section omits the words about signing judgment, which are inserted in the 2nd section, but the plain intention of the legislature was to put warrants of attorney and cognovits on the same footing in this respect; and where judgment had been signed on a cognovit within twenty-one days, it was held unnecessary to file it (*Bushell* v. *Boord*, 4 Dowl. & L. 359; 16 L. J. Q. B. 57).

A deed enabling a creditor to commence an action against the debtor, and to proceed to judgment and issue execution when he shall think fit, has the legal effect of a *cognovit*, and is within this section; but if it were not, it would be void as a contrivance to defeat the provisions of the Act (*Hurst* v. *Jennings*, 5 B. & C. 650).

(*b*) It was holden by Lord Tenterden, C. J., Bayley, J., and Littledale, J. (Parke, J. *dissentiente*) that this section applied only to such warrants of attorney as fall within the former sections, and that a warrant of attorney subject to a defeasance, not written on the same paper, was not void between the parties, but only against the assignees (*Bennett* v. *Daniel*, 10 B. & C. 500; *Morris* v. *Mellin*, 6 B. & C. 446; *Green* v. *Gray*, 1 Dowl. 350).

(*c*) More than a year having elapsed after judgment entered up on a warrant of attorney, the defendant agreed to waive the necessity of a *scire facias*: it was held that such agreement was no part of the defeasance, and did not render the warrant of attorney void for want of enrolment under this section (*Harmer* v. *Johnson*, 3 Dowl. & L. 39).

In August, 1841, the defendant executed to the plaintiff a warrant of attorney with a defeasance; judgment was signed thereon on the 13th September, 1841, but the roll was never carried in. By a judge's order, obtained by consent on the 9th September, 1842, it was ordered that execution should issue on the judgment without a *sci. fa.* On the 14th September a *fi. fa.* was issued, which was returned *nulla bona* on the 29th, and filed on the 20th December, 1842. In April, 1845, an alias *fi. fa.* was issued, under which the defendant's goods were taken. He afterwards became bankrupt. It was held, that the judge's order was not void as against the assignees under this statute (*Harmer* v. *Johnson*, 14 M. & W. 336; see further *Walsh* v. *Dower*, 2 Ir. L. R. (N. S.) 102).

persons at all seasonable times, paying to the officer for every search against one person the sum of sixpence, and no more (*a*). 3 G. 4, c. 39

6. That the said officer shall be entitled to receive, for his trouble in filing and entering such warrant of attorney or *cognovit*, or a copy thereof as aforesaid, the sum of one shilling, and no more. Fee of 1s. for filing.

7. That any person shall be entitled to have an office copy (*b*) of each warrant of attorney or *cognovit actionem*, or of the copy thereof, filed as aforesaid, upon paying for the same at the like rate as for office copies of judgments in each of such courts respectively. Office copies on paying, &c.

8. That it shall be lawful for any of the judges of the court in which such warrant of attorney or *cognovit actionem* is given, to order a memorandum of satisfaction to be written upon such warrant of attorney, *cognovit actionem*, or copy thereof respectively, as aforesaid, if it shall appear to him that the debt for which such warrant of attorney or *cognovit actionem* is given as a security shall have been satisfied or discharged (*c*). Satisfaction may be entered on warrants of attorney, &c.

SCHEDULE.

Name, &c. of the Person giving the Warrant of Attorney or Cognovit.	Name, &c. of Person for whom given.	Whether Warrant of Attorney or Cognovit; and Number.	Date of Execution.	Date of Filing.	Sum for which given.	Defeasance.
A. B. of , Manufacturer.	C. D. of , Merchant.	Warrant of Attorney. No. 1.	January 1, 18 .	January 10.	£ 1000	To secure £500, payable, &c.

1 & 2 Vict. c. 110. An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases; for extending the Remedies of Creditors against the Property of Debtors; and for amending the Laws for the Relief of Insolvent Debtors in England. [16th August, 1838.]

1 & 2 Vict. c. 110.

9. (*h*) "And whereas it is expedient that provision should be made for giving every person executing a warrant of attorney to confess judgment or a *cognovit actionem* due information of the nature and effect thereof:" BE IT ENACTED, That from and after the time appointed for the commencement of this Act no warrant of attorney to confess judgment (*d*) in any personal action (*e*), or *cognovit actionem* (*f*), given by any person (*g*), shall be of any force, unless there shall be present some attorney of one behalf of the Warrants of attorney and *cognovit actionem* to be executed in the presence of an attorney on behalf of the person (*h*).

(*a*) See Reg. H. 1853, Pr. r. 27, post, p. 863, n. (*b*), and ante, Vol. III., tit. "PLEADING-PRACTICE, &c., AT LAW;" 6 & 7 Vict. c. 66, post, p. 861.

(*b*) This copy is evidence, without collating it with the original, against the party filing it, and all claiming under him (*Sylvester* v. *Anthony*, 9 Bing. 746; 3 M. & Scott, 191).

(*c*) See *Joel* v. *Dicker*, 5 Dowl. & L. 1.

(*d*) Where, a writ of summons having been issued but not served on the defendant, who signed a document entitled in the cause and prepared by the plaintiff's attorney, whereby the defendant consented to a judge's order for payment of the debt and costs, with liberty for the defendant's attorney to enter an appearance for him and sign judgment and issue execution; a judge's order was afterwards obtained on this consent: it was held that this consent did not require the presence of an attorney under this statute (*Thorne* v. *Neal*, 2 Q. B. 726; *Bray* v. *Manson*, 8 M. & W. 668; *Brooks* v. *Hodson*, 8 Scott, N. R. 223).

(*e*) The enactments of this statute apply equally to warrants of attorney wherever executed, if attempted to be enforced in England (*Davis* v. *Trevanion*, 2 Dowl. & L. 748).

This section does not apply to a warrant of attorney given in an action of ejectment (*Doe d. Kingston* v. *Kingston*, 1 Dowl. N. S. 263; but it does to cognovits, *Doe* v. *Howell*, 12 A. & E. 696).

(*f*) A consent to a judge's order is not a cognovit (*Baker* v. *Flower*, 8 M. & W. 670).

(*g*) This section does not apply if the defendant be himself an attorney (*Downes* v. *Garbutt*, 2 Dowl. N. S. 939; *Chipp* v. *Harris*, 5 M. & W. 430).

(*h*) This statute is repealed, except sect. 1 to 22, by 24 & 25 Vict. c. 134, ante, Vol. I., tit. "BANKRUPTCY, &c."

1 & 2 Vict. c. 110.

of the superior courts (*a*) on behalf of such person, expressly named by him and attending at his request (*c*), to inform him of the nature and effect of such warrant (*b*)

This section does not apply to warrants of attorney executed by insolvent debtors to confess judgment for the debts in their schedule (1 & 2 Vict. c. 110, s. 87; see R. 15 Car. 2, K. B.; 14 & 15 Car. 2, C. P.; and R. G., H. 2 Will. 4, pl. 72; Jerv. N. R. 79). It differs from the latter rule in several important particulars. It applies to all cases; whereas the rule applied only to prisoners in custody on mesne process (*Lewis* v. *Gompertz*, 6 Dowl. 7; *Weatherall* v. *Long*, 6 Dowl. 267; *France* v. *Clarkson*, 5 Dowl. 699). Again, it was a sufficient compliance with the rule, if the attorney declared verbally, at the time of his attestation, that he was attorney for the defendant (*Wilson* v. *Price*, 4 Dowl. 213; *Robinson* v. *Brooksbank*, 4 Dowl. 395; *Vallance* v. *Brockley*, 5 Dowl. 699; *Todd* v. *Gompertz*, 6 Dowl. 296; but the statute, by the introduction of the word "thereby," requires that such declaration should be made in writing in the attestation (*Poole* v. *Hobbs*, 8 Dowl. 113; *Potter* v. *Nicholson*, 8 M. & W. 294).

If a warrant of attorney executed abroad is intended to be enforced in this country, it must be attested by an attorney, according to the form prescribed in this Act (*Davis* v. *Trevanion*, 2 D. & L. 743).

(*a*) This section does not apply where the defendant himself is an attorney (*Downs* v. *Garbett*, 2 D. N. S. 939; *Chipp* v. *Harris*, 5 M. & W. 430) though uncertificated (*Holgate* v. *Slight*, 1 L. M. & P. 662; *Price* v. *Carter*, 7 Q. B. 838; Tidd's New Practice, 279); and where the person introduced by the defendant as his attorney was uncertificated, it was held that the defendant could not, upon that ground, question the *cognovit* (*Cox* v. *Cannon*, 4 Bing. N. C. 453; 6 Dowl. 625; *Price* v. *Carter*, supra). If the defendant innocently employ a person who is not an attorney, the instrument will be void (*Vallance* v. *Brockley*, 5 Dowl. 699); but where the defendant fraudulently represented a person to be an attorney, who was not, the Court of Common Pleas refused to interfere (*Jeyes* v. *Booth*, 1 Bos. & P. 97; *Price* v. *Carter*, 7 Q. B. 838). This was upon an application under R. 14 & 15 Car. 2; but it is to be observed, that the statute makes instruments void (*Cock* v. *Edwards*, 2 Dowl. N. S. 55), which are not executed in the form prescribed; and it would seem that now the courts have no discretion. The clerk of the defendant's attorney is insufficient (*Paul* v. *Cleaver*, 2 Taunt. 360).

(*b*) See *Oliver* v. *Woodroffe*, 4 M. & W. 650, post, p. 859, n. (*c*)).

(*c*) There must be a separate attorney, other than the plaintiff's, employed by the defendant to take care of his interest only (*Mason* v. *Kiddle*, 5 M. & W. 513; *Rice* v. *Linstead*, 7 Dowl. 153; *Durant* v. *Blurton*, 9 Dowl. 1015; *Cocks* v. *Edwards*, 2 Dowl. N. S. 55). The presence of the plaintiff's attorney is insufficient, although the defendant consent to his acting as his attorney also (*Hutson* v. *Hutson*, 7 T. R. 7; *Cooper* v. *Grant*, 12 C. B. 154, 21 L. J., C. P. 197). Where one attorney only was present and attested on behalf of the defendant, who had acted on previous occasions for the plaintiff, and made out his bill for the obtaining and preparation of the warrant of attorney to the plaintiff; it was held that that was not sufficient within this section (*Sanderson* v. *Westley*, 6 M. & W. 98; *Pryor* v. *Swaine*, 2 Dowl. & L. 37; *Rising* v. *Dolphin*, 8 Dowl. 309). Where a defendant in custody agreed to give a *cognovit*, and sent for his attorney to attest it, but the attorney being from home, his clerk procured another attorney to attend for him, who read over and explained the *cognovit*, and attested it, the court was of opinion that the attorney was not named by and did not attend at the request of the defendant (*Fisher* v. *Papanicholas*, 2 C. & M. 215; 2 Dowl. 251). So, where the plaintiff's attorney proposed another attorney, whom he brought with him, to read over the warrant of attorney to the defendant, and attest it on his behalf, and the defendant acquiesced; but the attorney so introduced was not known to the defendant or sent for by him, this was holden not to be a compliance with the rule (*Walker* v. *Gardner*, 4 B. & Ad. 374; *Barnes* v. *Pendrey*, 7 Dowl. 747; *Walton* v. *Chandler*, 1 C. B. 306). But where, the defendant's attorney being from home, the plaintiff's attorney suggested to him another attorney, and the defendant went to his office, and said he wished him to attest the execution as his attorney, this was holden to be an express naming of the attorney (*Bligh* v. *Brewer*, 1 C. M. & R. 651; 3 Dowl. 266).

In the earlier cases, it was held that unless there was an express nomination originating with the party, the warrant of attorney was insufficient. Later cases, however, lay it down that if, where an attorney appears, a party clearly adopts him as his attorney, it is sufficient (*Walton* v. *Chandler*, 1 C. B. 306); and where the name of the attorney was first suggested by the plaintiff's attorney, and the person so named was afterwards expressly adopted by the defendant as his attorney for the purpose, it was held to be sufficient (*Taylor* v. *Nicholls*, 6 M. & W. 91; *Joel* v. *Dicker*, 5 Dowl. & L. 1; 16 L. J., Q. B. 359; *Walton* v. *Chandler*, 1 C. B. 306; 2 Dowl. 802). But in order to make the party an attorney expressly named by the defendant, and attending on his behalf, there must be something different from what may be called an implied naming, or implied attendance, *i. e.*, where it is to be col-

or *cognovit*, before the same is executed; which attorney shall subscribe (*a*) his name as a witness to the due execution thereof, and thereby declare himself to be attorney for the person executing the same, and state that he subscribes as such attorney (*b*). 1 & 2 Vict. c. 110.

---

lected only from the circumstances of the case that the attorney was named by, or attending on behalf of, the defendant. There is another criterion, that he be expressly named or expressly attending, under such circumstances as to show that the defendant is cognisant of the fact, and that he has an option in the matter. It is not necessary that he should beforehand name or request the attendance of the attorney (*Oliver* v. *Woodroffe*, 4 M. & W. 650; *Taylor* v. *Nicholls*, 6 M. & W. 91), if with full knowledge that he has an option, he adopts him as his attorney. That is the rule established in *Bligh* v. *Brewer*, 1 C. M. & R. 651, supra; and *Taylor* v. *Nicholls*, 6 M. & W. 91. In those cases the defendant was informed that he had an option. In *Bligh* v. *Brewer*, his answer showed that it was present to his mind that he could exercise an option, and that he did exercise it with his free will. In *Taylor* v. *Nicholls*, the defendant was expressly informed that he had a right to appoint any person, and answered that he had no wish to have any particular attorney, his only desire being that the transaction might not become known there, also, he knew he had an option, and exercised it. In *Barnes* v. *Pendrey* (7 Dowl. 747), the defendant had a full option, but it was not shown that he expressly adopted the party as his attorney (*per Alderson*, B., *Gripper* v. *Bristow*, 6 M. & W. 812). And where, the defendant having agreed to give the plaintiffs a warrant of attorney to secure his debt to them, the plaintiffs employed P., an attorney, to prepare it; P. called with it on the defendant, and told him it must be signed in the presence of some professional man, and that he should procure Mr. S. to attest it; and the defendant accordingly went to procure Mr. S.'s attendance, but met him in the street, when P. told him they were coming to his S.'s office, that he might witness the execution of a warrant of attorney by the defendant; the defendant then suggested that they had better go to P.'s office, which was nearer; they went there accordingly; P. laced the paper in S.'s hands, and S. then read over and explained the warrant of attorney to the defendant, and asked him whether he wished him to witness the execution of it as his attorney; the defendant replied that he did, and then signed it, and S. attested it; P. offered to pay S. for his attendance, but he said, as it would come out of the defendant's pocket, he should make no charge, for which the defendant expressed himself obliged: it was held, that S. was not expressly named by the defendant, and attending on his behalf, so as to satisfy this statute (*Gripper* v. *Bristow*, 6 M. & W. 807).

Where the defendant caused a warrant of attorney to be drawn up by a law stationer according to his own instructions, in pursuance of an agreement between him and the plaintiff; the plaintiff introduced him to S. H., who had an office in the same house in which the plaintiff lived, as an attorney who would attest his signature. S. H. requested a written retainer from him before executing the warrant, which he gave. The warrant was directed to S. H. and to two other attorneys, authorising them to enter up judgment in the usual form. S. H. afterwards signed judgment and sued out execution as the attorney for the plaintiff: it was held, that there was no ground for setting aside the warrant of attorney (*Levinson* v. *Syer*, 2 L. M. & P. 557).

(*a*) Subscription is required, and not mere attestation; therefore where a warrant of attorney was properly attested, and was afterwards altered in a material particular by consent, and the same attorney then passed a dry pen over the attestation and over his signature, it was held to be insufficient (*Bailey* v. *Bellamy*, 9 Dowl. 507).

(*b*) If the form given by this statute is not exactly followed, which is not necessary (*Lewis* v. *Lord Kensington*, 2 C. B. 463), the words used must by necessary implication show that all the requisites of the statutable attestation have been complied with (*Pocock* v. *Pickering*, 18 Q. B. 789, 21 L. J. Q. B. 365; *Hibbert* v. *Barton*, 10 M. & W. 678).

By this section the legislature requires not only that the party executing shall have an attorney employed by him, present attending the execution of the instrument, in order to acquaint him with the nature and consequences of the act he is about to do, but further, that the attorney so attending shall subscribe his name to the document as a witness to the due execution thereof, and by such attestation declare himself to be such attorney, and that he subscribes as such (*Potter* v. *Nicholson*, 8 M. & W. 294; *Phillips* v. *Gibbs*, 16 M. & W. 208); in a word, he must not only be the attorney employed at the time, and declare himself as such by his attendance, but he must subscribe his name as such (*per* Lord Abinger, C. B., *Hibbert* v. *Barton*, 10 M. & W. 681). Where, therefore, the form of the attestation was "Witnessed by me, P., as the attorney of the said B., attending at the execution hereof at his request, and expressly named by him," it was held to be insufficient (*Ibid.*, *Poole* v. *Hebbs*, 8 Dowl. 113). So also was the following:—"Signed, sealed, and delivered in the presence of me, H. C., who at the request and in the presence of the said J. B., C., and P., have set and subscribed my name as the attorney on their behalf, attesting the execution hereof, having first

1 & 2 Vict. c. 110.

Warrant, &c., not formally executed invalid.

10. That a warrant of attorney to confess judgment or *cognovit actionem*, not executed in manner aforesaid, shall not be rendered valid by proof that the person executing the same did in fact understand the nature and effect thereof, or was fully informed of the same (*a*).

Provisions of 3 G. 4, c. 39, extended to assignees of insolvents (*b*).

60. "And whereas an Act passed in the third year of the reign of his late majesty king George the fourth, intituled 'An Act for preventing frauds upon Creditors by secret Warrant of Attorney to confess Judgment:' And whereas it is expedient to extend the provisions of such Act:" BE IT THEREFORE ENACTED, That the last-mentioned Act shall extend to the provisional or other assignee or assignees of every prisoner whose estate shall after the expiration of twenty-one days next after his execution of such warrant of attorney, or giving of such *cognovit actionem* as therein mentioned, be vested in the provisional assignee of the said court for the relief of insolvent debtors by virtue of this Act, as if the last-mentioned Act had been expressly herein enacted; and every such warrant of attorney,

---

read over and explained to them and each of them the nature and contents thereof," Erle, J., *dissentiente* (*Pocock* v. *Pickering*, 18 Q. B. 789, 21 L. J. Q. B. 365). So where the attestation was, "Signed by the above-named G. C. P., in the presence of us, of whom the said J. H. S. is the attorney expressly named by him, and acting at his request, and by whom the above-written warrant of attorney was read over, and the nature and effect thereof explained, to the said G. C. P., before the execution thereof by him," Signed, "J. H. S., attorney, Leeds. J. R." (*Everard* v. *Poppleton*, 5 Q. B. 181). So the following attestation was held, by Alderson, B., after consulting several of the judges, to be insufficient (Parke, B., *dubitante*), "Signed, sealed, and delivered by J. A., in my presence, and I subscribe myself as attorney for the said J. A., expressly named by him to attest his execution of these presents" (*Elkington* v. *Holland*, 9 M. & W. 659; recognised by Tindal, C.J., in *Lewis* v. *Lord Kensington*, 2 C. B. 463; see *Lindley* v. *Girdler*, 1 D. & L. 699; *Ledgard* v. *Thompson*, 11 M. & W. 40).

A warrant attested thus, "Signed, &c., in the presence of A. B., one, &c., and attorney on behalf of said I. K., expressly named by him and attending at his request, &c., and I declare myself to be the attorney for the said I. K.," was held to be sufficient (*Holt* v. *Kershaw*, 5 Dowl. & L. 419; *Gay* v. *Hall*, 5 Dowl. & L. 423). And where the attestation was "Signed, sealed, and delivered in the presence of H. W., 10, Lincoln's-inn, attorney for the said Lord Kensington, expressly named by him, and attending at his request, and I hereby subscribe myself to be the attorney for him, having read over and explained to him the nature and effect of the above warrant of attorney before the same was executed by him, and I hereby subscribe my name as a witness to the due execution thereof," there was no further subscription of the name of the witness, but the above signature; "H. W." was the name, and was in the handwriting of the witness; this was held sufficient (*Lewis* v. *Lord Kensington*, 2 C. B. 463; *Phillips* v. *Gibbs*, 16 M. & W. 208; *Knight* v. *Hasty*, 12 L. J., Q. B. 293).

It is not necessary that the attorney should *state in the attestation* that he was expressly named by the defendant, and attended at his request (*Oliver* v. *Woodroffe*, 4 M. & W. 650; *Gay* v. *Hall*, 5 Dowl. & L. 423). Nor is it necessary that the *cognovit* should be read over to the defendant, it being sufficient to inform him of its nature and effect (*Ibid.*), except perhaps he be a marksman (*James* v. *Harris*, 6 Dowl. 284).

This provision is for the benefit of the defendant only: a third party who may be prejudiced by a judgment against his debtor, unless an assignee of a bankrupt (*Cocks* v. *Edwards*, 2 Dowl. N. S. 55; *Charlesworth* v. *Ellis*, 7 Q. B. 678), cannot object that no attorney attested the warrant of attorney upon which such judgment is founded (*Chipp* v. *Harris*, 5 M. & W. 430; *Price* v. *Carter*, 7 Q. B. 838; *Lewis* v. *Lord Tankerville*, 11 M. & W. 109; *Hume* v. *Lord Wellesley*, 8 Q. B. 521). The defendant may apply to set it aside, though a bankrupt (*Pinches* v. *Harvey*, 1 Q. B. 868).

A warrant of attorney to A. B. & C. D., public officers of a company, will support a judgment by them as individuals (*Howard* v. *Batho*, 5 Dowl. & L. 396).

An agreement to waive a *scire facias* to revive a judgment upon a warrant of attorney, entered into after judgment has been signed upon a warrant, is valid, though not executed with all the formalities of this section (*Cooper* v. *Norton*, 16 L. J. Q. B. 364).

(*a*) The defect cannot be waived (*Gripper* v. *Bristow*, 6 M. & W. 807; *Cocks* v. *Edwards*, 2 Dowl. N. S. 55).

(*b*) This and the following section is repealed by 24 & 25 Vict. c. 134, ante Vol. I. tit. "BANKRUPTCY."

To take advantage of this statute, it must appear that there is a valid commission against the party (*Aireton* v. *Davis*, 9 Bing. 740; 3 M. & Scott, 138; see *Hurst* v. *Jennings*, 5 B. & C. 650; 8 D. & R. 424). The affidavit must state the day on which the warrant of attorney was executed (*Dillon* v. *Edwards*, 2 M. & P. 550; *Robinson* v. *Robinson*, 3 Dowl. & L. 134; see *Collis* v. *Stone*, 4 Q. B. 655; 3 Gal. & Dav. 625; *Lawrence* v. *Lawrence*, 1 Dowl. & L. 219, ante, p. 858, n. (*g*)).

and judgment and execution thereon, and every such *cognovit actionem*, and judgment entered up thereon, and execution taken out on such judgment, as are declared by the last-mentioned Act to be fraudulent and void against the assignees mentioned therein, shall be deemed equally fraudulent and void against the provisional or other assignee or assignees of such prisoner appointed under this Act, and such provisional or other assignee or assignees shall be entitled to recover back and receive, for the use of the creditors of such prisoner, all and every the moneys levied and effects seized under or by virtue of any such judgment or execution (*a*). 1 & 2 Vict. c. 110.

61. That in all cases where any prisoner whose estate shall have been vested in the said provisional assignee under this Act shall have executed any warrant of attorney to confess judgment, or shall have given any *cognovit actionem*, or bill of sale, whether for a valuable consideration or otherwise, no person shall, after the commencement of the imprisonment of such prisoner (*b*), avail himself or herself of any execution issued or to be issued upon any judgment obtained or to be obtained upon such warrant of attorney or *cognovit actionem* (*c*), or of such bill of sale (*d*), either by seizure and sale of the property of such prisoner, or any part thereof, or by sale of such property theretofore seized, or any part thereof, but that any person or persons to whom any sum or sums of money shall be due in respect of any such warrant of attorney or *cognovit actionem*, or of such bill of sale, shall and may be a creditor or creditors for the same under this Act. Warrant of attorney and *cognovit actionem* not to be acted upon against goods of insolvent after his imprisonment.

6 & 7 Vict. c. 66. An Act to enlarge the Provisions of an Act for preventing Frauds upon Creditors by Secret Warrants of Attorney to confess Judgment. [22nd August, 1843.]

6 & 7 Vict. c. 66.

"Whereas an Act was passed in the session of the third year of the reign of his late

---

(*a*) A sale of the goods of an insolvent under a *fi. fa.* issued upon a warrant of attorney given by the insolvent, is invalid, if it take place after the commencement of the insolvent's imprisonment, notwithstanding the goods may have been seized under the writ before the imprisonment (*Kelcey* v. *Minter*, 1 Bing. N. C. 721; 1 Scott, 616). In such case trover lies at the suit of the assignees (*Ib.*).

Where the goods of an insolvent are seized under an execution, and the produce of the sale paid to the execution creditor after the imprisonment of the insolvent, his assignees subsequently appointed may recover such produce as money had and received to their use (*Gye* v. *Hitchcock*, 4 Ad. & E. 84; 5 Nev. & M. 660).

(*b*) It was held upon similar words in 7 Geo. 4, c. 57, s. 34, that where the actual imprisonment within the walls of the prison follows upon the arrest as one continuous Act, within the usual time allowed and required by law and the course of practice, the arrest shall be taken to be the commencement of the imprisonment; but where, after the arrest is made, any delay not sanctioned by the due course of law takes place, before the actual commitment of the insolvent to prison, there the actual coming within the walls of the prison, and not the arrest, is, within the meaning of the statute, the commencement of such imprisonment (*Yapp* v. *Harrington*, 3 Bing. N. C. 907; 5 Scott, 105).

(*c*) Judgment was obtained against the defendant, a pawnbroker, on a warrant of attorney, and a seizure was made under a *fi. fa.* An action being brought against the defendant after the seizure, he was taken under a *ca. sa.* in that action, and afterwards discharged by the insolvent debtors court. The sheriff had realised money on the seizure, partly from the sale of the defendant's goods and partly by the redemption of pledges since the seizure. The insolvent's assignee claimed under this section the moneys so realised, both before and after the imprisonment. It was ordered that the sheriff should pay to the execution creditor the moneys realised before the imprisonment commenced, and the remainder to the assignee (*Squire* v. *Huetson*, 1 Q. B. 308; 4 P. & D. 633).

The sheriff is liable in trover for having sold, after notice of the assignment to the provisional assignee, the goods of an insolvent taken in execution under a judgment on a *cognovit*, after the commencement of the insolvent's imprisonment but before the assignment to the provisional assignee (*Groves* v. *Cowham*, 10 Bing. 5; 3 Moo. & S. 352).

(*d*) W., as security to L. for money payable on a certain day, bargained and sold goods to L. by indenture, with a covenant for payment by W. to L. at the day, and a proviso that if such payment were made the indenture should cease, but in case of default L. should hold the goods to his own use for ever. Default was made, and L. took possession. Afterwards W. became an insolvent within this Act and went to prison, and after the commencement of W.'s imprisonment L. sold the goods. It was held, that such sale was not void as against the assignees, for that L. had not thereby availed himself of the bill of sale after the commencement of W.'s imprisonment, within the meaning of this section (*Hunt* v. *Robins*, 3 Q. B. 300; 2 Gale & D. 646).

This enactment does not apply to bills of sale which convey property absolutely, but only to an executory bill of sale (*Hardy* v. *Tingey*, 5 Exch. 294; and see *Simpson* v. *Wood*, 7 Ex. 349).

6 & 7 Vict. c. 66.

3 G. 4, c. 39.

majesty king George the fourth, intituled 'An Act for preventing Frauds upon Creditors by secret Warrants of Attorney to confess Judgment,' by which among other things, it was enacted, that the clerk of the dockets and judgments in his said late majesty's court of king's bench should cause every warrant of attorney and *cognovit actionem* in any personal action, and every copy thereof, which in and by the said recited Act are directed to be filed in his said office, to be numbered, and should keep a book or books in his said office in which he should cause to be fairly entered the particulars in the said Act set forth according to the form contained in the schedule to the said Act annexed, which said book or books, and every warrant of attorney and *cognovit actionem*, or copy thereof, filed in the said office, should be searched and viewed by all persons at all seasonable times, paying to the officer for every search against one person the sum of sixpence, and no more: And whereas it is expedient that greater facilities should be given to persons in searching such book or books and obtaining the information contained therein, and that the provisions of the said Act should be enlarged:" BE IT ENACTED, That from and immediately after the passing of this Act the said officer of the said court of queen's bench shall, in addition to the book in and by the above-recited Act directed to be kept by him, keep another book or index, in which he shall cause to be fairly inserted, as and when such warrants of attorney, or *cognovits actionem* are filed in the manner as directed by the said Act, the names, additions, and descriptions of the respective defendants or persons giving such warrants of attorney or *cognovits actionem*, but containing no farther particulars thereof; which book or index all persons shall be permitted to search for themselves, paying to the officer for such search the sum of one shilling, such payment being in addition to the payment of sixpence provided by the said Act to be paid for every search against one person in the book or books provided to be kept under the authority of the said Act.

In addition to the book directed to be kept by the recited Act, another book or index shall be kept of names, &c. of persons by whom warrants of attorney are given, which shall be open to inspection.

12 & 13 Vict. c. 106.

12 & 13 Vict. c. 106. An Act to amend and consolidate the Laws relating to Bankrupts. [1st August, 1849.]

21. *Of warrants of attorney, &c.*

Certain warrants of attorney, *cognovits*, and consents to judge's order, given within two months of filing petition, to be null and void.

135. That every warrant of attorney to confess judgment in any personal action, given by any bankrupt after the commencement of this Act, and within two months of the filing of a petition for adjudication of bankruptcy by or against such bankrupt, and being for or in respect of (wholly or in part) an antecedent debt or money demand, and every *cognovit actionem* or consent to a judge's order for judgment given by any bankrupt, at any time after the commencement of this Act and within two months of the filing of any such petition in any action commenced by collusion with the bankrupt, and not adversely, or purporting to have been given in an action, but having been in fact given before the commencement of any action against the bankrupt, such bankrupt being unable to meet his engagements at the time of giving such warrant of attorney, *cognovit actionem*, or consent (as the case may be), shall be deemed and taken to be null and void, whether the same shall have been given by such bankrupt in contemplation of bankruptcy or not.

Warrants of attorney and *cognovits actionem* given by any trader to be void, unless the same or a copy thereof be filed, &c., within twenty-one days after the execution thereof. 3 G. 4, c. 39; 12 & 13 Vict. c. 106.

136. That if after the commencement of this Act any warrant of attorney to confess judgment in any personal action, or any *cognovit actionem* in any personal action, shall have been given by any such trader, and such warrant of attorney or *cognovit actionem*, or a true copy thereof, shall not have been filed with the officer acting as clerk of the docquets and judgments in the court of queen's bench within twenty-one days next after the execution thereof, in manner and form provided by an Act passed in the third year of the reign of his late majesty king George the fourth, intituled "An Act for preventing Frauds upon Creditors by secret Warrants of Attorney to confess Judgment," every such warrant of attorney and *cognovit actionem* shall be deemed fraudulent, null, and void, to all intents and purposes whatever (*a*); and if any such warrant of attorney or *cognovit actionem* which shall be so filed as aforesaid shall have been given subject to any defeazance or condition, such defeazance or condition shall be written on the same paper or parchment on which such warrant of attorney or *cognovit actionem* shall be written, before the time when the same or a copy thereof respectively shall be filed, otherwise such warrant of attorney or *cognovit actionem* shall be null and void to all intents and purposes whatever.

Judge's

137. That every judge's order made by consent (*b*) given after the commencement of

---

(*a*) This statute refers to the mode of filing provided by 3 Geo. 4, c. 39, viz., that it should be together with an affidavit of the time of execution of the warrant of attorney; but it does not incorporate the alternative in the 2nd section of that Act, which renders warrants of attorney given by bankrupts valid if judgment be signed upon them within twenty-one days (*Acraman* v. *Herniman*, 16 Q. B. 999; 20 L. J. Q. B. 355; see *Parker* v. *Watson*, 8 Ex. 404; *Watson* v. *Alcock*, 4 De Gex M. & G. 242).

(*b*) After issue joined in a hostile action against a bankrupt at the suit of the defendant, the bankrupt took out a summons for a stay of pro-

this Act by any such trader defendant in any personal action, and whereby the plaintiff in such action shall be authorized forthwith after the making of such order, or at any future time, to sign or enter up judgment, or to issue or take out execution in such action, and whether such order shall be made subject to any defeazance or condition or not, in case the action in which such order shall be made shall be in the court of queen's bench, or in case the action wherein the same is made shall be in any other court, a true copy of such order shall, together with an affidavit of the time of such consent being given, and a description of the residence and occupation of the defendant, be filed with the officer acting as clerk of the docquets and judgments in the same court of queen's bench within twenty-one days after the making of such order, in like manner as a warrant of attorney in any personal action and a *cognovit actionem* given by any defendant in any personal action, or copies thereof and affidavits of the execution thereof respectively, may be filed with the said clerk within the space of twenty-one days after such warrant of attorney or *cognovit actionem* shall have been executed, otherwise such judge's order, and any judgment signed or entered up thereon, and any execution issued or taken out on such judgment, shall be null and void to all intents and purposes whatever (*a*); and the provisions respectively contained in the said Act passed in the third year of the reign of his late majesty king George the fourth, intituled 'An Act for preventing Frauds upon Creditors by secret Warrants of Attorney to Confess Judgment," and in an Act passed in the parliament holden in the sixth and seventh years of the reign of her majesty, entituled "An Act to enlarge the Provisions of an Act for preventing Frauds upon Creditors be secret Warrants of Attorney to confess Judgment," for liberty to file warrants of attorney and *cognovits actionem*, or copies thereof, with the clerk of the docquets and judgments, and for the said clerk to make certain entries and search in relation thereto, and for entering satisfaction thereon, and for fees for search and filing and taking office copies, shall extend and be applicable to every such judge's order, in like manner as to warrants of attorney and *cognovits actionem* mentioned in the said acts (*b*).

12 & 13 Vict. c. 106.

order obtained by consent given by any trader defendant to be void, unless the same or a copy thereof filed within twenty-one days, in like manner as warrants of attorney and *cognovits actionem*.

3 G. 4, c. 39.

6 & 7 Vict. c. 66.

WASTE (*c*).

52 Hen. 3, c. 23. (Marlebridge). A Remedy against Accomptants. Fermors shall make no Waste (*d*). [A.D. 1267.]

52 H. 3, c. 23.

2. Also fermors, during their terms, shall not make waste, sale, nor exile of house, Fermors

---

ceedings on payment of debt and costs, and an order was made for a stay of proceedings on payment within a given time. Default being made in payment, judgment was signed and execution levied, and the debt and costs paid to discharge the execution. The judge's order was not, nor was any copy thereof, filed within twenty-one days after the order; it was held, that the judge's order was obtained by consent of the defendant, and that the judgment and execution thereof were rendered void by this section, and that the assignees of the bankrupt were entitled to recover the money paid by the bankrupt upon the execution as money had and received to their use (*Farrow* v. *Mayes*, 17 Jur. 132, 18 Q. B. 516; *Demmack* v. *Bowley*, 2 C. B., N. S., 542, ; 26 L. J.).

(*a*) A judgment and execution founded on a judge's order not filed, is valid as against the defendant himself (*Bryan* v. *Child*, 5 Ex. 369, 1 L. M. & P. 429).

(*b*) By Reg. Gen. H. T., 1853, ante, tit. "PLEADING," &c., it is ordered:—

"Rule 25. No judgment shall be signed upon any *cognovit* or any warrant of attorney, without such *cognovit* or warrant being delivered to and filed by the master, who is hereby ordered to file the same in the order in which it is received.

"26. Leave to enter up judgment on a warrant of attorney above one and under ten years old, is to be obtained by order of a judge made *ex parte*, and if ten years old or more, upon a summons to show cause.

"27. Every attorney or other person who shall prepare any warrant of attorney to confess judgment which is to be subject to any defeasance, shall cause such defeasance to be written on the same paper or parchment on which the warrant is written, or cause a memorandum in writing to be made on such warrant containing the substance and effect of such defeasance." (See Archb. Pr. 11 ed., p. 941.)

(*c*) See Yoole on Waste.

(*d*) As to what amounts to waste, and the distinctions as to *voluntary* and *permissive* waste, see Co. Litt. 53; Bac. Abr. tit. "Waste;" 2 Bla. Com. 281; 2 Wms. Saund. 252, n. (7); Vin. Abr., Waste; Hob. 219, 234; Hetley, 35; Cro. Jac. 127; 9 Bing. 384; 14 M. & W. 598; and the several statutes 52 Hen. 3, c. 23, s. 2; 3 Edw. 1, c. 21; 6 Edw. 1, cc. 5 & 13; 13 Edw. 1, cc. 14 & 22; 20 Edw. 1, st. 2; 11 Hen. 6, c. 6.

The real action of waste had fallen into disuse long before the passing of the 3 & 4 Will. 4, c. 27, s. 36, by which it was abolished. The case of *The Keepers, &c. of Harrow School* v. *Alderton* (2 Bos. & P. 86), is one of the last of the reported decisions thereon. An action on the case, in the nature of an action of waste, is now the substitute for the ancient remedy, and will lie between persons between whom the writ of waste was not maintainable (see the note to *Greene* v. *Cole*, 2 Wms. Saund. 252). A more effectual remedy against voluntary waste is in many cases attainable by injunction in equity.

52 H. 3, c. 23. shall not make waste.

woods, and men, nor of anything belonging to the tenements that they have to ferm, without special licence had by writing of covenant, making mention that they may do it; which thing if they do, and thereof be convict, they shall yield full damage, and shall be punished by amerciament grievously.

6 Ed. 1, c. 5.

6 Edw. 1, c. 5. (Gloucester.) Several Tenants against whom an Action of Waste is maintainable. [A.D. 1278.]

It is provided also, That a man from henceforth shall have a writ of waste in the chancery against him that holdeth by law of England, or otherwise for term of life, or for term of years, or a woman in dower; and he which shall be attainted of waste shall leese the thing that he hath wasted, and moreover shall recompense twice so much as the waste shall be taxed at; and for waste made in the time of wardship, it shall be done as is contained in the great charter; and where it is contained in the great charter, that he which did waste during the custody shall lease the wardship, it is agreed that he shall recompense the heir his damages for the waste, if so be that the wardship lost do not amount to the value of the damages before the age of the heir of the same wardship.

WATERWORKS CLAUSES ACT (*a*.)

10 Vict. c. 17.

10 Vict. c. 17. An Act for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Waterworks for supplying Towns with Water.

[23rd April, 1847.]

Whereas it is expedient to comprise in one Act sundry provisions usually contained in Acts of parliament authorising the construction of waterworks for supplying towns with water, and that as well for avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves: BE IT ENACTED, That this Act shall extend only to such waterworks as shall be authorised by any Act of parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith, and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

Extent of Act.

The statute of Marlebridge has reference only to *voluntary* waste. The statute of Gloucester extends the action of waste generally, which at common law lay only against tenant by the curtesy, tenant in dower or guardian, lessee for lives or years, or tenant *pur autre vie* (2 Inst. 301); and to the assignee of tenant for life or years, for waste done after the assignment (*Sanders* v. *Norwood*, Cro. Eliz. 683). But the action did not lie against an executor for waste committed by his testator, it being a *tort* which died with the person (2 Inst. 302; 2 Rol. Abr. 828, pl. 7; see 2 Wms. Saund. 252). It has been doubted in some cases whether, notwithstanding the terms of the statute of Gloucester, an action for *permissive* waste lies against a tenant for years (*Gibson* v. *Wells*, 1 N. R. 290; *Herne* v. *Bembow*, 4 Taunt. 764; *Jones* v. *Hill*, 7 Taunt. 392; 1 Moore, 100; *Torriano* v. *Young*, 6 Car. & P. 8; but see 2 Inst. 145, 302; Co. Litt. 54 *b*; Rol. Abr. 828; *Harnett* v. *Maitland*, 16 M. & W. 257). It certainly is not maintainable against a mere tenant at will (*Ibid.*; see Co. Litt. 57 *a*; *Countess of Salop's case*, 5 Rep. 13 *b*; Cro. Eliz. 777, 784; *Panton* v. *Isham*, 3 Lev. 359; 1 Saund. 323 *b*).

Damages for voluntary waste are not recoverable under an allegation which imports only permissive waste; as that the tenant "suffered and permitted the premises to be ruinous and in decay for want of needful reparations" (*Edge* v. *Pemberton*, 12 M. & W. 187). So, damages for permissive waste cannot be recovered under a declaration alleging acts of commission; as that the defendant "cut down and destroyed trees, and otherwise *used* the premises in so untenantlike and improper a manner that they became and were dilapidated," &c. (*Martin* v. *Gilham*, 7 Ad. & E. 540; 1 Nev. & P. 568; see *Harris* v. *Mantle*, 3 T. R. 307). Although a lessee expressly covenants against acts amounting to waste, the lessor has his election to bring either an action on the case for the injury to his reversion, or an action of covenant against the lessee, for waste done by him during the term (*Kinlyside* v. *Thornton*, 2 W. Bla. 1111; *Marker* v. *Kenrick*, 22 L. J., C. P. 129; 17 Jur. 44).

(*a*) See 11 & 12 Vict. c. 63, ss. 50, 75 *et seq.*, ante, Vol. II., p. 447, tit. "HEALTH, PUBLIC;" 21 & 22 Vict. c. 98, s. 51, *et seq.*, *ib.* p. 504.

And with respect to the construction of this Act and any Act incorporated therewith, BE IT ENACTED as follows: 10 Vict c. 17.

Interpretations in this Act:

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of waterworks, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used; and the expression "the lands and streams" shall mean the lands and streams of water which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed; and the expression "the undertakers" shall mean the persons by the special Act authorised to construct the waterworks. "special Act:" "prescribed:" "the lands and streams:" "the undertaking:" "the undertakers."

3. The following words and expressions, in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) Interpretations in this and the special Act:

Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number: Number:

Words importing the masculine gender shall include females: Gender:

The word "person" shall include a corporation, whether aggregate or sole: "Person:"

The word "lands" shall include messuages, lands, tenements, and hereditaments, or heritages of any tenure: "lands:"

The word "streams" shall include springs, brooks, rivers, and other running waters: "streams:"

The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place within the limits of the special Act: "street:"

The expression "the waterworks" shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed: "the waterworks:"

The expression "water rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of water: "water-rate:"

The word "month" shall mean calendar month: "month:"

The expression "superior courts" where the matter submitted to the cognizance of the court arises in England or Ireland, shall mean her majesty's superior courts of record at Westminster or Dublin, as the case may require, and shall include the court of common pleas of the county palatine of Lancaster and the court of pleas of the county of Durham, and where such matter arises in Scotland it shall mean the court of session: "superior courts:"

The word "oath" shall include affirmation in the case of quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath: "oath:"

The word "county" shall include riding or other division of a county having a separate commission of the peace, and in Scotland stewartry, and any ward or other division of a county or stewartry having a separate sheriff, and it shall also include county of a city or county of a town: "county:"

The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and if such matter arise in respect of lands or streams situated not wholly in one jurisdiction, shall mean a justice acting for the county or place where any part of such lands or streams shall be situated; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together: "justice:" "two justices:"

The word "sheriff" shall mean the sheriff depute of the county or ward of a county in Scotland and the steward depute of the stewartry in Scotland in which the matter submitted to the cognizance of the sheriff arises, and shall include the substitutes of such sheriff depute and steward depute respectively: "sheriff:"

The expression "quarter sessions" shall mean quarter sessions as defined in the special Act, and if such expression be not there defined it shall mean the court of general or quarter sessions of the peace which shall be held at the place nearest to the waterworks, or the principal office thereof, for the county or place in which the waterworks, or the principal office thereof, is situate, or for some division of such county having a separate commission of the peace: "quarter sessions:"

The expression "the town commissioners" shall mean the parties defined under that title in the special Act, and where no such parties shall be there defined shall mean the commissioners, trustees, or other parties having the control or management of the streets under any Act for paving or improving the town or district to be supplied with water under the special Act: "the town commissioners:"

The word "inspector" shall mean an officer appointed under any local Act relating to the town or district supplied with water under the special Act, for the purpose of inspecting or superintending works connected with the paving, drainage, or supply of water of such town or district, or an officer appointed under any general Act for executing the like duties with respect to such town or district together with other towns or districts. "inspector."

10 Vict. c. 17.

Citing the Act.

And with respect to citing this Act, or any part thereof, BE IT ENACTED as follows:

Short title of this Act.

4. In citing this Act in other Acts of parliament, and in legal instruments, it shall be enough to use the expression "The Waterworks Clauses Act, 1847."

Form in which portions of this Act may be incorporated in other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act, and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Construction of Waterworks.

And with respect to the construction of the waterworks, BE IT ENACTED as follows:

Construction of waterworks to be subject to the provisions of this Act and the Lands Clauses Consolidation Acts, 1845.

6. Where by the special Act the undertakers shall be empowered, for the purpose of constructing or supplying waterworks, to take or use any lands or streams (*a*) otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act, and if the waterworks be situated in England or Ireland, to the provisions and restrictions contained in the Lands Clauses Consolidation Act, 1845; and if the waterworks be situated in Scotland, the provisions and restrictions contained in the Lands Clauses Consolidation (Scotland) Act, 1845; and shall make to the owners and occupiers of and all other parties interested in any lands or streams taken or used (*a*) for the purposes of the special Act, or injuriously affected by the construction or maintenance of the works thereby authorised, or otherwise by the execution of the powers thereby conferred, full compensation for the value of the lands and streams so taken or used, and for all damage sustained by such owners, occupiers, and other persons, by reason of the exercise, as to such lands and streams, of the powers vested in the undertakers by this or the special Act, or any Act incorporated therewith; and except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the said Lands Clauses Consolidation Acts respectively for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the said last-mentioned Acts respectively shall be applicable to determine the amount of any such compensation, and to enforce payment or other satisfaction thereof.

Errors and omissions in plans, &c., may be corrected by justices, &c., who shall certify the same.

7. If any omission, mis-statement, or wrong description shall have been made of any lands or streams, or of the owners, lessees, or occupiers of any lands or streams, described on the plans or books of reference deposited in compliance with the standing orders of either house of parliament, or in the schedule to the special Act, the undertakers, after giving ten days notice to the owners, lessees, and occupiers of the lands and streams affected by such proposed correction, may apply, in England or Ireland, to two justices, and in Scotland to the sheriff, for the correction thereof; and if it appear to such justices or sheriff that such omission, mis-statement, or wrong description arose from mistake, they or he shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate, with the other documents to which it relates, shall be deposited, in England or Ireland, with the clerk of the peace, and in Scotland with the sheriff clerk of the several counties in which the lands or streams affected thereby are situated, or, where any such lands or streams are situated in a royal burgh in Scotland, with the town clerk of such burgh; and such certificate shall be kept by such clerks of the peace, sheriff clerks, or town clerks respectively with the other documents to which they relate; and thereupon such plan, book of reference, or schedule shall be deemed to be corrected according to such certificate; and the undertakers may make the works in accordance with such certificate, as if such omission, mis-statement, or wrong description had not been made.

Certificate, &c., to be deposited.

Works not to be proceeded with until plans of all alterations authorised by

8. The undertakers shall not begin to execute the waterworks unless they shall have previously deposited with the clerk of the peace in England or Ireland, and the sheriff clerk in Scotland, of every county, and the town clerk of every royal burgh in Scotland, in which the waterworks shall be situated, a plan and section of all such alterations from the original plan and section (if any) as shall have been approved of by parliament,

---

(*a*) The clauses of this Act are applicable to "lands and streams," in the same manner as those of the Lands Clauses Consolidation Act are applicable to "lands;" and in the mode of compensation the same distinction is taken between "lands and streams taken and used," and "lands and streams injuriously affected" (*Ferrand* v. *Bradford*, 21 Beav. 412).

The diversion of a stream is a "taking and using it" within the meaning of the 85th section of the Lands Clauses Consolidation Act, and before such diversion can be made, the value of the stream must be ascertained and secured to the owners of the land through which it passes.

Whether by diverting a stream the river into which it used to flow is "injuriously affected," or "taken and used"—*Quære.*

on the same scale and containing the same particulars as the original plan and section of the waterworks, and shall also have deposited with the parish clerks of the several parishes in England, and the clerks of the unions of the several parishes in Ireland, and the schoolmasters of the several parishes in Scotland, in which such alterations shall have been authorised to be made, copies or extracts of or from such plans and sections as shall relate to such parishes respectively.

10 Vict. c. 17. parliament have been deposited.

9. The said clerks of the peace, sheriff clerks, and town clerks, parish clerks, clerks of unions, and schoolmasters, shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall keep the same, as well as the said original plans and sections, and shall allow all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of the original plans and sections by an Act passed in the first year of the reign of her majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

Clerks of the peace, &c., to receive plans of alterations, &c., and allow inspection. 7 W. 4 & 1 Vict. c. 83.

10. Copies of the said plans and books of reference, or of any alteration or correction thereof or extracts therefrom, certified by any such clerk of the peace, sheriff clerk, or town clerk, which certificate such clerk shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Copies of plans and alterations, &c., to be evidence.

11. The undertakers in constructing the waterworks shall not deviate from the line of the works laid down in the said plan more than the prescribed number of yards, and where no number of yards is prescribed not more than ten yards, nor in any case to any greater extent than the line of lateral deviation described in the said plans with respect to such works, nor take nor use, for the purpose of such deviation, the lands of any persons not mentioned in the books of reference without his previous consent in writing, unless the name of such person shall have been omitted by mistake, and the fact that such omission happened from mistake shall have been certified in manner herein-before provided.

Not to deviate beyond limits defined upon plans, &c.

12. Subject to the provisions and restrictions in this and the special Act, and any Act incorporated therewith, the undertakers may execute any of the following works for constructing the waterworks; (that is to say,)

Undertakers subject to the provisions of this and the special Act, may execute the works herein-named.

They may enter upon any lands and other places described on the said plans and in the said books of reference, and take levels of the same, and set out such parts thereof as they shall think necessary, and dig and break up the soil of such lands, and trench and sough the same, and remove or use all earth, stone, mines, minerals, trees, or other things dug or gotten out of the same:

They may from time to time sink such wells or shafts, and make, maintain, alter, or discontinue such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings, upon the lands and streams authorised to be taken by them, as they shall think proper, for supplying the inhabitants of the town or district within the prescribed limits with water:

They may from time to time divert and impound the water from the streams mentioned for that purpose in the special Act, or the said plans or books of reference, and alter the course of any such streams, not being navigable, and also take such waters as may be found in and under or on the lands to be taken for constructing the works:

Provided always, that in the exercise of the said powers the undertakers shall do as little damage as can be, and in all cases where it can be done shall provide other watering places, drains, and channels for the use of adjoining lands, in place of any such as shall be taken away or interrupted by them, and shall make full compensation to all parties interested (*a*) for all damage sustained by them through the exercise of such powers.

Undertakers to make compensation for damages.

13. Every person who shall wilfully obstruct any person acting under the authority of the undertakers in setting out the line of the works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding five pounds for every such offence.

Penalty for obstructing construction of works.

14. After the streams or supplies of water hereby or by the special Act authorised to be taken by the undertakers shall have been so taken, every person who shall illegally divert or take the waters supplying or flowing into the streams so taken, or any part

Penalty for illegally diverting water.

(*a*) In the execution of works authorised by a local Act, incorporating this section, A. intercepted water which would otherwise have percolated through the strata of earth into a well upon the premises of B., and drained off water which had accumulated in the well. Upon a complaint by B., before justices, in order to recover compensation for the damage she had sustained, A. was ordered to pay her a sum of money and costs: it was held, that this order was wrong; for that, inasmuch as no action would lie against A., in respect of either quantity of water, supposing no Act, authorising the execution of the works, had been passed, the claim for compensation could not be sustained (*New River Company* v. *Johnson*, 29 L. J. M. C. 93).

10 Vict. c. 17.

thereof, or who shall do any unlawful Act whereby the said streams or supplies of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him, on being required so to do by the undertakers, so as to restore the said waters to the state in which they were before such Act, shall forfeit to the undertakers any sum which shall be awarded, in England or Ireland, by two justices, and in Scotland by the sheriff, not exceeding five pounds for every day during which the said supply of water shall be diverted or diminished by reason of any Act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the undertakers for any damage which they may sustain by reason of their supply of water being diminished; and the payment of the sum so forfeited shall not bar or affect the right of the undertakers to bring or raise an action at law against such person for the damage so committed.

Reservation of existing rights.

15. Provided always, that nothing herein contained shall prevent the owners and occupiers for the time being of lands through or by which such streams shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of the special Act, unless they shall have received compensation in respect of their right of so using such water.

Accommodation works.

And with respect to the construction of works for the accommodation of lands adjoining the waterworks, BE IT ENACTED, as follows:

Differences as to the construction of accommodation works to be settled by justices.

16. Where by the special Act the undertakers shall be required to erect any works for making good the interruption caused to any lands adjoining or near the waterworks, or otherwise, for the accommodation of such lands, then, if any difference shall arise respecting the construction of any such accommodation works, or the kind or size or sufficiency thereof, or respecting the maintenance thereof, the same shall be determined in England or Ireland by two justices, and in Scotland by the sheriff, and such justices or sheriff shall also appoint the time within which such accommodation works shall be begun and finished by the undertakers.

If undertakers fail to execute such works, persons aggrieved may perform the same, and charge the expense to the undertakers.

17. If the undertakers shall, for fourteen days next after the time appointed by such justices or sheriff for the beginning of any such accommodation works, fail to begin such works, or, having begun such works, fail diligently to execute the same in a sufficient manner, the person aggrieved by such failure may execute such works or repairs; and the reasonable expenses thereof shall, on demand, be repaid by the undertakers to the person by whom the same shall so have been executed; and if there be any dispute about the amount or nature of such expenses, the same shall be settled in England or Ireland by two justices, and in Scotland by the sheriff.

Mines.

And with respect to mines, BE IT ENACTED as follows:

Undertakers not entitled to mines unless previously purchased.

18. The undertakers shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the waterworks, unless the same shall have been expressly purchased, and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Map and plan of underground works of undertakers to be made.

19. The undertakers shall from time to time within six months from the time at which any pipes, conduits, or underground works shall have been laid down or formed by them, cause a survey and map to be made of the district within which any such pipes or underground works shall be laid, on a scale not less than one foot to a mile, and shall cause to be marked thereon the course and situation of all existing pipes or conduits for the collection, passage, or distribution of water and underground works belonging to them in order to show all such underground works within the said district, and shall, within six months from the making of any alterations or additions, cause the said map to be from time to time corrected, and such additions made thereto as may show the line and situation of all such pipes, conduits, and underground works as may be laid down or formed by them from time to time after the passing of the special Act; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the office of the undertakers, and shall be open to the inspection of all persons interested in the same within the said district.

Copies of such map or plan to be deposited with clerk of the peace, &c.

20. The undertakers shall from time to time within three months from the time at which any such map or plan, or any such correction thereof or addition thereto, shall have been made as aforesaid, deposit with the clerks of the peace in England or Ireland, and with the sheriff clerks in Scotland, of every county, and the town clerk of every burgh in Scotland, in which such district or any part thereof may be situate, and also with the parish clerks of the several parishes in England, and clerks of the union of the several parishes in Ireland, and the schoolmasters of the several parishes in Scotland, in which such underground works shall be situate, copies of the said map or plan, with all such particulars, and all such corrections and additions as aforesaid, so far as relates to such counties, burghs, and parishes respectively.

Clerks of the peace, &c., to receive and keep copies of the map, &c.,

21. The said clerks of the peace, sheriff clerks, and town clerks, parish clerks, clerks of the union, and schoolmasters shall receive the said copies of the said map and plan respectively, and shall keep the same, and shall allow all persons interested to inspect the same, and take copies or extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of maps

and plans deposited under an Act passed in the first year of the reign of her majesty, intituled "An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament." 10 Vict. c. 17. and allow inspection. 7 W. 4 & 1 Vict. c. 83.

22. Except where otherwise provided for by agreement between the undertakers and other parties, if the owner, lessee, or occupier of any mines or minerals lying under the reservoirs or buildings belonging to the undertakers, or under any of their pipes or works which shall be under ground, and shall be described in the map or plan which shall be so kept and deposited as herein-before mentioned, or within the prescribed distance, if any, and if no distance be prescribed within forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give the undertakers notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the undertakers to cause such mines to be inspected by any person appointed by them for the purpose, and if it appear to the undertakers that the working of such mines or minerals is likely to damage the said works, and if they be willing to make compensation for such mines to such owner, lessee, or occupier thereof, then he shall not work the same; and if the undertakers and such owner do not agree as to the amount of such compensation the same shall be settled as in other cases of disputed compensation.

Mines lying near the works not to be worked until owners give notice to undertakers of their intentions.

Upon receipt of notice, undertakers may take the mines, making compensation to the owners.

23. If before the expiration of such thirty days the undertakers do not state their willingness to treat with such owner, lessee, or occupier, for the payment of such compensation, it shall be lawful for him to work the said mines, and to drain the same, by means of engines or otherwise, as if this Act and the special Act had not been passed, so that no wilful damage be done to the said works, and so that the said mines be not worked in an unusual manner; and if any damage or obstruction be occasioned to the works of the undertakers by the working of such mines in an unusual manner, the same shall be forthwith repaired or removed (as the case may require), and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense, and if such repair or removal be not forthwith done, or if the undertakers shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the undertakers to execute the same, and recover from such owner, lessee, or occupier, the expense occasioned thereby by action in any of the superior courts.

If company unwilling to treat for payment of compensation, owner may work the mines.

Owners to make good damage occasioned by working the mines in an unusual manner.

24. If the working of any such mines under the said works of the undertakers or within the above-mentioned distance therefrom be prevented as aforesaid by reason of apprehended injury to such works, it shall be lawful for the respective owners, lessees, and occupiers of such mines to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata the working whereof shall be so prevented as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, and where no dimensions are prescribed eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the said works so as to injure the same.

Mining communications.

25. Except where otherwise provided for by agreement the undertakers shall from time to time pay to the owner, lessee, or occupier of any mines of coal, ironstone, and other minerals, extending so as to lie on both sides of any reservoirs, buildings, pipes, conduits, or other works, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands over such mines or minerals by such reservoirs or other works, or of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of the same being worked under the restrictions contained in this or the special Act, and for any mines or minerals not purchased by the undertakers which cannot be obtained by reason of making and maintaining the said works, or by reason of such apprehended injury from the working thereof as aforesaid; and if any dispute or question shall arise between the undertakers and such owner, lessee, or occupier as aforesaid, touching the price of such minerals, the same shall be settled by arbitration in such manner as is provided by the Lands Clauses Consolidation Act if the undertaking shall be situate in England or Ireland, and by the Lands Clauses Consolidation (Scotland) Act if the undertaking shall be situate in Scotland.

Company to make compensation to owner, lessee, or occupier of mine for expense incurred by reason of mines being worked under restrictions.

Disputes to be settled by arbitration.

26. For better ascertaining whether any such mines are being worked or have been worked so as to damage the said works it shall be lawful for the undertakers, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the said works are situate, and wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith, and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the said works to the parts of such mines which are being worked or about to be worked.

Power to company to enter and inspect the working of mines, after giving notice of the same.

27. Nothing in this or the special Act shall prevent the undertakers from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the waterworks, in case the same had not been constructed or maintained by virtue of this Act or the special Act.

Nothing to prevent undertakers from being liable to actions for injury done to mines.

10 Vict. c. 17.

Laying of pipes.

And with respect to the breaking up of streets for the purpose of laying pipes, BE IT ENACTED as follows:

Power to break up streets, &c., under superintendence, and to open drains.

28. The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other Acts which the undertakers shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers.

Not to enter on private land without consent.

29. Provided always, That nothing herein contained shall authorise or empower the undertakers to lay down or place any pipe, conduit, service pipe, or other work in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the undertakers at any time may enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act, or any other Act of parliament, and may repair or alter any pipe so laid down.

Notice to be served on persons having control, &c., before breaking up streets or opening drains.

30. Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

If persons having the control, &c., fail to superintend, undertakers may perform the work without them.

31. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons, or their officer.

Streets, &c., broken up to be reinstated without delay.

32. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times whilst any such road or pavement shall be so opened or broken up cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept thereagainst, every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in reinstating streets, &c.

33. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the undertakers are authorised to perform such works without any superintendence or notice, or if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of

34. If any such delay or omission as aforesaid shall take place the persons having the

control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers, and such expenses may be recovered in the same way as damages are recoverable under this and the special Act.

10 Vict. c. 17. delay, other parties may reinstate and recover the expenses.

And with respect to the supply of water to be furnished by the undertakers, BE IT ENACTED as follows:

Supply of Water.

35. The undertakers shall provide and keep in the pipes to be laid down by them a supply of pure and wholesome water, sufficient for the domestic use (*a*) of all the inhabitants of the town or district within the limits of the special Act, who, as hereinafter provided, shall be entitled to demand a supply, and shall be willing to pay water rate for the same; and such supply shall be constantly laid on at such a pressure as will make the water reach the top story of the highest houses within the said limits, unless it be provided by the special Act that the water to be supplied by the undertakers need not be constantly laid on under pressure; and the undertakers shall cause pipes to be laid down and water to be brought to every part of the town or district within the limits of the special Act whereunto they shall be required by so many owners or occupiers of houses in that part of the town or district, as that the aggregate amount of water rate payable by them annually at the rates specified in the special Act shall be not less than *one tenth part of the expense of providing* and laying down such pipes; provided that no such requisition shall be binding on the undertakers unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for three successive years at least.

A constant supply of water to be kept for domestic purposes at high pressure.

36. If for twenty-eight days after demand in writing made to the undertakers, and tender made of an agreement, signed by such number of owners or occupiers as aforesaid, to take and pay for a supply of water for three years or more, the undertakers shall refuse or neglect to lay down pipes in the manner hereinbefore directed, and to provide such supply of water as aforesaid or as provided by the special Act, they shall forfeit to each of such owners and occupiers the amount of rate which he would be liable to pay under such agreement, and also the further sum of forty shillings for every day during which they shall refuse or neglect to lay down such pipes, or to provide such supply of water: Provided always, that the undertakers shall not be liable to any penalty for not supplying water if the want of such supply shall arise from frost, unusual drought, or other unavoidable cause or accident.

Penalty for neglect to lay pipes for supply of water for domestic use.

Proviso.

37. In all the pipes to which any fireplug shall be fixed the undertakers shall provide and keep constantly laid on, unless prevented by frost, unusual drought, or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes; (that is to say,) for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public pumps, baths, or washhouses that may be established for the free use of the inhabitants, or paid for out of any poor-rates or borough rates levied within the limits of the special Act; and such supply shall be provided at such rates, in such quantities, and upon such terms and conditions as may be agreed upon by the town commissioners and the undertakers, or, in case of disagreement, as shall be settled in England or Ireland by two justices, and in Scotland by the sheriff, until in either case an inspector shall have been appointed, and after the appointment of such inspector, by the inspector so appointed.

Supply of water to be kept for cleansing sewers, drains, &c., and for other public purposes.

Fireplugs.

38. The undertakers, at the request of the town commissioners, shall fix proper fireplugs in the main and other pipes belonging to them, at such convenient distances, not being more than the prescribed distance, or if no distance be prescribed, not more than one hundred yards from each other, and at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the special Act; and in case of any difference of opinion as to the proper position or number of such fireplugs, it shall be settled by such inspector as aforesaid, when appointed, and in the meantime by two justices in England or Ireland, and by the sheriff in Scotland.

Undertakers to affix public fireplugs in mains.

39. The undertakers shall from time to time renew and keep in effective order every such fireplug; and as soon as any such fireplug is completed they shall deposit a key thereof at each place within the limits of the special Act where any public fire-engine is kept, and in such other places as may be appointed by the town commissioners, and shall put up a public notice in some conspicuous place in each street in which such fireplug is situated, showing its situation, which notice the undertakers may put up on any house or building in such street.

Undertakers to repair fireplugs and deposit keys thereof at engine houses, &c.

40. The cost of such fireplugs, and the expense of fixing, placing, and maintaining the same in repair, and of providing such keys as aforesaid, shall be defrayed by the town commissioners.

Expense of fireplugs, &c., how to be borne.

(*a*) Water used for watering horses and washing carriages seems to be water for "domestic use" within the meaning of the above provision (*Busby* v. *Chesterfield W. Co.*, 1 El. Bl. & El. 176; 27 L. J. 238, Q. B.).

10 Vict. c. 17.

Fireplugs to be placed near manufactories at request, &c., of owners.

41. The undertakers shall at the request and expense of the owner or occupier of any work or manufactory situated in any street in which there shall be a pipe of the undertakers, place and maintain in effective order a fireplug (to be used only for extinguishing fires) as near as conveniently may be to such work or manufactory.

Pipes to be kept charged and water taken to extinguish fires without charge.

42. The undertakers shall at all times keep charged with water, under such pressure as aforesaid (*a*), all their pipes to which fireplugs shall be fixed, unless prevented by frost, unusual drought, or other unavoidable cause or accident, or during necessary repairs, and shall allow all persons at all times to take and use such water for extinguishing fire, without making compensation for the same.

Penalty for refusal to fix, &c., fireplugs, or occasional failure of supply of water.

43. If, except when prevented as aforesaid, the undertakers neglect or refuse to fix, maintain, or repair such fireplugs, or to furnish to the town commissioners a sufficient supply of water for the public purposes aforesaid, upon such terms as shall have been agreed on or settled as aforesaid, or if, except as aforesaid, they neglect to keep their pipes charged under such pressure as aforesaid, or neglect or refuse to furnish to any owner or occupier entitled under this or the special Act to receive a supply of water during any part of the time for which the rates for such supply have been paid or tendered, they shall be liable to a penalty of ten pounds, and shall also forfeit to the town commissioners, and to every person having paid or tendered the rate, the sum of forty shillings for every day during which such refusal or neglect shall continue after notice in writing shall have been given to the undertakers of the want of supply.

Pipes to be laid by the undertakers.

And with respect to the communication pipes to be laid by the undertakers, BE IT ENACTED as follows:

Undertakers to lay down communication pipes on request of occupier and with consent of owners in houses of limited value.

44. The undertakers shall, upon the request of the owner of any dwelling-house in any street in which pipes shall have been laid down by them, the annual value of which house shall not exceed ten pounds, or upon request of the occupier, with the consent in writing of the owner or reputed owner of any such house, or of the agent of such owner, and upon payment or tender of the proportion of water-rate in respect of such house by this or the special Act made payable in advance, lay down communication pipes and other necessary works for the supply of such house with water for domestic or other purposes, and shall keep the same in repair, and thereupon the occupier of such house shall be entitled to have a sufficient supply of water for his domestic purposes from the undertakers; and the undertakers may charge for such pipes and works, in addition to the water-rate, such reasonable annual rent as shall be agreed upon, or in case of dispute, as shall be settled by such inspector as aforesaid, when appointed, and in the meantime as shall in England or Ireland be settled by two justices, and in Scotland by the sheriff; and such rent shall be chargeable on and recoverable from the occupier, or, in his default, from the owner of such house, at the same times and in the same manner as water-rates; and such pipes and other works shall not be subject to distress or to the landlord's hypothec for rent, nor to be taken in execution under any process of a court of law or equity, or under any fiat or sequestration in bankruptcy, against such occupier or against such owner, unless he shall have become the proprietor of the said pipes and works under the provisions hereinafter contained.

Penalty on undertakers for refusal to lay communication pipes.

45. If, upon such request and consent, and upon tender or payment of such proportion of rate as aforesaid, the undertakers for seven days neglect or refuse to lay down such communication pipes or other works, they shall be liable to forfeit to the person so making such request the sum of five pounds, and a further sum of forty shillings for every day during which such refusal or neglect shall continue after seven days from the making of such request and tender as aforesaid.

Undertakers to be at liberty to remove pipes, and recover expenses of owners or occupiers.

46. If the occupier for the time being of the house in which any such communication pipes or other works and engines shall have been laid down by the undertakers refuse to pay for a supply of water, or if such house be unoccupied for twelve months, the undertakers may demand from the owner thereof payment of the amount of the principal money invested by them in providing and laying down such communication pipes and other works and engines; and if such owner, after ten days' notice given to him by the undertakers, neglect or refuse to pay such principal money, the undertakers may enter the house and remove such pipes and other works; and the balance of such principal money, after deducting the value of such pipes and other works, with all arrear of rent for such pipes and works, shall, in default of payment, be recovered, with the costs incurred, from the owner or from the occupier for the time being in the same manner as water rates are directed by this or the special Act to be recovered: Provided always, that no greater sum shall be recovered from any such occupier than the amount of rent for the time being owing by him, unless he refuse to discover the amount of rent owing by him; and that every such occupier shall be entitled to deduct from the amount of rent payable by him the sum so recovered from him, or which he shall have paid on demand.

No greater sum to be recovered from occupiers than amount of rent due.

(*a*) See *Purnell* v. *Wolverhampton W. C.*, 4 L. Times, N. S. 513.

47. The owner or reputed owner of any house where any such communication pipes or other works shall have been laid down by the undertakers may at any time pay off the amount then due to the undertakers in respect of the costs of providing and laying down such pipes and works, and all rent to that time due in respect thereof, and thereupon such pipes and works shall become the property of such owner, and all further rent in respect thereof shall cease to accrue to the undertakers. 10 Vict. c. 17. Owner to be at liberty to purchase the pipes.

And with respect to the communication pipes to be laid by the inhabitants, BE IT ENACTED as follows: *Pipes to be laid by the inhabitants.*

48. Any owner or occupier of any dwelling house or part of a dwelling house within the limits of the special Act who shall wish to have water from the waterworks of the undertakers brought into his premises, and who shall have paid or tendered to the undertakers the portion of water rate in respect of such premises by this or the special Act directed to be paid in advance, may open the ground between the pipes of the undertakers and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any leaden or other pipes from such premises, to communicate with the pipes of the undertakers, such pipes to be of a strength and material to be approved of by the undertakers, or, in case of dispute, to be settled in England or Ireland by two justices, and in Scotland by the sheriff, or in either case by the inspector to be appointed as aforesaid: Provided always, that every such owner or occupier shall, before he begins to lay any such pipe, give to the undertakers fourteen days' notice of his intention to do so. Power to inhabitants to lay service pipes, giving the undertakers notice of the same.

49. Before any pipe is made to communicate with the pipes of the undertakers, the person intending to lay such pipe shall give two days' notice to the undertakers of the day and hour when such pipe is intended to be made to communicate with the pipes of the undertakers; and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the undertakers, unless such surveyor or officer fail to attend at the time mentioned in the said notice; and in case of any dispute as to the manner in which such pipe shall be so made to communicate, it shall in England or Ireland be settled by two justices, and in Scotland by the sheriff, or in either case by the inspector to be appointed as aforesaid. Communication with the pipes of the undertakers to be made under the superintendence of their surveyor. As to the settling of disputes.

50. The bore of any such pipe as last aforesaid shall not exceed the prescribed limits, and where no limit shall be prescribed it shall not exceed half an inch, except with the consent of the undertakers. Bore of service pipes.

51. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same, after having given six days' notice in writing to the undertakers of his intention so to do, and of the time of such proposed removal, and every such person shall make compensation to the undertakers for any injury or damage to their pipes or works which may be caused by such removal; and every person who shall remove any such pipe or other works without giving such notice as aforesaid shall forfeit to the undertakers a sum not exceeding five pounds, over and above the damage which he may be found liable to pay in any action at law, at the suit of the undertakers, for the damage done to their pipes or works. Service pipes may be removed after giving notice of the same. Penalty on removing pipes without notice.

52. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipe of the undertakers and his house, building, or premises, and any sewer or drain therein, for any such purpose as aforesaid, doing as little damage as may be, and making compensation for any damage done in the execution of any such work: Provided always, that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restriction, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the undertakers are subject to by virtue of this or the special Act. Power to inhabitants to break up pavements, giving notice of the same.

53. Every owner and occupier of any dwelling house or part of a dwelling house within the limits of the special Act shall, when he has laid such communication pipes as aforesaid, and paid or tendered the water-rate payable in respect thereof, according to the provisions of this and the special Act, be entitled to demand and receive from the undertakers a sufficient supply of water for his domestic purposes. Owners or occupiers entitled to supply of water for domestic purposes.

And with respect to waste or misuse of the water supplied by the undertakers, BE IT ENACTED as follows: *Protection of water.*

54. If by the special Act it be provided that the water to be supplied by the undertakers need not be constantly laid on under pressure, every person supplied with water shall, when required by the undertakers, provide a proper cistern to hold the water with which he shall be so supplied, with a ball and stop cock in the pipe bringing the water from the works of the undertakers to such cistern, and shall keep such cistern, ball and stop cock, in good repair, so as effectually to prevent the water from running to waste; and in case any such person shall, when required by the undertakers, neglect to provide such cistern, ball or stop cock, or to keep the same in good repair, the undertakers may cut off the pipe or turn off the water from the premises of such person until such cistern and ball and stop cock shall be provided or repaired, as the case may require. Persons using the water to provide cisterns and cocks. Penalty for neglect.

10 Vict. c. 17.

Penalty for suffering cisterns, &c. to be out of repair.

55. Every person supplied with water by the undertakers who shall suffer any such cistern, pipe, ball or stop cock to be out of repair, so that the water supplied to him by the undertakers shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

Undertakers may repair cisterns, &c. and recover the expenses.

56. The undertakers may repair any such cistern, pipe, ball or stop cock, so as to prevent any such waste of water, and the expenses of such repair shall be repaid to them by the person so allowing the same to be out of repair, and may be received as damages.

Power to surveyor employed by undertakers to enter houses to inspect, &c.

57. The surveyor, or any other person acting under the authority of the undertakers, may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house or premises supplied with water by virtue of this or the special Act, in order to examine if there be any waste or misuse of such water; and if such surveyor or other person at any such time be refused admittance into such dwelling house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the undertakers may turn off the water supplied by them from such house or other premises.

Penalty for allowing persons to use the undertakers' water.

58. Every owner or occupier of any tenement supplied with water under this or the special Act who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the undertakers, and the pipes belonging to him be, without his default, out of repair, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

Penalty for taking the undertakers' water without agreement (*a*).

59. Every person who, not having agreed to be supplied with water by the undertakers, shall take any water from any reservoir, watercourse, or conduit belonging to the undertakers, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the undertakers, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the undertakers for every such offence a sum not exceeding ten pounds.

Penalty for destroying valves, &c.

60. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the undertakers, or shall flush or draw off the water from the reservoirs or other works of the undertakers, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

Fouling the water.

And with respect to the provision for guarding against fouling the water of the undertakers, BE IT ENACTED as follows:

Penalties for causing the water of the undertakers to be fouled, &c.

61. Every person who shall commit any of the offences next herein-after enumerated shall for every such offence forfeit to the undertakers a sum not exceeding five pounds; (that is to say,)

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or wash, throw, or cause to enter therein any dog or other animal:

Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing:

Every person who shall cause the water of any sink, sewer, or drain, steam-engine boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or shall do any other Act whereby the water of the undertakers shall be fouled:

And every such person shall forfeit a further sum of twenty shillings for each day (if more than one) that such last-mentioned offence shall be continued.

(*a*) A local board of health, by their private Act empowered to supply a town with water at certain rates, supplied an ornamental fountain, which had been presented to the town by one of the inhabitants, and erected in one of the public streets, with water for the use of cattle in the cattle market on market-days, and for horses, if yoked, when passing to and fro. The board had a fixed charge per horse for water supplied to persons keeping horses, who might choose to have water laid into their stables. The respondent, in order to evade payment of this charge, took his horses from his stable to the fountain to drink. Upon a complaint against him for so doing under this section, the magistrates were of opinion that the local board had no power to erect a fountain on the public highway except for the gratuitous use of the public, and that, therefore, the water supplied to such fountains came within the exceptions in the above clause, and refused to convict; but it was held, that the magistrates were wrong, for that whether the fountain was a public nuisance or not, the board was at liberty to supply it with water on their own conditions (*Hildreth* v. *Adamson*, 8 C. B., N. S. 587, 30 L. J. M. C. 204).

10 Vict. c. 17.

62. Every person making or supplying gas within the limits of the special Act who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the undertakers, or into any drain communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, or waterworks shall be fouled, shall forfeit to the undertakers for every such offence the sum of two hundred pounds; and such penalty shall be recovered, with full costs of suit, in any of the superior courts; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it has ceased.

Penalty for permitting substances produced in making gas to flow into the undertakers' works.

Penalty to be sued for within six months.

63. In addition to the said penalty of two hundred pounds, and whether such penalty have been recovered or not, the person making or supplying gas as aforesaid shall forfeit to the undertakers the sum of twenty pounds, to be recovered in like manner, for each day during which such washing or substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the undertakers.

Daily penalty during the continuance of the offence.

64. Whenever the water supplied by the undertakers shall be fouled by the gas of any person making or supplying gas within the limits of the special Act, such person shall forfeit to the undertakers for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gas makers causing water to be fouled.

65. For the purpose of ascertaining whether the water of the undertakers be fouled by the gas of any person making or supplying gas within the limits of the special Act, the undertakers may dig up the ground, and examine the pipes, conduits, and works of the persons making or supplying gas; provided that before proceeding so to dig and examine the undertakers shall give twenty-four hours' notice in writing to the person so making or supplying gas of the time at which such digging and examination is intended to take place, and they shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place, and they shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay, or any nonfeasance or misfeasance therein, as hereinbefore provided with respect to roads and pavements broken up by them for laying their pipes.

Power to examine gas pipes, to ascertain cause of water being fouled.

66. If upon such examination it appear that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appear that the water has not been fouled by the gas of such person, then the undertakers shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

The expenses to abide the result of the examination.

67. The amount of the expenses of every such examination and repair, and any injury done to the undertakers, shall in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are directed to be ascertained and recovered.

How expense to be ascertained.

And with respect to the payment and recovery of the water rates, BE IT ENACTED as follows:

Water Rates.

68. The water rates, except as hereinafter and in the special Act mentioned, shall be paid by and be recoverable from the person requiring, receiving, or using the supply of water, and shall be payable according to the annual value of the tenement supplied with water, and if any dispute arise as to such value the same shall be determined by two justices.

Rates to be payable according to the annual value of the premises.

69. When several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the undertakers by a separate pipe.

Where several houses supplied by one pipe, each to pay.

70. The rates shall be paid in advance by equal quarterly payments in England or Ireland at Christmas Day, Lady Day, Midsummer Day, and Michaelmas Day, and in Scotland at Martinmas, Candlemas, Whitsuntide, and Lammas, and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the undertakers, or at the time when the agreement to take water from the undertakers is made.

Rates to be paid quarterly.

71. The occupier of any dwelling-house or part of a dwelling-house liable to the payment of any water rate, who shall give notice of his intention to discontinue the use of the water supplied by the undertakers, or who shall remove from his dwelling between any two quarterly days of payment, shall pay the water rate in respect of such dwelling-house or part of a dwelling-house for the quarter ending on the quarterly day of payment next after his quitting the same or giving such notice.

Parties giving notice to discontinue use of water, or removing, to pay to the next quarter day.

10 Vict. c. 17.

Owners of houses not exceeding [illegible] it to be liable to water rates.

72. The owners of all dwelling houses or parts of dwelling houses occupied as separate tenements, the annual value of which houses or tenements shall not exceed the sum of ten pounds, shall be liable to the payment of the rates instead of the occupiers thereof; and the powers and provisions herein or in the special Act contained for the recovery of rates from occupiers shall be construed to apply to the owners of such houses and tenements; and the person receiving the rents of any such house or tenement as aforesaid from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement.

Tenants under existing leases to repay the owner.

73. Provided always, that when any owner shall pay any such rate in respect of any such dwelling house or part of a dwelling house which shall be in the occupation of any tenant under any lease or agreement made prior to the passing of the special Act, such tenant shall repay to the owner all sums which shall be so by him paid during the continuance of such lease, unless it have been agreed that the owner shall pay the water rates in respect of such dwelling house or part of a dwelling house; and every such sum of money payable by the tenant to the owner, under the provision hereinbefore contained, may be recovered, if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

Rates how to be recovered.

74. If any person supplied with water by the undertakers, or liable as herein or in the special Act provided to pay the water rate, neglect to pay such water rate at any of the said times of payment thereof, the undertakers may stop the water from flowing into the premises in respect of which such rate is payable, by cutting off the pipe to such premises, or by such means as the undertakers shall think fit, and may recover the rate due from such person, if less than twenty pounds, with the expenses of cutting off the water and costs of recovering the rate, in the same manner as any damages for the recovery of which no special provision is made are recoverable by this or the special Act; or if the rate so due amount to twenty pounds or upwards, the undertakers may recover the same, with the expenses of cutting off the water, by action in any court of competent jurisdiction.

Profits of the undertakers.

And with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, BE IT ENACTED as follows:

Profits of the company to be limited.

75. The profits of the undertaking to be divided among the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate.

If profits exceed the amount limited, excess to be invested and form a reserved fund.

76. If the clear profits of the undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed, to a sum equal to one tenth part of the nominal capital of the undertakers, which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the undertakers; and if such fund be at any time reduced it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen.

Reserved fund not to be resorted to unless to meet an extraordinary claim.

77. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified, in England or Ireland, by two justices, and in Scotland by the sheriff, that the sum so proposed to be taken is required for the purpose of meeting any extraordinary claim within the meaning of this or the special Act.

When fund amounts to prescribed sum, interest to be applied to purposes of the undertaking.

78. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one-tenth part of the nominal capital, as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the undertaking to which the profits thereof are applicable.

If profits are less than the prescribed rate, a sum may be taken from reserved fund to supply deficiency.

79. If in any year the profits of the undertaking divisible amongst the undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

If profits are more than the amount prescribed, a rateable reduction to be made in the price of water.

80. In England or Ireland the court of quarter sessions, and in Scotland the sheriff of such county, may, on the petition of any two water-rate payers within the limits of the special Act, appoint some accountant or other competent person, not being a proprietor of any waterworks, to examine and ascertain, at the expense of the undertakers, the actual state and condition of the concerns of the undertakers, and make report thereof to the said court at the then present or some following sessions, or to the sheriff, (the amount of such expenses to be determined by the said court or sheriff,) and the said court or sheriff may examine any witnesses upon oath touching the truth of the said

accounts, and the matters therein referred to; and if it thereupon appear to the said court or sheriff that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the rates for water to be furnished by them as in the judgment of the said court or sheriff shall be proper, but so as such rates, when reduced, shall ensure to the undertakers, regard being had to the amount of profit before received, a profit as near as may be to the prescribed rate.

Court may order petitioner to pay the costs of groundless petition.

81. Provided always, that if, in the case of any petition so presented, it appear to the said court or sheriff that there was no sufficient ground for presenting the same, the said court or sheriff may, if they or he think fit, order the petitioner to pay the whole or any part of the costs of or incident to such petition (the amount thereof to be determined by the said court or sheriff), and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this or the special Act.

Penalty on undertakers refusing to produce books, vouchers, &c.

82. If the undertakers shall, for seven days after being required to produce to the said court or sheriff, or to the said accountant or other person as aforesaid, any books of account, or other books, bills, receipts, vouchers, or papers relating to their pecuniary affairs, refuse or neglect to produce such books, bills, receipts, vouchers, or papers, they shall forfeit the sum of one hundred pounds for every such refusal or wilful neglect, and the further sum of ten pounds for every day during which such refusal or wilful neglect shall continue after the expiration of the said seven days; such respective penalties to be recovered by any person who will sue for the same, with full costs of suit, in any of the superior courts.

Annual account to be made up by undertakers, and sent to the clerk of the peace in England or Ireland, or to the sheriff, clerk in Scotland, and to be open to inspection.

83. And with respect to the yearly receipts and expenditure of the undertakers, BE IT ENACTED, that the undertakers shall, in each year after they have begun to supply water under this or the special Act, cause an account in abstract to be prepared of the whole receipt and expenditure of all rates or other monies levied under the powers of this or the special Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the undertakers, and also by the auditors thereof, if any; and a copy of such annual account shall be sent, free of charge, to the clerk of the peace for the county in which the waterworks are situated, if the waterworks are situated in England or Ireland, and if the waterworks are situated in Scotland, to the sheriff clerk of such county, on or before the thirty-first day of January in each year, under a penalty of twenty pounds for each default; and the copy of such account so sent to the said clerk shall be kept by him, and shall be open to inspection by all persons at all seasonable hours, on payment of one shilling for each inspection.

Tender of amends.

84. And with respect to tender of amends, BE IT ENACTED, that if any person shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such person make tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action; and if no such tender have been made the defendant may, by leave of the court where such action is pending, at any time before issue joined, pay into court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, BE IT ENACTED as follows:

Railways Clauses Consolidation Acts, 1845, as to damages, &c., to be incorporated with this and the special Act.

85. If the waterworks be in England or Ireland, the clauses of the Railways Clauses Consolidation Act, 1845, with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act, and if the waterworks be in Scotland the clauses of the Railways Clauses Consolidation Act (Scotland), 1845, with respect to the recovery of damages not specially provided for, and to the determination of any other matter referred to the sheriff or to justices, shall be incorporated with this and the special Act, and such clauses shall apply to the waterworks and to the undertakers respectively, and shall be construed as if the word "undertakers" had been inserted therein instead of the word "company."

In Ireland, part of penalties to be paid to guardians of unions.

86. Provided always, that in Ireland, in the case of any penalty imposed by justices, where the application is not otherwise provided for, such justices may award not more than one-half of such penalty to the informer, and shall award the remainder to the guardians of the poor of the union within which the offence shall have been committed, to be applied in aid of the poor rates of such union.

All things required to be done by two justices in England and Ireland may, in certain cases, be done by one, and in Scotland by the sheriff, &c.

87. All things herein or in the special Act, or any Act incorporated therewith, authorised or required to be done by two justices, may and shall be done in England and Ireland, by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices, and in Scotland by the sheriff or steward of any county, stewartry, or ward, or his substitute.

Penalties, &c., imposed in respect of

88. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence, which shall take place within the metropolitan police district, shall be recovered,

10 Vict. c. 17.

Offences committed within the metropolitan police district, to be paid to the receiver, and applied under 2 & 3 Vict. c. 71.

enforced, accounted for, and except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by an Act passed in the third year of the reign of her present majesty, intituled "An Act for regulating the Police Courts in the Metropolis;" and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

Persons giving false evidence liable to penalties of perjury.

89. Every person who upon any examination upon oath under the provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence shall be liable to the penalties of wilful and corrupt perjury.

Access to Special Act.

And with respect to access to the special Act, BE IT ENACTED as follows:

Copies of special Act to be kept by undertakers in their office, and deposited with the clerks of the peace, &c., and be open to inspection.

7 W. 4 & 1 Vict. c. 83.

90. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England or Ireland, and of the sheriff clerk in Scotland, of the county in which the undertaking is situated, a copy of such special Act so printed as aforesaid; and the said clerk of the peace and sheriff clerk shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by an Act passed in the first year of the reign of her majesty, intituled "An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament."

Penalty on undertakers failing to keep or deposit such copies.

91. If the undertakers fail to keep or deposit any of the said copies of the special Act, as hereinbefore mentioned, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Undertakers not exempt from the provisions of 57 G. 3, c. 29, or from the laws regulating sewers.

92. That nothing in this Act contained shall be deemed to exempt the undertakers from the provisions of an Act passed in the fifty-seventh year of the reign of his late majesty king George the third, intituled "An Act for better paving, improving, and regulating the Streets of the Metropolis, and removing and preventing Nuisances and Obstructions therein," or from the laws of sewers for the time being in force within ten miles from the Royal Exchange in the city of London.

Undertakers not exempt from provisions of any future general Act.

93. That nothing herein or in the special Act contained shall be deemed to exempt the undertakers from any general Act relating to waterworks, or any Act for improving the sanitary condition of towns and populous districts, which may be passed in the same session of parliament in which the special Act is passed, or any future session of parliament.

26 & 27 Vict. c. 93.

26 & 27 Vict. c. 93. An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to Waterworks.

[28th July, 1863.]

10 & 11 Vict. c. 17.

Whereas the Waterworks Clauses Act, 1847, was passed in order to comprise in one Act sundry provisions which were at the time of the passing of that Act usually introduced into Acts of Parliament authorising the construction of certain waterworks:

And whereas sundry provisions of the like nature, but not comprised in the said Act, are now frequently introduced into Acts of parliament relating to waterworks, and it is expedient to comprise such last-mentioned provisions also in one Act, and that as well for the purpose of avoiding the necessity of repeating such provisions in special Acts relating to waterworks, as for ensuring greater uniformity in the provisions themselves: BE IT THEREFORE ENACTED as follows:

Preliminary.

Short title.

1. This Act may be cited as The Waterworks Clauses Act, 1863; and The Waterworks Clauses Act, 1847, and this Act, may be cited together as The Waterworks Clauses Acts, 1847 and 1863.

2. This Act shall apply to any waterworks to which any special Act hereafter passed and incorporating this Act relates; and every such special Act is hereinafter referred to as "the special Act." 26 & 27 Vict. c. 93.

Application of Act and interpretation of terms.

Terms used in this Act have the same meanings as the same terms have when used in The Waterworks Clauses Act, 1847.

The provisions respecting the recovery of penalties contained in the last-mentioned Act shall be incorporated with this Act.

And with respect to the security of the reservoirs constructed by the undertakers, BE IT ENACTED as follows: *Security of Reservoirs.*

3. Whenever any person interested complains to two justices that any reservoir constructed by the undertakers is in a dangerous state, such justices shall forthwith make inquiry into the truth of the complaint; or two justices, on their own view, and without complaint by any person, may proceed under the present provisions as if a complaint had been so made to them. Power for justices to inquire as to danger of reservoir.

4. If, on any such inquiry, the justices are satisfied that the complaint is well founded, and that the reservoir is in a dangerous state, and that the danger is so imminent as not to admit of delay in removing the cause of complaint, they shall order such person as they think fit to enter on the property of the undertakers, and to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint. Order of justices for immediate repair.

5. If, on any such inquiry, the justices are satisfied that there is good cause of complaint, but are not satisfied that the reservoir is in such an imminently dangerous state as not to admit of delay in removing the cause of complaint, they shall issue their summons to the undertakers to answer the complaint; and upon hearing the parties, the justices may, or upon default of appearance of the undertakers, then in their absence, the justices shall, order the undertakers, within such period as the justices think reasonable and specify in the order, to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint. Order of justices on undertakers to repair reservoir.

If the undertakers fail to execute or do within that period any such work or thing, the justices who made the order, or any other two justices, on being satisfied of such failure, may either order such persons as the justices think fit to enter on the property of the undertakers, and to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint; or may, if they think fit, by order impose on the undertakers a penalty, not exceeding ten pounds, for every day during which such failure continues after the making of the order imposing the penalty. Order of justices on failure of undertakers to repair.

6. Any order of justices made in any of the cases aforesaid shall be in writing under their hands, and may be in the form set forth in the schedule to this Act, with such variations as circumstances require. Form of order.

7. Any person acting under and in pursuance of any such order shall not be deemed a trespasser; and if any person wilfully obstructs any person lawfully acting in obedience to any such order, or wilfully does, or instigates, or suffers to be done, anything in contravention thereof, he shall for every such offence be liable to a penalty not exceeding fifty pounds. Persons acting under order not trespassers.

8. The justices may order all, or such part as they think fit, of the costs of and incident to the applying for and obtaining of any such order to be paid by the undertakers, and also all, or such part as the justices think fit, of the expenses of the works and things executed and done in pursuance of any such order by any person other than the undertakers, to be paid by the undertakers to such person as the justices appoint. Order for payment of costs and expenses.

If the justices before whom the complaint is made think that there is no sufficient ground for the complaint, they may, if they think fit, order the complainant to pay to the undertakers the whole or any part of their costs of or incident to the complaint.

9. If the undertakers consider themselves aggrieved by any order or determination of justices under the present provisions, they may in like manner and subject to the like conditions as by the Railways Clauses Consolidation Act, 1845, are provided in the case of appeals in respect of penalties, appeal to the court of general or quarter sessions for the county or place where the cause of appeal arises; and that court may, on the hearing of the appeal, either affirm or quash the order or determination, or make such other order in the premises as may seem fit, and may make such order as to the costs, both of the original proceedings and of the appeal, as may seem fit; but the order or determination appealed against shall, pending the appeal, continue in force. Appeal by undertakers.

10. Notwithstanding anything in the special Act contained, the undertakers shall not be liable to pay any damages, penalties, costs, charges, or expenses for or in respect of, or be answerable or accountable for, any diminution or cessation of the supply of water, or any other breach or nonperformance of their or any of their duties, liabilities, or obligations under the special Act, that may be occasioned by or result from the execution of any such order. Undertakers not to be responsible for consequences of order.

11. The present provisions with respect to the security of reservoirs shall apply to England and Ireland; and they shall also apply to Scotland, subject to the following variations, namely,—the sheriff shall be deemed to be empowered thereby, as well as two justices; and the appeal given shall lie from two justices in manner provided by sections one hundred and fifty-one and one hundred and fifty-two of the Railways Provisions as to Scotland.

26 & 27 Vict. c. 93.

Clauses Consolidation (Scotland) Act, 1845, and shall lie from a sheriff substitute to the sheriff depute, where the matter comes in the first instance before a sheriff substitute; and in that case the sheriff depute shall hear and determine the appeal, and may either confirm, recall, vary, or supersede the order of the sheriff substitute as he thinks proper; and the costs of the appeal shall be in the discretion of the sheriff; and the order or judgment of the sheriff in the appeal shall be final.

Suppl Water.

And with respect to the supply of water to be furnished by the undertakers, BE IT ENACTED as follows:

Supply for other than domestic purposes.

12. A supply of water for domestic purposes shall not include a supply of water for cattle, or for horses, or for washing carriages where such horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens, or for fountains, or for any ornamental purpose.

Want of supply for other than domestic purposes, when excused.

13. Where the undertakers are authorised by the special Act to supply water for other than domestic purposes, they shall not be liable, in the absence of express stipulation, under any agreement for the supply of water for other than domestic purposes, to any penalty or damages for not supplying such water, if the want of such supply arises from frost, unusual drought, or other unavoidable cause or accident.

Power to let meters for hire.

14. Where the undertakers are authorised by the special Act to supply water by measure, they may let for hire to any consumer of water so supplied any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between them and the consumer, which shall be recoverable in the same manner as rates due to the undertakers for water; and the meters, instruments, pipes, and apparatus shall not be subject to distress or to the landlord's hypothec for rent of the premises where the same are used, or be attached or taken in execution under any process of any court of law or equity, or under or in pursuance of any adjudication or order in bankruptcy, or other legal proceeding, against or affecting the consumer of the water or the occupier of the premises, or other the person in whose possession the meters, instruments, pipes, and apparatus may be.

Power for ascertaining quantity consumed by meter, and for removing meters, &c.

15. The officers of the undertakers may enter any house, building, or lands to, through, or into which water is supplied by them by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed, and may from time to time enter any house, building, or lands, for the purpose of removing any meter, instrument, pipe, or apparatus the property of the undertakers; and if any person hinders any such officer from entering or making such inspection, or effecting such removal, he shall for every such offence be liable to a penalty not exceeding five pounds; but, except with the consent of a justice or the sheriff, this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Protection of Water.

And with respect to the waste or misuse of the water supplied by or belonging to the undertakers, BE IT ENACTED as follows:

Power to cut off water in certain cases

16. If any person supplied with water by the undertakers wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the special Act, or wrongfully fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the undertakers, they may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied by them to him, or for his use, and may cease to supply him with water, so long as the cause of injury remains or is not remedied.

Penalty for waste, &c., of water by non-repair of pipes, &c.

17. If any person supplied with water by the undertakers wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, watercloset, or other apparatus or receptacle to be out of repair, or to be so used or contrived as that the water supplied to him by the undertakers is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air, or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the undertakers, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for application of water contrary to agreement.

18. If any person—

First, not having from the undertakers a supply of water for other than domestic purposes, uses, for other than domestic purposes, any water supplied to him by the undertakers; or

Secondly, having from the undertakers a supply of water for any other than domestic purposes, uses, for any purposes other than those for which he is entitled to use the same, any water supplied to him by the undertakers,—

he shall for every such offence be liable to a penalty not exceeding forty shillings, without prejudice to the right of the undertakers to recover from him the value of the water misused.

Penalty for extension or alteration of pipes

19. It shall not be lawful for the owner or occupier of any premises supplied with water by the undertakers, or any consumer of the water of the undertakers, or any other person, to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging

to the undertakers, or to a communication or service pipe belonging to or used by such owner, occupier, consumer, or other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the undertakers; and if any person acts in any respect in contravention of the provisions of the present section, he shall for every such offence be liable to a penalty not exceeding five pounds, without prejudice to the right of the undertakers to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed. 26 & 27 Vict. c. 93.

20. If any person, not being supplied with water by the undertakers, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the undertakers, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the undertakers, or supplied by them for the use of any consumer of the water of the undertakers, he shall for every such offence be liable to a penalty not exceeding five pounds. Penalty for use of water without agreement.

And with respect to the recovery of water rates and other money, BE IT ENACTED as follows: *Recovery of Rates*

21. If any person refuses or neglects to pay to the undertakers any rate or sum due to them under the special Act, they may recover the same, with costs, in any court of competent jurisdiction; and their remedy under the present section shall be in addition to their other remedies for the recovery thereof. Recovery of rates by action.

SCHEDULE.

Form of Order of Justices.

To *A.B.* of &c.

We the undersigned, two of her majesty's justices of the peace acting for the [county] of do hereby order and direct you [and such person and persons as you may require to aid and assist you herein] forthwith to lower the water in the [*here describe the reservoir and the extent to which the water is to be lowered*], and to do all such works and things as are requisite to repair and make secure the said reservoir [and you shall do as little injury as possible to the property of the and for acting as you are hereby directed this shall be your sufficient warrant].

Given under our hands this day of one thousand eight hundred and

A.B.
C.D

WAGERS.

[See 8 & 9 Vict. c. 109, s. 18; 16 & 17 Vict. c. 119, ss. 5-6; ante, Vol. II., tit. "GAMING."]

WATCHING.

[See ante, Vol. III., tit. "LIGHTING AND WATCHING."]

WEIGHTS AND MEASURES (*a*).

5 Geo. 4, c. 74. An Act for ascertaining and establishing Uniformity of Weights and Measures. [17th June, 1824.] 5 G. 4, c. 74

"Whereas it is necessary for the security of commerce and for the good of the community that weights and measures should be just and uniform: And whereas notwithstanding it is provided by the great charter that there shall be but one measure and one weight throughout the realm, and by the treaty of union between England and Scotland that the same weights and measures should be used throughout Great Britain as were then established in England, yet different weights and measures, some larger and some less, are still in use in various places throughout the united kingdom of Great Britain

---

(*a*) See, in general, 2 Chitty's Com. Law, 168 to 179; Bere & Chitty's Burn's Justice, Vol. VI., p. 399. There are a great many ancient statutes respecting weights and measures, some

5 G. 4, c. 74. and Ireland, and the true measure of the present standards is not verily known, which is the cause of great confusion and of manifest frauds: for the remedy and prevention of these evils for the future, and to the end that certain standards of weights and measures should be established throughout the united kingdom of Great Britain and Ireland;" BE IT THEREFORE ENACTED, that from and after the 1st day of May, 1825 (*a*), the straight line or distance between the centres of the two points in the gold studs in the straight brass rod now in the custody of the clerk of the house of commons (*b*), whereon the words and figures "Standard Yard, 1760," are engraved, shall be and the same is hereby declared to be the original and genuine standard of that measure of length or lineal extension called a yard, and that the same straight line or distance between the centres of the said two points in the said gold studs in the said brass rod, the brass being at the temperature of sixty-two degrees by Fahrenheit's thermometer, shall be and is hereby denominated the "Imperial Standard Yard," and shall be and is hereby declared to be the unit or only standard measure of extension, wherefrom or whereby all other measures of extension whatsoever, whether the same be lineal, superficial, or solid, shall be derived, computed, and ascertained, and that all measures of length shall be taken in parts or multiples or certain proportions of the said standard yard; and that one-third part of the said standard yard shall be a foot, and the twelfth part of such foot shall be an inch, and that the pole or perch in length shall contain five such yards and a half, the furlong two hundred and twenty such yards, and the mile one thousand seven hundred and sixty such yards.

Standard yard defined as the measure of length shall be the unit of the measure of extension.

Foot, inch, pole or perch furlong, mile.

---

of which are either partially or entirely repealed by sect. 23, post, p. 887. This last-mentioned Act, however, does not repeal the 35 Geo. 3, c. 102, and 37 Geo. 3, c. 143, relating to *weights*, or the 36 Geo. 3, c. 86, as to butter, or the 55 Geo. 3, c. 43, relating to *measures*, or the 3 Geo. 4, c. 77, s. 21, as to size of brewers' casks, but renders them still applicable, and only directs and secures the equalisation of weights and measures. But see 5 & 6 Will. 4, c. 93, post.

As to weights and measures in Scotland, see 5 Anne, c. 8, art. 17.

Before this statute it was held to be illegal to sell corn by any other measure than the Winchester measure, of eight gallons to the bushel (*Rex* v. *Major*, 4 T. R. 750). And the buyer of corn by any other than the Winchester measure, was subject to the penalty of 40*s.* in addition to the value of the corn so bought, by 22 & 23 Car. 2, c. 12 (*Rex* v. *Arnold*, 5 T. R. 353; Nolan, 281). And it was held that a contract for the sale of corn by the hobbet was in contravention of the provisions of the 22 Car. 2, c. 8, s. 2, and therefore an action would not lie for the breach of it (*Tyson* v. *Thomas*, 1 M'Cle. & Yo. 119; *Owens* v. *Denton*, 1 C. M. & R. 711; see *Hughes* v. *Humphreys*, infra).

Where the reddendum in a hospital renewed lease was so many quarters of corn, it was held that it ought to be understood to mean legal quarters, reckoning the bushel at eight gallons, although the old leases before the stat. 22 & 23 Car. 2, c. 12, contained the same reddendum, and although till lately the lessees paid by composition, reckoning the bushel at nine gallons (*St. Cross Hospital* v. *Lord Howard de Walden*, 6 T. R. 338). And a custom that every pound of butter sold in a particular market town should weigh eighteen ounces was considered bad (*Noble* v. *Durell*, 3 T. R. 271).

A sale by the hobbet was held valid, where it appeared that the hobbet was a multiple of a pound, and that the seller was bound to deliver as many pounds as were contained in the number of hobbets contracted for (*Hughes* v. *Humphreys*, 23 L. J. Q. B. 356; 3 E. & B. 954). So a sale by the ton long-weight, is valid, as the ton long-weight, which consists of twenty hundred weights of 120lbs., is a multiple of a pound (*Jones* v. *Giles*, 23 L. J. Exch. 292; 10 Exch. 119; affirmed in Cam. Scacc., 24 L. J. Exch. 259; 11 Exch. 393).

Before 5 & 6 Will. 4, c. 63, s. 6, post, p. 888, a sale might be effected by any local weight or measure, if the ratio of such weight or measure to the standard weight or measure were specified in terms (*Tyson* v. *Thomas*, M'Cle. & Yo. 128). That statute abolishes all local measures, but it does not extend to local weights; sales by such weights are still valid if the weights are multiples of a pound (*Giles* v. *Jones*, 24 L. J. Exch. 259; 11 Exch. 393).

In the case of *Watts* v. *Friend*, tried at Maidstone, 11th August, 1828, before Lord Tenterden, the declaration was in assumpsit for the non-delivery of turnip seed. It appeared that the contract was made verbally for the sale of the seed, whilst the turnips were growing, and the sale was by the strike, and by Winchester measure, although the parties knew that the imperial standard was the lawful measure. Lord Tenterden observed, that parties must, since this statute virtually contract to sell by the imperial measure, and if not, they must in and by the very words of their contract state the terms of their bargain, for otherwise the provisions of the Act would be avoided, and that it was therefore questionable whether the parties could upon the parol contract recover; and the point was reserved (see 10 B. & C. 446).

(*a*) 1st day of January, 1826, 6 Geo. 4, c. 12.

(*b*) The standard yard mentioned in this section having been destroyed in the fire at the houses of parliament, a new standard yard of equivalent length has been established, by 18 & 19 Vict. c. 72, post, p. 899.

2. That all superficial measures shall be computed and ascertained by the said standard yard, or by certain parts, multiples or proportions thereof, and that the rood of land shall contain one thousand two hundred and ten square yards, according to the said standard yard; and that the acre of land shall contain four thousand eight hundred and forty square yards, being one hundred and sixty square perches, poles, or rods. 5 G. 4, c. 74. Superficial measures computed from said yard, rood, acre.

3. (*a*) "And whereas it is expedient that the said standard yard, if lost, destroyed, defaced, or otherwise injured, should be restored of the same length, by reference to some invariable natural standard: and whereas it has been ascertained by the commissioners appointed by his majesty to inquire into the subject of weights and measures, that the said yard hereby declared to be the imperial standard yard, when compared with a pendulum vibrating seconds of mean time in the latitude of London, in a vacuum at the level of the sea, is in the proportion of thirty-six inches to thirty-nine inches, and one thousand three hundred and ninety-three ten thousandth parts of an inch;" BE IT ENACTED, that if at any time hereafter the said imperial standard yard shall be lost, or shall be in any manner destroyed, defaced, or otherwise injured, it shall and may be restored by making under the direction of the lord high treasurer, or the commissioners of his majesty's treasury of the united kingdom of Great Britain and Ireland, or any three of them for the time being, a new standard yard bearing the same proportion to such pendulum as aforesaid, as the said imperial standard yard bears to such pendulum. The yard, if lost, &c., to be restored by reference to the length of a pendulum vibrating seconds at London.

4. That from and after the 1st day of May, 1825 (*c*), the standard brass weight of one pound troy weight, made in the year 1758, now in the custody of the clerk of the house of commons, shall be and the same is hereby declared to be the original and genuine standard measure of weight, and that such brass weight shall be and is hereby denominated the imperial standard troy pound, and shall be and the same is hereby declared to be the unit or only standard measure of weight, from which all other weights shall be derived, computed, and ascertained, and that one-twelfth part of the said troy pound shall be an ounce, and that one-twentieth part of such ounce shall be a pennyweight, and that one-twenty-fourth part of such pennyweight shall be a grain; so that five thousand seven hundred and sixty such grains shall be a troy pound, and that seven thousand such grains shall be and they are hereby declared to be a pound avoirdupois; and that one-sixteenth part of the said pound avoirdupois shall be an ounce avoirdupois; and that one-sixteenth part of such ounce shall be a dram. Standard pound defined as the measure of weight (*b*). Ounce. Pennyweight. Grain. Dram.

5. "And whereas it is expedient that the said standard troy pound, if lost, destroyed, defaced, or otherwise injured, should be restored of the same weight by reference to some invariable natural standard: and whereas it has been ascertained by the commissioners appointed by his majesty to inquire into the subjects of weights and measures, that a cubic inch of distilled water weighed in air by brass weights at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches, is equal to two hundred and fifty-two grains, and four hundred and fifty-eight thousandth parts of a grain, of which as aforesaid the imperial standard troy pound contains five thousand seven hundred and sixty;" BE IT ENACTED, that if at any time hereafter the said imperial standard troy pound shall be lost, or shall be in any manner destroyed, defaced, or otherwise injured, it shall and may be restored by making, under the directions of the lord high treasurer or the commissioners of his majesty's treasury of the united kingdom of Great Britain and Ireland, or any three of them for the time being, a new standard troy pound, bearing the same proportion to the weight of a cubic inch of distilled water as the said standard pound hereby established bears to such cubic inch of water. The pound, if lost, &c., may be restored by reference to the weight of a cubic inch of water (*d*).

6. That from and after the 1st day of May, 1825 (*c*), the standard measure of capacity, as well for liquids as for dry goods not measured by heaped measure, shall be the gallon, containing ten pounds avoirdupois weight of distilled water weighed in air at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches, and that a measure shall be forthwith made of brass, of such contents as aforesaid, under the directions of the lord high treasurer, or the commissioners of his majesty's treasury of the united kingdom, or any three or more of them for the time being, and such brass measure shall be and is hereby declared to be the imperial standard gallon, and shall be and is hereby declared to be the unit and only standard measure of capacity from which all other measures of capacity to be used, as well for wine, beer, ale, spirits, and all sorts of liquids, as for dry goods not measured by heap measure, shall be derived, computed, and ascertained, and that all measures shall be taken in parts or multiples, or certain proportions of the said imperial standard gallon, and that the quart shall be the fourth part of such standard gallon, and the pint shall be one-eighth of such standard gallon, and that two such gallons shall be a peck, and eight such gallons shall Standard gallon containing 10 pounds avoirdupois of water to be the measure of capacity. Quart. Pint. Peck. Bushel. Quarter. Peck. Bushel. Quarter.

(*a*) This section is repealed by 18 & 19 Vict. c. 72, s. 1, post. In case of loss the standard yard is to be restored as directed by section 7, *ib.*

(*b*) The standard pound troy mentioned in this section having been destroyed in the fire at the houses of parliament, a new standard pound avoirdupois has been established in its place (18 & 19 Vict. c. 72, post, p. 899).

(*c*) 1st of January, 1826, 6 Geo. 4, c. 12.

(*d*) This section is repealed by 18 & 19 Vict. c. 72, s. 1, post. See sect. 7, *ib.*

5 G. 4, c. 74.

be a bushel, and eight such bushels a quarter of corn, or other dry goods not measured by heaped measure.

7. [Standard for heaped measure.]

8. [How the bushel measure shall be heaped (a).]

Measure of weight, or heaped measure, to be used for articles herein mentioned. For other articles, weight or stricken measure.

9. Provided always, That any contracts, bargains, sales, and dealings made or had, for or with respect to any coals (b), culm, lime, fish, potatoes, or fruit, and all other goods and things commonly sold by heaped measure (a), sold, delivered, done, or agreed for, or to be sold, delivered, done, or agreed for by weight or measure, shall and may be either according to the said standard of weight or the said standard for heaped measure; but all contracts, bargains, sales, and dealings made or had for any other goods, wares, or merchandize, or other thing done or agreed for, or to be sold, delivered, done, or agreed for by weight or measure, shall be made and had according to the said standard of weight (c), or to the said gallon, or the parts, multiples, or proportions thereof, and in using the same the measures shall not be heaped, but shall be stricken with a round stick or roller, straight and of the same diameter from end to end.

Selling by measure instead of weight in Ireland.

*10. Provided always, that nothing herein contained shall authorise the selling in Ireland, by measure, of any articles, matters, or things which by any law in force in Ireland, are required to be sold by weight only.

Copies and models of the standard of length, weight, and measure to be made and verified under direction of the treasury.

11. That copies and models of each of the said standard yard, the said standard pound, the said standard gallon, and the said standard for heaped measure (a), and of such parts and multiples thereof respectively, as the lord high treasurer of the united kingdom of Great Britain and Ireland, or the said commissioners of his majesty's treasury, or any three of them for the time being shall judge expedient, shall within three calendar months next after the passing of this Act be carefully made and verified under the direction of the said lord high treasurer, or the said commissioners of his majesty's treasury, or any three of them for the time being, and that the copies and models of the said standard yard, of the said standard pound, of the said standard gallon, and of the said standard for heaped measure, and of parts and multiples thereof, so forthwith to be made and verified as aforesaid, shall within three calendar months after the passing of this Act be deposited in the office of the chamberlains of the exchequer at Westminster, and that copies thereof verified as aforesaid shall be sent to the lord mayor of London and the chief magistrate of Edinburgh and Dublin, and of such other cities and places, and to such other places and persons in his majesty's dominions, or elsewhere, as the lord high treasurer or commissioners of the treasury may from time to time direct (d).

Models and copies to be provided for counties.

12. That his majesty's justices of the peace in every county, riding, or division in England or Ireland, or shire or stewartry in Scotland, and the magistrates in every city, town, or place (being a county within itself) in England or Ireland, and in every city or royal burgh in Scotland, shall within six calendar months after the passing of this Act purchase for their respective counties, ridings, or divisions, shires or stewartries, cities, towns, or places, or cities or royal burghs, a model and copy of each of the aforesaid standards of length, weight, measure, and of each of the parts and multiples thereof, which models and copies when so purchased shall be compared and verified with the models and copies deposited with the chamberlains of the exchequer as aforesaid, in such manner as aforesaid, and upon payment of such fees as are at present payable to the said chamberlains upon the comparison and verification of weights and measures with the standards thereof; and such models and copies when so compared and verified shall be placed for custody and inspection with such person or persons, and in such place or places as the said justices and magistrates, in their respective counties, ridings, and divisions, and shires or stewartries, cities, towns, and places, or cities or royal burghs, shall appoint, and the same shall be produced by the keeper or keepers thereof upon reasonable notice, at such time or times, and place or places within each such county, riding, or division, shire or stewartry, city, town, or place, or city or royal burgh, as any person or persons shall by writing under his or their hand or hands require; the person requiring such production paying the reasonable charges of the same.

To be placed for custody and inspection as herein mentioned.

(a) Abolished, 5 & 6 Will. 4, c. 63, s. 7, post, p. 888.

(b) See 5 & 6 Will. 4, c. 63, s. 9, post, p. 889.

(c) As this section requires all contracts, &c., to be made according to the standard pound or gallon, any person making a contract is bound to make it according to the standard; if he makes it otherwise he disobeys the enactment; and as the object of the section is to effect a purpose of general benefit and importance, a contract made in breach of such an obligation is void. Whether a contract is within this section depends upon its being or not a contract according to the standard weight or some multiple thereof; per Maule, J., delivering the judgment of the court in *Giles* v. *Jones*, 24 L. J. Exch. 259; 11 Exch. 393.

Measures which were multiples of the gallon that existed before this statute are not multiples of the new gallon established by it. But weights which were multiples of the pound now are multiples of the pound now. (*Ib.*)

(d) See 5 & 6 Will. 4, c. 63, s. 17, post, p. 891.

5 G. 4, c. 74.

Expenses of procuring such models and copies, how to be paid in England and Scotland respectively.

13. That the expense of procuring and transmitting such models and copies for the respective counties, ridings, or divisions, cities, towns, or places, shall be paid in that part of the said united kingdom of Great Britain and Ireland called England, out of the rates payable in such counties, ridings, or divisions, cities, towns, or places; and in that part of the said united kingdom called Scotland, such expenses in the respective shires and stewartries, and cities or royal burghs, shall be assessed by the commissioners of supply, upon such shires and stewartries, and upon cities or royal burghs by the magistrates thereof, and shall be paid along with the land tax payable in such shires, or stewartries, and cities or royal burghs to the collectors of the land tax, in such shires or stewartries and cities or royal burghs respectively, and in Ireland such expenses shall be paid in the respective counties, and counties of cities, and counties of towns, by presentments to be made by grand juries; and the collectors of such county rates in England, of land tax in Scotland, and of the assessments under grand jury presentments in Ireland, shall have such and the same powers of levying and recovering the assessments to be made under this Act as are competent to them for levying and recovering the said county rates, land tax, and grand jury assessments respectively, and the said collectors respectively shall out of the proceeds of such assessments pay the expenses of procuring and transmitting such models and copies as aforesaid accordingly (*a*).

For ascertaining measures of capacity, where reference cannot easily be had to standards.

14. Provided, That in all cases of dispute respecting the correctness of any measure of capacity, arising in a place where recourse cannot be conveniently had to any of the aforesaid verified copies or models of the standard measures of capacity, or parts or multiples of the same, it shall and may be lawful to and for any justice of the peace or magistrate having jurisdiction in such place to ascertain the content of such measure of capacity by direct reference to the weight of pure or rain water which such measure is capable of containing; ten pounds avoirdupois weight of such water, at the temperature of sixty-two degrees by Fahrenheit's thermometer, being the standard gallon, ascertained by this Act, the same being in bulk equal to two hundred and seventy-seven cubic inches, and two hundred and seventy-four one thousandth parts of a cubic inch, and so in proportion for all parts or multiples of a gallon.

Contracts for sale by weight or measure shall relate to the standard, unless the contrary is specified.

15. That from and after the 1st day of May, 1825 (*b*), all contracts, bargains, sales, and dealings which shall be made or had within any part of the united kingdom of Great Britain and Ireland, for any work to be done, or for any goods, wares, merchandize, or other thing to be sold, delivered, done, or agreed for by weight or measure, where no special agreement shall be made to the contrary, shall be deemed, taken, and construed to be made and had according to the standard weights and measures ascertained by this Act, and in all cases where any special agreement shall be made, with reference to any weight or measure, established by local custom, the ratio or proportion which every such local weight or measure shall bear to any of the said standard weights or measures, shall be expressed, declared, and specified in such agreement, or otherwise such agreement shall be null and void (*c*).

Existing weights and measures may be used bearing marks so as to show the proportion they bear to the standard measures and weights.

16. "And whereas it is expedient that persons should be allowed to use the several weights and measures which they may have in their possession, although such weights and measures may not be in conformity with the standard weights and measures established by this Act;" BE IT ENACTED, That it shall and may be lawful for any person or persons to buy and sell goods and merchandize by any weights or measures established either by local custom, or founded on special agreement: Provided always, that in order that the ratio or proportion which all such measures and weights shall bear to the standard weights and measures established by this Act, shall be and become a matter of common notoriety, the ratio or proportion which all such customary measures and weights shall bear to the said standard weights and measures shall be painted or marked upon all such customary weights and measures respectively, and that nothing herein contained shall extend or be construed to extend to permit any maker of weights or measures, or any person or persons whomsoever, to make any weight or measure at any time after the 1st day of May, 1825, except in conformity with the standard weights and measures established under the provisions of this Act (*d*).

For ascertaining rents, &c., payable in grain or malt, &c., in England and Ireland.

17. "And for the purpose of ascertaining and fixing the payments to be made in consequence of all existing contracts or rents in England and Ireland, payable in grain or malt, or in any other commodity or thing, and in consequence of any toll or rate heretofore payable according to the weights and measures heretofore in use;" BE IT ENACTED, That at the general or quarter sessions of the peace to be holden in every county, riding, or division, and in every city, town, or place (being a county of itself) in England or Ireland, next after the expiration of six calendar months after the passing of this Act (*e*), or at any general or quarter sessions of the peace to be holden thereafter, an inquisition shall be taken before the justices assembled at such general or quarter sessions by the oaths of

---

(*a*) See 5 & 6 Will. 4, c. 63, s. 22, post, p. 893.

(*b*) 1 Jan. 1826, 6 Geo. 4, c. 12.

(*c*) This section is not repealed by 5 & 6 Will. 4, c. 63 (see *Tyson* v. *Thomas*, M'Cle. & Y. 128; and *Watts* v. *Friend*, ante, p. 879; *Giles* v. *Jones*, 24 L. J. Exch. 259; 11 Exch. 393; ante, p. 884, n. (*c*); and post, p. 888, n. (*b*).

(*d*) See *Giles* v. *Jones*, sup.

(*e*) After the 1st of May, 1825, 6 Geo. 4, c. 12.

5 G. 4, c. 74. twelve substantial freeholders of the said respective counties, cities, towns, or places, having lands or tenements to the value of one hundred pounds per annum or upwards, to be summoned by the sheriff or proper officer of every such county, city, town, or place, to inquire into and ascertain the amount, according to the standard of weight or measure by this Act established, of all contracts or rents payable in grain or malt, or any other commodity or thing, or with reference to the measure or weight of any such grain, malt, or other commodity or thing, and the amount of any toll or rate heretofore payable according to any weights and measures heretofore in use within such counties, cities, towns, or places respectively; and such inquisitions when taken shall be transmitted by the respective clerks of the peace of the same counties respectively, or by the mayor, bailiff, or other head officer of every such city, town, or place (being a county of itself), into his majesty's courts of exchequer at Westminster and Dublin respectively, and shall there be enrolled of record, and shall and may be given in evidence in any action or suit at law, or in equity, and the amount so to be ascertained shall be the rule of payment in regard to all such contracts, rents, tolls, or rates in all time coming, and the costs and charges of such inquisitions and the enrolments thereof shall be paid and defrayed in England out of the general rate or stock of every such county, riding, division, city, town, or place (being a county of itself), and in Ireland by presentments of the several grand juries (*a*).

For ascertaining rents, payable in grain, malt, &c., in Scotland.

18. And for the purpose of ascertaining and fixing the payments to be made of all stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever, payable in grain, malt, or meal, or any other commodity or thing in that part of the united kingdom called Scotland, or in any place or district of the same; BE IT ENACTED, That the sheriff-depute or sheriff-substitute in each shire, and the stewart-depute or stewart-substitute in each stewartry within Scotland, shall as soon as conveniently may be after the expiration of six calendar months from and after the passing of this Act, summon and impannel a jury of the same number, and with the same qualifications which are required in the jury who strike the fiar prices of grain within the same shire or stewartry, to assemble at such place or places as he shall find convenient, which jury shall inquire into and ascertain the amount according to the standards by this Act established, of all such stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever, payable in grain, malt, meal, or any other commodity or thing, according to the weights and measures heretofore in use within the same shires or stewartries; and such inquisitions when taken shall be transmitted by the respective sheriff clerks or stewart clerks of such shires or stewartries into his majesty's court of exchequer at Edinburgh, and shall there be enrolled of record, and shall and may be given in evidence in any action or suit at law, or in equity; and the amount so to be ascertained shall, when converted into the standard weights and measures, be the rule of payment in regard to all such stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever in all time coming, and the costs and charges of such inquisitions, and the enrolment thereof, shall be assessed and levied, paid and defrayed, by every such shire or stewartry, in manner as is hereinbefore directed in regard to the assessment for the models of the weights and measures to be purchased for the same shire or stewartry.

Costs thereof, how defrayed.

Tables of equalisation to be made and constructed under the authority of the treasury.

19. That as soon as conveniently may be after such inquisitions shall have been made and enrolled in England, Ireland, and Scotland respectively, accurate tables shall be prepared and published under the authority of the said commissioners of his majesty's treasury, showing the proportions between the weights and measures heretofore in use, as mentioned in such inquisitions, and the weights and measures hereby established, with such other conversions of weights or measures as the said commissioners of his majesty's treasury may deem to be necessary, and after the publication of such tables, all future payments to be made shall be regulated according to such tables.

Tables to be constructed for the collection of the customs and excise.

20. "And whereas the weights and measures by which the rates and duties of the customs and excise, and other his majesty's revenue, have been heretofore collected, are different from the weights and measures of the same denominations directed by this Act to be universally used: and whereas the alteration of such weights and measures may without due care had therein, greatly affect his majesty's revenue, and tend to the diminishing of the same:" for the prevention thereof, BE IT THEREFORE ENACTED, That so soon as conveniently may be after the passing of this Act, accurate tables shall be prepared and published under the direction of the commissioners of the treasury for the time being, in order that the several rates and duties of customs and excise, and other his majesty's revenue, may be adjusted and made payable according to the respective quantities of the legal standards directed by this Act to be universally used, and that from and after the said 1st day of May, 1825 (*b*), and the publication of such tables, the several rates and duties thereafter to be collected by any of the officers of his majesty's customs or excise, or other his majesty's revenue, shall be collected and taken according to the calculations in the tables to be prepared as aforesaid.

(*a*) See 5 & 6 Will. 4, c. 63, s. 14, post, p. 890. (*b*) 1st day of January, 1826, 6 Geo. 4, c. 12.

21. That all the powers, rules, and regulations in force, and contained in the several Acts hereinafter mentioned, specified, and set forth, for the ascertaining, examining, seizing, breaking and destroying any weights, balances or measures, shall be applied and put in execution in Great Britain, for the ascertaining and examining, and for the seizing, breaking, and destroying of any weights or measures not conformable to the standard weights and measures ascertained and authorised by this Act, and for the punishment of any person or persons having any defective weight or measure, not conformable to the said standard weights and measures; that is to say, 29 Geo. 2, c. 25; 31 Geo. 2, c. 17; 35 Geo. 3, c. 102 (*a*); 37 Geo. 3, c. 143 (*a*); 55 Geo. 3, c. 43 (*a*); and all the powers, rules, regulations, provisions, penalties and forfeitures in the said several Acts contained, shall be applied and put in execution, as if the weights or measures ascertained by this Act had been specified in the said recited Acts respectively, and as if all such powers, rules, regulations, provisions, penalties and forfeitures, and modes of recovery thereof, were repeated and re-enacted in this Act, except only so far as the said recited Acts or any of them, or any part thereof, are expressly repealed or altered by this Act or any other Act or Acts.

5 G. 4, c. 74. Regulations and penalties of British Acts, viz., 29 G. 2, c. 25; 31 G. 2, c. 17; 35 G. 3, c. 102; 37 G. 3, c. 143; 55 G. 3, c. 43, shall be applied to this Act.

22. [*As to Ireland.*]

Ireland.

23. [So much of former statutes, ordinances or acts (herein named) as relate to establishing weights or measures repealed, so far as the said Acts repeal former Acts relating to weights and measures.]

24. Provided always, That nothing in this Act contained shall extend or be construed to extend, to repeal the hereinbefore recited Act, made in the parliament of Great Britain, in the thirty-first year of the reign of king George the second, nor in any manner to effect or alter the power given by the said recited Act to the dean, high steward or his deputy, and the burgesses of the city of Westminster, to appoint a proper officer to size and seal all weights and measures used by persons dealing by weight and measure in the said city of Westminster, and the liberties thereof, but that all the powers given and reserved to the said dean, high steward or his deputy, and burgesses by the said recited Act, shall and may be exercised in the appointing of a proper officer, to size and seal all such weights and measures as shall from the passing of this Act be lawful, and be used by persons dealing by weight and measure within the said city and liberties of Westminster, and shall and may be used and exercised by any officer so appointed, in the same manner in all respects as is directed by the said recited Act, with relation to the weights and measures in the said recited Act mentioned.

Proviso of 31 G. 2, c. 17, which empowers the dean and high steward of Westminster, &c., to appoint a proper officer to size and seal weights and measures.

25. Provided always, That from and after the passing of this Act, all tuns, pipes, tertians, hogsheads, or other vessels of wine, oil, honey, and other gaugeable liquors, imported or brought into the port of the city of London, and landed within the said city, and the liberties thereof, shall be subject and liable to be gauged as heretofore hath been of right accustomed by the lord mayor of the said city for the time being, by virtue of his office of gauger, or by his sufficient deputies, lawfully appointed, save and except that the contents of all such tuns, pipes, tertians, hogsheads, and other vessels, shall and may be ascertained by the standard measure of capacity for liquids directed by this Act, and the multiples thereof; and that all such tuns, pipes, tertians, hogsheads, or other vessels that shall be found wanting of the true contents which such tuns, pipes, tertians, hogsheads, or other vessels ought to be of, to be ascertained as aforesaid, together with the wine and other liquids therein contained, shall be subject and liable to the like seizures and forfeitures as is or are provided by any Act or Acts of parliament heretofore made for ascertaining the true contents of tuns, pipes, tertians, hogsheads, and other vessels of wine, oil, honey, and other gaugeable liquors; and that the moieties of such forfeitures due to his majesty, his heirs, and successors, shall be in like manner as heretofore hath been accustomed, accounted for by the lord mayor for the time being, as such gauger and his deputies, to his majesty, his heirs and successors, in his and their court of exchequer at Westminster.

Vessels of wine and other gaugeable liquors, imported into London, liable to gauge as heretofore by lord mayor or his deputies. Contents to be ascertained by standard measure of this Act.

26. Provided always, That this Act or anything herein contained, shall not extend to prohibit, defeat, injure or lessen the right of the mayor and commonalty and citizens of the city of London, or of the lord mayor of the said city for the time being, of, in, to or concerning the office of gauger of wines, oils, honey and other gaugeable liquors, imported and landed within the city of London and the liberties thereof.

Proviso for London as to office of gauger of wines, &c.

6 Geo. 4, c. 12. An Act to prolong the Time of the Commencement of an Act of the last Session of Parliament, for ascertaining and establishing Uniformity of Weights and Measures, and to amend the said Act. [31st March, 1825.] (*a*)

6 G. 4, c. 12.

(*a*) This statute appears to be virtually repealed by 5 & 6 Will. 4, c. 63.

5 & 6 W. 4, c. 63.

5 & 6 Will. 4, c. 63. An Act to repeal an Act of the Fourth and Fifth Year of his present Majesty relating to Weights and Measures, and to make other Provisions instead thereof (*a*).

[9th September, 1835.]

1. [4 & 5 Will. 4, c. 49, repealed.]

2. [Nothing herein to interfere with anything done, or to prevent the recovery of penalties under the repealed Act.]

Provisions in recited Acts as to models and copies of standard weights and measures repealed (*b*).

3. That so much of the said last-mentioned recited Acts as require that all weights and measures shall be models and copies in shape or form of the standards deposited in the exchequer, and also so much of the said recited Acts as allow the use of weights and measures not in conformity with the imperial standard weights and measures established by the said Acts, or allow goods or merchandize to be bought or sold by any weights or measures established by local custom or founded on special agreement, shall be and the same are hereby repealed.

Weights and measures stamped at the exchequer declared legal although not similar in shape to those required by recited Acts. Superintending officer may verify and stamp weights and measures of other form than those prescribed by the Act 5 G. 4, c. 74.

4. That all weights and measures which have been so verified and stamped at the exchequer at Westminster as copies of the standard weights and measures, corresponding in weight and capacity with those established by the said recited Acts, shall be deemed and taken to be legal weights and measures, to be used for comparison as copies of the imperial standard weights and measures, although not similar in shape to those required under the provisions of the said recited Acts; and that the comptroller general, or some other officer of the exchequer at Westminster duly authorised, may compare and verify, and stamp as so compared and verified, as correct standard measures of a yard, and as correct standard weights, and as correct standard measures of capacity, any weights and measures which shall correspond in length, weight, and capacity with the standards, or parts or multiples thereof respectively, deposited in the exchequer under the said Act of the fifth year aforesaid, although such weights and measures may not be models or copies in shape or form of the standards so deposited as aforesaid; anything in the said recited Acts to the contrary notwithstanding.

Copies of the standard weights and measures, which shall have been worn and mended to be sent to the exchequer to be re-verified. Officer to keep a register thereof.

5. That all copies of the imperial standard weights and measures which may have become defective, or have been mended in consequence of any wear or accident, shall forthwith be sent to the exchequer at Westminster for the purpose of being again compared and verified, and shall be stamped as re-verified copies of the imperial standard weights and measures, provided that the comptroller general or other officer appointed for such verification shall deem them fit to be used for the purposes of standards; and every new comparison and verification shall be endorsed upon the original indenture of verification; and such weights and measures shall be so stamped upon payment of fees of verification only; and the comptroller general, or other officer at the exchequer duly authorised shall keep an account or register of all copies of the imperial standard weights and measures that shall have been verified at the exchequer.

Local and customary measures abolished.

6. That from and after the passing of this Act the measure called the Winchester bushel, and the lineal measure called the Scotch ell, and all local or customary measure, shall be abolished; and every person who shall sell by any denomination of measure other than one of the imperial measures, or some multiple or some aliquot part, such as half, the quarter, the eighth, the sixteenth, or the thirty-second parts thereof, shall, on conviction, be liable to a penalty not exceeding the sum of forty shillings for every such sale: Provided always, that nothing herein contained shall prevent the sale of any articles in any vessel, where such vessel is not represented as containing any amount of imperial measure, or of any fixed, local, or customary measure heretofore in use.

Not to prevent sale of articles in certain vessels.

Heaped measure abolished.

7. "And whereas the heaped measure is liable to considerable variation;" BE IT THEREFORE ENACTED, that from and after the passing of this Act so much of the

---

(*a*) This Act applies only to bargains and sales in England, to be performed by measuring the articles in this country, and not to contracts to be performed abroad (*Rosseter* v. *Cahlmann*, 8 Exch. 361).

(*b*) "It has been thought that this repeal applies to section 15 of 5 Geo. 4, c. 74, as well as to section 16. But if carefully examined, it will appear that the repeal is confined to section 16, which recites the expediency of allowing persons to use the weights and measures not according to the standard which they may have in their possession, and enables them to buy and sell by weights and measures (other than the standard) established by local custom, or founded on special agreement, marking the proportion to the standard on the weights, &c.; and not to section 15, which relates to the manner in which contracts, &c., whether for sale, or for work to be done, or otherwise, may be expressed, and has no reference to any use to be made of any substances to be used as weights. It seems, therefore, that the section 15 of 5 Geo. 4, c. 74, is unaffected by this repeal; and that contracts by local weight may be lawfully made if the proportion to the standard is expressed, though it may be otherwise with respect to measures, all local measures being abolished by section 6 of this Act." (*Giles* v. *Jones*, 11 Ex. 393; 24 L. J. Exch. 263).

said recited Acts as relate to the heaped measure shall be and are hereby repealed, and the use of the heaped measure shall be abolished, and all bargains, sales, and contracts which shall be made after the passing of this Act by the heaped measure shall be null and void; and every person who shall sell any articles by the heaped measure shall, on conviction, be liable to a penalty not exceeding forty shillings for every such sale. 5 & 6 W. 4, c. 63.

8. "And whereas some articles heretofore sold by heaped measure are from their size and shape incapable of being stricken, and from their nature and quality may not be conveniently sold by weight;" BE IT THEREFORE ENACTED, That all such articles may henceforth be sold by a bushel measure, corresponding in shape with the bushel prescribed in and by the said Act passed in the fifth year of the reign of his late majesty for the sale of heaped measure, or by any multiple or by some aliquot part, such as the half, the quarter, or the eighth part thereof, filled in all parts as nearly to the level of the brim as the size and shape of the articles sold will admit: Provided always that nothing herein contained shall prevent the sale by weight of any article heretofore sold by heaped measure. Articles heretofore sold by heaped measure, how to be sold.

9. "And whereas the sale of all coals, slack, culm, and cannel of every description by weight, and not by measure, would tend greatly to prevent the commission of frauds and impositions in the vend and delivery of such coals, slack, culm, and cannel of every description;" BE IT THEREFORE ENACTED, That from and after the 1st day of January, 1836, all coals, slack, culm, and cannel of every description shall be sold by weight and not by measure; and every person who shall from and after the first day of January, 1836, sell any coals, slack, culm, or cannel of every description by measure and not by weight, shall, on conviction, be liable to a penalty not exceeding forty shillings for every such sale. Coals to be sold by weight and not by measure (a).

10. That from and after the passing of this Act all articles sold by weight shall be sold by avoirdupois weight, except gold, silver, platina, diamonds, or other precious stones, which may be sold by troy weight (b), and drugs, which, when sold by retail may be sold by apothecaries weight. All articles to be sold by avoirdupois, except as herein stated.

11. "And whereas by local customs in markets, towns, and other places throughout the united kingdom, the denomination of the stone weight varies;" BE IT THEREFORE ENACTED, That from and after the passing of this Act the weight denominated a stone shall in all cases consist of fourteen standard pounds avoirdupois, and that the weight denominated a hundred weight shall consist of eight such stones, and that the weight denominated a ton shall consist of twenty such hundred weight: Provided always, that nothing herein contained shall prevent any bargain, sale, or contract being made by any multiple or by some aliquot part, such as the half, the quarter, the eighth, or the sixteenth part of the pound weight. The stone weight, hundred weight, and ton (c).

12. That all weights which shall be made after the passing of this Act of the weight of one pound avoirdupois or more shall have the number of pounds contained in every such weight stamped or cast on the top or side thereof in legible figures and letters; and that all measures of capacity which shall be made after the passing of this Act shall have Contents of weights and measures to be stamped on them.

(a) See ante, Vol. I., p. 607, tit. "COALS."

In an action by a coal meter against an importer of coals, for preventing the plaintiff from measuring them, evidence was given of a custom for the corporation of London to measure all coals imported into London before the 1st of January, 1836, when this Act came into operation, and after that date to weigh them; and in proof of the plaintiff's appointment as a meter, he gave in evidence an entry not under seal in the corporation books, stating that he was so appointed: it was held, that the right by custom to measure was not converted by this Act into a right to weigh; and that, as payment in respect of the measurement was for the benefit of the meter only, he was an officer and not a mere servant of the corporation, and therefore an appointment under seal was necessary (*Smith* v. *Cartwright*, 6 Exch. 929).

(b) Such sales by troy weight may be made by the troy ounce, or by any weights which are multiples or decimal parts of that ounce, 16 & 17 Vict. c. 29, s. 1, post, 899.

(c) The effect of the whole of this section, taken together, seems to be that the words "stone," "hundred-weight," and "ton," shall no longer be ambiguous in themselves, or dependent for their meaning on local custom, but when used simply, shall have the meaning given by the Act; but that a contract expressed to be by a certain number of pounds shall be valid, notwithstanding it may conflict with the regulation as to the meaning of the words "stone," "hundred-weight," and "ton," contained in the first part of the section. This section, indeed, does not in terms prohibit any kind of contract; it imposes on certain words a certain sense; they must be understood in such sense, if the contract itself does not show that they are used in a different. If it does show that a different sense is intended, perhaps it might be impliedly void under the first part of the section, but if when used in a different sense a multiple of a pound avoirdupois is expressed by them, the contract is rendered valid by the proviso at the end of the section, by being exempted from the effect of the first part of the section, and left to the validity which it had under the 5 Geo. 4, c. 74, s. 9 (*Giles* v. *Jones*, 24 L. J. Exch. 264; 11 Ex. 393; ante, p. 884 n. (c), and 888, n. (b)).

5 & 6 W. 4, c. 63.

their contents denominated, stamped, or marked on the outside of such measures in legible figures, and letters.

Weights made of lead or pewter not to be stamped.

13. "And whereas the use of weights made of soft materials affords facility to fraud;" BE IT THEREFORE ENACTED, That from and after the 1st day of January, 1836, no weight made of lead or of pewter, or of any mixture thereof, shall be stamped or used: Provided always, that nothing herein contained shall prevent the use of lead or pewter, or of any mixture thereof, in the manufacture of weights, if they be wholly and substantially cased with brass, copper, or iron, and legibly stamped or marked "cased," or shall prevent the insertion of such a plug of lead or pewter into weights as shall be *bonâ fide* necessary for the purpose of adjusting them and of affixing thereon the stamp hereinafter mentioned.

For ascertaining certain rents and tolls, &c., payable in England and Ireland (a).

14. "And for the purpose of ascertaining and providing for the fulfilment of all existing contracts, and fixing the payments to be made in consequence of such contracts or rents in England and Ireland payable in grain or malt, or in any other commodity or thing, and in consequence of any toll, rate, or duty heretofore payable according to the weights and measures heretofore in use, where the same shall not have been already ascertained and fixed by agreement between parties, or under the provisions of the said Act of the fifth year of his late majesty;" BE IT ENACTED, That at the general or quarter sessions of the peace to be holden in every county, riding, or division, and in every city, town, or place (being a county of itself), in England or Ireland, next after the expiration of three months after the passing of this Act, or at any general or quarter sessions of the peace to be holden thereafter, on the application of any party to such sessions, an inquisition shall be taken before the justices assembled at such general or quarter sessions, by the oaths of twelve substantial freeholders of the said respective counties, cities, towns, or places, having lands or tenements to the value of one hundred pounds per annum or upwards, to be summoned by the sheriff or proper officers of every such county, city, town, or place, to inquire into and ascertain the amount, according to the standard of weight or measure by this Act established, of all contracts to be performed or rents to be paid in grain or malt or any other commodity or thing, or with reference to the measure or weight of any such grain, malt, or other commodity or thing, and the amount of any toll, rate, or duty heretofore payable according to any weights and measures heretofore in use within such counties, cities, towns, or places respectively (a); and in taking such inquisition, care shall be taken that in every case in which grain, malt, or meal, or any other commodity or thing, having, before the said 1st day of January, 1835, been sold by weight, shall henceforth be sold by measure, or having before the said 1st day of January been sold by measure shall henceforth be sold by weight, no increase or diminution be made in the amount of any rate, toll, or duty hereafter payable for such grain, malt, or any other commodity or thing, due regard being had to the substitution of measure for weight, or of weight for measure, as the case may be; and such inquisitions, when taken, shall be transmitted by the respective clerks of the peace of the same counties respectively, or by the mayor, bailiff, or other head officer of every such city, town, or place (being a county of itself), into his majesty's court of exchequer at Westminster and Dublin respectively, and shall be there inrolled of record, and shall and may be given in evidence in any action or suit at law or in equity; and the amount so to be ascertained shall, when converted into the standard weights and measures, be the rule of payment in regard to all such contracts, rents, tolls, rates, or duties in all time coming; and the costs and charges of such inquisitions and the inrolments thereof shall be paid and defrayed by the party on whose application such requisition shall be taken.

For ascertaining certain rents, tolls, &c., payable in Scotland.

15. "And for the purpose of ascertaining and providing for the fulfilment of all existing contracts, and fixing the payments to be made of all stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever payable in grain, malt, or meal, or any other commodity or thing, in Scotland, or in any other place or district of the same, according to the weights and measures heretofore in use, when such payments shall not have been already ascertained and fixed by agreement between parties, or under the provisions of the said Act of the fifth year of his late majesty;" BE IT ENACTED, That the sheriff in each shire in Scotland shall, on the application of any party to such sheriff, as soon as conveniently may be after the expiration of three calendar months from and after the passing of this Act, summon and impannel a jury, of the same number and of the same qualifications which are required in the jury who strike the fiar prices of grain within the same shire, to assemble at such place or places as he shall find convenient, which jury shall inquire into and ascertain the amount, according to the standards by this Act established, of all such stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever payable in grain, malt, meal, or any other commodity or thing, according to the weights and measures heretofore in use

---

(a) This section applies only to cases of fixed contracts or payments which cannot be varied by the parties, and to tolls or rates payable according to the weights and measures previously in use. In such cases the proportions are to be adjusted by the sessions. But the Act does not apply where commissioners have power, under a statute to vary the tolls, and where they have actually fixed the amount since the passing of this Act (*per* Parke, B., *Goody* v. *Penny*, 9 M. & W. 691; *The Mayor of Rochester* v. *Lee*, Q. B., 4th Dec. 1850, Har. Dig. 1022).

within the same shires; and in taking such inquisition, care shall be taken that in every case in which grain, malt, or meal, or any other commodity or thing, having, before the 1st day of January, 1835, been sold by weight shall henceforth be sold by measure, or having before the said 1st day of January been sold by measure shall henceforth be sold by weight, no increase or diminution be made in the amount of any stipend, feu duty, rent, toll, custom, or casualty heretofore payable for such grain, malt, or any other commodity or thing, due regard being had to the substitution of measure for weight, or of weight for measure, as the case may be; and such inquisitions, when taken, shall be transmitted by the respective sheriff clerks of such shire into his majesty's court of exchequer at Edinburgh, and shall there be inrolled of record, and shall and may be given in evidence in any action at law; and the amount so to be ascertained shall, when converted into the standard weights and measures, be the rule of payment in regard to all such stipends, feu duties, rents, tolls, customs, casualties, and other demands whatsoever in all time coming; and the costs and charges of such inquisitions and the inrolment thereof shall be assessed and levied, paid and defrayed, by the party on whose application such inquisition shall have been taken. 5 & 6 W. 4, c. 63.

16. That in Scotland, from and after the passing of this Act, the fiar prices of all grain in every county shall be struck by the imperial quarter, and all other returns of the prices of grain shall be set forth by the same, without any reference to any other measure whatsoever; and that any sheriff clerk, clerk of a market, or other person who shall offend against this provision shall forfeit a sum not exceeding 5*l*. Regulation as to fiar prices of commodities in Scotland.

17. That in England, at the general or quarter sessions of the peace (*a*) next after the passing of this Act, the justices of the peace of every county, riding, or division, or county of a city, or county of a town, in general or quarter sessions assembled, and in Scotland the justices of the peace, at a meeting to be called for the purpose by the sheriff of each county, and the magistrates of each royal burgh, within three months after the passing of this Act, and so from time to time at any subsequent general or quarter sessions, or meeting so called as aforesaid, shall determine the number of copies of the imperial standard weights and measures which they shall deem requisite for the comparison of all weights and measures in use within their respective jurisdictions, and shall direct that such copies, verified and stamped at the exchequer, shall be provided for the use of the same, and shall fix the places at which such copies shall be deposited, and shall appoint a sufficient number of inspectors of weights and measures for the safe custody of such copies, and for the discharge of the other duties hereinafter mentioned, and shall allot to each inspector a separate district, such district to be distinguished by a number or mark, and shall direct what reasonable remuneration shall be paid to such inspectors for the discharge of such duties as they shall have been ordered by such justices or magistrates as aforesaid to perform; and they are hereby empowered to suspend or dismiss any inspector so appointed, or to appoint additional inspectors, as occasion may require: Provided always, that nothing herein contained shall extend to compel any royal burgh of Scotland (except such as are county towns) to provide copies of the imperial standard weights and measures, or to appoint an inspector or inspectors for the performance of the duties prescribed by this Act; and that it shall be lawful for the justices of the peace in any county, and for the magistrates of any royal burgh within such county, where they shall agree, to unite the whole or a portion of the county with such royal burgh, and to appoint one inspector therefor, and to provide at their joint expense copies of the imperial standard weights and measures to be used within such united district. Copies of imperial standards to be provided by order of general or quarter sessions in England, and by meetings of justices in Scotland. Appointment of inspectors.

18. "And whereas by reason of the difficulty of communication between the parts of the islands of Orkney and Zetland, it is expedient that further time should be allowed for bringing this Act into operation in those islands:" BE IT ENACTED, That this Act Extending time for operation of Act

---

(*a*) In the case of *Reg.* v. *The Recorder of Hull* (8 Ad. & E. 638), it was determined that the recorder of a borough, being a county of itself, has the powers relating to the inspector of weights and measures, given by this section to the justices in every county in quarter sessions assembled. The judgments delivered by Lord Denman and Mr. Justice Patteson in that case would appear to sanction the opinion, that in all boroughs, whether counties of themselves or not, having a separate court of quarter sessions, the recorder would have the power of appointing such inspector, &c. (see *Reg.* v. *Inhabitants of St. Lawrence, Ludlow*, 11 Ad. & E. 170). But where the town of B., which was not a county of itself, and had no separate court of quarter sessions, was incorporated by Act of parliament, and a separate court of quarter sessions was granted to it: it was held, that the recorder had not the power to appoint such inspector (*Duly* v. *Sharood*, 25 L. J. M. C. 122; 6 E. & B. 830).

It was held that the 37 Geo. 3, c. 143, s. 1, by which the justices at their respective petty sessions, within the divisions, districts, and other places of the several counties of England, were authorised to appoint examiners of weights and balances, extended only to such divisions, &c., as were known and recognised at the time when the Act passed, and therefore such appointment, made at a petty sessions by two justices for a district which they had, without the consent of other magistrates, created within the last five or six years, was illegal (*Rex* v. *Devon Justices*, 1 B. & Ald. 588).

5 & 6 W. 4, c. 63.

shall not take effect in the islands of Orkney and Zetland before and until the 1st day of May, 1836, any part of this or any other statute notwithstanding.

In Orkney and Zetland.

Copies of standards to be provided by grand juries in Ireland;

19. That in Ireland the grand jury of every county, county of a city, or county of a town, shall, at the assizes, or, where no assizes are held, at the presenting term, next ensuing after the passing of this Act, and so from time to time at any subsequent assizes or presenting term, determine the number of copies of the imperial standard weights and measures which they shall deem requisite for the comparison of all weights and measures in use within their counties, counties of cities, or counties of towns respectively, and shall direct that such copies, verified and stamped at the exchequer, shall be provided for the use of the same, and shall fix the places at which such copies shall be deposited; and shall appoint a sufficient number of inspectors of weights and measures for the safe custody of such copies, and for the discharge of the other duties hereinafter mentioned, and shall allot to each inspector a separate district, and shall direct what reasonable remuneration (*a*) shall be paid to such inspectors; and they are hereby empowered to suspend or dismiss any inspectors so appointed, or to appoint additional inspectors, from time to time as occasion may require.

and inspectors appointed.

Judges to order copies of standards in counties in Ireland, when it has not been done by grand juries.

20. That in Ireland the senior judge shall, before the close of the assizes next ensuing after the passing of this Act, inquire whether one complete set of such copies of the imperial standard weights, measures, and stamps has been provided in each county, county of a city, or county of a town; and in every case in which it shall not appear to him that one set at least of such copies has been provided, such judge shall forthwith order the treasurer of the county, county of a city, or county of a town, to provide one complete set of such copies; and every such order shall have the effect of a presentment on the county at large for such sum as may be necessary to procure a complete set of such copies; and such treasurer shall, within three calendar months next after he shall receive such order, fully execute the same, or failing so to do shall forfeit the sum of 50*l.* sterling.

Magistrates in England and Scotland and grand juries in Ireland to procure stamps for inspectors, for stamping all weights, &c., under this Act.

21. That in England the justices of the peace, in general or quarter sessions assembled, and in Scotland the justices of the peace and magistrates at a meeting called by the sheriff, and in Ireland the grand jury of each county, county of a city, or county of a town, shall provide for the use of the inspectors good and sufficient stamps for the stamping or sealing weights and measures used or to be used in each and every county, riding, or division, county of a city or county of a town, which stamps so provided shall be taken to be the stamps for such county, riding, or division, county of a city or county of a town; and that all weights and measures whatsoever, except as hereinafter excepted, which shall be used for buying and selling, or for the collecting of any tolls or duties, or for the making of any charges on the conveyance of any goods or merchandize, shall be examined and compared with one or more of the copies of the imperial standard weights and measures provided under the authority of this Act for the purpose of comparison by such inspectors, who shall stamp, in such manner as best to prevent fraud, such weights and measures, when so examined and compared, if found to correspond with the said copies; and the fees for such examination, comparison, and stamping shall be according to the scale contained in the schedule to this Act annexed; and every person who shall use (*b*) any weight or measure other than those authorised by this Act, or some aliquot part thereof as hereinbefore described, or which has not been so stamped as aforesaid, except as hereinafter excepted, or which shall be found light or otherwise unjust, shall, on conviction, forfeit a sum not exceeding 5*l.*; and any contract, bargain, or sale made by any such weights or measures shall be wholly null and void, and every such light or unjust weight and measure so used shall, on being discovered by any inspector so appointed as aforesaid, be seized (*c*), and, on conviction of the person using or possessing the same, shall be forfeited: Provided always, that nothing herein contained shall extend to require any single weight above fifty-six pounds to be inspected and stamped, such weight of fifty-six pounds being the greatest of the imperial standard weights deposited in the exchequer; and that nothing herein contained shall extend to require any wooden or wicker measure used in the sale of lime, or other articles of the

Penalty on using weights or measures not authorised by Act, &c.

No weight above 56lbs. to be inspected or stamped (*d*).

(*a*) The sessions has power to appoint superintendents, &c., of rural police to be inspectors without a salary (*Reg.* v. *Jarvis*, 3 E. & B. 640).

(*b*) Where A. was convicted for possessing false weights, and an unjust weighing machine; he was receiver of the metropolitan police, a station house, and all the chattels there, were vested in him; in the station house were weights which were light, and a weighing machine which, from an injury, gave light weight; these were used in weighing coals which were allowed to the constables. The conviction was quashed, the weights, &c., not being used within the meaning of this section, and the station house not being a store, &c., where goods were exposed or kept for sale, nor weighed for conveyance or carriage, and therefore section 28 being inapplicable (*Wray* v. *Reynolds*, 1 El. & El. 165).

(*c*) The power of seizure appears to be confined to weights and measures found, on comparison, to be deficient in point of weight or size, and not to extend to such as are merely unstamped (see note, Ch. Burn's J., 28th ed., vol. 6, pp. 209, 210; and *Thomas* v. *Stephenson*, post, p. 895, note (*b*)).

(*d*) See *Kershaw* v. *Johnson*, 1 Car. & K. 392.

like nature, or any glass or earthenware jug (*a*) or drinking-cup, though represented as containing the amount of any imperial measure, or of any multiple thereof, to be stamped; but any person buying by any vessel represented as containing the amount of any imperial measure, or of any multiple thereof, is hereby authorised to require the contents of such vessel to be ascertained by a comparison with a stamped measure, such stamped measure to be found and provided by the person who shall use such wooden or wicker measure, glass, jug, or drinking cup as aforesaid; and in case the person who shall use such last-mentioned measure or vessel shall refuse to make such comparison, or if, upon such comparison being made, such wooden or wicker measure, glass jug or drinking cup, shall be found to be deficient in quantity, the person who shall use the same shall, on conviction, be subject to the forfeitures and penalties hereinbefore imposed on any person using light or unjust weights or measures. 5 & 6 W. 4, c. 63.

22. That the expense of providing and transmitting such copies of the imperial standard weights and measures, and of the stamps to be used by the inspectors, and the remuneration to the inspectors, shall be paid in England out of the stock raised in such counties, ridings, divisions, or counties of cities; and in Scotland such expenses in the respective shires and stewartries, and cities or royal burghs, shall be assessed by the commissioners of supply upon such shires and stewartries, and upon cities or royal burghs by the magistrates thereof, and shall be paid, along with the land tax payable in such shires or stewartries and cities or royal burghs, to the collectors of the land tax in such shires or stewartries and cities or royal burghs respectively; and in Ireland such expenses in the respective counties, counties of cities, and counties of towns, shall be provided for and paid by presentments to be made by the grand juries on such counties, counties of cities, and counties of towns respectively; and the collectors of land tax in Scotland shall have such and the same powers of levying and recovering the assessments to be made under this Act as are competent to them for levying and recovering the said land tax.

Expense of providing copies of standard weights, and the remuneration to inspectors, to be defrayed out of county rate, &c.

23. That after the passing of this Act no maker or seller of weights or measures, or person employed in the making or selling thereof, shall be appointed an inspector of weights and measures under the provisions of this Act; and that every inspector shall forthwith enter into a bond or recognisance to the king, to be sued for in any court of record, in the sum of 200*l.*, for the due and punctual performance of the duties of his office, and for the due and punctual payment, at such time or times as he may be directed by the justices, magistrates, or other persons by whom he may have been appointed, of all fees received by him under the authority of this Act, and for the safety of the stamps and copies of the imperial standard weights and measures committed to his charge, and for their due restoration and surrender to such person or persons as may be appointed to receive them by the justices, magistrates, or other persons aforesaid, immediately on his removal or other cessation from office.

No maker or seller of weights or measures to be appointed inspector.

Inspectors to enter into recognisance.

24. That in England the justices in general or quarter sessions assembled, and in Scotland the justices or magistrates at a meeting called by the sheriff, and in Ireland the grand jury of each county, county of a city, or county of a town, shall determine and appoint on what day or days each and every such inspector shall attend with the stamps and copies of the imperial standard weights and measures in his custody at each of the several market towns, and at such other places within their respective jurisdictions as they shall deem expedient; and every such inspector so attending shall examine, compare, and stamp, if found correct, all such weights and measures as shall be brought to him for that purpose, and shall also upon all measures and upon all weights of a quarter of a pound and upwards stamp a number or mark distinguishing the district in which he acts, and he shall keep a book, wherein he shall enter minutes of all such comparisons, and give, if required, a certificate under his hand of every such stamping; and every inspector shall, once in every quarter of a year, account to the treasurer of the county, riding, division, county of a city or county of a town, or to such other persons as shall be duly authorised by those by whom he may have been appointed, for all fees received by him under this Act, and shall pay the amount thereof to such treasurer or other persons as aforesaid, who shall duly account for the same.

Inspectors to attend at market towns, when ordered by justices, &c.

Inspector to pay fees to treasurer of county, &c.

25. Provided always, That in the town of Berwick-upon-Tweed and all other places which have been or shall be hereafter authorised under the provisions of any Act of parliament, whether local or otherwise, to appoint inspectors or examiners of weights and measures, and in all other places which have been or shall be hereafter by charter, Act of parliament, or otherwise possessed of legal jurisdiction, and which have been or shall be hereafter provided with copies of the imperial standard weights and measures verified and stamped at the exchequer, it shall be lawful for the magistrates of such places, or for any other persons who may be so authorised as aforesaid, to appoint an inspector or inspectors of weights and measures within the limits of their respective jurisdictions; and such inspectors so appointed shall, within such limits exclusively, have the same powers and discharge the same duties as the inspectors of weights and measures appointed under this Act by the county justices or grand juries for their respective counties, and shall account as aforesaid to such persons as shall be duly

Power to magistrates of towns, &c., to appoint inspectors.

Powers of such inspectors.

(*a*) Under this section, earthen vessels are liable to seizure if ordinarily used as measures, and if on examination they are found to be unjust (*Washington* v. *Young*, 5 Exch. 403; *R.* v. *Aulton*, 30 L. J. M. C. 129).

5 & 6 W. 4, c. 63.

authorised by those by whom they may have been appointed for the amount of the fees received by them: Provided always, that nothing herein contained shall prevent inspectors (a) appointed by county justices or grand juries from coming to any place within the limits of such other jurisdiction or authority as aforesaid, and there inspecting and stamping the weights and measures of any person residing within the district for which such inspectors may have been appointed; but that any inspector knowingly stamping any weight or measure of any person residing within the limits of any local jurisdiction for which another inspector may have been legally appointed as aforesaid, shall forfeit a sum not exceeding 20*s.* for every weight or measure which he may so stamp.

Penalty on inspector knowingly stamping weights, &c., of any person residing out of the district.

Weigh-masters in Ireland to be supplied with beams and scales, and accurate copies.

26. That in every city or town not being a county of itself, every individual or individuals or body corporate in Ireland exercising the privilege of appointing a weigh-master, shall, on or before the 1st day of January, 1836, or within three months after the set of copies of the imperial standard weights and measures for the county in which such right shall be exercised shall have been provided, supply such weigh-master with accurate beams and scales, and with a set of accurate copies, in respect of weight, capacity, and length, of the county set, under a penalty of twenty pounds; and the accuracy of such set of copies shall be certified under the hand of some inspector of weights and measures; and such set of copies shall, for the purpose of comparison and verification, be considered copies of the imperial standard weights and measures required by this Act, and shall be used for no other purpose whatever, under a penalty of five pounds; and once at least in every five years, under the like penalty, the same shall be readjusted by some set of copies of the standard weights and measures which shall have been verified by the exchequer standard.

Weights and measures once stamped need not be re-stamped.

27. That no weight or measure duly stamped by an inspector appointed under the authority of the said Act hereby repealed, or this Act, or by any other person or persons legally authorised to examine and stamp any weights or measures, shall be liable to be re-stamped, although the same be used in any other place than that at which the same was originally stamped, but shall be considered as a legal weight or measure throughout the united kingdom, unless found to be defective or unjust.

Power to justices and inspectors to enter shops and inspect weights and measures (b).

28. That in England and Ireland it shall be lawful for every justice of the peace of any county, riding, or division, or of any city or town, and in Scotland for every sheriff, justice, or magistrate of any borough or town, or for any inspector authorised in writing under the hand of any justice of the peace in England and Ireland, or of any sheriff, justice or magistrate in Scotland, at all reasonable times to enter any shop, store, warehouse (c), stall, yard, or place whatsoever within his jurisdiction (d), wherein goods shall be exposed (e) or kept for sale, or shall be weighed for conveyance or carriage, and there to examine the weights, measures (f), steelyards, or other weighing machines, and to

---

(a) The words any inspector in this proviso apply to an inspector appointed under this section, as well as to an inspector appointed by county justices; and therefore an inspector appointed by the mayor of C., who stamped at his office in C. weights brought to him for that purpose, knowing them to be the property of a person residing within a district for which an inspector had been appointed by the county justices, was held to be rightly convicted (*Reg.* v. *Skelton*, 23 L. J. M. C. 222).

(b) See *Thomas* v. *Stephenson*, 2 E. & B. 108; 22 L. J. Q. B. 258.

(c) See *Wray* v. *Reynolds*, supra, p. 892, n. (b).

(d) The term "within his jurisdiction" is to be referred to all the persons previously mentioned: that is, the sheriff may enter within his jurisdiction, the justice may enter within his jurisdiction, the magistrate for the borough or town may enter within his jurisdiction, and persons authorised in writing by the justice, &c. (although the use of the term jurisdiction is not very proper with reference to an inspector, who does not act judicially, and who has not, properly speaking, jurisdiction), have thereby a general authority at all seasonable times to enter into all shops, &c., within the limits of the authority so given to them, for the purpose of ascertaining whether the weights and measures are correct. And whatever authority the justice has, a person authorised by him in writing must have; and that being a general authority to enter at all seasonable times, it follows that he may in a general form transfer the same authority to the inspector. It was not intended that there should be a particular warrant on each occasion, but that every inspector who has been appointed at the quarter sessions, and who is thought a trustworthy person, may be authorised by any justice, within the limits of his jurisdiction, to make a search whenever, at seasonable times, he thinks the interest of the public requires such search should be made (*per* Parke, B., *Hutchings* v. *Reeves*, 9 M. & W. 755; *Kershaw* v. *Johnson*, infra).

(e) See *Kershaw* v. *Johnson*, 1 Car. & K. 329; *Wray* v. *Reynolds*, supra, p. 892, n. (b).

(f) Earthenware vessels, unstamped, but ordinarily used as containing a certain quantity according to imperial measure, are "measures" within this section, and if found unjust are liable to be seized, and the dealer in whose premises they are found is liable to penalties, under this section, for having them in his possession (affirming *Washington* v. *Young*, 5 Ex. 403; *R.* v. *Aulton*, 30 L. J. M. C. 129).

compare and try the same (*a*) with the copies of the imperial standard weights and measures required or authorised to be provided under this Act; and if upon such examination it shall appear that the said weights or measures are light or otherwise unjust, the same (*b*) shall be liable to be seized and forfeited; and the person or persons in whose possession the same shall be found shall, on conviction, forfeit a sum not exceeding five pounds; and any person who shall have in his or her possession a steelyard or other weighing machine which shall on such examination be found incorrect or otherwise unjust, or who shall neglect or refuse to produce for such examination, when thereto required, all weights, measures, steelyards, or other weighing machines which shall be in his or her possession, or shall otherwise obstruct or hinder such examination, shall be liable to a like penalty. 5 & 6 W. 4, c. 63.

29. That in case any inspector of weights and measures, or any other person legally authorised to examine and stamp any weights or measures, shall stamp any weight or measure without duly verifying the same by comparison with a copy of the imperial standard, or shall be guilty of a breach of any duty imposed upon him by this Act, or shall otherwise misconduct himself in the execution of his office, every such offender shall, upon conviction, forfeit a sum not exceeding five pounds for every such offence. Penalty on inspector for neglect of duty or for misconduct.

30. That if any person or persons shall make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or knowingly act or assist in the making, forging, or counterfeiting, any stamp or mark now used or which may hereafter be used for the stamping or marking of any weights or measures under this Act, shall for every such offence forfeit, on conviction, a sum not exceeding fifty pounds or less than ten pounds; and if any person shall knowingly sell, utter, dispose of, or expose to sale any weight or measure with such forged or counterfeit stamp or mark thereon, every person so offending shall for every such offence forfeit, on conviction, a sum not exceeding ten pounds or less than forty shillings; and that all weights and measures with such forged or counterfeited stamps or marks shall be forfeited and broken up, and the proceeds thereof shall be disposed of in the manner hereinafter mentioned. Penalty for counterfeiting stamps on weights and measures.

31. That from and after the 1st day of January, 1836, if any person or persons shall print, or if the clerk of any market or other person shall make any return, price list, price current, or any journal or other paper containing price list or price current, in which the denomination of weights and measures quoted or referred to shall denote or imply a greater or less weight or measure than is denoted or implied by the same denomination of the imperial weights and measures under and according to the provisions of this Act, such person or persons or clerk of the market shall forfeit and pay any sum not exceeding ten shillings for every copy of every such return, price list, price current, journal or other paper which he or they shall publish. Penalty on price lists, &c., denoting greater or less weight or measure than the same denomination of imperial weight or measure.

32. That all penalties and forfeitures which shall be incurred under any of the provisions of the said recited Act of the fifth year aforesaid, or this Act, after deducting so much thereof, not exceeding a moiety, to be paid to the party on whose information the conviction shall take place, as the justice before whom the party is convicted shall think fit, shall be paid to the treasurer of such county, riding, or division, county of a city, corporate town, or other place in which they shall be respectively recovered, or to such other person as shall be duly authorised to receive the same, and be applied to and make part of the county stock, or of such other funds as shall be liable, under the provisions of this or any other Act, to the cost of providing and maintaining copies of the imperial standard weights and measures; any thing in the said recited Act of the fifth year aforesaid to the contrary notwithstanding. As to penalties in England and Ireland.

33. That in all counties, ridings, or divisions in England and Ireland, all penalties and forfeitures under this Act shall be sued for before two or more justices of the peace at petty sessions, or before the mayor or other chief magistrate of any city, borough, town, or place within whose jurisdiction the offence shall have been committed; and that the conviction may be drawn up according to the following form, or in words to the like effect:— Suing for penalties.

"Be it remembered, that on the day of in the year of our Lord A. B. is convicted before us, two of his majesty's justices of the peace [*or* before me the mayor *or* chief magistrate of the city, borough, &c. of] for the [*here specify the offence, and the time and place when and where committed, as the case may be*], contrary to an Act passed in the year of the reign of king William the fourth, intituled, &c. [*as the case may be*]; and we [*or I*] do adjudge that the said A. B. hath forfeited for his [*or* her] said offence the sum of [*here insert the penalty*]. Given under our hands and seals [*or* my hand and seal] the day and year first above written." Form of conviction.

34. That in England and Ireland all penalties and forfeitures inflicted or imposed by this Act may, in case of non-payment thereof, be recovered in a summary way by the order and adjudication of two or more justices of the peace at petty sessions, or before Recovery of penalties.

(*a*) Under this section an inspector is not authorised in seizing any weight, without having first compared it with the standard in order to ascertain whether it be just or not (*Kershaw* v. *Johnson*, 1 Car. & K. 329).

(*b*) That is, the weights and measures, not the scales, though imperfect (*Thomas* v. *Stephenson*, 2 E. & B. 108; 22 L. J., Q. B. 258).

5 & 6 W. 4, c. 63.

By distress, &c.

the mayor or other chief magistrate of any borough, city, town, or place within whose jurisdiction the offence shall have been committed, on complaint to them or him for that purpose made, and afterwards be levied, as well as the costs (if any) of such proceedings, on non-payment, by distress and sale of the goods and chattels of the respective offenders, by warrant under the hands and seals of such justices, or hand and seal of such mayor or other chief magistrate, who is and are hereby authorised and required to summon and examine any witnesses of or concerning such offence, and to hear and determine the same; and the overplus (if any) of the money so raised or recovered, after discharging such penalties or forfeitures, and the costs and expenses as aforesaid, shall be returned, on demand, to the respective owners of the goods and chattels so seized and distrained; and in case any such penalty or forfeiture shall not be forthwith paid, it shall be lawful for the said justices, mayor, or other chief magistrate, to order any offender so convicted to be detained in safe custody until return can be conveniently made to such warrant of distress, unless such offender can give sufficient security, to the satisfaction of such justices, mayor, or other chief officer, for his or her appearance before the said justices, or before some other justices having jurisdiction, or before such mayor or other chief magistrate, on such day as shall be appointed for the return of such warrant, such day not being later than eight days from the day of taking any such security, and which security any such justices, mayor, or other chief magistrate are and is hereby empowered to take by way of recognisance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the said penalty or forfeiture and costs and expenses aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of any such justices, mayor, or other chief magistrate, upon the confession of the offender or otherwise, that he or she hath not sufficient goods and chattels whereupon such penalty or forfeiture, costs and expenses, could be levied if a warrant of distress were issued, such justices, mayor, or other chief magistrate shall not be required to issue such warrant, but in such case such justices, mayor, or other chief magistrate is hereby required, by warrant under their hands and seals or his hand and seal, to commit such offender to some common gaol or house of correction for the county, city, borough, town, or place, there to remain without bail or mainprize for any time not exceeding two calendar months, or until such offender shall have paid such penalty or forfeiture, and all costs and charges attending the proceedings (to be ascertained by such justices, mayor, or other chief magistrate), or shall otherwise be discharged by due course of law.

If not sufficient distress, offender to be committed to common gaol, &c.

Persons aggrieved may appeal to quarter sessions.

35. That in England and Ireland all persons who may think themselves aggrieved by any order, judgment, or determination of any justice of the peace, mayor, or chief magistrate, relating to any matter or thing in this Act mentioned or contained, may, within fourteen days next after such order, judgment, or determination shall have been made or given, appeal to the justices of the peace at the then next ensuing general or quarter sessions to be held for the city, borough, or county within which the alleged cause of appeal shall arise, first giving seven days' notice in writing of such intention to appeal, and the grounds and nature thereof, to the party against whom such complaint is intended to be made, and forthwith after such notice entering into a recognisance before some justice of the peace, mayor, or other chief magistrate, with two sufficient sureties, conditioned to try such appeal, and abide the order and award of the said court thereon; and the said justices shall either hear and determine the said complaint at such general or quarter sessions, or, if they think proper, shall adjourn the hearing thereof to the following general or quarter sessions of the peace to be held for such city, borough, or county; and the said justices may, if they see cause, mitigate any penalty or forfeiture, and may order any money to be returned which may have been levied in pursuance of such order or determination, and may also order any such further satisfaction to be made to the party injured as they shall judge reasonable, and may also order such costs to be paid to the party aggrieved by the party aggressing as they shall think reasonable.

Proceedings not to be quashed for want of form or removed.

36. That no proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by *certiorari*, or by any other writ or proceeding whatsoever, into any of his majesty's courts of record at Westminster or elsewhere, any law or statute to the contrary notwithstanding.

As to penalties in Scotland.

37. That in Scotland all penalties incurred under the provisions of this Act or of any of the before-recited Acts shall be recoverable, with expenses, either before the sheriff of the county or the magistrates of the burgh or town corporate wherein the same may be incurred or where the offender may reside, or before two or more justices of the peace of such county, at the instance either of the procurator fiscal of court or any person who may prosecute for the same, and the whole penalties, after deducting all charges and such remuneration to the person prosecuting as the said justices shall think fit, shall be applied in aid of the funds liable under the provisions of this Act to the cost of providing and maintaining copies of the imperial standard weights and measures in the place where such penalties shall be awarded; and it is hereby provided, that it shall be competent for the said courts respectively to proceed in a summary way, and to grant warrant for bringing the parties complained of before them, and upon proof on oath by one or more credible witnesses, or on the confession of the offender, or on other legal evidence, forthwith to give judgment on such complaint, without any written pleadings or record of evidence, and to grant warrant for the recovery of such penalties and expenses decerned for, failing payment, within fourteen days after conviction, by poinding, or by imprison-

ment for a period, at the discretion of the court, not exceeding sixty days, it being hereby provided that a record should be preserved of the charge and of the judgment pronounced. 5 & 6 W. 4, c. 63.

38. That in Scotland if any person or persons shall feel themselves aggrieved by the sentence of any sheriff, or magistrates of burghs or towns corporate, or justices of the peace, pronounced in any case arising under this Act, it shall be lawful for such person or persons to appeal to the court of justiciary at the next circuit court, or, where there is no circuit court, to the high court of justiciary at Edinburgh, in the manner, and under the rules, limitations, and conditions contained in an Act passed in the twentieth year of the reign of his majesty king George the second, intituled "An Act for taking away and abolishing Heritable Jurisdictions in Scotland," with this variation only, that such person or persons so appealing shall, in place of finding caution in the terms prescribed by the said Act, be bound to find caution to pay the penalty or penalties and expenses awarded against him or them by the sentence or sentences appealed from, in the event of the appeal or appeals being dismissed, together with any additional expenses which shall be awarded by the court in dismissing the said appeal; and it shall not be competent to appeal from or to bring the judgment of any sheriff or justices of the peace acting under this Act under review by advocation, suspension, or reduction, or in any other way other than as herein provided. Appeal in Scotland to commissioners of justiciary at circuit court. 20 G. 2, c. 43.

39. That in all actions brought against any person for anything done in pursuance of this Act, or in the execution of the powers or authorities thereof, such action shall be laid and brought in the county within which the cause of action shall have arisen; and the defendant or defendants in such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the Acts were done in pursuance or by the authority of this Act; and if they shall appear to have been so done, or that such action shall have been brought otherwise than as hereinbefore directed, then and in every such case the jury shall find for the defendant or defendants; upon which verdict, or if the plaintiff or plaintiffs shall become nonsuited, or shall suffer a discontinuance of his, her, or their action, after the defendant or defendants shall have appeared thereto, or if a verdict shall pass against the plaintiff or plaintiffs therein, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have his, her, or their costs, and shall have such remedy for recovering the same as defendants have for recovering costs of suit by law in any other cases. Limitation of actions, &c. (a).

40. That no plaintiff shall recover in any action for any irregularity, trespass, or other wrongful proceeding made or committed in the execution of this Act, if tender of sufficient amends shall have been made by or on behalf of the party or parties who shall commit such irregularity, trespass, or other wrongful proceeding, before such action brought, and in case no tender shall have been made, it shall be lawful for the defendant or defendants in any such action, by leave of the court wherein such action shall depend, at any time before issue joined, to pay into court such sum or sums of money as he, she, or they may think fit, whereupon proceedings, order and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court. Plaintiff not to recover after tender of amends.

41. [4 Anne (I.) and 5 G. 4, c. 110, repealed, except so far as relate to duties, &c., of weigh-masters.]

42. Provided always, That nothing in this Act contained shall interfere with the powers of the ward inquests in respect to weights and measures within the city of London and the liberties thereof and the borough of Southwark, nor prohibit, defeat, injure, or lessen the right of the mayor and commonalty and citizens of the city of London, or of the lord mayor of the said city for the time being, with respect to the stamping or sealing weights and measures or concerning the office of gauger of wines, oils, honey, and other gaugeable liquors imported and landed within the city of London and liberties thereof. Powers of ward inquests in London, &c., not to be interfered with.

43. [Rights of the founders' company reserved.]

44. Provided always, That nothing in this Act contained shall extend to prohibit, defeat, injure, or lessen the rights or privileges of either of the universities of Oxford or Cambridge, but that the custody of the assize, assay and overlooking of weights and measures in the city of Oxford and its suburbs, and in the town of Cambridge, shall continue as heretofore, and be in the chancellor, vice-chancellor, or his deputy, of the said universities respectively; and that the chancellor, vice-chancellor, or his deputy, of each of the said universities for the time being, and none other, shall have the power, and is or are hereby authorised, as occasion may require, to appoint in and for the said city and suburbs, and in and for the said town respectively, an inspector or inspectors of weights and measures, and shall have full power and authority to perform and execute all such matters and things as are required or are granted to justices of the peace of any county, city, town, or other jurisdiction in England and Wales, under the provisions of this Act, or by any or either of the said recited Acts; and every such inspector is hereby Saving the rights of the universities of Oxford and Cambridge.

(a) An inspector, who had illegally seized a weighing-machine under a bonâ fide belief that he was acting at the time under the authority of this Act, is entitled to the protection of this section (*Thomas* v. *Stephenson*, 2 El. & Bl. 108; 22 L. J., Q. B. 258).

A weigh-bridge at a railway station, which weighs correctly if properly adjusted before use, is found by the inspector, who does not adjust it, to be incorrect: it was held, that it was not a weighing-machine found incorrect upon a proper examination within sect. 28, ante, p. 894 (*London and N.-W. R. C.* v. *Richards*, 2 B. & S. 326.

5 & 6 W. 4, c. 63.

authorised and empowered to put in force and execute all such powers and provisions as are by this Act, or by any or either of the said recited Acts, granted to or required of any inspector or inspectors of weights and measures appointed as aforesaid by the justices of the peace in quarter sessions assembled.

Not to abridge the power of the leet jury, &c. (a).

45. Provided always, That nothing in this Act contained shall extend or be construed to extend to supersede, limit, take away, lessen, or prevent the authority which any person or persons, bodies politic or corporate, or any person appointed at any court leet for any hundred or manor, or any jury or ward inquest, may have or possess for the examining, regulating, seizing, breaking, or destroying any weights, balances, or measures within their respective jurisdictions, or the power given by any Act or Acts now in force to justices or other authorities to appoint examiners for the inspection of weights and measures.

SCHEDULE OF FEES

To be taken by all Inspectors of Weights and Measures appointed under the Authority of this Act.

For examining, comparing, and stamping all brass weights, within their respective jurisdictions:

	s.	d.
Each half hundred weight	0	9
Each quarter of a hundred weight	0	6
Each stone	0	4
Each weight under a stone to a pound inclusive	0	1
Each weight under a pound	0	0½
Each set of weights of a pound and under	0	2

For examining, comparing, and stamping all iron weights, or weights of other descriptions not made of brass, within their respective jurisdictions:

	s.	d.
Each half hundred weight	0	3
Each quarter of a hundred weight	0	2
Each stone	0	1
Each weight under a stone	0	0½
Each set of weights of a pound and under	0	2

For examining, comparing, and stamping all wooden measures, within their respective jurisdictions:

	s.	d.
Each bushel	0	3
Each half bushel	0	2
Each peck, and all under	0	1
Each yard	0	0½

For examining, comparing, and stamping all measures of capacity of liquids, made of copper or other metal, within their respective jurisdictions:

	s.	d.
Each five gallon	1	0
Each four gallon	0	9
Each three gallon	0	6
Each two gallon	0	4
Each gallon	0	2
Each half gallon	0	1
Each quart, and under	0	0½

16 & 17 Vict. c. 29.

16 & 17 Vict. c. 29. An Act for regulating the Weights used in Sales of Bullion. [14th June, 1853.]

5 Geo. 4, c. 74.

"Whereas by an Act of the fifth year of his late majesty king George the fourth, chapter seventy-four, it was amongst other things enacted, 'That the standard troy pound thereby established or ascertained should be the unit or only standard measure of weight from which all other weights should be derived, computed, and ascertained, and that one twelfth part of the said troy pound should be an ounce:' And whereas by

5 & 6 W. 4, c. 63

another Act passed in the session held in the fifth and sixth years of his late majesty king William the fourth, chapter sixty-three, further provisions were made for establish-

(a) A custom in a manor, for the leet jury to break and destroy measures found by them to be false, is lawful (*Willcock* v. *Windsor*, 3 B. & Ad. 43). See a plea of justification for seizing unlawful weights; *Ib.*, *Sheppard* v. *Hall*, 3 B. & Ad. 433; 3 Chit. Pl. 1012, 8th ed.

ing uniformity of weights, and for stamping the weight thereby authorised to be used: And whereas the weights now ordinarily used in sales of gold and silver are the troy ounce and other weights, being multiples or decimal parts of such ounce: And whereas none of the weights so used have hitherto been stamped, and many of them which are multiples of the troy ounce are not multiples or parts of the troy pound, and doubts have arisen whether, under the provisions of the said recited Acts, or one of them, such weights are not liable to be seized as illegal, and contracts and sales made thereby are not illegal and void; And whereas it is expedient to remove such doubts, and that provisions should be made authorising contracts and bargains for and sale of gold and silver, platina, and precious stones to be made by the troy ounce and weights, being multiples or decimal parts thereof;" BE IT THEREFORE ENACTED as follows, that is to say, 16 & 17 Vict. c. 29.

1. All contracts and bargains made or to be made for and sales of gold, silver, platina, diamonds and other precious stones, made and to be made by the troy ounce as ascertained and fixed by the first above-recited Act, and by any weights being multiples or decimal parts of such ounce, shall be deemed and reputed and are hereby declared to be good and valid in law, and for the purposes of such contracts, bargains, and sales such troy ounce shall be taken to be the standard or unit of weight. Sales of bullion and precious stones by the troy ounce and multiples and decimal parts thereof to be good and valid.

2. Within three months next after the passing of this Act models of such multiples and decimal parts of the said troy ounce as the lord high treasurer or the commissioners of her majesty's treasury of the united kingdom for the time being shall judge expedient, and from time to time after the expiration of the aforesaid period of three months models of such further multiples and decimal parts of the said troy ounce as the lord high treasurer or the said commissioners shall from time to time think expedient, shall be carefully made and verified, under the direction of the said lord high treasurer or the said commissioners, and, when so made and verified, shall be deposited in the office of the chamberlain of the exchequer at Westminster, and copies of the models so from time to time deposited, verified as aforesaid, shall be sent to the lord mayor of London and the chief magistrate of Edinburgh and Dublin, and to the chief magistrate of such other cities, and to such other places and persons in her majesty's dominions or elsewhere as the lord high treasurer or the aforesaid commissioners may from time to time direct. Models of the multiples and decimal parts of the troy ounce to be made and verified under the direction of the treasury. Models to be deposited.

3. No person who heretofore or at any time previous to the expiration of fifteen months next after the passing of this Act shall, in any contract, bargain, or sale for or of any gold, silver, platina, diamonds or other precious stones, have used or shall have had in his possession any troy pound, troy ounce, or any weight being a multiple or a decimal part of the troy pound or troy ounce, shall be liable to be convicted by reason of such weight not being one of the weights authorised by the said second above-recited Act, or an aliquot part, as therein described, of any such weight, or by reason of such weight not being stamped as required by the said last-mentioned Act, nor shall any such weight at any time previous to the expiration of fifteen months after the passing of this Act be seized by reason of its not being stamped as aforesaid. Persons using the weights authorised by this Act not liable to certain penalties imposed by 5 & 6 W. 4, c. 63.

4. The first and second sections of this Act shall be taken as part of the second above-recited Act; and such last-mentioned Act shall be construed and applied in all respects as if the said first and second sections of this Act had formed part of the said second above-recited Act, and had been inserted therein immediately after the tenth section thereof. The 1st and 2nd sections of this Act incorporated with 5 & 6 W. 4, c. 63.

5. The provisions contained in the twelfth section of the second above-recited Act shall not extend or be applied to any weight made or used under the provisions of this Act, although the same be of the weight of one pound avoirdupois or more; but every troy ounce weight, and every weight being a multiple or decimal part of the troy ounce, not being less than one tenth of an ounce, shall have the number of such ounces or parts of an ounce therein contained stamped or cast on the top or side thereof in legible figures and letters, and no weight, being a troy ounce or any multiple or part thereof, shall be stamped under the provisions of the said second above-recited Act unless the number of troy ounces or parts of an ounce therein contained shall be so stamped or cast thereon. Contents of weights to be stamped thereon.

18 & 19 Vict. c. 72. An Act for legalising and preserving the restored Standards of Weights and Measures.

18 & 19 Vict. c. 72.

[30th July, 1855.]

"Whereas by an Act of the fifth year of the reign of king George the fourth, chapter seventy-four, 'for ascertaining and establishing Uniformity of Weights and Measures,' it was enacted, that from and after the first day of May, one thousand eight hundred and twenty-five, the straight line or distance between the centres of the two points in the gold studs in a certain straight brass rod then in the custody of the clerk of the house of commons should be the original and genuine standard of that measure of length or lineal 5 Geo. 4, c. 74 (a).

(a) Ante, p. 881.

18 & 19 Vict. c. 72.

extension called a yard, and that the same straight line or distance between the centres of the said two points in the said gold studs in the said brass rod, the brass being at the temperature of sixty-two degrees by Fahrenheit's thermometer, should be the 'imperial standard yard;' and that from and after the first day of May, one thousand eight hundred and twenty-five, the standard brass weight of one pound troy weight made in the year one thousand seven hundred and fifty-eight, then in the custody of the clerk of the house of commons, should be and the same was thereby declared to be the original and genuine standard measure of weight, and that such brass weight should be the 'imperial standard troy pound,' and should be and the same was thereby declared to be the unit or only standard measure of weight from which all other weights should be derived, computed, and ascertained, and that one-twelfth part of the said troy pound should be an ounce, and that one-twentieth part of such ounce should be a pennyweight, and that one twenty-fourth part of such pennyweight should be a grain, so that five thousand seven hundred and sixty such grains should be a troy pound, and that seven thousand such grains should be and they were thereby declared to be a pound avoirdupois: And whereas by the said Act provision was made for restoring the said imperial standard yard and the said imperial standard troy pound respectively, in case of loss, destruction, defacement, or other injury, by reference to the length of a pendulum and to the weight of a cubic inch of water respectively: And whereas the said imperial standard yard and standard pound troy were destroyed in the fire at the houses of parliament: And whereas by the researches of scientific men doubts were thrown on the accuracy of the methods provided by the said Act for the restoration of the said standards: And whereas there exist bars and weights which had been accurately compared with the said standard yard and standard pound troy so destroyed as aforesaid, which afforded sufficient means for restoring such original standards: And whereas scientific men, acting for that purpose under the direction of the commissioners of her majesty's treasury, have constructed a standard of length equivalent to the imperial standard yard so destroyed, and four accurate copies of the standard so constructed, and it having been deemed expedient that the standard for reference as a measure of weight should be a pound avoirdupois, there has been constructed in like manner a pound weight avoirdupois equivalent to the pound avoirdupois of seven thousand such grains as are mentioned in the said recited Act, and four accurate copies of the said pound avoirdupois so constructed: And whereas the form adopted for the standard of length and for all the copies thereof is that of a solid square bar thirty-eight inches long and one inch square in transverse section, the bar being of bronze or gun metal; near to each end a cylindrical hole is sunk (the distance between the centres of the two holes being thirty-six inches) to the depth of half an inch; at the bottom of this hole is inserted in a smaller hole a gold plug or pin about one-tenth of an inch in diameter, and upon the surface of this pin there are cut three fine lines at intervals of about the one-hundredth part of an inch transverse to the axis of the bar, and two lines at nearly the same interval parallel to the axis of the bar; the measure of length is given by the interval between the middle transversal line at one end and the middle transversal line at the other end, the part of each line which is employed being the point midway between the longitudinal lines; and the said points are herein referred to as the centres of the said gold plugs or pins: And whereas the standard pound avoirdupois so constructed as aforesaid, and the copies thereof, are of platinum, the form being that of a cylinder nearly 1·35 inch in height and 1·15 inch in diameter, with a groove or channel round it whose middle is about 0·34 inch below the top of the cylinder, for insertion of the points of the ivory fork by which it is to be lifted; the edges are carefully rounded off: And whereas the standard of length so constructed as aforesaid, the bronze bar, being marked 'copper 16 oz., tin 2¼, zinc 1. Mr. Baily's metal. No. 1. Standard yard at 62°·00 Fahrenheit. Cast in 1845. Troughton & Simms, London,' and the said standard of weight marked P. S. 1844, 1 lb., have respectively been deposited in the office of the exchequer at Westminster, and one of the said copies of the said standard of length, the bronze bar, being marked 'copper 16 oz., tin 2¼, zinc 1. Mr. Baily's metal. No. 2. Standard yard at 61°·94 Fahrenheit. Cast in 1845. Troughton & Simms, London,' and one of the said copies of the standard of weight marked No. 1, P. C. 1844, 1 lb., have been deposited at the royal mint; and one other of the said copies of the standard of length, the bronze bar, being marked 'copper 16 oz., tin 2¼, zinc 1. Mr. Baily's metal. No. 3. Standard yard at 62°·10 Fahrenheit. Cast in 1845. Troughton & Simms, London,' and one other of the said copies of the standard of weight marked No. 2, P. C. 1844, 1 lb., have been delivered to the royal society of London; and one other of the said copies of the standard of length, the bronze bar, being marked 'copper 16 oz., tin 2¼, zinc 1. Mr. Baily's metal. No. 5. Standard yard at 62°·16 Fahrenheit. Cast in 1845. Troughton & Simms, London,' and one other of the said copies of the standard of weight marked No. 3, P. C. 1844, 1 lb., have been deposited in the royal observatory of Greenwich; and the other of the said copies of the standard of length, the bronze bar, being marked 'copper 16 oz., tin 2¼, zinc 1. Mr. Baily's metal. No. 4. Standard yard at 61°·98 Fahrenheit. Cast in 1845. Troughton & Simms, London,' and the other of the said copies of the standard of weight marked No. 4, P. C. 1844, 1 lb., have been immured in the cill of the recess on the east side of the lower waiting-hall in the new palace at Westminster: And whereas it is expedient to legalise the standards so constructed and to provide for the preservation thereof:" BE IT THEREFORE ENACTED as follows:

Provisions

1. So much of the said Act of the fifth year of king George the fourth as relates to the

restoration of the imperial standard yard and of the standard troy pound respectively, in case of loss, destruction, defacement or other injury, shall be repealed. 18 & 19 Vict. c. 72.

concerning the restoration of the standards by reference to the pendulum, &c., 5 Geo. 4, c. 74, ss. 3 & 5, repealed.

2. The straight line or distance between the centres of the two gold plugs or pins in the bronze bar deposited in the office of the exchequer as aforesaid shall be the genuine standard of that measure of length called a yard, and the said straight line or distance between the centres of the said gold plugs or pins in the said bronze bar (the bronze being at the temperature of sixty-two degrees by Fahrenheit's thermometer) shall be and be deemed to be the imperial standard yard. Restored standard yard established.

3. The said weight of platinum marked P. S. 1844, 1 lb., deposited in the office of exchequer as aforesaid, shall be the legal and genuine standard measure of weight, and shall be and be denominated the imperial standard pound avoirdupois, and shall be deemed to be the only standard measure of weight from which all other weights and other measures having reference to weight shall be derived, computed, and ascertained, and one equal seven thousandth part of such pound avoirdupois shall be a grain, and five thousand seven hundred and sixty such grains shall be and be deemed to be a pound troy. Standard pound avoirdupois.

4. All the provisions of the said Act of the fifth year of king George the fourth now in force, and not hereby repealed, and all other enactments now in force in relation to weights and measures, shall continue in force and be applicable to the standards of weight and measure hereby established, as if the same standards had been established by the said Act of king George the fourth, instead of the standard yard and standard pound troy so destroyed as aforesaid, and as if the pound troy of five thousand seven hundred and sixty grains had been established as a derivative standard computed with reference to the pound avoirdupois. Provisions of 5 Geo. 4, c. 74, not hereby repealed, &c., to remain in force.

5. All weights and measures, and copies of weights and measures, which have been compared and verified, or authenticated according to law as copies of the imperial standard weights and measures, shall remain and be legal weights and measures for the same time, for the same purposes, and in like manner as if this Act had not been passed. Copies of the old standards to continue to be legal.

6. All weights and measures which shall be hereafter verified and authenticated by comparison with the said imperial standards of weight and measure, in such manner as her majesty shall by any orders in council from time to time direct and appoint, shall be deemed and taken to be legal secondary weights and measures. Weights and measures hereafter duly verified to be deemed legal.

7. If at any time hereafter the said imperial standard yard and standard pound avoirdupois respectively, or either of them, be lost or in any manner destroyed, defaced, or otherwise injured, the commissioners of her majesty's treasury may cause the same to be restored by reference to or adoption of any of the copies so deposited as aforesaid, or such of them as may remain available for that purpose. Provision for restoration of standards in case of loss, &c.

22 & 23 Vict. c. 56. An Act to amend the Act of the Fifth and Sixth Years of King William the Fourth, Chapter Sixty-three, relating to Weights and Measures. [13th August, 1859.]

22 & 23 Vict. c. 56.

"Whereas it is expedient that the Act passed in the session holden in the fifth and sixth years of the reign of king William the fourth, chapter sixty-three, intituled 'An Act to repeal an Act of the Fourth and Fifth Years of His present Majesty, relating to Weights and Measures, and to make other Provisions instead thereof,' should be amended:" BE IT THEREFORE ENACTED as follows: 5 & 6 W. 4, c. 63.

1. No model or copy of any of the imperial standards of weights shall be deemed legal, or used for the purpose of enforcing the provisions of this Act or the Act passed in the session holden in the fifth and sixth years of the reign of king William the fourth, chapter sixty-three, unless the same have been compared or re-verified by the comptroller general or some other officer of the exchequer duly authorised, within five years before the time when it is so used; and no model or copy of any of the imperial standards of measures shall be deemed legal or used for the purposes aforesaid unless it have been compared or re-verified as aforesaid within ten years before the time when it is so used, or, in any county containing more than one district for the inspection of weights and measures, unless such model or copy have been compared by the inspector of weights and measures in the district in which it is used, in the presence of one justice of the county, with a model or copy of the imperial standard of weight duly compared and verified at the exchequer within five years of its being so used, and found on such comparison by such inspector to be correct, or with a model or copy of the imperial standard of measure duly compared and verified at the exchequer within ten years of its being so used, and found on such comparison by such inspector to be correct; and the expenses incurred in and about such comparison or re-verification of any such model or copy of any imperial standard of weight or measure shall in all cases be paid in the same manner and out of the same funds as is provided for the procuring of such models and copies. Imperial standards of weights and measures, when to be adjusted.

2. No person shall wilfully or knowingly make or sell, or cause to be made or sold, any false or unjust beam, scale, or balance, or any light or unjust weight or measure; and every person who shall commit any such offence shall upon being convicted thereof forfeit Penalty for making and selling false beams and

22 & 23 Vict. c. 56.

and pay any sum not exceeding ten pounds as shall be adjudged by the justice, sheriff, or magistrate before whom any such conviction shall take place.

scales or weights and measures.

Power to inspectors to inspect beams, scales, &c., in possession of persons selling in the public streets.

3. It shall be lawful for every inspector of weights and measures, or other person or persons duly appointed to inspect weights and measures, at all reasonable times to inspect all beams, scales and balances, and weights and measures, in the possession of any person selling, offering or exposing for sale any goods on any open ground, or in any public street, lane, thoroughfare or other open place; and if upon such inspection or examination any such beams, scales or balances, or weights or measures, shall be found light or unjust, or otherwise contrary to the provisions of this Act or the hereinbefore recited Act, or if any fraud be wilfully committed in the using thereof, the same shall be liable to be seized and forfeited, and the person or persons using or having in his or her possession any such false or unjust beams, scales or balances, or light or unjust weights or measures, shall be liable to any penalty not exceeding five pounds.

Municipal corporations to appoint inspectors of weights and measures.

4. "And whereas doubts have arisen as to the authority by or under which inspectors and examiners of weights and measures in certain municipal boroughs have been heretofore authorised and appointed:" BE IT THEREFORE ENACTED, that the town councils of all municipal boroughs in England and Wales incorporated under the provisions of the statute passed in the fifth and sixth years of the reign of his late majesty king William the fourth, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or any Act for the amendment thereof, to which a separate court of quarter sessions has been granted (a), shall have respectively, and they are hereby authorised and empowered henceforth to use and exercise, solely within their respective boroughs, all and every the powers and authorities concerning weights and measures, and the providing of copies of the imperial standard weights and measures verified and stamped at the exchequer, and the inspection, examination and seizure of all unjust weights and measures, and the appointment and authorisation of such inspectors and examiners, as are by law now vested in, used, and exercised by, any justices of the peace assembled at their general or quarter sessions in any county in England and Wales, within the limits of their commission, under or by virtue of the statute passed in the fifth and sixth years of the reign of his said late majesty, intituled "An Act to repeal an Act of the Fifth and Sixth Years of His present Majesty, relating to Weights and Measures, and to make other Provisions instead thereof," or under or by virtue of any other law or statute whatsoever; and that such inspectors and examiners so appointed by such town councils as aforesaid, and duly authorised by warrant or other authority in writing under the hand of the mayor of any such borough for the time being, and under the corporate common seal of any such town council as aforesaid, shall have, possess and exercise the same or the like powers of entering shops, stores, warehouses, manufactories, stalls, yards and places, within any such borough, and of examining, comparing, trying and seizing any such weights or measures, as are now had, possessed or exercised by any inspectors or examiners authorised or appointed in counties by such justices as aforesaid, under or by virtue of the statute lastly hereinbefore referred to, or under or by virtue of any law or statute whatsoever; and all the penal and other provisions of such statute or of any such statutes, so far as they are not repugnant to or inconsistent with this enactment, shall apply to all such boroughs, town councils, inspectors and examiners respectively, and to all weights and measures used or to be used in such boroughs respectively, and to the examination, comparison, trial and seizure thereof; and every such council shall and lawfully may pay from time to time to such inspectors and examiners so appointed by them respectively, out of the borough funds or borough rates of such boroughs respectively, such salaries, wages or allowances as each such council respectively shall deem reasonable, and also out of the same funds or rates shall pay and defray all costs incidental to the providing of the said copies of the imperial standard weights and measures, and of carrying out the said last-mentioned Act and this Act within such boroughs; and all fees, penalties and moneys which but for this Act would have been payable to the county stock or fund shall be paid into and go in aid of the borough fund of such borough: on the exercise of any of such powers by the town council of any such municipal borough, and on written notice under the corporate common seal of such borough being given of the exercise of any of such powers to the clerk of the peace of the county, riding or division in which such borough shall be situate, and after the expiration of one calendar month from the day on which such notice shall be given or left at the office of the said clerk of the peace, all the powers and authorities of all inspectors or examiners appointed by the justices of

---

(a) See 16 & 17 Vict. c. 72, s. 5, ante, Vol. I., p. 1090, tit. "CORPORATIONS MUNICIPAL."

By 24 & 25 Vict. c. 75, s. 6, ante, Vol. I., p. 1099, tit. "CORPORATIONS," the powers vested in town councils of boroughs having a separate court of quarter sessions as to the appointment of inspectors of weights and measures, is extended to boroughs having a separate commission of the peace.

The 24 & 25 Vict. c. 78, ante, Vol. II., p. 933, tit. "JURY," enacts new provisions as to the appointment in Westminster of inspectors of weights and measures.

the peace at their general quarter sessions of the peace for such county, riding or division shall, as to such borough, and all weights and measures therein, cease and be absolutely at an end. 22 & 23 Vict. c. 56.

5. "And whereas since the passing of the said Act measures for liquids have been constructed with a small window or transparent part through which the contents, whether to the brim or to any other index thereof, may be seen without impediment, and the use of such measures by publicans and others in the retail of malt liquors and spirits and other excisable liquids would be attended with advantage both to the purchaser and seller:" BE IT THEREFORE FURTHER ENACTED, that measures for such liquids which shall correspond in capacity with the standards, or parts or multiples thereof, respectively deposited in the exchequer, although such measures may be made partly of copper or other metal and partly of glass or other transparent medium, may be examined, compared and stamped by all inspectors of weights and measures, anything in the said recited Act to the contrary notwithstanding: that measures for such liquids, the capacity of which shall exceed the standard or parts or multiples of the respective imperial standard measures deposited in the court of exchequer, but which shall have the capacity of such standards or parts or multiples thereof respectively indicated by a level line drawn through the centre of the window or transparent part, although such measures may be made partly of copper or other metal and partly of glass or other transparent medium, may be examined, compared and stamped by all inspectors of weights and measures, anything in the said recited Act to the contrary notwithstanding. Inspectors authorised to stamp measures, although made partly of glass, &c.

6. It shall be lawful for the owners or managers of any public market where goods are exposed or kept for sale, and they are hereby required to provide proper beams, scales and balances, and weights and measures, or other machines, for the purpose of weighing or measuring all goods sold, offered or exposed for sale in any such market, and to deposit the same at the office of the clerk or toll collector of such market, or some other convenient place, and to have the accuracy of all such beams, scales and balances, and weights and measures, or other machines, tested at least twice in every year by the inspector of weights and measures of and for the county or district where any such market is situate; and all expenses attending the purchase thereof, and for adjusting and testing the same, shall be paid out of the moneys collected for tolls in any such market; and such clerk or toll collector shall at all reasonable times, whenever called upon so to do, weigh or measure all goods which shall have been sold, offered or exposed for sale in any such market, upon payment of such reasonable sum or sums of money as shall from time to time be decided upon by the said owners or managers, subject to the approval and revision of the justices in general or quarter session assembled if such market be in England, or of the sheriff if it be in Scotland. Owners of markets to provide beams, scales, &c.

7. It shall be lawful for every clerk or toll collector of any public market, at all reasonable times, to weigh or measure all goods sold, offered or exposed for sale in any such market; and if upon such weighing or measuring any such goods shall be found deficient in weight or measure, or otherwise contrary to the provisions of this Act or the hereinbefore recited Act, every such clerk or toll collector is hereby authorised and required to summon the person selling, offering or exposing for sale, or causing to be sold, offered or exposed for sale, any such goods, before any justice, sheriff or magistrate, having jurisdiction in the county or district where any such market is situate; and every such justice, sheriff or magistrate shall, upon proof thereof, convict the offender or offenders in the respective penalties by this Act or the said recited Act imposed, and shall from time to time award to any such clerk or toll collector such reasonable remuneration (to be paid out of the said penalties) as to him shall seem fit. Power to clerks of markets to inspect goods sold, &c., and if weighing found deficient to summon the offender.

8. For every offence against or disobedience to the provisions of this Act or the hereinbefore recited Act, for which no special penalty is provided, the offender shall, at the discretion of the justice, sheriff or magistrate, before whom any such conviction shall take place, be liable to any penalty not exceeding five pounds, as shall be adjudged by such justice, sheriff or magistrate. Penalties.

9. This Act shall be construed and taken together with the said recited Act of the fifth and sixth years of the reign of king William the fourth, so far as the provisions of the same are consistent herewith: provided always, that nothing herein contained shall be construed or taken to apply to any action or proceeding now pending, or which may be commenced previous to this Act coming into operation. Act how to be construed.

10. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to supersede, limit, take away, lessen or prevent the authority which any person or persons, bodies politic or corporate, or any person appointed at any court leet for any hundred or manor, or any jury or ward inquest may have or possess for the examining, regulating, seizing, breaking or destroying any weights, balances or measures or goods, deficient in weight or measure, within their respective jurisdictions, and presenting the same at the court leet, or the power given by any Act or Acts now in force to justices or other authorities to appoint examiners for the inspection of weights and measures. Not to abridge the power of the leet jury, &c.

11. The powers heretofore lawfully belonging to the universities of Oxford and Cambridge respectively shall continue in full force, anything in this Act contained notwithstanding. Powers of universities to remain in force.

12. This Act shall not extend to Ireland. Extent of Act.

WILLS (a).

32 H. 8, c. 1. **32 Hen. 8, c. 1. The Act of Wills, Wards, and Primer Seisins, whereby a Man may devise two Parts of his Land (b).**

[A.D. 1540.]

Lands holden in soccage, and none in chief, or by knights' service.

Tenants in fee, &c., may by will devise the same.

That all and every person and persons (c) having, or which hereafter shall have, any manors, lands, tenements or hereditaments, holden in soccage, or of the nature of soccage tenure, and not having any manors, lands, tenements or hereditaments holden of the king our sovereign lord by knights' service, by soccage tenure in chief, or of the nature of soccage (d) tenure in chief, nor of any other person or persons by knights' service from the twentieth day of July in the year of our Lord God *M.D.XL.*, shall have full and free liberty, power, and authority to give, dispose, will, and devise, as well by his last will and testament in writing, or otherwise by act or acts lawfully executed in his life, all his said manors, lands, tenements, or hereditaments, or any of them, at his free will and pleasure; any law, statute, or other thing heretofore had, made or used to the contrary notwithstanding.

Lands holden in soccage in chief, and none holden by knights' service.

2. That all and every person and persons having manors, lands, tenements, or hereditaments holden of the king our sovereign lord, his heirs or successors, in soccage, or of the nature of soccage tenure in chief, and having any other manors, lands, tenements or hereditaments holden of any other person or persons in soccage, or of the nature of soccage tenure, and not having any manors, lands, tenements, or hereditaments, holden of the king our sovereign lord by knights' service, nor of any other lord or person by like service, from the twentieth day of July in the said year of our Lord God *M.D.XL.*, shall have full and free liberty, power, and authority to give, will, dispose, and devise as well by his last will or testament in writing, or otherwise by any act or acts lawfully executed in his life, all his said manors, lands, tenements, and hereditaments, or any of them, at his free will and pleasure; any law, statute, custom, or other thing heretofore had, made, or used to the contrary notwithstanding.

A saving of the king's primer seisin, and his fines for alienation.

3. Saving alway, and reserving to the king our sovereign lord, his heirs and successors, all his right, title, and interest, of *primer seisin* and reliefs, and also all other rights and duties for tenures in soccage, or of the nature of soccage tenure in chief, as heretofore hath been used and accustomed, the same manors, lands, tenements, or hereditaments to be taken, had and sued out of and from the hands of his highness, his heirs and successors, by the person or persons to whom any such manors, lands, tenements, or hereditaments shall be disposed, willed, or devised, in such and like manner and form as hath been used by any heir or heirs before the making of this statute; and saving and reserving also fines for alienations of such manors, lands, tenements, or hereditaments holden of the king our sovereign lord in soccage, or of the nature of soccage tenure in chief, whereof there shall be any alteration of freehold or inheritance made by will or otherwise, as is aforesaid.

34 & 35 H. 8, c. 5. **34 & 35 Hen. 8, c. 5. The Bill concerning the Explanation of Wills (e).** [A.D. 1542-3.]

BE IT ENACTED, taken, expounded, judged, declared, and explained in manner and form following:

3. Where it is contained in the same former statute [32 H. 8, c. 1,] within divers

---

(a) See Jarman on Wills; Sugden on Wills; Powell on Devises, by Jarman; Bythewood's Conveyancing, vol. 11; Williams on Executors; Burn's Ec. Law, tit. Wills. As to probate duty, see ante, Vol. III., p. 543, tit. "STAMPS."

(b) This Act, which originally conferred the general testamentary power over freeholds of inheritance (called the Statute of Wills), explained by 34 & 35 Hen. 8, c. 5, is repealed by the 1 Vict. c. 26; but as that Act does not affect wills made before the 1st of January, 1838, this Act is still applicable to wills made prior to that date and not republished since.

(c) That is, persons not under the disabilities mentioned in 34 & 35 Hen. 8, c. 5, s. 14. But a lunatic, during his lucid intervals, may make a will (*Beverley's case*, 4 Rep. 123; *Kemble* v. *Church*, 3 Hagg. 273; *Mountain* v. *Bennett*, Cox, 355; *White* v. *Wilson*, 13 Ves. 88); so may the wife of a transported felon, for during the period of his transportation his marital rights are suspended (*Ex parte Franks*, 1 Moore & S. 11; *Countess of Portland* v. *Prodgers*, 2 Vern. 104). And blindness and deafness alone are no disqualification (*Longchamp* v. *Fish*, 2 New Rep. 415). The wills of aliens are voidable, not void (Shep. Touch. 404; Jarman on Wills, 34).

(d) This statute having only mentioned lands held by knights' service and in soccage, did not extend to copyhold estates (*Anon.*, Carth. 211; Byth. Conv. 43).

(e) This Act is repealed by 1 Vict. c. 26.

articles and branches of the same, that all and singular person and persons having any manors, lands, tenements, or hereditaments of the estate of inheritance, should have full and free liberty, power and authority to give, will, dispose, or assign, as well by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life, his manors, lands, tenements, or hereditaments, or any of them, in such manner and form as in the same former Act more at large it doth appear. Which words of "estate of inheritance," by the authority of this present parliament, is and shall be declared, expounded, taken, and judged of estates in fee-simple only.

34 & 35 H. 8, c. 5.

The words "estate of inheritance" how to be understood.

4. And also that all and singular person and persons having (*a*) a sole estate or interest

Fee simple

(*a*) In general, before 1 Vict. c. 26, the testator must have had an actual seisin, or a vested right to enjoy *in futuro*, at the time of making his will, and therefore it would seem that a disseisee could not devise until he had had possession (*Goodright* v. *Forrester*, 1 Taunt. 578; 8 East, 552; 6 Cruise, 30; 11 Jarm. Conv. 34). It is said, however, that this doctrine is not founded on the word "having" in this statute, but on the ground that a will is in the nature of a conveyance, which cannot operate upon real estate subsequently acquired (*Brydges* v. *Chandos*, 2 Ves. jun. 427).

A devise was void if the testator had not the lands at the time of making his will. Nor could it ever become good, though he afterwards became interested in the land (Co. Litt. 392; *Bunter* v. *Coke*, 1 Salk. 238), except by republication (*Doe* v. *Kett*, 4 T. R. 601; 6 Cruise, 28). But a devise made by tenant in tail, after making tenant to the *præcipe*, and before suffering the recovery thereon, was good, by relation to the time of executing the first deed, which is the most material and substantial part of the conveyance (*Selwyn* v. *Selwyn*, 1 W. Bla. 222, 251; 2 Burr. 1131). In equity, however, land contracted for was devisable (*Davie* v. *Beardsham*, 1 Ch. Ca. 39; *Acherley* v. *Vernon*, 9 Mod. 78; 6 Cruise, 40).

A devise of things personal was good, though the testator had them not at the time of making his will (see 2 Black. Com. 492). And leases and chattels real created or purchased subsequently to the making of a will passed thereby (*Wind* v. *Jekyl*, 1 P. W. 572; 6 Cruise, 34; *Stirling* v. *Lydiard*, 3 Atk. 199; *Carte* v. *Carte*, Ambl. 28). However, as a general rule, a lease renewed subsequent to a bequest, whether of "the premises," "the leasehold estates," &c., would not pass under it; but such a lease might pass under an antecedent will, where the whole context of it indicated a clear intention to pass whatever interest the testator might have at his death (*James* v. *Dean*, 15 Ves. 238; *Id.*, 11 Ves. 387; *Hone* v. *Medcraft*, 1 Bro. C. C. 261). After-purchased copyholds would not (1 T. R. 438, n.). A possibility by virtue of an executory devise, or a springing use, was devisable (*Roe* v. *Jones*, 1 H. Bla. 30; *Id.* in error, 3 T. R. 88).

The testator must also have continued to have had the estate from the time of his will till his death (*Brydges* v. *Chandos*, 2 Ves. jun. 427; *Brunker* v. *Cook*, 11 Mod. 128; *Id.*, Holt, 748; *Roe* v. *Griffits*, 4 Burr. 1961; *Goodright* v. *Forrester*, 8 East, 552). The consequence was, that any new disposition made subsequent to the will, or, in other words, any conveyance of that which had been conveyed by the will, would defeat such will. It implied an alteration, and the common rule that the estate must pass by the last conveyance applied; but then it must have been a conveyance of the whole estate; it must have extended as far as that appointment which the will had made; for if it were but of a part, it affected the will no further than that part went. If it were of a partial interest only, it would not operate as a revocation of the rest. This rule prevailed in equity as well as at law (*per* Lord Chancellor, in *Brydges* v. *Chandos*, 2 Ves. jun. 427). So a will made under a power contained in a deed of settlement, was held to be revoked by the execution of a general power of resettlement contained in the same deed (*Walker* v. *Armstrong*, 25 L. J. Ch. 402, 21 Beav. 284.

The only instance at law in which a will remained valid after a disposition operating upon the entire estate, was that of a partition; with respect to which it was held, that, although affected by fine, the will continued in force (see *Luther* v. *Kidby*, 8 Vin. Abr. 148; 3 P. Wms. 169 n. (*b*); *Risley* v. *Battinglass*, T. Raym. 240). But if the act extended further than mere partition, and contained a limitation to such uses as the devisor should by deed or will appoint, the will was annulled (*Tickner* v. *Tickner*, cited 3 Atk. 742). In the discussion of the case of *Goodtitle* v. *Otway* (1 Bos. & P. 602), in the Court of Common Pleas, some doubt was thrown upon the former of these decisions; and the latter was considered by some of the judges as overturning it; but it seems to be agreed now that the law was as stated (*Att.-Gen.* v. *Vigor*, 8 Ves. 281, infra); and see the observations of Lord Eldon, in *Maundrell* v. *Maundrell* (10 Ves. 246), where this distinction is relied upon as showing the efficacy of a power of appointment by the person to whom in default of appointment the premises are limited in fee.

In the case of *The Att.-Gen.* v. *Vigor* (8 Ves. 281), it was established, that if lands after having been devised are exchanged and after the death of the devisor restored in consequence of eviction of the lands taken in exchange, the devise is not

34 & 35 H. 8, c. 5.

In coparcenery, common, &c.

in fee-simple (*a*), or seised in fee-simple, in coparcenery or in common in fee-simple, of and in any manors, lands, tenements, rents, or other hereditaments, in possession, reversion, remainder, or of rents or services incident to any reversion or remainder (*b*), and having no manors, lands, tenements, or hereditaments holden of the king, his heirs or successors, or of any other person or persons by knights' service, shall have full and free

---

thereby re-established (1 Jarm. on Wills, 3rd ed. 139).

In equity it was established that a mortgage or conveyance in trust for payment of debts was only a revocation *pro tanto* (*Perkins* v. *Walker*, 1 Vern. 97; *Hall* v. *Dunch*, 1 Vern. 329); but a trust for payment of debts, and after payment thereof to convey the estate to such uses as the devisor should by deed or will appoint, has been held to be a revocation (*Kenyon* v. *Sutton*, cited 2 Ves. jun. 601), and the exception did not extend to other dispositions for a particular purpose. In *Harmood* v. *Oglander* (8 Ves. 126), Lord Eldon said that it did not occur to him there were in equity any cases where the partial, particular, purpose, was not for charges or incumbrances, or, which is the same thing, to pay debts, and equity has said, that, which is a revocation at law, shall not be a revocation in equity.

Where a devise was made by a person seised of or entitled to an equitable estate, it was not annulled in equity by a conveyance to him of the legal estate (*Rawlins* v. *Burgis*, 2 V. & B. 385; *Plowden* v. *Hyde*, 2 De G. M. & G. 684, 21 L. J., Ch. 796). This frequently occurred in the cases of wills made of estates for which the testator had entered into a contract of purchase, and which were subsequently conveyed (see *Rose* v. *Cunnyngham*, 11 Ves. 550; *Mayer* v. *Gowland*, 2 Dick. 563; *Tebbott* v. *Voules*, 6 Sim. 40; *Plowden* v. *Hyde*, 2 De G. M. & G. 684, 21 L. J., Ch. 796). In *Watts* v. *Fullarton* (cited Doug. 719), it was held that the will was not revoked by the purchaser taking the conveyance to another person in trust for himself.

So the will of a person entitled to an equitable estate was held not to be revoked by a conveyance of the legal estate from one trustee to another (*Watts* v. *Fullarton*, Doug. 718; *Clough* v. *Clough*, 3 My. & K. 296). Nor the will of a person entitled, subject to a mortgage in fee, by a conveyance from the mortgagee to a trustee for the mortgagor (*Doe* v. *Potts*, Doug. 719). But in the above case of *Rawlins* v. *Burgis* (2 V. & B. 382), a person after devising land which he had contracted to purchase, took the conveyance to bar dower, subject to his power of appointment, with the interposition of a trustee; and it was decided that the will was revoked.

In *Williams* v. *Owens* (2 Ves. jun. 595), a testator having articled to settle his estate previous to marriage, devised the reversion, subject to the estates intended to be created by the articles, and afterwards conveyed the estate to the uses and upon the trusts mentioned in the articles. This was ruled to be no revocation; and it was compared to the case of a person having an equitable estate taking a conveyance of the legal estate; but the decision is considered as inconsistent with the rules established in subsequent cases, especially in *Cave* v. *Holford* (see *Harmood* v. *Oglander*, 8 Ves. 126; *Cave* v. *Holford*, 3 Ves. 682; 7 Bro. P. C. 593). The ground of the Lord Chancellor's dissent (as stated in *Harmood* v. *Oglander*) from the decision in *Williams* v. *Owen* was, that the testator never had any equitable estate in the reversion in fee: "You cannot have a legal estate in trust for yourself. There is a conjunction of the legal and equitable interests, and therefore it was a legal estate that passed under that will." But Lord Eldon's reasoning has not been followed to its full extent (*Vawser* v. *Jeffrey*, 16 Ves. 519; 1 Jarm. on Wills, 3rd ed. 149).

A conveyance which is void at law on account of fraud or covin is not a revocation; but a different rule obtains in regard to deeds which are valid at law though impeachable in equity (*Simpson* v. *Walker*, 5 Sim. 1; see *Beard* v. *Beard*, 3 Atk. 72; *Hawes* v. *Wyatt*, 3 Bro. Ch. 156; *Ex parte The Earl of Ilchester*, 7 Ves. 373; *Att.-Gen.* v. *Vigor*, 8 Ves. 283; *Shove* v. *Pincke*, 5 T. R. 124).

A power given to the trustees to sell at a fixed price was held revoked by a subsequent codicil, devising premises to them to be sold for the payment of debts, and subject thereto to the trusts of a will (*Bridger* v. *Rice*, 1 J. & W. 74). *Quære*, if a power to sell to A. B. and C. D. at fixed prices was entirely revoked by a codicil devising one of the estates to different uses (*Bridger* v. *Rice*, 1 J. & W. 74). A covenant to surrender copyhold previously devised revoked a will in equity, if a surrender would have been the revocation at law (*Vawser* v. *Jeffrey*, 2 Swanst. 268). See the same case in general as to the effect of conveyances for securing personal interests on a previous devise of estates conveyed, and that a conveyance of the whole estate, though for a partial purchase, was a revocation, and that an imperfect conveyance might amount to revocation as evidence of intent, and the same case relating to revocations in equity generally.

(*a*) It was established before this statute that a devise by a joint-tenant of lands devisable by custom was void; and it is clear that a will by a joint-tenant who survived, or who afterwards severed the joint-tenancy, was of no effect (*Swift* v. *Roberts*, 1 W. Bla. 476; 3 Burr. 1488).

(*b*) A trust estate (*Wagstaff* v. *Wagstaff*, 2 P. W. 258); an equity of redemption (*Phillips* v. *Hele*, 1 Ch. Rep. 101); lands in mortgage by a

liberty, power, and authority to give, dispose, will, or devise to any person or persons (*b*) (except bodies politic and corporate) (*c*) by his last will and testament in writing (*d*), or otherwise by any act or acts lawfully executed in his life, by himself solely, or by himself and other jointly, severally or particularly, or by all those ways, or any of them, as much as in him of right is or shall be, all his said manors, lands, tenements, rents, and hereditaments, or any of them, or any rents, commons, or other profits or commodities out of or to be perceived of the same, or out of any parcel thereof, at his own free will and pleasure; any clause in the said former act notwithstanding.

34 & 35 H. 8, c. 5.

Persons seised in fee-simple (*a*), whether in possession, reversion, remainder, &c., may devise, &c.

Devising of rent or common out of land.

5. That all and singular person and persons, having a sole estate or interest in fee-simple, or seised in fee-simple in coparcenery, or in common in fee-simple, of or in any manors, lands, tenements, rents or other hereditaments in possession, reversion, or remainder, or of and in any rents or services incident to any reversion or remainder, holden of the king by knights' service in chief, or of the nature of knights' service in chief, hath, and by the authority of this present parliament shall have, full and free liberty, power and authority to give, dispose, will, or assign to any person or persons (except bodies politic and corporate) by his last will and testament, in writing or otherwise by any act or acts lawfully executed in his lifetime by himself solely, or by himself and others jointly, severally, or particularly, or by all those ways or any of them, as much as in him of right is or shall be, two parts (*e*) as well of all the said manors, lands, tenements, rents, and hereditaments, as of all and singular his other rents and hereditaments, or of any of them, or any rents, commons, or other profits or commodities out of or to be perceived of the same two parts, or out of any parcel thereof in three parts to be divided, or as much thereof as shall amount to the full and clear yearly value of two parts thereof, in three parts to be divided, of what person or persons soever the same be holden, at his free will and pleasure.

Lands holden of the king by knights' service in chief.

6. That the said will so declared shall be good and effectual for two parts of the said manors, lands, tenements, and hereditaments, although the will so declared be made of the whole, or of more than of two parts of the same: The same division to be made and set forth by the devisor or owner of the same manors, lands, tenements, and hereditaments, by his last will in writing, or otherwise in writing; and in default thereof, by a commission to be granted out of the king's court of the wards and liveries, upon the inquiry of the true value thereof by the oaths of twelve men, and return or certificate thereof, had in the same court, of the said manors, lands, tenements, and hereditaments, division to be made by the master of the wards and liveries, if the master of the wards and liveries for the time being, and the parties thereunto, cannot otherwise agree upon the same division: And that the issues and profits of the two parts of the same manors,

---

mortgagor (*How* v. *Vigneres*, 1 Ch. Rep. 18); advowsons in gross (*Cleer* v. *Peacock*, Cro. Eliz. 359; *Law* v. *Bishop of Lincoln*, 2 W. Bla. 1240); tithes (6 Cruise, 26) may be devised. Franchises could, unless of an *annual yearly value* (see 3 Rep. 32 *b*; 1 Inst. 111 *b*); but franchises appurtenant to a manor pass by a devise of the manor with the appurtenances (6 Cruise, 26; 3 Rep. 32 *b*). Contingent remainders and all other contingent estates and interests in lands are also devisable (6 Cruise, 26). But see *Doe* v. *Tomkinson*, 2 M. & Sel. 165; 1 Jarman on Wills, 3rd ed. 42. An estate *pur autre vie* may be devised, post, pp. 912, 929.

(*a*) As copyholders and customary tenants whose interest passes by surrender are not seised in fee-simple, and do not hold their lands in soccage, it follows that they could not make a devise under this statute, nor need the requisites of it have been observed (*Doe* v. *Danvers*, 7 East, 299 & 322), unless the terms of the surrender required the will to be signed (*Ibid.*: *Wagstaff* v. *Wagstaff*, 2 P. Wms. 258; *Tuffnell* v. *Page*, 2 Atk. 37). But at common law, copyholds, whether in possession or vested in remainder or reversion, pass by surrender to the use of a will; and a custom to the contrary was held void (*per* Lord Thurlow in *Pike* v. *White*, 3 Bro. C. C. 286; *Church* v. *Mundy*, 15 Ves. jun. 396; but see note in Evan's Coll. Stat. tit. Wills; Scriven on Cop. 212; and *Doe* v. *Llewellyn*, 2 C. M. & R. 503).

(*b*) All natural persons who are *in esse* at the time of the will, and are capable of acquiring land by purchase, may be devisees (6 Cruise, Dig. 14.) An infant *in ventre* may (*Ibid.*; *Doe* v. *Clarke*, 2 H. Bl. 399). So may a married woman (6 Cruise, 15; Lit. s. 168; 1 Inst. 112 *a*). An alien, it seems, would take, but for the benefit of the crown (6 Cruise, 15; 1 Jarman on Wills, 3rd ed. 59). A bastard may by name (6 Cruise, 15; 1 Inst. 3 *b*); but not, it seems, until he has gained a name by reputation (*Metham* v. *Duke of Devon*, 1 P. W. 529; 2 Jarman on Wills, 3rd ed., 204, see *In re Overhill's Trust*, 1 Sm. & G. 362, 22 L. J., Ch. 485). A devise to a person not in existence is good as an executory devise (*Bate* v. *Amherst*, T. Raym. 82; 11 Jarm. Conv. 45; *Soulcy* v. *Clockmakers' Company*, 1 Bro. C. C. 81).

(*c*) As to this exception, see 2 Bla. Com. 375.

(*d*) See 29 Car. 2, c. 3, post. p. 908.

(*e*) Now, by the alteration of tenures by statute 12 Car. 2, c. 24, all landed property passes by a will duly signed (2 Bla. Com. 375), including copyholds (1 Vict. c. 26, post).

34 & 35 H. 8, c. 5.

lands, tenements, and hereditaments, upon every such division to be restored to them that shall have right or title to the same from the death of the owner or devisor thereof.

Lands holden of the king of others by knights' service, and lands holden in soccage.

7. That all and singular person and persons, having a sole estate or interest in fee-simple, or seised in fee-simple in coparcenery, or in common in fee-simple, of and in any manors, lands, tenements, rents, or other hereditaments, in possession, reversion, or remainder, or of and in any rents or services incident to any reversion or remainder holden of the king, his heirs or successors, by knights' service, and not in chief, or holden of any other person or persons by knights' service, shall have full and free liberty, power, and authority to give, dispose, will, or devise to any person or persons (except bodies politic and corporate) by his last will and testament in writing, or otherwise by any act or acts lawfully executed in his life by himself solely, or by himself and others jointly, severally or particularly, or by all those ways, or any of them, as much as in him of right is or shall be, two parts of all the said manors, lands, tenements, and hereditaments, or any of them so holden by knights' service, or any rents, common or other profits or commodities out of or to be perceived of the same two parts, or out of any parcel thereof in three parts to be divided, or as much thereof as shall amount to the full and clear yearly value of two parts thereof in three parts to be divided at his free will and pleasure.

A will made of the whole shall be good for two parts.

8. That the said will, so declared by authority aforesaid, shall be good and effectual for two parts of the said manors, lands, tenements, and hereditaments, although the will so declared be or shall be made of the whole lands and tenements so holden by knights' service, or of more than two parts of the same; and also for the whole of all other such manors, lands, tenements and hereditaments, or any of them, not holden of the king by knights' service in chief, or otherwise by knights' service, nor of any other person by knights' service, and of any rents, commons or other profits or commodities out of or to be perceived of the same, or out of any parcel thereof, at his free will and pleasure; the same division to be made and set forth by the owner of the said manors, lands, tenements, and hereditaments, by his last will and testament in writing, or otherwise in writing; and in default thereof, for as much of the same manors, lands, tenements, and hereditaments as shall concern the king's interest, by commission to be directed out of the king's court of the wards and liveries, in manner and form as is aforesaid, if the master of the wards and liveries for the time being and the parties thereunto cannot otherwise agree upon the same division; and that restitution of the issues and profits of the two other parts thereof shall be had and made in manner and form above said: And for such of the said manors, lands, tenements, and hereditaments as shall concern the interest of any other lord or lords, by commission to be granted out of the king's court of the chancery, to inquire thereof by the oaths of twelve men, if the same lord or lords and the parties thereunto cannot otherwise agree upon the same division.

How the division of the two parts in three shall be set forth.

Persons incapacitated to devise their lands.

14. That wills or testaments made of any manors, lands, tenements, or other hereditaments, by any woman covert (*a*), or person within the age of twenty-one years (*b*), idiot, or by any person *de non sane* memory, shall not be taken to be good or effectual in the law.

29 Car. 2, c. 3.

29 Car. 2, c. 3. An Act for Prevention of Frauds and Perjuries (*c*). [A.D. 1676.]

Devises of land shall be in writing and attested by three or four witnesses (*d*).

5. That from and after the said twenty-fourth of June, all devises and bequests of any lands or tenements, devisable either by force of the statute of wills or by this statute, or by force of the custom of Kent, or the custom of any borough, or any other particular

---

(*a*) See note (*c*), ante, p. 904. A husband may empower his wife to make a will (see Roper on H. & W. 169; *Ex parte Fane*, 16 Sim. 406); and a *feme covert*, where lands are conveyed to trustees, may have the power of appointing the disposition of lands held in trust for her after her death, which appointment must be executed like the will of a *feme sole* (*Casson* v. *Dade*, 1 Bro. 99). And it has been determined by the house of lords, that the appointment of a married woman is effectual against the heir-at-law, though it depends only upon an agreement of her husband before marriage, without any conveyance of the estate to trustees (*Walker* v. *Denne*, 2 Ves. 191; *Wright* v. *Lord Cadogan*, 6 Bro. P. C. 156; 2 Eden, 239; 1 Bro. P. C. 486; *Rippon* v. *Dawding*, Ambl. 565; 2 Roper's Husb. and Wife, 169).

(*b*) An infant might devise the guardianship of his child, and incidentally the care of the land (6 Cruise, 14; but see 1 Vict. c. 26, s. 7, post).

(*c*) Sects. 5, 6, 12, 19, 20, 21, and 22 of this Act are repealed by 1 Vict. c. 26; but see note (*b*), ante, p. 904.

(*d*) Direct evidence of all the requisites of this section is not indispensable to prove the validity of a will. The attestation in the presence of the testator may be inferred from circumstances (*Croft* v. *Pawlet*, 2 Stra. 1109; *Hands* v. *James*,

custom shall be in writing (*a*), and signed (*b*) by the party so devising the same, or by some other person in his presence and by his express directions, and shall be attested and 29 Car. 2, c. 3.

---

2 Com. 531; *Leech* v. *Bates*, 1 Rob. 714; *Brenchley* v. *Still*, 2 Rob. 162; *Hitch* v. *Wells*, 10 Beav. 84).

A will, dated before stat. 1 Vict. c. 26, was produced on a trial in ejectment. It was signed with the name of the alleged devisor; but there was no proof that the signature was in his handwriting, or made by his authority. It was attested by two witnesses, deceased, whose handwriting was proved; and between their names was that of another witness, J. P., who appeared to sign by his mark. A man in extreme old age, named J. P., was called, who was supposed to be the witness; but he had no memory on the subject. The will had not been disputed for sixteen years after the death of the devisor. It was held that, upon this evidence, a jury might infer a due execution of the will under this stat. (*Doe d. Davies* v. *Davies*, 9 Q. B. 648; *Harrison* v. *Elvin*, 3 Q. B. 117; and see post, p. 931 n. (*e*), p. 932 n. (*a*)).

(*a*) As to what has been deemed a sufficient compliance with this section, see 1 Jarman on Wills, 3 ed. pp. 72, *et seq.* It is observable that the statute required that the will should be in writing, but it would suffice if in print, and signed by the testator (*semble*, *Schneider* v. *Norris*, 2 M. & Sel. 286; see 1 Vict. c. 26, s. 9, post).

(*b*) It was doubted whether it were sufficient for a testator to seal his will (see *Lemayne* v. *Stanley*, 3 Lev. 1). That was held sufficient by three judges; and Lord Raymond so held at nisi prius (*Warneford* v. *Warneford*, 2 Stra. 764; and see Lord Holt's dictum, *Lee* v. *Libb*, 1 Show. 45; and *Gryle* v. *Gryle*, 2 Atk. 176; Bac. Ab. tit. Wills, D. 2). But according to the later authorities, mere sealing without writing is insufficient, for the evidence arising from handwriting affords greater security and certainty than that arising from sealing. Lord Hardwicke, in *Grayson* v. *Atkinson* (2 Ves. 459), observed, the statute, by requiring the will to be signed, undoubtedly required some evidence to arise from the handwriting. Then how can it be said that putting a seal to it would be a sufficient signing? For any one may put a seal; no particular evidence arises from sealing; common seals are alike; no certainty or guard arises from them. See *Smith* v. *Evans*, 1 Wils. 313; *Ellis* v. *Smith*, 1 Ves. jun. 11; *Wright* v. *Wakeford*, 17 Ves. 458; *Morrison* v. *Turnour*, 18 Ves. 175.

In *Lemayne* v. *Stanley* (3 Lev. 1; Free. 538), it was held that it was not necessary to write, for some cannot write, and their mark is then a sufficient signing; others have their name on a stamp, and that is good enough. A mark is sufficient, though the testator could write (*Baker* v. *Dening*, 8 A. & E. 94). As to printing the name, see *Saunderson* v. *Jackson*, 2 Bos. & P. 238.

It was sufficient if the testator signed his name at the beginning or side of a will, for this statute does not require him to subscribe it (*Hilton* v. *King*, 3 Lev. 86; 9 Ves. 294). As where he wrote the will himself, beginning, I, A. B. (*Lemayne* v. *Stanley*, 3 Lev. 1; 3 Mod. 219). But where the will consisted of several sheets, and the testator signed two of them, but from weakness could not sign the rest, the court was of opinion that the will was incomplete (*Right* v. *Price*, Doug. 241; *Mathews* v. *Warner*, 4 Ves. 197; *Coles* v. *Trecothick*, 9 Ves. 249). However, where the will, which was written on three sides of paper, concluded by stating that the testator had signed his name to the first two sides, and had put his hand and seal to the last, but he had omitted to sign the other sides, it was held that the will was good; the signing the last sheet showed that the former intention had been abandoned (*Winsor* v. *Pratt*, 2 Bro. & B. 650; 5 Moore, 484).

It was held to be unnecessary, even when the testator was blind, that the will should be read over in the presence of the attesting witnesses (*Longchamp* v. *Fish*, 2 N. R. 415). But it was there said that stronger evidence would be required in the case of a blind man than the mere attestation of signature, which stronger evidence had been supplied by the circumstances of that case. The terms of the will had been dictated by the testator to Davis (who was afterwards one of the attesting witnesses), and was made in favour of a stepdaughter who lived with the testator, to the disinherison of his son. After the will had been written, it was read over, by the desire of the testator, in the presence of the stepdaughter and several other persons. A copy was made, and two months after, the testator made an alteration in it, and perfectly understood what he was doing.

The signing by the testator need not, under this Act, have been in the presence of witnesses, and it sufficed if he acknowledged his signature to each (*Westbeech* v. *Kennedy*, 1 Ves. & B. 362; see now 1 Vict. c. 26, s. 9, post).

The statute is silent as to any delivery, publication, or other formal act, by which the testator is to signify his adoption of the instrument, and the very act of signing the will and causing it to be attested by witnesses seems sufficient (*Moodie* v. *Reed*, 7 Taunt. 361); and the testator need not have named the instrument (*Peate* v. *Ougly*, Com. Rep. 197; *White* v. *British Museum*, 6 Bing. 310; *Wright* v. *Wright*, 7 Bing. 457; *Johnson* v. *Johnson*, 1 Cr. & M. 140; *Warren* v.

29 Car. 2, c. 3.

subscribed (*a*) in the presence of the said devisor (*b*) by three or four credible witnesses (*c*), or else they shall be utterly void and of none effect.

Postlethwaite, 2 Coll. 108); and if he delivered it as a deed, that was sufficient (3 Stark. 1264; *Trimmer* v. *Jackson*, 4 Burn. Ec. L. 102; see now 1 Vict. c. 26, s. 9).

(*a*) Although proof was essential that the will was attested by the witnesses in the presence of the testator, it was not necessary that such attestation should be stated on the face of the will (4 Taunt. 217; Vin. Abr. tit. Devise, N. 9; Bac. Abr. tit. Wills, D. 2; *Brice* v. *Smith*, Willes, 1; 5 Taunt. 217; and *per* Lord Eldon, *Rancliffe* v. *Parkyns*, 6 Dow, 202; *Roberts* v. *Phillips*, 4 E. & B. 450, 24 L. J. Q. B. 171). The attestation of an illiterate witness, by making his mark, is a sufficient subscription (*Harrison* v. *Harrison*, 8 Ves. 185; *Addy* v. *Grix*, *Ibid.* 504). And although the witnesses must have attested and subscribed the will in the presence of the devisor, it was not necessary that they should have done so in the presence of each other (*Smith* v. *Codron*, cited 2 Ves. 455; *Grayson* v. *Atkinson*, 2 Ves. 454; *Jones* v. *Lake*, cited 2 Atk. 177; see *Stonehouse* v. *Evelyn*, 3 P. Wms. 253; *Westbeech* v. *Kennedy*, 1 Ves. & Bea. 362; *Ellis* v. *Smith*, 1 Ves. 11). Neither is it necessary that the witnesses should see the devisor sign the will, provided he acknowledge his signature in their presence (*Ibid.*; 1 Ves. & Bea. 362, supra). Where the devisor, having executed his will in the presence of two witnesses, afterwards produced it to a third, and showed him his name, and told him it was his handwriting, and desired him to witness it, which he did, it was held that the will was well executed (*Ibid.*).

Where a testator made a will and codicil which were not duly attested, and afterwards made a codicil duly attested, in which the will and codicil were referred to, the attestation was held to apply to the will (*De Bath* v. *Fingal*, 16 Ves. 107; *Doe d. Williams* v. *Evans*, 1 C. & M. 42). So, a second codicil duly attested, declared to be a second codicil to a will, and directed to be annexed thereto and taken as part thereof, was held to give effect to the first codicil not duly attested, which was declared to be a codicil to the will, and to be annexed thereto (*Aaron* v. *Aaron*, 3 De G. & Sm. 475; and see post, p. 931 n. (*b*)). In these cases the unattested will and codicil were referred to in the attested codicil, but this was not essential if both the unattested and the attested documents were written on the same piece of paper (*Guest* v. *Willasey*, 12 Moore, 2; see also *Utterton* v. *Robins*, 1 Ad. & E. 423; *Gordon* v. *Lord Reay*, 5 Sim. 274; and see post, p. 939 n. (*a*)).

Where the testator required the witnesses to set their hands as witnesses to a paper folded up, which they did in his presence, it was considered that this was sufficient, although the testator did not say it was his will (*Peate* v. *Ougly*, Com. Rep. 197). It was held, that in general there should be some acknowledgment by the testator of his signature to the instrument as his will, at least to one of the witnesses (*Stonehouse* v. *Evelyn*, 3 P. Wms. 253; 3 Stark. tit. Wills, 1686; *Westbeech* v. *Kennedy*, 1 Ves. & Bea. 362). And where a testator, who had previously signed his will, merely requested the witnesses to subscribe the memorandum of attestation, though they neither saw his signature nor were made acquainted with the nature of the instrument, the will, nevertheless, was held to be duly executed (1 Jarman on Wills, 3rd ed. 76; *White* v. *British Museum*, 3 M. & P. 689; 6 Bing. 310; *Wright* v. *Wright*, 5 M. & P. 316; 7 Bing. 457; *Johnson* v. *Johnson*, 1 C. & M. 140).

Where a will was written on three sides of a sheet of paper, on the last of which was an attesting clause subscribed by two witnesses and the signature of the testator, and on the second was written the name of a fourth person, W. B.; there was nothing on the face of the will to indicate in what capacity W. B. signed the will: it was held, that the signature of W. B. was a sufficient subscription within the meaning of this section (*Roberts* v. *Phillips*, 4 E. & B. 450, 24 L. J. Q. B. 171).

It is not necessary in order to prove the due execution of the will, to call all the attesting witnesses, but it is sufficient to call one only, if he can speak to the observance of all that is required by the statute (*Wright* v. *Doe d. Tatham*, 1 Ad. & E. 3).

(*b*) It is not necessary that the testator should be shown to have actually seen the witnesses sign the will; it suffices if it be shown that he was so situated that he might have seen them do so. Where the testator desired the witnesses to go into another room, seven yards distant, to attest his will, and there was a window broken, through which he might see them, the attestation was held to be sufficient (*Shires* v. *Glascock*, 2 Salk. 688; Carth. 81). So, if the testator be sick, or in bed, though with his curtain drawn (Bac. Abr. tit. Wills, D. 1). And, where the testatrix might have seen the witnesses through the windows of her carriage, and of the attorney's office (*Casson* v. *Dade*, 1 Bro. C. C. 99; Dick.

(*c*) See n. (*c*) p. 911.

6. And moreover, no devise in writing of lands, tenements, or hereditaments, nor any clause thereof, shall at any time after the said twenty-fourth of June be revocable, otherwise than by some other will or codicil in writing, or other writing declaring the same, or by burning, cancelling, tearing, or obliterating the same by the testator himself, or in his presence (*a*), and by his directions and consent; but all devises and

29 Car. 2, c. 3.

How the same shall be revocable.

586; *Davy* v. *Smith*, 3 Salk. 395; *Winchelsea* v. *Wauchope*, 3 Russ. 444), that was held to be sufficient.

But it is otherwise if the testator was so situated that he could not have seen the witnesses attest the will; as where they went down stairs into another room out of the testator's presence, and attested the will there (*Broderick* v. *Broderick*, 1 P. Wms. 239; *Doe* v. *Manifold*, 1 M. & Sel. 294; *Eccleston* v. *Petty*, Carth. 79; 1 Show. 89; *Norton* v. *Bazett*, 1 Deane, Ecc. Ca. 259; post, p. 932 n. (*a*), p. 934 n. (*b*)).

And if the testator be in a state of insensibility at the time, that will not be a sufficient presence (*Right* v. *Price*, Doug. 241). So, if a will be attested without the knowledge of the testator, though in his presence, that will not be sufficient (see *Longford* v. *Eyre*, 1 P. Wms. 740.

Where there is a power to charge lands for the payment of debts, or for a provision for a wife or younger children, a court of equity will decree a will, though not executed according to the statute, to have been a good execution of the power (*Wilkie* v. *Holmes*, 1 Sch. & Lef. 60, n.; 1 Dick. 105). And the defective execution of wills, in execution of a power, is remedied by the 54 Geo. 3, c. 168, ante, Vol. I. p. 1376, tit. "EVIDENCE;" see the notes to that statute.

(*c*) It was held that an incompetent witness was not a credible witness, and that a person who had been convicted of petit larceny was an incompetent witness to a will (*Pendock* v. *Mackender*, 2 Wils. 18). This occasioned the 31 Geo. 3, c. 35, which made a witness competent notwithstanding such conviction (and see further, 25 Geo. 2, c. 6, post, p. 913, and notes; and 1 Vict. c. 26, and 6 & 7 Vict. c. 85, ante, Vol. I. p. 1382, tit. "EVIDENCE").

(*a*) With respect to revocations in general, before 1838, see Jarman on Wills, vol. 1, 3rd ed. 114; 1 Saund. 277 *c*, n. to *Duppa* v. *Mayo*. This enactment has not been construed so strictly as to exclude all evidence tending to show *quo animo* the act was done, which is a conclusion to be drawn by a court or jury from all the circumstances. The mere physical act of destruction is in itself equivocal, and may be deprived of all revoking efficiency by explanatory evidence, indicating the *animus revocandi* to be wanting (1 Jarm. on Wills. 3rd ed. 121): and where a testator, being angry with one of his devisees, tore his will into four pieces, but was prevented from further tearing it, partly by force and partly by entreaty, and afterwards, becoming calm, expressed his satisfaction that no material part was injured, and that the will was no worse, the court held that it had been properly left to the jury to say whether the testator had perfected his intention of cancelling the will, or whether he was stopped *in medio*; and the jury having found the latter, the court refused to disturb the verdict (*Doe* v. *Perkes*, 3 B. & Ald. 489). But a slight tearing of a will, and throwing it on the fire with a deliberate intention to consume it, by the testator, though it fell off the fire only slightly scorched, and was preserved by a bystander without the testator's consent or knowledge, was held to be a sufficient revocation under this section (*Bibb d. Mole* v. *Thomas*, 2 W. Bla. 1043). But a man could not revoke his will, even by manifesting in the strongest way his intention that it should no longer operate, unless he pursued one of the modes pointed out by this section (*Andrew* v. *Motley*, 12 C. B. N. S. 514). Thus, where the testator, intending to destroy his will, threw it on the fire and another person snatched it off, a corner of the envelope only being burnt, and such person afterwards, being urged by the testator to give up the will, promised to burn it, and pretended to have done so, this was held to be no revocation (*Doe* v. *Harris*, 6 Ad. & E. 209. See further, Jarman on Wills, 3rd ed. vol. 1, p. 121).

Before the 1 Vict. c. 26, s. 18, marriage, and the birth of a child, even of a posthumous child, as a principle of law, independently of any question of intention (*Marston* v. *Roe d. Fox*, 8 Ad. & E. 14), amounted to a revocation (*Christopher* v. *Christopher*, Dick. 445; *Doe* v. *Lancashire*, 5 T. R. 49; *Johnson* v. *Johnson*, 1 Phill. 447). So, a will made in 1833, before marriage, giving the whole of testator's property to the intended wife, was held to be absolutely revoked by the *birth of issue*, for whom there was no provision thereby made (*Matson* v. *Magrath*, 1 Rob. 680). Marriage alone was not, in the case of a man, a revocation (*Ibid.*; *Wilkinson* v. *Adam*, 1 Ves. & Bea. 465); though it was in the case of a woman (*Forse and Hembling's case*, 4 Rep. 61; *Cotter* v. *Layer*, 2 P. Wms. 624). The subsequent birth of a child, where the will was made after marriage, was not of itself sufficient (*Sheherd* v. *Shepherd*, 5 T. R. 15, n.; *Doe* v. *Barford*, 4 M. & Sel. 10). And if a widower, having children, made his will, devising real estate, his subsequent marriage and birth of a child did not revoke the devise of the realty (*Sheath* v. *York*, 1 Ves. & Bea. 390). In a case where a testator had devised his real estate to a woman with whom he cohabited, and to her children, and he

29 Car. 3, c. 3.

bequests of lands and tenements shall remain and continue in force until the same be burnt, cancelled, torn, or obliterated by the testator or his directions, in manner aforesaid, or unless the same be altered by some other will or codicil in writing, or other writing of the devisor, signed in the presence of three or four witnesses, declaring the same; any former law or usage to the contrary notwithstanding.

Estates *pur autre vie* shall be devisable (*a*).

12. That from henceforth any estate *pur autre vie* shall be devisable by a will in writing, signed by the party so devising the same, or by some other person in his presence and by his express directions, attested and subscribed in the presence of the devisor by three or more witnesses, and if no such devise thereof be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as assets by descent, as in case of lands in fee-simple: and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands.

And shall be assets in the heir's hands.

Nuncupative wills.

19. "And for prevention of fraudulent practices in setting up nuncupative wills, which have been the occasion of much perjury:" BE IT ENACTED, That from and after the aforesaid 24th day of June, no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oaths of three witnesses (at the least) that were present at the making thereof, nor unless it be proved that the testator at the time of pronouncing the same did bid the persons present, or some of them, bear witness that such was his will, or to that effect; nor unless such nuncupative will were made in the time of the last sickness of the deceased; and in the house of his or her habitation or dwelling, or where he or she hath been resident for the space of ten days or more next before the making of such will, except where such person was surprised or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

---

afterwards married her and had children by her, it was held these circumstances did not amount to a revocation of the will. Lord Ellenborough in his judgment says, "The doctrine of implied or presumptive revocations seems to stand upon a better foundation of reason, as it is put by Lord Kenyon, in *Doe* v. *Lancashire* (5 T. R. 58), namely, as being 'a tacit condition annexed to the will when made, that it should not take effect if there should be a total change in the situation of the testator's family,' than on the ground of any presumed alteration of intention; which alteration of intention should seem in legal reasoning not very material, unless it be considered as sufficient to found a presumption in fact, that an actual revocation has followed thereupon. But upon whatever grounds this rule of revocation may be supposed to stand, it is on all hands allowed to apply only in cases where the wife and children, the new objects of duty, are wholly unprovided for, and where there is an entire disposition of the whole estate to their exclusion and prejudice. This, however, cannot be said to be the case where the same persons, who, after the making of the will, stand in the legal relation of wife and children, were before specially contemplated and provided for by the testator, though under a different character and denomination" (*Kenebel* v. *Scrafton*, 2 East, 530; see *Marston* v. *Roe d. Fox*, 8 Ad. & E. 14; *Baxter* v. *Dyer*, 5 Ves. 656). Probate, however, was refused by Sir C. Cresswell, to a will made by the testator in 1828, in contemplation of his intended marriage, providing for his intended wife and the children of the marriage, on the ground that the marriage which ensued, together with the birth of a child, operated as a total revocation of such a will (*In the goods of Cadywold*, 1 Sw. & Tr. 34, 27 L. J. Pr. 36); but in this last case, *Kenebel* v. *Scrafton*, *ubi supra*, seems to have been overlooked.

Where two wills are found in the possession of the testator, to invalidate the first the second should expressly revoke, or be clearly incompatible with, the first devise, for no subsequent devise will revoke a prior one, unless it apply to the same subject-matter (*Onions* v. *Tyrer*, 1 P. Wms. 345; *Burtonshaw* v. *Gilbert*, Cowp. 49; *Pemberton* v. *Pemberton*, 13 Ves. 310).

As to the question in the case where a man makes duplicates of his will, or leaves a will consisting of two similar documents, how far the cancellation, revocation, or alteration of one of the duplicates or documents amounts to a cancellation, revocation, or alteration of the whole will, see, in addition to the three last-cited cases, *Sir E. Seymour's case*, cited 1 P. Wms. 346; *Boughey* v. *Moreton*, 3 Hagg. 191; *Rickards* v. *Mumford*, 2 Phillim. 23; *Colvin* v. *Fraser*, 2 Hagg. 266; *Roberts* v. *Round*, 3 Hagg. 548; *Doe d. Strickland* v. *Strickland*, 8 C. B. 724.

A devise of real property is not revoked by the bankruptcy of the devisor. The Master of the Rolls said, "From the moment the debts are paid, the assignees are mere trustees of the bankrupt, and can be called upon to convey to him." In this case all the debts were paid, and the bankrupt had been dead some time (*Charman* v. *Charman*, 14 Ves. 580). See also, as to implied or constructive revocations, *Hoil* v. *Clerk*, 3 Mod. 218; Salk. 259; *Hitchins* v. *Basset*, 3 Mod. 203; *Thomas* v. *Evans*, 2 East, 488; *Eccleston* v. *Petty*, Carth. 81; *Goodright* v. *Glazier*, 4 Burr. 2512; *Ex parte Earl of Ilchester*, 7 Ves. jun. 348; *Sutton* v. *Sutton*, Cowp. 812; *Short* v. *Smith*, 4 East, 419; *Doe* v. *Bishop of Llandaff*, 2 N. R. 491).

(*a*) See 1 Vict. c. 26, s. 6, post.

20. That after six months passed after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof were committed to writing within six days after the making of the said will. 29 Car. 2, c. 3. Probate of nuncupative wills.

21. That no letters testamentary or probate of any nuncupative will shall pass the seal of any court till fourteen days at the least after the decease of the testator be fully expired, nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the widow or next of kindred to the deceased, to the end they may contest the same if they please.

22. That no will in writing concerning any goods or chattels or personal estate shall be repealed, nor shall any clause, devise, or bequest therein be altered or changed by any words or will by word of mouth only, except the same be in the life of the testator committed to writing, and after the writing thereof read unto the testator, and allowed by him, and proved to be so done by three witnesses at the least (*a*). Repeal of wills.

23. Provided always, That notwithstanding this Act, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his moveables, wages, and personal estate, as he or they might have done before the making of this Act (*b*). Soldiers' and mariners' wills excepted.

24. That nothing in this Act shall extend to or alter or change the jurisdiction or right of probate of wills concerning personal estates, but that the prerogative court of the archbishop of Canterbury, and other ecclesiastical courts, and other courts having right to the probate of such wills, shall retain the same right and power as they had before, in every respect, subject nevertheless to the rules and directions of this Act. The jurisdiction of courts saved.

4 Anne, c. 16. An Act for the Amendment of the Law, and the better Advancement of Justice. [A.D. 1705.]

4 Ann. c. 16.

14. "And whereas by an Act of parliament made in the twenty-ninth year of king Charles the second, intituled 'An Act for Prevention of Frauds and Perjuries,' it is enacted, That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oaths of three witnesses at the least that were present at the making thereof," IT IS HEREBY DECLARED, that all such witnesses as are and ought to be allowed to be good witnesses upon trials at law, by the laws and customs of this realm, shall be deemed good witnesses to prove any nuncupative will, or anything relating thereunto. Nuncupative wills. 29 Car. 2, c. 3.

25 Geo. 2, c. 6. An Act for avoiding and putting an End to certain Doubts and Questions relating to the Attestation of Wills and Codicils concerning real Estates in that Part of Great Britain called England, and in his Majesty's Colonies and Plantations in America (*c*). [A.D. 1752.]

25 G. 2, c. 6.

"Whereas by an Act made in the twenty-ninth year of the reign of his late majesty king Charles the second, intituled 'An Act for Prevention of Frauds and Perjuries,' it is amongst other things enacted [reciting sect. 5, which hath been found to be a wise and 29 Car. 2, c. 3.

(*a*) Before this Act it might have been revoked by parol (*Cranwell* v. *Sanders*, Cro. Jac. 497; *Ex parte Earl of Ilchester*, 7 Ves. 348).

(*b*) See 1 Vict. c. 26, s. 11.

(*c*) This Act is repealed by 1 Vict. c. 26, except so far as relates to the colonies.

Before the above Act, difficulties frequently arose in establishing wills, in consequence of the 29 Car. 2, c. 3, s. 5, requiring three credible witnesses to its attestation. Under that statute in general, a devisee or legatee was incompetent (*Hilyard* v. *Jennings*, Carth. 514; *Holdfast* v. *Dowsing*, 2 Stra. 1253; *Watt's case*, Hardr. 331; *Oxenden* v. *Peneriee*, 2 Salk. 691); although a mere executor or trustee who took no beneficial interest under a will was competent (*Bettison* v. *Bromley*, 12 East, 250); but a doubt prevailed whether the term "credible" related to the time of attestation, or to the time of proof. In the case of *Holdfast* v. *Dowsing* (2 Stra. 1253), Lee, C. J., in delivering the judgment of the court, observed, that the time for ascertaining the credibility of the witnesses was the time of attestation. In *Windham* v. *Chetwynd* (1 Burr. 417), it was held that an attestation by a witness who was interested at the time of attestation, but whose interest was discharged before his testimony was required to establish the will, was valid. And it was held in the same case that payment, or a release, made an attesting witness credible within the meaning of the statute. The same doctrine was afterwards maintained by three of the judges of the common pleas, against the opinion of Pratt,

25 G. 2, c. 6.

Devisee, &c., attesting, the devise void, but may be admitted to prove the will.

good provision] But whereas doubts have arisen who are to be deemed legal witnesses within the intent of the said Act, BE IT ENACTED, That if any person shall attest the execution of any will or codicil which shall be made after the 24th day of June, 1752, to whom any beneficial devise, legacy, estate, interest, gift or appointment of, or affecting any real or personal (*a*) estate, other than and except charges on lands, tenements, or hereditaments for payment of any debt or debts, shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will or codicil, or any person claiming under him, be utterly null and void (*b*); and such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said Act, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will or codicil.

Creditor attesting, admitted a witness.

2. That in case by any will or codicil already made, or hereafter to be made, any lands, tenements, or hereditaments are or shall be charged with any debt or debts, and any creditor whose debt is so charged, hath attested or shall attest the execution of such will or codicil, every such creditor, notwithstanding such charge, shall be admitted as a witness to the execution of such will or codicil within the intent of the said Act.

Legatee who has been paid, or shall refuse his legacy, admitted a witness.

3. That if any person hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil which shall be made on or before the said 24th day of June, 1752, to whom any legacy or bequest is or shall be thereby given, whether charged upon lands, tenements, or hereditaments, or not; and such person before he shall give his testimony concerning the execution of any such will or codicil shall have been paid, or have accepted or released, or shall have refused to accept such legacy or

---

C. J., in the case of *Doe* d. *Hindson* v. *Kersey*, 4 Burn. Ec. L. 88.

These decisions occasioned the above statute, which restores both the competency and the credit of devisees and legatees, by declaring void all devises and legacies given to attesting witnesses, and thereby removing all possibility of their interest affecting their testimony. The same statute likewise establishes the competency of creditors, by directing the testimony of all such creditors to be admitted, but leaving their credit, like that of all other witnesses, to be considered on a view of all the circumstances by the court and jury before whom such will shall be contested.

But the above Act did not extend to all interests created by a will. And it has been decided, that one who was interested at the time of the execution of the will, but who discharges that interest previous to the time of his examination, was not a good witness (*Hatfield* v. *Thorp*, 5 B. & Ald. 589). One to whose wife the will gave an estate in fee after the determination of a life estate, was not a good witness within the statute (*Ibid.*); although the wife died after the death of the testator, before the determination of the life estate, and the witness survived the wife (*Ibid.*). But where an attesting witness would take the same interest either under a former will to which he was not a witness, or under a latter will, he stood indifferent in point of interest, and was a good witness to prove the latter will (*Lord Aylesbury's case*, 1 Burr. 427).

The wife of an acting executor taking no beneficial interest under the will, was a competent witness to the execution thereof (*Bettison* v. *Bromley*, 12 East, 250; see also *Phipps* v. *Pitcher*, 2 Marsh. 20; 6 Taunt. 220). The case of a witness to support the competency of a testator was not within the statute, which only relates to the attesting witnesses. Therefore, where, in ejectment against a devisee, the question turned upon the sanity of the testator at the time of making the will, it was holden that an executor who took a pecuniary interest under the will, but who was not an attesting witness, was competent to prove his sanity (*Doe* d. *Wood* v. *Teage*, 5 B. & C. 335; 8 D. & R. 63; see also Burn, Ec. L. 105, 6th ed.; Toll. Ex. 300; 1 Vict. c. 26, ss. 14—17, post; 6 & 7 Vict. c. 85, ante, Vol. I. p. 1381, tit. "EVIDENCE").

(*a*) This Act extended exclusively to persons beneficially interested, and not to devisees in trust (Anon. 1 Mod. 107; *Lowe* v. *Jolliffe*, 1 W. Bl. 365; *Holt* v. *Tyrrell*, 1 Barn. K. B. 12; *Bettison* v. *Bromley*, supra; *Phipps* v. *Pitcher*, supra; see also *Goss* v. *Tracey*, 1 P. W. 290; *Goodtitle* v. *Welford*, Doug. 139). It did not apply to wills of copyholds (*Jillard* v. *Edgar*, 3 De G. & S. 502); nor did it apply to wills of personal estate (*Emanuel* v. *Constable*, 3 Russ. 436, overruling *Lees* v. *Summersgill*, 17 Ves. 508; *Brett* v. *Brett*, 1 Hag. 58, n.; 3 Ad. 210; *Foster* v. *Banbury*, 3 Sim. 40). As to how far the Act applied where the interest arose consequentially and not directly under the will, see *Hatfield* v. *Thorpe*, 5 B. & Ald. 589; *Holdfast* v. *Dowsing*, 2 Str. 1253; and see, as to this Act generally, 1 Jarm. on Wills, 3rd ed. p. 66.

(*b*) Under this section a devise to an attesting witness was held to be void, although there were three other attesting witnesses to the will (*Doe* d. *Taylor* v. *Mills*, 1 Moo. & Rob. 288). Where a testator by a will to which his widow was not an attesting witness devised to her certain estates, and afterwards purchased other estates and republished his will by a codicil which was attested by her, it was held that, though she could not claim the after-purchased estates, yet her title under the original devise was not affected (*Denne* v. *Wood*, 4 L. J. O. S. 57).

bequest upon tender made thereof; such person shall be admitted as a witness to the execution of such will or codicil, within the intent of the said Act, notwithstanding such legacy or bequest. 25 G. 2, c 6.

4. Provided always, That in case of such tender and refusal as aforesaid, such person shall in nowise be entitled to such legacy or bequest, but shall be for ever afterwards barred therefrom; and in case of such acceptance as aforesaid, such person shall retain to his own use the legacy or bequest which shall have been so paid, satisfied or accepted, notwithstanding such will or codicil shall afterwards be adjudged or determined to be void for want of due execution, or for any other cause or defect whatsoever. After refusal he is barred from the legacy; but after acceptance, may retain.

5. That in case any such legatee as aforesaid, who hath attested the execution of any will or codicil already made, or shall attest the execution of any will or codicil which shall be made on or before the said 24th day of June, 1752, shall have died in the lifetime of the testator, or before he shall have received or released the legacy or bequest so given to him as aforesaid, and before he shall have refused to receive such legacy or bequest on tender made thereof, such legatee shall be deemed a legal witness to the execution of such will or codicil within the intent of the said Act, notwithstanding such legacy or bequest. Legatee attesting and dying in the lifetime of the testator, or before he has received or refused his legacy, admitted a witness.

6. Provided always, That the credit of every such witness so attesting the execution of any will or codicil in any of the cases in this Act before mentioned, and all circumstances relating thereto, shall be subject to the consideration and determination of the court and the jury before whom any such witness shall be examined, or his testimony or attestation made use of; or of the court of equity in which the testimony or attestation of any such witness shall be made use of; in like manner to all intents and purposes as the credit of witnesses in all other cases ought to be considered of and determined. Credit of the witness to be determined by the court, &c.

7. That no person to whom any beneficial estate, interest, gift or appointment shall be given or made, which is hereby enacted to be null and void as aforesaid, or who shall have refused to receive any such legacy or bequest on tender made as aforesaid; and who shall have been examined as a witness concerning the execution of such will or codicil, shall, after he shall have been so examined, demand or take possession of, or receive any profits or benefit of or from any such estate, interest, gift or appointment so given or made to him, in or by any such will or codicil; or demand, receive or accept from any person or persons whatsoever, any such legacy or bequest, or any satisfaction or compensation for the same, in any manner or under any colour or pretence whatsoever. No devisee where the devise is made void, &c., being examined, &c., shall afterwards take any benefit.

8. Provided always, That this Act or anything herein contained shall not extend or be construed to extend to the case of any heir at law, or of any devisee in a prior will or codicil of the same testator, executed and attested according to the said recited Act, or any person claiming under them respectively, who has been in quiet possession for the space of two years next preceding the 6th day of May, 1751, to such lands, tenements and hereditaments, whereof he has been in quiet possession as aforesaid; and also that this Act or anything herein contained shall not extend or be construed to extend to any will or codicil, the validity or due execution whereof hath been contested in any suit in law or equity, commenced by the heir of such devisor or the devisee in any such prior will or codicil, for recovering the lands, tenements or hereditaments mentioned to be devised in any will or codicil so contested, or any part thereof, or for obtaining any other judgment or decree relative thereto, on or before the said 6th day of May, 1751, and which has been already determined in favour of such heir at law or devisee in such prior will or codicil, or any person claiming under them respectively, or which is still depending, and has been prosecuted with due diligence; but the validity of every such will or codicil, and the competency of the witnesses thereto, shall be adjudged and determined in the same manner to all intents and purposes as if this Act had never been made; anything hereinbefore contained to the contrary thereof in anywise notwithstanding. Cases where the validity of wills and competency of witnesses are not affected.

9. Provided always nevertheless, That no possession of any heir at law or devisee, in such prior will or codicil as aforesaid, or of any person claiming under them respectively, which is consistent with or may be warranted by or under any will or codicil attested according to the true intent and meaning of this Act, or where the estate descended or might have descended to such heir at law, till a future or executory devise by virtue of any will or codicil attested according to this Act should or might take effect, shall be deemed to be a possession within the intent and meaning of the clause herein last before contained. Possessions which are not comprehended within the meaning of the preceding clause.

10. "And whereas in some of the British colonies or plantations in America, the said Act of the twenty-ninth year of the reign of king Charles the second has been received for law, or Acts of assembly have been made, whereby the attestation and subscription of witnesses to devises of lands, tenements and hereditaments have been required:" therefore to prevent and avoid doubts which may arise in the said colonies or plantations, in relation to the attestation of such devises of lands, tenements and hereditaments, BE IT ENACTED by the authority aforesaid, That this Act and every clause, matter and thing therein contained shall extend to such of the said colonies and plantations where the said Act of the twenty-ninth year of the reign of king Charles the second is by Act of assembly made or by usage received as law, or where by Act of assembly or usage the attestation and subscription of a witness or witnesses are made necessary to devises of lands, tenements or hereditaments; and shall have the same force and effect in the construction of or for the avoiding of doubts upon the said Acts of assembly and laws This Act to extend to such of the British colonies where the Act of 29 Car. 2, c. 3, is received, &c.

25 G. 2, c. 6. of the said colonies and plantations, as the same ought to have in the construction of or for the avoiding of doubts upon the said Act of the twenty-ninth year of the reign of king Charles the second in England.

Devises, &c., in the plantations by wills made after 1st March, 1753, affected by this Act.

11. Provided always, That as to cases arising in any of the said colonies or plantations in America, no such devise, legacy or bequest as aforesaid shall be made null and void by virtue of this Act, unless the will or codicil whereby such devise, legacy or bequest shall be given, shall be made after the 1st day of March, 1753.

39 & 40 G. 3, c. 98.

39 & 40 Geo. 3, c. 98. An Act to restrain all Trusts and Directions in Deeds or Wills, whereby the Profits or Produce of Real or Personal Estate shall be accumulated, and the beneficial Enjoyment thereof postponed beyond the Time therein limited (*a*).

[28th July, 1800.]

No person by deed or will, &c., shall settle or dispose of any real or personal property in such man-

"Whereas it is expedient that all dispositions of real or personal estates, whereby the profits and produce thereof are directed to be accumulated, and the beneficial enjoyment thereof is postponed, should be made subject to the restrictions hereinafter contained:" BE IT ENACTED, That no person or persons shall after the passing of this Act, by any deed or deeds (*b*), surrender or surrenders, will, codicil or otherwise howsoever, settle or dispose of any real or personal property so and in such manner that the rents, issues, profits or produce thereof (*c*) shall be wholly or partially accumulated (*d*) for any longer

---

(*a*) See on the construction of this Act, Hargrave on the Thellusson Act; Jarman on Conveyancing, Vol. II., p. 195; Jarman on Wills, 3rd Ed., Vol. I. c. 9, s. 3, pp. 282, seqq.; Hayes on Conveyancing; *Lord Southampton* v. *Marquis of Hertford*, 2 Ves. & Bea. 54; *Marshall* v. *Holloway*, 2 Swanst. 432; *Shaw* v. *Rhodes*, 1 M. & Cr. 135; S. C. nom. *Evans* v. *Hellier*, 5 Clk. & Fin. 114; *Pride* v. *Fooks*, 2 Beav. 430; *Boughton* v. *James*, 1 Col. 26; *Vawdry* v. *Geddes*, 1 Russ. & M. 203.

This Act does not apply to Irish real estates (*Ellis* v. *Maxwell*, 12 Beav. 104), or Irish settlements by domiciled Irishmen (*Heywood* v. *Heywood*, 29 Beav. 9, 30 L. J. Ch. 155). Where however a testator directed the rents of Irish real estates to be invested and become a part of his personal estate, and to be accumulated, it was held that the Act applied to the rents as invested from time to time, and that although the rents, which ought to be considered as *corpus*, might be invested for more than twenty-one years from the testator's death, yet that the income thereof could not (*Ellis* v. *Maxwell*, supra).

The law as it stood before this statute having put no restriction upon the accumulation of property so long as the vesting could be suspended, Mr. Thellusson had by his will directed his personal property to be invested in land, and the rents and profits of the land to be purchased, and of his real estate, to be accumulated during the lives of all his descendants who should be living at the time of his death, or born in due time afterwards; and then limited the accumulated property in favour of certain of his descendants who might be then living; and this disposition being upheld by the courts (*Thellusson* v. *Woodford*, 4 Ves. 227, and on appeal in Dom. Proc. 11 Ves. 112; 1 N. R. 357), it was deemed necessary by the Legislature to interfere, for the purpose of restricting such dispositions for the future; we have here, therefore, the key to this statute. It had its origin in dispositions for the accumulation of rents and profits *qua* rents and profits, and not in dispositions having any reference whatever to any bargains or contracts entered into for other purposes than the mere purpose of accumulation (*per* Turner, V.-C., *Bassel* v. *Lister*, 9 Hare, 181).

(*b*) See *In re Lady Rosslyn's Trust*, 16 Sim. 391.

(*c*) That is, *qua* rents, profits, &c. (*Bassel* v. *Lister*, infra).

(*d*) It appears that the Act extends to implied as well as express directions for accumulation (*Tench* v. *Cheese*, 6 De G. M. & G. 453, 24 L. J. Ch. 716, reversing S. C. 19 Beav. 3, 24 L. J. Ch. 49; *Macpherson* v. *Stewart*, 28 L. J. Ch. 177; *Morgan* v. *Morgan*, 4 De G. & Sm. 164, 20 L. J. Ch. 109; *Shaw* v. *Rhodes*, 1 M. & Cr. 135; *Evans* v. *Hellier*, 5 Clk. & Fin. 114; *Macdonald* v. *Bryce*, 2 Keen, 276; which cases seem so far to overrule *Elborne* v. *Goode*, 14 Sim. 165; *Corporation of Bridgenorth* v. *Collins*, 15 Sim. 538, in which the contrary doctrine was maintained). Where a decree directed the accumulation of the intermediate income of an executory bequest of personalty, the House of Lords varied the decree by a provision that the accumulation should be restricted to the term of twenty-one years from the testator's death allowed by this Act (*Hodgson* v. *Beetive*, 3 New Rep. 654). A direction by will to pay out of the testator's property the premiums upon a policy of insurance, effected by the testator upon the life of another person, is valid for the whole life insured, and is not an accumulation within this Act (*Bassel* v. *Lister*, 9 Hare, 177; see *Shaw* v. *Rhodes*, supra).

term than the life or lives of any such grantor or grantors, settler or settlers (*a*); or (*b*) the term of twenty-one years from the death of any such grantor, settler, devisor or testator (*c*); or during the minority or respective minorities of any person or persons who shall be living, or in *ventre sa mère* (*d*) at the time of the death of such grantor, devisor or testator; or during the minority or respective minorities only of any person or persons who under the uses or trusts of the deed, surrender, will or other assurances, directing such accumulations would for the time being, if of full age, be entitled unto the rents, issues and profits, or the interest, dividends or annual produce, so directed to be accumulated (*e*): and in every case where any accumulation shall be directed otherwise than as aforesaid, such direction shall be null and void (*f*), and the rents, issues, profits and produce of such property so directed to be accumulated shall, so long as the same shall be directed to be accumulated contrary to the provisions of this Act, go to and be received by such person or persons as would have been entitled thereto if such accumulation had not been directed (*g*).

30 & 40 G. 3, c. 98.

ner that the rents or produce shall be accumulated for a longer term than the life of the settler: or 21 years after his decease; or during the minority of any party living at his decease; or the minorities of persons beneficially entitled. Any other direction shall be void, and the rents, &c., go to the persons entitled thereto.

(*a*) See *Heywood* v. *Heywood*, 29 Beav. 9, 30 L. J. Ch. 155.

(*b*) Only one of the four permitted periods can be taken (*Wilson* v. *Wilson*, 1 Sim. N. S. 288; and see *Rosslyn's Trust*, 16 Sim. 391; *Ellis* v. *Maxwell*, 3 Beav. 595; *Griffiths* v. *Vere*, 9 Ves. 126).

(*c*) It would seem that the period of twenty-one years is to be computed exclusively of the day of the testator's death (See *Gorst* v. *Lowndes*, 11 Sim. 434).

This Act will not apply to prevent apportionment under the Apportionment Act (4 & 5 W. 4, c. 22) of the rent which falls due next after the expiration of the 21 years (*St. Aubyn* v. *St. Aubyn*, 1 Drew. & Sm. 611).

The commencement of the legal period for accumulation cannot be deferred, but must begin from the testator's death (*Shaw* v. *Rhodes*, 1 My. & Cr. 154; *Webb* v. *Webb*, 2 Beav. 493; *Att.-Gen.* v. *Poulden*, 3 Hare, 555; *Nettleton* v. *Stephenson*, 3 De G. & Sm. 366).

(*d*) For an instance of an accumulation being held good till one of the class for whose benefit the accumulation was intended, and who was in *ventre sa mère* at the time of the testator's death, came of age, see *Ellis* v. *Maxwell*, 3 Beav. 596.

(*e*) As to the question, whether, under this fourth clause, the person, during whose minority the accumulation is thereby allowed, must be in being at the decease of the testator, &c., or in other words, whether anything is permitted under the fourth clause which would not be allowable under the third, see the remarks of Lord Langdale in *Ellis* v. *Maxwell*, 3 Beav. 596; *Bryan* v. *Collins*, 16 *ib.* 14; *Haley* v. *Bannister*, 4 Madd. 275; *Longdon* v. *Simson*, 12 Ves. 295; see also the remarks of Lord Eldon in *Griffiths* v. *Vere*, 9 Ves. 136, and 1 Jarm. on Wills, 3d ed., c. 9, sec. 3, pp. 284—286.

(*f*) A disposition directing an accumulation for a longer period than the Act allows is valid for the time allowed, and only void for the excess (see *Griffiths* v. *Vere*, 9 Ves. 127; *Longdon* v. *Simson*, 12 Ves. 295; *Haley* v. *Bannister*, 4 Madd. 275; *Palmer* v. *Holford*, 4 Russ. 403; *Crawley* v. *Crawley*, 7 Sim. 427; *Pride* v. *Fooks*, 2 Beav. 430; *Oddie* v. *Brown*, 4 De G. & J. 179, 28 L. J. Ch. 542).

(*g*) As to who, under the circumstances of the different cases, are the persons who would have been entitled to the rents, issues, &c., of the property directed to be accumulated, if such accumulation had not been directed, see 1 Jarman on Wills, 3d. ed., pp. 291, seqq.).

The time of distribution or possession is not, in the case of vested interests, accelerated by the operation of the Act (*Nettleton* v. *Stephenson*, 3 De G. & Sm. 366; *Macdonald* v. *Bryce*, 2 Keen, 276; *Eyre* v. *Marsden*, *ib.*, 574; *Ellis* v. *Maxwell*, 3 Beav. 597; *Ld. Barrington* v. *Liddell*, 10 Hare, 429). Nor does the Act accelerate the vesting of a contingent interest (*Jones* v. *Maggs*, 9 Hare, 605; and see Jarm. on Wills, vol. 1., p. 291, 3d ed.).

Where there is a direction to accumulate the rents and profits of an estate, and subject thereto the estate is devised to one in tail with remainders over, the direction is to be looked upon in the nature of a charge, and so much of the accumulated fund as may have arisen from rents and income accumulated since the expiration of twenty-one years from the testator's death belongs to the persons for the time being entitled to the estate which is subject to that charge (*In re Clulow's Trust*, 1 Johns. & H. 639; *Shaw* v. *Rhodes*, 1 My. & Cr. 135; S. C. sub nom. *Evans* v. *Hellier*, 5 Cl. & F. 114). So also where a testator bequeathed the residue of his personal estate to trustees in trust to pay the income to his daughter for life, and after her decease for the benefit of the child or children of the daughter when they should respectively attain twenty-one, with a limitation over on failure of there being issue of the daughter entitled to take, with a proviso that if the dividends and interest of the residue should exceed 200*l.* per ann., the surplus should accumulate for the benefit of the persons entitled on the decease of the daughter; it was held that at the end of the twenty-one years from the testator's death the daughter was entitled to the interest of the accumulated fund, and to the whole sum beyond 200*l.* arising from the investment of the residue (*Trickey* v. *Trickey*, 3 M. & K. 560).

Where a testator directed the accumulation of the whole of his personal estate for the benefit

39 & 40 G. 3, c. 98.

Nothing herein to extend to

2. Provided always, That nothing in this Act contained shall extend to any provision for payment of debts of any grantor, settler or devisor or other person or persons (*a*), or to any provision for raising portions (*b*) for any child or children (*c*) of any grantor, settler or devisor or any child or children of any person taking any interest, under any such conveyance,

---

of his grandchildren, and he gave to his wife "anything that he might not have sufficiently disposed of;" it was held that the annual produce arising out of the accumulated fund after the twenty-one years had elapsed, and until the arrival of the period appointed for distribution by the will, belonged to the widow, as residuary legatee, subject to an allowance therefrom for the maintenance and education of all the grandchildren, all the latter except one taking vested interests (*Ellis* v. *Maxwell*, 3 Beav. 587). So, the residuary legatee was held to be entitled during the same period to the annual produce of an accumulated legacy (*Jones* v. *Maggs*, 9 Hare, 605). Where a legacy was given on trust to be accumulated till the legatee should attain twenty-five, with a provision that if he died under that age the legacy and accumulations should fall into the residue, and the legatee would not attain twenty-five till a period of more than twenty-one years after the death of the testatrix; it was held that the income arising from the accumulated legacy after the period of twenty-one years, and until the legacy should become payable or fall into the residue, would form part of the capital of the residue (*Crawley* v. *Crawley*, 7 Sim. 427). So, where a legacy was directed to accumulate during the life of M. J., who was living at the termination of the twenty-one years from the testator's death, it was held that the annual produce of the accumulated legacy after the twenty-one years had elapsed, and until the death of M. J., formed part of the capital of the residue (*O'Neil* v. *Lucas*, 2 Keen, 313; and see also *Att.-Gen.* v. *Poulden*, 3 Hare, 555; *Morgan* v. *Morgan*, 4 De G. & Sm. 164; *Bryan* v. *Collins*, 16 Beav. 14. See also *Morgan* v. *Morgan*, as to the respective interests of the tenant for life and legatee in remainder of the residue, in accumulations of income arising from an accumulated legacy after the expiration of the twenty-one years, and until the period fixed in the will for the determination of the trusts for accumulation).

Where a testator devised estates on trust to pay the rents to a tenant for life, and after her death, on trust, to accumulate the same for twenty-one years from the death of the tenant for life, and at the end of that period to divide the accumulations among defined classes of objects, and with limitations in remainder after the expiration of the twenty-one years, but there was no residuary devise: it was held, that the rents accruing between the end of the legal period for accumulation and the time of distribution belonged to the heir-at-law of the testator (*Nettleton* v. *Stephenson*, 3 De G. & Sm. 366).

If a residue of personalty be directed to accumulate for a period longer than is allowed under the Act, the income accruing from the accumulated devise after the twenty-one years have elapsed, and until the corpus becomes payable, will go to the next of kin, as being undisposed of by the will (*Oddie* v. *Brown*, 4 De G. & J. 179; *Bourne* v. *Buckton*, 2 Sim. N. S. 91; *M'Donald* v. *Bryce*, 2 Keen, 276; *Pride* v. *Fooks*, 2 Beav. 437; *Elborne* v. *Goode*, 14 Sim. 165; *Wilson* v. *Wilson*, 1 Sim. N. S. 288). In the case of a residue of realty being directed to accumulate, the income will go during the same period to the heir-at-law (*Halford* v. *Stains*, 16 Sim. 488; and see *Wildes* v. *Davies*, 1 Sm. & G. 475). If the residue be composed of realty and personalty, the income of the realty will go to the heir-at law, of the personalty to the next of kin, for the same period (*Eyre* v. *Marsden*, 2 Keen, 564; 4 My. & Cr. 231; *Edwards* v. *Tuck*, 3 De G. M. & G. 40; *Burt* v. *Sturt*, 10 Hare, 413; *Tench* v. *Cheese*, 6 De G. M. & G. 453). As to the question on whom the heir's interest will devolve in the event of his dying before the accumulations are distributed, see *Halford* v. *Stains*, 16 Sim. 488; *Sewell* v. *Denny*, 10 Beav. 315).

(*a*) See *Bacon* v. *Proctor*, 1 Tur. & Russ. 31; *Bateman* v. *Hotchkins*, 10 Beav. 426; *Ld. Southampton* v. *Marquis of Hertford*, 2 Ves. & B. 54, as to a trust for accumulation for the payment of the testator's debts being valid though exceeding the limits allowed by the rule against perpetuities.

Under this clause, it would seem that a man may provide for the debts of himself or any body else within the old limits (*Barrington* v. *Liddell*, 2 De G. M. & G. 497-8; and see *Varlo* v. *Faden*, 1 De G. F. & J. 211). And the provision for the payment of debts is not confined by the Act to those existing at the date of the will, or at the death of the testator, but may extend also to future debts (*Varlo* v. *Faden*, 1 De G. F. & J. 211, affirming, 27 Beav. 255, 29 L. J. Ch. 230).

A contingent liability under a covenant entered into but not broken by a testator, is a debt within the meaning of this clause (*Varlo* v. *Faden*, supra).

(*c*) This is not confined to a child or children existing at the date of the settlement, but extends to children that may come afterwards into existence (*Beech* v. *Earl St. Vincent*, 3 De Gex & S. 679).

(*b*) These words include portions already created by another instrument as well as future portions

created by the instrument which contains the trust for accumulation (*Bourne* v. *Buckton*, 2 Sim. N. S. 96; *Barrington* v. *Liddell*, 2 De G. M. & G. 480; *Beech* v. *Lord St. Vincent*, infra; *Middleton* v. *Losh*, 1 Sm. & Giff. 61. And see *Halford* v. *Stains*, 16 Sim. 496, in which case Shadwell, V.-C., appears to have thought that only portions charged on property by some prior instrument were intended).

Where a testator devised estates to trustees for a term, upon trust during twenty-one years, and so much longer during the life of his only son as there should be in existence any younger children or child of his son, to raise 2000*l.* per annum, and accumulate it, and stand possessed of it and the accumulations upon trusts for the benefit of the son's younger children, and subject to the term, the estates were devised to the use of the son for life, with remainder to the use of his first and other sons successively in tail, with remainders over: it was held, that the trusts for accumulations were valid, being a provision for raising portions within the exception contained in this section (*Beech* v. *Lord St. Vincent*, 3 De Gex & Sm. 678).

Again, where by the marriage settlement of A. B., the grand-nephew of the testator, certain estates were settled subject to a term, the trusts of which were to raise portions for younger children of the marriage to an amount in the whole varying according to the number of such children, and which, in the events which happened, was 40,000*l.* The testator, by his will, made a large provision for A. B., and then reciting the settlement bequeathed to his executors a sum of 15,000*l.* on trust, to invest and accumulate the income during the life of A. B., but if A. B. should die within twenty years from the testator's death, then the accumulation to be continued for so long a time as would make up the twenty years, and upon the completion of the accumulation, on trust to stand possessed of the trust moneys to pay and apply the same or a competent part thereof in satisfaction of the portions, and in exoneration of the settled estates, and subject thereto upon the trusts of testator's residuary personal estate: the testator also provided that, if before the expiration of the period of accumulation, the accumulated fund should be sufficient to answer the aforesaid purposes, then the accumulation should cease. A. B. lived beyond twenty-one years from the testator's death. It was held (by Lord St. Leonards, C., reversing the decision of Turner, V.-C.), that the gift was a provision for raising portions within the meaning of this section (*Barrington* v. *Liddell*, 2 De G. M. & G. 480, 10 Hare, 429).

Again, where a testatrix gave a sum, which, together with 150,000*l.*, to which her four sons were otherwise entitled, would make up 50,000*l.* to each of them; and she directed that the "portion" of 50,000*l.* for W. B., one of such sons, should be paid to trustees, to invest the same during his life; and after paying part of the income for his maintenance, to accumulate the surplus on trusts for the benefit of his children after his death. There was a provision for applying a part of the income after his decease to the maintenance and education of his children during their minorities, or until their portions should become payable under the will. The accumulated fund was to become divisible among the son's children at twenty-one, or marriage; and if the son should die without issue, the testatrix directed the fund to sink into the residue given for the benefit of another of her four sons. W. B. had no children, and it was improbable that he would have any. It was held, that the trust for accumulation was within the exception in this section as to "portions," and was a valid trust (*Middleton* v. *Losh*, 1 Sm. & G. 61).

On the other hand, it has been held that a direction in a will to accumulate rents and profits of an estate up to a sum certain, for portions for children of a devisee, who dies without having had any child, is not within the protection of this section (*In re Clulow's Trust*, 1 Johns. & H. 639, 28 L. J. Ch. 696).

Again, where a testator gave certain annuities out of his residuary estate to his three children, and directed the surplus of the annual income to be applied in accumulation of the capital of his property for the benefit of his grandchildren, among whom the accumulated capital was to be divided after the death of the survivor of the testator's three children; it was held, that the direction for accumulation did not come within the exception contained in this section, one of the grounds for the decision being, that the direction was not a provision for raising portions, but for making additions to the capital for the purpose of making one gift of an aggregate fund (*Eyre* v. *Marsden*, 2 Keen, 564; and see the opinion of Bosanquet, J., in *Shaw* v. *Rhodes*, 1 My. & Cr. 152). So a direction to accumulate a residue during the life of A., and, on his death, to transfer the same to his children, is not a provision for raising portions within this section (*Bourne* v. *Buckton*, 2 Sim. N. S. 91; *Burt* v. *Sturt*, 10 Hare, 415; *Edwards* v. *Tuck*, 3 De G. M. & G. 40; and see *Halford* v. *Stains*, 16 Sim. 488). So a gift of a specific sum to accumulate for the benefit of the children of the residuary legatee has been held not to be a provision for raising portions (*Jones* v. *Maggs*, 9 Hare, 605). So a gift of a sum on trust to invest and accumulate during the life of A. B., and on his death to pay the income of the accumulated amount to the wife of A. B. for her life, and after the death of A. B. and his wife, to divide the accumulations amongst her children, is not a provision for raising portions (*Watt* v. *Wood*, 2 Drew. & Sm. 56, 31 L. J. Ch. 338). Neither does the exception include a gift of a sum of stock in trust to pay life annuities out of the dividends to several persons, and at the decease of any, to accumulate

39 & 40 G. 3, c. 98.

settlement or devise (a), or to any direction touching the produce of timber or wood upon any lands or tenements; but that all such provisions and directions shall and may be made and given as if this Act had not passed.

any provision for payment of debts, or for raising portions for children, or touching the produce of timber;

nor to any disposition of heritable property in Scotland (b).

3. Provided also, that nothing in this Act contained shall extend to any disposition respecting heritable property within that part of Great Britain called Scotland.

Restrictions shall take effect with respect to wills made before the passing of this Act, only where the testator shall live, &c., twelve months after the passing of this Act.

4. Provided also, That the restrictions in this Act contained shall take effect and be in force with respect to wills and testaments made and executed before the passing of this Act, in such cases only where the devisor or testator shall be living, and of sound and disposing mind, after the expiration of twelve calendar months from the passing of this Act.

55 G. 3, c. 192.

55 Geo. 3, c. 192. An Act to remove certain Difficulties in the Disposition of Copyhold Estates by Will (c). [12th July, 1815.]

"Whereas by the customs of certain manors, copyhold estates of such manors passed by the last will and testament of the copyhold tenants thereof declaring the uses of sur-

---

his annuity, and after the death of the last annuitant, to divide the stock and accumulations amongst the surviving children of the annuitants (*Drewett* v. *Pollard*, 27 Beav. 196).

A direction by a testator to trustees out of the income of his estate to pay a fixed annual sum for the benefit of his son, a lunatic, and to accumulate the surplus until his death or recovery, with a trust in case his son should recover to pay the accumulations to the son, is not within the exception as to portions (*Wildes* v. *Davies*, 1 Sm. & G. 475).

(a) It seems to have been formerly thought that the interest "under any such devise" necessary to bring the trust for accumulation within the exception contained in this section, must be an interest in the particular property which was directed to be accumulated (*Morgan* v. *Morgan*, 4 De G. & Sm. 171—4; *Bourne* v. *Buckton*, 2 Sim. N. S. 100—1; *Barrington* v. *Liddell*, 10 Hare, 433). The more modern opinion however seems to be that an interest in any property given by the instrument containing the provision for raising portions is sufficient (*Barrington* v. *Liddell*, 2 De G. M. & G. 499—502; *Burt* v. *Sturt*, 10 Hare, 420-1; *Edwards* v. *Tuck*, 3 De G. M. & G. 57—63).

In support of the opinion that any interest in the parent, however small, will be sufficient, see, *per* Lords Lyndhurst and Brougham, *Evans* v. *Hellier*, 5 Cl. & F. 126-7; *Barrington* v. *Liddell*, 2 De G. M. & G. 502—5; on the other hand, see the opinion of Bosanquet, J., in *Shaw* v. *Rhodes*, 1 My. & Cr. 159.

It seems that in the case of a trust for accumulation for the benefit of the children of several parents, where any one of the latter does not take any interest under the instrument, then the trust would not be protected by this section as to any of the grandchildren, and would be void after the twenty-one years (*Eyre* v. *Marsden*, 2 Keen, 573; *Barrington* v. *Liddell*, 2 De G. M. & G. 502). Bosanquet, J. (*Shaw* v. *Rhodes*, 1 My. & Cr. 159), seems to have thought that a gift in favour of illegitimate grandchildren could not be brought within this section.

(b) This section is repealed by 11 & 12 Vict. c. 36, s. 41, which latter section enacts that 39 & 40 Geo. 3, c. 98, shall in future apply to heritable property in Scotland.

It has been held, that a direction to invest accumulations in lands in Scotland would not bring the case within the protection of this section (*Macpherson* v. *Stewart*, 28 L. J. Ch. 177).

(c) This Act is repealed, except as to wills made before the 1st Jan., 1838, by 1 Vict. c. 26, ss. 2, 34. There is no doubt but that before this Act courts of equity would have supplied the surrender of copyholds in favour of three descriptions of persons—creditors, wife, and children; yet even in these cases they proceeded subject to several restictions (see 1 Fonbl. 39, n. (v); and see Bridg. Equity Dig. tit. Copyhold, III.).

Where the custom of a manor was, that a *feme covert* copyholder, on surrendering, must be examined by the steward of the manor; this statute was held not to extend to supply the want of such surrender, the statute being made with a view to prevent the inconvenience of want of mere formal surrenders, and not to such surrenders as are matters of substance (*Doe* v. *Bartle*, 5 B. & Ald. 492; 1 D. & R. 84).

The word copyhold in this Act includes customary freeholds (*Doe* d. *Edmunds* v. *Llewellyn*, 2 Cr. M. & R. 503).

Under this Act copyholds unsurrendered to the use of the will have been held to pass under a general devise of real estate (*Doe* d. *Clarke* v. *Ludlam*, 7 Bing. 275); or under a residuary gift

55 G 3, c. 192.

renders made for that purpose: And whereas much inconvenience has arisen from the necessity of making such surrenders;" for remedy whereof BE IT ENACTED, That in all cases where by the custom of any manor in England or Ireland any copyhold tenant of such manor may, by his or her last will and testament, dispose of or appoint his or her copyhold tenements, the same having been surrendered to such uses as should be declared by such last will and testament, every disposition or charge made or to be made by any such last will and testament, by any person who shall die after the passing of this Act, of any such copyhold tenements, or of any right, title, or interest in or to the same, shall be as valid and effectual to all intents and purposes, although no surrender shall have been made to the use of the last will and testament of such person, as the same would have been if a surrender had been made to the use of such will.

Disposition by will of copyhold estates effectual without previous surrenders to uses thereof.

2. Provided also, That no person entitled, or claiming to be entitled to copyhold lands, tenements, or hereditaments, in consequence of any testamentary disposition, shall be entitled to be admitted to the same by virtue of anything in this Act contained, except upon payment of all such stamp duties, fees, and sums of money as would have been lawfully due and payable in respect of the surrendering of such copyhold lands, tenements, or hereditaments to the use of such will, or in respect of the presenting, registering, or inrolling such surrender, had the same lands, tenements, and hereditaments been surrendered to the use of the will of the person so disposing of the same; all such stamp duties, fees, or sums of money due as aforesaid to be paid in addition to the stamp duties, fees, or sums of money due or payable on the admission of such person so entitled or claiming to be entitled to the same copyhold lands, tenements, or hereditaments, and the stamp duties to be affixed to the copy of the admission.

Admissions under testamentary dispositions to pay like fees, &c., as payable on surrenders (a).

3. Provided always, That nothing in this Act contained shall be construed, deemed, or taken, at law or in equity, to render invalid or ineffectual any devise or disposition of any copyhold lands, tenements, or hereditaments, or of any right, title or interest in or to copyhold lands, tenements or hereditaments which would be valid or effectual if this Act had not been made, or to render valid and effectual any devise or disposition of any copyhold lands, tenements, or hereditaments, or of any right, title, or interest in or to any copyhold lands, tenements, or hereditaments which would be invalid or ineffectual if a surrender had been made to the use of the last will and testament of the person attempting to dispose of the same by will; anything hereinbefore contained to the contrary notwithstanding.

Act not to invalidate devises of copyholds, &c.

---

of all the rest, &c., of "my estate whatsoever and wheresoever, and of what nature, kind and quality the same may be" (*Doe* d. *Edmunds* v. *Llewellyn*, supra). But a surrender would not be supplied in the case of a general devise unless the will were made after the passing of this Act (*Doe* d. *Smith* v. *Bird*, 5 B. & Ad. 695.)

Where the will devising the copyholds was not executed with the formalities required in the surrender, and therefore was not a good execution of the power contained in the surrender, it was yet held, that the devise operated on the reversion vested in the surrenderee in default of appointment under the power, and that the Act supplied a second surrender to the use of the will which was actually executed (*Doe* v. *Hickman*, 4 B. & Ad. 56).

A special case stated, that lands in a certain manor were held by customary tenure, passed by admittance for the joint lives of the lord and tenant, were descendible from ancestor to heir, and, *inter vivos*, passed by deed of customary conveyance (licensed by the lord), with surrender and admittance. The case further stated, that before stat. 1 Vict. c. 26, there was no instance of a devise made by a customary tenant of the legal estate of any lands in the manor, but it had frequently occurred that a tenant, wishing to dispose of his customary estate after death, conveyed by deed of customary conveyance and surrender to a trustee, as on an ordinary alienation, the trusts of the equitable estate being then declared by a separate instrument, and being usually for the alienor during his life, and after his death to convey to such person as he should by deed or will appoint; but there was no instance of a devise of any customary tenant in the manor without such previous conveyance, surrender, and declaration of trust. It was held, that on this statement the tenements must be considered as estates descendible from ancestor to heir, subject to the ordinary rules governing copyhold estates. That a custom not to pass estates by devise, or to pass them by some substituted method, was not shown clearly enough to supersede the ordinary right of a copyholder to devise his lands. And, therefore, that a devise of such lands, without surrender to the use of the will (made after the passing of this Act, and before stat. 1 Vict. c. 26), was sustained by the 1st section, and not excluded from its operation by the latter clause of sect. 3 (*Doe* d. *Dand* v. *Thompson*, 7 Q. B. 897; and see *Doe* d. *Edmunds* v. *Llewellyn*, 2 Cr. M. & R. 503).

(a) Under this section, if copyhold lands be devised, the steward is entitled to fees, as in respect of a surrender to the use of the will, to the same amount as would have been payable for an actual surrender, though the surrender is no longer necessary (*Traherne* v. *Gardner*, 5 El. & Bl. 213).

11 G. 4 & 1 W. 4, c. 40.

11 Geo. 4 & 1 Will. 4, c. 40. An Act for making better Provision for the Disposal of the undisposed-of Residues of the Effects of Testators (*a*). [16th July, 1830.]

1 W. 4, c. 47.

1 Will. 4, c. 47. An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate (*b*). [16th July, 1830.]

[Recites 3 & 4 Will. & M. c. 14; 6 & 7 Will. 3, c. 14; 4 Anne, c. 5; 47 Geo. 3, c. 74.] That the said several recited Acts shall be and the same are hereby repealed, but so as not to affect any of the provisions and remedies of the said Acts, or any of them, to the benefit of which any persons are entitled, as against any estate or interest in any lands, tenements, hereditaments, or other real estate, of any person or persons who died before the passing of this Act (*c*).

For remedying frauds committed on creditors by wills.

2. "And whereas it is not reasonable or just that by the practice or contrivance of any debtors their creditors should be defrauded of their just debts, and nevertheless it hath often so happened, that where several persons having by bonds, *covenants*, or other specialties, bound themselves and their heirs, and have afterwards died seised in fee-simple of and in manors, messuages, lands, tenements, and hereditaments, or had power or authority to dispose of or charge the same by their wills or testaments, have, to the defrauding of such their creditors, by their last wills or testaments, devised the same or disposed thereof in such manner as such creditors have lost their said debts;" for remedying of which, and for the maintenance of just and upright dealing, BE IT FURTHER ENACTED, That all wills and testamentary limitations, dispositions, or appointments, *already made by persons now in being, or hereafter to be made by any person or persons whomsoever*, of or concerning any manors, messuages, lands, tenements, or hereditaments, or any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her, or their decease, shall be seised in fee-simple, in possession, reversion, or remainder, or have power to dispose of (*d*) the same by his, her, or their last wills or testaments, shall be deemed or taken (only as against such person or persons, *bodies politic or corporate*, and his and their heirs, successors, executors, administrators, and assigns, and every of them, *with whom the person or persons making any such wills or testaments, limitations, dispositions or appointments shall have entered into any bond, covenant, or other specialty binding his, her, or their heirs*) to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary notwithstanding (*e*).

Enabling creditors to recover upon bonds, &c.

3. And, for the means that such creditors may be enabled to recover *upon such bonds, covenants, and other specialties*, BE IT FURTHER ENACTED, That in the cases before mentioned every such creditor shall and may have and maintain his, her, and their action and actions of debt *or covenant* (*f*) upon the said bonds, *covenants*, and specialties against the heir and heirs at law of such obligor or obligors, *covenantor or covenantors*, and such

(*a*) See this Act, Vol. I., p. 1428, tit. "EXECUTORS."

(*b*) See Sugden's Vendor and Purchaser, p. 834; Shelford's Real Property Statutes, p. 473; Browell's Real Property Statutes, p. 147; and the notes to *Jeffreson* v. *Morton*, 2 Wm. Saund. 8 *d*.

(*c*) Before the 3 Will. & M. c. 14, if the obligor in a bond wherein the heirs were bound died intestate, his land descended on the heir, and the heir (to the extent of the land descended) was liable to the creditor. If the obligor devised away his land so that nothing descended, the right of the creditor was defeated. The heir was not liable, because by the act of the debtor in devising away his land the heir was enabled to plead *riens per descent*. The devisee was not liable, for the bond or other specialty in no way affected him. To remedy this evil the legislature interposed, by putting the creditor in all cases in the same situation as if no will had been made; it declared all wills void as against him (*Hunting* v. *Sheldrake*, 9 M. & W. 263; see *Gott* v. *Atkinson*, Willes, 521).

(*d*) These words extend to estates *pur autre vie* (*Westfailing* v. *Westfailing*, 3 Atk. 460).

(*e*) This is a re-enactment of the second section of 3 Will. & M. c. 14, with the additions printed in italics.

(*f*) The remedy under 3 & 4 Will. & M. was confined to actions of debt (*Wilson* v. *Knubley*, 7 East, 128; *Farley* v. *Briant*, 3 Ad. & E. 839; *Morse* v. *Tucker*, 5 Hare, 79; *Jenkins* v. *Briant*, 6 Sim. 603; see *In re Taylor's Estate*, 8 Ex. 384).

A bill in equity is as an action at law, and the heir, if there be one, must be made a party (*Gawler* v. *Wade*, 1 P. Wms. 100; *Warren* v. *Stawell*, 2 Atk. 125).

devisee and devisees (*a*), *or the devisee or devisees of such first-mentioned devisee or devisees* jointly, by virtue of this Act; and such devisee and devisees shall be liable and chargeable for a false plea (*b*) by him or them pleaded, in the same manner as any heir should have been for any false plea by him pleaded, or for not confessing the lands or tenements to him descended (*c*). 1 W. 4, c. 47.

4. That if in any case there shall not be any heir at law against whom, jointly with the devisee or devisees, a remedy is hereby given, in every such case every creditor to whom by this Act relief is so given shall and may have and maintain his, her, and their action and actions of debt or covenant, as the case may be, against such devisee or devisees solely; and such devisee or devisees shall be liable for false plea as aforesaid (*d*). *If there is no heir-at-law, actions may be maintained against the devisee.*

5. Provided always, That where there hath been or shall be any limitation or appointment, devise, or disposition, of or concerning any manors, messuages, lands, tenements, or hereditaments, for the raising or payment of any real and just debt or debts (*e*), or any portion or portions, sum or sums of money, for any child or children of any person, according to or in pursuance of any marriage contract or agreement in writing *bonâ fide* made before such marriage, the same and every of them shall be in full force, and the same manors, messuages, lands, tenements, and hereditaments shall and may be holden and enjoyed by every such person or persons, his, her, and their heirs, executors, administrators, and assigns, for whom the said limitation, appointment, devise, or disposition was made, and by his, her, and their trustee or trustees, his, her, and their heirs, executors, administrators, and assigns, for such estate or interest as shall be so limited or appointed, devised, or disposed, until such debt or debts, portion or portions, shall be raised, paid, and satisfied, anything in this Act contained to the contrary notwithstanding (*f*). *Not to affect limitations for just debts, or portions for children.*

(*a*) See *Westfailing* v. *Westfailing*, 3 Atk. 460. See forms of declaration against the heir and devisee, Clift. Ent. 145, 243, pl. 19; Lil. Ent. 145, 529; 2 Richard. C. P. 241; 5 Went. 374; 2 Chit. Pl. 333; and see *Price* v. *Evans*, 4 Sim. 514.

(*b*) In a case within the statute, the devisee must show by plea the particular lands devised (*Gott* v. *Atkinson*, Willes, 523).

In the arrangement of the funds in equity between the heir and devisee, it is established that assets descended to the heir must be applied to pay debts before lands can be charged which are specifically devised (*Chaplin* v. *Chaplin*, 3 P. Wms. 365; *Powis* v. *Corbet*, 3 Atk. 556). As to the order of liability between different funds, see *Harmood* v. *Oglander*, 8 Ves. 124; *Milnes* v. *Slater*, *Ib.* 295; Jarman on Wills, 546.

As to the payment of mortgages, see 17 & 18 Vict. c. 113, post, p. 947.

(*c*) This is a re-enactment of 3 Will. & M. c. 14, s. 3, with the additions in italics.

(*d*) No remedy whatsoever was given, or intended to be given, by 3 & 4 Will. & M. c. 14, in the case of a debtor by specialty dying without an heir (*Hunting* v. *Sheldrake*, 9 M. & W. 256).

(*e*) This is nearly the same as 3 Will. & M. c. 14, s. 4. That statute exempted the heir at law from the proviso.

(*f*) This proviso seems to operate by way of exception (*Plunkett* v. *Penson*, 2 Atk. 290). A provision by will effectual at law, or in equity, for the payment of debts was not fraudulent, and did not come within 4 Will. & M. c. 14 (*Gott* v. *Atkinson*, Willes, 521; *Earl of Bath* v. *Earl of Bradford*, 2 Ves. 587; *Barker* v. *May*, 9 B. & C. 489; *Lingard* v. *Earl Derby*, 1 Bro. C. C. 311; *Bailey* v. *Edkins*, 7 Ves. 323; *Ball* v. *Harris*, 4 M. & Cr. 264); though if the devise were ineffectual for that purpose it did (*Hughes* v. *Doulben*, 2 Cox, 170; 2 Bro. C. C. 614; *Bailey* v. *Ekins*, 7 Ves. 323; *Kidney* v. *Coussmaker*, 12 Ves. 154). A direction in a will to pay simple contract creditors before specialty ones was within the exception of the statute of 3 Will. & M. (*Millar* v. *Horton*, Coop. 45). And though a devise for the payment of debts by rents and profits was held not to be out of the statute, the court would not adopt the limited construction of annual rents; but upon a devise of a gross sum out of the rents and profits for that purpose, would hold that the testator intended the debts to be paid with all convenient speed (*Bootle* v. *Blundell*, 19 Ves. 528).

In *Vernon* v. *Vaudry* (Barnard. 304, cited 1 Cowp. 45) it was held, under the 3 & 4 Will. & M. c. 14, that a devise to pay debts, excepting a debt as surety, was not within the proviso; but that case seems repugnant both to the express letter of the Act and the other authorities upon the subject. In *Lingard* v. *Lord Derby* (1 Bro. Ch. 311) the testator devised to trustees in trust to pay the yearly rents and profits in payment of his debts. Upon an application by bond creditors for a sale, it was insisted that the will could not stand by the statute, for a bond creditor without the devise may compel a sale, and the devise tends to defeat his claim; but by Lord Loughborough, L. C., both by the words and construction of the statute, where there is a devise for the payment of debts, it takes the case out of the statute, and it stands as it would have done before the statute was made; the creditor can come only as the will directs. See, to the same effect, *Earl of Bath* v. *Earl of Bradford*, 2 Ves. 587. In *Hughes* v. *Dolben* (2 Bro. Ch. 614), the testator made a general charge of his debts upon his

1 W. 4, c. 47.

Heir-at-law to be answerable for debts, although he may sell estate before action brought.

6. That in all cases where any heir at law shall be liable to pay the debts *or perform the covenants* of his ancestors, in regard of any lands, tenements, or hereditaments descended to him, and shall sell, alien, or make over the same, before any action brought or process sued out against him, such heir at law shall be answerable for such debt or debts, *or covenants*, in an action or actions of debt *or covenant*, to the value of the said lands so by him sold, aliened, or made over (*a*), in which cases all creditors shall be preferred as in actions against executors and administrators; and such execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts (*b*); saving (*c*) that the lands, tenements, and hereditaments, *bonâ fide* aliened before the action brought, shall not be liable to such execution.

---

real estate, and devised a particular estate to trustees for that purpose, excepting the mansion-house. Lord Thurlow said that he was not aware that a gift for the payment of debts, in a manner which would not answer the purpose, was such a devise as would take the case out of the statute; that if the debts could not be paid by the means provided in the devise, he should order the estate to be sold, notwithstanding the statute, and should consider it so far as fraudulent; and if the estate without the mansion-house, was not sufficient, the mansion-house must be sold. Where an estate is devised generally for payment of debts, it is a settled rule that simple contract creditors are entitled equally with creditors by specialty; and that if the specialty creditors have exhausted the personal estate, they can have no benefit from the real estate constituting equitable assets, until the simple contract creditors are placed *pari passu*; and in the above-mentioned case of *Bailey* and *Ekins*, and the authorities there cited, it was held that a charge upon an estate, as well as a devise, makes it equitable assets. But the payment of the debts must be provided for effectually, to bring the case within this exception (*Bailey* v. *Ekins*, 7 Ves. jun. 328; *Lingard* v. *Lord Derby*, 1 Bro. 311; *Hughes* v. *Dolben*, 2 Bro. 614).

Where a testator devised his real estate to trustees and their heirs, upon trust to sell, and after declaring his will to be that the clear money arising from such sale should sink into and become part of his personal estate, he gave and bequeathed the same and all his effects whatsoever to the same trustees, upon trust, after converting the same into money, and paying all his debts and testamentary expenses, to pay legacies, and dispose of the residue; it was held that the devise was substantially a devise of the real estate for the payment of all debts, and by the 4th section of the stat. 3 & 4 Will. & M. c. 14, good against the specialty creditors, and that the produce was equitable assets (*Soames* v. *Robinson*, 1 Myl. & K. 500; see *Barker* v. *May*, 9 B. & C. 489.

(*a*) This is a re-enactment of 3 Will. & M. c. 14, s. 5, with the additions in italics.

By taking proper proceedings, the specialty creditors may obtain payment out of the descended or devised real estate in the hands of the heir or devisee; but if such proceedings are not taken, the heir or devisee may alienate, and in the hands of the alienee the land is not liable, though the heir or devisee remains personally liable to the extent of the value of the land alienated (*per* Lord Langdale, *Richardson* v. *Horton*, 7 Beav. 112).

Where the personal estate of a debtor was insufficient to discharge all his debts, the right of his simple contract creditors to have their debts satisfied out of his real estate, which had descended to his heiress-at-law, was held not to have been defeated by articles executed by her while still a minor, previously to and in contemplation of her marriage (*Pimm* v. *Insall*, 7 Hare, 193; 1 Mac. & Gor. 449).

The common law and 3 & 4 Will. & M. c. 14, and 47 Geo. 3, did not charge the real assets descended or devised with the payment of the debts of the ancestor, but made the heir or devisee liable personally to answer for the value of the assets (*per* Shadwell, V.-C., *Sparkman* v. *Timbrell*, 8 Sim. 259; *Richardson* v. *Horton*, 7 Beav. 112). Lord St. Leonards (V. & P. 834) says that the present statute would no doubt receive the same construction. In *Viscount Downe* v. *Morris* (3 Hare, 394, 399), Wigram, V.-C., seemed to think that, under the 3 & 4 Will. 4, c. 104, post, the lands themselves, and not merely the estate or the interest of the deceased therein, were assets for the payment of his debts (see *Kinderley* v. *Jervis*, 25 L. J. Chanc., 540, 22 Beav. 1, post p. 927 n. (*c*).

If the heir pay his ancestor's debts to the value of the land descended, he may hold the land discharged from the debts of the ancestor (*Buckley* v. *Nightingale*, 1 Stra. 665; *Horn* v. *Horn*, 2 Sim. & St. 448). But he cannot plead that he claims to retain a certain sum for money laid out in repairing the premises descended (*Shettelworth* v. *Neville*, 1 T. R. 454; see *Hill* v. *Maurice*, 1 De Gex & S. 214; post, p. 945, n. (*a*)).

It was agreed, that in case of real estates the creditor of the ancestor may follow them and their specific produce in the hands of the assignees, if sold under a bankruptcy (*Ex parte Merton*, 5 Ves. 449).

(*b*) But the 3 & 4 Will. 4, c. 104, post, makes the lands themselves assets (*Evans* v. *Brown*, 5 Beav. 114; *Viscount Downe* v. *Morris*, 3 Hare, 324; see *Buckley* v. *Nightingale*, 1 Stra. 665).

(*c*) This saving extends to devisees (*Mathews* v. *Jones*, 2 Anst. 506).

7. Provided always, That where any action of debt *or covenant* upon any specialty is brought against the heir, he may plead riens per descent at the time of the original writ brought or the bill filed against him, any thing herein contained to the contrary notwithstanding; and the plaintiff in such action may reply that he had lands, tenements, or hereditaments from his ancestor before the original writ brought (*a*) or bill filed; and if, upon the issue joined thereupon, it be found for the plaintiff, the jury shall inquire of the value (*a*) of the lands, tenements, or hereditaments so descended, and thereupon judgment shall be given and execution shall be awarded as aforesaid (*b*); but if judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer or *nihil dicit*, it shall be for the debt and damage, without any writ to inquire of the lands, tenements, or hereditaments so descended (*c*).

1 W. 4, c. 47. Where an action of debt is brought against the heir, he may plead riens per descent.

8. Provided always, That all and every the devisee and devisees made liable by this Act, shall be liable and chargeable in the same manner as the heir at law by force of this Act, notwithstanding the lands, tenements and hereditaments to him or them devised shall be aliened before the action brought (*d*).

Devisees to be liable the same as heirs-at-law.

9. That from and after the passing of this Act, where any person being, at the time of his death (*e*), a trader, within the true intent and meaning of the laws relating to bankrupts, shall die seised of or entitled to any estate or interest in lands, tenements, or hereditaments, or other real estate, which he shall not by his last will have charged (*f*) with or devised subject to or for the payment of his debts, and which would be assets for the payment of his debts due on any specialty in which the heirs were bound, the same shall be assets to be administered in courts of equity for the payment of all the just debts of such person, as well debts due on simple contract as on specialty; and that the heir or heirs at law, devisee or devisees of such debtor, *and the devisee or devisees of such first-mentioned devisee or devisees*, shall be liable to all the same suits in equity, at the suit of any of the creditors of such debtor, whether creditors by simple contract or by specialty, as they are liable to at the suit of creditors by specialty in which the heirs were bound: Provided always, that in the administration of assets by courts of equity, under and by virtue of this provision, all creditors by specialty, in which the heirs are bound, shall be paid the full amount of the debts due to them before any of the creditors by simple contract or by specialty, in which the heirs are not bound, shall be paid any part of their demands (*g*).

Traders' estates shall be assets to be administered in courts of equity.

Creditors by specialty to be paid first.

10. That from and after the passing of this Act, where any action, suit, or other proceeding for the payment of debts, or any other purpose, shall be (*h*) commenced or prosecuted by or against any infant under the age of twenty-one years, either alone or together with any other person or persons, the parol shall not demur (*i*), but such action,

Parol shall not demur by or against infants.

(*a*) *Brown* v. *Shuker*, 1 Cr. & J. 583; *Mathews* v. *Lee*, Barnes, 444.

(*b*) That is, to the value of the land (*Brown* v. *Shuker*, 2 Cr. & J. 311).

As to the form of the judgment, see *Ibid.*, and Tidd's Forms, 339.

(*c*) This is a re-enactment of 3 Will. & M. c. 14, s. 6. See Com. Dig., Pleader, 2 E.; 3 Chit. Pl. p. 186.

(*d*) This is a re-enactment of 3 Will. & M. c. 14, s. 7.

(*e*) See *Hitchon* v. *Bennett*, 4 Madd. 180; *Keen* v. *Riley*, 3 Mer. 436.

(*f*) See *Horn* v. *Horn*, 2 Sim. & St. 448.

(*g*) This is a re-enactment of 47 Geo. 3, sess. 2, c. 74, s. 1, with the addition in italics; see *Ex parte Baine*, 1 M. D. & De Gex, 490.

The 47 Geo. 3, c. 74, re-enacted by this section, did not alter the rule that a purchaser must see to the application of his purchase-money, if it be for the payment of legacies or debts (*Horne* v. *Horne*, 2 Sim. & St. 448); and the same principle applies to the construction of this Act, which leaves the distinction between estates subjected to the payment of debts by the will of the debtor and estates subjected to debts by the operation of law, precisely as it was before the Act (*per* Lord Cottenham, in *Ball* v. *Harris*, 4 Myl. & Cr. 264).

It has been holden that in a suit for administering the real assets of a testator under this Act, the heir as well as the devisee was a necessary party (*Brown* v. *Weatherby*, 10 Sim. 125; but see *Bridges* v. *Hinxman*, 16 Sim. 71); though it is not necessary to establish the will against the heir (*Goodchild* v. *Terrett*, 5 Beav. 398). The suit need not be filed by a creditor (*Dinning* v. *Henderson*, 2 Coll. 330); it may be instituted by his heir and next of kin (*Price* v. *Price*, 15 Sim. 484), or by a person interested under the will (*Rodney* v. *Rodney*, 16 Sim. 307; *Burch* v. *Coney*, 14 Law T. 414).

If, where a testator died before the 3 & 4 Will. 4, c. 106, creditors resort to the estate devised to the heir in priority to the other devised estates, the heir will be entitled to contribution from the other devisees (*Biederman* v. *Seymour*, 3 Beav. 368). In cases where the testator died after the 3 & 4 Will. 4, c. 106, as the heir would take by devise and not by descent (sect. 3), the question would not arise (see *Plasket* v. *Beeby*, 4 East, 485; *Price* v. *Carver*, 3 Myl. & Cr. 157; *Scholefield* v. *Heafield*, 7 Sim. 669).

(*h*) See *Jones* v. *Ham*, 3 Ir. Eq. R. 65.

(*i*) This section does not take away the right of an infant to a day to show cause against a decree of foreclosure (*Price* v. *Carver*, 3 Myl. & Cr. 157; see *Powis* v. *Mansfield*, 6 Sim. 637; *Clinton* v. *Bernard*, 1 Dru. J. R. 287; *Jones* v. *Ham*, 3 Ir. Eq. R. 65; 1 Dan. 225).

1 W. 4, c. 47.

suit, or other proceeding shall be prosecuted and carried on in the same manner and as effectually as any action or suit could before the passing of this Act be carried on or prosecuted by or against any infant, where, according to law, the parol did not demur.

Infants to make conveyances under order of the court.

11. That where any suit hath been (*a*) or shall be instituted in any court of equity, for the payment of any debts of any person or persons deceased, to which their heir or heirs (*b*), devisee or devisees, may be subject or liable, and such court of equity shall decree the estates liable to such debts, or any of them, to be sold (*c*) for satisfaction of such debt or debts (*d*), and by reason of the infancy of any such heir or heirs, devisee or devisees, an immediate conveyance thereof cannot, as the law at present stands, be compelled, in every such case such court shall direct (*e*), and, if necessary, compel such infant or infants to convey such estates (*f*) so to be sold (by all proper assurances in the law) to the purchaser or purchasers thereof, and in such manner as the said court shall think proper and direct; and every such infant shall make such conveyance accordingly; and every such conveyance shall be as valid and effectual to all intents and purposes as if such person or persons, being an infant or infants, was or were at the time of executing the same of the full age of twenty-one years (*g*).

Persons having a life interest may convey the fee, if the estate is ordered to be sold (*h*).

12. That where any lands, tenements, or hereditaments hath been or shall be devised in settlement by any person or persons whose estate under this Act, or by law, or by his or their will or wills, shall be liable to the payment of any of his or their debts, and by such devise (*i*) shall be vested in any person or persons for life or other limited interest, with any remainder, limitation, or gift over, which may not be vested, or may be vested in some person or persons from whom a conveyance or other assurance of the same cannot be obtained, or by way of executory devise, and a decree shall be made for the sale thereof for the payment of such debts or any of them, it shall be lawful for the court by whom such decree shall be made to direct any such tenant for life, or other person having a limited interest (*k*), or the first executory devisee thereof, to convey, release, assign, surrender, or otherwise assure the fee simple or other the whole interest or interests so to be sold to the purchaser or purchasers, or in such manner as the said court shall think proper; and every such conveyance, release, surrender, assignment, or other assurance shall be as effectual as if the person who shall make and execute the same were seised or possessed of the fee simple or other whole estate so to be sold (*l*).

13. [Not to repeal Act 33 G. 1 (I.) relating to debts due to bankers.]

(*a*) This section extends to a case where the decree in the cause was made prior to the Act (*Chapman* v. *Tennant*, 2 Russ. & M. 74).

(*b*) This section applies to the heir of a devisee (*Brook* v. *Smith*, 2 Russ. & M. 73).

(*c*) It is clear, upon the 10th and 11th sections, that the meaning of this statute was, that where there is a decree which affects the real estate of an infant, if the court think right to make a decree, it is to follow up that decree by ordering conveyances to be made, which the statute directs to be as valid as if the infant was of the age of twenty-one (*Powis* v. *Mansfield*, 6 Sim. 642; *Flood* v. *Sutton*, 1 Flan. & Kel. 179).

(*d*) See *Hill* v. *Maurice*, post, p. 1583.

(*e*) An application under this section for the infant heir or devisee to convey must be made by petition, and not by motion (*Anon.*, 1 Y. & Coll. 75).

(*f*) This applies to an infant devisee in tail (*Penny* v. *Pretor*, 9 Sim. 135; *Radcliffe* v. *Eccles*, 1 Keen, 130).

(*g*) That is, such interest as the infant, if of full age, might pass (*Heming* v. *Archer*, 8 Beav. 294). See 2 & 3 Vict. c. 60, and 11 & 12 Vict. c. 87, post.

(*h*) It seems doubtful whether this section authorised a mortgage: the decisions on the subject were conflicting (*Smethurst* v. *Longworth*, 2 Keen, 608; *Holme* v. *Williams*, 8 Sim. 557; see now 2 & 3 Vict. c. 60, post, p. 945). Where copyholds devised to an infant for life, remainder to his first and other sons in tail, were decreed to be sold to pay the debts of the testator, and an order was made in the cause pursuant to this statute, that the guardian of the infant should surrender them to the purchaser, it was held that the purchaser was entitled to require that an order should be made discharging the contingent rights of unborn issue of the infant under sec. 29 of the Trustee Act, 1850 (*Wood* v. *Beetlestone*, 1 Kay & J. 213).

(*i*) *Beale* v. *Tennant*, 1 Drew. 65.

(*k*) This section does not apply to a case where an estate is devised to a trustee during the life of a *cestui que trust*, with remainders over; and by the disclaimer of the trustee the legal estate descends to the heir (*Heming* v. *Archer*, 7 Beav. 515; 8 Beav. 294; 9 *ib.* 366).

(*l*) An effectual conveyance may be made by the tenant for life alone under this section (*Walker* v. *Aston*, 14 Sim. 87).

Where the devise was to trustees to pay debts, and to convey the real estate, subject to such debts, to a son in strict settlement, and the trustees conveyed it accordingly; it was held that the son could convey the legal estate under this section, for it was a devise of estates by circuity (*Cheese* v. *Cheese*, 15 L. J., Ch. 28).

A tenant for life under the will of a testator (not a trader) of freehold and copyhold estates ordered to be sold in a creditor's suit, for the payment of debts, may convey and surrender to purchasers under this statute and 3 & 4 Will. 4, c. 104 (*Branch* v. *Brown*, 17 L. J. Ch. 435, 2 De G. & S. 299).

3 & 4 Will. 4, c. 104. An Act to render Freehold and Copyhold Estates Assets for the Payment of Simple and Contract Debts. [29th August, 1833.]

3 & 4 W. 4, c. 104.

"Whereas it is expedient that the payment of the debts of all persons should be secured more effectually than is done by the laws now in force:" BE IT THEREFORE ENACTED, That from and after the passing of this Act, when any person shall die (*a*) seised of or entitled to any estate or interest in lands, tenements, or hereditaments, corporeal or incorporeal, or other real estate, whether freehold, customaryhold, or copyhold, which he shall not by his last will have charged with or devised subject to the payment of his debts, the same (*b*) shall be assets to be administered in courts of equity for the payment of the just debts (*c*) of such persons, as well debts due on simple

Freehold and copyhold estates in all cases to be assets for the payment of simple con-

(*a*) This is prospective, and now extends to copyholds, although they were not liable to the payment of debts when the Act passed (*Branch* v. *Browne*, 2 De G. & S. 299).

(*b*) See *Viscount Downe* v. *Morris*, 3 Hare, 399, ante, p. 924, n. (*a*).

(*c*) Just debts are debts not only justly due but justly payable, and the heir or devisee may therefore set up the statute of limitations where the debt was barred at the time of the testator's death (*Dring* v. *Greetham*, 23 L. J. Ch. 156).

"The distinction between the cases is that it was not the object, nor is it the effect, of this statute to make the simple contract debts of a deceased person in the nature of mortgages, or specific charges on his real estate; but as the Act makes the lands assets for the payment of his debts, these debts constitute a general charge upon them, but not so that a *bonâ fide* purchaser of the lands from the heir or devisee is bound to see to the application of the purchase money, as he would in the case of a particular mortgage on any portion of the lands;" *per* Sir J. Romilly, M. R., in *Kinderley* v. *Jervis*, 25 L. J. Ch. 540, 22 Beav. 1.

The true construction of this Act is to charge debts of every description upon the real estate of the testator, and a future debt arising out of a previous obligation is within it (*In re The St. George Steam Packet Company*, 21 L. J., Ch. 832; see *Birmingham* v. *Burke*, 2 J. & Lat. 699). It seems that money laid out in the maintenance of a lunatic is a debt under this Act (*Wentworth* v. *Tubb*, 1 Y. & C. C. C. 171); so are the costs of one unsuccessful traverse of an inquisition in lunacy (*Ibid.*, 2 Y. & C. C. C. 537; *Williams* v. *Wentworth*, 5 Beav. 325); but funeral expenses are not (*Carter* v. *Beard*, 10 Sim. 7).

Debts by specialty, in which the heirs are not bound, are not, in the administration of real assets, entitled under this Act to any priority over simple contract debts (*Cummins* v. *Cummins*, 3 J. & Lat. 64).

This Act makes real estate "assets to be administered in Courts of Equity" for payment of simple contract debts of the deceased, and the 1 & 2 Vict. c. 110, s. 13, makes a judgment a charge on any lands of which the judgment-creditor is seised, &c., or over which he shall have any disposing power, for his own benefit, and it makes such judgment an equitable mortgage thereon: it was held, that judgments, entered up against the heir for his own debt, before any action or suit by the simple contract creditors of the ancestor, have no priority over the simple contract creditors of the intestate, in respect of the descended estate.

It was not the object, nor is it the operation, of this statute, to make the simple contract debts of a deceased person in the nature of mortgages or specific charges on his real estate, but as the statute makes the land assets for the payment of his debts, these debts constitute a general charge upon them, but not so that a *bonâ fide* purchaser of the lands, from the heir or devisee, is bound to see to the application of the purchase-money, as he would be in the case of a particular mortgage on any portion of the lands themselves.

The real estate of a deceased person constitutes assets to be administered in a court of equity according to the priorities specified by the statute, and all the incidents of assets attach to it, and, consequently, such assets are liable, in the first place, to pay the debts of the deceased debtor, and subject thereto, they belong to his devisee or heir-at-law; but the devisee or heir-at-law takes no beneficial interest therein, except subject to and after payment of the debts of the deceased testator or ancestor (*Kinderley* v. *Jervis*, 22 Beav. 1).

As between the heir and the legatee of the proceeds of land devised in trust for sale, the personal estate is the fund first applicable to the payment of a testator's debts (*Collis* v. *Robins*, 1 De G. & Sim. 131). And *semble*, that this Act ought to have some influence in favour of the exoneration of the personal estate (*Ibid.*).

It seems questionable whether since this statute a mortgagee will be permitted to tack a simple contract debt to his mortgage (*Uppington* v. *Bulten*, 2 Dru. & War. 184).

A mortgagee may tack his simple contract debt to his mortgage against the heir or devisee;

3 & 4 W. 4, c. 104.

Simple contract or specialty debts.

contract as on specialty (*a*); and that the heir or heirs at law, customary heir or heirs, devisee or devisees of such debtor, shall be liable to all the same suits in equity at the suit of any of the creditors of such debtor, whether creditors by simple contract or by specialty, as the heir or heirs at law, devisee or devisees of any person or persons who died seised of freehold estates was or were before the passing of this Act liable to in respect of such freehold estates at the suit of creditors by specialty in which the heirs were bound: Provided always, that in the administration of assets by courts of equity under and by virtue of this Act all creditors by specialty in which the heirs are bound shall be paid the full amount of the debts due to them before any of the creditors by simple contract or by specialty in which the heirs are not bound shall be paid any part of their demands.

1 Vict. c. 26.

1 Vict. c. 26. An Act for the Amendment of the Laws with respect to Wills. [3rd July, 1837.] (*b*).

Meaning of certain words in this Act.

"Will:"

12 Car. 2, c. 24.

14 & 15 Car. 2 (I.)

"Real estate:"

"personal estate:"

That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; (that is to say), the word "will" shall extend to a testament, and to a codicil, and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament or devise of the custody and tuition of any child, by virtue of an Act passed in the twelfth year of the reign of king Charles the second, intituled "An Act for taking away the Court of Wards and Liveries, and Tenures *in capite* and by Knight's Service, and Purveyance, and for settling a Revenue upon his Majesty in lieu thereof," or by virtue of an Act passed in the parliament of Ireland in the fourteenth and fifteenth years of the reign of king Charles the second, intituled "An Act for taking away the Court of Wards and Liveries and Tenures *in capite* and by Knight's Service," and to any other testamentary disposition; and the words "real estate" shall extend to manors, advowsons, messuages, lands, tithes, rents, and hereditaments, whether freehold, customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether corporeal, incorporeal, or personal, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein; and the words "personal estate" shall extend to leasehold estates and other chattels real, and also to moneys, shares of government and other

---

but he has no right to do so while there is personal estate unadministered (*Rolfe* v. *Chester*, 25 L. J. Ch. 244, 20 Beav. 610; *Thomas* v. *Thomas*, 25 L. J. Ch. 391, 22 Beav. 341).

The equity of redemption of a mortgage in fee is by this statute made legal assets (*Foster* v. *Handley*, 1 Sim. N. S. 200).

(*a*) This Act makes freehold estates subject to simple contract debts, which were before subject to specialty debts; but it applies only to estates which the testator has not charged with or devised subject to the payment of debts (*Ball* v. *Harris*, 4 Myl. & Cr. 246).

The simple contract debts of the deceased are a charge upon the descended or devised lands, prior to the judgment debts of his heir or devisee (*Kinderley* v. *Jervis*, 25 L. J. Ch. 538, 22 Beav. 1).

Lands escheated for want of heirs are under this Act assets as against the lord claiming by escheat, but whether they are so in priority, or *pari passu* with lands specifically devised, seems doubtful (*Evans* v. *Brown*, 5 Beav. 114); the lord, however, if the lands are in mortgage, is entitled to redeem them, and get in the securities which the creditor held for the debt (*Viscount Downe* v. *Morris*, 3 Hare, 394).

The court has jurisdiction under this statute to order the real estate of a deceased debtor to be sold for payment of debts, in a suit not instituted by a creditor, but by a person interested in the estates under the will (*Rodney* v. *Rodney*, 16 Sim. 307); or if instituted by the heir and next of kin (*Price* v. *Price*, 15 Sim. 484).

(*b*) A domiciled Englishman, *while resident at Milan*, executed, in October 1838, a codicil disposing of personal property situate in the *United States of America*. This codicil was holograph, signed though not attested, but was well executed according to the *Austrian* law: it was held, 1st, that the validity of the codicil was to be governed by the law of the domicil; and, 2ndly, that the provisions of this Act applied to testamentary papers made in foreign countries by a domiciled Englishman (*Croker* v. *Marquis of Hertford*, 4 Moo. P. C. 339; and see *Maltass* v. *Maltass*, 3 Curt. 231). But this Act applies only to persons who have an English domicil, and does not interfere with the rule that the forms and solemnities of a will are governed by the law of the domicil of the testator (*Bremer* v. *Freeman*, 10 Moo. P. C. 306). Thus probate was decreed of a will made in the Mauritius according to the law of that colony, but not according to the forms prescribed by this Act, where the testator was an Englishman domiciled there (*In the goods of James Smith*, 4 Moo. P. C. 332). See however, now, as to the effect of domicil on wills, 24 & 25 Vict. cc. 114, 121, post, p. 949.

funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

1 Vict. c. 26.

number; gender.

2. That an Act passed in the thirty-second year of the reign of king Henry the eighth, intituled "The Act of Wills, Wards, and Primer Seisins, whereby a Man may devise Two Parts of his Land;" and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said king Henry the eighth, intituled "The Bill concerning the Explanation of Wills;" and also an Act passed in the parliament of Ireland, in the tenth year of the reign of king Charles the first, intituled "An Act how Lands, Tenements, &c., may be disposed by Will or otherwise, and concerning Wards and Primer Seisins;" and also so much of an Act passed in the twenty-ninth year of the reign of king Charles the second, intituled "An Act for Prevention of Frauds and Perjuries," and of an Act passed in the parliament of Ireland in the seventh year of the reign of king William the third, intituled "An Act for Prevention of Frauds and Perjuries," as relates to devises or bequests of lands or tenements, or to the revocation or alteration of any devise in writing of any lands, tenements, or hereditaments, or any clause thereof, or to the devise of any estate *pur autre vie*, or to any such estate being assets, or to nuncupative wills, or to the repeal, altering or changing of any will in writing concerning any goods or chattels or personal estate, or any clause, devise, or bequest therein; and also so much of an Act passed in the fourth and fifth years of the reign of queen Anne, intituled "An Act for the Amendment of the Law and the better Advancement of Justice," and of an Act passed in the parliament of Ireland in the sixth year of the reign of queen Anne, intituled "An Act for the Amendment of the Law and the better Advancement of Justice," as relates to witnesses to nuncupative wills; and also so much of an Act passed in the fourteenth year of the reign of king George the second, intituled "An Act to Amend the Law concerning Common Recoveries, and to explain and amend an Act made in the twenty-ninth year of the reign of king Charles the Second, intituled 'An Act for Prevention of Frauds and Perjuries,'" as relates to estates *pur autre vie;* and also an Act passed in the twenty-fifth year of the reign of king George the second, intituled "An Act for avoiding and putting an end to certain Doubts and Questions relating to the Attestation of Wills and Codicils concerning real Estates in that part of Great Britain called England, and in his Majesty's Colonies and Plantations in America," except so far as relates to his Majesty's colonies and plantations in America; and also an Act passed in the parliament of Ireland in the same twenty-fifth year of the reign of king George the second, intituled "An Act for the avoiding and putting an end to certain Doubts and Questions relating to the Attestations of Wills and Codicils concerning real Estates;" and also an Act passed in the fifty-fifth year of the reign of king George the third, intituled "An Act to remove certain Difficulties in the Disposition of Copyhold Estates by Will," shall be and the *same* are hereby *repealed*, except so far as the same Acts or any of them respectively relate to any wills or estates *pur autre vie* to which this Act does not extend.

Repeal of the statutes of wills, 32 H. 8, c. 1, and 34 & 35 H. 8, c. 5, 10 Car. 1, sess. 2, c. 2, (I.). Sects. 5, 6, 12, 19, 20, 21, & 22 of the statute of frauds, 29 Car. 2, c. 3, 7 W. 3, c. 12 (I.).

Sect. 14 of 4 & 5 Anne, c. 16.

6 Anne, c. 10 (I.).

Sect. 9 of 14 G. 2, c. 20.

25 G. 2, c. 6, (except as to colonies).

25 G. 2, c. 11 (I.).

55 G. 3, c. 192.

3. That it shall be lawful for every person to devise, bequeath, or dispose of, by his will executed in manner hereinafter required, all real estate and all personal estate (*a*) which he shall be entitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon the heir-at-law, or customary heir of him, or, if he became entitled by descent, of his ancestor, or upon his executor or administrator; and that the power hereby given shall extend to all real estate of the nature of customary freehold or tenant right, or customary or copyhold (*b*), notwithstanding that the testator may not have surrendered the same to the use of his will, or notwithstanding that, being entitled as heir, devisee, or otherwise to be admitted thereto, he shall not have been admitted thereto, or notwithstanding that the same, in consequence of the want of a custom to devise or surrender to the use of a will or otherwise, could not at law have been disposed of by will if this Act had not been made, or notwithstanding that the same, in consequence of there being a custom that a will or a surrender to the use of a will should continue in force for a limited time only, or any other special custom, could not have been disposed of by will according to the power contained in this Act, if this Act had not been made: and also to estates *pur autre vie* (*c*), whether there shall or shall not be any special occupant thereof, and whether the same shall be freehold, customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether the same shall be a corporeal or an incorporeal hereditament; and also to all contingent, executory, or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled

All property may be disposed of by will, comprising customary freeholds and copyholds without surrender and before admittance, and also such of them as cannot now be devised; estates *pur autre vie;* contingent interests.

(*a*) This Act was never intended to make anything bequeathable as personal estate which might not have been previously bequeathed. It does not, therefore, enable a testator to bequeath a *chose in action* so as to pass the right of suing thereon (*Bishop* v. *Curtis*, 18 Q. B. 878, 21 L. J., Q. B. 391).

(*b*) See 32 Hen. 8, c. 1, ante, p. 904, n. (*b*).

(*c*) As to estates *pur autre vie*, see 29 Car. 2, c. 3, s. 12, ante, p. 912.

1 Vict. c. 26.

Rights of entry; and property acquired after execution of the will.

thereto under the instrument by which the same respectively were created, or under any disposition thereof by deed or will; and also to all rights of entry for conditions broken, and other rights of entry (*a*); and also to such of the same estates, interests, and rights respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will (*b*).

As to the fees and fines payable by devisees of customary and copyhold estates.

4. Provided always, That where any real estate of the nature of customary freehold or tenant right, or customary or copyhold, might, by the custom of the manor of which the same is holden, have been surrendered to the use of a will, and the testator shall not have surrendered the same to the use of his will, no person entitled or claiming to be entitled thereto by virtue of such will, shall be entitled to be admitted, except upon payment of all such stamp duties, fees, and sums of money as would have been lawfully due and payable in respect of the surrendering of such real estate to the use of the will, or in respect of presenting, registering, or enrolling such surrender, if the same real estate had been surrendered to the use of the will of such testator: Provided also, that where the testator was entitled to have been admitted to such real estate, and might, if he had been admitted thereto, have surrendered the same to the use of his will, and shall not have been admitted thereto, no person entitled or claiming to be entitled to such real estate in consequence of such will shall be entitled to be admitted to the same real estate by virtue thereof, except on payment of all such stamp duties, fees, fine, and sums of money as would have been lawfully due and payable in respect of the admittance of such testator to such real estate, and also of all such stamp duties, fees, and sums of money as would have been lawfully due and payable in respect of surrendering such real estate to the use of the will, or of presenting, registering, or enrolling such surrender, had the testator been duly admitted to such real estate, and afterwards surrendered the same to the use of his will; all which stamp duties, fees, fine, or sums of money due as aforesaid shall be paid in addition to the stamp duties, fees, fine, or sums of money due or payable on the admittance of such person so entitled or claiming to be entitled to the same real estate as aforesaid.

Wills or extracts of wills of customary freeholds and copyholds to be entered on the court rolls; and the lord to be entitled to the same fine, &c., from the devisee as he would have been from the heir in case of descent.

5. That when any real estate of the nature of customary freehold or tenant right, or customary or copyhold, shall be disposed of by will, the lord of the manor or reputed manor of which such real estate is holden, or his steward, or the deputy of such steward, shall cause the will by which such disposition shall be made, or so much thereof as shall contain the disposition of such real estate, to be entered on the court rolls of such manor or reputed manor; and when any trusts are declared by the will of such real estate, it shall not be necessary to enter the declaration of such trusts, but it shall be sufficient to state in the entry on the court rolls that such real estate is subject to the trusts declared by such will; and when any such real estate could not have been disposed of by will if this Act had not been made, the same fine, heriot, dues, duties, and services shall be paid and rendered by the devisee as would have been due from the customary heir in case of the descent of the same real estate, and the lord shall as against the devisee of such estate have the same remedy for recovering and enforcing such fine, heriot, dues, duties, and services as he is now entitled to for recovering and enforcing the same from or against the customary heir in case of a descent.

Estates *pur autre vie*.

6. That if no disposition by will shall be made of any estate *pur autre vie* of a freehold nature, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of special occupancy, as assets by descent, as in the case of freehold land in fee-simple; and in case there shall be no special occupant of any estate *pur autre vie*, whether freehold or customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether a corporeal or incorporeal hereditament, it shall go to the executor or administrator of the party that had the estate thereof by virtue of the grant; and if the same shall come to the executor or administrator either by reason of a special occupancy or by virtue of this Act, it shall be assets in his hands, and shall go and be applied and distributed in the same manner as the personal estate of the testator or intestate (*c*).

No will of a person under age valid;

7. That no will made by any person under the age of twenty-one years shall be valid (*d*).

(*a*) Rights of entry and rights of action were formerly incapable of being devised (*Goodright* v. *Forrester*, 8 East, 564; *Baker* v. *Hacking*, Cro. Car. 387; *Doe d. Cooper* v. *Finch*, 1 Nev. & P. 180).

(*b*) See *Strevens* v. *Bayley*, 8 Ir. Com. Law Rep. 410.

(*c*) Where a leasehold for lives, limited to one and his heirs, was devised to trustees, in trust for A. and his heirs; and A. died intestate and without heirs: it was held that the equitable estate in the leaseholds *pur autre vie* passed, under this section, to A.'s administrator, and did not belong to the trustees (*Reynolds* v. *Wright*, 25 Beav. 100, 27 L. J. Ch. 392, affirmed on appeal, 2 De G., F. & J. 590).

(*d*) This section annuls all wills made by persons under age from the time of their being made (*Thomas* v. *Jones*, 2 Johns. & H. 475).

8. Provided also, That no will made by any married woman shall be valid, except such a will as might have been made by a married woman before the passing of this Act (*a*). 1 Vict. c. 26. nor of a *feme covert*, except, &c.

9. That no will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned (*b*); (that is to say,) it shall be signed at the foot or end thereof (*c*) by the testator, or by some other person in his presence and by his direction (*d*), and such signature shall be made or acknowledged (*e*) by the testator in the presence of testator in Every will shall be in writing, and signed by

---

(*a*) The meaning of this section is, that a married woman shall not make a will disposing of any property, except such property as she was competent to dispose of before the passing of the Act (*per* Wood, V.-C., *Bernard* v. *Minshull*, Johns. 297). But the section does not preserve in the case of married women any incapacities not specially dependent on coverture, which are removed generally by other sections of the Act, as, for example, those relating to after-acquired property or power. Therefore, where a general power was vested in the survivor of A., B., and C. (a married woman with testamentary capacity), and C. ultimately became the survivor: it was held, that the power was well exercised by a residuary devise in the will of C., made while under coverture and during the life of B. (*Thomas* v. *Jones*, 2 Johns. & H. 475, 31 L. J. Ch. 732, affirmed on appeal, 32 L. J. Ch. 139).

Upon the powers of married women, see Roper on Husband and Wife; Bright's Husband and Wife; Bell on Husband and Wife; M'Queen on Husband and Wife; and ante, 34 & 35 H. 8, c. 5, s. 14, p. 908, n. (*a*).

(*b*) These words prevent the contents of a will which has been destroyed by the testator *animo revocandi*, from being revived by a codicil referring to the will (*Rogers* v. *Goodenough*, 2 Sw. & Tr. 342; *Hale* v. *Tokelove*, 2 Rob. 318; *Newton* v. *Newton*, 12 Ir. Ch. Rep. 118, App. i.).

This Act leaves untouched the question what papers are to be held included in the written instrument executed in the manner mentioned in this section; and therefore an unattested paper, which would have been incorporated in an attested will or codicil executed according to the Statute of Frauds (see ante, p. 910, n. (*a*)), is now in the same manner incorporated if the will or codicil is executed according to the requirements of this section; and this Act does not exclude parol evidence to identify the imperfectly executed document with that referred to in the duly executed document (*Allen* v. *Maddock*, 11 Moo. P. C. 427; in which case a codicil duly executed under this section was held to refer to and make valid a testamentary paper previously made, but informally executed: but see *In the goods of Lancaster*, 29 L. J. Pr. 155).

(*c*) This section, as far as concerns the position of the signature, is amended by 15 Vict. c. 24, s. 1, post, p. 946.

A signature by mark has been held sufficient under this section, although the name of the testator did not appear (*In the goods of Bryce*, 2 Curt. 325). And where A. B. put his mark to a testamentary paper in which he was throughout described as C. B., there being no doubt of the testator's identity and *animus testandi*, the signature was held sufficient (*In the goods of Douce*, 2 Sw. & Tr. 593). So it was held sufficient where the maiden name of the testatrix instead of her real name appeared against the mark, there being no doubt as to the identity of the testatrix (*In the goods of Clarke*, 1 Sw. & Tr. 22, 27 L. J. Prob. 18). And where a married woman made her will under a power in the lifetime of her second husband; she signed the will, not with the name she then bore, but with the name of her first husband. This was held a sufficient signature (*In the goods of Susan Glover*, 5 N. Cas. 553).

(*d*) The testator being too ill to sign his will, requested the drawer thereof to sign it for him, which he did in his *own name, and not in that of the testator*, this was held sufficient (*In re James Clark*, 2 Curt. 329). So where a testator had his usual signature engraved on a stamp, and he made two codicils to his will, each of which was marked with this stamp by another person in his presence and by his direction, it was held that the codicils were duly signed (*Jenkins* v. *Gaisford*, 3 Sw. & Tr. 93, 32 L. J. Pr. 122). An attesting witness is a competent party to sign for a testatrix by his direction (*Smith* v. *Harris*, 1 Rob. 262; *In re Bayley*, 1 Curt. 914).

(*e*) The acknowledgment by the testator of his own signature, or the signature made by some other person in his presence and by his direction, is sufficient (*In re Regan*, 1 Curt. 908; see *In re Warden*, 2 Curt. 334; *In re Davies*, 2 Rob. 337; *Gaze* v. *Gaze*, 3 Curt. 451; *Blake* v. *Knight*, 3 Curt. 547; *Keigwin* v. *Keigwin*, *ib.* 607; *In re Ashmore*, *ib.* 756; *In re Rawlins*, 2 Curt. 326; *In re Harrison*, 2 Curt. 863; *Mitchell* v. *Thomas*, 6 Moo. P. C. 137; *In re Summers*, 2 Rob. 295).

If a will appears upon the face of it to have been properly executed according to the requirements of this Act, the presumption of law is, that the testator duly made or acknowledged his signature, and that the attesting witnesses are dead, and cannot be called, or that, being called, their memory is imperfect (*Lloyd* v. *Roberts*, 12 Moo. P. C. 158; *Cooper* v. *Bockett*, 4 Moo. P. C. 419;

1 Vict. c. 26. two or more witnesses (*a*) present at the same time, and such witnesses shall attest (*b*) presence of two witnesses at one time.

Gwillim v. *Gwillim*, 29 L. J. Pr. 31; *Thomson* v. *Hall*, 2 Rob. 426, infra, n. (*b*)).

The mere circumstance of the deceased having called in two witnesses "to sign a paper for him" (which they did in his presence), but without any explanation of the nature of the instrument being made to them, or the witnesses being able to see if any signature or writing was upon it when they attested it, was held not to amount to an acknowledgment of the signature of the deceased so as to satisfy the provisions of this section (*Ilott* v. *Genge*, 4 Moo. P. C. 265, 3 Curt. 160; *Hudson* v. *Parker*, 1 Rob. 14; *In the goods of Mary Harrison*, 2 Curt. 863; and see *Faulds* v. *Jackson*, 6 N. Cas. Supp. 1).

(*a*) The meaning of the legislature was that the witnesses should see and be conscious of the act done, and be able to prove it by their own evidence; if the witnesses are not mentally as well as bodily present, that will not be sufficient (*Hudson* v. *Parker*, 1 Rob. 14). Where a testator, intending to execute a codicil, signed the same while lying in bed, there being present in the room two witnesses, who attested the codicil; the curtains at the foot of the bed being drawn at the time, one of the witnesses could not actually see the testator sign his name, nor could the testator see that witness subscribe the codicil as attesting it: it was held, that the testator and witness complied with the requirements of this section (*Newton* v. *Clarke*, 2 Curt. 320; see further, *Hudson* v. *Parker*, 1 Rob. 14; *Casement* v. *Fulton*, 5 Moore, P. C. 130, infra, n. (*b*)). But a signing by witnesses in the same room where testator lay in bed with the curtains closed, totally unable to draw them aside, was held not to be a signing in his presence (*Tribe* v. *Tribe*, 1 Rob. 775.)

If the attestation be made in another room (*In re Ellis*, 2 Curt. 395), or in a carriage, the witnesses being at a distance (*Casson* v. *Dade*, 1 Bro. C. C. 98), the position of the parties must be such as to render them visible to each other (*In re Colman*, 3 Curt. 118; *In re Piercy*, 1 Rob. 278; and see ante, p. 910, n. (*b*)).

(*b*) The witnesses are to attest as well as subscribe; subscription alone is not sufficient, but the witnesses must attest, that is, bear witness to the fact (*Hudson* v. *Parker*, 1 Rob. 14). Where a testatrix having duly executed her will, and having subsequently made certain interlineations, went over her signature with a dry pen in the presence of the subscribed witnesses, who placed their initials in the margin opposite the alterations, but did not otherwise re-subscribe, it was held that the re-execution was not properly attested, and probate was decreed as the will originally stood (*In the goods of Martin*, 6 N. Cas. 694).

It is absolutely necessary that the testator should sign or acknowledge his signature before the witnesses attest (*Cooper* v. *Bockett*, 3 Curt. 648; *In re Olding*, 2 Curt. 865; *In re Byrd*, 3 Curt. 117). The witnesses must attest in each other's presence, and subscribe after the attestation (*Hindmarsh* v. *Charlton*, 8 H. L. Ca. 160, affirming *Charlton* v. *Hindmarsh*, 1 Sw. & Tr. 433; *In re Allen*, 2 Curt. 331; *In the goods of Hoskins*, 32 L. J. Pr. 158; and see *Casement* v. *Fulton*, 5 Moo. P. C. 130); though it would seem that it is not necessary that they should subscribe in each other's presence (*In the goods of Webb*, 1 Deane, Ecc. C. 1; *Faulds* v. *Jackson*, 6 N. Cas., Sup. 1; and see Sugd. R. P. S., 2nd ed. 342). It was, however, formerly held that they must so subscribe (*Casement* v. *Fulton*, 5 Moo. P. C. 130; *Simmonds, In re*, 3 Curt. 79; *Moore* v. *King*, *ib.* 243).

Where a will has once been regularly executed and attested, it will generally be admitted to probate, though the name of one of the attesting witnesses has been afterwards cut off and re-written by another person, but not in the presence of the deceased (*In the goods of Tozer*, 2 No. Cas. 11); or it has been erased, and another name substituted for it without any re-execution (*In the goods of Hannam*, 14 Jur. 558). And where a blank was left in a will for the insertion of legacies, and some were inserted in black and some in red ink, with sundry alterations and interlineations, probate was granted of such parts of the will as were in black ink; and those in red ink were rejected, on facts leading to the presumption of their being inserted after execution (*Birch* v. *Birch*, 1 Rob. 675; and see *In the goods of Martin*, supra).

A will, on the face of it duly executed, will be presumed to have been properly executed without positive affirmative evidence by the attesting witnesses of due execution in their presence; and defective memory alone in subscribing witnesses will not be ground for pronouncing against the will. To support a refusal of probate to such a paper, there must be evidence to negative a due execution (*Thomson* v. *Hall*, 2 Rob. 426; *In the goods of Holgate*, 1 Sw. & Tr. 261; *Cooper* v. *Bockett*, 4 Moo. P. C. 419; *Gwillim* v. *Gwillim*, 29 L. J. Pr. 31; *Leech* v. *Bates*, 1 Rob. 714; *Blake* v. *Knight*, 3 Curt. 547; and see *Cregreen* v. *Willoughby*, 6 Jur. N. S. 590; see also ante, p. 908, n. (*d*)). And even where the only surviving attesting witness denied the existence of that which was necessary to a due execution of the will at the time of attestation, inasmuch as he denied the existence of the will

and shall subscribe (*a*) the will in the presence (*b*) of the testator, but no form of attestation shall be necessary (*c*). 1 Vict. c. 26.

---

at the time the signatures were attached to the paper on which the will was written, the court, from all the circumstances of the case, inferred that the will was there at the time, and therefore duly executed (*Lloyd* v. *Roberts*, 12 Moo. P. C. 158). So too the difference in colour of the ink in which the names of the attesting witnesses were written has been held insufficient evidence to rebut the presumption of due execution (*Trott* v. *Skidmore*, 2 Sw. & Tr. 12, 29 L. J. Prob. 156). Where to a will there appeared the names of three subscribing witnesses, but no attestation clause, and the only surviving witness, whose name stood first of the three, stated that the testatrix signed the will in his presence only, that he suggested the necessity of two witnesses, but could remember no more particular circumstances; it was held that the fair presumption was, that the signature was afterwards acknowledged, and duly attested by the two last witnesses (*In the goods of Thomas*, 1 Sw. & Tr. 255).

In order to prove the execution of a will, it is sufficient to call one only of the subscribing witnesses, if he can speak to the observance of all that is required by the statute (*Belbin* v. *Skeats*, 1 Sw. & Tr. 148, 27 L. J. Prob. 56; *Wright* v. *Doe d. Tatham*, 1 Ad. & E. 3).

On the affidavit of an attesting witness to the due execution of a lost will, and of the same witness and of the testator's widow as to the contents, the circumstances being such as to rebut the presumption, from its not being found, that the testator had destroyed it *animo cancellandi*, probate was granted (*In the goods of Gardner*, 1 Sw. & Tr. 109, 27 L. J. Prob. 55). And see further, as to parol evidence being admitted in the case of a lost will, *Brown* v. *Brown*, 8 El. & Bl. 876; *In the goods of Brown*, 1 Sw. & Tr. 32. But the execution of the lost will must be proved, before a copy of it can be admitted to probate; and the declaration of the deceased testator is not admissible as evidence of execution (*In the goods of Ripley*, 1 Sw. & Tr. 68).

Where the names of attesting witnesses were of persons who could not be traced, or proved to have ever existed, and the writing of the names was sworn to have been that of the deceased himself, administration was granted (*In the goods of Lee*, 4 Jur. N. S. 790).

(*b*) Where the witnesses subscribe in a different room from that in which the testator is, he must be proved to have been in a position whence he could have seen the witnesses as they subscribed their names (*Norton* v. *Bazett*, 1 Deane's Ecc. C. 259; and see ante, p. 910 n. (*b*).

(*c*) No attestation clause of any description whatever is required (*Bryan* v. *White*, 2 Rob. 315; and see *Roberts* v. *Phillips*, 4 E. & B. 450, 24 L. J. Q. B. 171). If, however, there be no attestation clause to a will presented for probate, or if the clause be insufficient, an affidavit is required from at least one of the subscribing witnesses, if either of them is living, to prove that the provisions of this Act and 15 & 16 Vict. c. 24, in reference to the execution of the will, were in fact complied with (Prob. Court Rules in respect of non-contentious business, 1857, Rule 4); and see, as to the old practice of the Prerogative Court, which was similar (*Burgoyne* v. *Showler*, 1 Rob. 5; *In re Batten*, 2 Rob. 124; *Gove* v. *Gawen*, 3 Curt. 151; *Pennant* v. *Kingscote*, 3 Curt. 642).

(*a*) The subscription, in order to be valid, must be a subscription either of the name of the witness, or of some mark intended to represent it. A correction of an error in a previous writing of his name, or his acknowledgment of, or the adding a date to such a writing will not be sufficient (*Hindmarsh* v. *Charlton*, 8 H. L. Ca. 160, affirming *Charlton* v. *Hindmarsh*, 1 Sw. & Tr. 433; and see further, as to the sufficiency of the mark of an attesting witness, *In re Amiss*, 2 Rob. 116; *In re Clark*, 2 Curt. 329; *In re Ashmore*, 3 Curt. 756). So, the initials have been held sufficient (*In re Christian*, 2 Rob. 110). And where a witness wrote by mistake a wrong name, intending to write his own name, it was held sufficient (*In the goods of Olliver*, 2 Spinks, 57). So, where one of the attesting witnesses to a will, instead of writing his name, wrote "servant to Mr. S.," believing that to be the proper mode of subscribing the will; it was held a sufficient subscription (*In the goods of Sperling*, 33 L. J. Pr. 25). But where, at the desire of the testator, an attesting witness subscribed her husband's name instead of her own, with no intention that the subscription to the will should represent the subscribing witness's own signature, the subscription was held insufficient (*Pryor* v. *Pryor*, 29 L. J. Pr. 114). The tracing over of an attesting witness's signature by him with a dry pen, on the re-execution of a will, is not sufficient (*Playne* v. *Scriven*, 1 Rob. 773, 7 No. Cas. 122; see *In re Trevanion*, 2 Rob. 311; *Hindmarsh* v. *Charlton*, supra). Where the name of one of the attesting witnesses was written on an erasure, but it appeared that the will had been duly executed and attested, and that subsequently the attesting witness's name had been erased by the testator, and had at his request been rewritten by the attesting witness, the court on motion granted probate to the widow, on affidavit that she and two infant children were the only persons entitled in distribution,

1 Vict. c. 26.

Appointments by will to be executed like other wills, and to be valid, although other required solemnities are not observed.

10. That no appointment made by will, in exercise of any power, shall be valid, unless the same be executed in manner hereinbefore required, and every will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity (*a*).

Soldiers and

11. Provided always, That any soldier (*b*) being in actual military service (*c*), or any

---

and that notice had been given to the children (*In the goods* of *H. H. Coleman*, 2 Sw. & Tr. 314).

Both witnesses must subscribe (*In re Cope*, 2 Rob. 335). And where one witness wrote the name of both, it was held to be insufficient (*In re Mead*, 1 No. Cas. 456; *In re White*, 2 *ib.* 461). But where the hand of one subscribing witness, who could not write, was guided by the other, and the name of the first thus written, it was held a sufficient subscription (*In the goods of Frith*, 1 Sw. & Tr. 8, 27 L. J. Prob. 6; *Harrison* v. *Elvin*, 3 Q. B. 117). So also where the attesting witnesses, not being able to write, held the top of the pen while the writer of the will subscribed their names, the court held that as the witnesses took some share in the act of writing, it could not determine on the more or less, and that the attestation and subscription were good (*Lewis* v. *Lewis*, 2 Sw. & Tr. 153, S. C. *nom. In the goods of Lewis Lewis*, 31 L. J. Pr. 153).

The subscription of the attesting witnesses must take place after the joint attestation (*Hindmarsh* v. *Charlton*, supra). And where a testator signed his will in the presence of two witnesses, one of them then signed it, and the other did not then sign, but had done so before the execution, thus—"This was wrote by W. P.": it was held to be insufficient (*In re Hooley* v. *Jones*, 2 N. Cas. 59; *Moore* v. *King*, 3 Curt. 243). But, although the attestation of the witnesses must be in each other's presence, it seems not to be necessary that the subscription should be so made (*In the goods of Webb*, 1 Deane, Ecc. C. 1; *Faulds* v. *Jackson*, 6 No. Cas., Sup. 1; and see Sugd. R. P. S., 2nd ed. 342). It was, however, formerly held, that they must subscribe in each other's presence (*Casement* v. *Fulton*, 5 Moo. P. C. 130; *Simmonds, In re*, 3 Curt. 79; *Moore* v. *King*, *ib.* 243).

As to the place of the subscription. The Act does not specify *where* the witnesses are to sign; and a signature on the fourth page of a will was held good, although the will ended on the first side (*In the goods of Chamney*, 1 Rob. 757; and see *Roberts* v. *Phillips*, 4 E. & B. 450, 24 L. J. Q. B. 171, ante, p. 910, n. (*a*)). Where, however, a will was written on five sheets of paper, at the bottom of each of the first four sheets of which appeared the testator's signature, and on the margin of each of the same four sheets appeared the subscriptions of the witnesses, and on the fifth and last sheet was a *testimonium* clause, expressing the testator's intention of executing the paper by placing his name on each sheet, and his name and seal at the end. The testator's signature followed opposite a regular attestation clause; but the witnesses had not written their names on any part of the fifth sheet. It was held, that the witnesses had not subscribed the will (*Ewen* v. *Franklin*, 1 Deane's Ecc. Ca. 7).

(*a*) This section does not extend to a power of appointment by deed or writing under the hand and seal of the donee; and the execution of such a power will not be valid if the prescribed formalities are omitted, though the form of execution specified in this section is observed. And if a power to appoint by deed or writing under seal is attempted to be exercised by a testator, his will must be therefore sealed (*West* v. *Ray*, 23 L. J. Ch. 447, Kay 385, overruling *Buckell* v. *Blenkhorn*, 5 Hare, 131; see also *Collard* v. *Sampson*, 4 De G. M. & G. 224, 16 Beav. 543; *Moss* v. *Harter*, 2 Sm. & Giff. 458).

A testamentary instrument, signed but invalid for want of attestation, is not a good execution of a power to appoint by writing signed, or by will. Therefore where a *feme coverte* had such a power to appoint, "notwithstanding her coverture, and as if she were sole and unmarried," and lived in France upwards of thirty years until her death, apart but not legally separated from her husband, who was domiciled in England: it was held that she, having no power to change her domicil, did not by her will—valid in respect of formalities by the French law, but invalid by the English from want of attestation—duly execute the power (*Re Daly's Settlement*, 25 Beav. 456, 27 L. J. Ch. 751). But where a will is made in execution of a power, the will is not affected by the law of the domicil of the donee (*In the goods of Alexander*, 1 Sw. & Tr. 454, n.).

(*b*) This includes persons in the military service of the East India Company (*In re Donaldson*, 2 Curt. 386), though minors (*In re Farquhar*, 4 Ecc. & Mar. 651).

(*c*) As to what is considered "in actual military service," see *In re Phipps*, 2 Curt. 368; *Drummond* v. *Parish*, 3 Curt. 522; *White* v. *Repton*, 3 Curt. 818; *In re Hill*, 1 Rob. 276; *Herbert* v. *Herbert*, 1 Deane, Ecc. Ca. 10.

mariner or seaman (*a*) being at sea (*b*), may dispose of his personal estate as he might have done before the making of this Act.

1 Vict. c. 26. mariners' wills excepted.

12. That this Act shall not prejudice or affect any of the provisions contained in an Act passed in the eleventh year of the reign of his Majesty king George the fourth and the first year of the reign of his late majesty king William the fourth, intituled "An Act to amend and consolidate the Laws relating to the Pay of the Royal Navy," respecting the wills of petty officers and seamen in the royal navy, and non-commissioned officers of marines, and marines, so far as relates to their wages, pay, prize money, bounty money, and allowances, or other moneys payable in respect of services in her majesty's navy.

Act not to affect certain provisions of 11 G. 4 & 1 W. 4, c. 20, with respect to wills of petty officers and seamen and marines.

13. That every will executed in manner hereinbefore required shall be valid without any other publication thereof.

No publication.

14. That if any person who shall attest the execution of a will shall at the time of the execution thereof or at any time afterwards be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

Will not to be void on account of incompetency of attesting witness.

15. That if any person shall attest the execution of any will to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, or appointment, of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts), shall be thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will.

Gift to an attesting witness to be void (*c*).

16. That in case by any will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor whose debt is so charged, shall attest the execution of such will, such creditor notwithstanding such charge shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof.

Creditor attesting to be admitted a witness.

17. That no person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

Executor to be admitted a witness

(*a*) A purser of a man-of-war comes within this description (*In re Hayes*, 2 Curt. 338).

(*b*) The will of a seaman who went on shore and there died by an accident, has been allowed to pass as that of a seaman who died "at sea" (*In re Lay*, 2 Curt. 375; and see *Lord Hugh Seymour's case*, cited 2 Curt. 339). A letter written by a merchant seaman in the Margate Roads was admitted to probate under this section (*In re Milligan*, 2 Rob. 108). So also was a letter written by the master of a trading vessel from Port Adelaide, some sentences of which were testamentary (*In the goods of John Parker*, 2 Sw. & Tr. 375, 28 L. J. Pr. 91).

(*c*) Where the execution of a will was attested by two marksmen, and signed also by two other persons as witnesses, the court held that the signature of the two latter must be regarded as affixed likewise in attestation of the will, and not as merely verifying the attestation of the marksmen; and that the legacy to the wife of one of them failed under this section (*Wigan* v. *Rowland*, 11 Hare, 157). So, where after a will had been executed and sufficiently attested by two witnesses, a devisee under the will added her name as an attesting witness at the request of the testator's wife, the testator intimating that it was unnecessary to do so, but not objecting otherwise to it, it was held that under this section the devisee was excluded from taking any interest under the will (*Randfield* v. *Randfield*, 32 L. J. Ch. 668; and see *Doe d. Taylor* v. *Mills*, 1 Moo. & Rob. 288). But where a legatee, under a will, attested a codicil under which he received no benefit, his legacy was held not to be revoked (*Gurney* v. *Gurney*, 24 L. J. Ch. 656, 3 Drew. 208; *Tempest* v. *Tempest*, 2 K. & J. 635); and where one of several residuary legatees under a will attested a codicil, which revoked a legacy and thereby increased the residuary shares, it was held that his title to a share in the residue was not affected (*Gurney* v. *Gurney*, ubi supra; and see *Denne* v. *Wood*, 4 L. J. O. S. 57; ante, p. 914, n. (*b*)).

Where certain of the daughters of the testator under his will took absolutely as joint tenants, and one of them was an attesting witness, it was held that the gift to the attesting daughter being under this section simply void, the other daughters as joint tenants took the whole, and there was no lapse (*Young* v. *Davies*, 32 L. J. Ch. 372).

Where a legatee has subscribed a will apparently as an attesting witness, but it is alleged that he has not subscribed in that character, the court of Probate will not remove the name of such apparent witness from the probate, but will leave the question as to whether he attested or not to the court of construction (*In the goods of Forest*, 2 Sw. & Tr. 334; *In the goods of Mitchell*, 2 Curt. 916).

1 Vict. c. 26.

Will to be revoked by marriage(a).

18. That every will made by a man or woman shall be revoked by his or her marriage (except a will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir, customary heir, executor, or administrator, or the person entitled as his or her next of kin, under the statute of distributions (b)).

No will to be revoked by presumption.

19. That no will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

No will to be revoked but by another will or codicil, or by a writing executed like a will, or by destruction.

20. That no will or codicil, or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed (c), or by the burning, tearing, or otherwise destroying the same (d) by the testator, or by some person in his presence (e) and by his direction, with the intention of revoking the same.

(a) A will is not revoked under this section by a marriage which is void by the law of this country, and there is no distinction in such a case between a testator who is a natural born and one who is a naturalized British subject (*Mette* v. *Mette*, 1 Sw. & Tr. 416). As to the effect of marriage to revoke a will before this Act, see ante, p. 911, n. (a).

(b) It has been held that a will, so far as it was an execution of a power of appointment, came within this exception and therefore was not revoked by the testator's subsequent marriage; although the same persons would have taken under the settlement containing the power, as would have taken in case of an intestacy under the statute of distributions (*In the goods of Fitzroy*, 1 Sw. & Tr. 133).

(c) A revocation by a subsequent codicil, whether by express words of revocation or by a devise inconsistent with the former devise, operates so far only as is necessary to effectuate the intention of the testator (*Doe d. Evers* v. *Ward*, 18 Q. B. 197, 21 L. J. Q. B. 145; *Williams* v. *Evans*, 1 E. & B. 727, 22 L. J. Q. B. 241; *Duffield* v. *Duffield*, 3 Bligh, N. S. 260).

Where a testator executed a second will which on his death could not be found, parol evidence of its contents was admitted to establish it as a revocation of the first (*Brown* v. *Brown*, 8 E. & B. 876; *In the goods of Brown*, 1 Sw. & Tr. 32). And the facts that the will had been last seen in his possession and could not be found, were held to raise a presumption that he had destroyed it *animo cancellandi*, which presumption not being rebutted, it was held that the party died intestate (*Brown* v. *Brown*, ubi supra). But the mere fact that a second will has been executed, which cannot be found, is not sufficient to establish that a prior will has been revoked, and such prior will therefore continues in force notwithstanding this section (*Cutto*, App., *Gilbert*, Resp., 9 Moo. P. C. 131). The presumption arising from the will, which was known to have been in the testator's custody, not being forthcoming at his death, is *primâ facie* only, and may be rebutted by probable circumstances, among which declarations of unchanged affection and intention have much weight, and without proving affirmatively how the instrument was lost or destroyed (*Patten* v. *Poulton*, 1 Sw. & Tr. 55; and see also *In the goods of Shaw*, 1 Sw. & Tr. 62; *Battye* v. *Lyles*, 4 Jur. N. S. 718).

If a subsequent will or codicil revokes valid bequests in a will, and then bequeaths the property for a purpose void within the Mortmain Acts, although the gift by the codicil fails, the revocation continues good (*Tupper* v. *Tupper*, 1 Kay & J. 665). See further, as to revocation by will or codicil, *Barclay* v. *Maskelyne*, Johns. 124, 28 L. J. Ch. 115; *Hill* v. *Walker*, 4 K. & J. 166; as to the revocation by codicil of an appointment of an executor, *Barrett* v. *Wilkins*, 5 Jur. N. S. 687; as to the revocation by a clause in general terms of a will made in execution of a general power, *In the goods of Merritt*, 1 Sw. & Tr. 112, post, p. 942; *In the goods of Joys*, 30 L. J. Prob. 169.

A deed void on the ground of illegality, which conveys estates on other trusts than those of a previous will, is not, though attested by two witnesses, a writing declaring an intention to revoke the will within the meaning of this section (*Ford* v. *De Pontes*, 30 Beav. 572, 31 L. J. Ch. 185).

Where a testator made a will in 1858, and another in 1859 revoking the first, which was thereupon destroyed by the direction of the testator, who subsequently made a codicil referring to and expressing an intention to revive the first will, but containing no express intention to revoke the second will; it was held that, as the first will could not be revived by reason of not satisfying the requirements of the 9th section, the second will was, by reason of this section, not revoked either (*Rogers* v. *Goodenough*, 2 Sw. & Tr. 342).

(e) Probate was decreed of the draft copy of a codicil which had been burnt by testatrix's order, with intent to revoke, but not in her presence (*In the goods of Dadds*, 1 Deane, Ecc. Ca. 290). A testator cannot authorize a will to be destroyed after his death (*Stockwell* v. *Ritherdon*, 1 Rob. 661).

(d) Where a will, in the testator's handwriting

and properly attested, was found a few days after his death in a cancelled state, the body of the will being struck through with a pen, the name of the testator being crossed out, the attestation clause and the names of the witnesses likewise run through with a pen; it was held not a revocation under this section, which only uses the words "burning, tearing, or *otherwise destroying*" (*Stephens* v. *Japrell*, 2 Curt. 458; *Clarke* v. *Scripps*, 2 Rob. 563; *In the goods of Brewster*, 6 Jur. N. S. 56, 29 L. J. Pr. 69).

Where a testator duly executed a will in 1835, and after the 1st January, 1838, cut therefrom his signature; it was held, that notwithstanding sect. 34, it was not the intention that wills executed before 1st January, 1838, should be exempted from the provisions of the statute with respect to any act done to such wills after that date; and that the cutting out of the signature amounted to a revocation of the will under this section (*Hobbs* v. *Knight*, 1 Curt. 768; see *Longford* v. *Little*, 2 J. & Lat. 633; *Clarke* v. *Scripps*, 2 Rob. 563; *In the goods of James James*, 7 Jur. N.S. 52). So, the signatures of the attesting witnesses being an essential part of the will, the tearing them off by the testator *animo revocandi* revokes the will (*Evans* v. *Dallow*, 31 L. J. Pr. 128; *Hobbs* v. *Knight*, supra; *In the goods of S. W. Lewis*, 1 Sw. & Tr. 31).

A will duly executed, being soon after execution torn in a fit of anger by the testator, who, repenting immediately afterwards, declared he did not mean to revoke it, was considered *primâ facie* to have been revoked, but, on the consent of the next of kin, was admitted to probate, the court holding that the testator had not done all that he had intended to do (*In re Colberg*, 1 Notes Eccl. Cas. 90; *Doe d. Perkes* v. *Perkes*, 3 B. & Ald. 489; *Elms* v. *Elms*, 1 Sw. & Tr. 155). So where a testator cut a piece out of his will, which had been duly executed, containing the word "witnesses" and the names of the attesting witnesses, giving his reason at the time for having so cut the same, that he had some idea of altering it and having a new will made; and subsequently, on the same day, refastened in the piece he had so cut out, saying that his will would do for the present, and that if he wanted another will made, he could do it afterwards, and died without making another will; the court on motion, but with the consent of parties interested in case of an intestacy, granted probate of the will (*In the goods of Eeles*, 2 Sw. & Tr. 600; and see *In the goods of Cockayne*, 1 Deane, Ecc. C. 177; *In the goods of De Bode*, 5 No. Ca. 189). And where a will was destroyed by the testator, on the supposition that he had substituted another for it, but which was not duly executed, probate of a copy of the first will was granted (*Scott* v. *Scott*, 1 Sw. & Tr. 258; and see *In the goods of R. L.*, 29 L. T. 26). So where a testator burnt his will under the erroneous impression that it was already revoked, the court held that under the circumstances the intention of revoking was wanting, and decreed probate of the draft of the will (*Clarkson* v. *Clarkson*, 2 Sw. & Tr. 497). It would seem that the doctrine of dependent relative revocation does not apply to a subsequent will that has been revoked under the supposition that a prior one has been thereby revived; and that in such a case the subsequent will would be held to be absolutely revoked (*Dickinson* v. *Swatman*, 30 L. J. Pr. 84).

Where part of a draft will which was executed by the testator by way of precaution was cut away, without evidence as to when it was done; this was held to be a revocation *pro tanto*, whether done before or after this Act (*In re Lambert*, 1 Notes Ecc. Cas. 131; and see *Clarke* v. *Scripps*, 2 Rob. 563).

Where the names of the witnesses were torn from a will, which was referred to in a will duly executed; it was proved that those signatures were torn off without intention of revoking entirely, but that such will should operate as a list of legacies. So much of the former will as contained the legacies was admitted to probate (*Birkhead* v. *Bowdoin*, 2 No. Cas. 66; but see *In the goods of Lancaster*, 29 L. J. Pr. 155).

Where a person having made his will, executed under seal and published and attested as a sealed instrument, afterwards, for the purpose of revoking it, tore off the seal; it was held that the act of tearing off was sufficient under this section to revoke the will, on the ground that as the will professed to be executed under seal and was published and attested as a sealed instrument, when the seal was torn off it ceased to be the instrument as and for which it had been published (*Price* v. *Powell*, 3 H. & N. 341, S. C. *nom. Price* v. *Price*, 27 L. J. Ex. 409). So where by the usual statement in the witnessing clause at the end of his will, that he has set his hand to the preceding pages, a testator makes the signature on those pages a part of his will; and, having so recited, he afterwards, *animo revocandi*, tears off the signatures from the preceding pages, it is a good revocation of the whole will under this section (*Williams* v. *Tyley*, Johns. 530). See also, as to what is a sufficient tearing to operate as a revocation under this section, *Abraham* v. *Joseph*, 5 Jur. N. S. 179.

For an instance of a mutilation of a will by cutting off a portion being held under the circumstances only to amount to a revocation of so much of the will as was cut off, see *Christmas* v. *Whinyates*, 3 Sw. & Tr. 81. The portion however that is left must, in such case, be executed according to the statute; and therefore, where only two of the middle sheets of a will which had been written on several sheets were found, probate was refused on motion, as the signatures on the last sheet were the only ones that satisfied the Act (*In the goods of Gullan*, 1 Sw. & Tr. 23).

As to the presumption arising from a will being

1 Vict. c. 26. No alteration in a

21. That no obliteration, interlineation, or other alteration made in any will after the execution thereof shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent (*a*), unless such alteration shall be

---

found in a torn or mutilated state, see *In the goods of Simpson*, 5 Jur. N. S. 1366; *Harris* v. *Berrall*, 1 Sw. & Tr. 153; *Christmas* v. *Whingyates*, 3 Sw. & Tr. 81.

If an insane person were to tear a will duly executed by him when sane, the will would be admitted to probate, as the tearing must be with the intention of revoking; and in such a case, where the will had been in the custody of the testatrix both subsequently to and prior to her insanity, it was held that the burden of proving that the will had been mutilated by her when of sound mind was cast on the party setting up the revocation of the instrument (*Harris* v. *Berrall*, supra).

It is not necessary, in order to revoke a will by tearing, to rend the will into more pieces than it originally consisted of, but it is sufficient if the testator intended the tearing actually done of itself to work a revocation without any further act (*Elms* v. *Elms*, 1 Sw. & Tr. 155).

It seems that the principle that a codicil is *primâ facie* dependent on the will, so that the destruction of the latter is an implied revocation of the former, is not altered by the enactments of this section (*Grimwood* v. *Cozens*, 2 Sw. & Tr. 364; and see *In the goods of Halliwell*, 4 No. Ca. 400; *Clogstoun* v. *Walcott*, 5 No. Ca. 623; but see *In the goods of Dutton*, 3 Sw. & Tr. 67, 32 L. J. Pr. 137). Whether the codicil is revoked or not, depends on the question whether or not the codicil is independent of the will (*In the goods of Ellice*, 33 L. J. Pr. 27; *Grimwood* v. *Cozens*, supra; *In the goods of Dutton*, supra). As to revocations generally before this Act, see ante, p. 911, n. (*a*).

(*a*) Obliterations and alterations made subsequently to the 1st Jan., 1838, in a will of previous date, are within the provisions of this section (*Brooke* v. *Kent*, 3 Moo. P. C. 334).

Obliterations and alterations, in order to operate as a revocation under this section, must be accompanied with the *animus revocandi*, and the testator must not merely have intended a substitution (*Ibid.*; *Townley* v. *Watson*, 3 Curt. 761). So where the testator, after the execution of his will, obliterated the name of the executor and substituted another, having previously expressed his intention so to do, and the alteration was not attested, the court directed the original name to be restored to the probate, having been satisfied by evidence *aliunde* what the original name was (*In the goods of Henry Harris*, 1 Sw. & Tr. 536, 29 L. J. Prob. 79; *In the goods of Parr*, 6 Jur. N. S. 56; but see *In the goods of Bedford*, 5 No. Cas. 188). And where there were erasures and substitutions, and the original words were not discernible upon the face of the paper, and there was no evidence to show what they were, probate was granted of the will with the parts erased in blank (*In the goods of Eliz. James*, 1 Sw. & Tr. 238).

The intention of the testator, if not manifest from the due execution of the obliterations and alterations, can only be ascertained by the rules of evidence applied in similar cases under the Statute of Frauds (*Townley* v. *Watson*, 3 Curt. 761; and see *Bibb d. Mole* v. *Thomas*, 2 Wm. Bl. 1043; *Onions* v. *Tyrer*, 1 P. W. 343; ante, p. 911, n. (*a*)).

The obliteration, in order to be effective within the meaning of this section, "so far as the words or effect of the will before such alteration shall not be apparent," must be such that none of the parts obliterated can be distinguished upon the face of the will, by the aid of magnifying glasses, or evidence of that nature; and extrinsic evidence to make the previous effect of the will apparent is inadmissible (*Townley* v. *Watson*, ubi supra; and see *In the goods of James James*, 7 Jur. N. S. 52).

A line drawn through with pencil is not an obliteration, but is merely regarded as something deliberative (*Francis* v. *Grover*, 5 Hare, 39; see further, *In re Bushant*, 13 Jur. 458; *In re Ravenscroft*, 18 L. J., Ch. 501; *Lushington* v. *Onslow*, 6 Ecc. & M. C. 183).

Where there are interlineations and obliterations in a will, there should be some memorandum in the will, or notice in the attestation clause, referring to the alterations, &c. (*In re Martin*, 1 Rob. 712). Where a will contained alterations and erasures affecting the amount and objects of the testator's bounty, the existence of which at the time of the execution the attesting witnesses could not depose to; in the absence of all direct evidence as to the alterations and erasures, the presumption of law is that such alterations and erasures were made after the execution of the will (*Cooper* v. *Bockett*, 4 Moo. P. C. 449; *Doe d. Shallcross* v. *Palmer*, 16 Q. B. 747, 20 L. J. Q. B. 367; *Rowley* v. *Merlin*, 6 Jur. N. S. 1165; *Simmons* v. *Rudall*, 1 Sim. N. S. 115; *In the goods of Eliz. James*, 1 Sw. & Tr. 238; *In the goods of White*, 30 L. J. Prob. 55; see *Burgoyne* v. *Showler*, 1 Rob. 5; *Keigwin* v. *Keigwin*, 3 Curt. 607; *Hutchinson* v. *Hutchinson*, 13 Ir. Eq. R. 332). Or perhaps the more correct view of the law is, that the onus is cast upon the party who seeks to derive an advantage from an alteration in a will, to adduce some evidence from which a jury may infer that

executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

1 Vict. c. 26. Will shall have any effect unless executed as a will.

22. That no will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will or codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown (*a*).

No will revoked to be revived otherwise than by re-execution or a codicil to revive it.

---

the alteration was made before the will was executed; the rule being that those who propound a doubtful instrument must make the doubt clear (see the judgment of Wood, V.C., in *Williams* v. *Ashton*, 1 Johns. & H. 115).

It has been held that the declarations of the testator made before the execution of the will were admissible evidence from which a jury might draw the inference that the alterations had been made before execution; but that declarations of the testator after the will was executed, tending to show that the alterations had been made before, would be inadmissible (*Doe d. Shallcross* v. *Palmer*, supra). So, on an issue as to the revocation of a duly executed will, declarations of the deceased to the effect that he had made a will but had destroyed it subsequently to the date of the alleged revocation, have been held to be inadmissible (*Staines* v. *Stewart*, 2 Sw. & Tr. 320, 31 L. J. Pr. 10).

Unattested alterations in the handwriting of the testator, in a will made before the 1st Jan., 1838, were, in the absence of any evidence as to their date, presumed to have been made before this Act came into operation (*In the goods of Streaker*, 28 L. J. Prob. 50; and see *Pechell* v. *Jenkinson*, 2 Curt. 273; *In the goods of Pennington*, 1 No. Cas. 399).

Where some alterations having been made in a will subsequent to execution, the testator and the attesting witnesses traced the former signatures with a dry pen, and the attesting witnesses wrote their initials in the margin opposite each alteration; the court held that these initials were no evidence of a due execution of the alterations, and refused to admit them to probate (*In the goods of Cunningham*, 29 L. J. Prob. 71, 1 Searle & S. 132).

(*a*) The destruction of a second will, itself revoking one of prior date, does not reinstate the first will, even though it may be in existence at the testator's death (*In the goods of William Brown*, 1 Sw. & Tr. 32; and see *Brown* v. *Brown*, 8 El. & Bl. 876). And a will made before this Act is not revived by the destruction of a will made subsequently to its coming into operation, though the testator acted under the supposition that the prior will would be thereby revived (*Dickinson* v. *Swatman*, 30 L. J. Pr. 84).

Where a testator made a will in 1858, and another in 1859 containing a general clause of revocation, whereupon the will of 1858 was burnt with his consent; and in 1860 the testator wrote a codicil, "It is my wish that this should be added as a codicil to my last will made 1858;" it was held that the codicil could not, by its reference to the first will, revive it, as that will no longer existed as a written instrument so as to satisfy the 9th section (*Rogers* v. *Goodenough*, 2 Sw. & Tr. 342; and see *Hale* v. *Tokelove*, 2 Rob. 318; *Newton* v. *Newton*, 12 Ir. Ch. Rep. 118, App. i.; ante, p. 931, n. (*b*)). But a prior will, one copy of which, in the possession of the solicitor, was destroyed by the testator on the execution of a second will, made in 1838, revoking in terms the prior will, was held to be revived by a codicil made subsequently to the second will, though referring to the first will merely by date, such reference being sufficient under this section, and parol evidence being inadmissible to establish a mistake in the date (*Payne* v. *Trappes*, 1 Rob. 583; *Thomson* v. *Hempenslade*, 1 Rob. 783; *Kidd* v. *North*, 2 Phil. C. C. 91; *Skinner* v. *Ogle*, post, p. 944, n. (*c*); and see *Hale* v. *Tokelove*, 2 Rob. 318; *In the goods of Jenkin Lewis*, 7 Jur. N. S. 220). It has been held that a codicil expressed to take effect only upon an event which did not happen, republished a will to which it referred by date, and was on that ground entitled to probate (*In the goods of Da Silva*, 2 Sw. & Tr. 315. But see *In the goods of Winn*, *ib.* 147; *Parsons* v. *Lanoe*, 1 Ves. Sen. 189).

A memorandum written on a revoked will and duly attested according to this Act, has been held to operate as a codicil so as to revive the will, though the memorandum did not in direct terms refer to the will (*In the goods of Terrible*, 1 Sw. & Tr. 140). But the physical annexation, by a piece of tape, *e. g.*, of a duly executed codicil of later date, to testamentary papers duly executed but revoked, is no ground for inferring the intention to revive, for an act *dehors* the instrument cannot be resorted to for the purpose of establishing the intention (*Marsh* v. *Marsh*, 1 Sw. & Tr. 140).

1 Vict. c. 26.

A devise not to be rendered inoperative by any subsequent conveyance or act.

23. That no conveyance or other act made or done subsequently to the execution of a will of or relating to any real or personal estate therein comprised, *except an act by which such will shall be revoked as aforesaid* (*a*), shall prevent the operation of the will with respect to such estate or interest in such real or personal estate as the testator shall have power to dispose of by will at the time of his death.

A will shall be construed to speak from the death of the testator.

24. That every will shall be construed, with reference to the real estate and personal estate comprised in it (*b*), to speak and take effect as if it had been executed immediately before the death of the testator (*c*) unless a contrary intention shall appear by the will (*d*).

(*a*) See *Ford* v. *De Pontes*, 30 Beav. 572, 31 L. J. Ch. 185, ante, p. 936, n. (*c*). This section applies to cases where testators, after having devised their estates, make conveyances of them which are to have the same effect as fines or recoveries, or where they mortgage the devised estates in fee, and afterwards take a reconveyance of them to themselves, and a trustee to uses to bar dower; but it does not apply to cases where the estate meant to be conveyed is gone (*per* V.-C. Shadwell, *Moor* v. *Raisbeck*, 12 Sim. 123); as where a testatrix after the date of her will sold some of the houses the subject of the devise, and conveyed them to the purchaser, and he deposited the conveyance and title deeds thereof with her to secure part of the purchase-money (*Ibid.*; see *Farrar* v. *Earl of Winterton*, 5 Beav. 1; see ante, p. 905, n. (*a*)).

(*b*) The meaning of these words is not "with reference to the real estate and personal estate then actually comprised in the will;" but seems to be "so far as the will comprises dispositions of real and personal estate" (see *per* Turner, L. J., in *Lady Langdale* v. *Briggs*, 8 De G. M. & G. 436). In that case it was held that, where a testator after the date of his will became entitled to the personal estate of a deceased sister as one of her next of kin, under this Act leaseholds forming part of the sister's general estate passed under a specific bequest of the testator's leasehold property.

It is with reference to the real and personal estate comprised in it, and not with reference to the objects of the testator's bounty who are to take that estate, that the will is to speak as if executed immediately before the testator's death; and therefore, where there was a bequest to A. for life or until marriage with a gift over, it was held (reversing a decision of Wood, V. C.), that the gift over took effect in consequence of the marriage of A. before the death of the testator (*Bullock* v. *Bennett*, 7 De G. M. & G. 283, 24 L. J. Ch. 512; see also *Violett* v. *Brookman*, 26 L. J. Ch. 308).

(*c*) The effect of this section is not to make that valid which was invalid in its inception; but to give a rule for the construction of a valid testamentary instrument (*Price* v. *Parker*, 16 Sim. 198).

(*d*) It is not necessary, however, that such contrary intention should be expressed in so many words, or in some way quite free from doubt, but it is to be gathered by adopting, in reference to the expressions used by the testator, the ordinary rules of construction applicable to wills. A reference to a particular thing, *e. g.*, "my ring" or "my house," would serve to show that the will spoke from the date of its execution (*Goodlad* v. *Burnett*, 1 Kay & J. 341). So, in a will of real and personal estate bearing a date, the testator gave "all the estates of which I am *now* seised or possessed," and used the word *now* in other parts of the will, clearly alluding to the period at which he was making the will; the court held, that the testator had thereby indicated a contrary intention, so as to take the case out of the general rule, and that real estate acquired after the date of the will was not affected by it (*Cole* v. *Scott*, 1 Hall & Twells, 472, 1 Mac. & Gord. 518; *Hutchinson* v. *Barrow*, 6 H. & N. 583, 30 L. J. Ex. 280; and see *Douglas* v. *Douglas*, 1 Kay, 400; *Hughes* v. *Jones*, 32 L. J. Ch. 487).

A testator devised all his freehold estate at B. which he purchased of C., by a will dated before, and republished by a codicil dated after, the passing of this Act; but a small piece of land purchased with the estate by the testator of C., and always held and mixed with it, was leasehold. After making the codicil, the testator purchased the fee of that small piece of land, and the leasehold interest was merged. It was held, notwithstanding this section, that the codicil did not pass the after-acquired fee (*Emuss* v. *Smith*, 2 De Gex & S. 72).

Where a testator, being then possessed of personalty only, by will executed in 1849, after bequests of money and chattels, added "All the rest, residue, and remainder of my goods, chattels, stock in trade, estate and effects, of what nature or kind soever, not hereinbefore given or bequeathed, I give and bequeath unto "B. and T., executors of the will, to hold to them the said B. and T., their executors, administrators, and assigns," upon trust to "sell and dispose thereof," and call in and receive all debts, "and place the moneys arising by such sale and disposal" upon government or other security, receive the interest and dividends, and pay the same to testator's wife for life during her widowhood; and if she married again, to apply the same, or a sufficient part thereof, to the maintenance of his children

25. That, unless a contrary intention shall appear by the will, such real estate or interest therein as shall be comprised, or intended to be comprised, in any devise in such will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will (*a*). 1 Vict. c. 26. A residuary devise shall include estates comprised in lapsed and void devises.

26. That a devise of the land of the testator, or of the land of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, and any other general devise which would describe a customary, copyhold, or leasehold estate if the testator had no freehold estate which could be described by it, shall be construed to include the customary, copyhold, and leasehold estates of the testator, or his customary, copyhold, and leasehold estates, or any of them, to which such description shall extend, as the case may be, as well as freehold estates, unless a contrary intention shall appear by the will (*b*). A general devise of the testator's lands shall include copyhold and leasehold as well as freehold lands (*b*).

27. That a general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be), which he may have power to appoint (*c*) in any manner he may think proper, and shall operate as an A general gift shall include estates over which the testator has

---

till they should come of age; and when the youngest should come of age, to divide the said residue and the interest equally among the children. After the execution of the will the testator purchased land. It was held that under this section and section 3, such land passed by the residuary clause (*O'Toole* v. *Browne*, 3 Ell. & Bl. 572, 23 L. J. Q. B. 282; and see *Stokes* v. *Solomons*, 9 Hare, 75; *Lilford* v. *Powys Keck*, 30 Beav. 300; *Lady Langdale* v. *Briggs*, 3 Sm. & Giff. 246, 8 De G. M. & G. 391, 25 L. J. Ch. 100, 26 *ib.* 27; *Strevens* v. *Bayley*, 8 Ir. Com. Law Rep. 410; *In re Farrer*, *ib.* 370; *Doe d. York* v. *Walker*, 12 M. & W. 591).

(*a*) As to what is a residuary devise within the meaning of this section, see *Cogswell* v. *Armstrong*, 2 Kay & J. 227; *Green* v. *Dunn*, 20 Beav. 6, 24 L. J. Ch. 577; *Carter* v. *Haswell*, 26 L. J. Ch. 576.

It would seem that under this section, taken with the preceding one, a residuary devise of real estate is no longer specific; and therefore, where the personal estate proves deficient for the payment of debts, the real estates devised by way of residue are chargeable with the payment of debts in priority to the real estates specifically devised (*Dady* v. *Hartridge*, 1 Drew. & Sm. 236; *Barnwell* v. *Iremonger*, *ib.* 342, 30 L. J. Ch. 13; *Hibon* v. *Hibon*, 32 L. J. Ch. 374); and to specific legacies (*Rotheram* v. *Rotheram*, 26 Beav. 465). The above cases would seem to overrule *Eddels* v. *Johnson*, 1 Giffard, 22; *Pearmain* v. *Twiss*, 2 *ib.* 130, 29 L. J. Ch. 802; see further on this point, Williams on Real Assets, p. 35. It has been held, however, that under a will made after the 1st of January, 1838, a residuary devise of real estate upon contingent or future trusts does not carry with it the intermediate income, but such income results to the testator's heir at law, and that this Act has made no difference in the law in this respect (*Hodgson* v. *Bective*, 1 H. & M. 376, 32 L. J. Ch. 489, affirmed on appeal, 3 New R. 654; and see *Holmes* v. *Prescott*, 33 L. J. Ch. 264).

(*b*) A testator, by will made in 1815, after giving certain legacies, bequeathed "all the rest, residue, and remainder of his personal estate, goods, and chattels, whatsoever and wheresoever," subject to the payment of his debts and legacies, to D. "absolutely, to and for his own use and benefit." The testator further devised "all and singular his manors, rectories, advowsons, messuages, lands, tenements, tithes, and hereditaments, situate, lying, arising, or being at or near Windlestone, in the county of Durham," and "all other his real estate" in the said county, "and all his estate and interest therein, to trustees, to the use of D. for life, and after his decease to the use of the first and other sons of D. in tail male." D. died in the lifetime of the testator, who, in 1841, made a codicil, whereby he appointed another executor, and ratified, confirmed, and republished his will. The testator, at the time of his death, was possessed of both freehold and leasehold estates in the county of Durham. It was held, that the will, having been republished by the codicil, must, according to the provisions of the 34th section of this statute, be deemed to have been made at that date; and therefore, by virtue of this section, the leaseholds passed to the trustees under the general devise of the real estate, no contrary intention appearing on the face of the will (*Wilson* v. *Eden*, 21 L. J. Q. B. 385, 18 Q. B. 474, 5 Exch. 752; differing from the opinion of the M. R., 11 Beav. 237).

Since the 55 Geo. 3, c. 192, copyholds would pass by a general devise of real estate, although the testator had both freehold and copyhold lands, and had not made any surrender to the use of his will (*Doe d. Edmunds* v. *Llewellin*, 2 C. M. & R. 503, 1 Gale, 193, ante, p. 920, n. (*c*)). The right of an equitable owner of a copyhold estate to dispose of his equitable interest by will, cannot be controlled by the custom of a manor (*Lewis* v. *Lane*, 2 Myl. & K. 449).

(*c*) These words must be taken in connection with the former section, which prescribes the time when the will is to speak (*Stillman* v. *Weedon*, 16 Sim. 26).

1 Vict. c. 26.

a general power of appointment.

execution of such power, unless a contrary intention shall appear by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal property described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description shall extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will (*a*).

A devise without any words of limitation to pass the fee.

28. That where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a contrary intention shall appear by the will (*b*).

The words "die without issue."

29. That in any devise or bequest of real or personal estate the words "die without issue (*c*)," or "die without leaving issue," or "have no issue," or any other words which

---

(*a*) It seems that this section applies only to cases where the power of appointment is equivalent to absolute property (*Moss* v. *Harter*, 2 Sm. & Giff. 450; which case also see, as to what amounts to a contrary intention within the meaning of this section). So, it has been held not to apply to special powers in favour of particular objects (*Russell* v. *Russell*, 12 Ir. Ch. Rep. 377).

This section applies to married women having testamentary powers of appointment exercisable during coverture equally with persons *sui juris*; and under it a general bequest by a married woman will include property over which she has a power of appointment (*Bernhard* v. *Minshull*, Johns. 276, 28 L. J. Ch. 649).

Under the combined operation of this section and the 24th, a will, though made before the power was created, may be a good execution of it (*Stillman* v. *Weedon*, 16 Sim. 26; *Cofield* v. *Pollard*, 3 Jur. N. S. 1203). So also, under those sections, a general power given to the survivor of two persons may now be exercised by a general devise in a will executed by the ultimate survivor during the joint lives (*Thomas* v. *Jones*, 2 Johns. & H. 475, 32 L. J. Ch. 139). And the circumstance that such a devise contains limitations for the life of B. is not necessarily a conclusive indication of an intention not to exercise a power which would only come into existence in the event of B. predeceasing the testator (*ib.*). See further, as to what general dispositions are sufficient to operate as executions of powers under this section, *Lake* v. *Currie*, 2 De G. M. & G. 536; *Moss* v. *Harter*, 2 Sm. & Giff. 458; *Hutchins* v. *Osborne*, 4 Kay & Johns. 252, 27 L. J. Ch. 421; *Hawthorn* v. *Shedden*, 3 Sm. & Giff. 293, 25 L. J. Ch. 833; *Shelford* v. *Acland*, 23 Beav. 10, 26 L. J. Ch. 144; *Jones* v. *Southall*, 32 Beav. 31; Jarman on Wills, 3rd ed., vol. 1, pp. 646, *seqq.*

See, as to a general residuary gift including appointed property where the appointment has failed, *In re Spooner's Trust*, 2 Sim. N. S. 129, 21 L. J. Ch. 151; *Gulsha* v. *Cheese*, 7 Hare, 236; *Gale* v. *Gale*, 21 Beav. 349; and see *Easum* v. *Appleford*, 10 Sim. 274.

This section was intended to enlarge the disposing power of testators, and has no bearing upon questions of revocation. Therefore, a revocatory clause in general terms in a will, will not under this section operate to revoke a will made in execution of a general power, the clause itself containing no reference to the will so made (*In the goods of Merritt*, 1 Sw. & Tr. 112).

(*b*) This section has put real and personal estate on a parity (*Malcolmson* v. *Malcolmson*, 17 L. T. 44; and see *Cole* v. *Scott*, 1 Mac. & Gor. 518).

Under a devise by the testator to his three daughters, of real estate, to hold the same in joint tenancy for their own sole use and benefit in succession, and not subject to the debts or control of their husbands; the same not to be sold or disposed of, but held in succession by his three daughters, with right of survivorship: it was held, that under this section the daughters took as joint tenants in fee, and that a contrary intention did not appear by reason of words of inheritance having been used in other parts of the will (*Wisden* v. *Wisden*, 2 Sm. & Giff. 396). And where copyholds were devised to a married woman, to be her sole and separate property, with a special power of appointment added, it was held that the gift of the power did not indicate an intention to cut down the estate given in words sufficient to carry the fee-simple (*Brook* v. *Brook*, 3 Sm. & Giff. 280). But the section applies to the devise of an existing estate or interest, and not to an estate or interest which the testator by his will creates *de novo*; and therefore a gift by will since the statute, of an annuity to A. without words of limitation, but which was by the same will charged upon real estate, is not a devise of a perpetual annuity or rent charge, and is a gift of an annuity for life only, as it would have been before the statute (*Nichols* v. *Hawkes*, 10 Hare, 342). And where a testator since this Act gave to A. B. the house she lived in and grass for a cow in a particular field, it was held that while she took an estate in fee-simple in the house, she had only the personal right to pasture a cow in that field during her pleasure, the estate in the house not being cut down by the testator's intention with respect to the right of pasture in the field, nor the latter right enlarged by the former gift (*Reay* v. *Rawlinson*, 29 Beav. 88, 30 L. J. Ch. 330).

(*c*) See, as to the object of this section, *Greenway* v. *Greenway*, 1 Giff. 131; and also as to its effect, 2 Jarman on Wills, 3rd ed., pp. 468, *seqq.*

Whatever be the *primâ facie* meaning of the

may import either a want or failure of issue of any person in his lifetime or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will, by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise: Provided that this Act shall not extend to cases where such words as aforesaid import if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

1 Vict. c. 26. out issue, or "die without leaving issue," shall be construed to mean die without issue living at the death.

30. That where any real estate (other than or not being a presentation to a church) shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years, absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication.

No devise to trustees or executors, except for a term or a presentation to a church, shall pass a chattel interest.

31. That where any real estate shall be devised to a trustee, without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such trustee the fee simple, or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust shall be satisfied (*a*).

Trustees under unlimited devise, where the trust may endure beyond the life of a person beneficially entitled for life, to take the fee.

32. That where any person to whom any real estate shall be devised for an estate tail, or an estate in *quasi* entail, shall die in the lifetime of the testator leaving issue who would be inheritable under such entail, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Devises of estates tail shall not lapse (*b*).

33. That where any person, being a child or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator

Gifts to children or other issue who leave issue living at the testator's death shall not lapse (*c*).

---

word "issue" in a will, it is not a technical expression, and will yield to the intention of the testator, to be collected from the words of the will; and therefore it requires a less demonstrative context to show the testator's intention in regard to the word "issue," than in regard to the technical expression, "heirs of the body" (*Lees* v. *Mosley*, 1 Y. & Col. 589; see *Eden* v. *Wilson*, 4 H. L. Ca. 257; agreeing with the decision of the Court of Exchequer, 1 Ex. 772; and reversing the decree of the M. R., 12 Beav. 454, made in accordance with the opinion of the Queen's Bench, 14 Q. B. 256).

It has been held, that, as this section is expressly confined to the word "issue," it makes no change in the meaning of the expression, "die without heirs of the body" (*In re Sallery*, 11 Ir. Ch. Rep. 236).

A testator bequeathed 1000*l.* to trustees, upon trust for his son A. for life, with remainder to the children of A. He then gave the residue of his estate and effects to his trustees, upon trust for all his children, in equal shares, and the heirs of their respective bodies. The following words were then added in a parenthesis: "Except as to my son A. and his children, whose share, in consequence of the 1000*l.* set apart for him and them as aforesaid, shall be rated at 1000*l.* less than that of any other child." The will then declared, that, in case of a failure of issue of any child, the share of him or her whose issue should fail should be held on the trusts therein mentioned. The testator left freehold estates and personalty applicable to the trusts declared of the residue. It was held, first, that the words in the parenthesis did not cut down A.'s interest in the residue to a life estate; and secondly, that the words "failure of issue" were not made by this section to mean failure of issue at the death of A. (*Green* v. *Green*, 3 De Gex & S. 480).

(*a*) Where a testator, by a will made subsequently to this Act, after directing that his debts and funeral and testamentary expenses should be paid by his executors as soon as conveniently might be after his decease, devised all his real and personal estate to trustees (whom he afterwards appointed his executors) in trust, to pay the rents and proceeds thereof to his son J. S. for his natural life; and, from and after the death of J. S., in trust for the right heirs of the said J. S. for ever: it was held, that by reason of the direction to them to pay debts, the trustees took the legal estate in fee, and, therefore, inasmuch as the estate for life and the estate in remainder were both equitable estates, the rule in Shelley's case applied, and J. S. took an equitable estate in fee (*Spence* v. *Spence*, 12 C. B. N. S. 199, 31 L. J. C. P. 189; and see 2 Jarm. on Wills, 3rd ed., pp. 395—7).

(*b*) See *Harris* v. *Davis*, 1 Col. 416.

(*c*) This section applies to a testamentary appointment made in pursuance of a general power

1 Vict. c. 26

leaving issue, and any such issue (*a*) of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

Act not to extend to wills made before 1838, nor to estates *pur autre vie* of persons who die before 1838.

34. That this Act shall not extend to any will made before the 1st day of January, 1838 (*b*), and that every will re-executed or republished, or revived by any codicil, shall for the purposes of this Act be deemed to have been made at the time at which the same shall be so re-executed, republished, or revived (*c*); and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the 1st day of January, 1838.

Act not to extend to Scotland.

35. That this Act shall not extend to Scotland.

(*Eccles* v. *Cheyne*, 2 Kay & J. 676); but not to one made in pursuance of a limited power (*Griffiths* v. *Gale*, 12 Sim. 354). Neither does it apply to a devise or bequest to the testator's "children" as a class (*Browne* v. *Hammond*, Johns. 210; *Olney* v. *Bates*, 3 Drew. 319).

This section has been held to apply to the case where the child has died before the date of the will containing the gift in his favour, provided he died after this Act came into operation, and the will was made after the latter date (*Winter* v. *Winter*, 5 Hare, 306; *Mower* v. *Orr*, 7 Hare, 473; *Wisden* v. *Wisden*, 2 Sm. & Giff. 396; and see *Barkworth* v. *Young*, 4 Drew. 1, 26 L. J. Ch. 153).

This section, taken in conjunction with the 3rd and 24th sections, does not substitute for the predeceased devisee or legatee, the issue whose existence is the event or condition which excludes the lapse, but renders the subject of the gift the absolute property of the predeceased devisee or legatee, and therefore disposable by his will, notwithstanding his death before the death of the testator (*Johnson* v. *Johnson*, 3 Hare, 157; *Winter* v. *Winter*, ubi supra; and see *Skinner* v. *Ogle*, 4 No. Cas. 74).

Where a testator gave a legacy to his daughter, a married woman, who predeceased him leaving issue, and also her husband, her surviving; and a settlement made on her marriage contained a covenant that all property coming to her or her husband in her right during the coverture should be settled; it was held that, notwithstanding the fictitious survivorship created by this section for the purpose of preventing a lapse, the legacy was not acquired during the coverture within the meaning of the covenant, and was therefore not bound by the settlement (*Pearce* v. *Graham*, 32 L. J. Ch. 359).

(*a*) It would seem that the issue of the legatee that was alive at the time of the death of the testator need not be the same issue that was in existence when the legatee died, in order to exclude a lapse under this section (*In the goods of Jane Parker*, 1 Sw. & Tr. 523, 31 L. J. Prob. 8).

(*b*) The words "this Act shall not extend to any will made before the 1st day of January, 1838," do not apply to any act done after that date to a will made before it. Therefore, where after that date a party cut out his signature from a will made before this Act came into operation, such cutting out was held to amount to a revocation of the will under the 20th section of this Act (*Hobbs* v. *Knight*, 1 Curt. 768, ante, p. 936, n. (*d*)).

(*c*) A codicil executed in 1839 to a will of 1818 was held to be a republication of that will, and to have the effect of bringing a bequest in the will to a deceased daughter under the operation of this section (*Skinner* v. *Ogle*, 4 No. Cas. 74; see *Wilson* v. *Eden*, ante, p. 940, n. (*b*)). Under this section, the effect of republication of the will by a codicil is the same as if the testator had at the date of the codicil made a will in the words of the will so republished (*Winter* v. *Winter*, 5 Hare, 306); though not for all purposes (see *Stilwell* v. *Mellersh*, 20 L. J. Ch. 356; *Cole* v. *Scott*, 1 Mac. & Gord. 518; see *Croker* v. *Marquis of Hertford*, 4 Moo. P. C. 339; *Brooke* v. *Kent*, 3 Moo. P. C. 334; *Andrews* v. *Turner*, 3 Q. B. 177; *Jowett* v. *Board*, 16 Sim. 352; *Violett* v. *Brookman*, 26 L. J. Ch. 308; *Hopwood* v. *Hopwood*, 7 H. L. 728).

A testator in 1843 executed his will, in which was contained a clause revoking all former wills; he afterwards duly made and executed a codicil confirming his will save as altered by the codicil, and subsequently he re-executed the will on the supposition that the attestation clause of the will was defective, and for that reason only, but did not re-execute the codicil or in any way refer to it. It was held, that the re-execution of the will extended to and republished the codicil, notwithstanding the clause of revocation, no intention to the contrary appearing (*Wade* v. *Nazer*, 1 Rob. 627). See also, ante, p. 910, n. (*a*), p. 931, n. (*b*); and Jarman on Wills, 3rd ed., vol. 1, pp. 107, *seqq.*, as to defective execution being supplied by reference.

2 & 3 Vict. c. 60. An Act to explain and extend the Provisions of an Act passed in the First Year of His late Majesty King William the Fourth, intituled "*An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate.*" [17th August, 1839.]

2 & 3 Vict. c. 60.

"Whereas by an Act passed in the first year of the reign of his late majesty king William the fourth, intituled, &c., it was (amongst other things) enacted (reciting sects. 11 and 12): And whereas doubts are entertained whether the hereinbefore recited provisions of the said Act extend to authorise courts of equity to direct mortgages as well as sales to be made of the estates of such infant heirs or devisees, or of lands, tenements, or hereditaments so devised in settlement as aforesaid, and also to authorise such sales and mortgages to be made in cases where such tenant for life or other person having a limited interest, or such first executory devisee as aforesaid, is an infant; and it is expedient that the said provisions of the said Act should be so extended, and that further provision should be made in relation thereto in manner hereinafter mentioned:" BE IT ENACTED, That the said hereinbefore recited provisions of the said Act shall extend and the same are hereby extended to authorise courts of equity to direct mortgages as well as sales to be made of the estates of such infant heirs or devisees, and also of lands, tenements, or hereditaments so devised in settlement as aforesaid, and to authorise such sales and mortgages to be made in cases where such tenant for life or other person having a limited interest, or such first executory devisee as aforesaid, is an infant (*a*).

11 G. 4 & 1 W. 4, c. 47.

Recited provisions of 11 G. 4 & 1 W. 4, c. 47, extended to authorise mortgages as well as sales of estates.

2. That when any sale or mortgage shall be made in pursuance of the said recited Act or this Act, the surplus (if any) of the money raised by such sale or mortgage, which shall remain after answering the purposes for which the same shall have been raised, and defraying all reasonable costs and expenses, shall be considered in all respects of the same nature, and descend or devolve in the same manner, as the estate, or the lands, tenements, or hereditaments so sold or mortgaged, and shall belong to the same persons, be subject to the same limitations and provisions, and be applicable to the same purposes as such estate or such lands, tenements, or hereditaments would have belonged and been subject and applicable to in case no such sale or mortgage had been made.

Surplus of money arising from such sale or mortgage to descend in the same manner as the estates so sold or mortgaged would have.

8 & 9 Vict. c. 97. An Act to amend the Law respecting Testamentary Dispositions of Property in the Public Funds, and to authorise the Payment of Dividends on Letters of Attorney in certain Cases. [4th August, 1845.]

8 & 9 Vict. c. 97.

1. [Shares of public stocks standing in the bank of England in the name of deceased person may be transferred by his executors notwithstanding specific bequests.]

See this Act, ante, Vol. I., p. 1431, tit. "EXECUTORS."

11 & 12 Vict. c. 87. An Act to extend the Provisions of an Act passed in the First Year of His late Majesty King William the Fourth, intituled "*An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate.*" [31st August, 1848.]

11 & 12 Vict. c. 87.

"Whereas by an Act passed in the first year of the reign of his late majesty king William the fourth, intituled, &c., it was (amongst other things) enacted (reciting sect. 12): And whereas the hereinbefore recited provision of the said Act does not extend to the case of lands, tenements, or hereditaments of a deceased debtor which are by descent or otherwise than by devise vested in the heir or co-heirs of such debtor, subject to an executory devise over in favour of a person or persons not existing or not ascertained,

11 G. 4 & 1 W. 4, c. 47.

(*a*) In a creditors' suit, the court has no jurisdiction, under 1 Will. 4, c. 60, or this statute, to extend the sum to be raised by way of mortgage by an infant, for payment of the debts of his ancestor or devisor, so as to include money required for repairs, even where such repairs are necessary in order to obtain an advance on mortgage, and where a mortgage is much more beneficial for the infant than a sale would be (*Hill* v. *Maurice*, 1 De Gex & S. 214; see *Garstone* v. *Gaunt*, 1 Col. C. C. 577).

11 & 12 Vict. c. 87.

Recited provision to extend to lands, &c., of a deceased debtor, in certain cases (a).

and it is expedient that the said provision of the said Act should be extended to such case:" BE IT ENACTED, in cases in other respects falling within the said hereinbefore recited provision of the said Act, That the said hereinbefore recited provision of the said Act shall extend and is hereby extended to any case in which any lands, tenements, or hereditaments of any deceased person shall by descent or otherwise than by devise be vested in the heir or co-heirs of such person, subject to an executory devise over in favour of a person or persons not existing or not ascertained; and in any such case it shall be lawful for the court mentioned in the said recited provision to direct such heir or co-heirs, notwithstanding such heir or such co-heirs, or any of them, may be an infant or infants, to convey, release, assign, surrender, or otherwise assure the fee simple or other the whole interest or interests so to be sold to the purchaser or purchasers, or in such manner as the said court shall think proper; and every such conveyance, release, surrender, assignment, or other assurance shall be as effectual as if the heir or co-heirs who shall make and execute the same was or were seised or possessed of the fee simple or other whole estate so to be sold, and, if an infant or infants, was or were of full age.

15 Vict. c. 24.

15 Vict. c. 24. An Act for the Amendment of an Act passed in the First Year of the Reign of Her Majesty Queen Victoria, intituled "*An Act for the Amendment of the Laws with respect to Wills.*" [17th June, 1852.]

"Whereas the laws with respect to the execution of wills require further amendment:" BE IT ENACTED as follows:

1 Vict. c. 26.

When signature to a will shall be deemed valid.

1. Where by an Act passed in the first year of the reign of her majesty queen Victoria, intituled "An Act for the Amendment of the Laws with respect to Wills," it is enacted, that no will shall be valid unless it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; Every will shall, so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, be deemed to be valid within the said enactment, as explained by this Act, if the signature shall be so placed at or after, or following, or under, or beside, or opposite to the end of the will, that it shall be apparent on the face of the will that the testator intended to give effect by such his signature to the writing signed as his will (b), and that no such will shall be affected by the circumstance that the signature shall not follow or be immediately after the foot or end of the will, or by the circumstance that a blank space shall intervene between the concluding word of the will and the signature, or by the circumstance that the signature shall be placed among the words of the *testimonium* clause (c), or of the clause of attestation (d), or shall follow

(a) This statute has removed the difficulty raised in *Heming* v. *Archer*, 7 Beav. 515; 8 Beav. 294; 9 Beav. 366.

(b) Where the name of the testator formed the concluding words of a holograph will which was not otherwise signed, it was held that there was under the circumstances a sufficient signature under this section, and 1 Vict. c. 26, s. 9 (*Trott* v. *Skidmore*, 2 Sw. & Tr. 12, S. C. nom. *Trott* v. *Trott*, 29 L. J. Prob. 156).

So, where the deceased made her will in France, and signed her name in the presence of a sufficient number of witnesses, not at the end of the will, but at the end of a notarial minute which followed in the same sheet with the will, and which will was also subscribed by the witnesses; it was held that there was a good execution (*Page* v. *Donovan*, 1 Deane Ecc. Rep. 278).

Where the signature of the testator and the attestation clause were written on a piece of paper pasted at the foot of the parchment upon which the will was written, it was held that this was a good execution under this section, and 1 Vict. c. 26, s. 9 (*In the goods of Gausden*, 2 Sw. & Tr. 362, 31 L. J. Pr. 53). So a will was held to be duly executed where the signatures of the testator and attesting witnesses were written on a separate piece of paper which had been previously wafered to the foot of the will (*Cook* v. *Lambert*, 3 Sw. & Tr. 46, 32 L. J. Pr. 93). Where however a piece of paper, upon which a formal clause of attestation and the signature of the deceased and two witnesses were written, was wafered to a will, but one of the attesting witnesses was dead, and the other was unable to say whether the paper was attached to the will before execution, the court refused to grant probate on motion (*In the goods of West*, 32 L. J. Pr. 182; and see *In the goods of Hammond*, *ib.* 200, 3 Sw. & Tr. 90).

(c) Where the testimonium clause of a will was as follows: "In witness whereof I, M. H. M., have hereunto set my hand," &c., the whole of it being in the handwriting of the testator, and his name written as he usually signed it, but the will was not otherwise signed by him; it was held that the will was duly executed, the signature being placed "among the words of the testimonium clause," within the meaning of this section (*In the goods of Mann*, 28 L. J. Pr. 19).

(d) Where the deceased read over an attestation clause containing his name, written by himself,

or be after or under the clause of attestation, either with or without a blank space intervening, or shall follow or be after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature shall be on a side or page or other portion of the paper or papers containing the will whereon no clause or paragraph or disposing part of the will shall be written above the signature (*a*), or by the circumstance that there shall appear to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature under the said Act or this Act shall be operative to give effect to any disposition or direction which is underneath or which follows it (*b*), nor shall it give effect to any disposition or direction inserted after the signature shall be made. 15 Vict. c. 24.

2. The provisions of this Act shall extend and be applied to every will already made, where administration or probate has not already been granted or ordered by a court of competent jurisdiction in consequence of the defective execution of such will, or where the property, not being within the jurisdiction of the ecclesiastical courts, has not been possessed or enjoyed by some person or persons claiming to be entitled thereto in consequence of the defective execution of such will, or the right thereto shall not have been decided to be in some other person or persons than the persons claiming under the will, by a court of competent jurisdiction, in consequence of the defective execution of such will. Act to extend to certain wills already made.

3. The word "will" shall in the construction of this Act be interpreted in like manner as the same is directed to be interpreted under the provisions in this behalf contained in the said Act of the first year of the reign of her majesty queen Victoria. Interpretation of "will."

4. This Act may be cited as "The Wills Act Amendment Act, 1852." Short title of Act.

17 & 18 Vict. c. 113. An Act to amend the Law relating to the Administration of the Estates of deceased Persons (*c*).

17 & 18 Vict. c. 113.

[11th August, 1854.]

"Whereas it is expedient that the law whereunder the real and personal assets of deceased persons are administered should be amended:" BE IT ENACTED as follows:

1. When any person shall, after the 31st of December, 1854, die seised of or entitled to any estate or interest in any land or other hereditaments which shall at the time of his death be charged with the payment of any sum or sums of money by way of mortgage (*d*) and such person shall not, by his will or deed or other document, have signified any contrary or other intention (*e*), the heir or devisee to whom such land or heredita- Heir or devisee of real estate not to claim payment of mortgage

in the presence of two witnesses who subscribed their names, and then on the opposite page of the paper he wrote some words, beneath which he added "Attestation, J. W., testator," and the names of two executors; it was held that under the circumstances the deceased intended to give effect to his will by the signature of his name in the attestation clause (*In the goods of John Walker*, 2 Sw. & Tr. 354; and see *In the goods of Torre*, 8 Jur. N. S. 494).

(*a*) See *In the goods of Hammond*, 3 Sw. & Tr. 90, 32 L. J. Pr. 200.

(*b*) See *In the goods of Greata*, 1 Deane Ecc. C. 266. Where a codicil was written on a piece of paper which had on the first side a formal heading and ending of a codicil with the signatures of the testatrix and the attesting witnesses following on that same side the formal ending, but the dispositive words of the codicil were continued on the other side of the page, probate of the codicil was refused on motion (*In the goods of Peach*, 1 Sw. & Tr. 138; but see *In the goods of Kimpton*, 3 New Rep. 691).

(*c*) This statute is known as "Mr. Locke King's Act." See Shelford's Real Property Statutes, 498.

This statute applies to copyholds (*Piper* v. *Piper*, 1 John. & Hem. 91).

(*d*) The effect of this Act is not to alter the law in respect to the construction of wills, or to enact that the mortgaged estate shall be the primary fund to discharge the mortgage, unless distinct words are introduced into the will for the purpose of exonerating the personal estate from the payment of debts, as between the real and personal estate. *Per M. R., Allen* v. *Allen*, 30 Beav. 402.

On the construction of these words, see *Hepburn* v. *Hill*, 30 Beav. 476. The vendor's lien for unpaid purchase-money is not a charge within this Act (*Hood* v. *Hood*, 26 L. J., Ch. 616, post, p. 948, n. (*e*)).

(*e*) Such "contrary or other intention" is not signified by a direction in a will that "all the testator's debts should be paid by his executors out of his estate;" and therefore where a testator directed that all "his debts should be paid by his executors out of his estate;" it was held, by Campbell, L. C., that such direction did not exonerate a mortgaged estate devised by will from the payment of the mortgaged debt (*Woolstencroft* v. *Woolstencroft*, 30 L. J. Ch. 22, 2 De

17 & 18 Vict. c. 113. out of personal assets.

ments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person (*a*), be primarily liable to the payment of all mortgage debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage debts charged on the whole thereof (*b*): Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee on such land or hereditaments to obtain full payment or satisfaction of his mortgage debt either out of the personal estate of the person so dying as aforesaid or otherwise: Provided also, that nothing herein contained shall affect the

Not to affect rights claimed under any will, &c., before 1st Jan. 1855.

G., F. & J. 350, reversing *Woolstencroft* v. *Woolstencroft*, 29 L. J. Ch. 111; 2 Giff. 192; acc. *Pembroke* v. *Friend*, 1 John. & Hem. 132; see *Allen* v. *Allen*, 30 Beav. 395 infra; *Rawson* v. *Harrison*, 31 Beav. 207; 31 L. J. Ch. 818; *Mellish* v. *Vallins*, 31 L. J. Ch. 592; 1 John. & Hem. 194; *Smith* v. *Smith*, 3 Gill. 263; *Newman* v. *Wilson*, 31 Beav. 33).

A bequest of all a testator's personal estate, "subject to the payment of his debts," renders such personal estate primarily liable for the payment of a sum of money with which the testator had charged it by way of mortgage, notwithstanding this Act; Dictum of Lord Campbell in *Woolstencroft* v. *Woolstencroft*, 2 De G., F. & J. 352; 2 Giff. 92; explained (*Eno* v. *Tatam*, 32 L. J. Ch. 159, 311).

Where a testator raised a sum of money on a legal mortgage of one estate, with an equitable mortgage of another estate as collateral security for part of the debt. He made his will, and died shortly afterwards: it was held, that the testator showed an intention to make the estate subject to the legal mortgage, primarily liable to the whole debt, and that this statute did not apply (*Stringer* v. *Harper*, 26 Beav. 33, 4 Jur. N. S. Ch. 1009).

A testator gave one-third of the rents of his real estate to his widow for life, and he devised an estate at B., in thirtieth parts, to his children as tenants in common. The residue of his real and personal estate, "after paying his mortgage and other debts," he left to be divided into thirtieth parts, and to be taken by the same and in the same proportions as the estate at B.: it was held, that the widow took no interest in the personalty, and that the mortgages were payable primarily out of the residue, and not out of the mortgaged estate, under this statute (*Greated* v. *Greated*, 26 Beav. 621; see *Hepburn* v. *Hill*, 30 Beav. 476; 31 L. J. Ch. 569).

Where a testator gave his residuary personal estate to trustees, upon trust to sell and convert the same into money, and thereout, in the first place, to pay all his "just debts, funeral and testamentary expenses," and after full payment and satisfaction thereof, to hold the residue upon certain trusts therein declared: it was held, on appeal, reversing a decision of the Rolls, that this was a sufficient expression of "a contrary or other intention," under this Act, to make the personal estate primarily liable for the testator's mortgage debts (*Moore* v. *Moore*, 32 L. J. Ch. 605).

A testatrix had an estate (A.) which she had mortgaged, and an estate (B.) which had been mortgaged by a former owner. She devised A. for sale and payment of some legacies, and she devised the residue of her real and personal estate, including B., to the defendants, directing that "mortgages, debts or other incumbrances" on her residuary real or personal estate should be exclusively borne by the premises charged therewith, and that "all her debts and funeral and testamentary expenses" should be paid out of her said residuary real and personal estate. It was held, that the mortgage on A. was primarily payable out of the residuary real and personal estate (*Allen* v. *Allen*, 30 Beav. 395).

A declaration that trustees shall stand possessed of the residuary real and personal estate, subject, in the first place, to the payment and satisfaction of just debts, funeral and testamentary expenses, upon certain trusts, operates as an exoneration of a devised estate subject to a mortgage, and throws such mortgage on the general residue, under this statute (*Stone* v. *Parker*, 1 Dr. & Sm. 212; 29 L. J. Ch. 874).

An equitable mortgage by deposit and memorandum is within this statute (*Pembroke* v. *Friend*, 1 Johns. & H. 132; but a vendor's lien for unpaid purchase money is not (*Barnwell* v. *Iremonger*, 1 Drew. & S. 255; *Hood* v. *Hood*, 26 L. J. Ch. 616).

(*a*) See, on the construction of these words where the personalty goes to the Crown for want of next of kin, *Dacre* v. *Patrickson*, 1 Drew & S. 191.

(*b*) A charge of debt, &c., on a particular real estate, assuming it to exonerate personal estate in favour of a particular legatee, does not exonerate the person who, on failure of that legacy by means of the Mortmain Act, takes it. And where there was also a charge of a mortgage debt on the particular real estate devised, it was held, that under this statute the devisee was not entitled to have the debt paid out of the personal estate which passed by failure of the legacy to other persons than the legatee (*Dacre* v. *Patrickson*, 1 Drew. & S. 186).

rights of any person claiming under or by virtue of any will, deed, or document already made (a) or to be made before the 1st day of January, 1855.

17 & 18 Vict. c. 113.

2. This Act shall not extend to Scotland.

Extent of Act.

20 & 21 Vict. c. 77. An Act to amend the Law relating to Probates and Letters of Administration in England.

20 & 21 Vict. c. 77.

[25th August, 1857.]

[See this Stat., ante, Vol. I., p. 1300, tit. "COURTS (PROBATE)."]

24 & 25 Vict. c. 114. An Act to amend the Law with respect to Wills of Personal Estate made by British Subjects (b).

24 & 25 Vict. c. 114.

[6th August, 1861.]

BE IT ENACTED as follows:

1. Every will and other testamentary instrument made out of the united kingdom by a British subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed for the purpose of being admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be made according to the forms required either by the law of the place where the same was made or by the law of the place where such person was domiciled when the same was made, or by the laws then in force in that part of her majesty's dominions where he had his domicile of origin.

Wills made out of the kingdom to be admitted if made according to the law of the place where made.

2. Every will and other testamentary instrument made within the united kingdom by any British subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be executed according to the forms required by the laws for the time being in force in that part of the united kingdom where the same is made.

Wills made in the kingdom to be admitted if made according to local usage.

3. No will or other testamentary instrument shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered by reason of any subsequent change of domicile of the person making the same.

Change of domicile not to invalidate will.

4. Nothing in this Act contained shall invalidate any will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed, except as such will or other testamentary instrument may be revoked or altered by any subsequent will or testamentary instrument made valid by this Act.

Nothing in this Act to invalidate wills otherwise made.

5. This Act shall extend only to wills and other testamentary instruments made by persons who die after the passing of this Act.

Extent of Act.

24 & 25 Vict. c. 121. An Act to amend the Law in relation to the Wills and Domicile of British Subjects dying whilst resident abroad, and of Foreign Subjects dying whilst resident within Her Majesty's Dominions. [6th August, 1861.]

24 & 25 Vict. c. 121.

"Whereas by reason of the present law of domicile the wills of British subjects dying whilst resident abroad are often defeated, and their personal property administered in a manner contrary to their expectations and belief; and it is desirable to amend such law, but the same cannot be effectually done without the consent and concurrence of foreign states:" BE IT THEREFORE ENACTED as follows:

(a) A will executed before the 1st of January, 1855, is a will already made within the meaning of this Act, notwithstanding it does not come into operation by the death of the testator till after that day. Nor will a mere republication by codicil, giving no new operation to the material dispositions in the will, deprive it of the character of a will already made (*Rolfe* v. *Perry*, 32 L. J. Ch. 471).

The heir of an intestate who, before the 1st of January, 1855, executed a mortgage reserving the equity of redemption to himself and his heirs, is not within this saving (*Piper* v. *Piper*, 1 John. & Hem. 91, 29 L. J. Ch. 719; *Power* v. *Power*, 8 Ir. C. R., N. S., 340).

(b) Where a British subject dies abroad after the passing of this Act, leaving a will executed in England in accordance with the law of England, this Act renders it unnecessary to consider whether or not the testator has changed his domicile (*In the goods of Rippon*, 32 L. J. Pr. 141).

24 & 25 Vict. c. 121.*

No British subject dying in a foreign country to be deemed to have acquired a domicile unless resident there for one year immediately preceding his or her death, &c., and for all purposes of testate or intestate succession shall retain the domicile possessed at the time of going to reside in such foreign country.

1. Whenever her majesty shall by convention with any foreign state agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of her majesty and of such foreign state respectively, it shall be lawful for her majesty by any order in council to direct, and it is hereby enacted, that from and after the publication of such order in the London Gazette no British subject resident at the time of his or her death in the foreign country named in such order shall be deemed under any circumstances to have acquired a domicile in such country unless such British subject shall have been resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in the order in council) a declaration in writing of his or her intention to become domiciled in such foreign country; and every British subject dying resident in such foreign country, but without having so resided and made such declaration as aforesaid, shall be deemed for all purposes of testate or intestate succession as to moveables to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

No foreign subject dying in Great Britain or Ireland to be deemed to have acquired a domicile unless resident therein for one year immediately preceding his or her death, &c.

2. After any such convention as aforesaid shall have been entered into by her majesty with any foreign state it shall be lawful for her majesty by order in council to direct, and from and after the publication of such order in the London Gazette it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of Great Britain or Ireland shall be deemed under any circumstances to have acquired a domicile therein, unless such foreign subject shall have been resident within Great Britain or Ireland for one year immediately preceding his or her decease, and shall also have signed, and deposited with her majesty's secretary of state for the home department, a declaration in writing of his or her desire to become and be domiciled in England, Scotland or Ireland, and that the law of the place of such domicile shall regulate his or her moveable succession.

Who this Act shall not apply to.

3. This Act shall not apply to any foreigners who may have obtained letters of naturalisation in any part of her majesty's dominions.

When subjects of foreign states shall die in her majesty's dominions, and there shall be no persons to administer to their estates, the consuls of such foreign states may administer

4. Whenever a convention shall be made between her majesty and any foreign state, whereby her majesty's consuls or vice-consuls in such foreign states shall receive the same or the like powers and authorities as are hereinafter expressed, it shall be lawful for her majesty by order in council to direct, and from and after the publication of such order in the London Gazette it shall be and is hereby enacted, that whenever any subject of such foreign state shall die within the dominions of her majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign state within that part of her majesty's dominions where such foreign subject shall die, to take possession and have the custody of the personal property of the deceased, and to apply the same in payment of his or her debts and funeral expenses, and to retain the surplus for the benefit of the persons entitled thereto; but such consul, vice-consul or consular agent shall immediately apply for and shall be entitled to obtain from the proper court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such court shall seem fit.

APPENDIX

CONTAINING SUCH STATUTES AS HAVE BEEN ENACTED BETWEEN THE PRINTING OF THE TEXT AND THE DAY OF PUBLICATION.

ALKALI ACT, 1863.

26 & 27 Vict. c. 124. An Act for the more effectual Condensation of Muriatic Acid Gas in Alkali Works. [28th July, 1863.] 26 & 27 Vict c. 124.

[See this Statute, 2 Beav. St. p. 662.]

AUCTIONEER.

[27 & 28 Vict. c. 55, s. 14, not to deal in or sell Exciseable Articles. See "STAMPS."]

BAKEHOUSE REGULATION ACT, 1863.

26 & 27 Vict. c. 40. An Act for the Regulation of Bakehouses. [13th July, 1863.] 26 & 27 Vict. c. 40.

"Whereas it is expedient to limit the hours of labour of young persons employed in bakehouses, and to make regulations with respect to cleanliness and ventilation in bakehouses:" BE IT ENACTED as follows:

1. This Act may be cited as "The Bakehouse Regulation Act, 1863." Short title.

2. For the purposes of this Act the words hereinafter mentioned shall be construed as follows; that is to say, Interpretation of terms.

"Local authority" shall, as respects any place, mean the persons or bodies of persons defined to be the local authority in that place by the one hundred and thirty-fourth section of the Act passed in the session holden in the eighteenth and nineteenth years of the reign of her present majesty, chapter one hundred and twenty, or by the nuisances removal Acts hereinafter mentioned; that is to say, as to England, by the Act passed in the session holden in the eighteenth and nineteenth years of the reign of her present majesty, chapter one hundred and twenty-one, as amended by the Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of her present majesty, chapter seventy-seven; as to Scotland, by the Act passed in the session holden in the nineteenth and twentieth years of the reign of her present majesty, chapter one hundred and three; and as to Ireland, by the Acts passed, the one in the session holden in the eleventh and twelfth years of the reign of her present majesty, chapter one hundred and twenty-three, and the other in the session holden in the twelfth and thirteenth years of the reign of her present majesty, chapter one hundred and eleven:

"Bakehouse" shall mean any place in which are baked bread, biscuits or confectionery, from the baking or selling of which a profit is derived:

"Employed," as applied to any person, shall include any person working in a bakehouse, whether he receives wages or not:

"Occupier" shall include any person in possession:

"The court" shall include any justice or justices, sheriff or sheriff substitute, magistrate or magistrates, to whom jurisdiction is given by this Act.

3. No person under the age of eighteen years shall be employed in any bakehouse between the hours of nine of the clock at night and five of the clock in the morning. Limitation of hours of labour of persons under eighteen years of age.

If any person is employed in contravention of this section the occupier of the bakehouse in which he is employed shall incur the following penalties in respect of each person so employed; that is to say,

For the first offence, a sum not exceeding two pounds:

For a second offence, a sum not exceeding five pounds:

For a third and every subsequent offence, a sum not exceeding one pound for each day

26 & 27 Vict. c. 40.

of the continuance of the employment in contravention of this Act, so that no greater penalty be imposed than ten pounds.

Regulations as to cleanliness of bakehouse.

4. The inside walls and ceiling or top of every bakehouse situate in any city, town, or place containing according to the last census a population of more than five thousand persons, and the passages and staircase leading thereto, shall either be painted with oil or be limewashed, or partly painted and partly limewashed: where painted with oil there shall be three coats of paint, and the painting shall be renewed once at least in every seven years, and shall be washed with hot water and soap once at least in every six months: where limewashed the limewashing shall be renewed once at least in every six months.

Every bakehouse wherever situate shall be kept in a cleanly state, and shall be provided with proper means for effectual ventilation, and be free from effluvia arising from any drain, privy, or other nuisance.

If the occupier of any bakehouse fails to keep the same in conformity with this section he shall be deemed to be guilty of an offence against this Act, and to be subject in respect of such offence to a penalty not exceeding five pounds.

The court having jurisdiction under this Act may, in addition to or instead of inflicting any penalty in respect of an offence under this section, make an order directing that within a certain time to be named in such order certain means are to be adopted by the occupier for the purpose of bringing his bakehouse into conformity with this section; the court may upon application enlarge any time appointed for the adoption of the means directed by the order, but any non-compliance with the order of the court shall, after the expiration of the time as originally limited or enlarged by subsequent order, be deemed to be a continuing offence, and be punishable by a penalty not exceeding one pound for every day that such non-compliance continues.

As to sleeping places near bakehouses.

5. No place on the same level with a bakehouse situate in any city, town or place containing according to the last census a population of more than five thousand persons, and forming part of the same building, shall be used as a sleeping place, unless it is constructed as follows; that is to say,

Unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling:

Unless there be an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet are made to open for ventilation:

And any person who lets, occupies, or continues to let, or knowingly suffers to be occupied, any place contrary to this Act, shall be liable for the first offence to a penalty not exceeding twenty shillings, and for every subsequent offence to a penalty not exceeding five pounds.

Power to local authority to enforce provisions of this Act.

6. It shall be the duty of the local authority to enforce within their district the provisions of this Act, and in order to facilitate the enforcement thereof any officer of health, inspector of nuisances, or other officer appointed by the local authority, hereinbefore referred to as the inspector, may enter into any bakehouse at all times during the hours of baking, and may inspect the same, and examine whether it is or not in conformity with the provisions of this Act; and any person refusing admission to the inspector, or obstructing him in his examination, shall for each offence incur a penalty not exceeding twenty pounds; and it shall be lawful for any inspector who is refused admission to any bakehouse, in pursuance of this section, to apply to any justice for a warrant authorising him, accompanied by a police constable, to enter into any such bakehouse for the purpose of examining the same, and to enter the same accordingly.

As to expenses of local authority acting under this Act.

7. All expenses incurred by any local authority in pursuance of the provisions of this Act may be paid out of any rate leviable by them, and applicable to the payment of the expenses incurred by the local authority under the said nuisances removal Acts, and the said authority may levy such rate accordingly.

Penalties.

Recovery of penalties.

8. All penalties under this Act may be recovered summarily before two or more justices; as to England, in manner directed by an Act passed in the session holden in the eleventh and twelfth years of the reign of her majesty queen Victoria, chapter forty-three, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders," or any Act amending the same; as to Ireland, in manner directed by the Act passed in the session holden in the fourteenth and fifteenth years of the reign of her majesty queen Victoria, chapter ninety-three, intituled "An Act to consolidate and amend the Acts regulating the Proceedings of Petty Sessions and the Duties of Justices of the Peace out of Quarter Sessions in Ireland," or any Act amending the same; and as to Scotland, upon summary conviction, with power for the justices having cognizance of the case to sentence the offender to imprisonment for a period not exceeding three months until the penalty and the expenses of conviction are paid.

Jurisdiction of certain magistrates.

9. Any act, power, or jurisdiction hereby authorised to be done or exercised by two justices may be done or exercised by the following magistrates within their respective jurisdictions; that is to say, as to England by any metropolitan police magistrate or other stipendiary magistrate sitting alone at a police court or other appointed place, or by the lord mayor of the city of London, or any alderman of the said city sitting alone

or with others at the Mansion House or Guildhall; as to Ireland, by any one or more divisional magistrates of police in the police district of Dublin, and elsewhere by one or more justice or justices of the peace in petty sessions; and as to Scotland, by the sheriff or sheriff substitute, or by any police magistrate of a burgh. 26 & 27 Vict. c. 40.

BANKERS.

27 & 28 Vict. c. 50. An Act to amend an Act of the Twenty-fifth Year of the Reign of Her present Majesty to provide for the Registration and Transfer of Indian Stocks at the Bank of Ireland, and for the mutual Transfer of such Stocks from and to the Banks of England and Ireland respectively. [25th July, 1864.] 27 & 28 Vict. c. 50.

"Whereas by an Act passed in the session holden in the twenty-fifth year of the reign of her present majesty, chapter seven, provision was made for the registration and transfer of India stocks at the bank of Ireland, and for the mutual transfer of such stocks from and to the banks of England and Ireland respectively: And whereas it was therein provided that all assignments or transfers at the bank of Ireland of any part of the several stocks, and the proportional dividend attached thereto, should be signed by the parties making such assignments or transfers, or by his, her or their attorney or attornies lawfully authorised, and that the person or persons to whom any such assignment or transfer should be made, or in case of absence his, her, or their attorney or attornies lawfully authorized, should respectively underwrite his, her, or their acceptance thereof, and that no other method of assigning or transferring any such stock and the dividend attached thereto or any interest therein at the bank of Ireland should be good and available in law: And whereas it is expedient that it should be optional with any person or persons to signify in writing his, her, or their acceptance of any such stock transferred at the bank of Ireland:" BE IT THEREFORE ENACTED as follows: 25 Vict. c. 7.

1. That no such assignment or transfer as aforesaid at the bank of Ireland of the before-mentioned India stocks or any parts thereof, or of the dividend attached thereto, or any interest therein, shall be deemed invalid or ineffectual by reason that the acceptance of such assignment or transfer may not have been signified in writing by the party or parties to whom the assignment or transfer shall have been made. Assignments and transfers of India stock in the bank of Ireland valid, although not accepted in writing.

BANKING COMPANIES.

27 & 28 Vict. c. 32. An Act to enable certain Banking Copartnerships which shall discontinue the Issue of their own Bank Notes to sue and be sued by their public Officer. [30th June, 1864.] 27 & 28 Vict. c. 32.

"Whereas by an Act passed in the session holden in the seventh year of the reign of his late majesty king George the fourth, chapter forty-six, intituled (*setting out the title*), as relates to the same, banking copartnerships registered and carrying on business under the Act now in recital, and entitled to issue their own bank notes under an Act passed in the session holden in the seventh and eighth years of the reign of her majesty queen Victoria, chapter thirty-two, intituled 'An Act to regulate the Issue of Bank Notes, and for giving to the Governor and Company of the Bank of England certain Privileges for a limited Period,' have certain powers and privileges of suing and being sued in the name of any one of their public officers, so long as such copartnerships carry on business under the provisions of the first-recited Act: And whereas by the secondly-recited Act such copartnerships are empowered to agree with the governor and company of the bank of England to discontinue the issue of bank notes, and it is thereby enacted, that if any such banking copartnerships shall discontinue the issue of bank notes, either by agreement with the governor and company of the bank of England or otherwise, it shall not be lawful for such copartnerships at any time thereafter to issue such notes: And whereas doubts are entertained whether the powers and privileges so given by the first-recited Act will extend to such of the said banking copartnerships as shall discontinue the issue of bank notes, and shall afterwards commence and carry on the trade or business of bankers in London, or within sixty-five miles from London, in such manner as they will then by 7 Geo. 4, c. 46 (a). 7 & 8 Vict. c. 32. Sect. 24 (b). Sect. 12 (c).

(a) Ante, Vol. I., p. 196, tit. "BANKERS."
(b) Ibid., p. 218, tit. "BANKERS."
(c) Ante, Vol. I., p. 216, tit. "BANKERS."

27 & 28 Vict. c. 82.

law be authorized to do; and it is expedient that such doubts be removed:" BE IT THEREFORE DECLARED AND ENACTED as follows:

Banks discontinuing the issue of bank notes empowered to sue and be sued by their public officer.

1. From and after the passing of this Act, every banking copartnership registered and carrying on business under the first-recited Act, and entitled to issue their own bank notes under the secondly-recited Act, which shall discontinue the issue of such bank notes, and shall afterwards commence and carry on the trade or business of bankers in London, or within sixty-five miles from London, in such manner as they will then by law be authorised to do, shall have the same powers and privileges of suing and being sued in the name of any one of the public officers of such copartnership, as the nominal plaintiff, petitioner, or defendant, on behalf of such copartnership; and all judgments, decrees, and orders made and obtained in any such suit may be enforced in like manner as is provided by the first-recited act with respect to copartnerships carrying on business under the provisions of that Act: Provided that nothing in this Act contained shall empower any co-partnership to carry on the trade or business of bankers in London, or within sixty-five miles therefrom, in any case where by the existing law they are not authorised so to do.

Act not to empower any bank to carry on business in London.

BARRISTERS.

[27 & 28 Vict. c. 56, s. 16, admitted in England or Ireland may practise in either Country. See "STAMPS."]

BEER.

[See 27 & 28 Vict. c. 56, s. 8.]

PUBLIC AND REFRESHMENT HOUSES.

27 & 28 Vict. c. 64.

27 & 28 Vict. c. 64. An Act for further regulating the closing of Public Houses and Refreshment Houses within the Metropolitan Police District, the City of London, certain Corporate Boroughs, and other Places. [25th July, 1864.]

"Whereas it is expedient to amend the law relating to the closing of public houses and refreshment houses within the metropolitan police district, the city of London, certain corporate boroughs, and other places:" BE IT ENACTED as follows:

Short title.

1. This Act may be cited for all purposes as the "Public House Closing Act, 1864."

Limits of Act.

2. This Act shall be in force only within the limits of the metropolitan police district, the city of London and the liberties thereof, and such corporate boroughs and districts of improvement commissioners as adopt the same in pursuance of the powers hereinafter given.

Definition of "corporate borough," &c.

3. "Corporate borough" shall mean any place for the time being subject to the Act passed in the session holden in the fifth and sixth years of the reign of king William the fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales;" "district of improvement commissioners" shall mean any place within the jurisdiction of a board of improvement commissioners as defined for the purposes of the twelfth section of the Local Government Act, 1858; and "board of improvement commissioners" shall mean such commissioners as last aforesaid.

Definition of "refreshment house," &c.

4. "Refreshment house" shall in this Act have the same meaning as it has in the Act passed in the session holden in the twenty-third year of the reign of her present majesty, chapter twenty-seven (a), intituled "AN Act for granting to Her Majesty certain Duties on Wine Licences and Refreshment Houses, and for Regulating the licensing of Refreshment Houses and the granting of Wine Licences:"

"Exciseable liquor" shall mean any spirits, foreign wine, beer, cider, sweets, or made wines, as defined by the Acts relating to the excise.

As to the closing of public houses and refreshment houses between one and four in the morning.

5. Save as hereinafter mentioned, no licensed victualler within the limits of this Act shall sell or expose for sale or open or keep open any house, room, garden, or other place for the sale or consumption of excisable liquors or any article whatsoever between the hours of one and four o'clock in the morning.

No person within the limits of this Act shall open or keep open any refreshment house, or sell or expose for sale or consumption in any refreshment house any refreshments or any article whatsoever between the above-mentioned hours.

Penalty:

Any person acting in contravention of this section shall be liable to a penalty not exceeding five pounds, to be recovered in a summary manner as provided by the Act of the session of the eleventh and twelfth years of the reign of her present majesty, chapter forty-three.

(a) Ante, Vol. I., p. 388, tit. "BEER."

Nothing herein contained shall preclude a licensed victualler from selling excisable liquors to or allowing the same to be consumed by persons lodging in his house, or the keeper of a refreshment house from selling refreshments to or allowing the same to be consumed by persons lodging in his house, within the above-mentioned hours. 27 & 28 Vict. c. 64. serving persons lodging in house.

Nothing herein contained shall authorise a licensed victualler to sell excisable liquors on any Sunday, Christmas Day, Good Friday, or day appointed for public fast or thanksgiving, otherwise than during the times at which he is now authorised by law to sell the same, or authorise any other person to sell excisable liquors, keep open any refreshment house, or sell refreshments otherwise than at the times and upon the conditions prescribed by the Acts of parliament in that behalf made. As to Sundays.

6. This Act shall apply to a freeman of the company of the master, wardens, and commonalty of vintners of the city of London in the same manner as if he were a licensed victualler. Application of Act to free vintners.

7. If any licensed victualler or keeper of a refreshment house as aforesaid within the limits of this Act applies to the local authority hereinafter mentioned for a licence exempting him from the provisions of this Act on any special occasion or occasions, it shall be lawful for the local authority, if in its discretion it thinks fit so to do, to grant to the applicant an occasional licence exempting him from the provisions of this Act during certain hours and on a special occasion or occasions to be specified in the licence; and no licensed victualler or keeper of a refreshment house to whom an occasional licence has been granted under this Act shall be subject to any penalty for a contravention of this Act during the time to which his occasional licence extends, but he shall not be exempted by such occasional licence from any penalty to which he may be subject under any other Act of parliament. Occasional licence exempting party from this Act.

8. The following persons and bodies of persons shall be deemed to be local authorities capable of granting occasional licences for the purposes of this Act; that is to say, Definition of "local authority."

(1.) In the metropolitan police district, the commissioner of police for the metropolis, subject to the approbation of one of her majesty's principal secretaries of state:

(2.) In the city of London and the liberties thereof, the commissioner of city police, subject to the approbation of the lord mayor of the said city:

(3.) In any borough in which this Act may be in force, the superintendent or other chief officer of police in the said borough, subject to the approbation of the mayor:

(4.) In any district of improvement commissioners in which this Act may be in force, the superintendent or other chief officer of police in the said district, subject to the approbation of the chairman of the commissioners.

9. A corporate borough or board of improvement commissioners may adopt this Act by a resolution of the council or board assembled at a meeting held for the purpose, of which such notice has been given and which is required to be summoned on such requisition of the ratepayers as is required in the case of the adoption of the said Local Government Act, 1858, by a corporate borough, or in a district of improvement commissioners, to which the Local Government Act has not been applied, in pursuance of sections twelve and thirteen of the said Local Government Act, and notice of the adoption of this Act shall be given to the secretary of state as in the case of the adoption of the said Local Government Act. As to adoption of Act by corporate borough.

This Act shall come into operation in a corporate borough or district of improvement commissioners in which a resolution adopting the same has been passed at the expiration of one month from the date of the passing of the resolution; and no objection whatever to the legality of the adoption of this Act by any corporate borough or board of improvement commissioners shall be made at any trial or in any legal proceeding after the expiration of three months from the date of the passing of the resolution adopting the same.

10. Nothing herein contained shall apply to the sale at a railway station between the hours of one and four o'clock in the morning of excisable liquors or refreshments to persons arriving at or departing from such station by railroad. Not to apply to sales at railway stations between one and four in the morning.

BILLS OF EXCHANGE.

[27 & 28 Vict. c. 56, s. 2. Payable on Demand and Indorsed abroad to be deemed Foreign—Duty on. See "STAMPS."]

26 & 27 Vict. c. 105. An Act to remove certain Restrictions on the Negotiation of Promissory Notes and Bills of Exchange under a limited Sum. [28th July, 1863.]

26 & 27 Vict. c. 105.

1. From and after the passing of this Act, the Act passed in the seventeenth year of the reign of king George the third, chapter thirty, and so much and such part and parts of any other Act or Acts as continue or revive the said Act, or as prohibit or restrain, or impose any penalty for or on account of the publishing, uttering, or negotiating in 17 Geo. 3, c. 30, &c., restraining negotiation in England

26 & 27 Vict. c. 105.

of notes and bills for a limited sum, and sect. 17, and schedules (C.) and (D.) of 8 & 9 Vict. c. 38, restraining negotiation in Scotland of like notes, &c., repealed.

England of any promissory or other note, not being a note payable to bearer on demand, bill of exchange, draft, or undertaking in writing, being negotiable or transferable, for the payment of twenty shillings, or above that sum and less than five pounds, or on which twenty shillings, or above that sum and less than five pounds, shall remain undischarged, made, drawn, or endorsed in any other manner than as directed by the said Act of the seventeenth year aforesaid, and also the seventeenth section and schedules (C.) and (D.) of an Act passed in the eighth and ninth years of her majesty's reign, chapter thirty-eight, requiring or directing that all such notes, bills, drafts or undertakings as aforesaid which shall be issued in Scotland shall be made, drawn, or endorsed according to the forms contained in the said schedules respectively, shall be and the same is and are hereby repealed.

Term of Act.

2. This Act shall continue in force for three years, and until the end of the then next ensuing session of parliament.

BURIAL (REGISTER OF) EVIDENCE.

[27 & 28 Vict. c. 97, s. 6. See "INTERMENT."]

CHARITABLE ASSURANCES.

27 Vict. c. 13.

27 Vict. c. 13. An Act to further extend the Time for making Enrolments under the Act passed in the Twenty-fourth Year of the Reign of Her present Majesty, intituled "*An Act to amend the Law relating to the Conveyance of Lands for Charitable Uses*," and otherwise to amend the said Law.

[13th May, 1864.]

24 Vict. c. 9 (*a*).

25 & 26 Vict. c. 17 (*b*).

"Whereas by an Act passed in the twenty-fourth year of the reign of her present majesty, chapter nine, time was given for enrolling certain deeds, assurances, and instruments therein referred to until the expiration of twelve calendar months next after the passing of the said Act; and by another Act passed in the twenty-fifth year of her present majesty, chapter seventeen, the time for enrolling such deeds, assurances and instruments was extended to the sixteenth day of May, one thousand eight hundred and sixty-four; and by the fourth section of the said second Act it was enacted, that the said first Act and the said second Act should be taken to apply as well to cases where certain separate deeds or instruments therein mentioned should be or should have been executed after, as to cases where they might have been executed before the passing of the said first Act: Provided only, that if not then already executed such deed or instrument should be executed within six months next after the passing of the said second Act: And whereas it is expedient further to extend the time for making such enrolment, and otherwise to amend the provisions of the said first and second Acts and the Acts therein recited or referred to:" BE IT THEREFORE ENACTED as follows:

Time for enrolment of deeds and assurances extended to 17th May, 1866.

1. The enrolment of every deed, assurance, and instrument which shall be enrolled before the seventeenth day of May, one thousand eight hundred and sixty-six, shall, for the purposes of the said recited Acts, or either of them, have the same force and effect which it would have had if such enrolment had taken place within the said time by the said Acts respectively limited.

Act to apply to separate deeds or instruments referred to.

2. This Act shall be taken to apply as well to cases where such separate deed or instrument as is mentioned in the fourth section of the said second Act shall be or shall have been executed after, as to cases where it may have been executed before the passing of the said first Act: Provided only, that if not already executed, it be executed within six calendar months next after the passing of this Act.

Provision where original deed is lost.

3. And whereas it may be impossible in some cases to enrol the original deed creating a charitable trust by reason of the same having been lost or destroyed by time or accident, but nevertheless the trusts of such charity may sufficiently appear by some subsequent deed appointing new trustees, or otherwise reciting the trusts created by the original deed: BE IT ENACTED, that in every such case it shall be lawful for any trustee or other person interested in such charitable trust to apply by summons in a summary way to the Court of Chancery for an order authorising the enrolment of such subsequent deed; and if the court shall be satisfied, by affidavit or otherwise, that such original deed has been lost or destroyed by time or accident, but that the trusts thereof sufficiently

(*a*) Ante, Vol. I., p. 516. (*b*) Post, p. 957.

appear by such subsequent deed, then it shall be lawful for the said court to make an order authorising the enrolment of such subsequent deed; and the enrolment thereof shall have the same force and effect as the enrolment of the original deed would have had if the same had not been lost or destroyed as aforesaid. 27 Vict. c. 13.

4. Every full and bonâ fide valuable consideration within the meaning of the first section of the said first Act which shall consist either wholly or partly of a rent or other annual payment reserved or made payable to the vendor or grantor, or to any other person, shall for the purposes of the statute passed in the ninth year of the reign of his late majesty king George the second, chapter thirty-six, be as valid and have the same force and effect as if such consideration had been a sum of money actually paid at or before the making of such conveyance without fraud or collusion. Valuable consideration payable as rent to be equivalent to a consideration in money actually paid within the statute 9 Geo. 2, c. 36 (a).

CHARITABLE USES.

25 Vict. c. 17. An Act to extend the Time for making Enrolments under the Act passed in the last Session of Parliament, intituled "An Act to amend the Law relating to the Conveyance of Land for Charitable Uses, and to explain and amend the said Act." [16th May, 1862.]

25 Vict. c. 17.

"Whereas by an Act passed in the last session of parliament, intituled 'An Act to amend the Law relating to the Conveyance of Land for Charitable Uses' (b), time was given for enrolling certain deeds, assurances and instruments therein referred to until the expiration of twelve calendar months next after the passing of the said Act: And whereas the said Act received the royal assent on the seventeenth day of May, one thousand eight hundred and sixty-one, so that the time thereby given for making such enrolments will expire at the end of twelve calendar months from that day: And whereas from the great number of deeds, assurances and instruments to be enrolled under the provisions aforesaid it is reasonable to allow an extension of time for that purpose:" BE IT THEREFORE ENACTED as follows: 24 & 25 Vict. c. 9.

1. The enrolment of every deed, assurance and instrument which shall be enrolled before the seventeenth day of May, one thousand eight hundred and sixty-four, shall, for the purposes of the said Act, have the same force and effect which it would have had if such enrolment had been within twelve calendar months next after the passing of the said Act. Extension of time for enrolment of deeds and assurances.

2. And whereas by the said Act it is enacted that certain assurances to be thereafter made bonâ fide on a sale for a full and valuable consideration should not be deemed null and void by reason of the consideration consisting wholly or partly of a rent, rentcharge or other annual payment reserved as therein mentioned, and doubts have arisen whether the said enactment refers to any hereditaments not of copyhold or customary tenure: BE IT THEREFORE DECLARED AND ENACTED, that the said enactment comprises and extends to all hereditaments whether of freehold or of customary or copyhold tenure, and to every estate and interest therein. Recited Act comprises all lands whether of freehold or of customary or copyhold tenure.

3. No deed, assurance or instrument executed previously to the passing of the said Act shall, for the purposes thereof, require acknowledgment prior to enrolment. As to deeds, &c., executed prior to passing of recited Act.

4. And whereas it is by the fourth section of the said Act enacted, that where the charitable uses of any such deed or assurance for conveyance as is therein mentioned had been declared by any separate deed or instrument, then, if neither of the said deeds or instruments had been enrolled, it should not be necessary to enrol such deed or assurance for conveyance, but every such deed or assurance for conveyance should be void, unless such other separate deed or instrument should be enrolled within such time as therein mentioned: and whereas it may happen that such deed or assurance of conveyance may have been executed before the passing of the said Act, but the separate deed or instrument declaring the charitable uses may not have been executed until after the passing of the said Act: BE IT THEREFORE ENACTED, that the said Act and this Act shall be taken to apply as well to cases where such separate deed or instrument shall be or shall have been executed after as to cases where it may have been executed before the passing of the said Act: Provided only that, if not already executed, it be executed within six months next after the passing of this Act. Acts to apply to cases where separate deed executed as well after as before passing of recited Act.

5. In all cases in which money shall have been really and bonâ fide expended before the passing of this Act, in the substantial and permanent improvement, by building or otherwise, for any charitable use, of land of any tenure whatsoever, of which possession is now held by virtue of any deed or assurance conveying or purporting to convey the same, or declaring any trusts or trust thereof for such charitable use, all money so ex- Provision as to money expended before passing of Act in permanent improvements.

(a) Ante, Vol. I., p. 486. (b) Ante, Vol. I., p. 516, tit. "CHARITABLE USES."

5 Vict. c. 17. pended shall be deemed, for the purposes of the said Act, equivalent to money actually paid by way of consideration for the purchase of the said land.

Act not to invalidate any deed

6. Nothing in this Act contained shall extend to render null and void any deed or assurance already good and valid.

CHARITY COMMISSIONERS' JURISDICTION.

25 & 26 Vict. c. 112.

25 & 26 Vict. c. 112. An Act for establishing the Jurisdiction of the Charity Commissioners in certain Cases.

[7th August, 1862.]

"Whereas by the Acts relating to the charity commissioners for England and Wales, authority has been given to the commissioners to make orders for various purposes in charity cases upon summary application, and particularly in relation to the appointment and removal of trustees, and the sale, exchange, leasing and improvement of the property of charities: And whereas in various private Acts of parliament and decrees and orders of the high court of chancery relating to charities, such powers and authorities are often given or reserved, with directions that the same shall be exercised by the said court, or with its sanction or approbation, and doubts are entertained whether in such cases the authority given to the charity commissioners can be validly exercised:" BE IT THEREFORE ENACTED as follows:

No provision in any Act of parliament, or decree relating to any charity under any order of the court of chancery, to exclude any jurisdiction which might otherwise be exercised by the charity commissioners.

1. No provision contained in any such Act of parliament or decree or order as aforesaid for the appointment or removal of trustees of any charity, or for or relating to the sale, exchange, leasing, disposal, or improvement of any property, by or under the order or with the approval of the court of chancery, shall (in the absence of any express direction to the contrary, to be contained in any future Act of parliament, order or decree), exclude or impair any jurisdiction or authority which might otherwise be properly exercised for the like purposes by the charity commissioners for England and Wales.

26 & 27 Vict. c. 106.

26 & 27 Vict. c. 106. An Act to further amend the Law relating to the Conveyance of Land for Charitable Uses.

[28th July, 1863.]

24 Vict. c. 9 (a).

"Whereas by an Act passed in the twenty-fourth year of her present majesty, intituled 'An Act to amend the Law relating to the Conveyance of Land for Charitable Uses,' it was amongst other things enacted, that 'no deed or assurance theretofore made, and under which possession was then held for any charitable uses whatsoever, of any hereditaments of any tenure whatsoever, or of any estate or interest therein, made really and bonâ fide for a full and valuable consideration actually paid at or before the making or perfecting such deed or assurance, or reserved by way of rent, rentcharge, or other annual payment, or partly paid at or before the making or perfecting such deed or assurance, and partly reserved as aforesaid, without fraud or collusion, should for any reason whatever be deemed to be null and void within the meaning of the first therein-

9 Geo 2, c. 36 (b).

recited Act (being an Act passed in the ninth year of his late majesty king George the second, intituled "An Act to restrain the Disposition of Lands whereby the same become inalienable,") if such deed or assurance was made to take effect for the charitable uses intended immediately from the making thereof, and without any power of revocation, and had been at any time prior to the passing of that Act, or should be within twelve calendar months next after the passing of that Act, enrolled in her majesty's high court

25 & 26 Vict. c. 17

of chancery.' And whereas by another Act passed in the session of the twenty-fifth and twenty-sixth years of the reign of her present majesty, intituled 'An Act to extend the Time for making Enrolments under an Act passed in the last Session of Parliament, intituled "An Act to amend the Law relating to the Conveyance of Land for Charitable Uses," and to explain and amend the said Act,' the time for making enrolments under the said first-recited Act was extended till the seventeenth day of May one thousand eight hundred and sixty-four; and it was thereby further provided, that in all cases in which money should have been really and bonâ fide expended before the passing of that Act in the substantial and permanent improvement, by building or otherwise, for any charitable use, of land of any tenure whatsoever, of which possession was then held by virtue of any deed or assurance conveying or purporting to convey the same, or declaring any trusts or trust thereof for such charitable use, all money so expended shall be deemed, for the purposes of the said Act, equivalent to money actually paid by way of consideration for the purchase of the said land: And whereas it is expedient that the said Acts should be further amended:" BE IT THEREFORE ENACTED as follows:

(a) Ante, Vol. I., p. 516. (b) Ante, Vol. I., p. 486.

1. Every deed or assurance by which any land shall have been demised for any term of years for any charitable use shall, for all the purposes of the said recited Acts, be deemed to have been made to take effect for the charitable use thereby intended immediately from the making thereof, if the term for which such land shall have been thereby demised was thereby made to commence and take effect in possession at any time within one year from the date of such deed or assurance. 26 & 27 Vict. c. 106. Deeds by which lands are demised for charitable uses to take effect from the making thereof.

CHIMNEY SWEEPS.

27 & 28 Vict. c. 37. An Act to amend and extend the Act for the Regulation of Chimney Sweepers. [30th June, 1864.]

27 & 28 Vict. c. 37.

"Whereas by the Act of the session of the third and fourth years of her majesty queen Victoria, chapter eighty-five, 'for the regulation of chimney sweepers and chimneys,' provision was made to prevent any person compelling or knowingly allowing a child or young person under the age of twenty-one years to ascend or descend a chimney or enter a flue for the purpose of sweeping, cleaning or coring the same, or for extinguishing fire therein: And whereas it is expedient to amend in some particulars, and to extend the said Act (hereafter in this Act called the principal Act): " BE IT THEREFORE ENACTED as follows: 3 & 4 Vict. c. 85 (a).

General.

1. This Act may be cited as "The Chimney Sweepers Regulation Act, 1864," the principal Act may be cited as "The Chimney Sweepers and Chimneys Regulation Act, 1840 (b);" and the principal Act and this Act may be cited together as "The Chimney Sweepers and Chimneys Regulation Acts, 1840 and 1864." Short titles.

2. This Act shall commence and take effect on the first day of November, one thousand eight hundred and sixty-four. Commencement of Act.

3. In this Act— Interpretation of terms.

The term "sheriff" includes steward:

The term "chimney sweeper" means a person using the trade or business of a chimney sweeper.

4. This Act shall be construed together with the principal Act as one Act, and for this purpose the expression "this Act" when used in the principal Act shall be taken to include the present Act. This Act to be construed with principal Act.

5. Any pecuniary penalty recovered under this Act shall be applied as directed in the principal Act. Application of penalties.

Protection of Children and Young Persons.

6. It shall not be lawful for a chimney sweeper to employ a child under the age of ten years to do or assist in doing any work or thing in or about the trade or business of such chimney sweeper elsewhere than within the house or place of business of such chimney sweeper, or the yard or building (if any) connected therewith. Restriction on employment of children under ten.

7. It shall not be lawful for a chimney sweeper, on any occasion of his entering a house or building for the purpose of sweeping, cleaning, or coring a chimney or flue, therein or belonging thereto, or for extinguishing fire in any such chimney or flue, to cause or knowingly allow a person under the age of sixteen years in his employment or under his control to enter before, with or after him into any part of such house or building, or to be therein for any part of the time during which such chimney sweeper himself continues therein for any such purpose as aforesaid. Chimney sweeper entering houses to sweep chimneys, &c., not to bring with him persons under sixteen.

8. If any chimney sweeper acts in contravention of either of the foregoing enactments, he shall for every such offence be liable to a penalty not exceeding ten pounds. Penalties for before-named offences.

9. Where under section two of the principal Act a chimney sweeper is convicted of the offence of compelling or knowingly allowing a person under the age of twenty-one years to ascend or descend a chimney or enter a flue for any purpose in that section mentioned, the justices or sheriff before whom he is convicted may, in lieu of the imposition of any such pecuniary penalty as is authorized by that section, adjudge the offender to be imprisoned in the common gaol or house of correction for any term not exceeding six months, with or without hard labour. Power to justices to impose imprisonment.

10. In any prosecution of a chimney sweeper for any offence against the principal Act or against this Act, where the age of any young person or child comes in question, the proof of the age of such young person or child shall lie on the defendant. Burden of proof of age to lie on chimney sweeper.

11. Section two of the principal Act shall be read as if the words "or less than five pounds" were omitted therefrom. Abolition of minimum penalty.

(a) Ante, Vol. I., p. 426, tit. "BUILDING ACTS." (b) Ibid., p. 426.

CLERGY.

27 & 28 Vict. c. 70.

27 & 28 Vict. c. 70. An Act to substitute fixed instead of fluctuating Incomes for the Members of certain minor Corporations in certain of the Cathedral Churches in England.

[25th July, 1864.]

"Whereas it is expedient to make arrangements for securing fixed incomes to the members of certain minor corporations in certain of the cathedral churches in England in lieu of their present fluctuating incomes:" BE IT THEREFORE ENACTED as follows:

Lands and hereditaments may be transferred by cathedral corporations to ecclesiastical commissioners for money payments.

1. It shall be lawful, under the authority of a scheme prepared by the ecclesiastical commissioners, and of an order of her majesty in council ratifying the same, with the consent in writing under the common or corporate seal of any vicars choral, priest vicars, senior vicars, custos and vicars warden, and vicars or minor canons, who may constitute a corporation aggregate in any cathedral church in England, and of their visitor, for the said vicars choral, priest vicars, senior vicars, custos and vicars warden, and vicars or minor canons, to transfer to and vest in the ecclesiastical commissioners for the purposes of the Acts relating to them, and subject to the provisions thereof and to the conditions which may be specified in any such scheme and order, all the lands and hereditaments heretofore belonging to such corporation, for and in consideration of any annual or other money payment to be made to such corporation by the commissioners.

CLERK OF THE PEACE.

[27 & 28 Vict. c. 65, removal of. See "SESSIONS OF THE PEACE."]

COPYRIGHT.

ENGRAVINGS AND PRINTS.

25 & 26 Vic. c. 68.

25 & 26 Vict. c. 68. An Act for amending the Law relating to Copyright in Works of the Fine Arts, and for repressing the Commission of Fraud in the Production and Sale of such Works. [29th July, 1862.]

"Whereas by law, as now established, the authors of paintings, drawings and photographs have no copyright in such their works, and it is expedient that the law should in that respect be amended:" BE IT THEREFORE ENACTED as follows:

Copyright in works hereafter made or sold to vest in the author for his life and for seven years after his death.

1. The author, being a British subject or resident within the dominions of the crown, of every original painting, drawing and photograph which shall be or shall have been made either in the British dominions or elsewhere, and which shall not have been sold or disposed of before the commencement of this Act, and his assigns, shall have the sole and exclusive right of copying, engraving, reproducing and multiplying such painting or drawing, and the design thereof, of such photograph, and the negative thereof, by any means and of any size, for the term of the natural life of such author, and seven years after his death; provided that when any painting or drawing, or the negative of any photograph, shall for the first time after the passing of this Act be sold or disposed of, or shall be made or executed for or on behalf of any other person for a good or valuable consideration, the person so selling or disposing of or making or executing the same, shall not retain the copyright thereof, unless it be expressly reserved to him by agreement in writing, signed, at or before the time of such sale or disposition, by the vendee or assignee of such painting or drawing, or of such negative of a photograph, or by the person for or on whose behalf the same shall be so made or executed, but the copyright shall belong to the vendee or assignee of such painting or drawing, or of such negative of a photograph, or to the person for or on whose behalf the same shall have been made or executed; nor shall the vendee or assignee thereof be entitled to any such copyright, unless, at or before the time of such sale or disposition, an agreement in writing, signed by the person so selling or disposing of the same, or by his agent duly authorised, shall have been made to that effect.

Copyright not to prevent the representation of the same subjects in other works.

2. Nothing herein contained shall prejudice the right of any person to copy or use any work in which there shall be no copyright, or to represent any scene or object, notwithstanding that there may be copyright in some representation of such scene or object.

3. All copyright under this Act shall be deemed personal or moveable estate, and shall be assignable at law, and every assignment thereof, and every licence to use or copy by any means or process the design or work which shall be the subject of such copyright, shall be made by some note or memorandum in writing, to be signed by the proprietor of the copyright, or by his agent appointed for that purpose in writing. 25 & 26 Vict. c. 68. Assignments, licences, &c., to be in writing.

4. There shall be kept at the hall of the Stationers' Company, by the officer appointed by the said company for the purposes of the Act passed in the sixth year of her present majesty, intituled "An Act to amend the Law of Copyright," a book or books, entitled, "The Register of Proprietors of Copyright in Paintings, Drawings, and Photographs," wherein shall be entered a memorandum of every copyright to which any person shall be entitled under this Act, and also of every subsequent assignment of any such copyright; and such memorandum shall contain a statement of the date of such agreement or assignment, and of the names of the parties thereto, and of the name and place of abode of the person in whom such copyright shall be vested by virtue thereof, and of the name and place of abode of the author of the work in which there shall be such copyright, together with a short description of the nature and subject of such work, and in addition thereto, if the person registering shall so desire, a sketch, outline, or photograph of the said work, and no proprietor of any such copyright shall be entitled to the benefit of this Act until such registration, and no action shall be sustainable, nor any penalty be recoverable in respect of anything done before registration. Register of proprietors of copyright in paintings, drawings, and photographs, to be kept at Stationers' Hall as in 5 & 6 Vict. c. 45.

5. The several enactments in the said Act of the sixth year of her present majesty contained, with relation to keeping the register book thereby required, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the application to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the book or books to be kept by virtue of this Act, and to the entries and assignments of copyright and proprietorship therein under this Act, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Act of the sixth year of her present majesty may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said company of stationers for making any entry required by this Act shall be one shilling only. Certain enactments of 5 & 6 Vict. c. 45, to apply to the books to be kept under this Act.

6. If the author of any painting, drawing, or photograph in which there shall be subsisting copyright, after having sold or disposed of such copyright, or if any other person, not being the proprietor for the time being of copyright in any painting, drawing or photograph, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, for sale, hire, exhibition or distribution, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied for sale, hire, exhibition or distribution, any such work or the design thereof, or, knowing that any such repetition, copy, or other imitation has been unlawfully made, shall import into any part of the united kingdom, or sell, publish, let to hire, exhibit, or distribute, or offer for sale, hire, exhibition, or distribution, or cause or procure to be imported, sold, published, let to hire, distributed, or offered for sale, hire, exhibition or distribution, any repetition, copy, or imitation of the said work, or of the design thereof, made without such consent as aforesaid, such person for every such offence shall forfeit to the proprietor of the copyright for the time being a sum not exceeding ten pounds; and all such repetitions, copies, and imitations made without such consent as aforesaid, and all negatives of photographs made for the purpose of obtaining such copies shall be forfeited to the proprietor of the copyright. Penalties on infringement of copyright.

7. No person shall do or cause to be done any or either of the following acts; that is to say, Penalties on fraudulent productions and sales.

First, No person shall fraudulently sign or otherwise affix, or fraudulently cause to be signed or otherwise affixed, to or upon any painting, drawing or photograph, or the negative thereof, any name, initials or monogram:

Secondly, No person shall fraudulently sell, publish, exhibit or dispose of, or offer for sale, exhibition or distribution, any painting, drawing or photograph, or negative of a photograph, having thereon the name, initials or monogram of a person who did not execute or make such work:

Thirdly, No person shall fraudulently utter, dispose of, or put off, or cause to be uttered or disposed of, any copy or colourable imitation of any painting, drawing, or photograph, or negative of a photograph, whether there shall be subsisting copyright therein or not, as having been made or executed by the author or maker of the original work from which such copy or imitation shall have been taken:

Fourthly, Where the author or maker of any painting, drawing or photograph, or negative of a photograph, made either before or after the passing of this Act, shall have sold or otherwise parted with the possession of such work, if any alteration shall afterwards be made therein by any other person, by addition or otherwise, no person shall be at liberty, during the life of the author or maker of such work, without his consent, to make or knowingly to sell or publish, or offer for sale, such work, or any copies of such work so altered as aforesaid, or of any part thereof, as or for the unaltered work of such author or maker:

25 & 26 Vict c. 68

Penalties.

Every offender under this section shall, upon conviction, forfeit to the person aggrieved a sum not exceeding ten pounds, or not exceeding double the full price, if any, at which all such copies, engravings, imitations or altered works shall have been sold or offered for sale; and all such copies, engravings, imitations or altered works shall be forfeited to the person, or the assigns or legal representatives of the person, whose name, initials or monogram shall be so fraudulently signed or affixed thereto, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid: provided always, that the penalties imposed by this section shall not be incurred unless the person whose name, initials, or monogram shall be so fraudulently signed or affixed, or to whom such spurious or altered work shall be so fraudulently or falsely ascribed as aforesaid, shall have been living at or within twenty years next before the time when the offence may have been committed.

Recovery of pecuniary penalties

8. All pecuniary penalties which shall be incurred, and all such unlawful copies, imitations, and all other effects and things as shall have been forfeited by offenders, pursuant to this Act, and pursuant to any Act for the protection of copyright engravings, may be recovered by the person hereinbefore and in any such Act as aforesaid empowered to recover the same respectively, and hereinafter called the complainant or the complainer, as follows:

In England and Ireland

In England and Ireland, either by action against the party offending, or by summary proceeding before any two justices having jurisdiction where the party offending resides:

In Scotland

In Scotland by action before the court of session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending, or by the oath or affirmation of one or more credible witnesses, shall convict the offender, and find him liable to the penalty or penalties aforesaid, as also in expenses, and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action and assoilzieing the defender, to find the complainer liable in expenses, and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise.

Superior courts of record in which any action is pending may make an order for an injunction, inspection, or account

9. In any action in any of her majesty's superior courts of record at Westminster and in Dublin, for the infringement of any such copyright as aforesaid, it shall be lawful for the court in which such action is pending, if the court be then sitting, or if the court be not sitting, then for a judge of such court, on the application of the plaintiff or defendant respectively, to make such order for an injunction, inspection or account, and to give such direction respecting such action, injunction, inspection, and account, and the proceedings therein respectively, as to such court or judge may seem fit.

Importation of pirated works prohibited.

10. All repetitions, copies, or imitations of paintings, drawings or photographs, wherein or in the design whereof there shall be subsisting copyright under this Act, and all repetitions, copies and imitations of the design of any such painting or drawing, or of the negative of any such photograph, which, contrary to the provisions of this Act, shall have been made in any foreign state, or in any part of the British dominions, are hereby absolutely prohibited to be imported into any part of the united kingdom, except by or with the consent of the proprietor of the copyright thereof, or his agent authorised in writing; and if the proprietor of any such copyright, or his agent, shall declare that any goods imported are repetitions, copies or imitations of any such painting, drawing or photograph, or of the negative of any such photograph, and so prohibited as aforesaid, then such goods may be detained by the officers of her majesty's customs.

Application in such cases of Customs Acts, &c.

Saving of right to bring action for damages.

11. If the author of any painting, drawing, or photograph, in which there shall be subsisting copyright, after having sold or otherwise disposed of such copyright, or if any other person, not being the proprietor for the time being of such copyright, shall, without the consent of such proprietor, repeat, copy, colourably imitate, or otherwise multiply, or cause or procure to be repeated, copied, colourably imitated, or otherwise multiplied, for sale, hire, exhibition or distribution, any such work or the design thereof, or the negative of any such photograph, or shall import or cause to be imported into any part of the united kingdom, or sell, publish, let to hire, exhibit or distribute, or offer for sale, hire, exhibition or distribution, or cause or procure to be sold, published, let to hire, exhibited or distributed, or offered for sale, hire, exhibition, or distribution, any repetition, copy, or imitation of such work, or the design thereof, or the negative of any such photograph, made without such consent as aforesaid, then every such proprietor, in addition to the remedies hereby given for the recovery of any such penalties, and forfeiture of any such things as aforesaid, may recover damages by and in a special action on the case, to be brought against the person so offending, and may in such action recover and enforce the delivery to him of all unlawful repetitions, copies and imitations, and negatives of photographs, or may recover damages for the retention or conversion thereof: provided that nothing herein contained, nor any proceeding, conviction or judgment, for any act hereby forbidden, shall affect any remedy which any person aggrieved by such act may be entitled to either at law or in equity.

12. This Act shall be considered as including the provisions of the Act passed in the session of parliament held in the seventh and eighth years of her present majesty, intituled "An Act to amend the Law relating to International Copyright," in the same manner as if such provisions were part of this Act. 25 & 26 Vict. c. 68. Provisions of 7 & 8 Vict. c. 12, to be considered as included in this Act.

COURT OF PROBATE.

27 & 28 Vict. c. 44. An Act to amend the Act relating to Divorce and Matrimonial Causes in England, Twentieth and Twenty-first Victoria, chapter Eighty-five. [14th July, 1864.]

27 & 28 Vict. c. 44.

"Whereas it is expedient to amend an Act passed in the twentieth and twenty-first years of the reign of her present majesty, chapter eighty-five :" BE IT ENACTED as follows :

1. Where under the provisions of section twenty-one (*a*) of the said Act a wife deserted by her husband shall have obtained or shall hereafter obtain an order protecting her earnings and property from a police magistrate, or justices in petty sessions, the court for divorce and matrimonial causes, as the case may be, the husband and any creditor or other person claiming under him may apply to the court or to the magistrate or justices by whom such order was made for the discharge thereof as by the said Act authorized ; and in case the said order shall have been made by a police magistrate and the said magistrate shall have died or been removed, or have become incapable of acting, then in every such case the husband or creditor or such other person as aforesaid, may apply to the magistrate for the time being acting as the successor or in the place of the magistrate who made the order for protection for the discharge of it, who shall have authority to make an order discharging the same ; and an order for discharge of an order for protection may be applied for to and be granted by the court, although the order for protection was not made by the court, and an order for protection made at one petty sessions may be discharged by the justices of any later petty sessions, or by the court. Amending provisions of 20 & 21 Vict. c. 85, as to orders of protection of property of wife deserted by her husband.

CROWN SUITS.

25 Vict. c. 14. An Act to extend to the Isle of Man the Provisions of the Act Eighteenth and Nineteenth Victoria, Chapter Ninety, as to the Payment of Costs to and by the Crown. [16th May, 1862.]

25 Vict. c. 14.

That the first and second sections of the recited Act (18 & 19 Vict. c. 90), shall extend and apply to the Isle of Man ; and the words "her majesty's attorney-general" contained in the same Act shall, as regards informations, actions, suits and other legal proceedings in the Isle of Man, be construed to mean her majesty's attorney-general for the Isle of Man. Sects. 1 and 2 of Act 18 & 19 Vict. c. 90, to apply to the Isle of Man.

DEATH BY ACCIDENT.

27 & 28 Vict. c. 95. An Act to amend the Act Ninth and Tenth Victoria, chapter Ninety-three, for compensating the Families of Persons killed by Accident. [29th July, 1864.]

27 & 28 Vict. c. 95

"Whereas by an Act passed in the session of parliament holden in the ninth and tenth years of her majesty's reign, intituled 'An Act for compensating the Families of Persons killed by Accident' (*b*), it is amongst other things provided, that every such action as therein mentioned shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused as therein mentioned, and shall be brought by and in the name of the executor or administrator of the person deceased : And whereas it may happen by reason of the inability or default of any person to obtain probate of the will or letters of administration of the personal estate and effects of the person deceased, or by reason of the unwillingness or neglect of the executor or administrator of the person deceased to bring such action as aforesaid, that the person or persons entitled to the benefit of the said Act may be deprived thereof; and it is expedient to amend and extend the said Act as hereinafter mentioned :" BE IT THEREFORE ENACTED as follows : 9 & 10 Vict. c. 93.

(*a*) Ante, Vol. I., p. 486.

(*b*) Ante, Vol. I., p. 1349.

27 & 28 Vict. c. 95.

Where no action brought within six months by executor of person killed, then action may be brought by persons beneficially interested in result of action.

1. If and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by the said Act that there shall be no executor or administrator of the person deceased, or that there being such executor or administrator no such action as in the said Act mentioned shall within six calendar months after the death of such deceased person as therein mentioned have been brought by and in the name of his or her executor or administrator, then and in every such case such action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit such action would have been, if it had been brought by and in the name of such executor or administrator; and every action so to be brought shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure as nearly as may be, as if it were brought by and in the name of such executor or administrator.

Money paid into court may be paid in one sum, without regard to its division into shares.

If not accepted, defendant entitled to verdict on the issue.

2. And whereas by the second section (a) of the said Act it is provided that the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and whose benefit such action shall be brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided between the before-mentioned parties in such shares as the jury shall by their verdict direct: BE IT ENACTED AND DECLARED, that it shall be sufficient, if the defendant is advised to pay money into court, that he pay it as a compensation in one sum to all persons entitled under the said Act for his wrongful act, neglect, or default, without specifying the shares into which it is to be divided by the jury; and if the said sum be not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue.

This and recited Act to be read as one.

3. This Act and the said Act shall be read together as one Act.

FISH.

26 Vict. c. 10.

26 Vict. c. 10. An Act for prohibiting the Exportation of Salmon at certain Times. [20th April, 1863.]

24 & 25 Vict. c. 109.

25 & 26 Vict. c. 97.

22 & 23 Vict. c. lxx.

"Whereas the sale of salmon within the united kingdom is prohibited at various times; that is to say, if caught in England within the limits of 'The Salmon Fishery Act, 1861,' is prohibited between the third day of September and the second day of February; if caught in any fishery district in Ireland is prohibited during such time as the capture of salmon is prohibited in that district; if caught in Scotland within the limits of 'The Salmon Fisheries (Scotland) Act, 1862,' is prohibited between the commencement of the latest and the termination of the earliest annual close time fixed for any district; if caught in the river Tweed, as defined by 'The Tweed Fisheries Amendment Act, 1859,' is prohibited between the fourteenth day of September and the fifteenth day of February: and whereas the capture or possession of foul or unseasonable salmon within the limits of the united kingdom is prohibited at all times: and whereas the provisions of the said Acts are evaded by the exportation for sale in France and other foreign countries of salmon that cannot legally be sold within the limits of the united kingdom:" BE IT ENACTED as follows:—

Short title.

1. This Act may be cited for all purposes as "The Salmon Acts Amendment Act, 1863."

"Parts beyond seas" defined.

2. No part of the united kingdom, however situated with regard to any other part, shall be deemed for the purposes of this Act to be parts beyond seas.

Export of unclean or unseasonable salmon, or salmon caught at certain times prohibited.

3. No unclean or unseasonable salmon, and no salmon caught during the time at which the sale of salmon is prohibited in the district where it is caught, shall be exported or entered for exportation from any part of the united kingdom to parts beyond seas.

All salmon exported or entered for exportation in contravention of this section shall be forfeited, and the person exporting or entering the same for exportation shall be subject to a penalty not exceeding five pounds in respect of each salmon so exported or entered for exportation.

The burden of proving that any salmon entered for exportation from any part of the united kingdom to parts beyond seas between the third day of September and the second day of February following is not so entered in contravention of this Act shall lie on the person entering the same for exportation.

Recovery of penalties.

4. All penalties under this Act may be recovered in England, except within the limits of the said Tweed Fisheries Act, as penalties under "The Salmon Fishery Act, 1861;" in Ireland as penalties under the Act passed in the session of the fifth and sixth years of the reign of her present majesty, chapter one hundred and six, intituled "An Act to regulate the Irish Fisheries;" in Scotland, except within the limits of the said

(a) Ante, Vol. I., p. 1350.

Tweed Fisheries Act, as penalties under "The Salmon Fisheries (Scotland) Act, 1862:" and within the limits of the said Tweed Fisheries Act, in manner prescribed by "The Tweed Fisheries Act, 1857." 26 Vict. c. 10

FRIENDLY SOCIETIES.

25 & 26 Vict. c. 87.

[See Vol. III. p. 1469, tit. "PROVIDENT SOCIETIES."]

GAME.

25 & 26 Vict. c. 114. An Act for the Prevention of Poaching. [7th August, 1862.]

25 & 26 Vict. c. 114.

"Whereas it is expedient that the laws now in force for the better detection and prevention of poaching should be amended:" BE IT ENACTED as follows:

Interpretation of terms.

1. The word "game" in this Act shall for all the purposes of this Act be deemed to include any one or more hares, pheasants, partridges, eggs of pheasants and partridges, woodcocks, snipes, rabbits, grouse, black or moor game, and eggs of grouse, black or moor game; and the words "justice" and "justices" in this Act shall, unless otherwise provided for, mean respectively a justice and justices of the peace respectively of or for the county, riding, division, liberty, city, borough or place in which any game, gun, part of gun, net, snare or engine after mentioned shall be found.

Power to constables to search persons without warrant, in certain cases (a)

2. It shall be lawful for any constable or peace officer in any county, borough or place in Great Britain and Ireland, in any highway, street, or public place, to search any person whom he may have good cause to suspect of coming from any land where he shall have been unlawfully in search or pursuit of game, or any person aiding or abetting such person, and having in his possession any game unlawfully obtained, or any gun, part of gun, or nets or engines used for the killing or taking game, and also to stop and search any cart or other conveyance in or upon which such constable or peace officer shall have good cause to suspect that any such game or any such article or thing is being carried by any such person, and should there be found any game or any such article or thing as aforesaid upon such person, cart or other conveyance, to seize and detain such game, article or thing; and such constable or peace officer shall in such case apply to some justice of the peace for a summons citing such person to appear before two justices of the peace assembled in petty sessions, as provided in the eighteenth and nineteenth of her present majesty, chapter one hundred and twenty-six, section nine (b), as far as regards England and Ireland, and before a sheriff or any two justices of the peace in Scotland; and if such person shall have obtained such game by unlawfully going on any land in search or pursuit of game, or shall have used any such article or thing as aforesaid for unlawfully killing or taking game, or shall have been accessory thereto, such person shall, on being convicted thereof, forfeit and pay any sum not exceeding five pounds, and shall forfeit such game, guns, parts of guns, nets and engines, and the justices shall direct the same to be sold or destroyed, and the proceeds of such sale, with the amount of the penalty, to be paid to the treasurer of the county or borough where the conviction takes place; and no person who, by direction of a justice in writing, shall sell any game so seized shall be liable to any penalty for such sale; and if no conviction takes place, the game or any such article or thing as aforesaid, or the value thereof, shall be restored to the person from whom it had been seized.

Recovery of penalties.

3. Any penalty under this Act shall be recovered and enforced in England in the same manner as penalties under the Act first and second William the fourth, chapter thirty-two (c), and in Scotland under the Act second and third William the fourth, chapter sixty-eight, and in Ireland under the "Petty Sessions, Ireland, Act, 1851," when not otherwise directed in this Act.

(a) Proof that the defendants were found together on a highway at six o'clock a.m. with bags containing one hare and several rabbits, and with nets and stakes, is evidence upon which justices may convict them, under this section, of having obtained the game by having been unlawfully on land in pursuit of game, or of having used the nets for the purpose of unlawfully taking game, without direct proof that any of the defendants had been upon any land or had used any of the nets (*Evans* v. *Botterill*, 33 L. J. M. C. 50; *Brown* v. *Turner*, 13 C. B. N. S. 485; 32 L. J. M. C. 106). And where a constable actually saw a person, with a gun in his hand, on a public footway, in the act of picking up a rabbit which another person threw to him out of the inclosed land adjoining, and upon the spot at which a gun had just been fired; the person ran away and escaped for a time; and it was held, that an actual search was not necessary to lay a foundation for the right to apply for a summons, and to proceed to a conviction under this section (*Hall* v. *Knox*, 33 L. J. M. C. 1).

(b) Ante, Vol. II., (p. 71), tit. "CRIMINAL LAW."

(c) Ante, Vol. II., p. 234, tit. "GAME."

25 & 26 Vict. c. 114.

Provisions of 11 & 12 Vict. c. 43, extended to this Act.

4. The powers and provisions of the Act of the eleventh and twelfth years of her present majesty, chapter forty-three, shall extend and apply to this Act, and to all proceedings, matters and things to be taken, had and done, and to all persons to be proceeded against or taking proceedings under this Act.

No conviction shall be quashed for want of form or removed by certiorari.

5. No conviction or order made under this Act, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari or otherwise into any of her majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Power of appeal

6. Any person who shall think himself aggrieved by any such summary conviction, may appeal to the next court of general or quarter sessions which shall be holden not less than twelve days after the day of such conviction for the county, riding, division or borough wherein the cause of complaint shall have arisen, provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall, within three days, enter into a recognisance, or bond of caution in Scotland, with a sufficient surety, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be awarded by the court; and the court at such sessions shall hear and determine the matter of appeal, and shall make such order therein, with or without costs, to either party, as to the court shall seem fit, and shall, if necessary, issue process for enforcing such judgment.

GOVERNMENT ANNUITIES.

27 & 28 Vict. c. 43.

27 & 28 Vict. c. 43. An Act to grant additional Facilities for the Purchase of small Government Annuities, and for assuring Payments of Money on Death. [14th July, 1864.]

GUNPOWDER.

25 & 26 Vict. c. 98.

25 & 26 Vict. c. 98. An Act for the Amendment of an Act of the Session of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and thirty-nine, intituled "An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder and Compositions of an explosive Nature, and concerning the Manufacture, Sale and Use of Fireworks, and of an Act amending the last-mentioned Act." [7th August, 1862.]

28 & 24 Vict. c. 139 (a).

"Whereas by an Act of the twenty-third and twenty-fourth years of the reign of her present majesty, chapter one hundred and thirty-nine, intituled 'An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder and Compositions of an explosive Nature, and concerning the Manufacture, Sale, and Use of Fireworks, and hereinafter referred to as the principal Act, divers regulations are made with respect to the manufacture and keeping of gunpowder, and with respect to the manufacture of loaded percussion caps, and the manufacture and keeping of ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature: and whereas, by the twenty-fifth section of the principal Act, provisions are made with respect to the issue of warrants to search, and with respect to searching for gunpowder, and by the twenty-seventh section of the same Act special powers are given to the conservators of the river Thames of appointing searchers for gunpowder within their jurisdiction: and whereas it is expedient to extend the said sections to loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature:" BE IT ENACTED as follows:

Extension of sects 25 and 27 of principal Act to other explosive compositions

1. The twenty-fifth and twenty-seventh sections (b) of the principal Act shall be construed and applied as if the word gunpowder therein mentioned included loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature.

(a) Ante, Vol. II., p. 331, tit. "GUNPOWDER." (b) Ante, p. 33

2. [Divisional magistrates of police to exercise licensing powers within the Dublin police district.] 25 & 26 Vict. c. 98.

3. The principal Act may be cited for all purposes as "The Gunpowder Act, 1860," and this Act shall be construed as one with the principal Act, and may be cited for all purposes as "The Gunpowder Act Amendment Act, 1862." Short title of principal Act and this Act.

HABEAS CORPUS.

25 Vict. c. 20. An Act respecting the Issue of Writs of Habeas Corpus out of England into Her Majesty's Possessions Abroad. [16th May, 1862.] 25 Vict. c. 20.

"Whereas it is expedient that writs of habeas corpus should not issue out of England into any colony or foreign dominion of the crown where her majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ, and to ensure the due execution thereof throughout such colony or foreign dominion:" BE IT THEREFORE ENACTED as follows:

1. No writ of habeas corpus shall issue out of England, by authority of any judge or court of justice therein, into any colony or foreign dominion of the crown where her majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ, and to ensure the due execution thereof throughout such colony or dominion. Writ not to issue out of England into any colony, &c., having a court with authority to grant such writ.

2. Provided, that nothing in this Act contained shall affect or interfere with any right of appeal to her majesty in council now by law existing. Not to affect right of appeal to her majesty in council.

HAWKERS.

[27 Vict. c. 18, s. 8; 27 & 28 Vict. c. 56, s. 67. See "STAMPS."]

HEALTH (PUBLIC).

27 & 28 Vict. c. 68. An Act to amend the Local Government Act of 1858 so far as it applies to Oxford. [25th July, 1864.] 27 & 28 Vict. c. 68.

27 & 28 Vict. c. 85. An Act for the Prevention of Contagious Diseases at certain Naval and Military Stations. [29th July, 1864.] 27 & 28 Vict. c. 85.

INTERMENT.

25 & 26 Vict. c. 100. An Act to authorise Improvement Commissioners acting as Burial Boards to mortgage certain Rates for the Purposes of the Burial Acts. [7th August, 1862.] 25 & 26 Vict. c. 100.

"Whereas by an Act passed in the session holden in the twenty-third and twenty-fourth years of the reign of her majesty (chapter sixty-four), to make further provision for the expenses of local boards of health and improvement commissioners acting as burial boards, it was enacted, that any money required by any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act of parliament for the improvement of any town, parish or borough, who should have been constituted a burial board for defraying the expense of carrying into execution the powers and provisions of the burial Acts in the district for which they may have been so constituted a burial board, or for paying any monies borrowed or annuities granted under the authority of the said Acts, or any interest on monies borrowed, or for providing a sinking fund for the repayment of such monies, might, if the commissioners thought fit, be paid out of the improvement rate leviable within such district; and the commissioners, as such burial board, might levy as part of the improvement rate, or by a separate rate under the name and designation of a burial rate, to be assessed and recovered in like manner as an improvement rate, such sums of money as should be from time to 23 & 24 Vict. c. 64 (a).

(a) Ante, Vol. II., p. 878, tit. "INTERMENT."

25 & 26 Vict. c. 100.

time necessary for the purposes aforesaid or any of them: and whereas doubts have arisen whether under such provisions the improvement rate or burial rate can be legally mortgaged or assigned as a security for the payment of the sums referred to in the said Act, and it is expedient that the commissioners acting as such burial board should have the power of mortgaging the said rates:" BE IT ENACTED as follows:

Commissioners, with consent of treasury, may mortgage improvement rate and burial rate, or either.

1. Any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act of parliament for the improvement of any town, parish, or borough, who shall have been constituted a burial board for any district, may, with the approval of the commissioners of her majesty's treasury, from time to time borrow at interest on mortgage of the improvement rate and burial rate, or either of them, leviable within the district, such sums of money as may be required by the burial board for the purposes of the Burial Act within the district.

Certain provisions of 10 & 11 Vict. c. 16, to apply to this Act.

2. The clauses and provisions of "The Commissioners Clauses Act, 1847," with respect to the mortgages to be executed by the commissioners, shall be incorporated with this Act, and shall be applicable to all mortgages created under the provisions thereof.

27 & 28 Vict. c. 97.

27 & 28 Vict. c. 97. An Act to make further Provision for the Registration of Burials in England. [29th July, 1864.]

"Whereas provision is made by law in England for the registration of burials performed according to the rites of the established church and of all burials in grounds provided under the burial Acts: And whereas it is expedient that all burials in England be registered:" BE IT THEREFORE ENACTED as follows:

All burials to be registered.

1. All burials in any burial ground in England which are not now by law required to be registered, shall be registered in register books to be provided for each such burial ground by the company, body or persons to whom the same belongs, and to be kept for that purpose according to the laws in force by which registers are required to be kept by rectors, vicars or curates of parishes or ecclesiastical districts in England.

By whom books to be kept.

2. Such register books shall be so kept for every such burial ground by some officer or person to be appointed to that duty by the company, body or persons to whom such burial ground belongs.

Copies of registers to be sent to registrar of diocese.

3. Copies of the register books kept under this Act for every such burial ground shall be from time to time made, verified and signed by such officer or person as aforesaid, and sent by him to the registrar of the diocese wherein the burial ground to which the same relates is situate, to be kept with the copies of the register books of the parishes within such diocese.

Penalty for failure to comply with Act.

4. If any such company, body or persons or any such officer or person as aforesaid, wilfully fail to comply with any of the provisions of this Act, they or he shall be guilty of an offence against this Act, and on summary conviction thereof before a justice of the peace shall be liable for every such offence to a penalty not exceeding five pounds.

Registers to be evidence.

5. The register books kept under this Act, or copies thereof or extracts therefrom, shall be received in all courts as evidence of the burials entered therein.

Registers to be subject to regulations of 6 & 7 Will 4, c. 86, as to searches, &c.

6. The register books kept under this Act shall, as to searches therein and copies thereof and extracts therefrom, be subject to the regulations of the Act of the session of the sixth and seventh years of king William the fourth (chapter eighty-six) (a), "for registering births, deaths and marriages in England," so far as those regulations relate to register books of burials kept by rectors, vicars or curates.

As to "burial ground."

7. In this Act the term "burial ground" includes a vault or other place where any body is buried.

Short title.

8. This Act may be cited as "The Registration of Burials Act, 1864."

IONIAN STATES ACT.

27 & 28 Vict. c. 77.

27 & 28 Vict. c. 77. An Act to repeal and in part to re-enact certain Acts of Parliament relating to the Ionian States, and to establish the Validity of certain Things done in the said States. [29th July, 1864.]

(a) Ante, Vol. III. p. 99, tit. "REGISTRATION."

JOINT STOCK COMPANIES.

27 Vict. c. 19. An Act to enable Joint Stock Companies carrying on Business in Foreign Countries to have Official Seals to be used in such Countries. [13th May, 1864.] 27 Vict. c. 19.

"Whereas there have been and may be established in the united kingdom companies whose business is to be carried on in countries not situate in the united kingdom, and it is convenient and desirable that investments may be made, and mortgages, conveyances and leases taken, and contracts and engagements entered into, on behalf of the company in such countries, in name of the company:" BE IT THEREFORE ENACTED as follows:

Short title.

1. This Act may be cited for all purposes as "The Companies' Seals Act, 1864."

Power to companies to have an official seal.

2. Any company, under "The Companies Act, 1862," whose objects require or comprise the transaction of business, as hereinbefore mentioned, in foreign countries, may cause to be prepared an official seal for and to be used in any place, district or territory situate out of the united kingdom in which the business of the company shall be carried on, and every such official seal may and shall be a fac-simile of or as nearly as practicable a fac-simile of the common seal of the company, with the exception that on the face thereof shall be inscribed the name of each and every place, district or territory in and for which it is to be used: provided that it shall be lawful for any such company as aforesaid from time to time to break up and renew any official seal or seals, and to vary the limits within which it is intended to be used.

Power to companies to appoint agents abroad to affix seals.

3. Every company having or using any such official seal as is authorised by this Act may from time to time, by any instrument or instruments in writing under the common seal of the company, empower any agent or agents specially appointed for the purpose, or any local agent, board, committee, manager or commissioner appointed under the provisions of the articles of association of such company, in any place, district or territory situate out of the united kingdom where the business of the company shall for the time being be carried on, to affix such official seal to any deed, contract or other instrument to which the company is or shall be made a party in such place, district or territory, and no other order of the company or the board of directors thereof shall be necessary to authorise any such seal to be affixed to any deed, contract or other instrument.

As to the duration of powers granted under sect. 3 of this Act.

4. Every power granted under the last preceding section shall, as between the company, their successors and assigns on the one hand, and the person or persons dealing with the agent or agents, board, committee, manager or commissioner named in the instrument conferring the power, and all parties claiming through or under such person or persons on the other hand, continue in force during the period, if any, mentioned in the instrument conferring the power, or if no power be there mentioned then until notice of the revocation or determination of the power shall have been given to such person or persons as aforesaid.

Person affixing seal to document to certify the date when so affixed.

5. Whenever any such official seal as aforesaid shall be affixed to any document, the person affixing the same shall by writing under his hand, and written on the document to which the seal may have been affixed, certify the date when and the place where the same was affixed; and any document to which any such seal shall have been duly affixed within the district or territory or place the name whereof is inscribed on such seal shall bind the company in the same way and to the same extent and have the same force and effect as if it had been duly sealed with the common seal of the company.

Binding on company.

Companies not to exercise powers of Act unless authorised.

6. The powers given by this Act shall be exercised by such companies only as are or shall be expressly authorised to exercise the same by their articles of association, or a special resolution passed according to the provisions of "The Companies Act, 1862," and shall be exercised by such companies subject to any directions or restrictions in their articles of association or the special resolutions contained.

Section 55 of 25 & 26 Vict. c. 89 (a), not repealed.

7. Nothing in this Act contained shall operate to repeal the provisions of the fifty-fifth section of "The Companies Act, 1862," but such section shall continue in force, and all Acts done or to be done thereunder shall be as valid and effectual as if this Act had not been passed.

JUDGMENTS.

27 & 28 Vict. c. 112. An Act to amend the Law relating to future Judgments, Statutes and Recognizances. [29th July, 1864.] 27 & 28 Vict. c. 112.

"Whereas it is desirable to assimilate the law affecting freehold, copyhold and lease-

(a) Ante, Vol. I. p. 725*i*, tit. "COMPANIES."

27 & 28 Vict. c. 112.

hold estates to that affecting purely personal estates in respect of future judgments, statutes and recognizances:" THEREFORE BE IT ENACTED as follows:

Future judgments, &c., not to affect land until land delivered in execution.

1. No judgment, statute or recognizance to be entered up after the passing of this Act shall affect any land (of whatever tenure) until such land shall have been actually delivered in execution by virtue of a writ of elegit or other lawful authority, in pursuance of such judgment, statute or recognizance.

Interpretation of terms.

2. In the construction of this Act the term "judgment" shall be taken to include registered decrees, orders of courts of equity and bankruptcy, and other orders having the operation of a judgment; and the term "land" shall be taken to include all hereditaments, corporeal or incorporeal, or any interest therein; and the term "debtor" shall be taken to include husbands of married women, assignees of bankrupts, committees of lunatics, and the heirs or devisees of deceased persons.

Writs of execution to be registered in manner prescribed by 23 & 24 Vict. c. 38 (a), in the name of the debtor, and no other registration necessary.

3. Every writ or other process of execution of any such judgment, statute or recognizance, by virtue whereof any land shall have been actually delivered in execution, shall be registered in the manner provided by an Act passed in the session of the twenty-third and twenty-fourth years of her present majesty, intituled "An Act to further amend the Law of Property," but in the name of the debtor against whom such writ or process is issued, instead of, as under the said Act, in the name of the creditor; and no other or prior registration of such judgment, statute or recognizance shall be or be deemed necessary for any purpose; and no reference to any such prior registration shall be required to be made in or by the memorandum or minute of such writ or other process of execution which shall be left with the senior master of the court of common pleas for the purpose of such registry.

Creditor to whom land delivered in execution duly registered entitled to obtain summary order from court of chancery for sale.

Practice, &c.

4. Every creditor to whom any land of his debtor shall have been actually delivered in execution by virtue of any such judgment, statute or recognizance, and whose writ or other process of execution shall be duly registered, shall be entitled forthwith, or at any time afterwards while the registry of such writ or process shall continue in force, to obtain from the court of chancery upon petition in a summary way, an order for the sale of his debtor's interest in such land, and every such petition may be served upon the debtor only; and thereupon the court shall direct all such inquiries to be made as to the nature and particulars of the debtor's interest in such land, and his title thereto, as shall appear to be necessary or proper; and in making such inquiries, and generally in carrying into effect such order for sale, the practice of the said court with respect to sales of real estates of deceased persons for the payment of debts shall be adopted and followed, so far as the same may be found conveniently applicable.

Where there are other creditors, notice of sale to be served upon them

5. If it shall appear on making such inquiries that any other debt due on any judgment, statute or recognizance is a charge on such land, the creditor entitled to the benefit of such charge (whether prior or subsequent to the charge of the petitioner) shall be served with notice of the said order for sale, and shall after such service be bound thereby, and shall be at liberty to attend the proceedings under the same, and to have the benefit thereof; and the proceeds of such sale shall be distributed among the persons who may be found entitled thereto, according to their respective priorities.

Parties claiming interest through debtor bound by order for sale.

6. Every person claiming any interest in such land through or under the debtor, by any means subsequent to the delivery of such land in execution as aforesaid, shall be bound by every such order for sale, and by all the proceedings consequent thereon.

Extent of Act.

7. This Act shall not extend to Ireland.

LANDS IMPROVEMENT.

27 & 28 Vict. c 114

27 & 28 Vict. c. 114. The Improvement of Land Act, 1864.

[29th July, 1864.]

12 & 13 Vict. c. 100.

"Whereas an Act was passed in the twelfth and thirteenth years of her present majesty, intituled 'An Act to promote the Advance of private Money for Drainage of Lands in Great Britain and Ireland,' and several companies have been incorporated by Act of parliament with special powers for promoting the improvement of land in Great Britain and Ireland by drainage and otherwise; and it is desirable to amend and consolidate the law relating to the improvement of land by owners of limited interests, and to enable such owners to charge their lands with money subscribed for the construction of railways and navigable canals which will permanently increase the value of such lands:" BE IT ENACTED as follows:

Recited Act 12 & 13 Vict. c 100, repealed

1. The Act first above mentioned being "The Private Money Drainage Act, 1849," is hereby repealed, except so far as relates to any proceedings on applications pending under the said Act at the date of the passing hereof, it being the intention hereof that

(a) Ante, Vol. II., p. 908, tit. "JUDGMENTS."

all such proceedings shall be worked out under the said Act, and that all charges to be made in consequence of any such proceedings shall be made and operate under the said Act, which shall apply thereto as if this Act had never been passed; Provided also, that nothing herein contained shall affect any charge made under the said Act before the passing hereof, or any right or obligation existing or which may arise in respect of any such charge. 27 & 28 Vict. c. 114.

And with regard to the commissioners for the execution of this Act and other general matters, BE IT ENACTED as follows: *Commissioners, Landowners, &c.*

2. By "the commissioners" shall herein be meant, as regards lands in Great Britain, the inclosure commissioners for England and Wales; and as regards lands in Ireland, the commissioners of public works in Ireland under an Act of the first and second years of his late majesty king William the fourth, intituled "An Act for the Extension and Promotion of Public Works in Ireland," and an Act of the fifth and sixth years of the reign of her present majesty, intituled "An Act to promote Drainage of Lands and Improvement of Navigation and Water Power in connection with drainage in Ireland," and the several Acts amending the same respectively. Interpretation of "the commissioners." 1 & 2 Will. 4, c. 33. 5 & 6 Vict. c. 89.

3. All the provisions of the Act of the ninth and tenth years of the reign of her present majesty, intituled "An Act to authorize the Advance of Public Money to a limited Amount to promote the Improvement of Land in Great Britain and Ireland by Works of Drainage," and of any and every other Act for the time being in force relating to any of the aforesaid commissioners, so far as the same may concern or be auxiliary to the proceedings or inquiries of the commissioners under the authority of such Acts or any of them, or the authentication of instruments, shall, except as in this Act otherwise provided, extend and be applicable to their proceedings and inquiries and the authentication of instruments under this Act. Provisions of 9 & 10 Vict. c. 101, &c., to extend and be applicable to proceeding of commissioners.

4. Every assistant commissioner or inspector acting in any matter, inquiry or proceeding by the authority and in the execution of this Act may receive declarations and statements, and examine upon declaration all such persons as may voluntarily attend before him in such matter, inquiry or proceeding. Assistant commissioners may take declarations and examine witnesses.

5. If any person shall wilfully give false evidence in any matter, inquiry or proceeding under the provisions of this Act, or shall make or subscribe a false statement or declaration for the purposes of this Act, such person shall, in England or Ireland, be deemed guilty of a misdemeanor, and in Scotland of a crime and offence, and shall be punished accordingly. Punishment of persons giving false evidence.

6. Any notice requiring to be served upon the commissioners may be served by the same being left at or transmitted through the post, directed to their office in London. As to service of notices on commissioners.

7. In all cases in which it shall be necessary under the provisions of this Act to serve any notice upon any other person, it shall be sufficient to send such notice in a registered post letter, directed to such person at his then or last known place of residence or of business, unless the letter containing such notice shall be returned from the post-office as undelivered; and if such person shall not have any place of residence or of business within Great Britain or Ireland, or if the place of business or of residence of such person cannot with due diligence be ascertained, then such notice may be served upon such other person as his representative, or be given in such other manner as the commissioners shall in such case direct or approve. As to the services of notices on other persons.

8. The word "landowner" shall mean herein, as to lands in England, the person who shall be in the actual possession or receipt of the rents or profits of any land, whether of freehold, copyhold, customary or other tenure, except where such person shall be a tenant for life or lives holding under a lease for life or lives not renewable, or shall be a tenant for years holding under a lease or an agreement for a lease for a term of years not renewable, whereof less than twenty-five years shall be unexpired at the time of making any application to the commissioners, without regard to the real amount of the interest of any person so excepted; and in the case where the person in the actual possession or receipt of the rents or profits of any land shall fall within the above exceptions, then the person who for the time being shall be in the actual receipt of the rent payable by the person so excepted, unless he shall also fall within the above exceptions, shall, jointly with the person who shall be liable to the payment thereof, be deemed for the purposes of this Act to be the owner of such lands; and as to lands in Scotland, the word "landowner" shall denote and include every fiar, liferenter or heir of entail who shall be in the actual possession of the land or in receipt of the rents payable on the tacks, leases or tenancies of the tenants in the actual possession thereof; and as to lands in Ireland, the word "landowner" shall mean such person as under the Act passed in the first and second years of the reign of her present majesty, intituled "An Act to abolish Compositions for Tithes in Ireland, and to substitute Rentcharges in lieu thereof," shall have the first estate of inheritance, or other estate or interest equivalent to a perpetual estate or interest therein, and also any tenant in dower or by the curtesy, or any person having under the limitations of any settlement by deed, will, Act of parliament, or otherwise any estate for life, or other particular estate thereby created or limited out of or in any estate or inheritance, or by, out of or in any such estate or interest as by or under the last-mentioned Act is to be deemed equivalent to a perpetual estate or interest; and as to lands in any part of the united kingdom, the word "landowner" shall include a corporation, and also such persons as are empowered by the twenty-third section hereof. Interpretation of "landowner." 1 & 2 Vict. c. 109.

27 & 28 Vict. c. 114.

Interpretation of "improvement of land."

9. By "the improvement of land" shall herein be meant all or any of the following matters:

1. The drainage of land and the straitening, widening, deepening or otherwise improving the drains, streams and watercourses of any land:
2. The irrigation and warping of land:
3. The embanking and weiring of land from the sea or tidal waters, or from lakes rivers or streams in a permanent manner:
4. The inclosing of lands, and the straitening of fences and re-division of fields:
5. The reclamation of land, including all operations necessary thereto:
6. The making of permanent farm roads and permanent tramways and railways and navigable canals for all purposes connected with the improvement of the estate:
7. The clearing of land:
8. The erection of labourers' cottages, farmhouses and other buildings required for farm purposes, and the improvement of and addition to labourers' cottages, farmhouses and other buildings for farm purposes already erected, so as such improvements or additions be of a permanent nature:
9. Planting for shelter:
10. The constructing or erecting of any engine-houses, waterwheels, saw and other mills, kilns, shafts, wells, ponds, tanks, reservoirs, dams, leads, pipes, conduits, water-courses, bridges, weirs, sluices, floodgates or hatches, which will increase the value of any lands for agricultural purposes:
11. The construction or improvement of jetties or landing places on the sea coast, or on the banks of navigable rivers or lakes, for the transport of cattle, sheep and other agricultural stock and produce, and of lime, manure and other articles and things for agricultural purposes: provided that the commissioners shall be satisfied that such works will add to the permanent value of the lands to be charged to an extent equal to the expense thereof:
12. The execution of all such works as in the judgment of the commissioners may be necessary for carrying into effect any matter hereinbefore mentioned, or for deriving the full benefit thereof.

Interpretation of "person."

10. The word "person" shall in this Act include companies and all other corporations.

Proceedings preliminary to Sanction of Improvements.

And with regard to the proceedings preliminary to the sanction of any improvements BE IT ENACTED as follows:

Application to commissioners to sanction improvements.

11. When any landowner shall be desirous of borrowing or advancing money under this Act for the improvement of his land, he shall make an application to the commissioners to sanction the proposed improvements in such manner and form and stating such particulars as the commissioners shall from time to time direct; and until the proposed improvements shall have been sanctioned by the commissioners in manner hereinafter mentioned, the application may be withdrawn or altered, or consolidated with any other application at the pleasure of the applicant, but without prejudice to his liability as hereinafter mentioned for the expenses incurred by the commissioners or their officers in consequence of his application.

Joint application by several landowners.

12. Any two or more landowners may, with the consent of the commissioners, join in an application to them to sanction the improvement of the lands of such landowners respectively, but the sum to be charged in pursuance of any such joint application shall be apportioned so that a separate and distinct sum may become charged on the land of each landowner.

Commissioners may issue forms;

13. The commissioners may from time to time frame and circulate, as they shall see occasion, forms indicating the particulars of the information to be furnished to them by landowners for the purposes of this Act, and such other forms as the commissioners may deem expedient for facilitating any proceedings under this Act.

require security for expenses;

14. The commissioners may require security to be given to them by the landowner, by bond, deposit or otherwise, in such form as they may think fit, for the payment to them of the expenses which they or their officers shall incur in respect of the investigation on any application, and, if they shall issue such provisional or other sanctioning order as hereinafter mentioned, of the expenses which they or their officers shall incur in inspecting and ascertaining the due execution of the works; but unless the commissioners shall issue such absolute order as hereinafter mentioned, such payment shall not be a charge on the land to which such application relates, but shall be a debt due by the person making such application to the commissioners, and shall be recoverable by them as in the nature of a crown debt.

cause application to be investigated;

15. If the commissioners shall think fit to entertain the application so made to them, they may cause the land to be inspected and examined by an assistant commissioner, or an engineer or surveyor, who shall have regard to and examine the proposals and statements contained in such application, and shall report his opinion thereon, and who shall also report whether in his judgment the proposed improvements will effect a permanent increase of the yearly value of the land exceeding the yearly amount proposed to be charged thereon in respect of the improvements applied for; and the commissioners may by themselves, or any assistant commissioner, engineer or surveyor, make such other inquiries in relation to any such application as they shall think fit: provided that the above

requisition as to increased annual value shall not apply to any outlay proposed to be made upon or in respect of planting only.

27 & 28 Vict. c. 114.

16. The commissioners shall have power to require such alterations as they shall think expedient to be made in the improvements proposed, or in the proposed mode of executing them.

and require proposed improvements to be modified.

17. Before the commissioners shall sanction any improvements, notice shall be given of the application as well by advertisement inserted in two successive weeks in some newspaper published in the county in which the land to be improved lies, or in case there shall be no such newspaper published in such county, then in some county adjoining thereto, as by a notice in writing given, where such lands are situate in England or Ireland, to every person entitled to any estate in such land, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance therein, and to every person entitled to any mortgage upon such land or any part thereof who by reasonable inquiry shall be known to be so interested, and given, where such lands are situate in Scotland, to the nearest heir or heirs of entail, not exceeding three, and to the holders of every heritable security on such lands appearing upon the records; and in such advertisements and notices respectively shall be stated the maximum amount which it is proposed to charge in respect of the improvements, and the greatest and least terms over which it is proposed that the rentcharge should be spread; and the commissioners shall not sanction the improvements until one month shall have elapsed from the publication of the second of such advertisements and the service of such notices (if any) respectively, of which publication, and of the service of all necessary notices as aforesaid, the landowner shall, if required by the commissioners, satisfy them by one or more statutory declarations made by him or on his behalf.

Advertisements and notices preliminary to sanction.

18. In case any person having any estate in or charge or security on the land to be improved shall within the month named in the last preceding section signify in writing to the commissioners his dissent from such application, stating therein the nature of his estate in or charge or security on such land, the commissioners shall certify such dissent to the landowner by whom the application was made, and shall not make any provisional or other order sanctioning the improvements unless or until such dissent be withdrawn, or an order be made by the high court of chancery in England or Ireland respectively, or by the court of session in Scotland, in manner hereinafter provided, authorizing the commissioners to sanction the same; nor shall they make any provisional or other order sanctioning the improvement of any land in the case of which the landowner, or the husband of the landowner, shall be the father of the person or persons entitled either at law or in equity to any estate in such land, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance, and such person or persons, or any of them, shall be an infant or infants, or a minor or minors, unless or until such an order as hereinbefore mentioned shall be made by such court as aforesaid.

Power of dissent by persons interested, and protection of landowner's infant children.

19. If the commissioners shall consider that any proposed improvement would interfere with any navigable river or canal respectively vested in or under the management or control of any commissioners, trustees, conservators, undertakers, company or other body or individuals, or the banks or other works or conveniences thereof, or would occasion the flow or discharge into such river or canal of any drainage or other matter, the landowner shall give notice of the application in writing, together with a plan and section of the proposed improvement, to such commissioners, trustees, conservators, undertakers, company or other body, or individuals; and in case they shall, within one month after the receipt of such notice, signify in writing to the commissioners their dissent from such application, and state the nature of their interest in or authority over such river or canal, the commissioners shall certify such dissent to the landowner by whom the application was made, and shall not sanction the improvement unless or until such dissent be withdrawn, or an order be made by the high court of chancery in England or Ireland respectively, or by the court of session in Scotland, in manner hereinafter provided, authorizing the commissioners to sanction the improvement.

The same in case of navigable rivers and canals.

20. When the land to which the application relates, or any part of such land, is held in right of any church, chapel, or other ecclesiastical benefice, the commissioners shall not sanction any improvement of such land, or of so much thereof as is so held; unless and until the patron of the benefice, and in England and Ireland the bishop of the diocese, and in Scotland the presbytery of the bounds, shall signify to the commissioners, by writing under their hands, their respective consents to such application.

Consents necessary in case of church lands.

21. If and when any dissent from any such application to the commissioners for their sanction of proposed improvements shall have been notified in writing to the commissioners, either by a party interested in the lands proposed to be improved (not being lands held in right of any church, chapel, or other ecclesiastical benefice), or by the commissioners, trustees, company, or other body or individuals interested in any river or canal which would or might be interfered with as hereinbefore mentioned, or if the landowner, or the husband of the landowner, shall be the father of the person or persons entitled either at law or equity to any estate in the land to be improved, or any part thereof, in reversion or remainder, up to and inclusive of the person entitled to the first vested estate of inheritance, and such person or persons, or any of them, shall be an infant or infants, or a minor or minors, the landowner desiring such improvements may apply to the high court of chancery in England or Ireland where such lands are situate in England or Ireland respectively, or to the court of session where such lands are situate in Scotland,

In case of dissent, or when landowner's infant children are to be protected, court of chancery or session may authorise commissioners to proceed.

27 & 28 Vict. c. 114.

for an order of such court authorizing the commissioners to entertain and proceed upon the application for such proposed improvements notwithstanding such dissent or circumstance; and such application shall be made, as to lands in England, to the master of the rolls or any one of the vice-chancellors sitting at chambers, by summons, calling on the party dissenting to show cause why such order should not be made; as to lands in Ireland, to the master of the rolls, by summary petition or otherwise, as he shall by any general order direct; and as to lands in Scotland, to either division of the court of session in time of session, or to the lord ordinary sitting on bills in time of vacation, by summary petition; and the court or single judge, as the case may be, to whom such application shall be made, shall hear and determine such application, and for that purpose shall have power to make or direct to be made all such inquiries, and receive and entertain all such statements and evidence, on oath or by affidavit, as such court or judge may consider necessary or desirable, or as may be produced before them or him; and if upon a consideration of all the circumstances such court or judge shall be of opinion that the commissioners should entertain and proceed upon such application, an order shall be made authorizing and requiring them to proceed thereon, and to deal with the same according to the provisions of this Act authorizing them in that behalf, notwithstanding such dissent or circumstance as aforesaid: provided that if at any time after notification of such dissent, and before any such order shall have been applied for and made as aforesaid, such dissent shall be withdrawn by a notification in writing, it shall not be necessary to make or proceed with such application, or to obtain such order.

Service of notice under preceding clause.

22. Where any party dissenting shall be out of the jurisdiction of the court, it shall be lawful for the court or judge to order service to be made in such manner as such court or judge may think fit, and upon proof to the satisfaction of such court or judge that such party has had actual notice within a reasonable time of such intended application, it shall be lawful for such court or judge thereupon to hear and determine such application.

And costs may be given by the court.

23. The costs of and incidental to every application under the twenty-first and twenty-second sections, and the mode in which such costs shall be settled or taxed, shall be in the discretion of the court or judge who shall hear such application, and if such court or judge shall so direct, the said costs shall be deemed to be part of the expenses of and incidental to the application for the proposed improvements.

Representation of persons under disability for applications and dissents under preceding clause.

24. All husbands, guardians, tutors, committees, curators, feoffees, trustees, judicial factors, executors, and administrators shall respectively have the same rights and powers of making applications and signifying dissents, and taking other proceedings under this Act, as their respective wives, infants, minors, lunatics, idiots, and furions or fatuous persons would have had if free from disability, or as such feoffees, trustees, judicial factors, executors, or administrators respectively would have had if the estates, charges, or interests of which they shall be such feoffees, trustees, or judicial factors, or which shall be vested in them as such executors or administrators, had been vested in them in their own right; but no guardian, tutor, committee, curator, feoffee, trustee, judicial factor, executor, or administrator shall be in anywise compelled or obliged to signify a dissent from any application under this Act, or be in anywise responsible for the consequences of such application, or of any charge made in pursuance thereof.

Sanction of Improvements, and Rights thereunder.

And with regard to the sanction of any improvements, and the rights arising thereunder, BE IT ENACTED as follows:

Commissioners' order sanctioning improvements.

25. If the commissioners shall find that the proposed improvements or any part thereof, whether with or without any alterations by them required or sanctioned, would effect a permanent increase of the yearly value of the lands proposed to be improved, or of any part thereof, exceeding the yearly amount proposed to be charged thereon, they shall sanction such improvements, or such part thereof as they shall think expedient, if under the preceding sections it shall be lawful for them so to do, by an order under their hands and seal; and they shall by the same order fix the rate of interest to be allowed on the cost of the sanctioned improvements, having regard to the market value of money at the time, but such interest shall never exceed five per cent. per annum.

Forms of orders sanctioning improvements to be prepared by commissioners; what they must contain.

26. The commissioners shall from time to time prepare forms of orders for sanctioning improvements, and shall also, whenever required by the landowner so to do, frame and entitle their said orders under this Act in such manner that they may also be and operate as provisional, sanctioning, or other corresponding orders under the respective Acts applying to any company with which he may have contracted relating to the loan or improvements in question: provided that every order operating under this Act to sanction any improvements shall name the landowner to whom it is issued; shall express the greatest sum to be charged in addition to any costs, charges, and expenses under the fiftieth section hereof, and the rate of interest and term of years for the repayment thereof, the former not exceeding five per centum per annum, and the latter not exceeding twenty-five years; shall specify the lands on which such repayment is to be charged; and shall either express or refer to some contract or other document expressing the general scheme of the improvements to be executed.

They may be called provisional orders, and

27. Every order operating under this Act alone to sanction any improvement may be in the form set forth in schedule (A.) hereto, and shall be called a provisional order, and shall, subject to the following section hereof, create in favour of the landowner named

therein the title to an absolute charge on the completion of the sanctioned improvements, which title such landowner may assign, either absolutely or by way of security, to any person; and such assignment may be made by endorsement on the provisional order.

27 & 28 Vict. c. 114.

may be assigned to parties agreeing to execute improvements.

Provision for death of landowner pending completion of improvements.

28. In case of the death of any landowner, or the determination of his interest, between the date of the provisional order and the completion of the improvements sanctioned thereby, the right to complete such improvements, and to assign the title to an absolute charge, shall pass to the succeeding landowner; but if the succeeding landowner shall not within three calendar months after his succession proceed with the works, so as to complete the same in conformity with the provisional order, the preceding landowner, or in case of his decease his executors or administrators, may complete such improvements, and shall become entitled to have the absolute charge executed to him or them. If the succeeding landowner shall complete the improvements there shall be distinct absolute charges executed to such landowner, and the preceding landowner or his personal representatives, for the outlay made by the preceding and succeeding landowners respectively, and in case of difference the commissioners shall determine the proportions; provided that the succeeding landowner may, with the sanction of the inclosure commissioners, and after notice to the parties to whom notice was originally given, or such of them as may be living, and such other persons, if any, as the commissioners may direct, terminate the proceedings under the provisional order, on payment of the outlay and expenses made thereunder, and indemnifying the person to whom the title to the absolute charge may have been assigned. Notwithstanding the foregoing provisions, if the title to an absolute charge shall have been assigned by the preceding landowner, the assignee may complete the improvements if he shall proceed therewith within one calendar month from the time the preceding landowner ceased to be such landowner.

Provisional orders may be modified.

29. The commissioners may from time to time, on application to be made by the landowner, and after such inquiry as they shall think fit, sanction any modifications or alterations either of the scheme of the improvements or of any other matter expressed or referred to in the provisional order: provided that no such modification or alteration shall increase the sum to be charged in respect of the improvements, or extend or curtail the term of repayment, beyond the greatest amount which it was proposed so to charge, or the greatest or least term over which it was proposed that the rentcharge should be spread, as respectively stated in the advertisement and notices hereinbefore required: provided also, that every such modification or alteration shall require the consent of every party who, by having contracted for the execution of the improvements, or by having taken an assignment of the title to an absolute charge, or otherwise, may be interested therein; and the modifying order shall be in such form as the commissioners shall from time to time appoint, and shall be construed together with the original order as one order with respect to all rights arising thereunder after the date of the modifying order.

Execution of Improvements.

And with regard to the execution of any improvements, BE IT ENACTED as follows:

Detailed specifications to be delivered in advance;

30. Before the commencement of any improvements sanctioned in manner aforesaid the landowner shall deliver to the commissioners a detailed specification thereof, and in the case of buildings, and also in any other case where the same shall be required by the commissioners, a detailed plan or drawing: provided that when it is not intended to complete the improvements within one year from the date of the professional or other sanctioning order, the specification and plan or drawing first delivered may comprise so much only as it is intended to complete within one year from the said date, so, however, that for the works of each successive year such specification and plan or drawing as aforesaid be always delivered in advance.

and approved before execution of works.

31. The specifications and plans or drawings aforesaid shall be examined and, if necessary, the spot visited by an assistant commissioner, or an engineer or surveyor, who shall report whether in his judgment the improvements as proposed to be effected will be effected in a substantial and durable manner, and, in the case of farm buildings, whether the same, or the improvements thereof or additions thereto, will be suitable to the locality; and no improvement shall be commenced or proceeded with until the specifications and plans or drawings aforesaid shall have been approved by the commissioners: but nothing herein contained shall render necessary the re-delivery, re-examination, or re-approval of any detailed specifications, plans or drawings which may have been delivered in connection with the application for the commissioners' sanction to the general scheme of the improvements, and may have been approved in connection with that sanction.

Adjoining lands, or easements over them, may be sold for purpose of improvements, and conveniences over adjoining lands for the execution of improve-

32. All persons interested in any lands adjoining or near to the land improved or proposed to be improved, and being, as to lands in England or Ireland by the provisions of "The Lands Clauses Consolidation Act, 1845," and as to lands in Scotland by the provisions of "The Lands Clauses Consolidation (Scotland) Act, 1845," enabled to sell and dispose of such lands so adjoining or near, or any estate or interest therein, may, for the purpose of any improvements authorized by this Act, sell and convey or grant to the landowner whose land has been or is proposed to be improved such lands so adjoining or near, or any part thereof, or any easement, authority or right in, through, over or affecting the same, and any such land, easement, authority or right so sold and conveyed or granted shall thereupon become appurtenant to or pertinent of the lands improved or proposed so to be, and with reference to the improvements whereof the same was pur-

27 & 28 Vict. c. 114.

ments contracted for.

chased, and shall be held upon and subject to the same uses, trusts, charges and incidents; and all such persons as aforesaid may also make any agreement with the landowner, or with any person or company that shall have contracted for the actual execution of the improvements, or their respective agents, with reference to entering on, cutting through or into, or prejudicially affecting such lands so adjoining or near; and every such sale, conveyance, grant and agreement shall be valid and effectual accordingly, and the price or consideration shall be settled by two surveyors or a surveyor to be appointed by them in manner provided by the ninth section of "The Lands Clauses Consolidation Act, 1845," or, as the case may be, by the ninth section of "The Lands Clauses Consolidation (Scotland) Act, 1845," and shall be deposited as directed by the same respective sections, and thenceforth become subject to the provisions of the same respective Acts.

Works necessary to be made on adjoining lands for execution of improvements may be made under certain Acts.

33. Whenever the commissioners shall think that it may be expedient, in order to obtain or improve an outfall for draining or warping any lands under this Act, or otherwise with a view to the improvement of any lands under this Act, to enter and execute any works upon any land adjoining or near to the land proposed to be improved, where, by reason of the objection or disability of any owner, lessee or occupier of such land, such works could not be otherwise executed, proceedings may be taken, if the said lands shall lie in England, either under the provisions of the Act of the tenth and eleventh years of the reign of her present majesty, chapter thirty-eight, intituled "An Act to facilitate the Drainage of Lands in England and Wales," or under those of the third part of "The Land Drainage Act, 1861," and, if in Scotland, under the provisions of the Act of the tenth and eleventh years of the reign of her present majesty, chapter one hundred and thirteen, intituled "An Act to facilitate the Drainage of Lands in Scotland," but as though in such Act the inclosure commissioners for England and Wales had everywhere been named in place of the sheriff; and if such proceedings shall have been taken before the sanction of the improvements in question by the commissioners under this Act, the commissioners may, by their order sanctioning such improvements, declare the works in respect of which they shall have been taken to be expedient, and such works shall then be deemed to have been authorized by the commissioners or by the sheriff, as the case may be, and the provisions of the said respective Acts shall apply to them accordingly.

Provisional order to protect from impeachment of waste, and to authorize getting materials from land, &c.

34. Every provisional or modifying order shall be a full authority to the landowner or successive landowners and their representatives in the respective cases hereinbefore defined and to all persons employed by or under contract with him or them respectively, to enter upon the lands to be improved, and any adjoining or neighbouring lands acquired or authorized to be entered under either of the two last preceding sections, and to execute in and on the same, without impeachment of waste by any remainderman or reversioner, all the improvements sanctioned by the same order according to the specifications and plans or drawings approved by the commissioners, and to do, execute and use all such acts, works and conveniences as may be proper for making, maintaining and using such improvements; and for the purpose of effecting any improvement under this or the recited Acts it shall be lawful to get and work freestone, limestone, clay, sand and any other mineral or substance out of the land to be improved for charged, and to make tramroads and other ways, and to burn and make bricks, tiles and other things to be used in effecting such improvements, and also for the same purpose to cut down and use any timber or trees not planted or serving for shelter or ornament.

Saving rights of the crown.

35. Nothing in this Act contained shall authorise any person to purchase, take, use or interfere with, or the commissioners to make any order with respect to any land, soil or water, or any right in respect thereof, belonging to her majesty in right of her crown, without the previous consent in writing of the commissioners for the time being of her majesty's woods, forests and land revenues, or, if the property should be under the management or control of her majesty's commissioners of works and public buildings, without the consent in writing of such last-mentioned commissioners, which consent the said respective commissioners are hereby authorized to give; and nothing in this Act contained shall divert, alter or affect any of the rights, powers or estates vested in her majesty in right of her crown.

Saving rights of the commissioners of her majesty's works, &c.

36. Nothing in this Act contained shall authorize any person to purchase, take, use or interfere with, or the commissioners to make any order with respect to any land, soil or water, or any right in respect thereof, the management or control of which may be vested in the commissioners of her majesty's works and public buildings on behalf of or in trust for her majesty or the public, without the consent in writing of the last-mentioned commissioners, which they are hereby authorized to give.

Saving rights of duchy of Cornwall.

37. Nothing in this Act contained shall authorize any person to take, use, enter upon or interfere with any land, soil or water, or any rights in respect thereof, belonging to the sovereign for the time being in right of the duchy of Cornwall, without the consent in writing of some two or more of the regular officers of the said duchy, or of such other persons as may be duly authorized under the provisions of "The Duchy of Cornwall Management Act, 1863," section thirty-nine, to exercise all or any of the rights, powers, privileges and authorities by the said Act made exercisable or otherwise for the time being exerciseable in relation to the said duchy, or belonging to the duke of Cornwall for the time being, without the consent of such duke testified in writing under the seal of the duchy of Cornwall, first had and obtained for that purpose, or to take away, diminish, alter, prejudice or affect any property, rights, profits, privileges, powers or authorities vested in or enjoyed by the duke of Cornwall for the time being, or in or by the sovereign for the time being in right of the duchy of Cornwall.

38. Nothing in this Act contained shall authorize any person to purchase, take, use, or interfere with any lands, soil or water, or any right in respect thereof, belonging to her majesty, her heirs or successors, in right of the duchy of Lancaster, without the previous consent in writing of the chancellor of the said duchy of Lancaster, which consent such chancellor is hereby authorized to give, or to take away, lessen, prejudice or alter any of the rights, privileges, powers or authorities vested in or enjoyed by her majesty, her heirs or successors, in right of the said duchy of Lancaster. 27 & 28 Vict. c. 114. Saving rights of duchy of Lancaster.

39. Nothing in this Act contained shall authorize any person to purchase, take, use or interfere with any land, soil or water, or any right in respect thereof, or to take away, lessen, prejudice or alter any of the rights, privileges, powers or authorities vested in or enjoyed by the lord high admiral, or the commissioners for the time being for executing the office of lord high admiral (hereinafter designated the admiralty), or vested in or enjoyed by the lords of the committee of her majesty's privy council for trade and foreign plantations (hereinafter designated the board of trade), without the previous consent of the admiralty signified in writing under the hand of the secretary of the admiralty (which consent the admiralty are hereby authorized to give) or, as the case may be, without the previous consent of the board of trade signified in writing under the hand of one of the secretaries of the said board. Saving rights of the admiralty, and of the board of trade.

40. With respect to any harbour, port, bay, estuary or navigable river or part thereof, comprised in any notice from time to time given by the admiralty under section nine of "The Harbours Transfer Act, 1862," previously to commencing any work below high-water mark there shall be deposited at the admiralty office plans, specifications and working drawings thereof for the approval of the admiralty, such approval to be signified in writing under the hand of the secretary of the admiralty, and with respect to all other parts where the tide flows, previously to commencing any work below high-water mark there shall be deposited at the office of the board of trade plans, specifications and working drawings thereof for the approval of the board of trade, such approval to be signified in writing under the hand of one of the secretaries of the said board, and any such work shall be constructed only in accordance with such respective approval; and when any such work shall have been commenced or constructed, it shall not be lawful at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like respective consent and approval; and if any such work shall be commenced or completed, or be altered, extended or constructed contrary to the provisions of this Act, it shall be lawful for the admiralty or the board of trade, as the case may require, to abate, alter and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the person or company that executed the said work, the amount of which cost and charge shall be a debt due from such person or company to the crown, and be recoverable accordingly, with costs of suit. Plans to be deposited with admiralty before commencing works below highwate mark.

41. If at any time or times it shall be deemed expedient by the admiralty or the board of trade, as the case may require, to order a local survey and examination of any embankment or work proposed to be constructed under the powers of this Act in, over or affecting any tidal or navigable water or river, or of the intended site thereof, the landowner shall defray the cost of every such local survey and examination, and the amount thereof shall be a debt due to her majesty from the landowner, and if not paid upon demand may be recovered as a debt due to the crown, with the costs of suit, or may be recovered with costs as a penalty is or may be recoverable from the landowner. Landowner to pay expenses of survey ordered by admiralty.

42. Nothing in this Act contained shall authorize any person to purchase, take, use or interfere with any land, soil or water, or any right in respect thereof, or to take away, lessen, prejudice or alter any of the rights, privileges, powers or authorities vested in or enjoyed by her majesty's principal secretary of state for the war department for the time being, without the previous consent of the same principal secretary signified in writing under his hand, which consent the said principal secretary for the time being is hereby authorized to give. Saving rights of her majesty's principal secretary of state for war.

43. Nothing in this Act contained shall take away, lessen, prejudice or alter any of the rights, privileges, powers or authorities vested in or to be discharged by any commissioners of sewers appointed by any commission under the great seal or under the seal of the duchy of Lancaster, or in or by any other lawful commission of sewers, or the commissioners appointed under any local or private Acts of Parliament for sewers or drainage; nor shall any work be done which in any way interferes with any sewers, drains or watercourses under the control of any commissioners of sewers; and no new sewers, drains, watercourses or works of drainage shall be made or done under the powers of this Act within the district and jurisdiction of any such commissioners, unless the same be previously approved by those commissioners; and all such works shall be carried on and completed under the direction and control of the same commissioners and their officers; and all sewers, drains, watercourses and works of drainage made under this Act within the district and jurisdiction of any commissioners of sewers shall be and remain subject in all respects to the jurisdiction of those commissioners; and whenever any works under this Act would intersect or interfere with any sewer, drain or watercourse under the control of any such commissioners, the person or company executing the same shall, before any such works be made, construct such proper sewers or works of drainage and also comply with such orders and regulations, as those commissioners shall require or make to guard against injury to the drainage of the district. Rights of commissioners of sewers saved.

44. All works executed under the authority of this Act in or connected with the river Thames, or the towing-path thereof within the jurisdiction of the conservators of the river Thames, shall, in addition to the approval of such works by the admiralty, so far as Works connected with Thames to

27 & 28 Vict. c. 114.

be executed under direction of conservators of Thames.

herainbefore made necessary, be executed according to a plan to be approved of by such conservators, and to be deposited at their office; and such works shall be executed and performed to the satisfaction of the engineer for the time being of such conservators; and nothing herein contained shall extend to prejudice or derogate from the estates, rights, interests, liberties, privileges or franchises of the conservators of the river Thames, or to prohibit, defeat, alter or diminish any power, authority or jurisdiction which at the time of the passing of this Act the said conservators did or might lawfully claim, use or exercise.

Metropolitan board of works, &c. protected.

45. Where any of the intended works to be done under or by virtue of this Act shall or may pass over, under or by the side of, or so as prejudicially to interfere with, any sewer, drain, watercourse, defence or work under the jurisdiction or control of the metropolitan board of works, or of any vestry or district board constituted under the "Metropolis Local Management Act, 1855," or any sewers or works to be made or executed by any such board or vestry, or shall or may in any way prejudicially affect the sewerage or drainage of the districts under the control of any such board or vestry, the person or company executing such works shall not commence the same until he or they shall have given to the said metropolitan or district board or vestry, as the case may be, fourteen days' previous notice in writing of his or their intention to commence them, by leaving such notice at the principal office of such board or vestry, as the case may be, for the time being, with a plan and section showing the course and inclination of the intended works, and other necessary particulars relating thereto, and until such board or vestry respectively shall have signified their approval of the same, unless such board or vestry, as the case may be, do not signify their approval, disapproval or other directions within fourteen days after service of the said plan, sections and particulars as aforesaid; and such person or company shall comply with and conform to all directions and regulations of the respective board or vestry in the execution of the said works, and shall provide any new, altered or substituted works in such manner as such board or vestry may deem necessary for the proper protection of the sewers and works hereinbefore referred to, and for preventing injury or impediment thereto by or by reason of the said intended works or any part thereof, and shall save harmless the said metropolitan or district board or vestry respectively against all and every expense to be occasioned thereby; and all such works as may be so required shall be done by or under the direction, superintendence and control of the engineer or other officer or officers of the said metropolitan or district board or vestry, as the case may be, at the costs, charges and expenses in all respects of the landowner; and when any new, altered or substituted works as aforesaid, or any works of defence connected therewith shall be completed under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the said boards and vestry respectively as any sewers or works now are or hereafter may be; and nothing in this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or authorities vested or to be vested in the said boards and vestries, or any of them, or their successors, but all such rights, powers and authorities shall be as valid and effectual as if this Act had not been passed.

Water companies and commissioners protected.

46. Nothing in this Act contained shall authorise any person to take, otherwise than by agreement, any land of any waterworks company or waterworks commissioners, or to alter or interfere with any works or property of any such company or commissioners, without their previous consent in writing, or to authorise any person to foul or otherwise injuriously interfere with or affect any stream or supply of water which any waterworks company or waterworks commissioners are authorised to use for the purposes of their undertaking.

Rivers, canals, &c., protected.

47. All works executed under the authority of this Act in or connected with any river, canal, or inland navigation, or the banks or towing-paths or works thereof, vested in or under the jurisdiction or management of any corporation, conservators, trustees, commissioners, undertakers or individuals, or in respect of the navigation whereon or the use whereof any such corporation, conservators, trustees, commissioners, undertakers, or individuals are entitled by virtue of any Act of Parliament to the receipt of any tolls or other dues, shall be executed according to a plan to be approved by such corporation, conservators, trustees, commissioners, undertakers, or individuals, and to be deposited at their office, and such works shall be executed, maintained, and performed to the reasonable satisfaction of the engineer for the time being of such corporation, conservators, trustees, commissioners, undertakers, or individuals; and nothing in this Act contained shall prejudice or derogate from the estates, powers, rights, interests, liberties, privileges, or franchises of such corporation, conservators, trustees, commissioners, undertakers, or individuals, or prohibit, defeat, alter, or diminish any right, power, authority, or jurisdiction which, at the time of the passing of this Act, such corporation, conservators, trustees, commissioners, undertakers, or individuals did or might lawfully claim, use, or exercise.

Commissioners may inspect works.

48. The commissioners shall, if and as they see occasion, cause any improvements in progress under this Act to be inspected by a commissioner or assistant commissioner, or an engineer or surveyor, to ascertain the due execution thereof.

Charges for Improvements.

And with regard to charges for improvements under this Act, BE IT ENACTED as follows:

Commissioners to execute

49. When the commissioners are satisfied that the improvements sanctioned by them, or some part thereof, have been properly executed, either according to the specifications and plans or drawings approved of by them, or with such deviations therefrom as in their judgment will not diminish the permanent benefit accruing from such improvements to

the lands wherein they have been made, they shall execute a charge under their hands and seal upon the inheritance or fee of the lands comprised in the provisional or other sanctioning order, or some sufficient part thereof, for the sum by the same order expressed to be chargeable in respect of such improvements, if all the said improvements have been completed, or for a proportional part of such sum if a part only of the said improvements has been executed, together, in either case, with the interest by the same order expressed, and with the amount (if any) which shall have been paid in respect of the purchase of adjoining lands, or of any easement, authority or right in, through, over, or affecting adjoining lands, with interest thereon at the like rate.

charge on completion of works, or of some part thereof.

50. If the landowner is desirous that the inheritance or fee of the lands improved should be charged with the expenses of and incident to his application to the commissioners, or his contract with any company or person relating to the execution of the improvements, or to the advance of money for their execution, the commissioners may ascertain the amount of the costs, charges, and expenses properly incurred preparatory or in relation to and consequent on such contract, and the application to the commissioners or either of them, and may include in the principal money charged on the inheritance or fee of such lands as the amount of such costs, charges, and expenses, and of the settled or taxed costs, if any, which a court or judge shall have ordered as aforesaid to be deemed and taken to be part of the expenses of and incident to the application for improvements, or such part thereof as the commissioners think fit; and the commissioners may also include in such principal money interest at a rate not exceeding five pounds per centum per annum on all payments forming part of the same principal money from the respective dates of such payments to that of the absolute order, but so that no interest shall be allowed on any such payment for more than six years; provided that the total amount of the principal money to be charged on the lands improved under the provisions of this Act shall not in any case exceed that to which, in the opinion of the commissioners, the inheritance or fee of the lands improved will be durably benefited by the improvements.

Expenses of application and certain contracts may be included in charge.

51. Every charge under this Act shall be created by way of rentcharge, payable half-yearly, extending over the term of years fixed by the provisional or other sanctioning order, and the first payment thereof to be made six months after the time when the works in respect of which the same was granted were executed to the satisfaction of the commissioners; and the payment for each half year shall be, and be expressed to be, as to part thereof a repayment of a certain amount of principal money, and as to the remainder thereof a payment of interest; and the charge shall be duly stamped for denoting payment of the proper ad valorem stamp duty which would be payable on a mortgage for securing the like amount as the principal money thereby charged, and shall be called an absolute order; and a copy of every such absolute order shall be authenticated by the seal of the commissioners, and shall be kept by them; and such copy, and any copy thereof authenticated by their seal, shall be evidence of the contents and purport of the same absolute order.

The charge to be by way of rentcharge created by absolute order;

52. Charges under this Act shall be made according to the form in the schedule (B.) hereto annexed, or as near thereto as the circumstances of the case will admit.

and may be made according to form in schedule (B.)

53. Whenever, by assignment, under the twenty-sixth section hereof or otherwise, a company having power to execute or advance money for the improvement of land shall become entitled to the creation of any charge under either the forty-ninth or the seventy-eighth section hereof, the commissioners shall, if required, but subject to the provisions hereinbefore contained, create such charge in the form of, and so that it may also operate as, an absolute or other corresponding order under the Act or Acts applying to such company.

Expenditure made under this Act may be charged under Acts of improvement companies.

54. Any company authorised by Act of Parliament to execute or advance money for the improvement of land, by giving notice to the commissioners of their intention to avail themselves of any of the powers given by this Act, shall be held to have adopted the same, and thenceforth all the procedure of such company shall be carried on under and in accordance with this Act only; and any such company which shall adopt this Act as hereinbefore provided may, with the sanction of three-fourths of the shareholders present at an extraordinary meeting of the company specially convened for the purpose, execute or advance money for the execution of any improvement authorised by this Act in any part of the united kingdom, although not so authorised by any Act or Acts relating to the company.

Improvement companies may exercise the powers of this Act, on conforming to its procedure.

As also companies authorised to execute improvements in the united kingdom.

55. The execution of the absolute order by the commissioners shall be conclusive evidence in all courts, and for all purposes, of the validity of the charge thereby expressed to be made, and no inquiry shall be permitted either into the title or estate of the landowner, or into the due performance of anything required to be done by this Act, or as to any other matter on which the validity of such charge might but for this enactment have depended.

Absolute order to be conclusive evidence of charge.

56. A memorial of every absolute order of the commissioners whereby a rentcharge is created on land in England and Wales, in pursuance of this Act, shall be registered at the office of the land registry in England, and a memorial of every absolute order of the commissioners whereby a rentcharge is created on land in Ireland, in pursuance of this Act, shall be entered in the proper office for the registration of deeds and wills, and such memorials respectively shall express and contain the date of the order, the name and address of the landowner, the particulars of the lands charged, the amount of the rent-

Registry of rentcharge in Ireland, Middlesex, Yorkshire, and Scotland.

27 & 28 Vict. c. 114.

charge, and the period during which the same shall be made payable; and the production of the absolute order, sealed with the seal of the commissioners, shall be a sufficient authority to the registrar for the entry of such memorial at the proper registry office; and all grants of rentcharges on lands in Scotland shall be registered in the general or particular register of sasines: Provided that every rentcharge to which the present clause applies shall have priority as hereinafter declared, any law or usage to the contrary notwithstanding.

Landowner may borrow the amount of certain public assessments, and charge same on inheritance;

57. Whenever by or under the provisions of any Act of Parliament, royal charter, or commission under the great seal or the seal of the duchy of Lancaster any public or general works of drainage or other improvements shall be required or authorised to be executed, and the costs thereof shall be directed or authorised to be assessed or charged upon the inheritance of the lands improved, then any landowner who shall, under such Act, charter or commission, have been assessed, and shall have become liable to pay any sum of money so chargeable for or towards such works and improvements, or any of them, in respect of his land, may apply to the commissioners to sanction the money so assessed being charged upon the land in respect of which such landowner shall have been so assessed; and if the commissioners shall be satisfied that the works or improvements have been executed in accordance with the requirement or authority in such Act, charter, or commission contained, they may, after the money shall have been duly paid by such landowner, by an absolute order within the meaning of the fifty-first section hereof, charge upon the inheritance or fee of the land in respect of which such landowner shall have been so assessed the amount so assessed and paid, or such part of it as the commissioners may be willing to sanction to be repaid with interest.

In form specified, together with costs of application.

58. Such absolute order and charge may be made in any form and for any term permitted by this Act, and all the provisions hereof shall apply thereto in the same manner and with the same effect and operation in all respects as if such order and charge had been made in respect of improvements upon the said land executed under the powers of this Act; and if the landowner is desirous that the inheritance or fee of the said land should be charged with the costs, charges, and expenses of and incident to the said application and order, or any contract connected therewith, the provisions of the fiftieth section hereof shall extend and apply to the present case in the same manner as to the costs, charges, and expenses of the application and contracts in the said fiftieth section mentioned.

Grantee to have charge for principal money from time to time unrepaid, with priority over other incumbrances.

59. From the date of the absolute order, the grantee thereof, and his executors, administrators, successors, and assigns, shall have a charge on the lands therein comprised for the principal money from time to time remaining undischarged, by payment of the rentcharge, with interest, at the rates in the several cases hereinbefore respectively expressed, and such charge shall have priority over every other then existing and future charge and incumbrance affecting such lands or estates and interests respectively, whether created under the powers of any Act of Parliament or otherwise, except quit rent, crown rents, chief rents, feu duties, ground annuals, and other charges incident to tenure, tithe commutation rentcharges, and teinds, charges created or to be created under any Act authorising advances of public money for the improvement of land, and any charges created under this Act or charges of prior date created under any other existing Act of Parliament authorising the charging of lands with the expense of and incident to their improvement; Provided that in case a part only of the land charged is subject to a mortgage or other incumbrance, the charge created under the authority of this Act shall have priority over the mortgage or other incumbrance only to the extent of a due proportion of such charge, when and so soon as the same shall be ascertained under and pursuant to the sixty-sixth section of this Act.

Charges to be personal property, but money authorised to be invested on real security may be invested therein, or on mortgages thereof.

60. Every charge under this Act shall, as regards the holder thereof, be deemed to be personal property, except that any holder of such a charge, who shall desire to extinguish the same by reuniting it to the land charged, shall have power for that purpose to direct by any deed that it shall be reunited to and merge in the beneficial interest in the said land, as if it were of the same nature and tenure therewith; but all trustees, directors, and other persons, who may be directed or authorised to invest any money on real security shall (unless the contrary be provided by the instrument directing or authorising such investment) have power, at their discretion, to invest money in such charges or on mortgages thereof.

Charges not to preclude trustees from investing in purchase or on mortgage of lands.

61. No charge on land made by any absolute order by virtue of this Act shall be deemed such an incumbrance as shall preclude a trustee of money, with power to invest the same in the purchase of land or on mortgage, from investing it in a purchase or upon a mortgage of the land so charged, unless the terms of his trust or power expressly provide that the land to be so purchased or taken in mortgage be not subject to any prior charge.

Proprietor of Scotch entailed estate may avail himself of Act, and rentcharge to be charge on such estate.

62. No proprietor of an entailed estate in Scotland shall be held to have contravened the conditions of the entail by reason of his having availed himself of the provisions of this Act, and no rentcharge imposed or created on any entailed lands in Scotland under the authority of this Act shall be made use of as a ground for adjudging, selling, or evicting such lands, or any part thereof, contrary to the provisions and conditions of the entail, but every such rentcharge shall be a good and effectual charge upon and against such entailed lands to every other effect, and upon and against the rents and profits thereof.

27 & 28 Vict. c. 114.

63. Every rentcharge on land by virtue of this Act may be recovered by the person or company for the time being entitled to the same, as to the lands in England or Ireland, by the same means, and with the like powers, and in like manner in all respects as a rentcharge in lieu of tithes would be recoverable if charged on the same land under the Act of the seventh year of king William the fourth for the commutation of tithes in England and Wales, or under the Act of the first and second years of the reign of her present majesty to abolish compositions for tithes in Ireland and to substitute rentcharges in lieu thereof, and the several Acts passed for amending the same, as the case may be, and as if such rentcharge by virtue of this Act were a rentcharge in lieu of tithes made payable to such person or company under the said Acts respectively, and as to lands in Scotland by the same means and in the like manner in all respects as any feu duties or rent or annual rent or other payment out of the same lands would be recoverable.

Rentcharges to be recoverable as tithe rentcharges or feu duties.

64. If any rentcharge payable under this Act shall be in arrear, such arrear shall not bear interest for a longer period than six months, but interest at five pounds per centum per annum in respect of the same, for any period not exceeding six months, may be recovered in the same manner as the sum in arrear: Provided that if, at the expiration of six months from the time of any payment falling into arrear, there shall not be upon the land charged a sufficient distress to answer and satisfy the said payment and interest thereon for the said period of six months, together with the costs and charges of such distress, then the arrears of such payment shall continue to bear interest at the rate of five pounds per centum per annum until payment or satisfaction thereof, and such interest may be recovered in the same manner as the sum in arrear.

Interest on arrears of rentcharges.

65. The grantee or other person for the time being entitled to any rentcharge created under this Act may assign the same by deed duly stamped, and wherein the consideration is truly stated; and such assignment may be according to the form in schedule (C.) to this Act annexed, or to the like effect; and all assignments made in such form, or as near thereto as the circumstances of the case will admit, shall be effectual to vest, both at law and in equity, the charge thereby assigned, and all the powers, authorities, rights, and remedies of the assignor with reference to such charge, in the assignee, his successors, executors, administrators, and assigns respectively, and notice of such assignment shall be sent to the commissioners at their office in London.

Assignment of charges.

66. Every landowner on whose land a charge shall have been made under this Act, and every succeeding tenant for life, tenant in tail, and other person having a limited interest in the land so charged, shall, as between himself and the persons in remainder or reversion, be bound to pay the yearly or other periodical payments of such charge which shall become payable during the continuance of his interest; and in case he be in the actual occupation or entitled to an apportioned part of the rents and profits of such land up to the time of the termination of his interest, he shall also be bound to pay an apportioned part of the yearly rent or other periodical payment of such charge which shall become due next after the termination of his interest, proportional to the time which elapsed between the day for the previous payment and the day of such termination: Provided that no person becoming entitled in possession to any estate or interest in the land shall be liable, as between himself and the persons entitled to the rentcharge, to pay any arrears of the charge remaining unpaid at the time of his becoming so entitled in possession beyond the amount of two years payment of such charge: provided also, that the amount paid by any person in respect of such arrears, and any costs occasioned by non-payment thereof, shall be a debt from the person who in the first instance ought to have paid the same, or from his estate, to the person who paid the same, and shall be recoverable accordingly.

Tenants for life to keep down rentcharges.

67. If any tenant or occupier at a rent join in the application for an improvement, or by writing under his hand signify to the commissioners, or to an assistant commissioner or engineer, his consent to become charged with the charge, or an apportioned part thereof as hereinafter mentioned, such tenant or occupier shall during his tenancy or occupation be liable to pay the charge, or an apportioned part thereof as hereinafter mentioned; and in case the charge be made in respect of the improvement as well of other land as of the land included in such tenancy or occupation, the commissioners may, upon such consent of the tenant or occupier, declare in the absolute order what portion of the whole charge payable in respect of the improvement shall be payable by such tenant or occupier during his tenancy or occupancy in respect of the probable improvement of the land included in his tenancy or occupation; but, except as aforesaid, every tenant or occupier who pays such charge shall be entitled to deduct the amount thereof from the rent payable by him to the landowner, and shall be allowed the same in account with him.

Tenant may deduct rentcharge, unless he has agreed to pay it.

68. If at any time land charged under this Act, or under any other Act authorising the creation of charges by the commissioners, is occupied in separate farms or other holdings, or has become the property of separate owners, or the owner thereof is entitled thereto under separate titles or for distinct and separate interests, or is desirous to sell or dispose of part of such land, or part only of such land is subject to any mortgage or other incumbrance, or for any other reason it would be desirable that the charge should be apportioned or a part of the land charged released therefrom, the commissioners may, with the consent of the landowner, or if the land has become the property of separate owners, or a part thereof is subject to any mortgage or incumbrance, then upon the application of any one of such owners, or of such mortgagee or incumbrancer, but in every case with due notice to the grantee or assignee of the charge, or the husband, guardian, tutor, curator, committee, or trustee of such grantee or assignee, if a married woman, infant, lunatic,

Rentcharges may be apportioned, or part of the land charged released therefrom.

27 & 28 Vict. c. 114.

idiot, or furious or fatuous person, and to such other parties (if any) as the commissioners think right, either release from such charge any part of the land charged therewith, or apportion such charge so that a separate and distinct charge may become charged on each separate farm or holding, or on the land of each landowner, or on the land held under each separate title or for each distinct and separate interest, or on the part or each part which the landowner is desirous to sell or dispose of and the part intended to be retained by him, or on the part subject to such mortgage or other incumbrance and on the residue, or on any other separate parts of the land, but so that no charge charged under such apportionment shall be less than twenty shillings for each half-yearly payment: Provided that no lands shall in consequence of any such apportionment or release, become charged with any greater amount than that to which, in the opinion of the commissioners, they have been durably benefited by the improvements in respect of which such charge was created.

Form, registry, and effect of orders of apportionment and release.

69. Every such apportionment or release shall be made by an order under the hands and seal of the commissioners, and shall be in the form set out in schedule (D.) or (E.) to this Act, as the case may be, or as near thereto as circumstances will permit, and as to lands in England and Wales, or in Ireland or Scotland, shall be registered in the manner mentioned in the fifty-fourth section hereof, or as near thereto as circumstances will permit; and a copy of every such order shall be authenticated by the seal of the commissioners, and shall be kept by them; and such copy, or any copy thereof authenticated by their seal, shall be conclusive evidence in all courts and for all purposes of the contents and purport of the same order, and of the validity of the apportionment or release thereby expressed to be made; and such order shall take effect from the date thereof, subject to the continuance of all rights and remedies for the recovery of moneys which before the date thereof may have become payable out of any lands under the charge so apportioned or released.

Charges apportioned, or from which part of the lands have been released, to be deemed original charges.

70. Every charge apportioned or released as aforesaid shall be recoverable out of the lands on which the same is charged by the order of apportionment, or which shall not by the order of release be released therefrom, in the same manner as if the same had been originally charged on such lands respectively, and shall, for all the purposes of this Act or of the Act under which the original charge was created, be deemed to be an original charge on such lands by absolute order.

Several charges may be dealt with in one order of apportionment or release.

71. Where any lands are charged by more than one absolute order, any order of apportionment or release under the preceding sections hereof may comprise all or any number of the rentcharges existing by virtue of such absolute orders.

Upholding Improvements.

And with regard to the upholding improvements under this Act, BE IT ENACTED as follows:

Improvements to be upheld, and condition thereof certified if required.

72. So long as any land shall continue charged with any charge hereunder, the person for the time being bound to make the periodical payments of such charge shall uphold the improvements and works in respect of which such charge is made, and shall keep clear and open the outfalls and watercourses of all the drains (if any), and shall, if required either by the commissioners or by any person who shall for the time being be interested in such charge under any assignment or mortgage thereof, once in every year certify to the commissioners the state of such improvements and works, and of such outfalls and watercourses (if any); and if such person shall not so keep and uphold such improvements and works, and such outfalls and watercourses (if any), or shall fell, or cause or knowingly permit to be felled, except in proper thinning, any trees planted under the authority of this Act as an improvement, he shall be liable to an action on the case, in the nature of an action of waste, for the damage thereby occasioned, at the suit of any person entitled to any estate in remainder or reversion in such lands.

Power to enter on neighbouring lands for repair of works, making compensation.

73. Every person for the time being bound to make the periodical payments of any charge may from time to time, by himself, his engineers, surveyors, agents, servants, and workmen, enter upon any lands in, through, or upon which any of the works have been executed, to ascertain the condition of the works, and to maintain and repair the same, nevertheless paying to the person for the time being enabled by this Act to sell or grant any easement in such lands, in case the parties differ about the same, such compensation as shall be determined by two justices or the sheriff, as provided by "The Lands Clauses Consolidation Act, 1845," or the "Lands Clauses Consolidation (Scotland) Act, 1845," for settlement by justices and sheriffs respectively of questions of disputed compensation: Provided that as to any lands adjoining or near the land improved, to which the provisions of the Acts of the tenth and eleventh years of the reign of her present majesty, chapters thirty-eight and one hundred and thirteen, and those of the third part of "The Land Drainage Act, 1861," are hereinbefore respectively made applicable, the powers of entry upon such lands for any of the purposes aforesaid shall be subject to and be regulated by the provisions of those Acts respectively.

Farmhouses, &c., to be insured; power to insure in case of default.

74. When any farmhouses, farm buildings, or works susceptible of damage by fire shall have been erected, improved, or added to under this Act, then, so long as any land shall continue charged under this Act in respect thereof, the person for the time being bound to make the yearly or other periodical payments of such charge shall insure and keep insured against damage by fire all such farmhouses, farm buildings, and works in an amount equal to the principal amount originally secured by such charge at the least; and

such person shall once in every year certify to the commissioners the fact of such insurance, and the particulars thereof, and that the premium and duty for such insurance for the year then current have been duly paid; and if such person shall not insure or keep insured such farmhouses, farm buildings, and works, or shall not duly certify the matters aforesaid, it shall be lawful for the person entitled to the charge for the time being, with the assent of the commissioners, to insure against damage by fire the said farmhouses, farm buildings, and works in an amount not exceeding the principal amount originally secured by such charge, and either in the name of the person by whom such default shall have been made, or in the name of the landowner mentioned in the absolute order, and thereafter to keep the same insured during the continuance of the said charge; and the person for the time being bound to make the periodical payments of such charge shall from time to time, on the day on which the next payment shall become due on the said charge, repay to the person for the time being entitled to the said charge any sums so paid by him for premium and duty on such insurance; and in default of such payment, the amount of such premium and duty, with interest thereon at the rate of five pounds per centum per annum for the time of such default, may be recovered by the last-mentioned person by the same means and in the like manner as if the same had been payable as part of the said charge. 27 & 28 Vict. c. 114.

75. If it shall be represented to the commissioners that the person for the time being bound to make periodical payments of any charge created under this or any other existing Act authorizing the advance of money for the improvement of land has neglected to uphold and maintain the improvements in respect of which the charge was executed, or any of them, the commissioners may, upon security being given for such an amount as they may consider necessary to cover any expenses that may be incurred by them, cause an inspection of the works to be made by an assistant commissioner, engineer, or surveyor. Inclosure commissioners may compel maintenance of improvements.

After such inspection, if the commissioners are satisfied that the improvements have not been upheld and maintained, they shall cause notice to be given to the person bound to make the said periodical payments requiring him to execute the works necessary to uphold and maintain the same within three calendar months from the time of giving such notice.

If such works shall not be executed to the satisfaction of the commissioners within such three months, they may cause such works as in their judgment shall be necessary to uphold and maintain such improvements to be executed by a person appointed by them.

The costs thereof, including the expenses of the assistant commissioner, engineer, or surveyor, shall be repaid by the person bound to make the said periodical payments to the person entitled to the charge, on request, and in default thereof the amount so certified may be recovered, with all expenses incidental to the recovery thereof, in the name of the person for the time being entitled to the charge, by the same means and in the like manner as if the same had been payable as part of the said charge.

76. If it shall be represented to the commissioners that it is not expedient or necessary that any works for the cost of which there shall be a subsisting charge, or any part of such works, should be upheld or maintained, the commissioners may, on having deposited with them a sum, to be fixed by them, to cover all expenses, cause the said works to be inspected by an assistant commissioner, engineer, or surveyor. Inclosure commissioners may give relief from maintenance of improvements.

If after such inspection and notice to the parties who were served with notice of the application to charge the land or their representatives, and such other persons, if any, as the commissioners may direct, the commissioners shall find and certify that it is not expedient or necessary that the works or any of them should be upheld or maintained, thereupon the person for the time being bound to make the said periodical payment shall be relieved from all liability in respect of the maintenance of the works referred to in the commissioners' certificate.

77. If any embankment or work constructed under the powers of this Act in, under, over, through, or across any tidal water or navigable river, or of any portion of any embankment or work which affects or may affect any such water or river, or the access thereto, shall be abandoned, or suffered to fall into disuse or decay, it shall be lawful for the admiralty or the board of trade, as the case may require, to abate and remove the same, or such part or parts thereof as he or they may at any time or times deem fit and proper, and to restore the site thereof to its former condition, at the cost and charge of the landowner, the amount of which cost and charge shall be a debt due from the landowner to the crown, and be recovered accordingly, with costs of suit. Admiralty may remove works abandoned or fallen into decay.

And with regard to charging lands with money subscribed for the construction of railways, BE IT ENACTED as follows: *Subscription to Railways.*

78. In case any landowner shall be desirous of subscribing for any shares or stock in the capital, whether original or additional, of a company having power to construct a railway or navigable canal, or any branch or extension railway or navigable canal, or any deviation of a line of railway or navigable canal already sanctioned, the works for which such subscription is to be made being unfinished, or in any additional capital to be raised for the completion of any such railway, canal, branch, extension, or deviation, the same being upon or near to and which will improve or benefit the lands of such landowner, and who shall be desirous that such amount, or any part thereof, may be charged upon the lands so to be improved, it shall be lawful for him to apply to the commis- Conditions for application to commissioners.

27 & 28 Vict. c. 114.

sioners for that purpose within the time limited by the railway or canal company's Act or Acts for the construction of the works in question.

Commissioners' proceedings on application.

79. If the commissioners shall think fit to entertain such application, they shall cause all such inquiries to be made, and take all such other steps, as shall seem to them expedient for obtaining information as to the circumstances; and all the provisions of the thirteenth, fourteenth, fifteenth, seventeenth, eighteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fifth and fifty-first sections of this Act shall apply to the case as though an improvement were to be made of the lands proposed to be charged.

Provisional order sanctioning charge.

80. If the commissioners shall be satisfied that the railway or canal, when constructed and open for traffic, will effect a permanent increase of the yearly value of the lands exceeding the yearly amount proposed to be charged thereon, they shall execute and deliver to the landowner a provisional order, under their seal and the hands of two of them, expressing their sanction of the charge proposed; and such order shall be made as near to the form set forth in the schedule (A.) to this Act as the circumstances will permit, and shall, with the right to a charge thereby created, be assignable by indorsement, either absolutely or by way of security, to any company or person that may agree to advance, by paying the same to the railway or canal company, the amount authorised to be charged, and notice of such assignment shall be given to the commissioners, and shall be registered by them.

Companies empowered to lend.

81. Every company empowered by Act of parliament to lend money for the improvement of land is hereby empowered to advance, by paying the same to the railway or canal company, any money authorised to be charged in manner aforesaid.

Commissioners' absolute order and its conditions.

82. When the railway or canal shall have been completed and opened throughout for public traffic, and as many shares in the capital of the railway or canal company subscribed for or held as aforesaid by the landowner as shall be equal in nominal amount to the money authorised to be charged shall have been fully paid up, and the certificates for such shares shall have been deposited by the landowner with the commissioners, the commissioners shall, by an absolute order under their hands and seal, execute to the landowner or his assignees a charge upon the inheritance or fee of the lands in question of the amount authorised as aforesaid to be charged, and may, if the landowner shall so desire, include with the principal money so charged, the costs, charges and expenses of the application and orders, and of any advance which may have been made to him of the amount authorised to be charged, and such settled or taxed costs and interest as mentioned in the fiftieth section hereof, subject nevertheless to the proviso in the same section contained.

Form and effect of absolute order.

83. Such absolute order shall be in the form in the schedule (B.) to this Act annexed, or as near thereto as the circumstances will permit, and all the provisions of this Act relating to absolute orders, whether in respect of the form or effect of such charges or orders or otherwise, except only the provisions for the apportionment and release of such charges, shall apply to absolute orders under the last preceding section as far as the circumstances admit.

Notice thereof to be entered in register of shareholders.

84. The landowner shall forthwith give notice to the railway or canal company of the execution of such absolute order, and of the deposit of such certificates with the commissioners, and thereupon the company shall make an entry or memorial in their register of shareholders with respect to such shares of the fact of such absolute order having been executed.

Person liable to pay charge to be entitled for the time being to the shares,

85. From the time of such notice, and during the whole term of the charge created by such absolute order, the person who for the time being shall be bound to make the periodical payments of such charge shall be entitled to the said shares, and if the same shall not at the time being be registered in his name, the person registered as the holder thereof shall, as between himself and the person so entitled, hold them in trust for such last-mentioned person.

and to have them stand in his own name.

86. The person so for the time being entitled may at any time require the person registered as the holder of the said shares, or his representatives, to transfer to him the said shares, and such transfer shall thereupon be made accordingly, but at the expense in all respects of the transferee; and upon the production of such transfer duly stamped, and of a certificate by the commissioners under their hands and seal that the transferee is the person at the time being bound to make the periodical payments of the said charge, the railway or canal company shall register such transfer.

Rights and duties of persons registered for the time being in respect of the shares.

87. With the exception of such transfers as may from time to time be made for the purpose of transferring the shares to the person so for the time being entitled thereto, the said shares shall not under any circumstances be transferred or disposed of by the registered holder, whether he be the person for the time being entitled thereto or not, during the term of the said charge; but during the term of such charge the registered holder for the time being of the said shares shall have all the other rights and powers of a shareholder in the railway or canal company in respect of the said shares; and the railway or canal company shall not be bound to see to the application of any dividend received by such registered holder, but as between himself and the person or persons for the time being entitled to such shares he shall hold any dividend which may be received by him in trust for the person who, at the time when such dividend became payable, was the person entitled to the said shares.

Entire shares to belong to

88. Whenever any person or those whom he legally represents as their executor or administrator shall have been bound to make, and shall have made, such and so many periodical payments of the charge as to repay thereby principal money which, in pro-

portion to the whole amount of principal money charged and the whole number of the said shares, shall correspond to any integral number of shares, with or without a fraction over, it shall be lawful for the commissioners, on the application of such person, made either during the term of the charge or within two years after its expiration, to certify that fact under their hands and seal, and by the same certificate to appropriate to such person certain specified shares to such integral number, and to deliver to him the corresponding share certificates; and upon the production to the railway or canal company of such certificate by the commissioners and share certificates, it shall be lawful for such person, if he shall not already be the registered holder, to require such shares to be transferred to him, and the railway or canal company shall make an entry or memorial on their register of shareholders of such shares being freed from the provisions of this Act, or of the term of the charge having expired, as the case may be, and such shares shall thenceforward be held and transferred in the same manner as any other shares in the same company, but if the term of the charge shall not have expired, the three last preceding sections of this Act shall still apply to the residue of the shares to which the same charge shall relate.

parties in proportion to their payments, and to be released to them from time to time.

89. The shares composing the said residue shall at the end of two years after the expiration of the term of the charge belong to the person who shall have been bound to make the last periodical payment of the charge, or to his executors or administrators, on such payment being made; and the commissioners shall deliver to him or them the corresponding share certificates, and certify the title to the shares under their hands and seal in accordance with the above provision; and upon the production to the railway or canal company of the share certificates and such certificate by the commissioners, such person as aforesaid, or his executors or administrators, shall have the said shares transferred to him or them, so far as he or they shall not be already the registered holder or holders thereof; and the railway or canal company shall make an entry or memorial on their register of shareholders of the term of the charge having expired, and thenceforward the said shares shall be held and transferred in the same manner as any other shares in the same company.

Shares not claimed within two years from expiration of term to belong to person bound to make last payment of charge.

90. And whereas it is expedient that a table or tables of fees proper to be taken by the inclosure commissioners in respect of documents issuing out of their office by virtue of the provisions of this Act should be prepared: BE IT ENACTED, that it shall and may be lawful for the said inclosure commissioners to prepare or cause to be prepared a table or tables of fees, specifying what fees are proper to be demanded and taken in the office of the said inclosure commissioners in respect of any forms, orders or documents prepared in or issued from such office by virtue of the provisions of this Act; and such table or tables shall be laid before the commissioners of her majesty's treasury, who shall have power to revise and settle the same, and from time to time to alter or amend the same, as they may deem necessary and proper, and the said table or tables of fees, so revised, settled, altered or amended, from time to time to approve and allow; and the said inclosure commissioners are required, so soon and as often as each table or tables of fees shall have been approved and allowed, to cause the same to be inserted and published in the London Gazette, and from and after such publication, such fees may be legally demanded, and may be received and recovered, by any person appointed by the said inclosure commissioners to receive or recover the same.

Inclosure commissioners to cause a table of fees to be prepared and submitted to treasury for approval.

91. The said inclosure commissioners shall cause the fees received by them under the authority of this Act to be duly and regularly entered in one or more books to be kept for that purpose, distinguishing the fees received under their several heads, and shall render a true and faithful account thereof to the commissioners of her majesty's treasury at such times, and in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers, as the said commissioners of her majesty's treasury shall from time to time require; and the said inclosure commissioners shall from time to time, when required so to do by the said commissioners of her majesty's treasury, cause the amount of such fees to be paid into the receipt of the exchequer to the credit of the consolidated fund of the united kingdom of Great Britain and Ireland.

Officers to render account of fees received to the treasury;

to be paid over to the consolidated fund.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.).

(*Proper heading.*) *Provisional Order.*

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do by this order under their hands and seal sanction the proposed improvements expressed upon the terms and conditions that such improvements be executed in the manner mentioned or specified in the said contract, and at an expense not exceeding the sum of and do hereby declare and provisionally order that it is right and proper, and for the benefit of the parties interested in the lands mentioned in the schedule hereto, that the inheritance or fee of such lands should be charged

27 & 28 Vict. c. 114.

with the said sum of together with the costs, charges, and expenses preparatory or in relation to and consequent on the said contract and the application for this order, and that the same should, to the whole amount of such respective moneys [*or* should, to any amount not exceeding *as the case may be*], be charged in the manner following; (that is to say,) [*here express how the amount is to be repaid, with interest*].

In witness whereof they have hereunto affixed their hands and seal, this day of in the year of our Lord one thousand eight hundred and

SCHEDULE OF LANDS PROVISIONALLY CHARGED.

Name, &c. of Lands.	Land-owner.	Occupier.	Parish.	County.	Total Acreage.	Total Rental.

SCHEDULE (B.).

"The Improvement of Land Act, 1864."

County of parish of No. .

Absolute Order.

[*Here insert name of landowner*] of [*here insert address*] loan of pounds for th improvement of in the parish of in the county of .

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this absolute order under their hands and seal, charge the inheritance or fee of the lands mentioned in the schedule hereto with the payment to of the yearly sum of pounds shillings and pence, payable half-yearly on the day of and the day of in every year, for the term of years, and being a proportionate repayment according to the table annexed of the capital sum of pounds, with interest at per cent. per annum, the first half-yearly payment to be made on the day of .

Dated this day of 18 .

SCHEDULE OF LANDS CHARGED.

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.	Total Acreage.

TABLE.

Half-yearly Payments.	Proportionate Repayments of the Loan.	Interest at £ per Cent. per Annum.

SCHEDULE (C.).

(*Proper heading.*) *Assignment of a Charge.*

I, *A.B.*, *&c.*, in pursuance of "The Improvement of Land Act, 1864," hereby, in consideration of [*state the consideration*], assign to *C.D.* of, *&c.*, his executors, administrators, and assigns, the charge of the sum of £ , and interest at the rate of *&c.* [*or* the charge of *&c.*, *as the case may be*], which by virtue of the absolute order, No. [ ], executed by the inclosure commissioners for England and Wales, and dated, *&c.*, is an

absolute charge on the inheritance of the lands mentioned in the schedule hereto, and all the powers, authorities, rights, and remedies of with reference to such charge 27 & 28 Vict. c. 114

[*Here add such clauses and provisions, if any, as are agreed on between the parties.*]

As witness, *&c.*, this day of

(L.S.)

SCHEDULE OF THE LANDS CHARGED.

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.

SCHEDULE (D.).

Form of Order for apportioning Charges.

"The Improvement of Land Act, 1864."

County of parish of .

Whereas, by an absolute order under this Act, dated the day of , and numbered , the lands mentioned in the first and second schedules hereto were charged with the payment to of the yearly sum of payable half-yearly for the term of years:

And whereas, upon application made to them, the inclosure commissioners for England and Wales see fit to apportion the said charge:

Now therefore the said inclosure commissioners, in pursuance of "The Improvement of Land Act, 1864," do, by this order under their hands and seal, charge the inheritance or fee of the lands mentioned in the first schedule hereto with the payment to of the yearly sum of pounds shillings and pence, payable half-yearly on the day of and the day of in every year, for the term of years, being a proportionate repayment, according to the table to the same schedule annexed, of the capital sum of pounds, with interest at per cent. per annum, the first half-yearly payment to be made on the day of ; and do also charge the inheritance or fee of the lands mentioned in the second schedule hereto with the payment to of the yearly sum of pounds shillings and pence, payable half-yearly on the day of in every year, for the term of years, being a proportionate repayment, according to the table to the same schedule annexed, of the capital sum of pounds, with interest at per cent per annum, the first half-yearly payment to be made on the day of ; and do further release and exempt the said lands respectively from the respective residues of the said charge created by the above-mentioned absolute order.

Dated this day of

FIRST SCHEDULE.

Name, &c. of Lands	Landowner.	Occupier.	Parish.	County.	Total Acreage.

TABLE.

Half-yearly Payments.	Proportionate Repayments of the Loan.	Interest at £ per Cent. per Annum.

27 & 28 Vict. c. 114.

SECOND SCHEDULE.

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.	Total Acreage.

TABLE.

Half-yearly Payments.	Proportionate Repayments of the Loan.	Interest at £ per Cent. per Annum.

SCHEDULE (E.).

Form of Order for exempting Lands.

"The Improvement of Land Act, 1864."

County of parish of .

Whereas, by an absolute order under this Act, dated the day of , and numbered , the lands mentioned in the first and second schedules hereto were charged with the payment to of the yearly sum of , payable half-yearly for the term of years:

And whereas, upon application made to them, the inclosure commissioners for England and Wales see fit to release and exempt from such charge such of the said lands as are particularised in the first schedule hereto:

Now therefore the said inclosure commissioners, in pursuance of "The Improvement of Land Act, 1864," do, by this order under their hands and seal, release and exempt the said lands mentioned in the first schedule hereto from the charge created by the above-mentioned absolute order, and from all liability thereto, and do hereby declare that the said charge applies to and continues in force as to the lands particularised in the second schedule hereto only.

Dated this day of

SCHEDULE I. (Lands exempted.)

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.	Total Acreage.

SCHEDULE II. (Lands still subject to Rentcharge.)

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.	Total Acreage.

27 & 28 Vict. c. 114.

SCHEDULE (F.).

Vesting Order.

The inclosure commissioners for England and Wales, in pursuance of "The Improvement of Land Act, 1864," do, by this order under their hands and seal, in consideration of £ to them paid by *A. B.* of , transfer to and vest in the said *A.B.*, his executors, administrators, and assigns, shares of and in the railway or canal company, numbered , and now registered in the name of *C. D.*

In witness whereof they have hereunto affixed their hands and seal, this day of , in the year one thousand eight hundred and

LEASES.

27 & 28 Vict. c. 45. An Act to further amend The Settled Estates Act of 1856. [14th July, 1864.]

27 & 28 Vict. c. 45.

"Whereas by the tenth section of the Act passed in the parliament holden in the nineteenth and twentieth years of her majesty's reign, intituled 'An Act to facilitate Leases and Sales of Settled Estates,' it was enacted, that when the court of chancery should deem it expedient that any general powers of leasing any settled estates, conformably to the said Act, should be vested in trustees, it might, by order, vest any such power accordingly either in the existing trustees of the settlement or in any other persons, and that in every such case the court, if it should think fit, might impose any conditions as to consents or otherwise on the exercise of such power: And whereas, in order to protect the interests of persons interested in the settled estates affected by such powers, the practice of the said court has been to require that leases granted in pursuance of a power vested in any trustees or other persons under the provisions of the said tenth section of the said Act should be settled by the said court or by a judge therof, or otherwise should be made conformable with a model lease deposited in the chambers of the judge: And whereas the introduction of such a condition has been found to occasion delay and expense, and so to create great difficulties in carrying into execution the objects of the Act, and such conditions may in general be safely omitted, and it is therefore expedient that the said Act should be amended as hereinafter mentioned: BE IT THEREFORE ENACTED as follows:

19 & 20 Vict. c. 120.

1. In orders to be hereafter made under the said tenth section for vesting any powers of leasing in any trustees or other persons, no condition shall be inserted requiring that the leases thereby authorised should be submitted to or be settled by the said court or a judge thereof, or be made comformable with a model lease deposited in the judge's chambers, save only in any case in which the parties applying for the order may desire to have any such condition inserted, or in which it shall appear to the court that there is some special reason rendering the insertion of such a condition necessary or expedient.

Conditions that leases shall be settled by the court not to be inserted in orders under sect. 10 of recited Act.

2. In all cases of orders already made in pursuance of the said tenth section, in which any such condition as aforesaid has been inserted, it shall be lawful for any party interested to apply to the court to alter and amend such order by striking out such condition, and the court shall have full power to alter the same accordingly, and the order so altered shall have the same validity as if it had originally been made in its altered state; but nothing herein contained shall make it obligatory on the court to act under this clause in any case in which from the evidence which was before it when the order sought to be altered was made, or from any other evidence it shall appear to the court that there is any special reason why in the case in question such a condition is necessary or expedient.

Conditions already inserted may be struck out by court.

3. And whereas doubts are entertained whether in the construction of the first section (*a*) of the said Act the court is bound by the state of facts existing at the period of the settlement taking effect, or by the state of facts at the time of an application to the court under the said Act, and it is desirable that such doubts should be removed: BE IT ENACTED, that the said court, in determining what are settled estates within the said Act, shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the said settlement taking effect.

Removal of doubts as to construction of sect. 1 of recited Act.

4. This Act shall be construed and dealt with as part of the said former Act as amended by the Act of the twenty-first and twenty-second years of her majesty's reign, chapter seventy-seven (*b*), and all proceedings under this Act shall be subject to the same rules and orders, and shall be conducted in the same manner, as proceedings under the said former Acts.

Act to be construed with recited Act.

5. This Act shall extend to Ireland, but not to Scotland.

Extent of Act.

(*a*) Ante, Vol. III., p. 1238, tit. "LEASES." As to the meaning, see the cases, ib. n. (*a*); and see *In re Birtle*, 32 L. J., Ch. 439.

(*b*) Ibid., p. 1247.

LUNATICS.

26 & 27 Vict. c. 110.

26 & 27 Vict. c. 110. An Act to amend the Lunacy Acts in relation to the building of Asylums for Pauper Lunatics.

[28th July, 1863.]

16 & 17 Vict. c 97 (a).

"Whereas by 'The Lunatic Asylums Act, 1853,' the justices of every county and borough are required to provide an asylum for the reception of their pauper lunatics, but power is given to two or more counties and boroughs to unite together for the purpose of providing an asylum for their common use: And whereas by the said Act county is defined to include a county of a city or county of a town, and borough is defined to mean every borough, town, and city corporate having a quarter sessions, recorder, and clerk of the peace: And whereas by 'The Lunacy Acts Amendment Act, 1862,' it is provided that the word 'county' shall not, except in the case of the city of London, mean a county of a city or county of a town: And whereas certain counties of towns have quarter sessions, but such quarter sessions are not held by a recorder: And whereas at the date of the last-mentioned Act certain agreements were pending for the union, with a view to a common asylum, of certain counties, including counties of towns: And whereas it is expedient to confirm such agreements in certain cases, notwithstanding that by virtue of the last-mentioned Act a county of a town is no longer included under the term 'county,' and is by such exclusion rendered incapable of carrying into effect such agreement:" BE IT ENACTED as follows:

Confirmation of certain agreements between counties.

1. Where, in pursuance of "The Lunatic Asylums Act, 1853," an agreement for providing a common asylum has been duly entered into between divers counties, properly so called, and such agreement has been afterwards varied by the admission as a party thereto of a county of a city or county of a town, the original agreement shall be binding on the counties originally parties thereto, in the same manner as if no variation of such agreement had been made.

Explanation of sect 8 of 25 & 26 Vict. c 86 *

* See. Qy c. 111

2. Whereas by the eighth section (b) of "The Lunacy Acts Amendment Act, 1862," it is provided to the effect that it shall be lawful for the visitors of any asylum, and the guardians of any parish or union within the district for which the asylum has been provided, to make arrangements, subject to such approval as therein mentioned, for the reception and care in the workhouse of the parish or union of a limited number of chronic lunatics to be selected as therein mentioned: And whereas doubts are entertained whether the expression "chronic lunatics" therein mentioned includes lunatics chargeable to parishes or unions other than the parish or union into the workhouse of which they are proposed to be received: NOW IT IS HEREBY DECLARED, that the words "chronic lunatics" in the said section include chronic lunatics chargeable to other parishes or unions, as well as chronic lunatics chargeable to the parish or union into the workhouse of which they are proposed to be received.

Short title.

3. This Act may be cited for all purposes as "The Lunacy Acts Amendment Act, 1863."

27 & 28 Vict. c. 29.

27 & 28 Vict. c. 29. An Act to amend the Act Third and Fourth Victoria, Chapter Fifty-four, for making further Provision for the Confinement and Maintenance of Insane Prisoners.

[23rd June, 1864.]

3 & 4 Vict. c. 54 (c)

"Whereas it is expedient to amend an Act passed in the session of the third and fourth years of her majesty's reign, chapter fifty-four, intituled 'An Act for making further Provision for the Confinement and Maintenance of Insane Prisoners:'" BE IT ENACTED as follows:

Sect. 1 of recited Act repealed.

1. The first section of the said Act of the third and fourth years of her majesty's reign, chapter fifty-four, is hereby repealed.

Prisoners becoming insane, power to two justices to inquire, with medical aid, respecting such insanity.

2. If any person while imprisoned in any prison or other place of confinement under any sentence of transportation, penal servitude or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour or to keep the peace, or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices of the peace, or under any other than civil process, shall appear to be insane, it shall be lawful, if such person is confined in a prison to which visiting justices are appointed, for two or more of the visiting justices of such prison, or if such person is in any other place of confinement, for two or more justices of the peace of the county, city, borough or place in which such place of confinement is situate, and such visiting or

(a) Ante, Vol. III., p. 156, tit. "LUNATICS." (b) 25 & 26 Vict. c. 111, ante, p. 207.
(c) Ante, Vol. III., p. 98, tit. "LUNATICS."

other justices are hereby required to call to their assistance two physicians or surgeons, or one physician and one surgeon, duly registered as such respectively under the provisions of an Act passed in the session of the twenty-first and twenty-second years of her majesty's reign, chapter ninety, and to be selected by them for that purpose, and to inquire with their aid as to the insanity of such person; and if it shall be duly certified by such justices or any two or them, and such physicians or surgeons, or such physician and surgeon, that such person is insane, one of her majesty's principal secretaries of state may, upon receipt of such certificate, if he shall think fit, direct by warrant under his hand that such person shall be removed to such lunatic asylum or other proper receptacle for insane persons as the said secretary of state may judge proper and appoint; and if at any time it shall be made to appear to one of her majesty's principal secretaries of state that there is good reason to believe that any prisoner in confinement under sentence of death is then insane, either by means of a certificate in writing to that effect in the form given in schedule (A.) transmitted to him by two or more of the visiting justices of the prison in which such prisoner under sentence of death is confined, or by any other means whatsoever, such secretary of state shall appoint two or more physicians or surgeons, duly registered as aforesaid, to inquire as to the insanity of such prisoner; and if on such inquiry the prisoner shall be found to be then insane, the fact shall be certified in writing by such persons to the said secretary of state, and on the receipt of such certificate the said secretary of state shall direct by warrant under his hand, that such prisoner shall be removed to such lunatic asylum or other proper receptacle for insane prisoners as aforesaid; and every person so removed under this Act, or already removed and in custody under any former Act relating to insane prisoners not under civil process, shall remain in confinement in such asylum or other proper receptacle as aforesaid, or in any other lunatic asylum or other proper receptacle to which such person may be removed by any like warrant which the secretary of state is hereby empowered to issue, if he shall think fit, until it shall be duly certified to the said secretary of state by two physisians or surgeons, or one physician and one surgeon, duly registered as aforesaid, that such person is sane, and upon the receipt of such last-mentioned certificate the said secretary of state is hereby authorised to issue a warrant under his hand directing, if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged, or if such person shall still remain subject to be continued in custody, that he or she shall be removed to any prison or other place of confinement in which he or she may be lawfully confined, to undergo his sentence of death or other sentence, or, if not under sentence, to be dealt with according to law as if no such warrant for his removal to a lunatic asylum had been issued: Provided, that nothing in this Act contained shall be construed to repeal the thirty-eighth section (*a*) of the Act of the sixteenth and seventeenth years of her majesty's reign, chapter ninety-six, or any part thereof.

27 & 28 Vict. c. 29.

If certified by justices and such medical aid that prisoner is insane, secretary of state may grant warrant for removal of prisoner to a lunatic asylum.

If secretary of state has reason to believe prisoner sentenced to death to be insane, he may desire medical aid to inquire into the same.

If prisoner afterwards pronounced sane, how to be dealt with.

3. All prisons which now are or may hereafter be placed under the government of the directors of convict prisons, by virtue of the Act of the thirteenth and fourteenth years of her majesty's reign, chapter thirty-nine, or of any other Act now in force or which may hereafter be passed, shall for the purposes of this Act be deemed to be prisons to which visiting justices are appointed, and the said directors shall be deemed the visiting justices thereof, and the duties and powers hereinbefore imposed upon and given to any two or more of such visiting justices shall and may be performed and exercised by any one or more of such directors.

Prisons placed under directors of convict prisons to be deemed prisons to which visiting justices are appointed, and directors to be deemed the visiting justices.

4. All the provisions of the first-mentioned Act which are not hereby repealed, and all the provisions of an Act passed in the session of the twenty-third and twenty-fourth years of her majesty's reign, intituled "An Act to make better Provision for the Custody and Care of Criminal Lunatics," shall apply to lunatics removed under this Act in all respects as if they had been removed under the first section of the first-mentioned Act, and as if the asylum to which they were removed under this Act were an asylum for criminal lunatics to which the provisions of the said Act of the twenty-third and twenty-fourth years of her majesty's reign were applicable.

Provisions of 3 & 4 Vict. c. 54 (*b*), not hereby repealed, and of 23 & 24 Vict. c. 75 (*c*), to apply to this Act.

5. Where any order shall have been or shall hereafter be made upon the guardians of any union formed under the provisions of the Act fourth and fifth William the fourth, chapter seventy-six, for the payment of money under section two (*d*) of the said first-mentioned Act, the amount which shall be paid under such order shall be charged by the guardians upon the common fund of the union, and not to the account of any parish therein: and the power given to the justices to order the seizure and sale of the goods and chattels, or the receipt of the rents of the lands or tenements, of any insane person therein referred to, shall cease as regards the overseers, but shall apply to the guardians of the union who shall have incurred any expenses under any such order of justices as aforesaid.

The charge and maintenance of insane prisoners to be borne by the common fund of the union.

6. So much of section five (*e*) of the said first-mentioned Act as enables the overseers of any parish in a union to appeal against an order of justices adjudicating as to the settlement of any insane person is hereby repealed.

So much of sect. 5 of 3 & 4 Vict. c. 54, as enables overseers to appeal, repealed.

7. This Act shall extend to England and Wales only.

Extent of Act.

(*a*) Ante, Vol. III., p. 153, tit. "LUNATICS." (*b*) Ibid. p. 98. (*c*) Ibid. p. 200.
(*d*) Ibid, p. 98. (*e*) Ibid. p. 99.

27 & 28 Vict. c. 29.

SCHEDULE (A.).

We being visiting justices of hereby certify under our hands that we believe a prisoner in the said prison of under sentence of death, to be now insane.

MALT.

7 Vict. c. 9. 27 Vict. c. 9. An Act to allow the making of Malt Duty-free to be used in feeding Animals. [28th April, 1864.]

MARRIAGE.

[27 & 28 Vict. c. 77. *See* "IONIAN STATES ACT."]

MARRIAGE (IRELAND).

Vict. c. 27. 26 Vict. c. 27. An Act to amend the Law relating to Marriages in Ireland. [8th June, 1863.]

MARRIAGES REGISTRATION (IRELAND).

26 & 27 Vict. c. 90. 26 & 27 Vict. c. 90. An Act to provide for the Registration of Marriages in Ireland. [28th July, 1863.]

MASTER AND SERVANT (CRIMINAL LAW).

26 & 27 Vict. c. 103. 26 & 27 Vict. c. 103. An Act to amend the Law in certain Cases of Misappropriation by Servants of the Property of their Masters. [28th July, 1863.]

"Whereas the offence of taking corn or other food by a servant from the possession of his master, contrary to his orders, for the purpose of giving the same or of having the same given to the horses or other animals of such master, is by law a felony: And whereas it is desirable to alter the law in this respect:" BE IT ENACTED as follows:—

Servants taking their masters' corn, &c., without authority, for the purpose of giving the same to their masters' horses, &c., not guilty of felony, but shall be liable to imprisonment, &c.

1. If any servant shall, contrary to the orders of his master, take from his possession any corn, pulse, roots, or other food, for the purpose of giving the same or of having the same given to any horse or other animal belonging to or in the possession of his master, the servant so offending shall not by reason thereof be deemed guilty of or be proceeded against for felony, but shall, on conviction of such offence before two justices of the peace, at their discretion, either be imprisoned, with or without hard labour, for any term not exceeding three months, or else shall forfeit and pay such penalty as shall appear to them to be meet, not exceeding the sum of five pounds, and if such penalty shall not be paid, either immediately after the conviction, or within such period as the said justices shall at the time of the conviction appoint, the servant so offending shall be imprisoned, with or without hard labour, for any term not exceeding three months, unless such penalty be sooner paid: Provided always, that if upon the hearing of the charge the said justices shall be of opinion that the same is too trifling, or that there are circumstances in the case which render it inexpedient to inflict any punishment, they shall have power to dismiss the charge, without proceeding to a conviction: provided also, that if upon the trial of any servant for feloniously taking from his master any corn, pulse, roots, or other food consumable by horses or other animals, such servant shall allege that he took the same under such circumstances as would constitute an offence punishable under this Act, and thereof shall satisfy the jury charged with his trial, then it shall be lawful for such jury to return a verdict accordingly; and thereupon the court before which such trial shall take place shall proceed to award such punishment against such servant as may be awarded by two justices of the peace on the conviction of any person under the provisions of this Act: Provided also, that in case of nonpayment of any penalty to be imposed by the court on such servant, he shall be imprisoned, with or without hard labour, for any term not exceeding three months, as the court shall order, unless such penalty be sooner paid.

Power to justice to dismiss case if deemed too trifling.

Power to appeal.

2. Provided always, that if any person shall think himself aggrieved by any conviction under this Act, such person may appeal to the next court of general quarter sessions

of the peace which shall be holden not less than twelve days after the day of such conviction, for the county, riding, division, city, borough or place wherein the cause of complaint shall have arisen: provided also, that such person shall give to the informant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the said sessions, or shall enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded, or, if such appeal shall be against any conviction whereby only a penalty, with or without costs, is adjudged to be paid, shall deposit with the clerk of the convicting justices such a sum of money as such justices shall deem to be sufficient to cover the penalty and costs, if any, so adjudged to be paid, and the costs of the appeal; and upon such notice being given, and such recognizance being entered into, or such deposit being made, the justices before whom such recognizance shall be entered into or such deposit shall be made shall liberate such person, if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet, and in case of the affirmance of the conviction shall order and adjudge the appellant to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment; and in any case where after any such deposit shall have been made as aforesaid the conviction shall be affirmed the court may order the penalty and costs, if any, thereby adjudged to be paid, together with the costs of the appeal, to be paid out of the money deposited, and the residue thereof, if any, to be repaid to the party convicted; and in any case where after any such deposit the conviction shall be quashed, the court shall order the money deposited to be repaid to the party convicted; and in every case where any conviction shall be quashed on appeal as aforesaid, the clerk of the peace or other proper officer of the court shall forthwith indorse on the conviction a memorandum that the same has been quashed; and whenever any copy or certificate of such conviction shall be made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence that the conviction has been quashed in every case where such copy or certificate would be sufficient evidence of such conviction: provided that the right of appeal against any conviction under this Act shall not apply so as to enable any person to appeal against any verdict of a jury as aforesaid. 26 & 27 Vict. c. 103. against conviction.

3. No such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari into any of her majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same. No certiorari, &c.

4. Every offence under this Act may be prosecuted and every conviction under this Act may be enforced in the manner directed by the Act of the session holden in the eleventh and twelfth years of queen Victoria, chapter forty-three; and all provisions contained in the said Act shall, unless repugnant to any of the provisions of this Act, be applicable to such prosecution and conviction, in the same manner as if they were incorporated in this Act: provided that nothing in this Act contained shall in any manner alter or affect any enactments relating to procedure in the case of any offence punishable on summary conviction within the city of London or the metropolitan police district, or the recovery or application of any penalty for any such offence. Summary proceedings may be under 11 & 12 Vict. c. 43. Except in London and the metropolitan police district.

5. This Act shall extend to England only. Extent of Act.

6. This Act shall commence and take effect from the first day of September one thousand eight hundred and sixty-three. Commencement of Act.

PATENTS.

26 & 27 Vict. c. 76. An Act to determine the Time at which Letters Patent shall take effect in the Colonies. 26 & 27 Vict. c. 76.

[28th July, 1863.]

"Whereas her majesty hath from time to time caused to be made under the great seal of the united kingdom of Great Britain and Ireland divers letters patent intended to take effect within her majesty's colonies and possessions beyond the seas: And whereas doubts are entertained respecting the period at which such letters patent have taken or may hereafter take effect within such colonies and possessions, and it is expedient that such doubts should be removed:" BE IT THEREFORE ENACTED as follows:

1. No such letters patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such colony or possession as aforesaid until the same were or shall be publicly made known or acted upon therein: provided that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such letters patent shall be as valid and effectual as if the same letters patent had taken effect at the date of the making thereof. Existing letters patent not to take effect in colonies till published or acted on. Acts done under such letters patent valid.

26 & 27 Vict. c. 76.

Future letters patent not to take effect in colony till publication.

2. No such letters patent hereafter to be made shall (unless otherwise provided therein or by other lawful authority) take effect in any such colony or possession until the making of the same shall have been signified therein by proclamation or other public notice.

Appointments by letters patent to be void unless published within six or nine months.

3. Any such letters patent by which any person may be hereafter appointed to any office or employment within any of such colonies or possessions shall (unless otherwise provided therein or by other lawful authority) become null and void in respect of such colony, unless the same shall be so signified as aforesaid within the following period; that is to say, within nine calendar months in case such colony or possession shall be to the eastward of Bengal in the East Indies, or to the west of Cape Horn in South America, or in any other case within six months after the making thereof.

9 & 10 Vict. c. 91, repealed.

4. The Act, chapter ninety-one, of the ninth and tenth years of her majesty, intituled "An Act to continue certain Patent Commissions until the Exhibition of the Commissions revoking them," is hereby repealed.

Period of Act coming into operation.

5. This Act shall take effect in each of her majesty's colonies and possessions so soon as the same shall be proclaimed therein by the officer administering the government thereof.

PENALTIES.

27 & 28 Vict. c. 110.

27 & 28 Vict. c. 110. An Act for the Amendment of the Law relating to the Mitigation of Penalties. [29th July, 1864.]

"Whereas by various public Acts of parliament penalties are imposed in respect of certain offences, and it is provided that such penalties are not to be reduced below the limits in such Acts specified: and whereas the provisions of the said public Acts are contravened by special enactments introduced into certain local Acts, empowering the justices or court having cognizance of offences in certain localities to mitigate all penalties in respect of such offences: and whereas it is expedient to prevent such contravention as aforesaid of the general law:" BE IT ENACTED as follows:

Justices prohibited from mitigating penalties under general powers of local Act.

1. Where any public Act of parliament provides that in respect of any offence therein mentioned a penalty is to be imposed of not less than a particular sum of money, or of not less than a certain term of imprisonment or other punishment therein specified, it shall not be lawful for the justices or court having cognizance of such offence to mitigate such penalty below the limit specified in that Act of parliament, in pursuance of any power of mitigating penalties conferred on such justices or court by any local or private Act of parliament.

Short title.

2. This Act may be cited for all purposes as "The Limited Penalties Act, 1864."

PLEADING, PRACTICE, &c. (AT LAW).

26 & 27 Vict. c. 122.

26 & 27 Vict. c. 122. An Act to enable Her Majesty in Council to make Alterations in the Circuits of the Judges. [28th July, 1863.]

"Whereas it is expedient to make provision for such alterations in the circuits of her majesty's judges as may from time to time appear to be necessary for the better despatch of assize business in England and Wales:" BE IT ENACTED as follows:

Power to her majesty in council to alter circuits of judges.

1. Her majesty, by and with the advice of her most honourable privy council, shall have power from time to time to order and direct that the circuits of her majesty's judges in England and Wales, or any of such circuits, shall be altered, by taking away from any circuit any county or counties, or any part or parts of any county or counties, and annexing the same to any other circuit or circuits; and every such alteration shall take effect upon and from the date of the order in council in and by which the same shall be ordered and directed, or from such other time as shall be provided in such order.

Powers in sect. 3 of 3 & 4 Will. 4, c. 73, extended to this Act.

2. All the powers and provisions contained in the third section of the Act of the session of parliament holden in the third and fourth years of the reign of his late majesty king William the fourth, chapter seventy-one, shall extend, so far as the same are applicable, to all orders in council to be made and to all acts to be done by virtue of this Act, and may be used and applied for any of the purposes herein mentioned.

Power to treasury, with sanction of lord chief justices and lord chief baron, to alter sala-

3. It shall be lawful for the lords commissioners of her majesty's treasury for the time being and they are hereby authorised and required, by and with the sanction of the lord chief justices and the lord chief baron, to make such alterations in the amount of the salaries of any of the officers mentioned in schedule (B.) to the Act of the session of parliament holden in the fifteenth and sixteenth years of her majesty's reign, chapter seventy-three, as may appear to the said lords commissioners, by and with such sanction as aforesaid, to be reasonable and proper upon and in consequence of any alteration to

be made in any of the circuits by virtue of this Act; and all such new or altered salaries shall be deemed to have been fixed and appointed under and subject to the provisions of the said last-mentioned Act. 26 & 27 Vict. c. 122.

ries of clerks of assize on alteration of circuits.

4. And whereas by the twenty-eighth section of the Act of the session of parliament holden in the sixth and seventh years of the reign of her majesty, chapter eighteen, it is enacted that, except as is thereinafter provided, no greater number of barristers shall be appointed in any year to revise the lists of voters in the election of members to serve in parliament for the several counties, cities, boroughs and places within the several circuits in England and Wales than is therein provided: BE IT ENACTED, that upon any alteration or alterations being made in any of the said circuits by her majesty in council by virtue of this Act, it shall also be lawful for her majesty, by and with the advice of her privy council, to order and direct that the number of revising barristers to be appointed for the several counties, cities, boroughs, and places within any circuit or circuits affected by such alteration or alterations as aforesaid, shall be increased or diminished as to her majesty, by and with such advice as aforesaid, may seem meet, anything in the last-recited Act to the contrary notwithstanding: provided always, that the present total number of revising barristers shall not be augmented otherwise than in accordance with the provisions of the twenty-ninth section of the said last-mentioned Act. Power to alter numbers of revising barristers to be appointed within circuits affected by alterations.

POISONED GRAIN PROHIBITION.

26 & 27 Vict. c. 113. An Act to prohibit the Sale and Use of Poisoned Grain or Seed. [28th July, 1863.]

26 & 27 Vict. c. 113.

"Whereas it is expedient to prohibit the sale and use of poisoned grain or seed:" BE IT ENACTED as follows:

1. This Act may be cited for all purposes as "The Poisoned Grain Prohibition Act, 1863:" Short title of Act.

2. Every person who shall offer or expose for sale or sell any grain, seed, or meal which has been so steeped or dipped in poison, or with which any poison or any ingredient or preparation has been so mixed, as thereby to render the same poisonous, and calculated to destroy life, shall in either case for every such offence, upon summary conviction, as hereinafter provided, forfeit any sum not exceeding ten pounds. Penalty for selling poisoned grain, seed, or meal.

3. Every person who shall knowingly and wilfully sow, cast, set, lay, put, or place, or cause to be sown, cast, set, laid, put, or placed, into, in, or upon any ground or other exposed place or situation, any such grain, seed, or meal which has been so steeped or dipped in poison, or with which poison or any ingredient or preparation has been so mixed as thereby to render such grain, seed, or meal poisonous, and calculated to destroy life, shall, upon a summary conviction thereof as hereinafter provided, forfeit any sum not exceeding ten pounds. Penalty for sowing, &c., poisoned grain, seed, or meal.

4. Nothing in this Act shall prohibit the offering or exposing for sale or selling or the use of any solution or infusion, or any material or ingredient for dressing, protecting, or preparing any grain or seed for *bonâ fide* use in agriculture only, or the sowing of such last-mentioned grain or seed so prepared. Solutions or infusions, &c., allowed for use in agriculture.

5. All penalties imposed by this Act may be recovered in England and Ireland before two justices of the peace, and in Scotland before two justices of the peace or the sheriff; and for that purpose in England and Scotland the provisions of the Act of the eleventh and twelfth years of her present majesty, chapter forty-three (a), and in Ireland the "Petty Sessions (Ireland) Act, 1851," shall extend and apply to this Act, and to all proceedings in relation thereto: and it shall not in any such proceedings be necessary to allege or prove the ground or other place where an offence is committed to be the property of or occupied by any person: provided always, that the convicting justices or sheriff may, if they or he shall think fit, award to the informer or prosecutor (not being a police constable or peace officer) in any such proceedings any portion not exceeding one moiety of any penalty recovered under the aforesaid enactments: provided also, that every informer or prosecutor, and every person who shall give evidence against any other person proceeded against under this Act, shall be freed and discharged from any such penalty which he may have incurred for or by reason of his having participated to or aided in the commission of the offence with respect to which he shall so inform or prosecute or give evidence, provided the information against such other person has been laid, or such evidence has been given, before the laying of any information (if any) against such informer, prosecutor, or witness for the recovery of any penalty he may have so incurred. Recovery of penalties. Application of 11 & 12 Vict. c. 43, and 14 & 15 Vict. c. 93, to this Act. Informer (not a constable) entitled to a moiety of penalty. Indemnity to witnesses, &c.

(a) Ante, Vol. II., p. 961, tit. "JUSTICES OF THE PEACE."

27 & 28 Vict. c. 115.

27 & 28 Vict. c. 115. An Act to prohibit the placing of Poisoned Flesh and Poisonous Matters in Plantations, Fields, and open Places, and to extend "The Poisoned Grain Prohibition Act, 1863." [29th July, 1864.]

"Whereas it is expedient to extend the provisions of an Act passed in the session of parliament held in the twenty-sixth and twenty-seventh years of the reign of her present majesty, intituled "An Act to prohibit the Sale and Use of Poisoned Grain or Seed:" BE IT ENACTED as follows:

Short title.

1. This Act may be cited for all purposes as "The Poisoned Flesh Prohibition Act, 1864."

Penalty for placing poisoned flesh in fields, &c.

2. Every person who shall knowingly and wilfully set, lay, put or place, or cause to be set, laid, put or placed, in or upon any land any flesh or meat which has been mixed with or steeped in or impregnated with poison or any poisonous ingredient so as to render such flesh or meat poisonous and calculated to destroy life, shall, upon a summary conviction thereof, forfeit any sum not exceeding ten pounds, to be recovered in the manner provided by "The Poisoned Grain Prohibition Act, 1863:" provided always, that nothing herein contained shall prevent owners or occupiers of land in Ireland from laying or causing to be laid any poisonous matter as hereinbefore described, after a notice has been posted in a conspicuous place, and notice in writing has been given to the nearest constabulary station.

Not to apply to occupier placing poisoned preparations for destruction of vermin.

3. Nothing in this Act shall make it unlawful for the occupier of any dwelling-house or other building, or the owner of any rick or stack of wheat, barley, oats, beans, peas, tares, seeds, or of any cultivated vegetable produce, to put or place or cause to be put or placed in any such dwelling-house or other building, or in any enclosed garden attached to such dwelling-house, or in the drains connected with any such dwelling-house, provided that such drains are so protected with gratings or otherwise as to prevent any dog from entering the same, or within such rick or stack, any poison or poisonous ingredient or preparation for the destruction of rats, mice, or other small vermin.

As to application of Act.

4. This Act shall not apply to any grain, seed, or meal within the provisions of "The Poisoned Grain Prohibition Act, 1863" (a), and the provisions of the fifth section of the said "Poisoned Grain Prohibition Act, 1863," shall apply to any proceedings instituted under this Act, and shall come into operation on the first October, one thousand eight hundred and sixty-four.

POLICE (METROPOLITAN).

27 & 28 Vict. c. 55.

27 & 28 Vict. c. 55. An Act for the better Regulation of Street Music within the Metropolitan Police District. [25th July, 1864.]

2 & 3 Vict. c. 47.

"Whereas by section fifty-seven of the Act passed in the session of parliament held in the second and third years of the reign of her present majesty, intituled "An Act for further improving the Police in and near the Metropolis," it was enacted, that any householder within the metropolitan police district might require any street musician to depart from the neighbourhood of the house of any such householder, on account of the illness of any inmate of such house, or for other reasonable cause: and whereas the said provision has been found insufficient for the protection of such householders from annoyance by street musicians:" BE IT THEREFORE ENACTED as follows:

Repeal of recited provision, and substitution of amended provision.

Householder may require musician to depart.

Penalty for neglect.

1. Section fifty-seven of the said Act is hereby repealed, and in lieu thereof the following provision shall take effect as part of the said Act; namely, any householder within the metropolitan police district, personally, or by his servant, or by any police constable, may require any street musician or street singer to depart from the neighbourhood of the house of such householder, on account of the illness or on account of the interruption of the ordinary occupations or pursuits of any inmate of such house, or for other reasonable or sufficient cause; and every person who shall sound or play upon any musical instrument or shall sing in any thoroughfare or public place near any such house after being so required to depart, shall be liable to a penalty of not more than forty shillings, or, in the discretion of the magistrate before whom he shall be convicted, may be imprisoned for any time not more than three days, and it shall be lawful for any constable belonging to the metropolitan police force to take into custody without warrant any person who shall offend as aforesaid: provided always, he shall be given into custody by the person making the charge: provided also, that the person making a charge for an offence against

(a) 26 & 27 Vict. c. 113; ante, p. 995, tit. "POISONED GRAIN."

this Act shall accompany the constable who shall take into custody any person offending as aforesaid to the nearest police station house, and there sign the charge sheet kept for such purpose. 27 & 28 Vict. c. 55.

2. Whenever any person charged with an offence under this Act shall be brought to any station house during the time when the police court shall be shut, it shall be lawful for the constable in charge of the station house to require the person making the charge to enter into a recognizance, conditioned as is provided by the Act passed in the second and third years of her majesty, chapter forty-seven, section seventy-two; and upon the refusal of such person to do so it shall be lawful for such constable to discharge from custody the person so charged. Treatment of charge brought to police court while shut.

POOR.

UNION ASSESSMENT COMMITTEE ACT AMENDMENT.

27 & 28 Vict. c. 39. An Act to amend the Union Assessment Committee Act (1862). [14th July, 1864.]

27 & 28 Vict. c. 39.

"Whereas it is expedient to amend the 'Union Assessment Committee Act, 1862,' in regard to appeals against poor rates, and to make further provisions for securing correct and uniform valuations of the property liable to be assessed to the relief of the poor:" BE IT THEREFORE ENACTED:

1. Before any appeal shall be heard by any special or quarter sessions against a poor rate made for any parish contained in any union to which the "Union Assessment Committee Act, 1862," applies, the appellant shall give twenty-one days' notice in writing previous to the special or quarter sessions to which such appeal is to be made of the intention to appeal, and the grounds thereof, to the assessment committee of such union: provided, that after the first day of August next no person shall be empowered to appeal to any sessions against a poor rate made in conformity with the valuation list approved of by such committee, unless he shall have given to such committee notice of objection against the said list, and shall have failed to obtain such relief in the matter as he deems just; and which objection, after notice given at any time in the manner prescribed by the said Act with respect to objections, the committee shall hear, with full power to call for and amend such list, although the same has been approved of, and no subsequent list has been transmitted to them, and if they amend the same shall give notice of such amendment to the overseers, who shall thereupon alter their then current rate accordingly. Notice of appeal against poor rate to be given to the assessment committee of union. Notice of objection. Amendment of list.

2. The assessment committee of such union may, with the consent of the guardians of such union, after notice shall have been sent to every guardian, appear as respondents to such appeal, but in the name of the guardians of such union, in like manner, and with the same incidents, and subject to the same liabilities, and entitled to the same remedies and rights, as in the case of persons other than the overseers to whom notice of appeal may be given. Committee may, with consent of guardians, be co-respondents.

3. The costs which the committee may incur in consequence of becoming respondents to such appeal, or of having received notice thereof, shall, if not recovered from the appellants, as well as any costs the committee may be ordered to pay to the appellants, be paid by the guardians and charged to the common fund of the union, unless the court before whom such appeal is heard shall direct that such costs, or any part thereof, shall be charged to the parish, the rate of which is appealed against. Provision as to costs of committee on appeals.

4. Where a valuer is appointed by the assessment committee he shall make his valuation in writing, showing the particulars of the several hereditaments comprised therein, and the amounts at which he has valued the same respectively, and shall sign such valuation, which shall be open to inspection in like manner and with the same incidents with respect to the taking of copies or extracts as the minute books of the committee. Valuation to be made in writing.

5. Within fourteen days after the transmission to the assessment committee of any valuation or supplemental valuation list the committee shall give notice to every railway, telegraph, canal, gas and water company named in such list as the occupier of any property included therein, and not having any office or place of business in the parish to which such list relates, of the sum or sums set down as the rateable value of the property purporting to be occupied by such company or companies, and such notice may be served by being transmitted through the post to the principal office of the company, or one of their principal offices when there shall be more than one. Notice of assessment to be given to certain companies. Transmission by post.

6. No justice of the peace shall be disqualified for acting in the determination of any appeal against a poor rate at any quarter or special sessions by reason of such justice being rated, or being liable to be rated, in some other parish in the union than that for which the rate appealed against is made. Justices in certain cases not disqualified for hearing appeals.

7. When the overseers of any parish incur any expense in making out any valuation list or supplemental list, or in revising or valuing any of the rateable hereditaments of such parish, under the provisions of "The Union Assessment Committee Act, 1862," with the consent of the vestry given by express resolution, after due notice, they may charge such expense, so far as the same may be authorised by the vestry, upon the poor Expenses of overseers incurred with consent of vestry or allowed by

27 & 28 Vict. c. 39.

rate; and if no vestry meeting be held, or no decision arrived at on the subject, then to the extent which the assessment committee shall allow: provided that, as regards the valuation of the property, no expense shall be so charged upon the poor rate unless the consent of such committee to the procuring of such valuation by the overseers shall have been given previously to the same being made.

Assessment committee may be charged on poor rates.

No expense chargeable without consent of committee to valuation.

Power to guardians, with the order of the poor law board, to borrow money for valuation expenses.

8. If the assessment committee order a valuation, with the consent of the board of guardians, to be made of all the rateable hereditaments of any parish, the guardians of the union may, if they think fit, apply to the poor law board for an order to enable them to borrow the requisite amount to pay the cost of such valuation; and if the said board shall issue their order, the said guardians may borrow the same and charge the poor rates of the several parishes in the union with the repayment of the same by not more than five equal annual instalments; and where the parish for which the valuation is made shall, by reason of any provision in the said union assessment committee Act or this Act, be liable to pay the cost of such valuation, the said guardians shall charge the annual instalments, and the interest payable therewith, to such parish, and may recover the same as and with the usual contributions.

How chargeable.

Clerks of assessment committees to furnish clerks of the peace with totals of valuation lists.

9. The clerk of every assessment committee shall send annually in the month of December copies of the totals of the gross estimated rental and rateable value of the property included in the valuation lists of the several parishes within the union, and where such totals have been altered by any supplemental valuation list or lists then of such totals as altered, to the clerk or respective clerks of the peace of the county or counties within which such parishes respectively may be situate.

Power to poor law board to order map or plan to be made.

10. If there be no map or plan of any parish available for the use or sufficient for the purposes of the assessment committee, the committee may, with the consent of the guardians, after notice as aforesaid, and under the authority of an order of the poor law board, appoint a competent person to make a map or plan of such parish, and the cost thereof shall be charged either to the common fund, or to the parish, as may be directed by the poor law board.

Cost of.

Penalty on overseers omitting to make declaration or making false declaration.

11. Any overseer who wilfully omits to make the declaration required to be made by "The Union Assessment Committee Act, 1862," or makes the same falsely, knowing the same to be untrue, shall be liable for every such offence to a penalty not exceeding five pounds, upon a summary conviction for the same before two justices of the peace.

25 & 26 Vict. c. 103 (a), incorporated herewith.

12. The provisions of "The Union Assessment Committee Act, 1862," shall, so far as the same are not contrary hereto, be incorporated herewith, and the terms used herein shall be construed in like manner as in that Act.

Short title.

13. This Act may be cited as "The Union Assessment Committee Amendment Act, 1864."

SUPERANNUATIONS (UNION OFFICERS).

27 & 28 Vict. c. 42.

27 & 28 Vict. c. 42. An Act to provide for Superannuation Allowances to Officers of Unions and Parishes. [14th July, 1864.]

"Whereas it is expedient that provision should be made to enable superannuation allowances to be granted to officers of unions and parishes who become disabled by infirmity or age to discharge the duties of their offices: BE IT THEREFORE ENACTED as follows:

Power to guardians and trustees, with consent of poor law board, to grant superannuation allowances to officers in certain cases.

1. That the guardians of any union or parish, and the trustees or overseers of any parish appointed or incorporated under a local Act, may, at their discretion, with the consent of the poor law board, grant to any officer whose whole time has been devoted to the service of the union or parish and who shall become incapable of discharging the duties of his office with efficiency, by reason of permanent infirmity of mind or body, or of old age, upon his resigning or otherwise ceasing to hold his office, an annual allowance not exceeding in any case two-thirds of his then salary, whether computed according to a fixed sum or to a poundage, and shall charge such allowance to the same fund as that to which such salary would have been charged if he had continued in his office.

Such allowances not to be assignable.

2. This allowance shall be payable to or in trust for such officer only, and shall not be assignable nor chargeable with his debts or other liabilities.

Limitation of grants of allowances.

3. No officer shall be entitled to such allowance on the ground of age who shall not have completed the full age of sixty years, and shall not have served as an officer of some union or parish for twenty years at the least.

Notice of grant to be

4. No grant shall be made without one month's previous notice, to be specially given in writing to every guardian of the union or parish, and to every member of the board

(a) Ante, Vol. III., p. 1293, tit. "POOR."

of trustees or overseers (as the case may be), of the proposal to make such grant, and the time when it shall be brought forward. 27 & 28 Vict. c. 39.

given to guardians.

5. The words herein used shall be interpreted in the manner prescribed by the statute of the fourth and fifth years of William the fourth, chapter seventy-six, and the subsequent Acts amending or explaining the same. Interpretation of words herein used.

POOR RELIEF (METROPOLIS).

27 & 28 Vict. c. 116. An Act to make Provision for distributing the Charge of Relief of certain Classes of poor Persons over the whole of the Metropolis. [29th July, 1864.]

27 & 28 Vict. c. 116.

"Whereas it is expedient that provision should be made for distributing the charge of the relief of certain poor persons in the metropolis during the ensuing winter otherwise than is now lawful:" BE IT THEREFORE ENACTED:

1. That after the twenty-ninth day of September next the guardians of every union or parish situated wholly or partly within the district to which the metropolis local management Act applies may, subject to the orders and regulations of the poor law board, make out a separate account of the money expended by them daily in the relief of destitute wayfarers, wanderers, or foundlings during the hours from eight o'clock at night until eight o'clock in the morning, and submit the same to the auditor appointed to audit their accounts at the usual times of audit, who shall duly examine the same, and shall certify the amount which he shall find to have been legally expended in and about such relief under his hand, and if the poor law board shall have certified that proper wards or places of reception have been provided by such guardians, the said guardians may thereupon make application in writing to the metropolitan board of works for reimbursement of the amount so certified by the auditor. After Sept. 29th the guardians of parishes or unions in the metropolis may keep account of relief to certain poor, and obtain reimbursement of the amount from the metropolitan board of works.

2. The said metropolitan board of works shall forthwith pay the amount so certified to the guardians making the application out of the funds in their possession from time to time raised under the provisions of the said metropolis local management Act, and the amount so paid shall be deemed to be part of the expenses for which the said board are empowered to make assessments under the said Act, and the said guardians shall apply the sum received in aid of the poor rate of their parish or the common fund of their union, as the case may be, and shall account for the same accordingly. The metropolitan board of works shall reimburse the guardians out of their general rate.

3. The relief to which this Act shall apply shall include food and articles of necessity supplied by the said guardians, or by their relieving or other officer, or by any metropolitan police constable authorised by them in such behalf, and also the cost of lodging or shelter hired or temporarily provided for any such poor person, but not money given to him. What relief to be reimbursed.

4. Where the guardians shall have provided proper wards or other places of reception for this class of poor, and the same shall have been approved of by the poor law board, they may include as part of the expense incurred by them in the relief of these poor persons such sum in respect of each pauper as the poor law board shall from time to time allow for the cost and expense of temporarily providing and maintaining such wards or other places. Provision for the case where vagrant wards established.

5. Where no adequate accommodation exists, the guardians shall provide within their respective unions or parishes such wards or other places of reception for destitute wayfarers and foundlings as the poor law board, having regard to the number of persons likely to require relief therein respectively, shall direct. In default of making such provision, and until the same has been made, the guardians of the union or parish so making default shall not be entitled to the benefit of this Act. Guardians to provide proper casual wards.

6. The provisions of this Act shall not apply to any expenditure for relief incurred after the half year which will expire at Lady-day, one thousand eight hundred and sixty-five. Not to apply to expenditure for relief after Lady-day, 1865.

7. The several words used in this Act shall be construed as in the Act of the fourth and fifth William the fourth, chapter seventy-six (a), and the subsequent Acts explaining and extending the same, and the provisions thereof not inconsistent with anything herein contained shall be incorporated herewith. Interpretation of words.

8. This Act may be cited for all purposes as the "Metropolitan Houseless Poor Act, 1864." Short title.

POOR REMOVAL.

27 & 28 Vict. c. 105. An Act to explain the Statutes of Her present

27 & 28 Vict. c. 105.

(a) Ante, Vol. III., p. 1156, tit. "POOR."

7 & 28 Vict. c. 105.

Majesty for amending the Laws relating to the Removal of the Poor. [29th July, 1864.]

24 & 25 Vict. c. 55.

"Whereas it is enacted in the first section of the statute of the twenty-fifth year of the reign of her present majesty, chapter fifty-five, that after the twenty-fifth day of March then next the period of three years should be substituted for that of five years specified in the first section of the statute ninth and tenth Victoria, chapter sixty-six, and that the residence of a person in any part of a union should have the same effect in reference to the provisions of the said section as a residence in any parish: And whereas doubts exist as to the proper meaning of this latter provision, and it is desirable to remove the same:" BE IT THEREFORE DECLARED AND ENACTED:

Residence in the parish of a settlement not to be excluded in the computation of period of residence.

1. That in the case of any poor person heretofore chargeable or hereafter becoming chargeable in any parish comprised in a union not being the parish of his settlement the period of time during which he shall have resided in the parish of the settlement, if in the same union, shall not be excluded in the computation of the time of residence required to render him exempt from removal under the statutes above referred to.

Not to apply to orders of removal executed.

2. Nothing herein contained shall apply to any order of removal made and executed before the passing of this Act.

Construction of Act.

3. The words of this Act shall be construed in the same manner as the said first-mentioned Act.

POWER OF ATTORNEY.

[27 & 28 Vict. c. 56, s. 3, for the receipt of Dividends, Duty on. See "STAMPS."]

PROBATE DUTY ON SHIPS AT SEA.

[27 & 28 Vict. c. 56, s. 4, no duty payable where effects do not exceed £100, sect. 5. See "STAMPS."]

RAILWAYS.

RAILWAY COMPANIES' POWERS.

27 & 28 Vict. c. 120.

27 & 28 Vict. c. 120. An Act to facilitate in certain Cases the obtaining of further Powers by Railway Companies. [29th July, 1864.]

"Whereas it is expedient that in certain cases railway companies be enabled to obtain further powers on complying with the conditions of a general Act of parliament, without being obliged to procure in each case a special Act:" BE IT THEREFORE ENACTED as follows:

Preliminary.

Short title.

1. This Act may be cited as "The Railway Companies Powers Act, 1864."

Interpretation of terms.

2. In this Act—

The term "RAILWAY" includes works connected with or for the purposes of a railway, and also a railway authorised to be but not actually constructed:

The term "RAILWAY BILL" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorise the making of a railway:

The term "THE COMPANIES CLAUSES ACTS" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, "The Companies Clauses Consolidation Act, 1845;" and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Companies Clauses Consolidation (Scotland) Act, 1845;" together with in each case "The Companies Clauses Act, 1863:"

The term "THE BOARD OF TRADE" means the lords of the committee for the time being of her majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations.

Description of Cases within this Act.

Act to apply in cases therein named.

3. This Act shall take effect and apply in each of the cases following; namely,

I.—Where a railway company are desirous that authority should be given to themselves and some other railway company or companies to enter into an agreement with respect to all or any of the matters following; namely,

The maintenance and management of the railways of the companies respectively, or of any one or more of them, or of any part thereof respectively;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts, and revenues levied, taken, or arising in respect of traffic;

The joint ownership, maintenance, management, and use of a station or other work; or the separate ownership, maintenance, management, and use of several parts of a station or other work:

II.—Where a railway company are desirous of obtaining an extension of the time limited for the sale by them of superfluous lands:

III.—Where a railway company incorporated by special Act or by certificate under "The Railways Construction Facilities Act, 1864," are desirous of obtaining authority to raise additional capital.

Application for Certificate.

As to application for certificate by company to board of trade.

4. In any such case the company, if desirous to obtain a certificate under this Act, shall proceed as follows; namely,

(1.) They shall apply to the board of trade for a certificate under this Act:

(2.) They shall lodge at the office of the board of trade a draft of the certificate as proposed by them:

(3.) They shall publish notice of the application according to the general rules under this Act.

Said board to inquire if requirements have been complied with;

5. As soon as conveniently may be after the time for completion of the required notice, the board of trade shall proceed to inquire whether the company have complied with the requirements of the general rules respecting notice.

and to consider all representations and objections.

6. The board of trade, before settling a draft of a certificate, shall take into consideration any representation made to them, and shall duly inquire into the merits of any objection brought before them, respecting the application.

Opposition of Railway or Canal Company to Application.

On railway or canal company affected giving notice of opposition proceedings before board of trade to cease.

7. If in any case any railway or canal company desire to be heard by counsel, agents, and witnesses against the application of the promoters, and (within such time as is prescribed by general rules under this Act) lodge at the office of the board of trade a notice in writing to that effect (hereinafter referred to as a notice of opposition) in the form set forth in the schedule to this Act (with such variations as circumstances require), in that case the board of trade, if the railway or canal company lodging the notice would be affected in any way by the proposed certificate, shall not proceed on the application of the promoters.

Further proceedings to be in parliament.

8. Where the board of trade do not proceed on the application they shall, not later in any year than the fifteenth day of February, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, lay before both houses of parliament a copy of the draft certificate lodged by the promoters and of the notice of opposition; and the promoters shall be at liberty to seek by way of bill in the same session, in such manner and on such conditions as the houses of parliament respectively by standing order or otherwise from time to time direct, such powers as were sought by them by way of certificate.

Settlement of Draft Certificate.

Power to board of trade to settle certificate according to nature of application as herein named.

9. Where the board of trade proceed on the application, then, on being satisfied that the company have complied with the requirements of the general rules respecting notice; they may, if they think fit, settle a draft of a certificate, certifying to the effect following; namely,

In the first-mentioned case, that the companies in the certificate specified are authorised to agree among themselves with respect to all or any of the matters aforesaid in the certificate specified;

In the secondly-mentioned case, that the time limited for the sale by the company of superfluous lands is extended as in the certificate specified;

In the thirdly-mentioned case, that the company are authorised to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

27 & 28 Vict. c. 120.

Insertion of conditions in certificate.

10. The board of trade may (subject to the provisions of this Act, and having regard to the provisions of any special Act relating to any company empowered by a certificate), insert in the certificate such provisions as they, according to the circumstances of the case, deem necessary or proper for better effectuating the purposes of the certificate, and the same shall be deemed to all intents part of the certificate.

Form of certificate.

11. The certificate may be in the form set forth in the schedule to this Act, with such provisions as aforesaid.

Submission of Draft Certificate to Houses of Parliament.

Draft certificate to be laid before houses of parliament.

12. The board of trade shall lay the draft certificate settled by them before both houses of parliament within seven days after the same is settled, if parliament is then sitting, or if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

Notice thereof to be given.

13. On the draft certificate being settled the promoters shall give notice thereof according to general rules under this Act.

If either house resolve that certificate ought not to be made, it shall not be proceeded with.

14. If either house of parliament within six weeks after the draft of a certificate settled by the board of trade is laid before that house resolves that the certificate ought not to be made, the same shall not be further proceeded with.

Issue and Publication of Certificate.

If neither house resolve that certificate ought not to be made, board of trade may issue the same.

15. If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired the board of trade may make and issue a certificate in conformity with such draft.

Publication of certificate in Gazette.

16. The certificate shall be published as follows; namely,

Where one company only is thereby empowered, then in the London, Edinburgh, or Dublin Gazette, according as the head office of the company is situate in England, Scotland, or Ireland:

Where two or more companies are thereby empowered, then in one or more of the gazettes, according as the several head offices of the companies respectively are situate in England, Scotland, and Ireland respectively.

Effect of Certificate.

Operation of certificate as special Act.

17. As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed, then as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents as if the contents thereof (taken in conjunction with this Act) had been expressly enacted by parliament; and the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

Judicial notice of certificate.

18. The certificate shall be judicially noticed without being specially pleaded.

Interpretation of certificate.

19. Terms used in the certificate shall have the same meanings as they have when used in this Act.

Parts of 26 & 27 Vict. cc. 92 & 118 incorporated.

20. There shall be incorporated with the certificate (which shall for this purpose be deemed the special Act)—

In the first-mentioned case, Part III. of "The Railways Clauses Act, 1863" (*a*).

In the thirdly-mentioned case, the Companies Clauses Acts (*b*).

Rule as to short distances.

21. In the first-mentioned case, during the continuance of any agreement for the joint working of any two railways, in the calculation of tolls and charges for short distances in respect of traffic conveyed on both railways, the distances traversed shall be reckoned continuously on such railways as if they were one railway.

Restriction as to issue of shares.

22. It shall not be lawful for any company empowered by a certificate under this Act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth part of the amount of such share is paid up in respect thereof.

Restrictions on company as to borrowing, &c.

23. In the thirdly-mentioned case the company, whether incorporated by special act or by certificate, shall be subject to the following restrictions; namely,

(1.) They shall not exercise any power of borrowing money under the certificate until the whole of the share capital authorised by the certificate is subscribed for or taken, and until one half thereof is actually paid up, and until they prove to the justice who is to certify under section forty of "The Companies Clauses Consolidation Act, 1845," or (in Scotland) to the sheriff who is to certify under

(*a*) Ante, Vol. III., p. 75 *d*, tit. "RAILWAYS."

(*b*) Ante, Vol. I., p. 726 iv., tit. "COMPANIES."

section forty-two of "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one-fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares are taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence): 27 & 28 Vict. c. 120.

(2.) They shall not borrow a larger sum in the whole than one third of the amount of the share capital authorised by the certificate:

(3.) They shall not, out of money raised under the certificate by calls or borrowing, pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made as is allowed by the companies clauses Acts):

(4.) They shall not, out of money so raised, pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade:

(5.) They shall apply every part of the money so raised only for the purposes for which it is by the certificate authorised to be applied.

Miscellaneous.

24. Nothing in this Act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application for a certificate should not be complied with. Power to board of trade to reject application.

25. Nothing in the certificate shall exempt any railway to which it relates, or the company to whom that railway belongs, from the provisions of any general act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration under the authority of parliament of the maximum tolls and charges allowed to be taken in respect of that railway. Nothing to exempt railways from operation of general Acts.

26. A certificate may be made under this Act and "The Railways Construction Facilities Act, 1864," jointly, and in any such case the forms of certificate given in this Act and the said Act may be adapted to the circumstances of the case. Certificate under this and railway construction Act.

27. Where, in case the company were proceeding by a railway bill instead of under this Act, the approval of the bill in any manner by the members of the company would be required under the standing orders of either house of parliament for the time being in force, the board of trade shall not issue a certificate without being satisfied that the members of the company have in like manner approved of the application to the board of trade. Approval by members of company required, as understanding orders.

28. Subject and according to the restrictions and provisions of this Act, the board of trade on the application of the company may from time to time amend, extend or vary by certificate any certificate issued under this Act, and may by certificate revoke a previous certificate issued under this Act. Power for board of trade to amend or revoke certificate.

29. If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this Act, on the application of the company, body or person affected by the error, and on notice to the company or companies empowered by the certificate, correct the error by a further certificate. Power to correct error.

30. A copy of the London or Edinburgh or Dublin Gazette containing a certificate or a copy of a certificate purporting to be printed by the printers of the London, Edinburgh, or Dublin Gazette, shall be conclusive evidence of the certificate and of the due publication thereof, without any proof of the gazette or without any proof of the copy having been in fact so printed, as the case may be. Proof of certificate.

31. Every company empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the Gazette or one of the gazettes in which the same was published in such form as general rules direct, to be sold to all persons desiring to buy the same at a price not exceeding one shilling for each copy. Copies of certificate for sale.

If any company fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

32. The provisions of this Act relative to the first-mentioned case and to the secondly-mentioned case respectively shall extend and apply, *mutatis mutandis*, to the proprietors of a railway, although not incorporated as a company. Application of Act to proprietors of railways generally.

33. Penalties under this Act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under "The Railways Clauses Consolidation Act, 1845," and "The Railways Clauses Consolidation (Scotland) Act, 1845," as the case may require, are recoverable and applicable. Recovery and application of penalties.

34. The Act of the session of the seventh year of king William the fourth and the first year of her majesty (chapter eighty-three), "to compel Clerks of the Peace and other Persons to take the Custody of such Documents as shall be directed to be deposited with Custody of documents. 7 Will. 4 & 1 Vict. c. 83.

27 & 28 Vict. c. 120.

them under the Standing Orders of either House of Parliament," shall apply to documents required to be deposited by general rules under this Act.

General rules in schedule, with power for amendment.

35. The general rules under this Act shall in the first instance be those set forth in the schedule to this Act; and the board of trade may from time to time, for the better execution of this Act, make general rules adding to, altering or revoking any general rules for the time being in force under this Act, but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament; and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this Act.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

Annual report to parliament by board of trade.

36. Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this Act during the year then last past.

The SCHEDULE referred to in the foregoing Act.

(i.)—*Notice of Opposition.*

In the matter of "The Railway Companies' Powers Act, 1864," and

The application of the railway company for a certificate of the draft whereof is intituled [*set out title*].

We, the railway [*or* canal] company hereby declare and give notice that we desire to be heard by counsel, agents, and witnesses against the granting to the above-named railway company of the powers sought to be obtained by them by the above-mentioned application.

Dated this day of 18 .

Witness, *A. B.* (L.S.)

(ii.)—*Form of Certificate of Board of Trade.*

The railway company.

Certificate of the board of trade for the extension of time for sale of superfluous lands [*or as the case may be*].

Whereas the railway company have complied with the requirements of "The Railway Companies' Powers Act, 1864:"

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said Act, and by virtue and in exercise of the powers thereby in them vested, and of every other power enabling them in this behalf, certify as follows:

[*Here are to follow the provisions of the certificate showing the powers conferred and the terms and conditions (if any) imposed.*]

The Board of Trade, (Signed) *C. D.*
Whitehall. Secretary to the Board of Trade.
Dated this day of

(iii.)—*General Rules.*

Form of Application.

1. The application to the board of trade for a certificate is to be made by a memorial in writing under the common seal of the company, lodged at the office of the board of trade.

2. Together with the memorial the company are to lodge a printed draft of the certificate as proposed by the company.

Advertisements as to Application.

3. Notice of the application to the board of trade is to be given by advertisement published as follows: namely,

In every case, once in each of three successive weeks in some one and the same newspaper of the county, city, or town, or county of a city or town, wherein the head office of the promoters is situate:

In the case referred to in the foregoing Act as the first-mentioned case, once in each of three successive weeks in some one and the same newspaper of each county, city, or town, or county of a city or town, wherein the head office of any railway company with whom the promoters propose to enter into an agreement is situate:

If in any case there is not any such newspaper as hereinbefore described, then in like manner in a newspaper of some adjoining or neighbouring county:

In every case where one company only is proposed to be empowered, then in the London, Edinburgh, or Dublin Gazette, according as the head office of the company is situate in England, Scotland, or Ireland: 27 & 28 Vict. c. 120.

In every case where two or more companies are proposed to be empowered, then in one or more of the gazettes, according as the several head offices of the company respectively are situate in England, Scotland and Ireland respectively.

4. The advertisements are to be published either in the month of June or in the month of November, and not at any other time.

5. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as hereinafter directed.

6. Each advertisement is to state that all persons desirous of making to the board of trade any representation, or of bringing before them any objection respecting the application, may do so by letter addressed to the secretary of the board of trade on or before the first day of August or first day of January next succeeding the date of the advertisement, according as the same is published in the month of June or in the month of November.

7. Within one week after the publication of the latest advertisement a copy of each of the newspapers and gazettes containing the several advertisements is to be lodged at the office of the board of trade.

Notice to Landowners.

8. In the case referred to in the foregoing Act as the secondly-mentioned case the promoters, in the month of June or in the month of November (as the case may be) in which the advertisements are published, are to serve notice of the application on the owners of lands adjoining to the lands to which the application relates.

Notice of Opposition.

9. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

Notice of Settlement of Draft Certificate.

10. On the draft certificate being settled by the board of trade the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body or person by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof as according to the circumstances of the case the board of trade direct.

Supply of Copies of Draft Certificate.

11. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement, a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

12. From the time of the settlement of the draft certificate by the board of trade the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

Printing of Certificate.

13. Copies of the certificate printed by the printers of a gazette are to be printed on ordinary white folio paper similar in size to the paper on which the public general Acts of parliament are printed for public sale.

RAILWAYS CONSTRUCTION FACILITIES.

27 & 28 Vict. c. 121. An Act to facilitate in certain Cases the obtaining of Powers for the Construction of Railways. 27 & 28 Vict c. 121.

[29th July, 1864.]

"Whereas it is expedient to facilitate the making of branch and other lines of railway, and deviations of existing railways, and of railways in course of construction, and also the execution of new works connected with or for the purposes of existing railways: And whereas the object aforesaid would be promoted if, where all landowners and other parties beneficially interested are consenting to the making of a railway or the execution of a work, the persons desirous of making or executing the same were enabled to obtain power to do so, on complying with the conditions of a general Act of parliament, without being obliged to procure a special Act:" BE IT THEREFORE ENACTED as follows:

27 & 28 Vict. c. 121.

Preliminary.

1. This Act may be cited as "The Railways Construction Facilities Act, 1864."

Interpretation of terms.

2. In this Act—

The term "lands" includes any estate, right or interest in lands:

The term "the promoters" means in each case the company or persons intending to apply to the board of trade for such a certificate as is hereinafter provided for, and, after the application is made, the company or persons actually making the application, as the case may require:

The term "the railway" means in each case the railway and works intended by the promoters before the issuing of the certificate, and, after the issuing thereof, the railway and works therein comprised, as the case may require:

The term "the lands clauses Acts" means, so far as the enactment in which that term is used relates to England, or to a certificate to be operative in England, "The Lands Clauses Consolidation Act, 1845;" and so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Lands Clauses Consolidation (Scotland) Act, 1845;" together with in each case, "The Lands Clauses Consolidation Acts Amendment Act, 1860;" and so far as the same relates to Ireland, or to a certificate to be operative in Ireland, "The Railways Act (Ireland) 1851," together with Acts incorporated in or amending that Act:

The term "the companies clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, "The Companies Clauses Consolidation Act, 1845;" and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Companies Clauses Consolidation (Scotland) Act, 1845;" together with, in each case "The Companies Clauses Act, 1863:"

The term "the railways clauses Acts" means, so far as the enactment in which that term is used relates to England or Ireland, or to a certificate to be operative in England or Ireland, "The Railway Clauses Consolidation Act, 1845;" and, so far as the same relates to Scotland, or to a certificate to be operative in Scotland, "The Railways Clauses Consolidation (Scotland) Act, 1845;" together with, in each case, "The Railways Clauses Acts, 1863:"

The term "railway bill" means a bill pending in or intended to be introduced into either house of parliament, having for its object or one of its objects to authorise the making of a railway:

The term "the board of trade" means the lords of the committee for the time being of her majesty's privy council appointed for the consideration of matters relating to trade and foreign plantations.

Contracts for Lands.

Power for promoters of railway and all persons interested in land to enter into provisional contracts for land required.

3. Where promoters of a railway intend to apply, under this Act, for authority to make the railway, they and all parties seised or possessed of or entitled to lands required for the railway shall, in order to the purchase or taking and sale of those lands for the railway, have all such powers and capacities as, in order to the purchase or taking and sale of lands required for an undertaking authorised by a special Act of parliament, are conferred by the lands clauses Acts on the promoters of the undertaking so authorised and on parties seised or possessed of or entitled to lands, or any estate, right or interest in lands, required for that undertaking; all which powers and capacities shall be enjoyed and may be exercised by the promoters, and by all such parties as aforesaid, as fully and effectually in all respects as if the promoters had obtained a special Act incorporating the lands clauses Acts, and authorising them to make the railway and to purchase or take the lands required for the same; subject, nevertheless, to the following restrictions and provisions, namely,

(1.) Nothing herein shall confer on the promoters and parties aforesaid any of the powers or capacities conferred by the part of the lands clauses Acts with respect to the purchase and taking of lands otherwise than by agreement, or by the part of those Acts with respect to the entry upon lands by the promoters of the undertaking, or by such provisions of those Acts as provide for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement (except only as to such of those provisions as provide for the determination of the amount of compensation to be paid for enfranchisement of copyholds; and for the purposes of the present section, section ninety-six of "The Lands Clauses Consolidation Act, 1845," relating to the enfranchisement of copyholds, shall be read and have effect as if the limitation of time therein contained were omitted therefrom):

(2.) Any party under disability or incapacity, and not having power to sell and convey or release any lands, except under the lands clauses Acts, as applied by the present section, shall have capacity only to contract with the promoters for the sale of those lands, and shall not (before such a certificate of the board of trade, as is hereinafter provided for, comes into operation) have capacity, further or otherwise than if this Act had not been passed, to carry the contract into execu-

tion, or in pursuance thereof to convey or deliver possession of or release those lands: 27 & 28 Vict. c. 121.

(3.) The promoters (before such a certificate as aforesaid comes into operation) shall be empowered by this Act only to contract for lands, and they shall not have capacity, further or otherwise than if this Act had not been passed, to take or hold lands.

Contracts for sale of lands belonging to the crown or duchy of Lancaster or Cornwall.

4. Where lands required for the railway belong to or are enjoyed by her majesty the queen, her heirs or successors, in right of the crown, or form part of the possessions of the duchy of Lancaster or of the duchy of Cornwall, any contract for the purposes of this Act may be entered into in respect of those lands as follows; namely,

In the first-mentioned case, by the commissioners of her majesty's woods, forests and land revenues, or one of them, with the consent of the commissioners of her majesty's treasury:

In the secondly-mentioned case, by the chancellor of the duchy by writing under his hand attested by the clerk of the council of the duchy;

In the thirdly-mentioned case, by the duke of Cornwall or other the persons for the time being empowered to dispose for any purpose of lands of the duchy.

User of or interference with public or turnpike roads.

5. Notwithstanding anything in this Act, it shall not be necessary for the promoters, before applying under this Act for authority to make the railway, to enter into any contract with respect to any part of a turnpike road or public highway intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway; but the board of trade before they settle a draft of such a certificate as hereinafter provided for, shall be satisfied that due provision is made for the interests of the trustees or other persons having the management of every such road or highway, and for the safety and convenience of the public in relation thereto.

Application for Certificate.

After land contracted for, power for promoters to apply for certificate, publish notices, &c.

6. When the promoters have contracted for the purchase of all the lands required for the railway, and are desirous of obtaining a certificate under this Act, they shall proceed as follows; namely,

(1.) They shall apply to the board of trade for a certificate under this Act:

(2.) They shall deposit maps, plans, sections and books of reference, and an estimate of the expense of the construction of the railway, and lodge a draft of the certificate as proposed by them, according to the general rules under this Act:

(3.) They shall publish notice of the application according to such general rules.

Consideration of application by board of trade.

7. As soon as conveniently may be after the time for completion of the required deposit and notice the board of trade shall proceed to inquire in such manner and to such extent as shall appear to them sufficient, whether the promoters have contracted for the purchase of all the lands required for the railway, and to inquire whether the promoters have complied with the requirements of the general rules respecting deposit and notice.

Board of trade to consider all representations and objections.

8. The board of trade, before settling the draft of a certificate, shall take into consideration any representation made to them, and shall duly inquire into the merits of any objection brought before them, respecting the application.

Opposition of Railway or Canal Company to Undertaking.

On railway or canal company affected giving notice of opposition, proceedings before board of trade to cease.

9. If in any case any railway or canal company desire to be heard by counsel, agents and witnesses against the proposed undertaking, and (within such time as is prescribed by general rules under this Act) lodge at the office of the board of trade a notice in writing to that effect (hereinafter referred to as a notice of opposition) in the form set forth in the schedule to this Act (with such variations as circumstances require), in that case the board of trade, if the railway or canal company lodging the notice would be affected in any way by the proposed undertaking, shall not proceed on the application of the promoters.

Further proceedings to be in parliament.

10. Where the board of trade do not proceed on the application, they shall, not later in any year than the fifteenth day of February, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, lay before both houses of parliament a copy of the draft certificate lodged by the promoters and of the notice of opposition; and the promoters shall be at liberty to seek by way of bill in the same session, in such manner and on such conditions as the houses of parliament respectively by standing order or otherwise from time to time direct, such powers as were sought by them by way of certificate.

Settlement of Draft Certificate.

Power to board of trade to settle certificate.

11. Where the board of trade proceed on the application, then on being satisfied that the promoters have contracted for the purchase of all the lands required for the railway, and have complied with the requirements of the general rules respecting deposit and notice, they may, if they think fit, settle a draft of a certificate certifying to the effect that the company, or persons therein specified, are authorised to make the railway therein described.

Insertion of conditions in certificate.

12. The board of trade may (subject to the provisions of this Act) insert in the draft

27 & 28 Vict. c. 121.

certificate such provisions, as they, according to the circumstances of the case, deem necessary or proper for better effectuating the purposes of the certificate; and the same shall be deemed to all intents part of the certificate.

Form of certificate.

13. The certificate may be in the form set forth in the schedule to this Act, with such provisions as aforesaid.

Submission of Draft Certificate to Houses of Parliament.

Draft certificate to be laid before houses of parliament.

14. The board of trade shall lay the draft certificate settled by them before both houses of parliament, within seven days after the same is settled, if parliament is then sitting, and if not, then within seven days after the next meeting of parliament, but not later in any year than the first day of June.

Notice thereof to be given.

15. On the draft certificate being settled the promoters shall give notice thereof according to general rules under this Act.

If either house resolve that certificate ought not to be made, it shall not be proceeded with.

16. If either house of parliament within six weeks after the draft of a certificate settled by the board of trade is laid before that house, resolves that the certificate ought not to be made, the same shall not be further proceeded with; and in that case all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party.

Issue, Publication and Effect of Certificate.

If neither house resolve that certificate ought not to be made, board of trade may issue the same.

17. If neither house of parliament within the period aforesaid thinks fit to resolve that the certificate ought not to be made, then as soon as the period of six weeks after the laying of the draft certificate before both houses of parliament has expired, the board of trade may make and issue a certificate in conformity with such draft.

Publication of certificate in Gazette.

18. The certificate shall be published in the London or Edinburgh or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland; and shall be published both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

Operation of certificate as special Act.

19. As from the time (not being prior to such publication) in the certificate prescribed, and if none is prescribed, then, as from the time of such publication, the certificate shall have the same force and operation, and shall be as absolutely valid and conclusive to all intents as if the contents thereof (taken in conjunction with this Act) had been expressly enacted by parliament; and the validity of the certificate shall not be impeached on account of any alleged informality in any court or elsewhere.

Judicial notice of certificate.

20. The certificate shall be judicially noticed without being specially pleaded.

Interpretation of certificate.

21. Terms used in the certificate shall have the same meanings as they have when used in this Act.

Duration of Powers under Certificate.

Cesser of powers at expiration of prescribed time.

22. If the company, or persons by the certificate empowered to make the railway, do not, within five years from the commencement of the operation of the certificate, or within any shorter period prescribed therein, complete the railway and open it for public traffic, then (subject to any provisions and qualifications in the certificate contained) all the powers and authorities given by the certificate shall, from and after the expiration of the time aforesaid, cease, except as to so much of the railway as is then completed.

Lands.

Incorporation of lands clauses Acts in certificate, except provisions giving compulsory powers, &c.

23. The lands clauses Acts shall be incorporated with the certificate (which shall for this purpose be deemed the special Act) except as may be therein excepted, and except as to the following provisions, namely,—

(1.) With respect to the purchase and taking of lands otherwise than by agreement:
(2.) With respect to the entry upon lands by the promoters of the undertaking:
(3.) So much of those Acts as provides for the determination or ascertainment of the amount of any purchase or compensation money, or the settlement of any apportionment or other matter, otherwise than by agreement (but excluding from this exception so much of those Acts as provides for the determination of the amount of compensation to be paid for enfranchisement of copyholds).

Incorporation of Company.

In what cases company shall be incorporated.

24. Where the promoters are not a company incorporated by special Act, or by previous certificate under this Act, and are seven or more in number, a company shall be incorporated by the certificate for the purposes thereof.

In others company may be incorporated.

25. Where the promoters are not a company incorporated by special Act, or by previous certificate under this Act, and are less than seven in number, a company may be incorporated by the certificate for the purposes thereof, if the promoters so desire.

26. Where the certificate incorporates a company, it shall contain proper provisions with apt terms for creating a body corporate, by an appropriate name, with perpetual succession and a common seal, and with power to take, hold, and dispose of lands and other property, for the purposes and subject to the restrictions of the certificate, and may confer on the company power to borrow on mortgage, and all other usual or proper powers. 27 & 28 Vict. c. 121. Power for board of trade to incorporate company by certificate.

27. In every such case the Companies Clauses Acts shall be incorporated with the certificate (which shall be deemed the special Act). Incorporation of Companies Clauses Acts.

28. It shall not be lawful for any company empowered by a certificate under this Act to issue any share created under the authority of the certificate, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one-fifth part of the amount of such share is paid up in respect thereof. Restriction as to issue of shares.

29. Every company, whether incorporated by special Act or by certificate, empowered by a certificate to borrow money, shall, as regards the money so authorised to be borrowed, be subject to the following restrictions, namely,— Restrictions on company as to borrowing, &c.

(1.) They shall not exercise the said powers of borrowing any money until the whole of the share capital authorised by the certificate is subscribed for or taken, and until one-half thereof is actually paid up, and until they prove to the justice who is to certify under section forty of "The Companies Clauses Consolidation Act, 1845," or (in Scotland) to the sheriff who is to certify under section forty-two of "The Companies Clauses Consolidation (Scotland) Act, 1845," as the case may be, before he so certifies, that shares for the whole of the capital are issued and accepted, and that not less than one-fifth part of the amount of each separate share has been paid up on account thereof before or at the time of the issue or acceptance thereof, and that all such shares were taken in good faith, and are held by the subscribers or their assigns, those subscribers or their assigns being legally liable for the same (of which matters the certificate of the justice or sheriff shall be sufficient evidence).

(2.) They shall not borrow a larger sum in the whole than one-third of the amount of the share capital authorised by the certificate:

(3.) They shall not, out of money raised under the certificate by calls or borrowing, pay interest or dividend to a shareholder on the amount of calls made on his shares, whether created under the certificate or otherwise; (but this provision shall not prevent them paying to a shareholder under the certificate such interest on money advanced by him beyond the amount of calls actually made, as is allowed by the Companies Clauses Acts):

(4.) They shall not, out of money so raised, pay or deposit any money that may be required to be paid or deposited in relation to any application to parliament or the board of trade:

(5.) They shall apply every part of the money so raised only for purposes for which it is by the certificate authorised to be applied.

30. Contracts relative to the purchase or taking of lands for the railway, entered into by the promoters before the incorporation of the company by the certificate, shall be as binding on the company as if they had been entered into by the company. Contracts by promoters binding on company.

Construction of Railway.

31. The Railway Clauses Acts shall be incorporated with the certificate (which shall be deemed the special act), except as may be therein excepted, and except as to the following provisions, namely,— Incorporation of Railways Clauses Acts in certificate, except as to compulsory powers, &c.

(1.) Such of the provisions with respect to the construction of the railway and the works connected therewith as relate to the correction of errors and omissions in plans or to plans and sections of alterations:

(2.) With respect to the temporary occupation of lands near the railway during the construction thereof:

(3.) With respect to leasing the railway:

and subject to the following provisions, namely,—

(1.) Nothing herein shall confer power for the taking or using of lands for deviation or for any other purpose, otherwise than by agreement:

(2.) Any provision referring to the datum line described in the section approved of by parliament shall be read as referring to the datum line described in the section approved of by the board of trade.

32. Where the promoters desire to make any alteration in the deposited plan or section, they may do so with the consent of the board of trade; but the board of trade shall not settle a draft of a certificate without being satisfied that all parties interested in lands liable to be affected by or in consequence of the alteration consent thereto. Restriction on alterations of plan or section.

33. Every railway made under this Act in England or Scotland shall be made on the gauge of four feet eight inches and half an inch, unless in any case the certificate prescribes the making of the railway on the gauge of seven feet or on both those gauges. Provision respecting gauge.

Every railway made under this Act in Ireland shall be made on the gauge of five feet three inches.

27 & 28 Vict, c. 121.

Provisions to secure Completion of Railway.

Promoters to deposit eight per cent. on estimate in court of chancery, &c.

34. After the certificate is ready to be issued, and before the same is issued, by the board of trade, the promoters, unless they are a previously-existing company possessed of a railway open for public traffic, shall, within such time as general rules under this Act direct, pay as a deposit a sum of money not less than eight per centum on the amount of their estimate of the expense of the construction of the railway, as follows, namely,—

Where the railway or any part thereof will be situate in England,—into the bank of England, in the name and with the privity of the accountant-general of the court of chancery in England:

Where the railway will be situate wholly in Scotland,—either into the bank of England in manner aforesaid, or (at the option of the promoters) into a bank in Scotland established by act of parliament or royal charter, in the name and with the privity of the queen's remembrancer of the court of exchequer in Scotland:

Where the railway will be situate in Ireland,—into the bank of Ireland, in the name and with the privity of the accountant-general of the court of chancery in Ireland.

Warrant of board of trade for payment into court.

35. The board of trade may issue their warrant to the promoters for such payment into court, which warrant shall be a sufficient authority for the persons therein named, or the majority or survivors of them, to pay the money therein mentioned into the bank therein mentioned, in the name and with the privity of the officer therein mentioned, and for that officer to receive the same, to be placed to his account there, ex parte the railway therein mentioned, according to the method (prescribed by statute or general rules or orders of court, or otherwise) for the time being in force respecting the payment of money into the said courts respectively, and without fee or reward.

Liberty for promoters to bring in as a deposit other securities, exchequer bills, &c.

36. Provided, that in lieu, wholly or in part, of the payment of the money, the promoters may bring into court as a deposit an equivalent sum of bank annuities, or of any stocks, funds, or securities on which cash under the control of the respective court is for the time being permitted to be invested, or of exchequer bills (the value thereof being taken at the price at which the promoters originally purchased the same, as appearing by the broker's certificate of that purchase); and in that case the board of trade shall vary their warrant accordingly.

Provision for vacations in offices of courts.

37. At any time when the office of the accountant-general of the court of chancery in England or Ireland is closed, a deposit under this Act may nevertheless be made, in such manner as general orders of the respective courts authorise and direct.

Power for court to direct investment.

38. Where money is so paid into the court of chancery in England or Ireland, the court may, on the application of the persons named in the warrant of the board of trade, or of the majority or survivors of them, order that the same be invested in such stocks, funds or securities as the applicants desire and the court thinks fit.

Interpretation of "deposit fund" and "depositors" in following provisions.

39. In the subsequent provisions of this Act, the term "the deposit fund" means the money deposited, or the stocks, funds or securities in which the same is invested, or the bank annuities, stocks and funds, securities or exchequer bills deposited, as the case may be; and the term "the depositors" means the persons named in the warrant of the board of trade authorising the deposit, or the majority or survivors of those persons, their executors, administrators or assigns.

Repayment of deposit on completion of railway or on terms

40. The court in which the deposit is made shall, on the application of the depositors, order the deposit fund to be paid, transferred or delivered out to the applicants, or as they direct, in any of the following events, namely,—

(1.) If, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company, or persons thereby empowered to make the railway, complete it and open it for public traffic; or

(2.) If, within the same time, they (being a company) prove to the satisfaction of the board of trade that one-half of their nominal capital authorised by the certificate is paid up, and that they have expended a like amount for the purposes of the certificate; or

(3.) If, at any time after the issuing of the certificate, they execute and deliver to the solicitor of her majesty's treasury a bond with a surety or sureties (such bond being prepared to the satisfaction of, and such surety or sureties being approved by, the said solicitor) in a penal sum of twice the amount of the money required to be deposited, conditioned to the effect following, namely,—for payment to her majesty, her heirs or successors, of the amount of the money required to be deposited, if the company or persons empowered by the certificate do not, within the time aforesaid, either complete the railway and open it for public traffic, or (being a company) give such proof as aforesaid respecting their capital and expenditure.

Forfeiture of deposit on non-completion of railway, &c.

41. If the company, or persons empowered by the certificate to make the railway do not, within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, do one or other of the following things, namely,—

(1.) Complete the railway and open it for public traffic; or

(2.) Give (being a company) such proof as hereinbefore mentioned respecting their capital and expenditure; or

(3.) Execute and deliver such a bond as is hereinbefore described,—

then and in every such case the deposit fund shall, from and after the expiration of the time aforesaid, be forfeited to her majesty, and shall accordingly be paid, transferred or delivered out to or for the account of her majesty's exchequer, in such manner as the court in which the deposit is made thinks fit to order, on the application of the solicitor of her majesty's treasury, on notice to such parties (if any) as the court thinks fit; and the deposit fund, when so paid, transferred or delivered, or the proceeds thereof, shall be carried to and form part of the consolidated fund of the united kingdom. 27 & 28 Vi c. 121.

42. Where any such bond as aforesaid is given, the amount recovered thereon shall be paid to the account of her majesty's exchequer, and shall be carried to and form part of the said consolidated fund. Application of money recovered on bond.

43. The depositors shall be entitled to receive payment of the interest or dividends from time to time accruing on the deposit fund while in court; and the court in which the deposit is made may from time to time, on the application of the depositors, make such order as seems fit respecting the payment of the interest or dividends accordingly. Depositors to receive dividends accruing while fund in court.

44. The certificate of the board of trade that such proof as aforesaid respecting the capital and expenditure of any company has been given to the satisfaction of the board of trade, and the certificate of the solicitor of her majesty's treasury that such bond as aforesaid has in any case been prepared, executed and delivered to his satisfaction, shall respectively be sufficient evidence of the matters therein certified. Proof as to capital and expenditure, execution of bond, &c.

45. The issuing in any case of any warrant or certificate relating to deposit or to the deposit fund, or any error in any such warrant or certificate or in relation thereto, shall not make the board of trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the deposit fund, or the interest of or dividends on the same, or any part thereof respectively. Protection to board of trade in case of error, &c.

46. Any application under this Act to the court of chancery in England or Ireland shall be made in a summary way in such manner as general orders of those courts respectively direct. Mode of application to courts.

47. The lord chancellor of Great Britain with the advice and assistance of the lords justices of the court of appeal in chancery and the master of the rolls and the vice-chancellors, or any two of those judges, and the lord chancellor of Ireland with the advice and assistance of the lord justice of the court of appeal in chancery in Ireland and of the master of the rolls in Ireland, may respectively from time to time make such general orders as seem fit for the regulation of the practice under this Act of the court of chancery in England and Ireland respectively. Power for courts to make general orders.

48. Where a certificate is obtained by a previously-existing company possessed of a railway open for public traffic, then if the company fail to complete the railway and open it for public traffic within the time in the certificate prescribed, and if none is prescribed, then within five years from the commencement of the operation of the certificate, the company shall be liable to a penalty of not less than twenty pounds and not exceeding fifty pounds for every day during which such failure continues, except only in respect of any time during which it appears from a certificate of the board of trade that the company were prevented from completing the railway or opening it for public traffic by unforeseen accident or circumstances beyond their control, but the want of sufficient funds shall not be deemed a circumstance beyond their control within the meaning of this provision. Penalty on company failing to open new railway in certain cases.

Tolls and Charges for Use of Railway.

49. The proprietors of the railway may demand and take, in respect of the railway, tolls and charge not exceeding the sums specified in the schedule to this Act, subject and according to the regulations therein specified. Tolls, &c., in schedule.

50. The board of trade may nevertheless by the certificate vary the tolls and charges and regulations specified in the schedule to this Act, or any of them, if in any case it seems to them necessary or proper under the circumstances to do so. Power for board of trade to vary tolls, &c.

Application of General Railway Acts.

51. The enactments described in the schedule to this Act, and any enactments amending, perpetuating or otherwise affecting any of them, so far as the same are in force at the passing of this Act, shall extend and apply, as the case may require, to the railway, and to the company or persons empowered by the certificate to make the railway, and shall in all respects operate in relation thereto respectively as if they were expressly repeated and re-enacted in this Act, subject, nevertheless, and according to the following variations and provisions; namely, Enactments in schedule applied to the railway and company, subject to variations.

(1.) For the purposes and within the meaning of any of those enactments, the railway shall be deemed to be a railway made and constructed and carried on under the authority of parliament and under the powers and provisions of an Act of parliament, and the certificate (taken in conjunction with this Act) shall be deemed to be a special Act of parliament regulating or relating to the railway or the company, body or persons empowered to make the same (as the case may require):

(2.) Such of those enactments as refer to the time of the passing of an Act of parliament for the construction of a railway, or to the last day of the session in

27 & 28 Vict. c. 121.

which such an Act is passed, shall respectively be read and have effect as referring to the time of the commencement of the operation of the certificate:

(3.) The term "company" and "railway company" used in any of those enactments shall respectively include any persons empowered by the certificate to make the railway:

(4.) Such of those enactments as refer to the directors or any director, or the secretary, chief or other clerk, accountant, treasurer or other officer of a company, shall extend and apply to every or any one of the persons (not being a company), empowered by the certificate to make the railway:

(5.) Such of those enactments as refer to a writing under the common seal of the company shall be read and have effect as referring to a writing under the hand and seal of any one of such persons, as aforesaid:

(6.) Such of those enactments as impose any penalty or forfeiture, or any pecuniary liability or any obligation on a company, or give any right, remedy or process against a company, shall be read and have effect (so far as the nature and circumstances of the case admit) as imposing a like penalty, forfeiture, liability or obligation on, or as giving a like right, remedy or process against, every or any one of such persons as aforesaid, but not so as to authorise the recovery of any penalty or forfeiture from, or the enforcement of any pecuniary liability against, more than one of such persons in respect of the same offence, matter or thing:

(7.) The amount of any compensation to be made to the owners and occupiers of any lands for loss or injury or inconvenience sustained by them respectively by reason of any works done under the authority of any of those enactments shall, in case of dispute, be settled in manner directed by the Lands Clauses Acts and the Railways Clauses Acts as respectively applicable to the case:

(8.) Such of those enactments as provide for the case of the board of trade certifying that the public safety requires additional land to be taken by a company for the purpose of giving increased width to the embankments or inclination to the slopes of the railway, or for making approaches to bridges, or archways, or for doing works for the repair or prevention of accidents or slips happening or apprehended to the cuttings, embankments or other works of the railway, shall be read and have effect, as regards such portions of land as are mentioned in any certificate so given by the board of trade, as if compulsory powers of purchasing and taking lands had been contained in the certificate under this Act authorising the making of the railway, and the provisions of the Lands Clauses Acts and the Railways Clauses Acts relative to the compulsory purchase or taking of land had been incorporated with that certificate:

(9.) If the railway is in any respect constructed contrary to the provisions of the certificate, or of this Act, it shall be deemed to be constructed contrary to the provisions of any of those enactments applicable in the case:

(10.) Nothing herein shall extend or make applicable, for the purposes of this Act, to or in any one of the parts of the united kingdom, any of those enactments not in force there independently of this Act.

Miscellaneous.

Board of trade may reject the application.

52. Nothing in this Act shall make it obligatory on the board of trade to settle a draft of a certificate in any case if it appears to the board of trade for any reason that the application of the promoters should not be complied with; and in case the board of trade reject any application, all contracts for the purchase or taking of lands for the purposes of the undertaking shall cease to be binding on either party.

Saving for general Acts, or revision of charges.

53. Nothing in the certificate shall exempt the railway or the company, or persons to whom it belongs, from the provisions of any general Act of parliament relating to railways, or to the better audit of the accounts of railway companies, passed before or after the issuing of the certificate, or from any revision and alteration under the authority of parliament, of the maximum tolls and charges allowed to be taken under the certificate.

New works in connexion with railway.

54. All the provisions of this Act which relate to the making of a railway shall extend and apply, mutatis mutandis, to the making or executing of any work connected with or for the purposes of a railway (as distinguished from the construction of a railway).

Power to authorize joint work.

55. Subject and according to the provisions of this Act, the board of trade may, on a joint application or on two or more separate applications, issue a certificate empowering two or more companies or persons respectively, to jointly make or execute the whole, or to separately make or execute parts, of a work connected with or for the purposes of a railway, and to jointly or separately use the whole or parts thereof; and all the provisions of this Act which relate to the making of a railway, or the making or executing of a work, shall extend and apply to the making or executing of the whole and the separate parts of such work as last aforesaid; and the form of the certificate may be adapted to the circumstances of the case.

Power to promoters, being a company, to

56. Where the certificate is obtained by a previously-existing company incorporated by special Act or by certificate, the certificate may authorise the company to raise, as capital, for the purposes of the certificate, such additional sum of money as therein limited, by the issue of new shares or new stock, either ordinary or preference, or partly ordinary and

partly preference, or partly in that mode and partly by borrowing on mortgage, at the option of the company, or as may be prescribed in the certificate, and with power to create and issue debenture stock.

27 & 28 Vict. c. 121.

raise additional capital.

In every such case the Companies Clauses Acts shall be incorporated with the certificate.

In every such case the restrictions by this Act imposed on a company when originally incorporated by certificate, with respect to the exercise of their borrowing power and to the application of money raised under the certificate by calls or borrowing, shall extend and apply to such previously-existing company in respect of such additional capital.

57. Where the certificate is obtained by a previously-existing company incorporated by special Act or by certificate, it shall be the duty of the board of trade not to settle a draft of the certificate without being satisfied that the members of the company have approved of the application to the board of trade, in like manner as, under the standing orders of either house of parliament for the time being in force, their approval of a railway bill would be required to be given in the same case.

Where promoters are a company, approval of application by a meeting.

58. Subject and according to the restrictions and provisions of this Act, the board of trade, on the application of any company or persons empowered by a certificate, may from time to time amend, extend or vary by certificate the previous certificate, and may by certificate revoke the previous certificate.

Power to board of trade to amend or revoke certificate.

59. If in any case it is made to appear to the board of trade that any error has been committed in a certificate or in relation thereto, the board of trade may, subject and according to the restrictions and provisions of this Act, on the application of any company, body or person affected by the error, and on notice to the company or persons empowered by the certificate, correct the error by a further certificate.

Power to correct error.

60. A copy of the London, Edinburgh, or Dublin Gazette containing a certificate or a copy of a certificate, purporting to be printed by the printers of the London, Edinburgh or Dublin Gazette, shall be conclusive evidence of the certificate, and of the due publication thereof, without any proof of the Gazette, or without any proof of the copy having been in fact so printed, as the case may be.

Proof of certificate.

61. The company or persons empowered by a certificate shall at all times keep at their head office copies of the certificate printed by the printers of the Gazette or one of the Gazettes in which the same was published, in such form as general rules under this Act direct, to be sold to all persons desiring to buy the same, at a price not exceeding one shilling for each copy.

Copies of certificate to be kept for sale.

If any company or persons fail to comply with this provision they shall be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for every day during which such failure continues after the first penalty is incurred.

Penalty on non-compliance.

62. Penalties under this Act or under a certificate, the recovery and application whereof are not otherwise provided for, shall be recovered and applied as penalties under the Railways Clauses Acts are recoverable and applicable.

Recovery and application of penalties.

63. The Act of the session of the seventh year of king William the fourth and the first year of her majesty (chapter eighty-three), "to compel clerks of the peace and other persons to take the custody of such documents as shall be directed to be deposited with them under the standing orders of either house of parliament," shall apply to documents required to be deposited by general rules under this Act.

As to custody of documents under 7 Will. 4 & 1 Vict. c. 83.

64. The general rules under this Act shall in the first instance be those set forth in the schedule to this Act: and the board of trade may from time to time, for the better execution of this Act, make general rules adding to, altering, or revoking any general rules for the time being in force under this Act; but any general rules so made by the board of trade shall not have effect unless and until they are laid before both houses of parliament, and if either house of parliament, within six weeks after the same are laid before that house, thinks fit to resolve that the same or any part thereof ought not to take effect, the same or that part thereof (as the case may be) shall not take effect; otherwise all rules made by the board of trade under the present section shall be of the same force and effect as if they had been comprised in the schedule to this Act.

General rules in schedule with power for amendment.

All general rules which are to take effect under the present section shall be published in the London, Edinburgh, and Dublin Gazettes.

65. Not later than the first day of July in each year the board of trade shall lay before both houses of parliament a report respecting the applications to and proceedings of the board of trade under this Act during the year then last past.

Annual report to parliament by board of trade.

The SCHEDULE referred to in the foregoing Act.

(i.)—*Notice of Opposition.*

In the matter of "The Railways Construction Facilities Act, 1864," and
The (proposed) railway.

We, the railway [*or* canal] company hereby declare and give notice that we desire to be heard by counsel, agents and witnesses against the above-mentioned proposed undertaking.

Dated this day of , 18 .

Witness, *A. B.* (L.S.)

(ii.)—*Form of Certificate of Board of Trade.*

The railway.

Certificate of the Board of Trade for the construction of the railway.

Whereas the promoters of the railway have contracted for the purchase of the lands required for the railway and the works connected therewith, and have complied with the requirements of "The Railways Construction Facilities Act, 1864:"

Now, therefore, the board of trade do, by this their certificate, in pursuance of the said act, and by virtue and in exercise of the powers thereby in them vested and of every other power enabling them in this behalf, certify as follows:

[*Here are to follow the provisions of the certificate, showing the powers conferred and the terms and conditions (if any) imposed.*]

(Signed) *C. D.*
Secretary to the Board of Trade.

The Board of Trade,
Whitehall.
Dated this day of

(iii.)—*Tolls and Charges.*

TABLE I.

Maximum Charges for Use of Railway and Supply of Carriages, Waggons, or Trucks.

	For Use of Railway, per Mile.	For Supply of Carriage, Waggon, or Truck by the Proprietors of the Railway the Additional Sum per Mile of
Passengers:—		
For every Person	Twopence.	One Penny.
Animals:—		
For every Horse, Ass, Mule or other Beast of Draught or Burden (Class 1)	Threepence.	One Penny.
For every Ox, Cow, Bull or Head of Neat Cattle (Class 2)	Twopence.	One Penny.
For every Calf, Pig, Sheep, Lamb or other small Animal (Class 3)	Three Farthings.	One Farthing.
Goods (except as provided for in Table IV.):—		
For Cotton and other Wools, Manufactured Goods, Drugs, Fish and all other Wares, Merchandise, Articles, Matters or Things not enumerated in any other Class (Class 4) . . per Ton	Threepence.	One Penny.
For Sugar, Grain, Corn, Flour, Hides, Dyewoods, Earthenware, Timber, Staves, Deals and Metals (except Iron), Nails, Anvils, Vices, Chains and Light Iron Castings (Class 5) . . per Ton	Twopence Halfpenny.	One Penny.
For Coke, Charcoal, Pig Iron, Bar Iron, Rod Iron, Sheet Iron, Hoop Iron, Plates of Iron, Wrought Iron, Heavy Iron Castings, Railway Chains, Slabs, Billets and Rolled Iron, Lime, Bricks, Tiles, Slates, Salt, Fireclay and Stone (Class 6) per Ton	Three Halfpence.	One Penny.
For Dung, Compost, Manure, undressed Material for Repair of Public Roads or Highways, Coals, Culm, Cinders, Cannel, Ironstone, Iron Ore, Limestone, Clay (except Fireclay), Chalk, Sand and Slag (Class 7) . . . . . per Ton	Five Farthings.	One Halfpenny.
For every Carriage of whatever Description conveyed on a Truck or Platform belonging to the Proprietors of the Railway (Class 8):		
If not weighing more than One Ton . .	Sixpence.	
If weighing more than One Ton, then for the first Ton	Sixpence.	
And for every additional Quarter of a Ton, or fractional part of a Quarter of a Ton, above the First Ton	Three Halfpence.	

TABLE II.

Maximum Charges for Supply of Locomotive Power.

For the Use of Engines for propelling Carriages on the Railway, for every Passenger, Animal and Ton of Goods	Per Mile. One Penny.

TABLE III.

Maximum total Charges for Use of Railway and Supply of Carriages, Waggons or Trucks, and Supply of Locomotive Power, and every other Expense incidental to Conveyance of Passengers, Animals or Goods along the Railway.

Passengers :—	Per Mile.
For every Person conveyed in a First-class Carriage	Threepence.
,, ,, Second-class ,, ...	Twopence.
,, ,, Third-class ,, ...	Five Farthings.
Animals :—	
For every Animal in Class 1	Fourpence.
,, Class 2	Threepence.
,, Class 3	Three Halfpence.
Goods :—	
For every Thing in Class 4 . . . . . per Ton	Fourpence.
,, Class 5 . . . . . per Ton	Threepence.
,, Class 6 . . . . . per Ton	Twopence.
,, Class 7 . . . . . per Ton	Three Halfpence.
For every Carriage in Class 8	The Charge specified in Table I.

TABLE IV.

Maximum Charges for small Packages and Single Articles of great Weight.

Small Packages :—	
For every Parcel not exceeding Seven Pounds in Weight . .	Sixpence.
,, exceeding Seven Pounds, but not exceeding Fourteen Pounds, in Weight	Eightpence.
,, exceeding Fourteen Pounds, but not exceeding Twenty-eight Pounds, in Weight . . .	One Shilling.
,, exceeding Twenty-eight Pounds, but not exceeding Fifty-six Pounds, in Weight . . .	One Shilling and Threepence.
,, exceeding Fifty-six Pounds, but not exceeding Five hundred Pounds, in Weight, for the first Fifty-six Pounds	One Shilling.
And for every additional Fifty-six Pounds, or fractional Part of Fifty-six Pounds, above the first Fifty-six Pounds . . .	Sixpence.
Single Articles of great Weight :—	
For every Boiler, Cylinder or Single Piece of Machinery, Timber or Stone, or other Single Article :	
If weighing (inclusive of the Carriage) more than Four but not more than Eight Tons, Sixpence per Ton per Mile.	
If weighing (inclusive of the Carriage) more than Eight Tons, such Sum as the Proprietors of the Railway think fit.	

REGULATIONS.

1. For passengers, animals, or goods conveyed on the railway for a distance less than that prescribed in the certificate as the short distance, and if none is prescribed then for a distance less than six miles, charges are to be payable as for the short distance prescribed, and if none is prescribed then as for six miles. **Short distance charge.**

2. In respect of passengers, every fraction of a mile beyond an integral number of miles is to be deemed a mile. **Fraction of mile; passengers.**

3. In respect of animals and goods, for a fraction of a mile beyond the short distance prescribed, or if none is prescribed then beyond six miles, or beyond any greater number of miles, charges are to be payable in proportion to the number of quarters of a mile contained in that fraction; and a fraction of a quarter of a mile is to be deemed a quarter of a mile. **Fraction of mile; animals and goods.**

4. For a fraction of a ton charges are to be payable according to the number of quarters of a ton in that fraction; and a fraction of a quarter of a ton is to be deemed a quarter of a ton. **Fraction of ton.**

5. Every passenger travelling on the railway may, without charge, cause to be carried in the same train with him his ordinary luggage, not exceeding the weight prescribed in the certificate, and if none is prescribed then not exceeding the weight of one hundred and **Passenger luggage.**

27 & 28 Vict. c. 121.

twenty pounds for a first-class passenger, one hundred pounds for a second-class passenger, and sixty pounds for a third-class passenger.

Special trains.

6. The restriction as to charges for passengers does not extend to special trains when required by passengers, but applies only to the ordinary or express passenger or goods trains appointed by the proprietors of the railway.

Determination of weight.

7. Except as to stone and timber, weight is to be determined according to avoirdupois weight.

Fourteen cubic feet of stone, and forty cubic feet of oak, maghony, teak, beech, or ash, and fifty cubic feet of any other timber, are to be deemed one ton, and so in proportion for any smaller quantity.

Terminal station charges.

8. In addition to the charges in Table III., a reasonable charge is to be payable for the loading, covering, and unloading of goods at any station, being a terminal station in respect of such goods, and for delivery and collection, and any other services incidental to the duty or business of a carrier, where such services or any of them, are or is performed by the proprietors of the railway.

A station is not to be considered a terminal station in respect of goods, unless they are received there direct from the consignor, or are directed to be delivered there to the consignee.

Small packages.

9. The term small packages does not include articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal and the like; but applies only to single parcels in separate packages.

Agreement for higher charges.

10. Nothing herein or in the certificate contained is to prevent the proprietors of the railway from taking any charge over and above the charges hereinbefore limited for the conveyance of goods of any description by agreement with the owners of or any persons in charge of such goods, either in respect of the conveyance thereof (except small packages) by passenger trains, or by reason of any other special service performed by the proprietors of the railway in relation thereto.

(iv.) *Enactments in General Acts relating to Railways applied to Railways under this Act.*

Session and Chapter, and Section (if any).	Title or Short Title of Act.
1 & 2 Vict. c. 80 . . .	An Act for the Payment of Constables for keeping the Peace near Public Works.
1 & 2 Vict. c. 98 . . .	An Act to provide for the Conveyance of the Mails by Railways.
2 & 3 Vict. c. 45 . . .	An Act to amend an Act of the Fifth and Sixth Years of the Reign of His late Majesty King William the Fourth relating to Highways.
3 & 4 Vict. c. 97 . . .	An Act for regulating Railways.
5 & 6 Vict. c. 55 . . .	An Act for the better Regulation of Railways, and for the Conveyance of Troops.
5 & 6 Vict. c. 79, ss. 2 to 7 (both inclusive), and ss. 24, 25, 26	An Act to repeal the Duties payable on Stage Carriages, and on Passengers conveyed upon Railways, and certain other Stamp Duties in Great Britain, and to grant other Duties in lieu thereof; and also to amend the Laws relating to Stamp Duties.
7 & 8 Vict. c. 85 . . .	An Act to attach certain Conditions to the Construction of future Railways authorised or to be authorised by any Act of the present or succeeding Sessions of Parliament, and for other Purposes relating to Railways.
8 & 9 Vict. c. 3 . . .	An Act for the Appointment of Constables or other Officers for keeping the Peace near Public Works in Scotland.
8 & 9 Vict. c. 46 . . .	An Act for the Appointment of additional Constables for keeping the Peace near Public Works in Ireland.
9 & 10 Vict. c. 57, ss. 4, 6, 7, 8.	An Act for regulating the Gauge of Railways.
10 & 11 Vict. c. 85, s. 16 .	An Act for giving further Facilities for the Transmission of Letters by Post, and for the regulating the Duties of Postage thereon, and for other Purposes relating to the Post Office.
14 & 15 Vict. c. 64 . . .	An Act to repeal the Act for constituting Commissioners of Railways.
17 & 18 Vict. c. 31 . .	The Railway and Canal Traffic Act, 1854.
18 & 19 Vict. c. 122, s. 6 . .	An Act to amend the Laws relating to the Construction of Buildings in the Metropolis and its Neighbourhood.
20 & 21 Vict. c. 31, s. 4 . .	An Act to amend and explain the Inclosure Acts.

Session and Chapter, and Section (if any).	Title or Short Title of Act.
21 & 22 Vict. c. 75 . . .	An Act to amend the Laws relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies, being also Railway Companies.
22 & 23 Vict. c. 59 . .	Railway Companies Arbitration Act, 1859.
26 & 27 Vict. c. 33, ss. 13, 14.	An Act for granting to Her Majesty certain Duties of Inland Revenue, and to amend the Laws relating to the Inland Revenue.
26 & 27 Vict. c. 112, s. 32 .	The Telegraph Act, 1863.

(v.)—GENERAL RULES.

Form of Application.

1. The application to the board of trade for a certificate is to be made by a memorial in writing, signed by the promoters or some one of them, and lodged at the office of the board of trade.

2. Together with the memorial the promoters are to lodge—

(*a*) A printed draft of the certificate as proposed by the promoters:

(*b*) An estimate of the expense of the construction of the proposed new railway or work (if any), signed by the person making the estimate.

Plans, Sections, &c.

3. Maps, plans, sections, and books of reference deposited by the promoters are to be such, in respect of scale and contents and otherwise, as, under the standing orders of either house of parliament for the time being in force, they would be obliged to deposit if they were proceeding in the same case by a railway bill.

4. The maps, plans, sections, and books of reference aforesaid are to be deposited at the office of the board of trade at the time when the memorial is lodged there.

5. They are also to be deposited for public inspection at the same offices of the clerks of the peace or sheriff clerks, at which, under the standing orders aforesaid, the promoters would be obliged to deposit them if they were proceeding in the same case by a railway bill.

6. Where any part of the railway will be situate within the limits of the metropolis, as defined by "The Metropolis Management Act, 1855," a copy of so much of the plans and sections as relates to that part is to be deposited at the office of the metropolitan board of works.

7. A copy of so much of the plans and sections as relates to each parish in which any part of the railway will be situate, or in which any lands intended to be taken for the railway are situate, together with a copy of so much of the book of reference as relates to that parish, is to be deposited for public inspection with the officer or person with whom, under the standing orders aforesaid, the promoters would be obliged to deposit the same if they were proceeding in the same case by a railway bill.

Advertisements as to Application.

8. After all the deposits aforesaid have been made, notice of the application to the board of trade is to be given by advertisement published as follows, namely:

Where the railway will be situate wholly in one county, city, or town, or county of a city or town, then once in each of the three successive weeks in some one and the same newspaper of that county, city or town, or county of a city or town:

Where the railway will not be situate wholly in one county, city or town, or county of a city or town, then once in each of three successive weeks in some one and the same newspaper of the county, city or town, or county of a city or town, wherein the head office of the promoters is situate, and also once in each of three successive weeks in some one and the same newspaper of each county, city or town, or county of a city or town, wherein any part of the railway will be situate:

If in any case there is not any such newspaper as hereinbefore described, then in like manner in a newspaper of some adjoining or neighbouring county:

In every case, once at least in the London, Edinburgh, or Dublin Gazette, respectively, if the railway will be situate wholly in England or Scotland, or in Ireland: and both in the London and in the Edinburgh Gazette, if the railway will be situate partly in England and partly in Scotland.

9. The advertisements are to be published either in the month of June or in the month of November and not at any other time.

10. Each advertisement is to give the address of an office in London where copies of the draft certificate will be supplied as hereinafter directed.

11. Each advertisement is to state that all persons desirous of making any representation to the board of trade, or of bringing before them any objection respecting the application,

27 & 28 Vict. c. 121.

may do so by letter addressed to the secretary of the board of trade, on or before the first day of August, or first day of January next succeeding the date of the advertisement, according as the same is published in the month of June or in the month of November.

Deposit of Copies of Advertisements.

12. Within one week after the publication of the latest advertisement, a copy of each of the newspapers and Gazettes containing the several advertisements is to be lodged at the office of the board of trade.

13. Within the same time, a printed copy of the Gazette advertisement is to be deposited for public inspection in each of the same offices, and with each of the same officers and persons, in which or with whom the maps, plans, sections and books of reference or parts thereof were deposited.

14. The last-mentioned deposit of a copy of the Gazette advertisement may be made (if the promoters choose) by means of a registered post letter, and any deposit so made shall be deemed made on the day on which such letter would be delivered in ordinary course of post.

Note of Time of Deposit.

15. Where any document is deposited under these rules for public inspection, the clerk of the peace, sheriff clerk, or other officer or person, in whose office or with whom it is deposited, is to make thereon a memorial in writing denoting the time at which it was deposited.

Notice to Road Trustees.

16. Where any part of a turnpike road or public highway is intended to be taken or used, or to be diverted or otherwise interfered with, for the purposes of the railway, the promoters in the month of June or November (as the case may be) in which the advertisements are published are to serve notice of the application on the trustees or other persons having the management of such road or highway.

Notice of Opposition.

17. Notice of opposition by a railway or canal company is to be lodged at the office of the board of trade, not later than the first day of August or first day of January next succeeding the date of the advertisement of application, according as the same is published in the month of June or in the month of November.

Notice of Settlement of Draft Certificate.

18. On the draft certificate being settled by the board of trade, the promoters are to serve a copy thereof, with a notice that the draft has been settled by the board of trade, on every company, body, or person, by whom any representation or objection respecting the application was made to or brought before the board of trade, and are also to give by advertisement or otherwise such public or other notice (if any) thereof, as according to the circumstances of the case the board of trade direct.

Supply of Copies of Draft Certificate.

19. From the time of the publication of the first advertisement the promoters are to keep in the office mentioned in this behalf in the advertisement, a sufficient number of copies of the draft of the certificate as proposed by them, and are to furnish there copies to all persons applying for them at the price of not more than sixpence each.

20. From the time of the settlement of the draft certificate by the board of trade, the promoters are to keep in the office aforesaid copies of the draft supplied to them for that purpose by the board of trade, and are to furnish there copies thereof to all persons applying for them at such price (if any) as the board of trade from time to time direct.

Deposit of Money.

21. The deposit of money or government securities in court is to be made within one month after notice from the board of trade that they are prepared to issue the certificate.

Printing of Certificate

22. Copies of the certificate printed by the printers of a Gazette are to be printed on ordinary white folio paper, similar in size to the paper on which the public general acts of parliament are printed for public sale.

RE-ASSURANCE.

[27 & 28 Vict. c. 56, s. 1, may be made. See "Stamps."]

REFRESHMENT HOUSES.

[27 Vict. c. 18, s. 5. See "Stamps."]

REGIMENTAL DEBTS ACT, 1863.

26 & 27 Vict. c. 57. An Act to consolidate and amend the Acts relating to the Payment of Regimental Debts and the Distribution of the Effects of Officers and Soldiers in case of Death, and to make like Provision for the Cases of Desertion and Insanity, and other Cases. [21st July, 1863.] 26 & 27 Vict. c. 57.

REGISTER OF BURIAL EVIDENCE.

[27 & 28 Vict. c. 97, s. 5. See "INTERMENT."]

SCHOOLS (PUBLIC).

27 & 28 Vict. c. 92. An Act for annexing Conditions to the Appointment of Persons to Offices in the Governing Bodies of certain Public Schools and Colleges. [29th July, 1864.] 27 & 28 Vict. c. 92.

"Whereas a commission was issued in the year one thousand eight hundred and sixty-one, under letters patent of her majesty, for the purpose of inquiring into the nature and application of the endowments and into the administration and management of the colleges and schools named in the schedule annexed hereto: And whereas the said commission reported, amongst other things, to her majesty, that parliamentary legislation would be required in order to make the changes which the said commission considered desirable, in respect amongst other things, of the governing bodies of the said colleges and schools: and whereas it is expedient that no impediment should be created to the free action of the legislature in making the said changes, by the acquisition of vested interests in the property of the said colleges and schools by persons who may be appointed to offices in the governing bodies thereof after the date of the passing of this Act:" BE IT THEREFORE ENACTED as follows:

Short title.

1. This Act may be cited for all purposes as "The Public Schools Act, 1864."

Persons appointed after passing of Act to take office subject to future legislation.

2. Every person appointed after the passing of this Act to any office in the governing body of any of the said colleges or schools shall take and hold that office subject to such provisions and regulations as may hereafter be enacted respecting the same.

Definition of "governing body."

3. "Governing body" shall mean any one of the several bodies referred to in the report of the said commissioners as being a governing body of any of the said colleges or schools, with the addition of the head master or other master thereof; and any person appointed a member of the governing body of any such college or school as aforesaid, or a master thereof, shall be deemed to be appointed to an office in the governing body of the said college or school.

Duration of Act.

4. This Act shall continue in force until the first day of August, one thousand eight hundred and sixty-five.

SCHEDULE referred to in this Act.

1. Eton college.
2. Winchester college.
3. The collegiate school of St. Peter, Westminster.
4. The charterhouse school.
5. St. Paul's school in the city of London.
6. The merchant taylors school in the city of London.
7. The free grammar school of John Lyon at Harrow-on-the-Hill in the county of Middlesex.
8. The school founded by Lawrence Sheriff at Rugby in the county of Warwick.
9. The free grammar school of king Edward the sixth at Shrewsbury.

SESSIONS OF THE PEACE.

27 & 28 Vict. c. 65. An Act for amending the Law relating to the Removal of Clerks of the Peace. [25th July, 1864.] 27 & 28 Vict. c. 65.

"Whereas by the sixth section of the Act of the first year of king William and queen Mary, chapter twenty-one, it was enacted, that if in any county, riding, division, or place

27 & 28 Vict. c. 65.

any clerk of the peace already nominated or thereafter to be nominated should misdemean himself in the execution of his office, and thereupon complaint in writing of the said misdemeanor should be exhibited against him to the justices of the peace in their general quarter sessions, it should be lawful for the said justices or the major part of them, from time to time, upon examination, and due proof thereof, openly in their said general quarter sessions, to suspend or discharge him from the said office; and in such case the custos rotulorum or other person to whom the right of nomination belonged should appoint another sufficient person to be a clerk of the peace, as in the said Act mentioned: And whereas cases have occurred in which clerks of the peace have been guilty of such misconduct as to render them unfit to hold their offices, but the justices have been unable to remove them by reason that such misconduct did not occur in the execution of their office: and whereas it is expedient to provide for such cases as lastly hereinbefore mentioned:" BE IT ENACTED as follows:

Short title.

1. This Act may be cited for all purposes as "The Clerks of the Peace Removal Act, 1864."

As to removal of a clerk of the peace when guilty of misconduct otherwise than in execution of his office.

2. If it appear to any two justices of the peace of a county that the clerk of the peace of that county has, after the passing of this Act, been guilty of such misconduct, otherwise than in the execution of his office, as in the opinion of the said justices to render him an unfit or improper person to hold the office of clerk of the peace, the said justices may exhibit against him to the court of general or quarter sessions of the county a complaint in writing, stating the misconduct of which the clerk has been guilty, a copy of which shall be at the same time sent to the custos rotulorum, and it shall be lawful for the said court, if satisfied, upon due examination in open court, that the clerk complained of has been guilty of the misconduct imputed to him, and that the same is such as to render him an unfit or improper person to hold his office, to suspend or remove him from his office, and a new clerk of the peace shall be appointed in manner provided by the said Act in cases where a clerk of the peace has misdemeaned himself in the execution of his office.

Power to appeal to the lord chancellor.

3. If the clerk of the peace complained of feels aggrieved by the decision of any court of general or quarter sessions under this Act, he may, within three months after the delivery of such decision, appeal to the lord chancellor by motion in a summary manner, and it shall be lawful for the lord chancellor to reverse, confirm, or modify the decision of the said court of general or quarter sessions, or to remit the case with such directions as the lord chancellor may think just.

Definition of "county" and "clerk of the peace."

4. The word "county" in this Act shall include any riding, division, or liberty of a county, or any city, borough, or other place having a separate court of quarter sessions. The expression "clerk of the peace" shall include any officer performing the duties of a clerk of the peace.

SHIPPING.

NAVAL AGENCY AND DISTRIBUTION.

27 & 28 Vict. c. 24.

27 & 28 Vict. c. 24. An Act to provide for the Appointment, Duties, and Remuneration of Agents for Ships of War, and for the Distribution of Salvage, Bounty, Prize, and other Money among the Officers and Crews thereof. [23rd June, 1864.]

BE IT ENACTED as follows:

Preliminary.

Short title.

1. This Act may be cited as "The Naval Agency and Distribution Act, 1864."

Interpretation of terms.

2. In this Act—

The term "the lords of the admiralty" means the lord high admiral of the united kingdom, or the commissioners for executing the office of lord high admiral:

The term "the high court of admiralty" means the high court of admiralty of England:

The term "ship of war" includes vessel of war:

The term "officers and crew" includes all flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of her majesty's ships of war:

Power for admiralty to apply Act to any of her majesty's ships.

3. Any ship or vessel belonging to her majesty, and in actual service, (other than a ship of war,) may be declared by the lords of the admiralty to be a ship of war for the purposes of this Act; and all the provisions of this Act shall thereupon apply to such ship or vessel, and shall continue to so apply as long as she then continues in actual service, but no longer.

Appointment of Ship's Agent.

Each of her majesty's ships to have an agent.

4. Each of her majesty's ships of war shall at all times while in commission have, for the purposes of this Act, an agent styled the ship's agent, to be appointed in the first instance as soon as may be after the ship is put in commission, and afterwards from time to time as a vacancy in the office or other occasion may require.

5. The ship's agent shall be appointed from time to time at pleasure by the commanding officer of the ship for the time being by an instrument signed and attested in the form given in the schedule to this Act. 27 & 28 Vict. c. 24.

Ship's agent to be appointed by commanding officer.

6. Any such instrument shall not have effect unless and until it is filed in the registry of the high court of admiralty, having been previously registered in the office of the accountant-general of the navy.

An official copy of any such instrument under the seal of the high court of admiralty shall be conclusive evidence thereof.

Instrument of appointment to be registered and filed.

7. A person holding any office or employment in her majesty's service or under the crown, or a proctor, attorney, or solicitor, shall not be capable of being a ship's agent.

If any person being a ship's agent accepts any such office or employment, or becomes a proctor, attorney, or solicitor, his appointment as ship's agent shall be thereby vacated.

Persons in service of crown, proctors, &c., incapable of being agents.

8. A partnership body, not incorporated, may be appointed a ship's agent; and in that case the partners for the time being, or any one or more of them, may act as the agent; and any change of partners shall not affect the appointment.

The names of the partners shall at the time of appointment, and from time to time on any change happening, be registered in the office of the accountant-general of the navy, and in the registry of the high court of admiralty.

Partnership body may be a ship's agent.

9. The appointment of the ship's agent shall not be affected by a change of the commanding officer of the ship.

Change of commanding officer.

10. The ship's agent shall at all times have an office or place of business within five miles of the general post office, London.

Office of ship's agent.

11. The ship's agent shall be subject to the jurisdiction and authority of the high court of admiralty as if he were an officer of the court, and in case of any neglect or misconduct on his part shall be liable to be proceeded against and punished accordingly.

Ship's agent to be amenable to high court of admiralty.

Duties of Ship's Agent.

12. It shall be the duty of the ship's agent, by himself or by a proper sub-agent appointed and remunerated by him, to take or cause or procure to be taken all steps and proceedings, and do or cause or procure to be done all things, that may be necessary or proper to be taken or done for any purpose on behalf or in the name of the ship or of the officers and crew thereof, or any of them, in the several cases following:

Ship's agent to act for ship with respect to salvage, bounty, prize, &c.

In case of salvage services rendered to any ship or cargo, or otherwise, within the meaning of the enactments for the time being in force relating to merchant shipping:

In case of any breach of any law respecting national character or otherwise relating to merchant shipping:

In case of any seizure for breach of any law relating to the customs:

In case of any seizure or capture under any Act relating to the abolition of the slave trade:

In case of any matter arising out of an attack on or engagement with persons alleged to be pirates, afloat or on shore:

In case of any capture, re-capture, or destruction of any ship, goods, or thing in time of war or hostilities:

In case of any special service or other matter in respect whereof any grant, reward, or remuneration is payable.

Distribution of Salvage, Bounty, Prize, and other Money.

13. Where in any of the several cases aforesaid any money is distributable among the officers and crew of any of her majesty's ships of war, the costs, charges, and expenses of the officers and crew and of the ship's agent, and all other (if any) costs, charges, or expenses properly chargeable against that money, shall be paid thereout before distribution thereof, all such costs, charges, and expenses being first taxed and allowed by the proper officer of the court having jurisdiction in the case, and if there is no such court then by the registrar of the high court of admiralty.

Taxation and payment of costs of officers and crew, agents, &c.

14. In the several cases aforesaid, money distributable among the officers and crew of any of her majesty's ships of war, so far as full provision respecting the distribution thereof is not made by or under any Act of parliament other than this Act, shall be distributed under the direction of the lords of the admiralty in the shares in that behalf specified in any royal proclamation or order in council.

Salvage, bounty, prize, and other money to be distributed according to order in council, &c.

15. The several shares of any such money as aforesaid shall be paid to the persons entitled thereto in such manner, and subject and according to such restrictions, conditions, and provisions, as may from time to time be directed by order in council.

Any assignment, sale, or contract of or relating to any such money as aforesaid, payable in respect of the services of any petty officer or seaman, non-commissioned officer of marines or marine, other than such as may be made or entered into under the authority of and in conformity with any such order in council, shall be void.

Payment of shares.

16. All bills, orders, receipts, and other instruments drawn, given, or made under the authority or in pursuance of any such order in council by, to, or upon any officer or person in the service of her majesty or of the lords of the admiralty, shall be exempt from stamp duty.

Exemption from stamp duty.

27 & 28 Vict. c. 24.

Forfeited shares and deduction of 5 per cent. to be carried to naval prize cash balance.

17. All forfeited and unclaimed shares and balances of prize money, and a per-centage of five pounds in every one hundred pounds out of the proceeds of all prizes, and out of all grants to the royal navy and marines, and out of all bounty money, and also out of all other money distributable in the several cases aforesaid among the officers and crew of any of her majesty's ships of war out of which such per-centage is at the commencement of this Act by law deducted, shall, under the direction of the lords of the admiralty, continue to be carried to and form part of the naval prize cash balance.

So much of the naval prize cash balance as the lords of the admiralty think expedient shall from time to time by her majesty's paymaster-general, under the authority and direction of the lords of the admiralty, be paid and transferred to the consolidated fund of the united kingdom.

In case at any time a claim in respect of prize or bounty money is made which the naval prize cash balance is not sufficient to meet, there shall be paid out of the said consolidated fund a sufficient sum to meet such claim.

Agent may be furnished with copies of accounts.

18. A ship's agent shall be entitled, on request, and on payment of reasonable expenses, to be furnished with copies of or extracts from any official accounts kept under or for the purposes of this Act in relation to any of her majesty's ships of war for which he is agent.

Remuneration of Ship's Agent.

Agent to receive per-centage of 2½ per cent.

19. Before any such money as aforesaid is distributed among the officers and crew of any of her majesty's ships of war there shall be paid, under the direction of the lords of the admiralty, to the ship's agent a per-centage of two and a half per centum on the nett amount actually distributable, as the sole and full remuneration of the ship's agent for his services in the case,

Apportionment of per-centage where more than one ship, or on change of agent.

20. In the following cases :—

Where more than one of her majesty's ships of war are entitled to participate in any such money,—

Where the ship's agent is changed pending proceedings,—

the ship's agent's per-centage shall, in case of difference, be apportioned between or among the respective agents of the several ships, or the several persons having been and being the ship's agent (as the case may be), in such manner as the registrar of the high court of admiralty thinks just, having regard to the duration and character of the services of the several agents in the case, subject to objection to the registrar's award to be taken before the judge of the court.

Investment of Salvage, Bounty, Prize, and other Money.

Power to admiralty to direct investment pending distribution.

21. Any money for the time being awaiting distribution, but for any reason not immediately distributable as aforesaid, may, under the direction of the lords of the admiralty, be invested in or on any proper stocks, funds or securities; and the proceeds of those stocks, funds or securities, and any dividends or interest accrued due thereon, shall be distributed as the money invested would have been distributed if an investment had not been made :

Provided that no such investment shall be made of any money pending any adverse claim thereto, except with the consent of the claimant.

Decision as to Distribution or Investment.

Power to high court of admiralty to decide questions relative to distribution, &c.

22. Where any question (whether in respect of asserted joint capture, or in respect of flag shares, or in respect of any other matter) arises concerning the distribution of any money distributable as aforesaid, or concerning any investment thereof, actual or intended, the high court of admiralty shall have exclusive jurisdiction to hear and determine the same; and any person claiming an interest in such money, or the lords of the admiralty, may apply to the high court of admiralty for a judgment on that question : and the court, after hearing the parties interested, shall decide thereon, and such decision shall be final, and shall be binding on all persons concerned.

Miscellaneous.

Saving rights of the crown, captors, &c.

23. Nothing in this Act shall—

(1.) authorise a ship's agent or his sub-agent to practise or act as a proctor, attorney, solicitor or other legal practitioner in any court ; or

(2.) affect the right or power of the officers and crew of any of her majesty's ships of war as salvors, seizors, captors, re-captors, or otherwise, or of any of such officers and crew, to take or cause or procure to be taken any step or proceeding, or do or cause or procure to be done anything that may be necessary or proper to be taken or done for any purpose in any court or elsewhere, in case of the absence or default of the ship's agent ; or

(3.) affect any right or power of control, or other authority, that her majesty has or may exercise in any prize cause or other proceeding.

24. Nothing in this Act shall invalidate an appointment of an agent made before the commencement of this Act under "The Navy Prize Agents' Act, 1863;" but every agent so appointed shall, from the commencement of this Act, be subject to this Act as if he were appointed under it. 27 & 28 Vict. c. 24. Not to affect appointments of agents under 26 & 27 Vict. c. 116.

25. Her majesty in council may from time to time make such orders as seem meet for the better execution of this Act. Power to make orders in council.

26. Every order in council under this Act shall be published in the London Gazette, and shall be laid before both houses of parliament within thirty days after the making thereof, if parliament is then sitting, and if not, then within thirty days after the next meeting of parliament. Orders in council to be gazetted, &c.

27. This Act shall commence on such day not later than the first day of January, one thousand eight hundred and sixty-five, as her majesty in council thinks fit to direct. Commencement of Act.

SCHEDULE.

Form of Appointment of Ship's Agent.

I, (*a*) commanding officer of her majesty's (*b*) hereby appoint (*c*) of (*d*) to be the ship's agent for the purposes of "The Naval Agency and Distribution Act, 1864."

Dated the day of

(Signed) *A. B.*

Witness,
(Signed) *C. D.*

CHAIN CABLES AND ANCHORS.

27 & 28 Vict. c. 27. An Act for regulating the Proving and Sale of Chain Cables and Anchors. [23rd June, 1864.]

27 & 28 Vict. c. 27.

"Whereas it is essential, for the better security of lives and property afloat in sea-going ships, to make provision for the proper testing of chain cables and anchors:" BE IT THEREFORE ENACTED as follows:

1. Any corporation, public body or company may erect and maintain proving establishments, apparatus and machinery suitable for the testing of chain cables or anchors, and may, notwithstanding the provisions of any previous Act limiting the amount of money to be raised by such corporation or public body or company, raise money for that purpose by way of loan, secured by mortgage of such establishments, apparatus and machinery, and of the income to be derived therefrom, or of other property of such corporation, public body or company: Provided always as follows:— Power to corporations, &c., to provide proving establishments for testing chain cables, &c.

(1.) Nothing in this Act shall relieve any corporation or public body from the necessity of obtaining for any borrowing by them under this Act the consent of any authority or person whose consent is by law requisite to any borrowing by them otherwise than under this Act.

(2.) Where the consent of any authority or person is not by law requisite to any borrowing by any corporation or public body otherwise than under this Act, the consent of the commissioners of her majesty's treasury to any borrowing by that corporation or public body under this Act is hereby made requisite.

(3.) Nothing in this Act shall empower any company to borrow money under this Act otherwise than in such manner and subject to such restrictions as are prescribed in relation to any borrowing by them for purposes other than the purposes of this Act, and if none are prescribed, then in such manner and under such restrictions as may be prescribed by resolution of the company adopted by three-fifths at least of the votes of the shareholders of the company present (personally or by proxy) at a general meeting of the company specially convened for the purpose.

(4.) Any mortgage or charge created or to be created under any power existing at the passing of this Act on any property of any such corporation, public body or company, other than such establishments, apparatus and machinery as aforesaid, shall have priority over any mortgage created under the powers of this Act on the same property.

2. The lords of the committee of privy council appointed for the consideration of matters relating to trade and foreign plantations, hereafter in this Act called the board of trade, may from time to time grant to any corporation, public body or company, person or persons erecting any proving establishment, apparatus and machinery suitable Power to the board of trade to grant licences for

(*a*) Name of officer.
(*b*) Description and name of ship.
(*c*) Name of agent.
(*d*) Address of agent.

27 & 28 Vict. c. 27.

Proving chain cables and anchors, and may suspend or revoke licences.

for the testing of chain cables or anchors licence to test chain cables and anchors under this Act, and the board may suspend or revoke any licence so granted, if the board shall see occasion; and the expression "tester" in this Act applies to every corporation, public body or company, person or persons to whom such licence shall be granted, so long as such licence continues in force: Provided that such a licence shall not be granted in any case unless and until the proving establishment, apparatus and machinery erected have been inspected by an inspector appointed as by this Act provided, and have been certified by him as proper and efficient for their purposes.

Board of trade to appoint inspectors from time to time.

3. The board of trade shall, as soon after the passing of this Act as the services of an inspector for the purposes of this Act appear to them to be required, and afterwards from time to time as vacancies occur, appoint a fit person to act as inspector of proving establishments, apparatus and machinery under this Act, and may from time to time, at pleasure, remove from his office any person so appointed; and such inspector shall, in the execution of his duties, conform to any regulations from time to time made by the board of trade.

Licences to be renewed annually.

4. Any licence granted as aforesaid shall be renewable annually, and the same shall not in any case be renewed in any year unless and until the proving establishment, apparatus and machinery in respect whereof such licence was granted have been inspected by the inspector within that year, and have been certified by him as proper and efficient for their purposes.

Fees payable on licences.

5. On the original grant of every such licence, and on every annual renewal of every such licence, there shall be paid such fee not exceeding fifty pounds as the board of trade from time to time appoint; all such fees to be paid to the board of trade, and to be by them paid into the receipt of her majesty's exchequer, and to be carried to and form part of the consolidated fund of the united kingdom.

As to remuneration of inspector.

6. The inspector shall receive such salary and allowances as may from time to time be directed by the board of trade, with the consent of the commissioners of her majesty's treasury, out of money to be provided by parliament for the purpose.

Tester to test all cables and anchors in proper order, and impress the same with authorized proof mark.

7. Every tester shall, with all reasonable despatch, subject every chain cable or anchor that shall be brought to the proving establishment of such tester for the purpose of being proved, and (unless the parties interested may otherwise agree) in the order in which such chain cables and anchors respectively shall be so brought, to the same tensile strain as that to which chain cables and anchors respectively of similar size, weight or description are or shall be subjected before being received for the use of her majesty's naval service, and shall stamp every five fathoms in length of every such chain cable, and also every such anchor, with a stamp or die to be provided for that purpose by the tester, and approved by the board of trade, denoting that such chain cable or anchor has been "proved," and which shall bear the mark of the tester.

As to charges for testing and affixing proof mark.

8. Every tester may make such charges for the testing and stamping with proof mark any chain cable or anchor as such tester may think fit, not exceeding the scale of charges authorised by the board of trade; and such tester shall affix upon some conspicuous part of the proving establishment a table of the charges so authorised to be taken by such tester; and such table shall be painted upon a board or boards in distinct black letters on a white ground or in white letters upon a black ground, or may be printed in legible characters on paper affixed to such board or boards; and it shall not be lawful for such tester to make any alteration in such table or in any of the charges therein specified until such alteration shall have been approved by the board of trade, and the tester shall have caused notice in writing of the intended alteration to be written or printed on paper, and such paper shall have been, for a period of not less than three months, affixed to such table, so that the same shall be clearly legible by all persons who may consult such table.

Power to tester to detain chain cable, &c.

9. Any tester may detain any chain cable or anchor which shall have been so tested until such charge shall be paid; and if such charge shall not be paid within three months after the testing of such chain cable or anchor, the tester may cause such chain cable or anchor to be sold by auction, and shall out of the purchase money deduct the expenses of such sale, and all other expenses incurred by such tester with respect to such chain cable or anchor, including all lawful charges on the same, and shall pay the surplus thereof (if any), on demand, to the owner of such chain cable or anchor, or to the captain or master of the vessel, or other person on whose application the chain cable or anchor had been tested.

Tester, on application, to give certificate of test.

10. When any tester shall have tested and stamped any chain cable or anchor, such tester shall, if requested by the person on whose application the same was tested, within one month after such testing, make out and deliver, free of charge, to such person a certificate of such testing.

After 1st July, 1865, it shall be unlawful for makers and dealers to sell unproved chain cables and anchors.

11. From and after the first day of July, one thousand eight hundred and sixty-five, it shall not be lawful for any maker of or dealer in chain cables or anchors to sell or contract to sell for the use of any vessel any chain cable whatever or any anchor exceeding in weight one hundred and sixty-eight pounds, unless such chain cable or anchor shall have been previously tested and duly stamped in accordance with the provisions of this Act; and if any person acts in contravention of this provision he shall for every such offence, upon a summary conviction for the same before a justice of the peace, or in Scotland before any sheriff, justice or magistrate, be liable to a penalty not exceeding fifty pounds.

Persons committing certain

12. If any person shall stamp or assist in stamping any chain cable or anchor with the stamp of any tester, or with a stamp or mark purporting to be the stamp of any tester, without the authority of the tester whose stamp shall have been so used or counter-

feited, or with any other stamp or mark, for the purpose or with the intention of passing such chain cable or anchor, or of allowing or assisting in the same being passed as a chain cable or anchor duly tested and stamped under the powers of this Act, or if any person, knowing any such chain cable or anchor to have been so wrongfully marked or stamped as aforesaid, shall sell the same, or shall deliver the same to any person to be taken or used as part of the equipment of any vessel, or if any person shall write out and deliver to any person any certificate or document purporting to be a certificate under this Act, that any chain cable or anchor has been tested and stamped under the provisions of this Act, knowing that the chain cable or anchor referred to in such certificate or document had not been so tested or stamped, every person so offending shall be guilty of a misdemeanor, or in Scotland of an offence, and for every such misdemeanor or offence shall be liable, in the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement. 27 & 28 Vict. c. 27. Offences deemed guilty of a misdemeanor.

13. No maker of, or dealer in, chain cables or anchors, shipowner or other person shall by reason of this Act, or of anything done thereunder, be relieved from any responsibility in respect of any chain cable or anchor made, sold or used by him to which, but for this Act, he would have been subject. Act not to relieve makers from responsibility.

14. Nothing in this Act shall affect any contracts which may be made by the lords commissioners of the admiralty for the supply of any chain cables or anchors to any of her majesty's dockyards or for the use of any of her majesty's ships. Act not to affect admiralty contracts.

15. This Act shall continue in force to the first day of July, one thousand eight hundred and seventy-two and no longer. Term of Act.

STAMPS.

CUSTOMS AND INLAND REVENUE.

27 Vict. c. 18. An Act to grant certain Duties of Customs and Inland Revenue. [13th May, 1864.] 27 Vict. c. 18.

BE IT ENACTED as follows:

1. There shall be charged, collected and paid, for the use of her majesty, her heirs and successors, the several rates and duties of customs, excise, stamps and Income Tax respectively specified and contained in the several schedules marked respectively (A.), (B.), (C.) and (D.) to this Act annexed, and there shall be allowed the several drawbacks specified and contained in the said schedule (A.); and the said rates, duties and drawbacks shall respectively take effect at or from the respective times, and shall continue to be charged, collected, paid and allowed for and during the periods respectively specified or mentioned in that behalf in this Act or in the said schedules, and where no time is so specified for the commencement thereof the same shall commence and take effect from and after the passing of this Act, and where no period is so specified or limited for the duration thereof the same shall continue to be charged, collected, paid and allowed respectively until parliament shall otherwise order; and the said several schedules shall be deemed to be part of this Act. Grant of duties and drawbacks as specified in schedules annexed.

2. All the powers, provisions, clauses, regulations, allowances and exemptions, forfeitures, pains and penalties contained in or imposed by any Act or Acts, or any schedule thereto, relating to any duties or drawbacks of the same kind or description as the several rates or duties or drawbacks granted and allowed by this Act respectively, and in force at the time of the passing of this Act, and not hereby expressly repealed, or, as regards the Income Tax, in force on the fifth day of April, one thousand eight hundred and sixty-four (except as hereinafter provided), shall respectively be in full force and effect with respect to the said rates, duties and drawbacks by this Act granted and allowed respectively, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced and put in execution for and in the raising, levying, collecting and securing of the said last-mentioned rates and duties, and the allowance and payment of the said drawbacks respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually, to all intents and purposes, as if the same had been herein repeated and specially enacted, mutatis mutandis, with reference to the rates, duties and drawbacks by this Act granted and allowed respectively; Provided always, that nothing herein contained shall be construed to continue or revive the provisions contained in the forty-second and forty-fourth sections of the Act passed in the twenty-fifth year of her majesty's reign, chapter twenty-two; and that for the purposes of this Act the year one thousand eight hundred and sixty-two, mentioned in the forty-third section of the said Act, shall be read as and deemed to mean the year one thousand eight hundred and sixty-four. Provisions of former Acts to apply to this Act.

3. *Customs.*—[Commissioners of customs to provide standard samples of sugar for assessing duty.]

4. [Sect. 4 of 18 & 19 Vict. c. 97, repealed.]

Excise Licences.

Occasional licences may be granted to persons who have taken out licences under 23 & 24 Vict. c. 27 (a) and 107 (refreshment houses and wine retailers); under 4 & 5 Vict. c. 85 (beer retailers); and under 6 Geo. 4, c. 81 (tobacco retailers).

5. It shall be lawful for the commissioners of inland revenue, whenever they shall consider it necessary for the accommodation of the public, to authorize any officer of excise to grant (upon payment of the respective duties in that behalf mentioned in schedule (B.) to this Act) an occasional licence in the several and respective cases hereinafter mentioned; (that is to say,) to any person who shall have taken out an excise licence under the Acts passed in the twenty-third year of the reign of her majesty, chapter twenty-seven, and the twenty-third and twenty-fourth years of the same reign, chapter one hundred and seven, respectively, to keep a refreshment house, or to sell by retail in a refreshment house foreign wine to be consumed therein; or an excise licence under the Act passed in the fourth and fifth years of the reign of king William the fourth, chapter eighty-five, to retail beer to be drunk or consumed in or upon the house or premises where sold; or an excise licence under the Act passed in the sixth year of the reign of king George the fourth, chapter eighty-one, to deal in or sell tobacco or snuff; and every such occasional licence shall authorize any such person as aforesaid to exercise and carry on the same trade and business as he shall be authorized to carry on by virtue of the licence granted under the said Acts respectively as aforesaid at any such place (other than the place for which his original licence was granted), and for and during such space or period of time not exceeding three consecutive days at any one time, as the said commissioners shall approve, and as shall be specified in such occasional licence: Provided that the said occasional licence shall not protect any such person in the carrying on of any such trade or business as aforesaid unless he shall produce such licence whenever requested so to do by any officer of excise, or by any constable or police officer, at the time of exercising such trade or business; and provided also, that the conditions and restrictions contained in the twentieth section of the Act of the twenty-sixth and twenty-seventh years of her majesty's reign, chapter thirty-three, relating to occasional licences, shall apply to the occasional licences to be granted under this Act (except in the case of occasional licences to sell tobacco or snuff).

Tea licence at reduced rate to be granted only on overseer's certificate of rating.

6. No licence to trade in or sell coffee, tea, cocoa nuts, chocolate or pepper at the reduced duty imposed by this Act on such licence shall be granted to any person who shall not produce, at the time of applying for such licence, to the officers of excise authorized to grant the same, a certificate in writing signed in England and Wales by an overseer of the poor, or in Scotland by an inspector of the poor of the parish, township or place, or in Ireland by the clerk of the poor law union, in which parish, township, place or union the house intended to be licensed is situated, certifying the sum at which the said house is rated to the last rate made for the relief of the poor of such parish, township, place or union: Provided that where in Scotland the house intended to be licensed is not separately rated to the poor on the ground of being let at a rent not amounting to four pounds per annum, such licence shall be granted upon a certificate signed by such inspector of the poor, certifying that such house is not so rated on the ground aforesaid; and any such licence which shall be granted without the certificate aforesaid, or upon a certificate which shall be false in any particular, shall be absolutely void; and no such licence at the reduced rate aforesaid shall authorize the sale of any of the articles mentioned therein at any other place than the house for which such licence shall be granted, anything in any Act to the contrary notwithstanding.

Penalty on overseer, &c., refusing to grant certificate.

7. If any overseer of the poor, inspector of the poor, or clerk of a poor law union shall refuse to grant when demanded a certificate containing the particulars required by the preceding section, or shall grant a certificate which shall be false or untrue in any particular, he shall forfeit ten pounds.

Half-yearly licences may be granted to hawkers.

8. Any licence to be taken out by a hawker, pedlar, or petty chapman in Great Britain may be granted for a period not exceeding six months on payment of one-half only of the amount payable for a yearly licence: Provided that any such half-yearly licence shall continue in force until and upon the thirty-first day of January or the thirty-first day of July, as the case may be, next following the date thereof, and no longer.

Stamp Duties.

Definition of "stock in trade."

9. For the purposes of this Act with respect to the duty on insurances against loss or damage by fire, "stock in trade" shall be understood and deemed to mean goods, wares, and merchandise in the possession of the manufacturer thereof for sale, or in the possession of any manufacturer as materials to be used for the purpose or in the process of any manufacture, or in the possession of any trader for sale in the course of his trade, or in the possession of any person on behalf of such manufacturer or trader, or in the possession of a licensed pawnbroker, being goods received by him in pledge.

Property insured subject to the reduced rate of duty to be distinguished in

10. In every policy by which any insurance from loss or damage by fire shall be made or renewed upon any stock in trade, machinery, implements or utensils subject to the reduced rate of yearly percentage duty by this Act imposed, such stock in trade, machinery, implements and utensils, and the sum or sums insured thereon, shall be specified and set forth separately from all other property on which any insurance shall be made by the same

(a) Ante, Vol. I., p. 388, tit. "BEER."

policy, and the quarterly accounts required by law to be kept and rendered by persons, corporations and companies insuring against fire, shall contain a separate and distinct account of all such insurances as aforesaid, and of the sums insured thereby respectively, and all other particulars relating thereto required by law to be specified or contained in such quarterly accounts: Provided that where in any policy existing at the time of the passing of this Act property insured subject to the said reduced rate of duty shall not be separately and distinctly specified as herein required, it shall be lawful to distinguish the same and the sum or sums insured thereon by any memorandum to be written or indorsed in or upon such policy.

27 Vict c. 18 the policy and also in the quarterly accounts.

Property, and sums insured thereon, may be distinguished by memorandum on existing policies.

11. Whereas by an Act passed in the thirteenth and fourteenth years of the reign of her present majesty, chapter ninety-seven, certain ad-valorem stamp duties were granted and made payable under the head of "settlement" in the schedule thereto in respect of any definite and certain principal sum or sums of money, and any definite and certain share or shares in any of the government or parliamentary stocks or funds, or in the stocks and funds of the governor and company of the bank of England or of the bank of Ireland, or of the East India company, or of the South Sea company, or of any other company or corporation: And whereas it is expedient to explain and amend the said Act as hereinafter mentioned. BE IT ENACTED, That the said duties so granted and made payable as last aforesaid shall be deemed to extend to and shall be chargeable upon or in respect of any definite and certain principal sum or sums of money (*a*) of any denomination or currency, whether British, foreign or colonial, and any definite and certain share or shares in the stocks or funds of any foreign or colonial government, state, corporation or company whatsoever, as well as upon or in respect of the shares, stocks and funds specified in the said last-mentioned schedule.

Ad-valorem duty chargeable on "settlements" payable under 13 & 14 Vict c. 97, defined.

12. And where any principal sum of money secured or contracted for by or which may become due or payable upon any bond, debenture, policy of insurance, covenant or contract, shall be settled or agreed to be settled, or such bond, debenture, policy, covenant or contract shall be settled or assigned or transferred by way of settlement, or shall be agreed so to be, then and in any of such cases the same shall be deemed to be a settlement of such principal sum of money, and shall be chargeable with the said ad-valorem stamp duties on the amount thereof accordingly: Provided always, that where the subject of any settlement shall be a policy of insurance, then, if there shall not be any certain covenant, contract or provision made for keeping up such policy or for paying the premiums which may become payable in that behalf, the said ad-valorem duty shall be chargeable only on the value of such policy at the date of such settlement.

Settlement of sums of money secured by bonds, debentures, and other securities chargeable.

13. And where the subject of any settlement chargeable with the said duties shall be any share or shares in any such stocks or funds as aforesaid, or any sum or sums of money secured by any foreign or colonial bond, debenture or other security bearing a marketable value in the English market, then the value of such share or shares, and of such bond, debenture or other security respectively, shall be ascertained and determined by the average selling price thereof on the day or on either of the ten days preceding the day of the date of the deed or instrument of settlement, or if no sale shall have taken place within such ten days then according to the average selling price thereof on the day of the last preceding sale, and the said ad-valorem duties shall be chargeable on such settlement in respect of the value so ascertained and determined; and the value of any sum or sums of money expressed in coin of a foreign or colonial denomination or currency shall be determined by the current rate of exchange on the day of the date of the deed or instrument of settlement, and the said ad-valorem duties shall be chargeable in respect of the value so determined as last aforesaid.

The value of shares in stocks and funds, and of sums secured by foreign or colonial securities, and of sums expressed in foreign or colonial currency, how ascertained and determined (*b*).

14. The stamp duty by this Act imposed on a voting paper as described in schedule (C.) to this Act may be denoted by an adhesive stamp, in like manner as the stamp duty on an instrument appointing a proxy; and all provisions and regulations relating to the particulars to be inserted in such last-mentioned instrument, or to the cancelling or obliterating an adhesive stamp affixed thereto, and all penalties for any neglect or omission to comply with any such provisions or regulations, or for making or signing any such instrument on paper not duly stamped, or for voting or attempting to vote under any such instrument not duly stamped, shall be deemed to apply and shall be observed and enforced, mutatis mutandis, in relation to any such voting paper as aforesaid.

Provisions and regulations relating to proxies to apply to voting papers.

Adhesive stamp, cancellation, &c.

Penalties.

Income Tax.

15. And whereas under and by virtue of the fortieth section (*c*) of the Act passed in the sixteenth and seventeenth years of her majesty's reign, chapter thirty-four, persons liable to the payment of rent, yearly interest, or any annuity or other annual payment therein mentioned, are entitled and authorized on making such payment to deduct and retain thereout the amount of the rate of income-tax which shall be payable at the time

Income tax levied under sect. 40 of 16 & 17 Vict. c. 34, to be deducted

(*a*) Foreign stocks and bonds and India stocks are definite and certain sums of money independently of this statute (*Alsager* v. *The Commissioners of Inland Revenue*, 33 L. J. Ex. 161).

(*b*) See *Alsager* v. *The Commissioners of Inland Revenue*, supra.

(*c*) Ante, Vol. III., p. 1447, tit. "PROPERTY TAX."

27 Vict. c. 18. from rent, interest, &c., at the rate payable during the period when the same was accruing.

when such payment becomes due: BE IT ENACTED, That the persons liable to and making any such payment as aforesaid shall be entitled and are hereby authorised to deduct and retain thereout the amount of the rate or a proportionate amount of the several rates of income-tax which were chargeable by law upon or in respect of such rent, interest, annuity or other annual payment, or the source thereof, during the period through which the same was accruing due, anything in the said recited Act to the contrary notwithstanding.

SCHEDULES.

SCHEDULE (A.)

Containing the RATES and DUTIES of CUSTOMS granted and the DRAWBACKS allowed on the following articles by this Act.

SCHEDULE (B.)

Containing the DUTIES of EXCISE granted by this Act; that is to say,

	£	s.	d.
On licences to sell tea, &c.:			
For and upon any licence to be taken out yearly by any person to trade in or to sell coffee, tea, cocoa nuts, chocolate, or pepper, in any house rated to the relief of the poor at a sum less than eight pounds per annum, the duty of	0	2	6
In lieu of the duty of excise now payable upon such licence.			
On occasional licences to refreshment-house keepers, wine retailers, beer retailers, and tobacco dealers; (that is to say,)			
For and upon every occasional licence to the keeper of a refreshment house, for each and every day for which such licence shall be granted	£	s.	d.
	Nil.		
For and upon every occasional licence to retail foreign wine to be consumed at the place where sold, for each and every day for which the same shall be granted	0	1	0
For and upon every occasional licence to retail beer to be consumed at the place where sold, for each and every day for which the same shall be granted	0	1	0
For and upon every occasional licence to deal in or sell tobacco or snuff, for each and every day for which the same shall be granted . .	0	0	4
On licences to HAWKERS and PEDLARS:			
For and upon any licence to be taken out on or after the first day of August, one thousand eight hundred and sixty-four, by every hawker, pedlar, petty chapman, and every other trading person going from town to town, or to other men's houses, and travelling either on foot or otherwise, in Great Britain, carrying to sell or exposing to sale any goods, wares or merchandise,			
If such trading person as aforesaid shall travel and trade on foot, without any horse or other beast bearing or drawing burthen, and shall carry his goods, wares or merchandise to and sell or expose for sale the same at other men's houses only, and not in or at any house, shop, room, booth, stall, or other place whatever belonging to or hired or occupied or used by him for that purpose in any town to which he may travel, the yearly duty of	£ 2	s. 0	d. 0
And if such trading person shall travel or trade otherwise than as aforesaid, or with a horse or other beast bearing or drawing burthen, the yearly duty of	4	0	0
And if such trading person shall travel or trade with more than one horse or other beast bearing or drawing burthen, then for each and every horse or other beast with which he shall so travel, the yearly duty of	4	0	0
In lieu of the duties now chargeable on licences to hawkers and pedlars in Great Britain.			
And the trading persons described in the ninth section of the Act passed in the twenty-fourth and twenty-fifth years of her majesty's reign, chapter twenty-one, shall be deemed to be hawkers and pedlars subject to the duties herein contained.			

SCHEDULE (C.)

Containing the DUTIES of STAMPS granted by this Act in lieu of the stamp duties now chargeable on the several instruments, matters, and things in this schedule mentioned.

Fire Insurance.

In lieu of the yearly per-centage duty now chargeable for or in respect of any insurance from loss or damage by fire only, which shall be made or renewed on or

after the twenty-fifth day of June, one thousand eight hundred and sixty-four, of or upon any goods, wares, or merchandise being stock in trade, or of or upon any machinery, fixtures, implements, or utensils used for the purpose of any manufacture or trade, there shall be charged and paid yearly a duty at and after the rate of one shilling and sixpence per annum for every one hundred pounds insured; and when any such insurance as aforesaid shall be made or renewed at any time between the twenty-second day of April, one thousand eight hundred and sixty-four, and the said twenty-fifth day of June, for any period of time extending beyond the said last-mentioned day, there shall be charged and paid for and in respect of the time intervening between the making or renewing of the said insurance and the said twenty-fifth day of June, the yearly per-centage duty at and after the rate chargeable on the said twenty-second day of April, and for and in respect of any subsequent period, including the said twenty-fifth day of June, the rate of duty chargeable according to this resolution; and no return or allowance of duty, except at and after the last-mentioned rate, shall be made in respect of time unexpired or otherwise, on any such insurance as aforesaid which shall have been made or renewed before the twenty-second day of April, one thousand eight hundred and sixty-four. 27 Vict. c. 18.

Letters or powers of attorney, proxies, &c.; (that is to say,)

For and upon any letter or power of attorney:

For the sale, transfer or acceptance of any of the government or parliamentary stocks or funds (a):

	£	s.	d.
If the value of such stocks or funds shall exceed 20*l.*	1	0	0
And if such value shall not exceed 20*l.*	0	5	0

For the receipt of dividends or interest of any of the government or parliamentary stocks or funds, or of the stocks, funds or shares of or in any joint stock company or other company or society whose stocks or funds are divided into shares and transferable:

	£	s.	d.
If the same shall be for the receipt of one payment only	0	1	0
And if the same shall be for a continuous receipt or for the receipt of more than one payment	0	5	0

For the receipt of any sum of money, or any cheque, note or draft for any sum of money not exceeding 20*l.* (except in the cases aforesaid), or any periodical payment (other than as aforesaid), not exceeding the annual sum of 10*l.* 0 5 0

Letter or power of attorney, commission, factory, mandate or other instrument in the nature thereof:

	£	s.	d.
For the sole purpose of appointing, nominating or authorising any person to vote as a proxy or otherwise at one meeting of the proprietors or shareholders of any joint stock or other company, or of the members of any society or institution, or of the contributors to the funds thereof, or at one meeting of any body exercising a public trust in the united kingdom, or to vote at one parish meeting of heritors or proprietors of real or heritable property in Scotland	0	0	1

Voting paper; (that is to say,)

	£	s.	d.
Any instrument for the purpose of voting by any person entitled to vote at any such meeting as aforesaid in any part of the united kingdom .	0	0	1

For and upon any letter or power of attorney made by any petty officer, seaman, marine or soldier serving as a marine, or by the executors or administrators of any such person—

	£	s.	d.
For receiving prize money or wages	0	1	0
For and upon any letter or power of attorney of any other kind or commission or factory in the nature thereof	1	10	0

Exemptions.

Any letter of attorney for the receipt of dividends of any definite and certain share of the government or parliamentary stocks or funds producing a yearly dividend of less than 3*l.*

Any letter or power of attorney or proxy filed in any ecclesiastical court.

Appointments to Ecclesiastical Benefices, &c.

For and upon any donation or presentation, by whomsoever made, of or to any ecclesiastical benefice, dignity or promotion:

Also for and upon any collation by any archbishop or bishop or by any other ordinary or competent authority to any ecclesiastical benefice, dignity or promotion:

Also for and upon any institution granted by any archbishop, bishop, chancellor or other ordinary, or by any ecclesiastical court, to any ecclesiastical benefice, dignity

(a) See c. 90, post, p. 1034.

27 Vict. c. 18.

or promotion, proceeding upon the petition of the patron to be himself admitted and instituted, and not upon a presentation :

Also for and upon any nomination by her majesty, her heirs or successors, or by any other patron, to any perpetual curacy :

Also for and upon any licence to hold a perpetual curacy not proceeding upon a nomination :

Where the net yearly value of any such benefice, dignity, promotion or perpetual curacy—

	£	s.	d.
Shall exceed 50*l.* and not exceed 100*l.*	1	0	0
" 100*l.* " 150*l.*	2	0	0
" 150*l.* " 200*l.*	3	0	0
" 200*l.* " 250*l.*	4	0	0
" 250*l.* " 300*l.*	5	0	0
And where such value shall exceed 300*l.*	7	0	0
And also (where such value shall exceed 300*l.*) for every 100*l.* thereof over and above the first 200*l.* a further duty of	5	0	0

NOTE.—The yearly value of such benefice, dignity, promotion or perpetual curacy in any and every of the cases aforesaid to be ascertained and determined by the certificate of the ecclesiastical commissioners for England and Ireland respectively, to be written on the instrument charged with duty : Provided always, that two or more benefices, or a benefice and any other ecclesiastical preferment episcopally or permanently united shall be deemed one benefice only.

	£	s.	d.
Also for and upon any collation, institution or admission by any presbytery or other competent authority to any ecclesiastical benefice in Scotland	2	0	0

Exemptions.

1. Any collation or appointment by any archbishop or bishop to any cathedral prebend, dignity or honorary canonry having no endowment or emolument attached thereto.
2. Any institution proceeding upon a presentation.
3. Any licence to hold a perpetual curacy proceeding upon a nomination.

SCHEDULE (D.)

Containing the Rates and Duties of Income Tax granted by this Act.

For one year commencing on the sixth day of April, one thousand eight hundred and sixty-four, for and in respect of all property, profits and gains mentioned or described as chargeable in the Act passed in the sixteenth and seventeenth years of her majesty's reign, chapter thirty-four, for granting to her majesty duties on profits arising from property, professions, trades and offices, the following rates and duties ; (that is to say,)

For every twenty shillings of the annual value or amount of all such property, profits and gains (except those chargeable under schedule (B.) of the said Act), the rate or duty of sixpence.

And for and in respect of the occupation of lands, tenements, hereditaments and heritages chargeable under schedule (B.) of the said Act, for every twenty shillings of the annual value thereof—

In England the rate or duty of threepence :

And in Scotland and Ireland respectively the rate or duty of twopence farthing :

Subject to the provisions contained in section three of an Act passed in the last session of parliament, chapter twenty-two, for the exemption of persons whose whole income from every source is under one hundred pounds a year, and the relief of those whose income is under two hundred pounds a year,

INLAND REVENUE (STAMP DUTIES).

27 & 28 Vict. c. 56.

27 & 28 Vict. c. 56. An Act for granting to Her Majesty certain Stamp Duties ; and to amend the Laws relating to the Inland Revenue. [25th July, 1864.]

BE IT ENACTED as follows :

19 Geo. 2, c. 37.

1. Whereas an Act was passed in the nineteenth year of king George the second, chapter thirty-seven, intituled "An Act to regulate Insurance on Ships belonging to the Subjects of Great Britain, and on Merchandises or Effects laden thereon ;" and by section four (*a*)

(*a*) Ante, vol. ii. p. 839, tit. "INSURANCE."

of the same Act it is prohibited to make re-assurance except in the cases therein mentioned: And whereas it is expedient to remove such restriction: BE IT ENACTED, That notwithstanding anything contained in the said Act, it shall be lawful to make re-assurance upon any ship or vessel, or upon any goods, merchandise or other property on board of any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured, and such re-assurances shall be deemed to be the insurance of interests which may lawfully be insured within the meaning of the Acts imposing stamp duties on policies of sea insurance: Provided always that if within three calendar months next after the termination of the risk on any policy of re-assurance application shall be made to the commissioners of inland revenue, and it shall be proved to their satisfaction that any such re-assurance as aforesaid has been made on the same property or interest and risk which shall have been previously assured to the same or some greater amount by one or more lawful and valid policy or policies existing at the time of making such re-assurance, and duly stamped for denoting the full and proper duties chargeable thereon, it shall be lawful for the said commissioners to make allowance for the stamp duty impressed on the policy of re-assurance in like manner as in the case of spoiled stamps on policies of insurance under the Act passed in the fifty-fourth year of the reign of king George the third, chapter one hundred and thirty-three (*a*); and the several provisions of the said Act, so far as they are applicable or can be applied, shall be observed and put in force with respect to the allowance of the stamps on the said policies of re-assurance.

27 & 28 Vict. c. 56.

Re-assurances of sea risks may lawfully be made.

On termination of risk and proof of prior assurance duly stamped, allowance to be made for stamp duty on policy of re-assurance.

2. Any bill of exchange payable on demand, which shall be endorsed out of the united kingdom, or purport to be so endorsed, wheresoever the same may have been drawn, shall for the purpose of charging the stamp duty thereon be deemed to be a foreign bill of exchange, but shall be chargeable with the same amount of stamp duty as an inland bill of exchange for the payment of money otherwise than on demand, according to the amount thereby made payable; and the provisions, regulations and penalties contained in the fifth section of the Act passed in the seventeenth and eighteenth years of her majesty's reign, chapter eighty-three, shall be deemed to apply to any such bill so endorsed or purporting to be endorsed as aforesaid as if the same were a bill drawn out of the united kingdom.

Bills of exchange payable on demand and endorsed abroad to be deemed foreign bills.

3. In lieu of the stamp duties now payable for or upon any letter or power of attorney for the receipt of dividends or interest of any of the government or parliamentary stocks or funds, or of the stocks or funds of the secretary of state in council of India, or of India promissory notes, or registered promissory notes, the interest of which is payable by bills of exchange, on the governments of India, Madras, and Bombay respectively, or of the stocks, funds, or shares of or in any joint stock company or other company or society whose stocks or funds are divided into shares and transferable, there shall be charged and paid for or upon such letter or power of attorney as aforesaid the following stamp duties; (that is to say,)

Stamp duties on letters of attorney for the receipt of dividends or interest of stocks, funds, &c.

Where such letter or power of attorney shall be for the receipt of one payment only, the duty of one shilling:

And where the same shall be for continuous receipt or for the receipt of more than one payment, the duty of five shillings.

4. And whereas certain ad-valorem stamp duties are by several statutes in that behalf granted and imposed upon or in respect of the following instruments: (that is to say,)

Stamp duties on probates, letters of administration, and inventories to extend to British ships at sea.

Probate of a will and letters of administration, with or without a will annexed, to be granted in England or Ireland:

Inventory to be exhibited and recorded in any commissary court in Scotland of the estate and effects of any person deceased:

BE IT ENACTED, that the said stamp duties shall be charged and paid in respect of the value of any ship or any share of a ship belonging to any deceased person which shall be registered at any port in the united kingdom; notwithstanding such ship at the time of the death of the testator or intestate may have been at sea or elsewhere out of the united kingdom; and for the purpose of charging the said duties, such ship shall be deemed to have been at the time aforesaid in the port at which she may be registered.

5. No stamp duty shall be chargeable on any such probate, letters of administration, or inventory as aforesaid in any case where the whole estate and effects of the deceased person dying after the passing of this Act (exclusive of what he shall have been possessed of or entitled to as a trustee for any other person or persons, and not beneficially), shall be sworn not to exceed and shall not actually exceed in value the sum of one hundred pounds.

Probates, &c., exempted from stamp duty where the effects do not exceed 100*l.*

6. Whereas it is expedient that the duties now payable as stamp duties upon the licences hereinafter mentioned should for the future be and become payable as duties of excise: BE IT ENACTED, That on and from and after the first day of July, one thousand eight hundred and sixty-four, the duties now payable by law upon or in respect of the licences to be taken out in the united kingdom by persons carrying on the trades and businesses hereinafter mentioned, as described and defined by the several statutes relating to such licences and trades or businesses respectively; (that is to say,)

Stamp duties on certain licences to be for the future excise duties.

Appraisers,

(*a*) Ante, p. 462, tit. "STAMPS."

27 & 28 Vict. c. 56.

Pawnbrokers,
Dealers in gold and silver plate,
Owners, proprietors, makers, and compounders of, and persons uttering, vending, or exposing to sale, or keeping ready for sale, any medicine liable to stamp duty,
Hawkers and pedlars,
House agents,
Sellers of playing cards (being makers thereof),
And sellers of playing cards (not being makers thereof),

shall respectively be denominated and be deemed to be duties of excise, and the said licences respectively shall be granted by such officer or officers of excise, and shall be in such form as the commissioners of inland revenue shall direct in that behalf; and all powers and directions granted to or to be observed by any officer of stamps, and now in force, contained in any Act relating to the said duties or licences, or to the said trades and businesses, or any of them, may be executed and enforced and shall be observed by any officer of excise; and all such duties and all fines, penalties, and forfeitures imposed by any Act or Acts of parliament upon any person who shall carry on any of the said trades or businesses without being duly licensed, or who shall do or omit to do any act or thing in any manner contrary to the provisions of any Act of parliament relating to the said licences, or to the said duties, or any of them, may be collected, sued for, recovered, levied, mitigated, paid, and applied by the same means and methods, and in like manner and under the same general or special powers, provisions, regulations, and directions as to appeal, and in all other respects, as any other duties of excise, or any fines, penalties, or forfeitures are directed to be collected, sued for, recovered, levied, mitigated, paid, and applied under any Act relating to the excise revenue, as well as by the means and methods and in the manner directed by the said Act or Acts relating to the said duties or licences, or to the said trades or businesses, and in force at the time of the passing of this Act.

Fines and penalties.

A licence may be granted to a hawker upon the certificate required by law, and may be renewed on the production of a previous licence.

7. Any licence to a hawker, pedlar, and petty chapman in Great Britain may be granted by any authorised officer of excise upon the person applying for it producing the certificate, described in the sixth section (*a*) of the Act passed in the twenty-fourth and twenty-fifth years of the reign of her present majesty, chapter twenty-one, or in any former Act: Provided always, that it shall be lawful to grant to any person who shall have taken out a licence as a hawker, pedlar, and petty chapman a renewed licence upon the production and surrender of the licence last previously issued to him as such hawker, pedlar, and petty chapman, and without the production of any further or other certificate, so long as he shall continue to renew his licence immediately upon the expiration thereof.

Brewers' licences to expire on the 30th of September in each year.

8. All licences granted to brewers of beer for sale after the thirtieth day of September, in the year one thousand eight hundred and sixty-four, shall continue and be in force from the day of the date of such licences respectively until and upon the thirtieth day of September next after the granting thereof, on which last-mentioned day all such licences shall expire.

9. [Sects. 54 to 65 of 7 & 8 Vict. c. 52, and so much of sect. 13 of 3 & 4 Will. 4, c. 68, as relates to brewers in Ireland repealed.]

Extension to Ireland of certain provisions of Acts relating to brewers in Great Britain.

10. Sections two and three of the Act passed in the fifty-sixth year of the reign of king George the third, chapter fifty-eight (as amended and altered by section twenty of the Act passed in the twenty-fifth year of the reign of her present majesty, chapter twenty-two), and sections one, two, and three of the Act passed in the first and second years of the reign of king George the fourth, chapter twenty-two, and also sections fifteen and sixteen of the Act passed in the first year of the reign of king William the fourth, chapter fifty-one, shall extend to and be in force in Ireland, and shall apply to brewers of beer in Ireland, and to all acts, matters, and things done or to be done in Ireland, in like manner as at the time of the passing of this Act the said sections of the several Acts aforesaid do apply to the like acts, matters, and things done or to be done in Great Britain.

Couch frames not to be altered after entry, unless upon notice to supervisor.

11. And whereas by an Act passed in the seventh and eigth years of the reign of king George the fourth, chapter fifty-two, couch frames to be used by maltsters in the making of malt are required to be made and constructed in the manner and form thereby prescribed, and it is fit and proper, in order to prevent fraud or error in the gauging of the corn or grain, that no alteration should be made in such couch frames without previous notice to the officers of excise: BE IT ENACTED, That if any alteration shall be made in the dimensions, size, or capacity of any couch frame in the malthouse of any maltster after entry thereof made by him with the officer of excise without four days' notice in writing having been previously given by such maltster of the intended alteration to the supervisor of excise of the district in which such malthouse is situate, the maltster shall forfeit the sum of one hundred pounds, together with all corn or grain found in the said couch frame.

12. [Tobacco licences taken out by keepers of inns in Scotland to expire on the same day as licences taken out by them for the sale of exciseable liquors.]

(*a*) Ante, Vol. II., p. 414, tit. "HAWKERS."

13. And whereas by the twenty-fifth section of an Act passed in the twenty-sixth and twenty-seventh years of her majesty's reign, chapter thirty-three, it is enacted, that licences to be taken out for the sale of tobacco or snuff by innkeepers or persons licensed to sell beer to be consumed upon the premises after the fifth day of July, one thousand eight hundred and sixty-three, should expire on the 10th day of October next after the granting thereof, and it is expedient that such licences when granted to persons licensed to sell beer by retail not to be consumed on the premises, under an Act passed in the first year of the reign of king William the fourth, chapter sixty-four, and other Acts for the amendment thereof, should also expire on the said last-mentioned day: BE IT ENACTED, That all licences for the sale of tobacco or snuff, which after the passing of this Act shall be granted to persons licensed to sell beer as last aforesaid, shall expire on the tenth day of October next after the granting of the same.

27 & 28 Vict. c. 56.

Tobacco licences granted to persons who retail beer not to be consumed on premises to expire on 10th October in each year.

14. And whereas by the sixth section of the Act passed in the eighth year of her majesty's reign, chapter fifteen, it is enacted, that any auctioneer, having in force a licence on which the duty under the provisions of that Act has been paid, may sell by auction any property, goods or commodities mentioned in the said section without taking out any other licence in such respect: And whereas persons holding licences as auctioneers do under colour thereof carry on the business of dealers and traders in commodities for the dealing in and selling of which excise licences are by law required to be taken out, and it is expedient to alter and amend the law in this respect: BE IT ENACTED, That no licence taken out by any person to exercise or carry on the trade or business of an auctioneer shall authorise such person to deal in or sell, either on his own account or for his own benefit, or on account of or for the benefit of any other person, any commodities for the dealing in or selling of which an excise licence is required, except upon premises in respect of which the owner of such commodities shall have taken out and shall have in force at the time of the sale thereof the proper excise licence for the sale of such commodities: Provided that any such licensed auctioneer may sell by auction, by sample, in any town or place, any such commodities as aforesaid, if the owner thereof shall be duly licensed for the sale of such commodities in the same town or place; and provided also, that the commissioners of inland revenue may in their discretion authorise any licensed auctioneer to sell any such commodities by auction where they shall be satisfied that the said commodities are the property of a private person, and are not sold for profit or by way of trade; and if any person shall sell by auction any such commodities contrary to or otherwise than as allowed by this section, he shall incur the penalties imposed upon persons dealing in or selling such commodities without the excise licences required by law.

Auctioneers not to deal in or sell excisable commodities except upon licensed premises.

15. It shall be lawful for the lords commissioners of her majesty's treasury, if they shall see fit, and under such regulations, conditions, and limitations as they shall think proper, to authorise and direct the commissioners of inland revenue and their officers to receive postage stamps as and for payment of the respective taxes of Land Tax and Assessed Taxes and Income Tax, or any of them, which may become due or payable in Scotland or Ireland; and under such regulations as aforesaid, such postage stamps shall be delivered over to the postmaster-general or his officers, and the amount or value thereof be paid out of the revenue post office to the inland revenue, and accounted for as monies arising from the said taxes.

Postage stamps may be received in payment of taxes in Scotland and Ireland.

16. Whereas the stamp duty chargeable on the admission of any person to the degree of barrister-at-law in either of the inns of court in England is fifty pounds, and the stamp duty chargeable on the admission of any person to the like degree in the inns of court in Ireland is also fifty pounds, but of the latter sum ten pounds is payable to the treasurer of the society of King's Inns, to be applied as the society may direct: BE IT ENACTED, That where any person duly admitted to the said degree in Ireland, and having paid the full stamp duty chargeable thereon, shall be admitted as aforesaid in England, his latter admission shall be chargeable with the stamp duty of ten pounds only for the use of her majesty's revenue; and where any person duly admitted to the said degree in England, and having paid the full stamp duty chargeable thereon, shall be admitted as aforesaid in Ireland, his latter admission shall be chargeable with the stamp duty of ten pounds only for the use of the said society of King's Inns, to be paid over to the treasurer of the said society, and applied as directed or authorised by the statutes in that behalf.

Persons admitted barristers in England or in Ireland may be admitted in the other part of the united kingdom on payment of the stamp duty of 10*l.* only.

17. [Parts of certain stamp duties to be paid direct to the treasurer of King's Inns, Ireland, instead of into the Exchequer as heretofore.]

18. All the powers, provisions, clauses, regulations, forfeitures, pains, and penalties contained in or imposed by any Act or Acts relating to any duties of the same kind or description as the several rates or duties granted by this Act respectively, and in force at the time of the passing of this Act, and not hereby expressly repealed, shall respectively be in full force and effect with respect to the said rates and duties by this Act granted respectively, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said last-mentioned rates and duties, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repealed and specially enacted, mutatis mutandis, with reference to the rates and duties by this Act granted respectively.

Provisions of former Acts to apply to this Act.

19. [Taxes in Scotland may be paid by means of post office orders.]

STAMP DUTIES ACT (1864) AMENDMENT.

27 & 28 Vict. c. 90. 27 & 28 Vict. c. 90. An Act to amend an Act of the present Session, Chapter Eighteen, as to the Stamp Duties on certain Letters or Powers of Attorney. [29th July, 1864.]

27 & 28 Vict. c. 18 (a). "Whereas by an Act passed in the present session of parliament, chapter eighteen, certain stamp duties are granted and imposed for and upon any letter or power of attorney for the sale, transfer or acceptance of any of the government or parliamentary stocks or funds, and also for and upon any letter or power of attorney for the receipt of dividends of any such stocks or funds; and doubts have arisen whether both the said duties may not be chargeable upon one and the same instrument:" BE IT ENACTED as follows:

Letters of attorney for the sale, &c., of government stock how to be charged with stamp duty.

1. No letter or power of attorney made for the sale, transfer, or acceptance of any of the government or parliamentary stocks or funds, and duly stamped in that behalf, shall be chargeable with any further or other stamp duty by reason of its containing therein any authority for the receipt of dividends on any such stocks or funds.

As to letters requesting that dividends or interest of stocks, &c., may be paid to nominees.

2. And whereas doubts have arisen as to whether certain letters or writings hereinafter described are chargeable with stamp duty as letters or powers of attorney: BE IT ENACTED, That no letter or other writing under hand only containing any request or direction to any joint stock or other company or society, or to any secretary, treasurer, or other officer thereof, or to any banker, by the owner or proprietor of any stocks, funds, or shares of or in such company or society, to pay the dividends or interest arising from any such stocks, funds, or shares to any person named in such order, request, or direction, shall be chargeable with stamp duty as a letter or power of attorney.

THAMES CONSERVANCY.

27 & 28 Vict. c. 113. 27 & 28 Vict. c. 113. An Act to amend the Laws relating to the Conservancy of the River Thames; and for other Purposes relating thereto. [29th July, 1864.]

WEIGHTS AND MEASURES.

27 & 28 Vict. c. 117. 27 & 28 Vict. c. 117. An Act to render permissive the Use of the Metric System of Weights and Measures. [29th July, 1864.]

(a) Ante, p. 1025.

CHRONOLOGICAL

TABLE OF STATUTES.

*(Of the Statutes marked thus * the Titles only are given.)*

			Page
9 Hen. 3, c. *7,		Magna Charta Dower, vol. 1	1351
	c. 15.	Highways, vol. 2.	685
	c. 18,	Magna Charta. Executors, &c., vol. 1	1408
	c. 23,	Magna Charta. Fish, vol. 2	133
	c. 29.	False Imprisonment, &c., vol. 2.	63
	c. 35,	Magna Charta. Courts (Inferior), vol. 1	1268
20 Hen. 3, c. 1.		Dower, vol. 1	1351
	c. 2.	Ibid., vol. 1	1352
	c. 4,	St. Merton. Inclosure, vol. 2	713
	c. 10, Ibid.	Attorneys, vol. 1.	117
51 Hen. 3, st. 4.		Landlord and Tenant, vol. 2	1085
52 Hen. 3, c. 1,		Marlebridge. Landlord and Tenant, vol. 2	1087
	c. 2, Ibid.	Ibid., vol. 2	*ib.*
	c. 3, Ibid.	Ibid., vol. 2	1088
	c. 4, Ibid.	Ibid., vol. 2	*ib.*
	c. 15, Ibid.	Ibid., vol. 2	1089
	c. 17.	Infants, vol 2.	827
	*c. 20.	Error, &c., vol. 1.	1356
	c. 21,	Marlebridge. Landlord and Tenant, vol. 2.	1090
	c. 23, ss. 1, 2.	Account, vol. 1	10
	c. 23, s. 2,	Marlebridge. Waste, vol. 4	863
3 Ed. 1, c. 5.		Parliament, vol. 3.	480
	c. 10.	Coroners, vol. 1	931
	c. 14, West. 1.	Outlawry, vol. 3	471
	c. 16, Ibid.	Landlord and Tenant, vol. 2	1090
	c. 17, Ibid.	Ibid., vol. 2	1091
	c. 25.	Champerty, vol. 1.	483
	c. 26.	Sheriff, vol. 4	207
	c. 29.	Attorneys, vol. 1.	119
4 Ed. 1, st. 2.		Coroners, vol. 1	931
	st. 3, c. 6.	Conveyances, vol. 1	822
6 Ed, 1, c. 1,		Gloucester. Costs, vol. 1	1099
	c. 5, Ibid.	Leases, vol. 2	1207
6 Ed. 1, c. 5,		Gloucester. Waste, vol. 4	864
	c. 8, Ibid.	Attorneys, vol. 1	119
	c. 8, Ibid.	Courts, (Inferior), vol. 1	1268
13 Ed. 1, c. 2.		Landlord and Tenant, vol. 2	1091
	c. 5.	Advowson, vol. 1.	12
	st. 1, c. 7.	Dower, vol. 1	1352
	st. 1, c. 10.	Attorneys, vol. 1.	119
	st. 1, c. 11.	Account, vol. 1	10
	st. 1, c. 15, West.	Attorneys, vol. 1	119
	st. 1, c. 18, West. 2.	Pleading, Practice, &c. (at Law), vol. 3	682
	st. 1, c. 19, West. 2.	Executors, &c., vol. 1	1408
	st. 1, c. 23.	Account, vol. 1	11
	st. 1, c. 23, West. 2.	Executors, &c., vol. 1	1408
	st. 1, c. 31, West. 2.	Bills of Exceptions, vol. 1	399
	st. 1, c. 34.	Dower, vol. 1	1352
	st. 1, c. 36, West. 2.	Courts (inferior), vol. 1	1269
	st. 1, c. 37, West. 2.	Landlord and Tenant, vol. 2	1092
	st. 1, c. 45, West. 2.	Pleading, Practice, &c. (at Law), vol. 3	683
	st. 1, c. 46, West. 2.	Inclosure, vol 2	714
	st. 1, c. 49.	Champerty, vol. 1	484
18 Ed. 1, st. 1, c. 1, West. 3.		Conveyances, vol. 1	822
	st. 4.	Fines and Recoveries, vol. 2	78
27 Ed. 1, st. 1, c. 1.		Ibid., vol. 2	79
28 Ed. 1, c. 12.		Landlord and Tenant, vol. 2	1093
1 Ed. 2, st. 2.		Criminal Law, vol. 2	(139)
9 Ed. 2, st. 1, *c. 9.		Landlord and Tenant, vol. 2	1093
12 Ed. 2, st. 1, c. 1.		York. Attorneys, vol. 1	120
15 Ed. 2.		Fines and Recoveries, vol. 2	79
17 Ed. 2, c. 8.		Advowson, vol. 1.	13
	st. 1, *c. 11.	Fish, vol. 2	133

		Page
1 Ed. 3, st. 1, c. 4.	Error, vol. 1	1356
st. 2, *c. 16.	Justices of the Peace, vol. 2	938
4 Ed. 3, c. 2.	Justices of the Peace, vol. 2	938
c. 7.	Executors, &c., vol. 1	1408
5 Ed. 3, c. 12.	Outlawry, vol, 3	472
14 Ed. 3, st. 1, c. 5.	Error, &c., vol. 1.	1356
st. 1, c. 6.	Amendments and Jeofails, vol. 1	49
st. 1, c. 8.	Coroners, vol. 1	932
18 Ed. 3, st. 1.	Outlawry, vol. 3	472
st. 2, c. 2.	Justices of the Peace, vol. 2	939
*st. 2, c. 5.	Outlawry, vol. 3.	472
25 Ed. 3, st. 2.	Aliens, vol. 1	36
st. 5, c. 2.	Criminal Law, vol, 2	(102)
st. 5, c. 5.	Account, vol. 1	11
st. 5, c. 5.	Executors, &c., vol. 1	1409
st. 5, c. 14.	Outlawry, vol. 3	472
st. 5. c. 17.	Ibid., vol. 3	473
st. 5, c. 17.	Pleading, Practice, &c. (at Law), vol. 3	684
28 Ed. 3, c. 6.	Coroners, vol. 1	932
c. 13, s. 2.	Criminal Law, vol. 2	(1)
31 Ed. 3, st. 1, *c. 4.	Executors, &c., vol. 1	1409
c. 11.	Account, vol. 1	11
st, 1, c. 11.	Executors, &c., vol. 1	1409
st. 1, c. 12.	Error, &c., vol. 1.	1357
34 Ed, 3, c. 1.	Justices of the Peace, vol. 2	939
*c. 16.	Fines and Recoveries, vol. 2	80
37 Ed. 3, c. 2.	Outlawry, vol. 3	473
45 Ed. 3, c. 3.	Tithes, vol. 4	671
50 Ed. 3, c. 6.	Fraudulent Conveyances, vol. 2.	179
1 Ric. 2, c. 12.	Sheriff, vol. 4	208
5 Ric. 2, st. 1, c. 7,	Criminal Law, vol. 2	(154)
9 Ric. 2, c. 3.	Error, &c., vol. 1.	1357
12 Ric. 2, c. 2.	Offices (sale of), vol. 3	464
*c. 10.	Justices of the Peace, vol. 2	939
13 Ric. 2, st. 1, c. 7.	Ibid., vol. 2	*ib.*
17 Ric. 2, c. 6.	Pleading, Practice, &c. (in Equity), vol. 3.	828
4 Hen. 4, c. 23.	Error, &c., vol. 1	1358
5 Hen, 4, c. 14.	Fines and Recoveries, vol. 2	80
7 Hen. 4, c. 13.	Attorneys, vol. 1.	120
c. 15.	Parliament, vol. 3	480
1 Hen. 5, c. 5.	Outlawry, vol. 3	474
c. 5.	Criminal Law, vol. 2	(1)
2 Hen. 5, st. 2, c. 1.	Justices of the Peace, vol. 2	939
9 Hen. 5, st. 1, c. 4.	Amendments and Jeofails, vol. 1.	49
4 Hen. 6, c. 3.	Amendments and Jeofails, vol. 1	50
8 Hen. 6, c. 1.	Arrest, vol. 1	97
c. 7.	Parliament, vol. 3.	480
c. 9.	Criminal Law, vol. 2	(155)
*c. 10.	Outlawry, vol. 3	474
c. 12.	Amendments and Jeofails, vol. 1	50
c. 15.	Amendments and Jeofails, vol. 1	51
9 Hen. 6, c. 4.	Executors, &c., vol. 1	1411
10 Hen. 6, c. 2.	Parliament, vol. 3,	482
*c. 6.	Outlawry, vol. 3	474
*23 Hen. 6, c. 9.	Bail, &c., vol. 1	185
c. 14. s. 2.	Parliament, vol. 3.	482
*33 Hen. 6, c. 1.	Executors, &c., vol. 1	1411
1 Ric. 3, c. 7.	Fines and Recoveries, vol. 2	80
3 Hen. 7, c. 1.	Coroners, vol. 1	933
*c. 4.	Fraudulent Conveyances, vol. 2.	179
c. 10.	Error, &c., vol. 1	1358
4 Hen. 7, c. 20.	Penal Actions, &c., vol. 3	673
c. 24.	Fines and Recoveries, vol. 2	81
11 Hen. 7, c. 12.	Paupers Suing, vol. 3	653
19 Hen. 7, c. 7.	Corporations, vol. 1	946
c. 9.	Pleading, Practice, &c. (at Law), vol. 3	684
6 Hen. 8, c. 4.	Outlawry, vol. 3	474
7 Hen. 8, c. 4.	Landlord and Tenant, vol. 2	1093
21 Hen. 8, c. 4.	Executors, &c., vol. 1	1411
c. 5,	Ibid., vol. 1	1412
*c. 15.	Landlord and Tenant, vol. 2	1093
c. 15.	Leases, vol. 2	1208
c. 15, s. 4.	Pleading, Practice, &c. (at Law), vol. 3	684
c. 19.	Landlord and Tenant, vol. 2	1094
22 Hen. 8, c. 5.	Highways, vol. 2.	687
23 Hen. 8, c. 5.	Sewers, vol. 4	175
c. 15.	Costs, vol. 1	1100
c. 15, s. 2	Paupers Suing, vol. 3	655
25 Hen. 8, c. 22, ss. 3, 4, 14.	Marriage, vol. 3	230
27 Hen. 8, c. 10.	Uses and Trusts, vol. 4	819
c. 10, ss. 6—9.	Dower, vol. 1	1352
c. 10.	Uses and Trusts, vol. 4	824
c. 20.	Tithes, vol. 4	672
c. 24, ss. 2, 5.	Justices of the Peace, vol. 2	940
c. 26.	Parliament, vol. 3.	616
28 Hen. 8, c. 15.	Costs, vol. 1	1100
31 Hen. 8, c. 1.	Partition, vol. 3	617
c. 13, s. 21.	Tithes, vol. 4	672

		Page
32 Hen. 8, c. 1.	Wills, vol. 4	904
c. 5.	Pleading, Practice, &c. (at Law), vol. 3	684
c. 7.	Tithes, vol. 4	673
c. 9.	Champerty, vol. 1	484
*c. 13.	Horses, vol. 2	701
*c. 28.	Landlord and Tenant, vol. 2	1095
c. 28.	Leases, vol. 2	1208
c. 30.	Amendments and Jeofails, vol. 1	51
c. 32.	Partition, vol. 3	619
c. 34.	Landlord and Tenant, vol. 2	1095
c. 36.	Fines and Recoveries, vol. 2	82
c. 37.	Landlord and Tenant, vol. 2	1098
*c. 37.	Executors, &c., vol. 1	1416
c. 38.	Marriage, vol. 3	231
33 Hen. 8, c. 9, ss. 11, 12, 14, 16—21.	Gaming, vol. 2	257
c. 27.	Leases, vol. 2	1211
34 & 35 Hen. 8, c. 5.	Wills, vol. 4	904
c. 20.	Fines and Recoveries, vol. 2	84
c. 22.	Ibid., vol. 2	*ib.*
c. 26, s. 40.	Ibid., vol. 2	85
37 Hen. 8, *c. 12.	Tithes, vol. 4	675
c. 19.	Fines and Recoveries, vol. 2	85
*c. 26.	Parliament, vol. 3.	616
1 Ed. 6, c. 7.	Abatement, vol. 1	3
2 & 3 Ed. 6, c. 13.	Tithes, vol. 4	675
c. 23.	Marriage, vol. 3	232
c. 28.	Fines and Recoveries, vol 2	85
3 & 4 Ed. 6, c. 3.	Inclosure, vol. 2	715
5 & 6 Ed. 6, c. 11, ss. 7—9.	Outlawry, vol. 3	475
c. 16.	Offices (Sale of), vol. 3	465
1 Mary, sess. 2, c. 7.	Fines and Recoveries, vol. 2	86
sess. 2, c. 8.	Justices of the Peace, vol. 2	940
1 & 2 P. & M. c. 12.	Landlord and Tenant, vol. 2	1100
c. 13, s. 7.	False Imprisonment., &c, vol. 2.	73
2 & 3 P. & M. c. 7.	Horses, vol. 2	702
1 Eliz. c. 2, s. 14.	Sunday, vol. 4	658
c. 17.	Fish, vol. 2	133
c. 19, ss. 2—5	Leases, vol. 2	1212
5 Eliz. c. 9.	Criminal Law, vol. 2	(144)
c. 9, s. 12.	Evidence, &c., vol. 1	1368
c. 23.	Courts (Ecclesiastical), vol. 1	1251
*c. 26.	Uses and Trusts, vol. 4	825
c. 27.	Fines and Recoveries, vol. 2	86
13 Eliz. c. 5.	Fraudulent Conveyances, vol. 2	179
*c. 10.	Ibid., vol. 2	183
c. 10.	Leases, vol. 2	1213
c. 20.	Clergy, vol. 1	520
14 Eliz. c. 8.	Fines and Recoveries, vol. 2	86
c. 11, ss. 11, 14, to end.	Leases, vol. 2	1215
c. 14.	Ibid., vol. 2	1216
18 Eliz. c. 3, s. 2	Poor, vol. 3	1014
c. 5.	Penal Actions, &c., vol. 3	675
c. 6.	Leases, vol. 2	1216
*c. 11.	Fraudulent Conveyances, vol. 2	183
c. 11, ss. 2, 3.	Leases, vol. 2	1217
c. 14.	Amendments and Jeofails, vol. 1.	51
23 Eliz. c. 1, s. 13.	Fraudulent Conveyances, vol. 2.	183
c. 3.	Fines and Recoveries, vol. 2	87
27 Eliz. c. 4.	Fraudulent Conveyances, vol. 2.	183
c. 5.	Amendments and Jeofails, vol. 1	52
c. 9.	Fines and Recoveries, vol. 2	89
28 Eliz. c. 4.	Sheriff, vol. 4	209
29 Eliz. c. 5, s. 21.	Attorneys, vol. 1.	120
31 Eliz. c. 2.	Fines and Recoveries, vol. 2	91
c. 3.	Outlawry, vol. 3	476
c. 5.	Penal Actions, &c., vol. 3	677
c. 5, ss. 5, 6.	Limitation of Actions, vol. 3	1
c. 6.	Clergy, vol. 1	522
*c. 6.	Corporations, vol. 1	947
c. 10, s. 22.	Attorneys, vol. 1.	120
c. 11.	Criminal Law, vol. 2	(156)
c. 12.	Horses, vol. 2	703
39 Eliz. c. 5, s. 2.	Leases, vol. 2	1217
43 Eliz. c. 2.	Poor, vol. 3	1015
c. 5, s. 2.	Courts (Inferior), vol. 1	1269
c. 6.	Costs, vol. 1	1110
c. 8.	Executors, &c., vol. 1	1416
c. 15.	Fines and Recoveries, vol. 2	92
1 Jac. 1, c. 3.	Leases, vol. 2	1217
c. 5	Courts (Inferior), vol. 1	1269
c. 21, s. 5 to end.	Pawnbrokers, vol. 3	656
2 Jac. 1, c. 13.	Pleading, Practice, &c. (at Law), vol. 3	685
3 Jac. 1, c. 4, ss. 27, 28.	Sunday, vol. 4	658
c. 5, ss. 18—21.	Clergy, vol. 1	526
c. 8.	Error, &c., vol. 1.	1359
4 Jac. 1, c. 3.	Costs, vol. 1	1101
7 Jac. 1, c. 4, s. 8	Poor, vol. 3	1032
c. 5.	Justices of the Peace, vol. 2	940

		Page
21 Jac. 1, c. 3.	Patents, vol. 3	620
c. 4.	Penal Actions, &c., vol. 3	679
c. 8, ss. 6, 7.	Certiorari, vol. 1	471
c. 12.	Justices of the Peace, vol. 2	941
c. 13.	Amendments and Jeofails, vol. 1	52
c. 14.	Crown Suits, vol. 1	1329
c. 15.	Criminal Law, vol. 2	(157)
c. 16, ss. 3—7.	Limitation of Actions, vol. 3	1
c. 16, s. 6.	Costs, vol. 1	1111
c. 23.	Courts (Inferior), vol. 1.	1270
c. 24.	Pleading, Practice, &c. (at Law), vol. 3	686
c. 28, s. 7.	Criminal Law, vol. 2	(1)
1 Car. 1, c. 1.	Sunday, vol. 4	658
3 Car. 1, c. 1.	False Imprisonment, &c., vol. 2	63
c. 1.	Sunday, vol. 4	659
16 Car. 1, c. 10.	False Imprisonment, &c., vol. 2.	64
12 Car. 2, c. 24, ss. 8—10.	Infants, vol. 2	827
13 Car. 2, st. 2, c. 1.	Corporations, vol. 1	947
13 Car. 2, st. 2, *c. 2.	Costs, vol. 1	1101
ss. 8—11.	Error, &c., vol. 1.	1360
13 & 14 Car. 2, c. 12.	Poor, vol. 3	1032
16 & 17 Car. 2, c. 8, ss. 3—5.	Error, &c., vol. 1.	1360
c. 8.	Amendments and Jeofails, vol. 1.	53
c. 9.	Affidavit, vol. 1	17
17 Car. 2, c. 7.	Landlord and Tenant, vol. 2	1101
c. 8.	Abatement, vol. 1.	1
c. 8.	Error, &c., vol. 1.	1361
c. 8, s. 2.	Executors, &c., vol. 1	1417
19 Car. 2, *c. 6.	Landlord and Tenant, vol. 2	1102
c. 6.	Evidence, &c., vol. 1	1370
22 & 23 Car. 2, c. 9, s. 136.	Costs, vol. 1	1112
c. 10.	Executors, &c., vol. 1	1417
25 Car. 2, c. 2.	Corporations, vol. 1	948
29 Car. 2, c. 3.	Frauds (Statute of), vol. 2	145
c. 3, ss. 5, 6, 12, 19, to the end.	Wills, vol. 4	908
c. 3, s. 7.	Uses and Trusts, vol. 4	825
c. 3, ss. 10, 16.	Pleading, Practice, &c. (at Law), vol. 3	686
c. 3, ss. 10—16.	Judgments, vol. 2.	887
c. 3, s. 25.	Executors, &c., vol. 1	1422
c. 5.	Affidavit, vol. 1	14
c. 7.	Sunday, vol. 4	660
c. 7, s. 6.	Arrest, vol. 1	97
30 Car. 2, st. 1, c. 7.	Executors, &c., vol. 1	1422
31 Car. 2, c. 2.	False Imprisonment, &c., vol. 2.	67
1 Jac. 2, c. 17, ss. 5—8.	Executors, &c., vol. 1	1423
1 W. & M. sess. 1, c. 16.	Clergy, vol. 1	526
c. 26.	Ibid., vol. 1	527
2 W. & M. sess. 1, c. 5.	Landlord and Tenant, vol. 2	1102
3 W. & M. c. 11.	Poor, vol. 3	1041
s. 12.	Evidence, &c., vol. 1	1371
4 W. & M. *c. 2.	Executors, &c., vol. 1	1424
c. 4.	Bail, &c., vol. 1	186
c. 24, s. 12.	Executors, &c., vol. 1	1424
4 & 5 W. & M. c. 16.	Fraudulent Conveyances, vol. 2.	188
*c. 16.	Mortgages, vol. 3.	440
c. 18.	Criminal Law, vol. 2	(2)
c. 18, ss. 3—5.	Outlawry, vol. 3	477
c. 22, ss. 4, 5.	Ibid. vol. 3	ib.
*c. 22.	Criminal Law, vol. 2	(2)
5 & 6 W. & M. c. 7, s. 57.	Parliament, vol. 3.	582
c. 11.	Certiorari, vol. 1.	473
c. 11, s. 6.	Highways, vol. 2.	691
7 & 8 W. 3, c. 3.	Criminal Law, vol. 2	(103)
c. 6.	Tithes, vol. 4	680
c. 25.	Parliament, vol. 3.	482
c. 34, s. 4 to end.	Tithes, vol. 4	682
*c. 38.	Executors, &c., vol. 1	1424
8 & 9 W. 3, c. 11, s. 2.	Error, &c., vol. 1.	1361
c. 11.	Costs, vol. 1	1101
c. 11, ss. 6, 7.	Abatement, vol. 1.	2
c. 11, s. 8.	Bond, vol. 1	420
c. 27.	Sheriff, vol. 4	212
c. 30.	Poor, vol. 3	1053
*c. 31.	Partition, vol. 3.	619
c. 31, s. 3.	Abatement, vol. 1.	7
c. 33, s. 2.	Certiorari, vol. 1.	476
9 & 10 W. 3, c. 11.	Poor, vol. 3	1059
c. 15.	Arbitration, vol. 1	80
c. 17.	Bills of Exchange, &c., vol. 1	400
c. 32.	Criminal Law, vol. 2	(157)
10 & 11 W. 3, *c. 14.	Error, &c., vol. 1.	1362
c. 17.	Gaming, vol. 2	258
11 & 12 W. 3, c. 6.	Aliens, vol. 1	37
c. 16.	Tithes, vol. 4	682
1 Ann. st. 1, c. 18, ss. 2—9.	Highways, vol. 2.	691
st. 1, c. 18, s. 13.	Evidence, &c., vol. 1	1371
st. 2, c. 6,	Sheriff, vol. 4	214
st. 2, c. 22, s. 5.	Stamps, vol. 4	438

		Page
2 & 3 Ann. c. 4.	Registration, vol. 4	82
*c. 5.	Executors, &c., vol. 1	1424
3 & 4 Ann. c. 9.	Bills of Exchange, &c., vol. 1	401
c. 16.	Pleading, Practice, &c. (at Law), vol. 3	688
4 & 5 Ann. c. 16, ss. 1, 2, 7, 24.	Amendments and Jeofails, vol. 1.	54
c. 16, ss. 4, 5.	Costs, vol. 1	1103
c. 16, ss. 9, 10.	Landlord and Tenant, vol. 2	1106
c. 16, s. 11.	Abatement, vol. 1	6
c. 16, ss. 12, 13.	Bond, vol. 1	423
c. 16, s. 14.	Wills, vol. 4	913
c. 16, s. 15.	Uses and Trusts, vol. 4	825
c. 16, ss. 17—19.	Limitation of Actions, vol. 3	9
c. 16, s. 20.	Bail, &c., vol. 1.	193
c. 16, s. 23.	Pleading, Practice, &c. (in Equity), vol. 3.	828
c. 16, s. 25.	Error, &c., vol. 1	1362
c. 16, s. 27.	Account, vol. 1	11
c. 16, ss. 26, 27.	Executors, &c., vol. 1	1424
5 Ann. *c. 8.	Parliament, vol. 3	616
5 & 6 Ann. c. 18.	Registration, vol. 4	85
6 Ann. c. 7, ss. 25, 26, 28, to end.	Parliament, vol. 3	582
c. 12.	Sheriff, vol. 4	215
c. 16, ss. 4, 5.	Brokers, vol. 1	424
c. 18.	Evidence, &c., vol. 1	1371
c. 18.	Pleading, Practice, &c. (in Equity), vol. 3.	828
c. 18.	Infants, vol. 2	829
c. 35.	Registration, vol. 4	87
7 Ann. c. 5.	Aliens, vol. 1	37
*c. 9.	Sewers, vol. 4	182
c. 10.	Ibid., vol. 4	*ib.*
c. 12.	Ambassadors, vol. 1	47
*c. 12.	Landlord and Tenant, vol. 2	1106
c. 18.	Advowson, vol. 1.	14
*c. 20.	Registration, vol. 4	76
c. 21, ss. 10, 11.	Criminal Law, vol. 2	(105)
8 Ann. c. 14.	Landlord and Tenant, vol. 2	1106
9 Ann. c. 14, ss. 2—7, 9.	Gaming	259
c. 20.	Corporations, vol. 1	949
c. 20, s. 7.	Amendments and Jeofails, vol. 1.	55
10 Ann. c. 5.	Aliens, vol. 1	37
c. 18, s. 3.	Evidence, &c., vol. 1	1373
c. 18, s. 3 to end.	Pleading, Practice, &c. (at Law), vol. 3	689
c. 23.	Parliament, vol. 3.	584
12 Ann. st. 2, c. 12, s. 2.	Clergy, vol. 1	528
st. 2, c. 14.	Ibid., vol. 1	528
st. 2, c. 16.	Usury, vol. 4	825
c. 18, s. 2.	Poor, vol. 3	1060
1 Geo. 1, st. 2, c. 5.	Criminal Law, vol. 2	(151)
c. 6, ss. 2—4.	Tithes, vol. 4	683
1 Geo. 1, st. 2, c. 13, ss. 16, 17.	Parliament, vol. 3.	583
c. 18, ss. 4—18.	Fish, vol. 2	135
c. 38.	Parliament, vol. 3.	615
c. 56.	Ibid., vol. 3	584
3 Geo. 1, c. 15, ss. 3, 9, 13, 14, 16, to end.	Sheriff, vol. 4	216
5 Geo. 1, c. 8.	Poor, vol. 3	1061
c. 13.	Amendments and Jeofails, vol. 1.	55
*c. 13.	Error, &c., vol. 1.	1362
6 Geo. 1, c. 21, s. 53.	Arrest, vol. 1	98
9 Geo. 1, c. 7.	Poor, vol. 3	1061
c. 7, s. 3.	Justices of the Peace, vol. 2	942
11 Geo. 1, c. 4.	Corporations, vol. 1	951
12 Geo. 1, *c. 29.	Arrest, vol. 1	98
c. 29, s. 4.	Attorneys, vol. 1.	120
2 Geo. 2, c. 22, s. 13.	Set-off, vol. 4	167
c. 24, s. 3.	Parliament, vol. 3.	485
c. 25, s. 2.	Criminal Law, vol. 2	(147)
c. 28, s. 9.	Gaming, vol. 2	260
3 Geo. 2, c. 29, ss. 8, 9.	Poor, vol. 3	1069
c. 30.	Pleading, Practice, &c., (in Equity), vol. 3.	830
4 Geo. 2, c. 21.	Aliens, vol. 1	38
c. 26, s. 4.	Amendments and Jeofails, vol. 1.	55
c. 28.	Landlord and Tenant, vol. 2	1109
*5 Geo. 2, c. 7.	Colonies, vol. 1	619
c. 7.	Evidence, &c., vol. 1	1373
c. 7, s. 4.	Executors, &c., vol. 1	1425
c. 18.	Justices of the Peace, vol. 2	943
c. 19.	Poor, vol. 3	1070
c. 19.	Certiorari, vol. 1.	476
*c. 27.	Arrest, vol. 1	98
7 Geo. 2, c. 8.	Stock - jobbing, vol. 4	640
c. 20.	Mortgages, vol. 3.	440
8 Geo. 2, c. 6.	Registration, vol. 4	93
c. 13.	Copyright, vol. 1.	900
c. 24, s. 5.	Set-off, vol. 4	174
9 Geo. 2, c. 36.	Charitable Uses, vol. 1	486
11 Geo. 2, c. 17, s. 5.	Clergy, vol. 1	531
c. 19.	Landlord and Tenant, vol. 2	1115

		Page
12 Geo. 2, c. 28.	Gaming, vol. 2	261
c. 29.	County Rate, vol. 1	1148
c. 29, s. 14.	Highways, vol. 2. (Rep. in part 15 & 16 Vict. c. 81.)	692
13 Geo. 2, c. 18, s. 5.	Certiorari, vol. 1.	477
c. 19, ss. 9, 10.	Gaming, vol. 2	263
14 Geo. 2, c. 20.	Fines and Recoveries, vol. 2	93
c. 33, s. 1.	Highways, vol. 2.	693
15 Geo. 2, c. 22.	Parliament, vol. 3.	585
c. 30.	Lunatics, vol. 3	96
16 Geo. 2, c. 18.	Poor, vol. 3	1071
c. 18.	Justices of the Peace, vol. 2	943
c. 31.	Criminal Law, vol. 2	(139)
17 Geo. 2, c. 3.	Poor, vol. 3	1072
c. 7.	Affidavit, vol. 1	17
c. 30.	Bills of Exchange, &c., vol. 1	405
c. 37.	Poor, vol. 3	1073
c. 38.	Ibid., vol. 3	1074
18 Geo. 2, c. 18, ss. 5, 6, 13—16.	Parliament, vol. 3.	485
c. 20.	Justices of the Peace, vol. 2	944
c. 34.	Gaming, vol. 2	264
19 Geo. 2, c. 28, ss. 4, 5, 7, to end.	Parliament, vol. 3.	486
c. 37.	Insurance, vol. 2.	837
20 Geo. 2, c. 19.	Master and Servant, vol. 3	285
c. 30.	Criminal Law, vol. 2	(106)
c. 37.	Sheriff, vol. 4	219
22 Geo 2, c. 27.	Master and Servant, vol. 3	288
23 Geo. 2, c. 11.	Criminal Law, vol. 2	(147)
24 Geo. 2, c. 23.	Time, vol. 4	665
c. 40, s. 12	Spirituous Liquors, vol. 4	437
c. 44.	Justices of the Peace, vol. 2	946
c. 48, s. 12.	Sheriff, vol. 4	219
c. 55.	Justices of the Peace, vol. 2	954
25 Geo. 2, c. 6.	Wills, vol. 4	913
*c. 6.	Evidence, &c., vol. 1	1374
c. 29, s. 6.	Coroners, vol. 1.	933
c. 30.	Time, vol. 4	670
c. 36, ss. 2—15.	Gaming, vol. 2	265
c. 39.	Aliens, vol. 1	39
26 Geo. 2, c. 14.	Justices of the Peace, vol. 2	955
c. 14, s. 2.	Sheriff, vol. 4	220
c. 27.	Justices of the Peace, vol. 2	956
*c. 33.	Marriage, vol. 3.	233
29 Geo. 2, c. 36.	Inclosure, vol. 2.	716
31 Geo. 2, c. 41.	Inclosure, vol. 2.	717
32 Geo. 2, c. 28.	Arrest, vol. 1	98
c. 28, ss. 11, 12.	Sheriff, vol. 4	220
1 Geo. 3, c. 13.	Justices of the Peace, vol. 2	956
4 Geo. 3, c. 21.	Affidavit, vol. 1	18
5 Geo. 3, c. 17.	Leases, vol. 2	1218
6 Geo. 3, c. 25.	Master and Servant, vol. 3	292
7 Geo. 3, c. 9.	Justices of the Peace, vol. 2	957
c. 21.	Ibid., vol. 2	958
c. 29.	Sheriff, vol. 4	221
c. 38.	Copyright, vol. 1	902
9 Geo. 3, c. 16.	Limitation of Actions, vol. 3	9
12 Geo. 3, c. 11.	Marriage, vol. 3	233
c. 21.	Corporations, vol. 1	954
c. 61.	Gunpowder, vol. 2.	326
13 Geo. 3, c. 22.	Aliens, vol. 1	40
c. 63, ss. 40, 44, 45.	Evidence, &c., vol. 1	1398
c. 81.	Inclosure, vol. 2.	718
c. 82, ss. 5, 8.	Poor, vol. 3	1078
14 Geo. 3, c. 48.	Insurance (Lives), vol. 2	844
c. 78, ss. 74—86.	Fire, vol. 2	129
c. 79.	Usury, vol. 4	829
15 Geo. 3, c. 39.	Justices of the Peace, vol. 2	958
c. 53.	Copyright, vol. 1.	887
17 Geo. 3, c. 26.	Annuities, vol. 1.	70
c. 30.	Bills of Exchange, &c., vol. 1	405
c. 53.	Clergy, vol. 1	532
c. 56.	Master and Servant, vol. 3	293
c. 57.	Copyright, vol. 1.	903
18 Geo. 3, c. 19, ss. 4—6.	Police (Rural), vol. 3	964
19 Geo. 3, c. 70, s. 4.	Courts (Inferior), vol. 1	1271
c. 70, ss. 5, 6.	Error, &c., vol. 1.	1363
20 Geo. 3, c. 17, s. 12.	Parliament, vol. 3	874
c. 36.	Poor, vol. 3	1078
22 Geo. 3, c. 41.	Parliament, vol. 3.	488
c. 45.	Ibid., vol. 3	585
c. 83.	Poor, vol. 3	1079
23 Geo. 3, *c. 23, ss. 1, 4.	Ibid., vol. 3	1095
24 Geo. 3, *c. 26.	Parliament, vol. 3	489
25 Geo. 3, c. 48.	Pawnbrokers, vol. 3	657
c. 84, s. 4.	Parliament, vol. 3	489
26 Geo. 3, c. 57, s. 38.	Evidence, &c., vol. 1	1374
c. 100.	Parliament, vol. 3	490
27 Geo. 3, c. 44.	Courts (Ecclesiastical), vol. 1	1255
28 Geo. 3, c. 56.	Insurance, vol. 2.	840
30 Geo. 3, c. 49.	Poor, vol. 3	1096
31 Geo. 3, c. 25, ss. 10, 19.	Stamps, vol. 4	442
32 Geo. 3, c. 56.	Master and Servant, vol. 3	301
c. 57.	Poor, vol. 3	1097
c. 58.	Corporations, vol. 1	955
c. 60.	Criminal Law, vol. 2	(158)
33 Geo. 3, c. 13.	Statutes, vol. 4	636
c. 35.	Poor, vol. 3	1103
c. 55, s. 3.	Justices of the Peace, vol. 2	958
c. 64.	Parliament, vol. 3.	490
c. 68.	Counties Palatine, vol. 1	1118

			Page
34 Geo. 3, c. 14.		Attorneys, vol. 1.	121
	c. 46.	Counties Palatine, vol. 1	1118
	c. 58.	Ibid., vol. 1	1119
35 Geo. 3, c. 55, s. 8 to end.		Stamps, vol. 4	442
	c. 63, s. 2.	Insurance, vol. 2.	841
	c. 101.	Poor, vol. 3	1104
36 Geo. 3, c. 7, ss. 1, 5, 6.		Criminal Law, vol. 2	(106)
	c. 10.	Poor, vol. 3	1108
	c. 52, s. 2 to end.	Stamps, vol. 4	443
37 Geo. 3, c. 19, s. 3.		Stamps, vol. 4	456
	c. 70.	Criminal Law, vol. 2	(114)
	c. 90, s. 26, *et seq.*	Attorneys, vol. 1.	123
	c. 123.	Criminal Law, vol. 2	(111)
	c. 136, ss. 5, 6.	Stamps, vol. 4	456
38 Geo. 3, c. 5.		Land Tax, vol. 2.	1003
	*c. 48.	Land Tax, vol. 2.	1015
	c. 52, ss. 3, 4.	False Imprisonment, &c., vol. 2.	76
	c. 52.	Criminal Law, vol. 2	(2)
	c. 60, ss. 3, 14, 21, 37, 40, 66, 67, 71, 78, 98—100, 104, 107.	Land Tax, vol. 2.	1015
	*c. 65.	Inclosure, vol. 2.	722
	*c. 71.	Copyright, vol. 1.	904
	c. 87.	Executors, &c., vol. 1	1425
*39 Geo. 3, c. 6.		Land Tax, vol. 2.	1019
39 & 40 G. 3, c. 28, s. 15.		Bankers, vol. 1	195
	c. 36.	Pleading, Practice, &c. (in Equity), vol. 3.	830
	c. 41.	Leases, vol. 2	1219
	c. 42.	Bills of Exchange, &c., vol. 1	407
	*c. 67.	Parliament, vol. 3	616
	c. 94.	Criminal Law, vol. 2	(5)
	c. 94.	Ibid, vol. 2	(107)
	*c. 94.	Lunatics, vol. 3	96
	c. 98.	Wills, vol. 4	916
	c. 99.	Pawnbrokers, vol. 3	658
	c. 105.	Counties Palatine, vol. 1	1120
41 Geo. 3, c. 9.		Poor, vol. 3	1109
	c. 23	Ibid, vol. 3	1110
	c. 52	Parliament, vol. 3	587
	c. 63	Ibid., vol. 3	589
	c. 78.	Police (Rural), vol. 3	965
	c. 79.	Notaries, vol. 3	445
	c. 90, s. 9.	Evidence, &c., vol. 1	1375
	c. 109.	Inclosure, vol. 2.	722
42 Geo. 3, c. 46.		Poor, vol. 3	1113
	c. 73.	Factories, vol. 2.	1
	c. 74.	Poor, vol. 3	1115
	c. 85, s. 6.	Justices of the Peace, vol. 2	959
	c. 99, s. 2.	Stamps, vol. 4	457
	c. 116.	Land Tax, vol. 2.	1019
	c. 119.	Gaming, vol. 2	267
43 Geo. 3, c. 46.		Arrest, vol. 1	100
	c. 46, s. 4.	Costs, vol. 1	1104
	c. 46, ss. 3, 4.	Judgment, vol. 2.	888
	c. 46, s. 5.	Sheriff, vol. 4	222
	c. 46, s. 6.	Bail, &c., vol. 1.	193
	c. 59.	Highways, vol. 2.	693
	c. 99, s. 37.	Pleading, Practice, &c. (at Law), vol. 3	690
	c. 110.	Poor, vol. 3	1116
	c. 126, ss. 5, 6.	Stamps, vol. 4	457
	c. 140.	False Imprisonment, vol. 2	77
44 Geo. 3, c. 59, s. 3.		Attorneys, vol. 1.	127
	c. 77.	Marriage, vol. 3	234
	c. 98, s. 14.	Conveyancers, vol. 1	821
	c. 102.	False Imprisonment, vol. 2	77
45 Geo. 3, c. 28, ss. 4, 5, 7.		Stamps, vol. 4	458
	c. 37.	Evidence, &c., vol. 1	1375
	c. 43, s. 4 to end.	Stamps, vol. 4	459
46 Geo. 3, c. 37.		Evidence, &c., vol. 1	1375
47 Geo. 3, sess. 2, c. 8.		Fines and Recoveries, vol. 2	95
48 Geo. 3, c. 88.		Bills of Exchange, &c., vol. 1	407
	c. 106.	Statutes, vol. 4	636
	c. 123.	Bankruptcy, vol. 1	238
	c. 127, s. 4.	Marriage, vol. 3	235
	c. 149, s. 22 to end.	Stamps, vol. 4	460
49 Geo. 3, c. 28.		Attorneys, vol. 1.	127
	*c. 68.	Poor, vol. 3	1116
	c. 124.	Ibid., vol. 3	1116
	c. 126.	Offices (sale of), vol. 3	468
50 Geo. 3, c. 41.		Hawkers and Pedlars, vol. 2	406
	c. 49.	Poor, vol. 3	1118
	c. 50.	Ibid., vol. 3	1120
*51 Geo. 3, c. 80.		Poor, vol. 3	1121
	c. 99.	Parliament, vol. 3	491
	c. 100.	Criminal Law, vol. 2	(6)
52 Geo. 3, c. 101.		Pleading, Practice, &c. (in Equity), vol. 3.	831
	c. 104.	Criminal Law, vol. 2	(112)
	c. 108.	Hawkers and Pedlars, vol. 2	412
	c. 110.	Highways, vol. 2.	695
	c. 144.	Parliament, vol. 3.	590
	c. 155, ss. 2, 12.	Criminal Law, vol. 2	(176)
53 Geo. 3, c. 24.		Pleading, Practice, &c. (in Equity), vol. 3.	833
	c. 49.	Parliament, vol. 3.	491
	c. 89.	Ibid., vol. 3	492
	c. 127.	Courts (Ecclesiastical), vol. 1.	1255
	c. 127, s. 5.	Limitation of Actions, vol. 3	13
	c. 141.	Annuities, vol. 1.	71
	c. 142.	Land Tax, vol. 2.	1068
	c. 173.	Land Tax, vol. 2.	1084

			Page
*54 Geo. 3, c. 14.		Pleading, Practice, &c. (in Equity), vol. 3	834
	c. 15. s. 4.	Executors, &c., vol. 1	1427
	c. 15.	Evidence, &c., vol. 1	1375
	c. 56.	Copyright, vol. 1.	904
	c. 90.	Highways, vol. 2.	697
	c. 91.	Poor, vol. 3	1121
	c. 107.	Ibid., vol. 3	1122
	c. 133.	Stamps, vol. 4	462
	c. 144, ss. 13, 14.	Attorneys	128
	c. 144.	Stamps, vol. 4	466
	c. 146.	Criminal Law, vol. 2	(107)
	c. 168.	Powers, vol. 3	1306
	c. 168.	Evidence, &c., vol. 1	1376
	c. 170, s. 9.	Ibid., vol. 1	1377
	c. 170.	Poor, vol. 3	1122
55 Geo. 3, c. 51, s. 17.		County Rate, vol. 1	1152
	c. 137.	Poor, vol. 3	1126
	c. 143.	Highways, vol. 2.	697
	*c. 147.	Clergy, vol. 1	541
	*c. 157.	Affidavit, vol. 1	18
	*c. 157.	Evidence, &c., vol. 1	1377
	c. 184, s. 13.	Bankers' Drafts, vol. 1	235
	c. 184, s. 37.	Executors, &c., vol. 1	1427
	c. 184.	Stamps, vol. 4	467
	c. 192.	Wills, vol. 4	920
	c. 194, ss. 14, 20, 21.	Medical Practitioners, vol. 3.	329
56 Geo. 3, c. 49 (Rep. 15 & 16 Vict., c. 81).			
	c. 50.	Landlord and Tenant, vol. 2	1128
	*c. 50.	Pleading, Practice, &c. (at Law), vol. 3	690
	c. 60.	Ibid. (in Equity), vol. 3	834
	c. 68, ss. 11, 12.	Tender, vol. 4	663
	c. 100.	False Imprisonment, &c., vol. 2.	73
	c. 129.	Poor, vol. 3	1129
	c. 139.	Ibid., vol. 3	*ib.*
57 Geo. 3, c. 6, s. 1.		Criminal Law, vol. 2	(108)
	c. 11.	Bail, &c., vol. 1.	194
	*c. 39.	Friendly Societies, vol. 2	190
	c. 52.	Landlord and Tenant, vol. 2	1130
	c. 91.	Sessions of the Peace, vol. 4	149
	c. 93.	Landlord and Tenant, vol. 2	1131
	c. 94 (Rep. 15 & 16 Vict., c. 81).		
	c. 100.	Land Tax, vol. 2.	1066
	c. 117.	Pleading, Practice, &c. (at Law), vol. 3	690
58 Geo. 3, c. 30.		Costs, vol. 1	1104
	c. 69.	Vestries, vol. 4	838
	c. 81, s. 3.	Marriage, vol. 3.	235
	c. 84.	Ibid., vol. 3	*ib.*
	c. 93.	Usury, vol. 4	830
59 Geo. 3, c. 12.		Poor, vol. 3	1135
	*c. 28.	Sessions of the Peace, vol. 4	150
	c. 50.	Poor, vol. 3	1145
	*c. 64.	Sheriff, vol. 4	222
	c. 69.	Criminal Law, vol. 2	(130)
	c. 85.	Vestries, vol. 4	844
	c. 95.	Poor, vol. 3	1146
60 Geo. 3, & 1 Geo. 4, c. 1.		Criminal Law, vol. 2	(114)
	c. 4.	Ibid., vol. 2	(7)
	c. 8.	Ibid., vol. 2	(160)
	c. 9, ss. 1—3, 8—10.	Ibid., vol. 2	(159)
1 Geo. 4, c. 36.		Poor, vol. 3	1146
	c. 55, s. 5.	Pleading, Practice, &c. (at Law), vol. 3	692
	c. 55, s. 5.	Amendment (Variances), vol. 1.	55
	c. 87.	Landlord and Tenant, vol. 2	1133
	*c. 101.	Marriage, vol. 3.	236
	*c. 101.	Evidence, &c., vol. 1	1377
1 & 2 Geo. 4, c. 23.		Inclosure, vol. 2	737
	*c. 28.	Corporations, vol. 1	956
	c. 32.	Poor, vol. 3	1147
	c. 55.	Stamps, vol. 4	549
	c. 56.	Poor, vol. 3	1147
	c. 78.	Bills of Exchange, &c., vol. 1	408
	c. 88.	Criminal Law, vol. 2	(141)
3 Geo. 4, c. 39.		Warrant of Attorney, vol. 4	855
	c. 46.	Sheriff, vol. 4	222
	*c. 46.	Sessions of the Peace, vol. 4	150
	*c. 46.	Criminal Law, vol. 2	(8)
	*c. 47.	Usury, vol. 4	831
	c. 75.	Marriage, vol. 3.	236
	*c. 88.	Land Tax, vol. 2.	1072
	c. 92.	Annuities, vol. 1.	78
	*c. cvi.	Bread, vol. 1	424
	c. 117.	Stamps, vol. 4	550
	c. 126.	Highways, vol. 2.	590*k*
4 Geo. 4, c. 5.		Marriage, vol. 3.	237
	c. 16.	Highways, vol. 2.	639
	c. 27.	Justices of the Peace, vol. 2	959
	c. 34.	Master and Servant, vol. 3	303
	c. 35.	Highways, vol. 2.	639
	c. 37.	Sheriff, vol. 4	225
	c. 48.	Criminal Law, vol. 2	(8)
	*c. 52.	Coroners, vol. 1	933
	c. 52.	Felo-de-se, vol. 2.	78
	c. 64, ss. 43, 44.	Criminal Law, vol. 2	(141)
	c. 64.	Prisons, vol. 3	1316
	c. 76.	Marriage, vol. 3.	237
	c. 83.	Factors, vol. 2	*54*
	c. 91.	Marriage, vol. 3.	244
	c. 95.	Highways, vol. 2.	639

		Page
5 Geo. 4, c. 12.	Prisons, vol. 3	1336
c. 32.	Marriage, vol. 3	245
c. 41, s. 3.	Stamps, vol. 4	552
c. 69.	Highways, vol. 2.	657
c. 74.	Weights, &c., vol. 4	881
c. 83.	Criminal Law, vol. 2	(177)
*c. 83.	Poor, vol. 3	1148
c. 84, ss. 22—24.	Criminal Law, vol. 2	(142)
c. 85.	Prisons, vol. 3	1339
c. 96.	Master and Servant, vol. 3	307
c. 113.	Criminal Law, vol. 2	(134)
6 Geo. 4, *c. 9.	Land Tax, vol. 2.	1072
*c. 12.	Weights, &c., vol. 4	887
c. 32.	Land Tax, vol. 2.	1073
c. 40.	Prisons, vol. 3	1345
c. 41.	Stamps, vol. 4	552
c. 50, ss. 29, 47.	Criminal Law, vol. 2	(9)
c. 50.	Juries, vol. 2	910
(Rep. 16 & 17 Vict., c. 70, vol. 4, 159.)		
c. 57.	Poor, vol. 3	1148
c. 80, ss. 138—142.	Hawkers and Pedlars, vol. 2	413
c. 84, s. 5.	Pleading, Practice, &c. (in Equity), vol. 3.	837
c. 87, s. 20.	Oaths, vol. 3	451
c. 92.	Marriage, vol. 3	246
c. 94.	Factors, vol. 2	55
c. 125, ss. 19, 31—77.	Shipping, vol. 4.	238
c. 129.	Master and Servant, vol. 3	314
c. 133, ss. 4, 5, 7, 11.	Medical Practitioners, vol. 3	330
7 Geo. 4, c. 6.	Bills of Exchange, &c., vol. 1	409
c. 15.	Tithes, vol. 4	684
c. 16, s. 38.	Criminal Law, vol. 2	(276)
c. 18.	Prisons, vol. 3	1346
c. 44, s. 4.	Attorneys, vol. 1.	128
c. 46.	Bankers, vol. 1	196
c. 64, s. 4—6.	Coroners, vol. 1.	934
c. 64, s. 17.	Highways, vol. 2.	658
c. 64, ss. 4—6, 12—32.	Criminal Law, vol. 2	(9)
c. 75.	Annuities, vol. 1.	79
7 & 8 Geo. 4, c. 15.	Bills of Exchange, &c., vol. 1	410
c. 24.	Highways, vol. 2	658
*c. 27.	Criminal Law, vol. 2	(16)
c. 28.	Ibid., vol. 2	(*ib.*)
c. 31.	Hundred, vol. 2.	705
c. 53, s. 8.	Parliament, vol. 3	590
c. 71.	Arrest, vol. 1	102
*c. 71.	Bail, &c., vol. 1.	194
9 Geo. 4, c. 14.	Limitation of Actions, vol. 3	13
c. 14, s. 2.	Abatement, vol. 1	7
c. 14, s. 4.	Set-off, vol. 4	175
9 Geo. 4, c. 14, s. 5, to the end.	Frauds (Statute of), vol. 2	177
c. 15.	Amendment (Variances), vol. 1	56
*c. 15.	Criminal Law, vol. 2	(18)
*c. 17.	Justices of the Peace, vol. 2	959
c. 17.	Corporations, v. 1.	956
c. 23.	Bankers, vol. 1	205
c. 32, s. 3.	Criminal Law, vol. 2	(18)
c. 33.	Executors, &c., vol. 1	1428
c. 43.	Sessions of the Peace, vol. 4	150
c. 49, s. 4.	Attorneys, vol. 1.	129
c. 49.	Stamps, vol. 4	553
c. 61.	Alehouses, vol. 1.	23
c. 65.	Bills of Exchange, &c., vol. 1	411
c. 69.	Criminal Law, vol. 2	(171)
c. 77.	Highways, vol. 2.	664
c. 85.	Charitable Uses, vol. 1	491
c. 92.	Savings - Banks, vol. 4	117
(Rep. 26 & 27 Vict., c. 87.)		
c. 94.	Clergy, vol. 1	541
10 Geo. 4, *c. 7.	Catholics, vol. 1	471
c. 7.	Parliament, vol. 3	591
c. 44.	Police (Metropolitan), vol. 3	923
c. 46.	Sessions of the Peace, vol. 4	153
c. 50, ss. 57—59	Land Tax, vol. 2	1075
*c. 52.	Master and Servant, vol. 3	318
c. 56.	Friendly Societies, vol. 2	190
c. 62.	Parliament, vol. 3.	592
11 Geo. 4, c. 11.	Landlord and Tenant, vol. 2	1136
11 G. 4 & 1 W. 4, c. 18.	Marriage, vol. 3	247
c. 20, ss. 84, 86—89.	Criminal Law, vol. 2	(276)
c. 36.	Pleading, Practice, &c. (in Equity), vol. 3.	837
*c. 40.	Wills, vol. 4	922
c. 43, s. 4.	Affidavit, vol. 1	19
c. 46.	Powers, vol. 3	1308
*c. 58.	Pleading, Practice, &c. (at Law), vol. 3	693
c. 64.	Beer, vol. 1	369
c. 65, ss. 2—11.	Copyhold, vol. 1	839
(Rep. in part, 16 & 17 Vict., c. 70.)		
c. 68.	Carriers, vol. 1	406
c. 70, ss. 5 to end.	Pleading, Practice, &c. (at Law), vol. 3	693
c. 70, ss. 16, 17.	Attorneys, vol. 1.	129

		Page
11 G. 4 & 1 W. 4, c. 70, s. 8.	Error, &c., vol. 1.	1363
c. 70, s. 9.	Criminal Law, vol. 2	(18)
c. 70, s. 9.	Judgments, vol. 2.	889
c. 70, ss. 12—19.	Counties Palatine, vol. 1	1121
c. 70, ss. 27—29.	Fines and Recoveries, vol. 2	95
c. 70, s. 33.	Sheriff, vol. 4	226
c. 70, s. 35.	Sessions of the Peace, vol. 4	153
c. 70, s. 36.	Landlord and Tenant, vol. 2	1136
c. 73.	Criminal Law, vol. 2	(163)
1 Will. 4, c. 3.	Pleading, Practice, &c. (at Law), vol. 3	695
c. 7, ss. 8, 9.	Counties Palatine, vol. 1	1122
c. 7.	Judgments, vol. 2.	889
c. 18.	Poor, vol. 3	1150
c. 21. ss. 3—6.	Mandamus, vol. 3.	216
c. 21.	Prohibition, vol. 3.	1389
c. 22.	Evidence, &c., vol. 1	1399
c. 40.	Executors, &c., vol. 1	1428
c. 47.	Wills, vol. 4	922
*c. 65.	Infants, vol. 2	831
(See 11 Geo. 4 & 1 Will. 4, c. 65, supra.)		
c. 70, ss. 12, 21, 22.	Bail, &c., vol. 1	194
1 & 2 Will. 4, c. 9.	Parliament, vol. 3.	593
c. 18, ss. 1—4.	Land Tax, vol. 2	1075
c. 21.	Ibid. ibid.	*ib.*
c. 22.	Hackney Carriages, vol. 2	340
c. 25.	Highways, vol. 2	668
c. 32.	Game, vol. 2	234
c. 36.	Master and Servant, vol. 3	318
c. 37.	Ibid., vol. 3	*ib.*
c. 41.	Police (Rural), vol. 3	966
c. 42.	Poor, vol. 3	1152
c. 56, ss. 22, 23—51.	Bankruptcy, vol. 1	241
c. 58.	Interpleader, vol. 2	879
c. 59.	Poor, vol. 3	1152
c. 60.	Vestries, vol. 4	845
c. lxxvi. ss. 23, 42—45 *et seq.*	Coals, vol. 1	605*b*
2 Will. 4, c. 39, ss. 5—7.	Outlawry, vol. 3	478
c. 39, ss. 15, 18—20.	Pleading, Practice, &c. (at Law), vol. 3	696
c. 42.	Poor, vol. 3	1153
c. 45.	Parliament, vol. 3	493
2 Will. 4, c. 51.	Courts (Admiralty), vol. 1	1170
(Partially rep. 26 Vict., c. 24.)		
c. 53, ss. 49, 50.	Criminal Law, vol. 2	(278)
2 & 3 Will. 4, c. 33.	Pleading, Practice, &c. (in Equity), vol. 3.	847
c. 58.	Pleading, Practice, &c. (in Equity), vol. 3.	848
*c. 59.	Annuities, vol. 1.	79
*c. 64.	Parliament, vol. 3.	516
c. 69.	Ibid., vol. 3	*ib.*
c. 71.	Prescription, vol. 3	1310
c. 72.	Hundred, vol. 2	712
*c. 75.	Anatomy, vol. 1	63
c. 75.	Medical Practitioners, vol. 3	332
c. 92.	Privy Council, vol. 3	1376
*c. 92.	Courts (Ecclesiastical), vol. 1	1260
c. 93.	Courts (Ecclesiastical), vol. 1	1260
c. 98.	Bills of Exchange, &c., vol. 1	411
c. 100.	Tithes, vol. 4	684
c. 106, s. 3.	Criminal Law, vol. 2	(279)
c. 114.	Bankruptcy, vol. 1.	242
c. 115.	Charitable Uses, vol. 1	492
*c. 122.	Pleading, Practice, &c. (in Equity), vol, 3.	849
c. 124.	Highways, vol. 2.	668
3 & 4 Will. 4, c. 14, ss. 27—35.	Savings - Banks, vol. 4	127
(Rep. 26 & 27 Vict., c. 87.)		
c. 15.	Copyright, vol. 1.	905
c. 22.	Sewers, vol. 4	183
c. 23, ss. 5, 6.	Stamps, vol. 4	554
c. 27.	Limitation of Actions, vol. 3	25
c. 30.	Poor, vol. 3	1154
c. 31.	Corporations. vol. 1	958
c. 35.	Inclosure, vol. 2	739
c. 41.	Privy Council, vol. 3	1378
c. 42.	Pleading, Practice, &c. (at Law), vol. 3	697
c. 42, ss. 8—12.	Abatement, vol. 1.	7
c. 42, s. 42.	Affidavit, vol. 1.	19
c. 42, ss. 23, 24.	Amendments (Variances), vol. 1.	57
c. 42, ss. 39—41.	Arbitration, vol. 1.	87
c. 42, s. 30.	Error, &c., vol. 1	1364
c. 42, ss. 28—30.	Interest, vol. 2	845
c. 42, s. 20.	Sheriff, vol. 4	226

			Page
3 & 4 Will. 4,	c. 42, ss. 2, 13, 14, 37, 38.	Executors, &c., vol. 1	1430
	c. 42, s. 3.	Penal Actions, &c., vol. 3	681
	c. 42, ss. 3—7.	Limitation of Actions, vol. 3	62
	c. 42, ss. 31—35.	Costs, vol. 1	1105
	c. 45.	Marriage, vol. 3	248
	c. 49.	Oaths, vol. 3	452
	c. 53, s. 90.	False Imprisonment, &c., vol. 2.	75
	c. 63.	Poor, vol. 3	1154
	c. 67, s. 2.	Pleading, Practice, &c. (at Law), vol. 3	702
	c. 70.	Notaries, vol. 3	448
	c. 71, s. 4.	Counties Palatine, vol. 1	1122
	c. 74.	Fines and Recoveries, vol. 2	96
	c. 80.	Highways, vol. 2.	669
	c. 82.	Oaths, vol. 3	453
	c. 83.	Bankers, vol. 1	208
	*c. 84.	Pleading, Practice, &c. (in Equity), vol. 3.	849
	c. 87.	Inclosure, vol. 2	740
	c. 90.	Gas, vol. 2	285
	c. 94, ss. 10, 24, 27, 41, 42.	Pleading, Practice, &c. (in Equity), vol. 3.	849
(Rep. in part, 16 & 17 Vict., c. 70.)			
	*c. 97.	Stamps, vol. 4	554
	c. 98.	Bankers, vol. 1	208
	c. 98, s. 6.	Tender, vol. 4	664
	c. 98, s. 7.	Usury, vol. 4	831
	c. 99.	Sheriff, vol. 4	227
	c. 99, ss. 45, 46.	Pleading, Practice, &c. (at Law), vol. 3	703
	c. 103.	Factories, vol. 2	2
	c. 104.	Wills, vol. 4	927
	c. 105.	Dower, vol. 1	1353
	c. 106.	Inheritance, vol. 2.	833
4 & 5 Will. 4,	c. 1.	Factories, vol. 2	10
	c. 22.	Landlord and Tenant, vol. 2	1137
	c. 27.	Sessions of the Peace, vol. 4	154
	c. 29.	Pleading, Practice, &c. (in Equity), vol. 3.	850
	*c. 31.	Annuities, vol. 1.	79
	c. 36.	Criminal Law, vol. 2	(19)
	c. 40.	Friendly Societies, vol. 2	200
	*c. 42.	Affidavit, vol. 1	19
	c. 47.	Sessions of the Peace, vol. 4	154
	*c. 57.	Stamps, vol. 4	554
	*c. 60.	Stamps, vol. 4	554
	c. 60.	Land Tax, vol. 2	1078
	c. 62,	[illegible] to end. Counties Palatine, vol. 1	1123
	c. 67.	Criminal Law, vol. 2	(143)
	c. 76.	Poor, vol. 3	1156
4 & 5 Will. 4,	c. 81.	Highways, vol. 2	671
	c. 82.	Pleading, Practice, &c. (in Equity), vol. 3	851
	c. 83.	Tithes, vol. 4	688
	c. 85.	Beer, vol. 1	377
5 & 6 Will. 4,	c. 18.	Highways, vol. 2	672
	c. 20, ss. 20, 21.	Game, vol. 2	249
	*c. 20.	Stamps, vol. 4	554
	c. 28.	Sheriff, vol. 4	230
	c. 29, ss. 3—7.	Bankruptcy, vol. 1	244
	c. 33.	Certiorari, vol. 1	479
	c. 36.	Parliament, vol. 3	517
	c. 38.	Prisons, vol. 3	1347
	c. 41.	Gaming, vol. 2	269
	*c. 41.	Bills of Exchange, &c., vol. 1	412
	c. 43.	Police (Rural), vol. 3	969
	*c. 47.	Pleading, Practice, &c. (in Equity), vol. 3	852
	c. 50.	Highways, vol. 2	525
	c. 54.	Marriage, vol. 3	248
	c. 62.	Oaths, vol. 3	453
	c. 62, s. 13.	Criminal Law, vol. 2	(149)
	c. 63.	Weights, &c., vol. 4	888
	c. 64, ss. 2, 3, 7.	Stamps, vol. 4	555
	c. 65.	Copyright, vol. 1	907
	c. 69.	Poor, vol. 3	1186
	c. 74.	Tithes, vol. 4	689
	c. 75.	Ibid., vol. 4	690
	c. 76.	Corporations, vol. 1	959
	c. 82.	Fines and Recoveries, vol. 2	120
	c. 83.	Patents, vol. 3	627
6 & 7 Will. 4,	c. 11.	Aliens, vol. 1	41
	c. 12.	Sessions of the Peace, vol. 4	155
	c. 20.	Leases, vol. 2	1221
	*c. 24.	Marriage, vol. 3	249
	c. 32.	Friendly Societies, vol. 2	203
	*c. 37.	Bread, vol. 1	424
	c. 58.	Bills of Exchange, &c., vol. 1	412
	c. 59.	Copyright, vol. 1	903
	c. 64.	Leases, vol. 2	1223
	c. 70.	Poor, vol. 3	1191
	c. 71.	Tithes, vol. 4	691
	*c. 76.	Stamps, vol. 4	555
	c. 76, s. 6, *et seq.*	Criminal Law, vol. 2	(164)
	c. 85.	Marriage, vol. 3	249
	c. 86.	Registration, vol. 4	99
	c. 89.	Coroners, vol. 1	934
	*c. 92.	Marriage, vol. 3	258
	c. 96.	Poor, vol. 3	1192
	c. 101, s. 3.	Parliament, vol. 3.	518
	c. 102.	Ibid., vol. 3	519
	c. 103.	Corporations, vol. 1	1042

		Page
6 & 7 Will. 4, c. 104.	Corporations, vol. 1	1045
c. 105.	Ibid., vol. 1	1047
c. 107.	Poor, vol. 3	1196
*c. 109.	Coals, vol. 1	613
c. 114.	Criminal Law, vol. 2	(24)
c. 115.	Inclosure, vol. 2	742
*7 Will. 4, c. 1.	Registration, vol. 4	109
7 Will. 4 & 1 Vict. c. 19.	Corporations, vol. 1	1051
c. 22.	Marriage, vol. 3	258
c. 28.	Limitation of Actions, vol. 3	65
c. 36.	Criminal Law, vol. 2	(221)
c. 45.	Poor, vol. 3	1197
c. 45, s. 2.	Outlawry, vol. 3	479
c. 50.	Poor, vol. 3	1198
c. 68.	Coroners, vol. 1	936
c. 78.	Corporations, vol. 1	1052
c. 81.	Ibid., vol. 1	1065
c. 88.	Criminal Law, vol. 2	(232)
c. 90, s. 5.	Criminal Law, vol. 2	(24)
1 Vict. c. 4.	Juries, vol. 2	930
c. 19.	Sessions of the Peace, vol. 4	156
c. 22.	Registration, vol. 4	109
c. 26.	Wills, vol. 4	928
c. 30, s. 23.	Costs, vol. 1	1106
c. 30.	Pleading, Practice, &c. (at Law), vol. 3	703
c. 55.	Sheriff, vol. 4	230
*c. 64.	Coroners, vol. 1	936
c. 67.	Master and Servant, vol. 3	325
c. 69.	Tithes, vol. 4	713
c. 73.	Companies, vol. 1	641
*1 & 2 Vict. c. 4.	Sessions of the Peace, vol. 4	157
c. 5.	Corporations, vol. 1	1067
*c. 5.	Oaths, vol. 3	457
c. 14.	Lunatics, vol. 3	96
c. 15.	Corporations, vol. 1	1067
*c. 15.	Oaths, vol. 3	457
c. 25.	Poor, vol. 3	1199
c. 31.	Corporations, vol. 1	1068
c. 32.	Pleading, Practice, &c. (at Law), vol. 3	708
c. 35.	Corporations, vol. 1	1070
c. 38.	Criminal Law, vol. 2	(183)
c. 45.	Pleading, Practice, &c. (at Law), vol. 3	709
c. 45, s. 1.	Certiorari, vol. 1	481
c. 45, s. 2.	Interpleader, vol. 2	886
*1 & 2 Vict. c. 45, ss. 4, 5.	Bail, &c., vol. 1	195
c. 45.	False Imprisonment, &c., vol. 2	75
c. 58.	Land Tax, vol. 2	1079
c. 64.	Tithes, vol. 4	716
c. 74.	Landlord and Tenant, vol. 2	1140
c. 77.	Oaths, vol. 3	457
c. 80.	Police (Rural), vol. 3	970
c. 82.	Prisons, vol. 3	1349
c. 85.	Stamps, vol. 4	555
c. 94, ss. 12, 13.	Evidence, &c., vol. 1	1378
c. 96.	Bankers, vol. 1	211
c. 98.	Railways, vol. 4	1
c. 101.	Coals, vol. 1	613
c. 105.	Oaths, vol. 3	457
c. 106.	Clergy, vol. 1	543
c. 110, ss. 1—7, 21, 85, 123.	Arrest, vol. 1	106
c. 110, ss. 8—12, 18.	Pleading, Practice, &c. (at Law), vol. 3	709
c. 110, ss. 9, 10, 60, 61.	Warrant of Attorney, vol. 4	857
c. 110, ss. 18, 19.	Arbitration, vol. 1	91
c. 110, ss. 13—22.	Judgments, vol. 2	891
2 Vict. c. 16, s. 4 to the end.	Counties Palatine, vol. 1	1128
2 & 3 Vict. c. 11.	Judgments, vol. 2	899
c. 27.	Corporations, vol. 1	1070
c. 28.	Ibid., vol. 1	1071
(See 22 & 23 Vict., c. 32.)		
c. 33, s. 9.	Attorneys, vol. 1	130
c. 35, s. 4.	Game (Certificates), vol. 2	251
c. 37.	Usury, vol. 4	832
*c. 39.	Bankruptcy, vol. 1.	246
c. 45.	Highways, vol. 2	571
c. 46.	Highways, vol. 2	672
c. 47.	Police (Metropolitan), vol. 3	934
c. 47, s. 67.	Landlord and Tenant, vol. 2	1143
c. 51.	Poor, vol. 3	1200
c. 54.	Infants, vol. 2	831
c. 56.	Prisons, vol. 3	1351
c. 59, s. 2.	Sheriff, vol. 4	234
c. 60.	Wills, vol. 4	945
c. 62.	Tithes, vol. 4	716
c. 67.	Patents, vol. 3	632
c. 71.	Police (Metropolitan), vol. 3	946
c. 82.	Justices of the Peace, vol. 2	960
c. 84.	Poor, vol. 3	1206
c. 85.	Ibid., vol. 3	*ib.*
c. 93.	Police (Rural), vol. 3	970
*c. xciv.	Ibid. (Metropolitan), vol. 3	957

			Page
3 Vict.	c. 5.	Gaming, vol. 2	271
	c. 9.	Parliament, vol. 3	613
3 & 4 Vict.	c. 15.	Tithes, vol. 4	725
	c. 24.	Costs, vol. 1	1112
	c. 25.	Prisons, vol. 3	1357
	c. 26.	Evidence, &c., vol. 1	1378
	c. 28.	Corporations, vol. 1	1071
	(See 22 & 23 Vict., c. 32.)		
	c. 29.	Vaccination, vol. 4	834
	c. 31.	Inclosure, vol. 2	757
	c. 39.	Highways, vol. 2	673
	c. 47.	Corporations, vol. 1	1072
	c. 50.	Canals, vol. 1	458
	*c. 50.	Police (Rural), vol. 3	975
	c. 51.	Highways, vol. 2	673
	c. 54, s. 3.	Criminal Law, vol. 2	(25)
	c. 54.	Lunatics, vol. 3	98
	c. 61.	Beer, vol. 1	381
	c. 65.	Courts (Admiralty), vol. 1	1171
	*c. 66	Ibid., vol. 1	1174
	c. 72.	Marriage, vol. 3	260
	c. 77.	Grammar Schools, vol. 2	321
	c. 82.	Judgments, vol. 2	901
	*c. 82.	Pleading, Practice, &c. (at Law), vol. 3	712
	c. 84.	Police (Metropolitan), vol. 3	957
	c. 85.	Building Acts, vol. 1	426
	c. 86.	Clergy, vol. 1	573
	c. 88.	Police (Rural), vol. 3	975
	c. 89.	Poor, vol. 3	1208
	c. 90.	Infants, vol. 2	832
	c. 92.	Evidence, &c., vol. 1	1378
	*c. 92.	Registration, vol. 4	113
	c. 93.	Courts (Ecclesiastical) vol. 1	1263
	*c. 94.	Pleading, Practice, &c. (in Equity), vol. 3	852
	c. 97.	Railways, vol. 4	5
	c. 110.	Friendly Societies, vol. 2	205
4 Vict.	c. 14.	Clergy, vol. 1	578
	c. 21.	Conveyances, vol. 1	823
	*c. 21.	Lease and Release, vol. 2	1252
4 & 5 Vict.	c. 22.	Criminal Law, vol. 2	(25)
	c. 28.	Costs, vol. 1	1116
	c. 32.	Vaccination, vol. 4	835
	c. 33.	Highways, vol. 2	673
	c. 35.	Copyhold, vol. 1	842
	*c. 35.	Partition, vol. 3	620
	c. 45.	Sewers, vol. 4	200
	c. 48.	Corporations, vol. 1	1073
	*c. 48.	Poor, vol. 3	1208
	c. 49.	County Rate, vol.	1153
4 & 5 Vict.	*c. 49.	Highways, vol. 2	699
	c. 50.	Bankers, vol. 1	213
	c. 51.	Highways, vol. 2	539, n. (b)
	*c. 52.	Pleading, Practice, &c. (in Equity), vol. 3	853
	c. 57.	Parliament, vol. 3.	596
	c. 59.	Highways, vol. 2	571
*5 Vict.	c. 5.	Pleading, Practice, &c. (in Equity), vol. 3	853
	*c. 5.	Pleading, Practice, &c. (at Law), vol. 3	712
	*c. 22.	Prisons, vol. 3	1357
	c. 27.	Leases, vol. 2	1223
	sess. 2, c. 32.	Fines and Recoveries, vol. 2	125
5 & 6 Vict.	c. 18.	Poor, vol. 3	1208
	c. 35.	Property Tax, vol. 3	1390
	c. 37, ss. 3-6.	Land Tax, vol. 2	1080
	c. 38.	Sessions of the Peace, vol. 4	157
	c. 39.	Factors, vol. 2	59
	c. 44.	Alehouses, vol. 1	34
	c. 45.	Copyright, vol. 1	890
	c. 51.	Criminal Law, vol. 2	(108)
	*c. 53.	Corporations, vol. 1	1073
	c. 53.	Prisons, vol. 3	1357
	*c. 53.	Sessions of the Peace, vol. 4	159
	c. 54.	Tithes, vol. 4	732
	c. 55, s. 9.	Highways, vol. 2	574
	c. 55.	Railways, vol. 4	8
	c. 57.	Poor, vol. 3	1210
	c. 69.	Pleading, Practice, &c. (in Equity), vol. 3	856
	*c. 79.	Railways, vol. 4	12
	c. 79.	Stamps, vol. 4	556
	c. 80, s. 2.	Property Tax, vol. 3	1444
	*c. 82.	Stamps, vol. 4	565
	c. 84, ss. 10, 12, 16.	Lunatics, vol. 3	100
	(Rep. in part, 16 & 17 Vict. c. 70.)		
	c. 86, ss. 8—10.	Pleading, Practice, &c. (at Law), vol. 3	712
	c. 97.	Pleading, Practice, &c. (at Law), vol. 3	713
	c. 97, ss. 1, 2, 6.	Costs, vol. 1	1107
	c. 97, ss. 4, 5.	Notice of Action, vol. 3	451
	c. 97, s. 5.	Limitation of Actions, vol. 3	66
	c. 98.	Prisons, vol. 3	1364
	c. 98, s. 31.	Sheriff, vol. 4	234
	c. 99.	Mines and Collieries, vol. 3	430
	c. 100.	Copyright, vol. 1	907
	c. 102.	Parliament, vol. 3.	596

			Page
5 & 6 Vict.	c. 103, ss. 7, 8, 31, 32.	Pleading, Practice, &c. (in Equity), vol. 3	856
	c. 104.	Corporations, vol. 1	1073
	c. 108.	Leases, vol. 2	1228
	c. 109.	Police (Rural), vol. 3	982
	c. 111.	Corporations, vol. 1	1075
	*c. 116.	Bankruptcy, vol. 1.	246
	c. 122, ss. 48, 50, 58—62.	Bankruptcy, vol. 1.	246
6 Vict.	c. 12.	Coroners, vol. 1	937
	c. 18.	Parliament, vol. 3	519
	c. 20.	Pleading, Practice, &c. (at Law), vol. 3	714
	c. 22.	Colonies, vol. 1	620
6 & 7 Vict.	c. 23.	Copyhold, vol. 1	868
	c. 24, ss. 5, 6.	Land Tax, vol. 2	1082
	c. 24, 3, ss. 7, 8.	Property Tax, vol. 3	1445
	*c. 30.	Landlord and Tenant, vol. 2	1143
	c. 30.	Pound Breach, vol. 3	1306
	*c. 34.	Criminal Law, vol. 2	(26)
	c. 34.	Colonies, vol. 1	620
	c. 36.	Poor, vol. 3	1214
	*c. 36.	County Rate, vol. 1.	1154
	c. 38.	Privy Council, vol. 3	1383
	c. 40, ss. 18, 19.	Landlord and Tenant, vol. 2	1143
	c. 40.	Criminal Law, vol. 2	(233)
	*c. 40.	Master and Servant, vol. 3	325
	c. 54, s. 3.	Limitation of Actions, vol. 3	67
	c. 65.	Copyright, vol. 1.	914
	c. 66.	Warrant of Attorney, vol. 4	861
	c. 67.	Mandamus, vol. 3.	217
	c. 68.	Theatres, vol. 4	750
	c. 72.	Stamps, vol. 4	565
	c. 73.	Attorneys, vol. 1	130
	c. 82, ss. 5—7.	Evidence, vol. 1	1403
	c. 82.	Affidavit, vol. 1	19
	c. 83.	Coroners, vol. 1	937
	c. 85, s. 2.	Criminal Law, vol. 2	(26)
	c. 85.	Evidence, &c., vol. 1	1381
	c. 86.	Hackney Carriages, vol. 2	357
	c. 89.	Corporations, vol. 1	1076
	c. 90.	Notaries, vol. 3	448
	c. 94.	Colonies, vol. 1	622
	c. 96.	Libel, vol. 2	1253
	c. 96, s. 3, *et seq.*	Criminal Law, vol. 2	(168)
	c. 98.	Ibid., vol. 2	(138)
7 Vict.	c. 12.	Copyright, vol. 1	921
	c. 15.	Factories, vol. 2	10
	c. 19, ss. 1—9.	Courts (Inferior), vol. 1	1272
	c. 21.	Stamps, vol. 4	566
7 & 8 Vict.	c. 2.	Criminal Law, vol. 2	(26)
	c. 29.	Ibid., vol. 2.	(175)
	c. 32.	Bankers, vol. 1	214
	c. 33.	Police (Rural), vol. 3	987
	*c. 33.	County Rate, vol. 1	1154
	c. 33, s. 7.	Sessions of the Peace, vol. 4	159
	c. 50.	Prisons, vol. 3	1370
	c. 52.	Police (Rural), vol. 3	989
	c. 55.	Copyhold, vol. 1	867
	c. 56.	Marriage, vol. 3	261
	c. 61.	Justices of the Peace, vol. 2	960
	c. 61.	Sessions of the Peace, vol. 4	159
	c. 66.	Aliens, vol. 1	43
	c. 69.	Privy Council, vol. 3	1386
	c. 69.	Patents, vol. 3	632
	c. 70.	Bankruptcy, vol. 1	247
	c. 71.	Sessions of the Peace, vol. 4	160
	c. 76, s. 4.	Conveyances, vol. 1	824
	c. 76, s. 4.	Leases, vol. 2	1235
	c. 83.	Savings - Banks, vol. 4	129
	(Rep. 26 & 27 Vict. c. 87.)		
	c. 84, ss. 54—63.	Building Acts, vol. 1	428
	c. 85.	Railways, vol. 4	12
	c. 86.	Attorneys, vol. 1	173
	*c. 91.	Highways, vol. 2.	674
	c. 92.	Coroners, vol. 1	939
	c. 93.	Corporations, vol. 1	1078
	*c. 93.	Prisons, vol. 3	1371
	c. 96, s. 45, *et seq.*	Bankruptcy, vol. 1	250
	c. 96, s. 57.	Pleading, Practice, &c. (at Law), vol. 3	718
	c. 96, s. 67.	Landlord and Tenant, vol. 2	1144
	c. 101, s. 68.	Attorneys, vol. 1	174
	c. 101.	Poor, vol. 3	1217
	c. 110.	Companies, vol. 1	649
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 111.	Ibid, vol. 1	759
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 113.	Bankers, vol. 1	221
	(Rep. except s. 47, by 25 & 26 Vict. c. 89.)		
8 Vict.	c. 16.	Companies, vol. 1.	725
	c. 18.	Lands Clauses, &c., vol. 2	1148
	c. 20.	Railways, vol. 4	18
8 & 9 Vict.	c. 10.	Poor, vol. 3	1238
	*c. 11	Sheriff, vol. 4	235
	c. 28.	Canals, vol. 1	461
	c. 29.	Factories, vol. 2	31

			Page
8 & 9 Vict.	c. 30.	Privy Council, vol. 3	1388
	c. 42.	Canals, vol. 1	463
	*c. 44.	Parliament, vol. 3.	561
	c. 52.	Corporations, vol. 1	1079
	c. 68.	Criminal Law, vol. 2	(27)
	c. 71.	Highways, vol. 2	574
	c. 75.	Libel, vol. 2	1255
	c. 76.	Stamps, vol. 4	569
	c. 77.	Factories, vol. 2	42
	*c. 77.	Master and Servant, vol. 3	326
	c. 97.	Bankers, vol. 1	230
	c. 97.	Executors, &c., vol. 1	1431
	c. 97, s. 1.	Wills, vol. 4, s. 1	945
	c. 100.	Lunatics, vol. 3	100
	c. 101.	Coals, vol. 1	616
	*c. 105.	Pleading, Practice, &c. (in Equity), vol. 3	857
	c. 106.	Conveyances, vol. 1	824
	*c. 106.	Leases, vol. 2	1236
	*c. 106.	Landlord and Tenant, vol. 2	1144
	c. 106, ss. 3, 4.	Partition, vol. 3	620
	c. 109.	Gaming, vol. 2	272
	c. 109, s. 18.	Criminal Law, vol. 2	(171)
	c. 110.	Corporations, vol. 1	1079
	c. 112.	Conveyances, vol. 1	826
	c. 113.	Evidence, &c., vol. 1	1382
	c. 114.	Criminal Law, vol. 2	(28)
	c. 117.	Poor, vol. 3	1252
	c. 118.	Inclosure, vol. 2	758
	*c. 119.	Conveyances, vol. 1	828
	*c. 124.	Leases, vol. 2	1236
	c. 127.	Bankruptcy, vol. 1	253
	c. 127.	Courts (Inferior), vol. 1, ss. 9—14	1272
	c. 128.	Master and Servant, vol. 3	326
9 & 10 Vict.	c. 24.	Criminal Law, vol. 2	(29)
	c. 28.	Companies, vol. 1	767
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 40.	Factories, vol. 2	44
	*c. 56.	Property Tax, vol. 3	1447
	c. 57.	Railways, vol. 4	55
	c. 58.	Copyright, vol. 1.	925
	c. 66.	Poor, vol. 3	1255
	c. 70.	Inclosure, vol. 2	800
	c. 73.	Tithes, vol. 4	737
	c. 74.	Health, vol. 2	415
	c. 93.	Death by Accident, vol. 1	1349
	c. 95, s. 91.	Attorneys, vol. 1	174
	c. 95, ss. 128, 129.	Costs, vol. 1	1116
	c. 95.	Courts (County), vol. 1	1180a
	c. 98.	Pawnbrokers, vol. 3	671
10 Vict.	c. 5.	Beer, vol. 1	385
	c. 14.	Markets, &c., vol. 3	278
	c. 15.	Gas, vol. 2	301
	c. 16.	Commissioners (Clauses), vol. 1	625
	c. 17.	Waterworks, vol. 4.	864
	c. 27.	Harbours, Docks, and Piers, vol. 2.	376
	c. 29.	Factories, vol. 2	45
10 & 11 Vict.	*c. 9.	Annuities, vol 1	79
	c. 21.	Parliament, vol. 3.	561
	c. 33.	Poor, vol. 3	1260
	c. 34.	Towns Improvement, vol. 4	754
	*c. 36.	Annuities, vol. 1	79
	*c. 42.	Railways, vol. 4	56
	c. 58.	Marriage, vol. 3	263
	c. 65.	Interment, vol. 2	646
	c. 69.	Costs, vol. 1	1107
	c. 70.	Factories, vol. 2	45
	c. 78.	Companies, vol. 1	676
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 82.	Criminal Law, vol. 2	(240)
	c. 83.	Aliens, vol. 1	46
	c. 89.	Police (Rural), vol. 3	989
	c. 94.	Canals, vol. 1	465
	c. 95.	Copyright, vol. 1	926
	c. 96.	Trustees, vol. 4	791
	*c. 97.	Pleading Practice, &c. (in Equity), vol. 3	857
	c. 98.	Courts (Ecclesiastical), vol. 1	1264
	c. 102, s. 4.	Bankruptcy, vol. 1	260
	c. 104.	Tithes, vol. 4	742
	c. 109.	Poor, vol. 3	1261
	c. 111.	Inclosure, vol. 2	808
11 Vict.	c. 3.	Railways, vol. 4	56
	c. 10.	Oaths, vol. 3	458
	c. 12.	Criminal Law, vol. 2	(109)
11 & 12 Vict.	*c. 10.	Pleading Practice, &c. (in Equity), vol. 3	857
	c. 29.	Game, vol. 2	251
	c. 31.	Poor, vol. 3	1264
	c. 39.	Corporations, vol. 1	1081
	*c. 39.	Prisons, vol. 3	1371
	c. 42.	Criminal Law, vol. 2	(29)
	*c. 42.	Justices of the Peace, vol. 2	961
	c. 43, s. 12.	Attorneys, vol. 1	174
	c. 43.	Justices of the Peace, vol. 2	961
	c. 44.	Ibid., vol. 2	988
	c. 44, s. 8.	Limitation of Actions, vol. 3	67
	c. 45.	Companies, vol. 1	773
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 46, ss. 4, 5.	Criminal Law, vol. 2	(52)
	c. 46, ss. 4—6.	Amendments (Variances), vol. 1	60

			Page
11 & 12 Vict.	c. 49.	Beer, vol. 1	386
	*c. 49.	Sunday, vol. 4	663
	c. 63.	Health, vol. 2	421
	c. 70.	Fines and Recoveries, vol. 2	127
	c. 78.	Criminal Law, vol. 2	(52)
	c. 82.	Poor, vol. 3	1267
	c. 84, ss. 25, 26, 28—31.	Patents, vol. 3	634
	c. 87.	Wills, vol. 4	945
	c. 90.	Parliament, vol. 3.	561
	c. 91.	Poor, vol. 3	1268
	c. 93.	Corporations, vol. 1	1082
	*c. 94.	Pleading, Practice, &c. (in Equity), vol. 3	857
	c. 98.	Parliament, vol. 3	599
	c. 99.	Inclosure, vol. 2	805
	c. 101.	Police (Rural), vol. 3	1000
	c. 107.	Markets, &c., vol. 3	227
	c. 110.	Poor, vol. 3	1271
	c. 111.	Ibid., vol. 3	1273
12 Vict.	c. 14.	Highways, vol. 2.	574
12 & 13 Vict.	c. 8.	Corporations, vol. 1	1082
	c. 13.	Poor, vol. 3	1274
	c. 18.	Corporations, vol. 1	1083
	*c. 18.	Sessions of the Peace, vol. 4	161
	c. 26.	Leases, vol. 2	1236
	c. 35.	Highways, vol. 2.	580
	c. 45, s. 7.	Certiorari, vol. 1	481
	c. 45, s. 10.	Criminal Law, vol. 2	(54)
	c. 45.	Sessions of the Peace, vol. 4	161
	*c. 45.	Poor, vol. 3	1275
	c. 46.	Highways, vol. 2.	674
	c. 50.	Sewers, vol. 4	204
	c. 64.	Corporations, vol. 1	1084
	c. 65.	County Rate, vol. 1	1154
	*c. 65.	Police (Rural), vol. 3	1002
	c. 67.	Courts (Ecclesiastical), vol. 1	1265
	c. 68.	Marriage, vol. 3	263
	c. 74.	Trustees, vol. 4	793
	c. 82.	Corporations, vol. 1	1084
	c. 83.	Inclosure, vol. 2	809
	c. 87, ss. 3—8.	Highways, vol. 2.	675
	c. 92.	Animals, vol. 1	63
	c. 94, ss. 8—12.	Health, vol. 2	472
	c. 96.	Colonies, vol. 1	624
	c. 101.	Courts (County), vol. 1	1219
	c. 103, s. 4.	Lunatics, vol. 3	124
	c. 103.	Poor, vol. 3	1276
	c. 106.	Bankruptcy, vol. 1.	260
	c. 106. ss. 135—137.	Warrant of Attorney, vol. 4	862
12 & 13 Vict.	c. 106, s. 167.	Friendly Societies, vol. 2	212
	c. 108.	Companies, vol. 1.	811
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 109.	Pleading, Practice, &c. (in Equity), vol. 3	857
	*c. 109.	Patents, vol. 3	635
13 Vict.	c. 7.	Hackney Carriages, vol. 2	368
	c. 17.	Leases, vol. 2	1237
	c. 20.	Police (Rural), vol. 3	1002
	c. 21, s. 7.	Evidence, &c., vol. 1	1383
13 & 14 Vict.	*c. 15.	Colonies, vol. 1	625
	c. 16.	Pleading, Practice, &c. (at Law), vol. 3	718
	c. 21.	Statutes, vol. 4	636
	c. 35.	Pleading, Practice, &c. (in Equity), vol. 3	866
	c. 37.	Criminal Law, vol. 2	(244)
	*c. 38.	Marriage, vol. 3	267
	*c. 39.	Prisons, vol. 3	1371
	c. 42.	Corporations, vol. 1	1086
	c. 43.	Counties Palatine, vol. 1	1133
	c. 43, ss. 15, 24.	Judgments, vol. 2.	902
	c. 54.	Factories, vol. 2	47
	c. 57.	Vestries, vol. 4	852
	c. 60.	Trustees, vol. 4	794
	c. 61.	Courts (County), vol. 1	1222
	c. 61, ss. 11, 12.	Costs, vol. 1.	1117
	*c. 64.	Corporations, vol. 1	1086
	c. 64.	Highways, vol. 2.	699
	c. 79.	Highways, vol. 2.	676
	c. 83.	Railways, vol. 4	58
	c. 87.	Police (Rural), vol. 3	1003
	*c. 91.	Prisons, vol. 3	1371
	c. 91.	Corporations, vol. 1	1086
	c. 97.	Stamps, vol. 4	571
	c. 98.	Clergy, vol. 1	579
	c. 99.	Highways, vol. 2.	581
	*c. 99.	Poor, vol. 3	1279
	c. 101.	Ibid., vol. 3	*ib.*
	c. 104.	Copyright, vol. 1.	916
	c. 105.	Justices of the Peace, vol. 2	993
14 Vict.	c. 11, ss. 3—5, 8, 9.	Master and Servant, vol. 3	327
	c. 12.	Property Tax, vol. 3	1446
14 & 15 Vict.	*c. 13.	Poison, vol. 3	922
	c. 14.	Parliament, vol. 4.	562
	c. 19, ss. 11 to end.	Criminal Law, vol. 2	(245)
	c. 19, s. 5.	Ibid., vol. 2	(294)

			Page
14 & 15 Vict.	c. 25.	Landlord and Tenant, vol. 2	1144
	c. 28.	Lodging Houses, vol. 3	73
	c. 34.	Ibid.	75
	c. 38.	Highways, vol. 2	678
	c. 40.	Marriage, vol. 3	267
	*c. 52.	Pleading, Practice, &c. (at Law), vol. 3	718
	c. 52.	Arrest, vol. 1	112
	c. 53.	Copyhold, vol. 1	868
	c. 55.	Criminal Law, vol. 2	(55)
	*c. 55.	Sessions of the Peace, vol. 4	166
	c. 64.	Railways, vol. 4	65
	c. 81.	Lunatics, vol. 3	124
	*c. 82.	Patents, vol. 3	635
	c. 83. s. 16.	Privy Council, vol. 3	1388
	c. 83.	Pleading, Practice, &c. (in Equity), vol. 3	873
	c. 88.	Attorneys, vol. 1	175
	c. 97, s. 25.	Marriage, vol. 3	272
	c. 99.	Evidence, &c., vol. 1	1383
	c. 99, s. 16.	Oaths, vol. 3	459
	c. 100, ss. 1—3, 9, 12, and 23 to end.	Criminal Law, vol. 2	(60)
	c. 100, ss. 5, 18.	Ibid., vol. 2	(245)
	c. 100, ss. 19—22.	Ibid., vol. 2	(150)
	c. 100, ss. 1—3.	Amendments (Variances), vol. 1	60
	c. 104.	Clergy, vol. 1	581
	c. 105.	Poor, vol. 3	1281
	c. 146.	Coals, vol. 1	617
15 Vict.	c. 5.	Corporations, vol. 1	1088
	c. 20.	Property Tax, vol. 3	1446
	c. 24.	Wills, vol. 4	946
	c. lxxvii., ss. 2, 39, 40, 112, 118—122.	London Small Debts Act, vol. 3	84
15 & 16 Vict.	*c. 3.	Executors, &c., vol. 1	1432
	c. 12.	Copyright, vol. 1	927
	c. 23.	Parliament, vol. 3.	616
	c. 31.	Friendly Societies, vol. 2	212
	(Rep. by 25 & 26 Vict. c. 87.)		
	c. 38.	Corporations, vol. 1	1089
	c. 42, ss. 13—16.	Health (Public), vol. 2	473
	c. 43.	Parliament, vol. 4.	593
	c. 48.	Lunatics, vol. 3	126
	c. 51.	Copyhold, vol. 1	869
	c. 54.	Courts (County), vol. 1	1229
	c. 54, s. 4.	Costs, vol. 1	1117
	c. 55.	Trustees, vol. 4	806
15 & 16 Vict.	c. 56.	Medical Practitioners, vol. 3	334
	c. 57.	Parliament, vol. 4.	563
	*c. 73.	Pleading, Practice, &c. (at Law), vol. 3	718
	c. 76.	Pleading, Practice, &c. (at Law), vol. 3	719
	c. 76. ss. 102, 103, 121, 122, 229—236.	Counties Palatine, vol. 1	1140
	c. 76, s. 135—142, 190—199.	Abatement, vol. 1.	3
	c. 76, ss. 34—40, 60.	Ibid., vol. 1	8
	c. 76, s. 222.	Amendments (Variances), vol. 1	61
	c. 76, ss. 146—167, 208.	Error, &c., vol. 1.	1364
	c. 76, ss. 117—119.	Evidence, &c., vol. 1	1388
	c. 76, ss. 128—134.	Judgments, vol. 2	902
	c. 76, ss. 104—116.	Juries, vol. 2	930
	c. 76, ss. 209—213, 215, 217.	Landlord and Tenant, vol. 2	1145
	c. 76, ss. 10—13.	Limitation of Actions, vol. 3	67
	*c. 77.	Courts (County), vol. 1	1233
	(See 15 Vict. c. lxxvii., supra.)		
	c. 79.	Inclosure, vol. 2	812
	c. 80.	Pleading, Practice, &c. in (Equity), vol. 3	875
	c. 81.	County Rate, vol. 1	1156
	c. 83.	Patents, vol. 3	635
	c. 85.	Interment, vol. 2	853
	c. 86.	Pleading, Practice, &c. (in Equity), vol. 3	882
	c. 87.	Ibid., vol. 3	899
16 & 17 Vict.	*c. 5.	Patents, vol. 3	650
	c. 5.	Stamps, vol. 4	589
	c. 15.	Parliament, vol. 3	565
	*c. 22.	Pleading, Practice, &c. (in Equity), vol. 3	906
	c. 29.	Weights and Measures, vol. 4	898
	c. 30. ss. 4—9.	Certiorari, vol. 1	482
	c. 30.	Criminal Law, vol. 2	(63)
	c. 32.	Criminal Law, vol. 2	(64)
	c. 33.	Hackney Carriages, vol. 2	369
	c. 34.	Property Tax, vol. 3	1447
	c. 35.	Clergy, vol. 1	583
	*c. 40.	Health, vol. 2	473
	c. 41.	Lodging Houses, vol. 3	83

			Page
16 & 17 Vict.	c. 43.	Prisons, vol. 3	1371
	c. 45.	Savings Banks, vol. 4	132
	c. 48.	Criminal Law, vol. 2	(116)
	c. 50.	Clergy, vol. 1	584
	c. 51.	Succession Duty, vol. 4	644
	c. 59.	Stamps, vol. 4	591
	c. 62.	Horses, vol. 2	704
	c. 63.	Stamps, vol. 4	597
	c. 65, s. 1.	Vestries, vol. 4	854
	c. 68.	Parliament, vol. 3.	566
	*c. 69.	Shipping, vol. 4	247
	c. 70.	Lunatics, vol. 3	127
	*c. 71.	Stamps, vol. 4	600
	c. 74.	Land Tax, vol. 2	1083
	c. 78.	Oaths, vol. 3	459
	c. 79.	Corporations, vol. 1	1089
	c. 79, s. 14.	Poor, vol. 3	1284
	c. 83.	Evidence, &c., vol. 1	1389
	*c. 85.	Privy Council, vol. 3	1389
	c. 96.	Lunatics, vol. 3	147
	c. 97.	Ibid., vol. 3	156
	c. 98.	Pleading, Practice, &c. (in Equity), vol. 3	906
	c. 99.	Criminal Law, vol. 2	(66)
	c. 100.	Vaccination, vol. 4.	835
	c. 104.	Factories, vol. 2	49
	*c. 107.	Shipping, vol. 4	247
	c. 107, ss. 244—248, 250, 268, 269, 275—277, 301—308.	Criminal Law, vol. 2	(185)
	c. 107, ss. 249—251.	Ibid., vol. 2	(294)
	c. 107, ss. 44, 46, 160.	Copyright, vol. 1	829
	c. 115.	Patents, vol. 3	650
	c. 117.	Land Tax, vol. 2	1083
	c. 119.	Gaming, vol. 2	279
	c. 125.	Sewers, vol. 4	205
	c. 127.	Hackney Carriages, vol. 2	373
	c. 128.	Health (Public), vol. 2	473
	c. 129.	Shipping, vol. 4	247
	c. 131, ss. 12, 13, 24, 28, 29.	Ibid., vol. 4	249
	c. 134.	Interment, vol. 2.	864
	c. 135, ss. 3—8.	Highways, vol. 2.	679
	c. 137.	Charitable Uses, vol. 1	493
17 & 18 Vict.	c. 5.	Shipping, vol. 4	250
	c. 16.	Courts (County), vol. 1	1233
	c. 25.	Friendly Societies, vol. 2	215
	*c. 31.	Canals, vol. 1	466
	c. 31.	Railways, vol. 4	65
	c. 34.	Evidence and Witnesses, vol. 1	1391
	c. 36.	Bills of Sale, vol. 1	417
	c. 38.	Gaming, vol. 2	282
17 & 18 Vict.	c. 47.	Courts (Ecclesiastical), vol. 1	1266
	c. 56.	Friendly Societies, vol. 2	216
	c. 57.	Parliament, vol. 3.	567
	c. 58, ss. 3 *et seq.*	Highways, vol. 2.	680
	c. 60.	Animals, vol. 1	68
	*c. 69.	Health (Public), vol. 2	475
	c. 71.	Corporations, vol. 1	1091
	c. 75.	Fines and Recoveries, vol. 2	127
	c. 78.	Courts (Admiralty), vol. 1	1174
	c. 82.	Counties Palatine, vol. 1	1141
	c. 82.	Pleading, Practice, &c. (in Equity), vol. 3	908
	c. 83.	Stamps, vol. 4	600
	c. 83, ss. 7—10.	Bankers' Drafts, vol. 1	236
	c. 83, s. 27.	Criminal Law, vol. 2	(67)
	c. 84.	Clergy, vol. 1	585
	c. 85.	Property Tax, vol. 3	1459
	c. 86.	Criminal Law, vol. 2	(67)
	c. 87.	Interment, vol. 2.	866
	c. 90.	Usury, vol. 4	833
	c. 97.	Inclosure, vol. 2	819
	*c. 100.	Pleading, &c., vol. 3	911
	c. 102.	Parliament, vol. 3	568
	c. 104.	Shipping, vol. 4	251
	c. 104, ss. 206—208, 518, 520.	Criminal Law, vol. 2	(295)
	c. 104, s. 477.	Hundred, vol. 2	713
	*c. 111.	Sewers, vol. 4	207
	c. 112.	Scientific and Literary Societies, vol. 4	144
	c. 113.	Executors, &c., vol. 1	1432
	c. 113.	Mortgages, vol. 3	443
	c. 113.	Wills, vol. 4	947
	c. 115.	Prisons, vol. 3	1372
	c. 116.	Clergy, vol. 1	586
	c. 119.	Bankruptcy, vol. 1	361
	c. 120.	Shipping, vol. 4	382
	c. 125.	Pleading, Practice, &c. (at Law), vol. 3	768
	c. 125, s. 92.	Abatement, vol. 1.	6
	c. 125, ss. 45—52.	Affidavit, vol. 1	20
	c. 125, s. 96.	Amendments (Variances), vol. 1	62
	c. 125, ss. 3—17.	Arbitration, vol. 1.	93
	c. 125, s. 87.	Bills of Exchange, &c., vol. 1	412

		Page
17 & 18 Vict. c. 125, ss. 100—103.	Counties Palatine, vol. 1	1145
c. 125, ss. 22—27.	Evidence, &c., vol. 1	1391
c. 125, ss. 60—67.	Judgments, vol. 2.	903
c. 125, ss. 58, 59.	Juries, vol. 2	933
c. 125, ss. 20, 21.	Oaths, vol. 3	460
c. 125, ss. 46—58.	Evidence, &c., vol. 1	1403
18 Vict. c. 13.	Lunatics, vol. 3	196
c. 15.	Judgments, vol. 2.	904
c. 15, ss. 12—14	Annuities, vol. 1.	80
c. 27.	Stamps, vol. 4	607
c. 30.	Sewers, vol. 4	207
18 & 19 Vict. c. 34.	Poor, vol. 3	1284
c. 41.	Courts (Ecclesiastical), vol. 1	1266
*c. 42.	Notaries, vol. 3	451
c. 42.	Oaths, vol. 3	460
c. 43.	Infants, vol. 2	833
c. 45.	Counties Palatine, vol. 1	1145
c. 48.	Cinque Ports, vol. 1	518
*c. 58.	Counties Palatine, vol. 1	1146
c. 63.	Friendly Societies, vol. 2	218
c. 67.	Bills of Exchange, &c., vol. 1	412
c. 70.	Libraries, vol. 2	1255
c. 70.	Corporations, vol. 1	1092
c. 72.	Weights and Measures, vol. 4	899
c. 79.	Poor, vol. 3	1285
c. 81.	Religious Worship, vol. 4	113
c. 86.	Religious Worship, vol. 4	116
c. 87.	Criminal Law, vol. 2	(68)
c. 90.	Crown Suits, vol. 1	1330
c. 91.	Shipping, vol. 4	388
c. 96, ss. 39, 40.	Copyright, vol. 1.	930
c. 105.	Lunatics, vol. 3	197
c. 111.	Bills of Lading, vol. 1	416
c. 116.	Health (Public), vol. 2	475
c. 118.	Beer, vol. 1	387
c. 119.	Shipping, vol. 4	391
c. 119, s. 55.	Insurance, vol. 2.	841
c. 120.	Metropolitan (Management), vol. 3	353
c. 121.	Health (Public), vol. 2	476
c. 122.	Building Acts, vol. 1	432
c. 124.	Charitable Uses, vol. 1	506
18 & 19 Vict. c. 126.	Criminal Law, vol. 2	(69)
c. 126, ss. 16, 19.	Police (Metropolitan), vol. 3	960
c. 127.	Clergy, vol. 1	589
c. 128.	Interment, vol. 2.	868
c. 132.	Labourers' Dwelling Houses, vol. 2	1000
c. 133.	Companies, vol. 1	678
c. 134.	Pleading, Practice, &c. (in Equity), vol. 3	911
19 Vict. *c. 2.	Police (Metropolitan), vol. 3	961
c. 9.	Lands Improvement, vol. 2	1191
c. 16.	Criminal Law, vol. 2	(74)
c. 22.	Insurance (Fire), vol. 2	842
19 & 20 Vict. c. 25.	Bankers' Drafts, vol. 1	236
c. 27.	Pawnbrokers, vol. 3	672
c. 38.	Factories, vol. 2	50
c. 40.	Friendly Societies, vol. 2	230
(Rep. by 25 & 26 Vict. c. 87.)		
c. 41.	Savings Banks, vol. 4	138
c. 47.	Companies, vol. 1	681
(Rep. by 25 & 26 Vict. c. 89.)		
c. 50.	Clergy, vol. 1	592
*c. 50.	Advowson, vol. 1.	14
c. 54.	Criminal Law, vol. 2	(79)
*c. 64.	Statutes, vol. 4	637
c. 69.	Police (Rural), vol. 3	1003
c. 69, s. 9.	Parliament, vol. 3.	573
c. 80.	Land Tax, vol. 2, s. 4	1084
c. 81.	Stamps, vol. 4	609
c. 81, s. 3.	Attorneys, vol. 1.	175
c. 87, s. 1.	Lunatics, vol. 3	260
c. 94.	Executors, &c., vol. 1	1432
c. 96.	Marriage, vol. 3	272
c. 97, ss. 6, 7.	Bills of Exchange, &c., vol. 1	416
c. 97, ss. 1, 3, 4, 13.	Frauds (Statute of), vol. 2	178
c. 97, s. 5.	Judgments, vol. 2.	907
c. 97, ss. 9—17.	Limitation of Actions, vol. 3	68
c. 97.	Mercantile Law Amendment, vol. 3	347
c. 104.	Clergy, vol. 1	594
c. 107.	Health (Public), vol. 2	490
c. 108.	Courts (County), vol. 1	1233
c. 108, ss. 50—56.	Landlord and Tenant, vol. 2	1146

			Page
19 & 20 Vict.	c. 108, s. 30.	Costs, vol. 1	1117
	c. 109.	Criminal Law, vol. 2	(80)
	c. 112.	Metropolitan (Management), vol. 3	404
	c. 113.	Evidence, &c., vol. 1	1392
	c. 114.	Hay, vol. 2	415
	c. 118, s. 1.	Counties Palatine, vol. 1	1146
	c. 118.	Criminal Law, vol. 2	(85)
	c. 119.	Marriage, vol. 3	272
	*c. 120.	Conveyances, vol. 1	828
	c. 120.	Leases, vol. 2	1238
20 Vict.	c. 2.	Police (Rural), vol. 3	1008
	c. 19.	Poor, vol. 3	1286
20 & 21 Vict.	*c. 1.	Cinque Ports	520
	c. 3.	Criminal Law, vol. 2	(86)
	c. 14, ss. 11, 12.	Arrest, vol. 1	115
		Companies, vol. 1.	717
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 31.	Inclosure, vol. 2	822
	*c. 35.	Interment, vol. 2.	871
	c. 38.	Health (Public), vol. 2	490
	*c. 39.	Attorneys, vol. 1.	175
	c. 43.	Justices of Peace, &c., vol. 2	995
	c. 49.	Bankers, vol. 1	231
	(Rep. except s. 12, by 25 & 26 Vict. c. 89.)		
	c. 50.	Corporations, vol. 1	1092
	c. 55.	Criminal Law, vol. 2	(87)
	*c. 57.	Conveyances, vol. 1	828
	c. 57.	Fines and Recoveries, vol. 2	128
	c. 64, ss. 11—15.	Police (Metropolitan), vol. 3	961
	c. 77.	Courts (Probate and Divorce), vol. 1	1300
	c. 77, ss. 43—45.	Attorneys, vol. 1.	175
	c. 78.	Companies, vol. 1.	817
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 80.	Companies, vol. 1.	721
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 81.	Interment, vol. 2	872
	c. 83.	Criminal Law, vol. 2	(183)
	c. 85.	Courts (Probate and Divorce), vol. 1	1274
	c. 157.	London Small Debts Act, vol. 3	87
21 Vict.	*c. 19.	Friendly Societies, vol. 2	231
	*c. 20.	Stamps, vol. 4	610
21 Vict.	c. 20, ss. 1, 2.	Bankers' Drafts, vol. 1	236
	*c. 22.	Prisons, vol. 3	1373
	c. 24.	Stamps, vol. 4	610
	c. 25.	Evidence, &c., vol. 1	1392
21 & 22 Vict.	*c. 26.	Parliament, vol. 3.	594
	c. 27.	Pleading, Practice, &c. (in Equity), vol. 3	916
	c. 33.	County Rate, vol. 1	1169
	c. 43.	Corporations, vol. 1	1094
	*c. 45.	Durham (County Palatine of), vol. 1	1147
	*c. 46.	Marriage, vol. 3	280
	c. 48.	Oaths, vol. 3	461
	c. 49.	Parliament, vol. 3	573, 594
	c. 56, s. 9, *et seq.*	Executors, &c., vol. 1	1433
	c. 57.	Leases, vol. 2	1244
	c. 60.	Companies, vol. 1.	722
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 68.	Police (Rural), vol. 3	1009
	c. 70.	Copyright, vol. 1.	919
	*c. 71.	Charitable Uses, vol. 1	511
	c. 73.	Justices of Peace, &c., vol. 2	998
	c. 73, ss. 8—12.	Sessions of the Peace, vol. 4	166
	c. 74.	Courts (County), vol. 1	1250
	c. 75.	Railways, vol. 4.	73
	*c. 77.	Conveyances, vol. 1	829
	c. 77, ss. 1—8.	Leases, vol. 2	1247
	c. 78.	Oaths, vol. 3	463
	c. 79.	Bankers' Drafts, vol. 1	237
	c. 87.	Parliament, vol. 3.	574
	c. 90.	Medical Practitioners, vol. 3.	337
	c. 91.	Bankers, vol. 1	234
	(Rep. by 25 & 26 Vict. c. 89.)		
	c. 92.	Justices of Peace, &c., vol. 2	999
	c. 93.	Marriage, vol. 3.	280
	c. 93.	Courts (Probate and Divorce), vol. 1	1293
	c. 94.	Copyhold, vol. 1.	879
	c. 95, ss. 31, 32.	Affidavit, vol. 1	21
	c. 95.	Courts (Probate and Divorce), vol. 1	1323
	c. 97.	Health (Public), vol. 2	491
	*c. 97.	Privy Council, vol. 3	1389
	c. 98.	Health (Public), vol. 2	492
	c. 98, s. 49.	Interment, vol. 2.	877
	c. 101.	Friendly Societies, vol. 2	231

			Page
21 & 22 Vict.	c. 104, ss. 16, 17.	Metropolitan Management, vol. 3	406
	*c. 106.	India, vol. 2	826
	c. 108.	Courts (Probate and Divorce), vol. 1	1294
	c. 108, s. 13.	Attorneys, vol. 1	176
	c. 110.	Parliament, vol. 3	575
22 Vict.	c. 1.	Interment, vol. 2	878
	c. 8.	Courts (County), vol. 1	1250
	c. 10.	Oaths, vol. 3	463
	c. 13.	Patents, vol. 3	651
	c. 16.	Affidavit, vol. 1	22
	c. 20.	Evidence, &c., vol. 1	1394
	c. 21.	Medical Practitioners, vol. 3	344
	c. 25.	Prisons, vol. 3	1373
	c. 27.	Health (Public), vol. 2	514
	c. 32.	Penalties, vol. 3	681
	*c. 33.	Bail, &c., vol. 1	195
	c. 33, ss. 1—3.	Coroners, vol. 1	943
	c. 34.	Master and Servant, vol. 3	328
	c. 35.	Corporations, vol. 1	1095
22 & 23 Vict.	*c. 1.	Privy Council, vol. 3	1389
	c. 3.	Health (Public), vol. 2	513
	c. 4.	Criminal Law, vol. 2	(89)
	c. 5.	Parliament, vol. 3	595
	c. 6.	Courts (Admiralty), vol. 1	1176
	c. 6, s. 1.	Attorneys, vol. 1	176
	c. 14.	Pawnbrokers, vol. 3	673
	c. 17.	Criminal Law, vol. 2	(90)
	c. 17.	Gaming, vol. 2	285
	c. 18.	Property Tax, vol. 3	1461
	c. 20.	Savings Banks, vol. 4	139
	c. 21.	Pleading, Practice, &c. (at Law), vol. 3	790
	c. 21, s. 40.	Coroners, vol. 1	944
	c. 21, ss. 9—27, 44.	Crown Suits, vol. 1	1331
	c. 21, ss. 28 to end.	Sheriff, vol. 4	235
	c. 21, ss. 12—15.	Succession Duty, vol. 4	657
	c. 32.	Police (Rural), vol. 3	1010
	c. 35.	Conveyances, vol. 1	829
	c. 35, ss. 19, 20.	Inheritance, vol. 2.	836a
	c. 35, ss. 4—8.	Insurance, vol. 2	843
22 & 23 Vict.	c. 35, ss. 11, 22, 25.	Judgments, vol. 2	907
	c. 35, ss. 12—18.	Powers, vol. 3	1308
	c. 35, ss. 26 to end.	Trustees, vol. 4	808
	c. 36.	Stamps, vol. 4	611
	*c. 37.	Shipping, vol. 4	421
	c. 43.	Inclosure, vol. 2	824
	c. 49.	Poor, vol. 3	1287
	c. 53.	Savings Banks, vol. 4	142
	(Rep. 26 & 27 Vict. c. 87.)		
	c. 56.	Weights and Measures, vol. 4	901
	c. 57.	Courts (County), vol. 1	1250
	c. 59.	Railways, vol. 4	73
	c. 61.	Courts (Probate and Divorce), vol. 1	1297
	c. 63.	Evidence, &c., vol. 1	1395
	c. 64.	Marriage, vol. 3	281
	c. 65.	Sessions of the Peace, vol. 4	167
	c. 66.	Gas, vol. 2	307
	c. 113, s. 38.	Hackney Carriages, vol. 2	376
23 Vict.,	*c. 1.	Marriage, vol. 3	282
	c. 5.	Courts (Probate and Divorce), vol. 1	1328
	c. 5.	Stamps, vol. 4	612
	c. 7.	Medical Practitioners, vol. 3	345
	c. 11.	Grammar Schools, vol. 2	325
	c. 14.	Property Tax, vol. 3	1462
	c. 15.	Stamps, vol. 4	612
	c. 18.	Marriage, vol. 3	282
	c. 21.	Pawnbrokers, vol. 3	673
	c. 24.	Marriage, vol. 3	282
	c. 27.	Beer, vol. 1	388
23 & 24 Vict.	c. 30.	Public Improvements, vol. 3	1471
	c. 32.	Courts (Ecclesiastical), vol. 1	1266
	c. 34.	Crown Suits, vol. 1	1333
	c. 38.	Conveyances, vol. 1	832
	c. 38, ss. 1—5.	Judgments, vol. 2	908
	c. 38, ss. 9—12.	Trustees, vol. 4	810
	c. 38, s. 13.	Limitation of Actions, vol. 3	70
	c. 51.	Tolls, vol. 4	753
	c. 52.	Building Acts, vol. 1	457
	c. 53.	Limitation of Actions, vol. 3	70
	c. 58.	Friendly Societies, vol. 2	232
	c. 59.	Universities, vol. 4	815

			Page
23 & 24 Vict.	c. 59, ss. 1, 3.	Leases, vol. 2	1248
	c. 60.	Prisons, vol. 3	1375
	c. 63.	Parliament, vol. 3	595
	c. 64.	Interment, vol. 2	878
	c. 66.	Medical Practitioners, vol. 3	346
	c. 68.	Highways, vol. 2	583
	c. 73, ss. 3, 4.	Highways, vol. 2	681
	*c. 75.	Lunatics, vol. 3	200
	c. 77.	Health (Public), vol. 2	515
	c. 78.	Factories, vol. 1	50
	c. 80.	Stamps, vol. 4	617
	c. 83.	Infants, vol. 2	833
	c. 84.	Health (Public), vol. 2	517
	c. 86.	Marriage, vol. 3	283
	*c. 88.	Courts (Admiralty), vol. 1	1176
	c. 90.	Game (Certificates), vol. 2	253
	c. 91, s. 2.	Courts (Probate and Divorce), vol. 1	1328
	c. 93.	Tithes, vol. 4	743
	c. 93, ss. 19, 20.	Inclosure, vol. 2	826
	c. 106.	Lands Clauses, vol. 2	1190
	c. 111.	Stamps, vol. 4	620
	c. 111, s. 23.	Courts (Probate and Divorce), vol. 1	1329
	c. 111, ss. 17, 18.	Bankers' Drafts, vol. 1	237
	c. 115.	Crown Suits, vol. 1	1337
	c. 115, s. 2.	Judgments, vol. 2	909
	c. 116.	Coroners, vol. 1	944
	c. 125.	Gas, vol. 2	312
	c. 126.	Pleading, Practice, &c. (at Law), vol. 3	791
	c. 126, s. 34.	Costs, vol. 1	1118
	c. 126, ss. 12, 40—42.	Counties Palatine, vol. 1	1147
	c. 126, ss. 26, 27.	Dower, vol. 1	1356
	c. 126, ss. 12—18.	Interpleader, vol. 2	886
	c. 126, ss. 20, 21.	Set-off, vol. 4	175
	c. 127.	Attorneys, vol. 1	176
	c. 128.	Pleading, Practice, &c. (in Equity), vol. 3	918
	c. 134.	Charitable Uses, vol. 1	511
	c. 136.	Charitable Uses, vol. 1	512
	c. 137.	Savings Banks, vol. 4	142
	(Rep. by 26 & 27 Vict. c. 87.)		
	c. 139.	Gunpowder, vol. 2	331
23 & 24 Vict.	c. 142.	Clergy, vol. 1	600
	c. 144.	Courts (Probate and Divorce), vol. 1	1298
	c. 145.	Conveyances, vol. 1	834
	c. 145, ss. 11—24.	Mortgage, vol. 3	444
	c. 145.	Trustees, vol. 4	811
	c. 146.	Gas, vol. 2	320
	c. 147, ss. 1, 2.	Bankruptcy, vol. 1	363
	c. 149.	Pleading, Practice, &c. (in Equity), vol. 3	918
	c. 151, s. 20.	Coroners, vol. 1	946
	c. 151.	Mines and Collieries, vol. 3	433
24 Vict.	c. 7, s. 40.	Arrest, vol. 1	116
	c. 7, ss. 88—91.	Game, vol. 2	250
	c. 8, ss. 91—94.	Game, vol. 2	251
	c. 9.	Charitable Uses, vol. 1	516
	*c. 9.	Copyhold, vol. 1	886
	c. 10.	Courts (Admiralty), vol. 1	1176
	c. 11.	Evidence, &c., vol. 1	1396
	c. 14.	Savings Banks, vol. 4	142
	c. 16.	Marriage, vol. 3	285
	c. 20.	Property Tax, vol. 3	1463
24 & 25 Vict.	c. 21, s. 3.	Beer, vol. 1	397
	c. 21, ss. 4—9.	Hawkers and Pedlars, vol. 2	413
	c. 21, ss. 10—15.	Landlord and Tenant, vol. 2	1147
	c. 21, ss. 1, 10—15.	Stamps, vol. 4	625
	c. 42.	Coals and Wine Dues, vol. 1	617
	c. 45.	Harbours, Docks, and Piers, vol. 2	390
	(In part repealed by 25 Vict. c. 19 & c. 69.)		
	c. 46.	Highways, vol. 2	681
	c. 47.	Harbours, Docks and Piers, vol. 2	393
	c. 51.	Police (Metropolitan), vol. 3	962
	c. 53.	Parliament, vol. 3	576
	c. 55.	Poor, vol. 3	1288
	c. 55, ss. 6, 7.	Lunatics, vol. 3	203
	c. 59.	Vaccination, vol. 4	838
	c. 61.	Health (Public), vol. 2	520
	c. 62.	Crown Suits, vol. 1	1337
	c. 62.	Limitation of Actions, vol. 3	71
	c. 66.	Criminal Law, vol. 2	(90)
	c. 66.	Evidence, &c., vol. 1	1397
	*c. 67.	India, vol. 2	826

			Page
24 & 25 Vict.	c. 70.	Highways, vol. 2	682
	c. 73.	Copyright (Designs), vol. 1	920
	c. 75.	Corporations, vol. 1	1097
	c. 76.	Poor, vol. 3	1290
	c. 78.	Juries, vol. 2	933
	c. 79.	Gas, vol. 2	321
	c. 80.	Harbours, Docks, and Piers, vol. 3	403
	*c. 87.	Building Acts, vol. 1	458
	c. 91, ss. 7—14.	Beer, vol. 1	397
	c. 91, s. 34.	Bills of Sale, vol. 1.	420
	c. 91, s. 46.	Crown Suits, vol. 1.	1338
	c. 91, s. 17.	Game (Certificates), vol. 2	256
	c. 91, ss. 39—45.	Land Tax, vol. 2	1084
	c. 91, ss. 45, 46.	Property Tax, vol. 3	1465
	c. 91, ss. 25—38.	Stamps, vol. 4	627
	c. 92.	Ibid., vol. 4	629
	c. 94.	Criminal Law, vol. 2	(91)
	c. 95.	Ibid., vol. 2	(92)
	c. 96.	Ibid., vol. 2	(191)
	c. 96, ss. 78, 79.	Factors, vol. 2	62
	c. 96, s. 90.	Bills of Exchange, &c., vol. 1	416
	c. 97, ss. 11, 12.	Criminal Law, vol. 2	(153)
	c. 97.	Ibid., vol. 2	(246)
	c. 98.	Ibid., vol. 2	(259)
	c. 99.	Ibid., vol. 2	(116)
	c. 100, s. 36.	Arrest, vol. 1	116
	c. 100, s. 57.	Criminal Law, vol. 2	(169)
	c. 100.	Ibid., vol. 2	(279)
	*c. 101.	Statutes, vol. 4	637
	c. 105.	Leases, vol. 2	1251
	c. 109.	Fish, vol. 2	137
	c. 110.	Metal (Dealers in), vol. 3	350
	c. 112.	Parliament, vol. 3.	577
	c. 113.	Criminal Law, vol. 2	(93)
	c. 114.	Wills, vol. 4	949
	c. 117.	Factories, vol. 2	52a
	c. 121.	Wills, vol. 4	949
	c. 124.	Police (Metropolitan), vol. 3	962
	c. 125.	Poor, vol. 3	1291
	c. 126.	Highways, vol. 2	684
	c. 130.	Gunpowder, vol. 2.	339
	c. 133.	Lands Improvements, vol. 2	1193
	c. 134.	Bankruptcy, vol. 1	363
	c. 134, ss. 221—225.	Criminal Law, vol. 2	(188)
	c. 134, s. 105.	Courts (County), vol. 1	1251
25 Vict.	c. 8.	Factories, vol. 2	52b
	c. 14.	Crown Suits, vol. 4	963
	c. 17.	Charitable Uses, vol. 4	957
	c. 18.	Criminal Law, vol. 2	(97)
	c. 19.	Harbours, vol. 2	406
	c. 20.	Habeas Corpus, vol. 4	967
	c. 22.	Stamps, vol. 4	630
	c. 22, ss. 1, 2, 42—45.	Property Tax, vol. 3	1465
25 & 26 Vict.	c. 38.	Spirituous Liquors, vol. 4	438
	*c. 41.	Volunteer Act, vol. 4	854
	c. 42.	Pleading, Practice, &c. (in Equity), vol. 3	921
	c. 43.	Poor, vol. 3	1292
	c. 44.	Criminal Law, vol. 2	(97)
	c. 64.	Ibid., vol. 2	(125)
	(Rep. by 27 & 28 Vict. c. 91).		
	c. 65.	Ibid., vol. 2	(98)
	c. 52.	Leases, vol. 2	1252
	c. 53.	Conveyances, vol. 1	838a
	c. 61.	Highways, vol. 2.	590
	c. 63.	Shipping, vol. 4	421
	*c. 66.	Petroleum, vol. 3.	681
	c. 67.	Conveyances, vol. 1	838q
	c. 68.	Copyright, vol. 4.	960
	c. 69.	Harbours, vol. 2	406d
	c. 79.	Mines and Collieries, vol. 3	439
	*c. 81.	Courts (Probate and Divorce), vol. 1	1300
	c. 82.	Poor, vol. 3	1293
	c. 86.	Lunatics, vol. 3	208
	c. 87.	Provident Societies, vol. 3	1469
	c. 88.	Trade Marks (Counterfeiting), vol. 4	786
	c. 89.	Companies, vol. 1.	725
	*c. 91.	Medical Practitioners, vol. 3	347
	c. 98.	Gunpowder, vol. 4	966
	c. 99, s. 4.	Courts (County), vol. 1	1251
	c. 100.	Interment, vol. 4	967
	c. 102.	Metropolitan Management, vol. 3	407
	c. 103.	Poor, vol. 3.	1293
	*c. 104.	Prisons, vol. 3	1376
	c. 107.	Juries, vol. 2	935
	c. 108.	Trustees, vol. 4	814
	c. 110.	Poor, vol. 3	1299
	c. 111.	Lunatics, vol. 3	207
	c. 112.	Charitable Uses, vol. 4	957
	c. 113.	Poor, vol. 3	1301
	c. 114.	Game, vol. 4	965
	c. 114.	Criminal Law, vol. 2	(175)
26 Vict.	c. 10.	Fish, vol. 4	965
	c. 13.	Towns Improvement (Gardens), vol. 4	784

		Page
26 Vict. c. 14.	Savings Banks (Post Office), vol. 4	143a
c. 17.	Health (Public), vol. 2	524a
c. 20.	Parliament, vol. 3.	579
c. 22.	Property Tax, vol. 3	1467
c. 24.	Admiralty Courts Act, 1863, vol. 1	1179
*c. 25.	Savings Banks, vol. 4	143c
*c. 27.	Marriage (Ireland), vol. 4	992
c. 28.	Stock Certificate Act, 1863, vol. 4	637
c. 29.	Parliament, vol. 3.	579
26 & 27 Vict. c. 13.	Towns Improvement, vol. 4	784
c. 30.	Shipping, vol. 4	437
c. 33.	Inland Revenue, vol. 2	836a
c. 33, ss. 22—24.	Property, Tax, vol. 3	1468
c. 38.	Factories, vol. 2	52c
c. 40.	Bakehouse Regulation Act, 1863, vol. 4	951
c. 41.	Innkeepers' Liability, vol. 2	837a
c. 44.	Criminal Law, vol. 2	(297)
c. 51.	Shipping, vol. 4	437a
*c. 55.	Poor, vol. 3	1302
c. 57.	Regimental Debts Act, 1863, vol. 4	1019
c. 61.	Highways, vol. 2.	590k
*c. 65.	Volunteer Act, 1863, vol. 4	854
c. 70.	Health (Public), vol. 2	524b
c. 73.	India Stock, vol. 2	826a
c. 76.	Patents, vol. 4	993
c. 77.	Justices of the Peace, vol. 2	1000a
*c. 79.	Prisons, vol. 3	1376
*c. 81.	Public Works (Manufacturing District Act, 1863), vol. 3	1472
c. 82.	Clergy, vol. 1	604b
c. 87.	Savings Banks, vol. 4	143c
c. 89.	Poor, vol. 3	1302
*c. 90.	Marriage (Ireland), vol. 4	992
c. 91.	Poor, vol. 3	1305
c. 92.	Railway Clauses Act, vol. 4	75a
c. 93.	Waterworks, vol. 4	878
c. 94.	Highways, vol. 2.	590x
c. 97.	Justices of Peace, &c., vol. 2	1000a
c. 103.	Master and Servant, vol. 4	992
c. 105.	Bills of Exchange, vol. 4	955
c. 106.	Charitable Uses, vol. 4	957
c. 110.	Lunatics, vol. 4	990
c. 112.	Telegraph Act, 1863, vol. 4	662a
c. 113.	Poisoned Grain Prohibition, vol. 4	995
26 & 27 Vict. c. 117.	Health (Public), vol. 2	524h
c. 118.	Companies Clauses Act, 1863, vol. 1	726iv
c. 120.	Clergy, vol. 1	604c
c. 122.	Pleading, Practice, &c. (at Law), vol. 4	994
c. 124.	Alkali Act, 1863, vol. 4	951
27 Vict. *c. 9.	Malt, vol. 4	992
c. 13.	Charitable Assurances, vol. 4	958
c. 18.	Stamps, vol. 4	1025
c. 19.	Joint Stock Companies, vol. 4	969
27 & 28 Vict. c. 24.	Shipping, vol. 4	1020
c. 27.	Ibid., vol. 4	1023
c. 29.	Lunatics, vol. 4	990
c. 32.	Banking Companies, vol. 4	953
c. 37.	Chimney Sweeps, vol. 4	959
c. 39.	Poor, vol. 4	997
c. 42.	Ibid., vol. 4	998
*c. 43.	Government Annuities, vol. 4	966
c. 44.	Court of Probate, vol. 4	963
c. 45.	Leases, vol. 4	989
c. 47.	Criminal Law, vol. 2	(297)
c. 48.	Factories, vol. 2	52c
c. 50.	Bankers, vol. 4	953
c. 55.	Police (Metropolitan), vol. 4	996
c. 56.	Stamps, vol. 4	1030
c. 64.	Beer, vol. 4	954
c. 65.	Sessions of the Peace, vol. 4	1019
*c. 68.	Health (Public), vol. 4	967
c. 70.	Clergy, vol. 4	960
c. 75.	Highway (Turnpike), vol. 2	590y
*c. 77.	Ionian States Act, vol. 4	968
*c. 85.	Health (Public), vol. 4	967
c. 90.	Stamps, vol. 4	1034
c. 91.	Criminal Law, vol. 2	(300)
c. 92.	Schools (Public), vol. 4	1019
c. 95.	Death by Accident, vol. 4	963
c. 97.	Interment, vol. 4	968
c. 98.	Factories, vol. 2	54
c. 101.	Highways, vol. 2.	590k
c. 105.	Poor, vol. 4	999
c. 110.	Penalties, vol. 4	994
c. 112.	Judgments, vol. 4	969
*c. 113.	Thames Conservancy, vol. 4	1034
c. 114.	Lands Improvement, vol. 4	970
c. 115.	Poisoned Grain Prohibition, vol. 4	996
c. 116.	Poor, vol. 4	999
*c. 117.	Weights and Measures, vol. 4	1034
c. 120.	Railways, vol. 4	1000
c. 121.	Ibid., vol. 4	1005

ADDENDA ET CORRIGENDA.

Vol. 1, p. 23, ALEHOUSES, to 9 Geo. 4, c. 61, n. (*c*), *add*—Although justices have a discretion as to whether they will grant licences to persons keeping or about to keep inns, that discretion must be exercised in a reasonable manner; and therefore justices cannot by a general resolution determine not to renew the licences of all such persons who shall not consent to take out an excise licence for the sale of spirits in addition to the licence for the sale of beer (*R.* v. *Sylvester*; 2 Best & S. 322; 31 L. J. M. C. 93).

Vol. 1, p. 28, ——— to sect. 21, *add*—Upon a proceeding under this section, against an alehouse-keeper, for unlawfully and knowingly permitting divers persons of notoriously bad character to assemble and meet together in his house and premises against the tenour of his licence, such alehouse-keeper is not a competent witness, and cannot give evidence in his own behalf (*Parker* v. *Green*; 31 L. J. M. C. 133; 2 Best & S. 299).

Vol. 1, p. 34, ——— to schedule C. last line but 6, "Friday," *add*—See p. 387, n. (*a*), tit. "BEER."

Vol. 1, p. 62, AMENDMENT, to 15 & 16 Vict. c. 76, s. 222, n. (*b*), *add*—A judge at the trial has no power, under this section, to amend the proceedings by adding the wife as a defendant, in an action where the husband has been sued alone for a debt incurred by the wife *dum sola* (*Garrard* v. *Giubilei*, 31 L. J. C. P. 131; In error, Ib. 270; 10 C. B. N. S. 616).

This rule is extended to revenue causes (22 & 23 Vict. c. 21, s. 9).

Vol. 1, p. 63, ANIMALS, to 12 & 13 Vict. c. 92, sect. 2, *add*—A cock is an animal within the meaning of this section (*Bridge* v. *Parsons*, 2 B. & S. 382; 32 L. J. M. C. 95; *Coyne* v. *Brady*, 12 Ir. Law R. 577).

Vol. 1, p. 63, ——— to sect. 3, n. (*d*), *add*—It is no offence under this section to assist at a cockfight unless in a place kept or used for the purpose (*Morley* v. *Greenhalgh*, 32 L. J. M. C. 93; 3 B. & S. 374).

Vol. 1, p. 76, ANNUITIES, to 53 Geo. 3, c. 141, sect. 6, n. (*a*), *add*—See *Foster* v. *Bonner*, 8 L. T., N. S. 530).

Vol. 1, p. 77, ——— to sect. 10, n. (*f*), *add*—See *Thompson* v. *Cartwright*, 33 L. J. Ch. 234.

Vol. 1, p. 80, ARBITRATION, to 9 & 10 Will. 3, c. 15, n. (*b*), *add*—The enactments of the Bankruptcy and Common Law Procedure Acts providing in substance, that every submission to arbitration may, without agreement therein to that effect, be made a rule of court, have not the operation of bringing submissions which contain no such agreement within this Act, so as absolutely to exclude the jurisdiction of a court of equity (*Smith* v. *Whitmore*, 33 L. J. Ch. 218).

Vol. 1, p. 85, ARBITRATION, to 9 & 10 Will. 3, c. 15, s. 2, n. (*b*), *add*—The court of chancery has no jurisdiction to set aside an award made under a reference of an action, whether the same is or is not under this statute (*Harding* v. *Wickham*, 2 Johns. & H. 676).

Vol. 1, p. 90, ——— to 3 & 4 Will. 4, c. 42, s. 39, n. (*c*), line 17, *add*—See *In re Ward*, 32 L. J. Q. B. 53.

Vol. 1, p. 108, ARREST, to 1 & 2 Vict. c. 110, s. 3, *add*—A defendant being about to leave this country, was arrested on a capias under this Act. The plaintiff had proved his debt in Scotland, under the Scotch Bankruptcy Act, and a warrant of protection had been granted to the defendant for a limited period, which had not elapsed when he was arrested:—it was held, that the defendant was not entitled to be discharged (*Dutton* v. *Hally*, 2 B. & S. 748; 9 Jur. N. S. 99).

Vol. 1, p. 113, ——— to 14 & 15 Vict. c. 52, s. 1, n. (*b*), *add*—The proceeding by warrant, under this Act is only auxiliary to that by *capias*, under 1 & 2 Vict. c. 110, and the validity of the *capias* is independent of the proceedings under the warrant. And where a defendant was arrested under a warrant, and discharged at the end of seven days, it was held, he might be arrested again on a *capias* issued under a judge's order made on a sufficient affidavit, although sworn before the lapse of the seven days (*Masters* v. *Johnson* expressly dissented from; *Williams* v. *Gibbon*, 33 L. J. Q. B. 33.)

Vol. 1, p. 113, ——— to sect. 1, *add*—Where a debtor is arrested on a warrant granted under this Act, and the last of the seven days after the date of such warrant is Good Friday, and the offices of the court are therefore closed until the following Wednesday, the creditor has such Wednesday to issue the writ of *capias* required by section 1 of the said Act (*Hughes* v. *Griffith*, 13 C. B. N. S. 324; 32 L. J. C. P. 47). *Quære*, whether a writ of *capias* issued after the time required by this Act, and upon the

same materials as those on which the warrant had been obtained under that Act, can be supported as an independent writ, if the intention of the debtor to leave the country continues, *ib.*

A creditor who arrests his debtor under this Act, by virtue of a warrant obtained, but neglects to apply for a *capias* within seven days after the date of such warrant, does not thereby lose the right of causing a *capias* to be issued afterwards upon the same materials as those on which he obtained the warrant (*Williams* v. *Gibbon*, 12 W. R. 70; 9 L. T. N. S. 328—Q.B.).

Vol. 1, p. 137, ATTORNIES, to 6 & 7 Vict. c. 73, s. 6, *add*—The amount of stamp duty is to be determined by the place where the attorney or solicitor carries on his business (23 & 24 Vict. c. 127, s. 19).

Vol. 1, p. 132, ——— to sect. 7, *add*—This section is repealed by 23 & 24 Vict. c. 127, s. 2.

Vol. 1, p. 132, ——— to sect. 8, *add*—Where articles were, by a mere slip, not filed within six months, the court relieved the clerk from the effect of the error (*Follett, In re*, 30 Beav. 629).

Vol. 1, p. 133, ——— to sect. 8, n. (*b*), *add*—See *Ex parte Herbert*, 31 L. J. Q. B. 33.

Vol. 1, p. 134, ——— to n. 1st column, *add*—*Ex parte Wallis*, 31 L. J. Q. B. 176.

Vol. 1, p. 143, ——— to sect. 19, n. (*a*), *add*—21 & 22 Vict. c. 48.

Vol. 1, p. 144, ——— to sect. 23, n. (*a*), *add*—See Schedule B., post p. 185.

Vol. 1, p. 146, ——— to sect. 26, *add*—The objection that the attorney is not duly qualified, and that a party to an action cannot, therefore, recover his costs, must be taken before the master on the taxation of costs, and, if not taken then, cannot afterwards be taken on a motion to set aside the taxation, unless the omission be satisfactorily explained (*Fullalove* v. *Parker*, 31 L. J. C. P. 239).

Vol. 1, p. 150, ——— to sect. 37, n. (*e*) *add*—A clerk to Improvement Commissioners under a local act, who is paid by a fixed salary, is not within this section (*Bush* v. *Martin*, 33 L. J. Ex. 17).

Vol. 1, p. 150, ——— to sect. 37, n. (*f*), line 8, *add*—*Brown* v. *Tibbetts*, 31 L. J. C. P. 206.

Vol. 1, p. 154, ——— to sect. 37, n. (*c*), after first paragraph, *add*—An agreement by a client and his solicitor, that the latter shall receive in addition to his proper costs a bonus of £5 on all property recovered, is illegal (*Prince* v. *Beatie*, 32 L. J. Ch. 734).

Vol. 1, p. 157, ——— to sect. 37, n. (*c*), *add*—*In re Hook*, 3 Giff. 372; *In re Nicholson*, 3 De G. F. & J. 93.

A solicitor delivered his bill of costs to his client, made out in double columns, one being the amount allowed on taxation, which he refused to accept when tendered. ; The client then paid the larger sum to obtain his papers, it was held, notwithstanding the payment, that he was entitled to an order to tax the bill, as he had been constrained to pay the larger sum by the refusal of the solicitor to accept what he himself had stated that he was legally entitled to (*Ex parte Tosland, in re Letts*, 31 Beav. 488; 32 L. J. Chanc. 100).

Vol. 1, p. 157, ATTORNIES, to 6 & 7 Vict. c. 73, n. (*f*), *add*—Monies specifically paid by a client to his solicitor for counsel's fees and stamps, are properly included in the solicitor's bill, in calculating the sixth on a taxation (*In re Metcalfe*, 30 Beav. 406).

Vol. 1, p. 159, ——— to sect. 38, line 2, "liable to pay," *add*—A. and B. compromised a suit, B. agreeing to pay A.'s costs, and any question on this was to be referred to an arbitrator, who was named. A.'s solicitor delivered his bill of costs to B:—it was held, that B. was entitled to a taxation by an order of course (*In re Hartley*, 30 Beav. 620).

Vol. 1, p. 161, ——— to sect. 41, n. (*d*), line 11, *add*—See *In re Pugh*, 31 Beav. 173.

Vol. 1, p. 172, ——— to third schedule *add*—See schedule A., 23 & 24 Vict. c. 127.

Vol. 1, p. 174, ——— to 9 & 10 Vict. c. 95, *add*—See 15 & 16 Vict. c. 54, sect. 10.

Vol. 1, p. 175 ——— to 19 & 20 Vict. c. 81, sect. 3, *add*—The Court will not order articles of clerkship to be enrolled, and the service to count from the time of the execution, where the articles have been stamped after the six months on payment of a penalty, by the permission of the Treasury, under this Act, unless the delay in payment of the duty be satisfactorily accounted for (*Ex parte Edwards*, 32 L. J. C. P. 213; *Ex parte Breden*, 31 L. J. Q. B. 184; *Ib.* C. P. 321. See S. C. *contra*, 2 B. & S. 649).

Vol. 1, p. 177, ——— to 23 & 24 Vict. c. 127, s. 4, *add*—The two services need not be immediately consecutive (*Ex parte Vesper*, 33 L. J. Q. B. 113).

Vol. 1, p. 183, ——— to sect. 28, *add*—The attorney for a successful litigant declared by the Court in which the action was brought to be entitled, pursuant to this sect., to a charge upon the property recovered through his instrumentality, for the amount of his taxed costs in the action, although the estate of his client (who had died since the action) was being administered in the Court of Chancery (*Wilson* v. *Hood, In re Seaman*, 33 L. J. Ex. 204; See *Tardrew* v. *Howell*, 3 Giff. 381).

Vol. 1, p. 235, BANKERS' DRAFTS, to 55 Geo. 3, c. 184, sect. 13, *add*—A draft payable to order is not rendered void by being post-dated; the provisions of this statute and 21 & 22 Vict. c. 20, being applicable only to drafts payable to bearer (*Whistler* v. *Forster*, 32 L. J. C. P. 161; 14 C. B. N. S. 248).

Vol. 1, p. 236, ——— to 17 & 18 Vict. c. 83, *add*—See this statute in full, *post*, vol. iv., p. 600. See also the 16 & 17 Vict. c. 59, sect. 1—5, 19, and schedule, imposing the duty of one penny on drafts or orders, *post*, vol. iv., p. 591, tit. "STAMPS."

Vol. 1, p. 260, BANKRUPTCY, to 10 & 11 Vict. c. 102, *add*—This statute is repealed by 24 & 25 Vict. c. 134, schedule G.

Vol. 1, p. 262, ——— to 12 & 13 Vict. c. 106, s. 12, *add*—Under this sect. the time allowed for appealing must be calculated from the date of the decision or order, and not from the time of its being drawn up (*Dudley and West Bromwich Banking Company, Ex parte, in re Hopkins*, 9 Jur. N. S. 702; 32 L. J. Bank. 68).

Vol. 1, p. 264, ——— to sect. 27, n. (*a*), *add*—A registrar acting as the deputy of the commissioner under this sect., has power to grant orders of discharge in unopposed cases; and this power is not taken away by implication by sect. 52 of the Bankruptcy Act, 1861, nor by sect. 159 of the same Act. The order of discharge in such a case ought to be signed by the registrar, and not by the commissioner (*Ex parte Lees, in re Emberton*, 33 L. J. Bank. 25).

Vol. 1, p. 274, ——— to sect. 67, n. (*c*) 2, *add*—A trader, being pressed by two creditors, one of whom had a bill of sale on part of his property, and the other creditor an execution on the residue of his goods, applied to defendant to assist him, and in consideration of defendant agreeing to pay off the two creditors, assigned to defendant, by a bill of sale, all his estate and effects. Defendant paid off the creditors. It was held, the assignment was not an act of bankruptcy, as it was not an assignment in consideration of a past debt only, but an assignment in consideration of the assignee releasing the trader's property from a charge already laid upon it (*Whitmore* v. *Claridge*, 33 L. J. Q. B. 87).

Vol. 1, p. 276, ——— to sect. 67, n. *add*—An assignment, under pressure, by a trader to certain creditors, not of the whole of his property, but with a substantial exception, is not an act of bankruptcy (*Smith* v. *Timms*, 1 H. & C. 849; 32 L. J. Ex. 215; 7 L. T. N. S. 859.—Ex. Cham.).

A trader, by deed, after reciting that he was unable to pay his debts, conveyed real estate to a trustee, to pay all costs, charges, and expenses, already or hereafter to become due to his solicitor, and the professional charges of an accountant, and to apply the residue in payment of the debts of such of his creditors as should execute the deed rateably:—it was held, that it was an act of bankruptcy (*Wensley, Ex parte, in re Wensley*, 32 L. J. Bank. 23; 7 L. T. N. S. 548).

Vol. 1, p. 281, ——— to sect. 84, *add*—See *Murray* v. *Arnold*, 3 B. & S. 287; 9 Jur. N. S. 461.

Vol. 1, p. 284, ——— to sect. 98, n. (*a*), *add*—This section applies only where one member of a firm is bankrupt, and then another member of the firm is bankrupt, and not where there has been a dissolution of the partnership before any adjudication of bankruptcy has taken place, or where the fact of the partnership is a matter in dispute (*Pearcey, Ex parte, in re Preston and Pearcey*, 7 L. T. N. S. 758).

Vol. 1, p. 287, BANKRUPTCY, to 12 & 13 Vict. c. 106, s. 112, n. (*h*), *add*—The discretionary power given to the Court of Bankruptcy by this section, of releasing from prison a bankrupt who has been arrested for debt, is only to be exercised for the purpose of advancing the interests of the creditors under the bankruptcy, and is not given for the benefit of the bankrupt (*Ex parte Stuart, re Waugh*, 33 L. J. Bank. 4).

This section seems to apply to a bankrupt in custody under mesne process.

Vol 1, p. 307, ——— to sect. 133 *add*—See *Bramwell* v. *Eglington*, 33 L. J. Q. B. 130; *post*, n. to 23 & 24 Vict. c. 134, s. 103.

Vol. 1, p. 309, ——— to sect. 133, n. (*c*), *add*—Affirmed on appeal, 9 Jur. N. S. 201.

Vol. 1, p. 313, ——— to sect. 141, n. (*d*), *add*—Plaintiffs were assignees in bankruptcy of one K., who, at the time of the adjudication under which the plaintiffs were appointed, was already an uncertificated bankrupt. Plaintiffs sued defendant in trover for goods which K. had acquired after his first bankruptcy, and which he had fraudulently assigned to defendant. The assignees under the first bankruptcy did not in any manner interfere. It was held, the second bankruptcy was not void; that the title of the bankrupt to the property after acquired, which was good against every one except the assignees under the first bankruptcy, was transferred to the assignees under the second, and that the first assignees not having interfered, the second assignees were entitled to maintain this action (*Morgan* v. *Knight*, 33 L. J. C. P. 168).

The interest of a bankrupt in property given to him contingently on his obtaining his certificate passes to his assignees in like manner as any other contingent interest (*Davidson* v. *Chalmers, Perry* v. *Chalmers*, 33 L. J. Ch. 622, M. R.).

Vol. 1, p. 324, ——— to sect. 162, n. (*e*), *add*—The power to adjourn a bankrupt's last examination *sine die*, is not to be used for the purpose of indirectly defeating the bankrupt's right to an order of discharge in cases where the order could not be directly refused under section 159 of the Act of 1861 (*Ex parte Grummitt, in re Grummitt*, 33 L. J. Bank. 43).

Vol. 1, p. 336, ——— to sect. 181, n. (*a*), *add*—The defendants' costs, where, although the verdict be given before, the judgment is not obtained until after the plaintiff has become bankrupt, are not proveable under such bankruptcy (*Oxlade* v. *North-Eastern Rail. Co.*, 33 L. J. C. P. 171).

Vol. 1, p. 338, ——— to sect. 184, n. (*a*), *add*—A judgment creditor suing out a writ of sequestration is not within this definition (*Hopkins* v. *Clarke*, 33 L. J. Q. B. 93).

Vol. 1, p. 338, ——— to sect. 184, n. (*e*), *add*—An execution against the goods of a debtor who afterwards becomes bankrupt, must, in order to be available against

his assignees, be levied by seizure and sale of the goods before the date of the fiat or filing the petition for adjudication under this section and sect. 133 (*Young* v. *Roebuck*, 32 L. J. Exch. 260; 8 L. T. N. S. 453, Exch.).

Vol. 1, p. 344, BANKRUPTCY, to 12 & 13 Vict. c. 106, sect. 211, *add*—An order for the protection of the property of a trader under this section does not operate to disentitle a judgment creditor to the benefit of a fi. fa. levied by seizure of the goods of the trader before the presentation of his petition (*Bottomley* v. *Heyward*, 7 H. & N. 562; 31 L. J. Exch. 500).

Vol. 1, p. 344, ——————— to sect. 224, *add*—See *Clapham* v. *Atkinson*, *Dingwall* v. *Edwards*, Q. B. Feb. 1864; *Spitzer* v. *Chaffers*, 14 C. B. N. S. 686; 33 L. J. C. P. 7; *Snodin* v. *Boyce*, 4 H. & N. 391, affirming *Dunlop* v. *Cruger*, 32 L. J. Ex. 42.

Vol. 1, 346, ——————— to sect. 233, *add*—This section applies to civil matters only, and in criminal prosecutions against a bankrupt, formal proof of the trading and other requisites must be given (*Reg.* v. *Lyons*, 9 Cox, C. C. 299, Martin B.).

Vol. 1, 368*d*, ——————— to 24 & 25 Vict. c. 134, sect. 74, *add*—A sheriff is not entitled to deduct the expenses of advertising a sale by public auction of an execution debtor's effects, seized under a fi. fa., although the debt or damages exceed 50*l*., and this section renders it imperative on the sheriff in such case to advertise and sell by auction (*Braithwaite* v. *Marriott*, 1 H. & C. 591; 7 L. T. N. S. 363; 32 L. J. Exch. 24).

Vol. 1, p. 368*k*, ——————— to sect. 90, n. (*a*), *add*—Where a company has been ordered to be wound up, the relation of debtor and creditor is, as a general rule, not constituted between a contributory and the official manager until a call is made; and consequently a call made after the passing of this Act, is, in the absence of special enactments as to its legal effect, a sufficient petitioning creditor's debt to support an adjudication in bankruptcy against a contributory who is a non-trader. *Secus*, where the winding-up is under the Companies' Act, 1862, in which case having regard to sect. 75 of the Act, the call will be held to be a debt accrued due at the time when the contributory executed the deed of settlement, and therefore not to constitute a good petitioning creditor's debt, if in fact a deed of settlement was executed by the contributory previously to the passing of this Act (*Ex parte Harding, in re Williams*, and *Ex parte Canwell, in re Vaughan*, 33 L. J. Bank. 26).

Vol. 1, p. 368*m*, ——————— to sect. 103, *add*—This section has reference to sections 98 and 99, and therefore where a debtor was arrested under a *ca. sa.* and lodged in prison, and he afterwards petitioned *in formâ pauperis* and was brought before the county court and adjudicated a bankrupt under sections 98 and 99, the adjudication relates back to the date of the committal to prison, and goods which were then in the order and disposition of the bankrupt, with the consent of the true owner, though taken possession of by him before the adjudication, passed to the bankrupt's assignees (*Bramwell* v. *Eglington*, 33 L. J. Q. B. 130).

This section makes the adjudication relate back to the commitment or detention absolutely, and not merely as an Act of Bankruptcy. Sect. 133 of 12 & 13 Vict. c. 106, affords no protection in such case (*Ib.*).

Vol. 1, p. 368*m*, BANKRUPTCY, to 24 & 25 Vict. c. 134, s. 109, last line, *add*—See *Ex parte Ellerton*, 33 L. J. Bank. 32.

Vol. 1, p. 368*n*, ——————— to sect. 110, n. (*a*), *add*—It is the duty of the commissioner when applied to by a bankrupt for his discharge under the circumstances mentioned in this section, to be judicially satisfied, before granting it, that the bankrupt has made full discovery of his estate (*Ex parte Jones, re Wilson*, 33 L. J. Bank. 11).

Vol. 1, p. 368*g*, ——————— to sect. 136, *add*—A trustee under a deed of trust stands in the same relation to the creditors that an assignee does, under an adjucation, to creditors who have proved under a bankruptcy, and he is bound to submit to the examination required by this sect. (*Beale, In re, ex parte Lawrence*, 9 Jur. N. S. 835; 32 L. J. Bank. 61).

Vol. 1, p. 368*g*, ——————— to sect. 137, *add*—This section does not authorise the sale of the books of a solicitor who has become bankrupt (*Ex parte Roberts, re Holden*, 33 L. J. Bank. 8).

Book debts in this section are such debts accruing in the ordinary course of a man's trade as are usually entered in the trade books (*Shipley* v. *Marshall*, 14 C. B. N. S. 566; 32 L. J. C. P. 258).

Vol. 1, p. 368*s*, ——————— to sect. 152, n. (*a*), *add*—See *Ex parte Elmes, in re Hughes*, 33 L. J. Bank. 23.

Vol. 1, p. 368*s*, ——————— to sect. 153, n. (*b*), *add*—This section, authorising proof in respect of a claim for unliquidated damages, applies only where there has been a breach of contract previously to adjudication (*Ex parte Mendel, re Moor*, 33 L. J. Bank. 14).

The date of a trust deed in the form set out in Schedule D is that of the supposed adjudication to which S. 197 refers (S. C., 1 De G. J. & S. 330).

Vol. 1, p. 368*t*, ——————— to sect. 159, n. (*a*), *add*—This section is not retrospective, and an offence created by this clause must, in order to justify the refusal or suspension of the order of discharge, have been committed subsequently to the passing of the act (*Ex parte White, in re White*, 33 L. J. Bank. 22).

Vol. 1, p. 368*t*, ——————— to sect. 159, *add*—The primary consideration of the Court of Bankruptcy should be for the benefit and satisfaction of the civil rights of the creditors, and not the satisfaction of any personal injury; and no moral consideration not belonging to the jurisdiction of the judge ought to influence the nature or amount of a sentence passed by him on the bankrupt. Though

the bankrupt may have committed acts for which he is liable to imprisonment, yet if they are not acts for which the Court is in the habit of awarding imprisonment, no amount of moral misconduct not coming within that section can be called in aid to justify such a sentence. *Semble*—where a debt originates in special circumstances, and is contracted with a view to a special emergency, and is not attributable to the ordinary expenditure and style of living of the bankrupt (as where the bankrupt has borrowed money for his defence to a suit in the Divorce Court), it ought not to be taken into account in estimating whether he has contracted debts without reasonable ground of expectation of being able to pay the same. Nor can damages recovered against the bankrupt in the Divorce Court be considered as a debt so contracted (*Ex parte Griffiths, in re Griffiths*, 33 L. J. Bank. 44).

Vol. 1, p. 368*u*, BANKRUPTCY, to 24 & 25 Vict. c. 106, s. 159, n. (*c*), *add*—A bankrupt accepted accommodation bills without consideration, to an amount far beyond his means or expectations, for a firm in large business, to whom he was under considerable obligations, and whom he believed to be perfectly solvent; and it was held, affirming the decision of the commissioner, that his conduct amounted to a contracting of debts without reasonable or probable ground of expectation of being able to pay the same within this section (*Ex parte Barker, re Barker*, 33 L. J. Bank. 13).

Vol. 1, p. 368*v*, ———— to sect. 159, (3), n. (*d*), *add*—Where a bankrupt had entered into contracts from which he was to derive pecuniary advantages, on the formation of a company of which he was the promoter, but which company became defunct, by reason of the necessary capital not having been subscribed, it was held that he had not been guilty of embarking in a rash and hazardous speculation, within the meaning of this section (*Dowman, ex parte, in re Dowman*, 9 Jur. N. S. 811; 32 L. J. Bank. 49).

Vol. 1, p. 368*v*, ———— to sect. 159, (3), *add*—An action founded on tort is not an action to recover money due within the meaning of this Act, and a vexatious defence to such an action is therefore no ground for refusing the order of discharge (*In re Mew and Thorne*, adhered to; *Ex parte Crabtree*, 33 L. J. Bank. 38).

Vol. 1, p. 368*aa*, ———— to sect. 192, n. (*a*), *add*—A. and B. after trading as copartners, dissolve partnership, and subsequently execute separate deeds of composition, joint creditors of the partnership cannot (in the absence of proof of the existence of joint estate), object to the deeds as not binding on them, on the ground of their not being executed by a proper majority of joint creditors. An assignment or surrender of the debtor's estate is not necessary for the validity of a deed of composition or release, but to render such a deed binding on the minority of creditors, who have not executed or assented to or approved of it, it is necessary that they should stand under the deed in the same situation and with the same advantages as the creditors forming the majority (*Ex parte Cockburn, in re Smith*, 33 L. J. Bank. 17).

A composition-deed contained a clause "that no creditor who should have executed or otherwise acceded thereto, should negotiate any bills of exchange or other negotiable instruments on which the debtor was liable, without having first indorsed thereon a memorandum of the execution of or other accession to the deed by such creditor." It was also agreed and declared by the deed, "that each of the creditors who should have executed or otherwise acceded to or be bound by it, should not, nor should their respective heirs, executors, or administrators, or partners or assigns, at any time commence or prosecute any action or suit, or obtain any adjudication of bankruptcy against the debtor." This deed was held void as against non-executing creditors, the above conditions being unreasonable. And it was also held that the deed was not helped by a general clause, that "the deed was intended to operate as a composition-deed under section 192 of the Bankruptcy Act, 1861, and that if there was anything therein not authorised by the Act to be introduced into a composition deed, such unauthorised thing should be obligatory upon those persons only who should have executed the deed," for the effect of such a clause would be to put assenting and dissenting creditors on a different footing (*Hidson* v. *Barclay*, 33 L. J. Ex. 273).

A deed of inspectorship is not bad merely because it contains such provisions as the following, no one of which is unreasonable: (1.) That the proceeds of the debtor's estate be first applied to the payment of all costs, &c. incurred, or to be incurred, in or relating to his suspension of payment, &c., the costs of the deed, and of carrying the same into effect. (2.) That every creditor, before being entitled to a dividend, shall, if required by the inspectors, deliver a statement in writing of his claim, with all the particulars usual in a proof of bankruptcy. (3.) That when any dividends shall be made before all the creditors have executed or assented to the deed, a sufficient sum shall be set apart for paying the dividends of such creditors, and also the dividends of creditors whose debts have not been ascertained; and that, if no such sum be set apart, then such creditors shall receive dividends out of the first monies applicable thereto, not disturbing former dividends. (4.) That the deed shall be binding on creditors executing, assenting to, or approving of it, though it cannot operate as a deed of inspectorship under the statute. (5.) That the estate and effects of the debtor shall be administered on the principles of the Bankruptcy Laws, and the rights of the creditors dealt with and regulated on the same principles; and that anything in the deed to the contrary may be treated as expunged (*Strick* v. *De Mattos*, *ib.* 276; see also *Dewhurst* v. *Jones*, *ib.* 294).

By a composition deed between a debtor of the first part, his surety of the second part, and the several persons, creditors, whose names and seals were set and affixed to the schedule, and all other the creditors of the debtor, of the third part—reciting

that the creditors, parties to the deed of the third part, did approve of the debtor's proposal to pay his creditors a composition of 7*s.* 6*d.* in the pound, by two instalments, secured by the surety, and that bills of exchange drawn by the surety upon and accepted by the debtor had been delivered to the creditors—it was witnessed that the creditors, parties thereto of the third part, covenanted with the debtor that unless and until default should be made in meeting the said bills the creditors would not sue or molest the debtor; and further that if any of them the said creditors should break or contravene the said covenant, then the debtor and his estate and effects should be thenceforth absolutely released and discharged from all and singular the debts, claims, and demands of the creditor, and the deed should operate as a refeasance pleadable in bar, or might be otherwise set up as a defence to any action theretofore or thereafter brought by such creditor. It was held, the last-mentioned covenant vitiated the deed; and that it was no answer to an action by a non-executing creditor for the amount of his debt (*Dell* v. *King*, 33 L. J. Exch. 47. See *Feltham* v. *Cudworth*, 32 L. J. Bank. 37; *Ilderton* v. *Castrigue*, 14 C. B. N. S. 99; 32 L. J. C. P. 206; *Berridge* v. *Abbott*, 13 C. B. N. S. 507; S. P. *Copeman* v. *Hart*, 14 C. B. N. S. 91; *Devehurst* v. *Kershaw*, 1 H. & C. 726; *Inglebach* v. *Nichols*, 14 C. B. N. S. 85).

A plea by way of equitable defence, that after the accruing of plaintiff's claim he was indebted to plaintiff and divers other persons, and that a deed was made and entered into by and between defendant of the one part, and the several persons creditors of defendant who should execute the same of the other part, relating to the debts and liabilities of defendant and his release therefrom. The deed, after reciting that defendant, being unable to pay his debts in full, had applied to the undersigned creditors to receive a composition of 2*s.* 6*d.* in the pound, it went on: "Which we, the several creditors signing these presents, have agreed to do, and being a majority in number representing three-fourths in value of the creditors of the said (defendant) whose debts respectively amount to 10*l.* and upwards, have agreed to accept such composition as aforesaid, and in consideration thereof, and on payment thereof, or whenever thereafter called upon for the purpose, hereby severally undertake and agree to execute to the said (defendant) a good and sufficient release of our several and respective claims and demands upon him." The plea then averred that a majority representing three-fourths in value of the creditors of defendant, whose debts respectively amounted to 10*l.* and upwards, did in writing assent to and approve of the execution of the said deed; and that plaintiff was bound thereby as if he had been a party thereto, and had duly executed the same. It was held, in accordance with *Hodgson* v. *Wightman*, 32 L. J. Exch. 147, that the deeds sufficiently showed that it was intended to be an arrangement between the debtor and the whole body of his creditors, and that the remedy given to the creditors who executed the deed was not greater than that which was given to those who did not. Also, that the deed was good, although it did not contain any *cessio bonorum* (*Clapham* v. *Atkinson*, 33 L. J. Q. B. 81.

A composition-deed, expressed to be made between the debtor of the first part, and the several persons creditors of the said debtor, whose names and seals were thereto affixed of the second part, witnessed that the said several creditors parties of the second part covenanted that if the debtor paid to each of the said several creditors parties of the second part a composition of 2*s.* 6*d.* in the pound, the same should operate as a release and discharge in full from all debts due to the said creditors parties thereto. It was held in the Exchequer Chamber (Blackburn, J., *dubitante*) that the deed was not valid within this section, as it did not provide for all the liabilities of the debtor, or for paying a composition to all the creditors (*Ilderton* v. *Jewell*, 33 L. J. C. P. 148).

A deed of assignment of a debtor's property to a trustee for the benefit of creditors and which was registered under this Act, contained a clause empowering the trustees to require the amount of any debt to be verified by declaration, or in such other manner as to such trustee should seem expedient, and in the event of any creditor refusing or failing so to verify his debt, such creditor was to lose all benefit under the deed. It also contained a covenant by the creditors not to sue the debtor, and if any creditor should do so, that then the debtor should be discharged from all debts and demands of the creditor by whom he should be so sued, and that the deed might be pleaded in bar as a release for that purpose; and it further contained a proviso empowering the trustee to pay in full those creditors whose debts were under 10*l.*, or to make such arrangement with them as might be deemed expedient. It was held, the above clause and covenant were each unreasonable, and that the proviso provided for an unequal distribution of the property amongst all the creditors, and that these vitiated the whole deed as against a non-executing creditor (*Leigh* v. *Pendlebury*, 33 L.J. C.P. 172; *Chapman* v. *Atkison*, 33 L. J. Q. B. 81; *Dingwell* v. *Edwards*, 33 L. J. Q. B. 161; *Ex parte Spyer, in re Josephs*, 32 L. J. Bank. 63; S. C., 1 De G. J. & S. 318).

A deed, by which a debtor assigned all his estate to trustees for benefit of creditors, and otherwise satisfying the conditions of this section, contained a clause, "that all creditors to whom bills or other negotiable instruments might have been given by the debtor for debts due to such creditors, should indemnify the debtor and his estate against all claims or demands by other persons than themselves in respect of such bills or instruments, and all losses, damages, and costs by reason or in respect thereof; and should if any such bills had been indorsed or transferred to any other persons take the same up and retire the same before or when they should become due, and so as to prevent any claim or demand in respect thereof being made upon the debtor or his estate. It was held, this was an unreasonable clause, and

not binding upon a non-assenting creditor; therefore that the deed was void and of no effect as a deed under this section (*Baldwin* v. *Pell*, 33 L. J. Q. B. 200).

As to pleading such deed, see *Wells* v. *Hacon*, 33 L. J. Q. B. 204.

A deed of arrangement under this Act, not on its face purporting to release the debts, cannot be pleaded in bar to an action, and defendant can only avail himself of such deed by an application to the Court of Bankruptcy, or, after judgment, to a court of law to stay execution (*The Ipstones Park Iron Ore Co. Lim.* v. *Pattinson*, 33 L. J. Ex. 193).

Vol. 1, p. 368*bb*, BANKRUPTCY, to 24 & 25 Vict. c. 134, s. 192, n. (*a*), *add*—Accord. *Turquand* v. *Moss*, 33 L. J. C. P. 355.

M., the alleged bankrupt, had contracted with H. & B. for the purchase of a quantity of wine, subject to a stipulation that they were not to be obliged to deliver it before payment of a bill of exchange held by them. M. afterwards executed a deed of composition; and in the schedule filed in pursuance of the General Order of May, 1862, the debt set opposite the names of H. & B., who were assenting creditors, included the price of the wine which was not yet delivered. It was held, H. & B. were entitled to sign the deed as unsecured creditors to the amount of the unpaid purchase-money, and that by so doing they released their right to insist upon the retention of the wine until the bill should be paid. In estimating whether the deed has been assented to by the proper majority in number and value of the creditors, all the creditors and debts returned in the schedule must be taken into consideration, whether such debts are disputed or not (*Ex parte Middleton, in re Middleton*, 33 L. J. Bank. 36; see *King* v. *Randall*, 14 C. B. N. S. 721).

Vol. 1, p. 368*bb*, ———————, to ss. 192-194, *add*—A trust deed in the form given in schedule D. of this Act, and registered, &c., according to section 192, though not assented to by the prescribed majority of creditors, is (by virtue of the 194th and 197th sections) subject to the jurisdiction of the Court of Bankruptcy (*Symons* v. *George*, 33 L. J. Ex. 231; *Eyere* v. *Archer*, *ib.* C. P. 296, accord.).

Vol. 1, p. 368*cc*, ——————— to sect. 194 *add*—The power of extending the time may be exercised after the twenty-eight days have elapsed, and after a prior application for extension of time has been refused; and a deed registered within the time so enlarged is admissible in evidence (*Wishart* v. *Fowler*, 33 L. J. Q. B. 125).

Vol. 1, p. 368*cc*, ———————, to sect. 197, n. (*a*), *add*—See also, upon the effects of this section, *Toffing* v. *Keysell*, 33 L. J. C. P. 225; *Ex parte Alexander, in re Thin and Flett*, 32 *ib.* Bank. 55, 1 De G. J. & S. 311. The date of the trust deed is that of the supposed adjudication (*Ex parte Mendel, in re Moor*, 1 De G. J. & S. 330).

After the execution and registration of a statutory composition-deed, all creditors, whether assenting or not, are placed in the same position as creditors who have proved under a bankruptcy, and they are entitled to examine the debtor, though the object of the examination may be to invalidate the deed. But, *semble*, where a creditor holds the debtor in prison, or seeks to withdraw property, or to withhold property that is claimed, from the influence of the trust deed, he ought not to be allowed to examine the debtor without submitting himself to the jurisdiction of the Court (*Ex parte Brooks, in re Brooks*, 33 L. J. Bank. 42).

Vol. 1, p. 368*dd*, BANKRUPTCY, to 24 & 25 Vict. c. 134, s. 198, *add*—Where a debtor had no assets, and executed a statutory composition-deed for the mere purpose of defeating a creditor who had recovered judgment against him, the Court gave leave to the creditor to issue execution on his judgment notwithstanding the deed (*Ex parte Morrison, in re Clunn*, 33 L. J. Bank. 47).

Vol. 1, p. 368*dd*, ———————, to sect. 198, n. (*b*), *add*—A certificate founded on an invalid deed may be treated as void (*Ilderton* v. *Jewell*, 32 L. J. C. P. 256).

Vol. 1, p. 368*hh*, ———————, to sect. 221, *add*—A count of an indictment, laid under this section, charged that defendant was adjudged bankrupt in the Liverpool District Court of Bankruptcy, and that, "upon his examination in the said Court, with intent to defraud his creditors, he did not fully and truly discover to the best of his knowledge and belief all his property, to wit, all his personal property in money and goods; and did not, as to part of his property, fully and truly discover, to the best of his knowledge and belief, how and to whom and for what consideration and when he had disposed of, assigned, or transferred such part thereof, to wit, 1,000*l.*, 1,000 sacks of corn, 10 horses," &c. The defendant having been found guilty on this count, and having brought a writ of error, it was held, that, at all events after verdict, the account was good; that the offence being charged in the words of the statute, any want of particularity was cured, after verdict, by 7 Geo. 4, c. 64, s. 21; and that if the count charged two offences, duplicity was not ground of error (*Nash* v. *the Queen*, 33 L. J. M. C. 94).

Vol. 1, p. 377, BEER, to 4 & 5 Will. 4, c. 83, s. 7, line 2, "all houses," *add*—An alehouse keeper licensed under this Act to sell beer to be drunk in his house, and on the premises thereunto belonging, is liable to a penalty under this section, if he refuse to admit a police officer to an outhouse in the yard belonging to the house, though only used as a cellar. For a second offence of refusing to admit the police, a beerhouse keeper is liable only to the punishment of disqualification from selling beer for two years, and not to a fine as well as disqualification (*R.* v. *Tott*, 30 L. J. M. C. 177).

Vol. 1, p. 379, ——— to sect. 17, line 3, "or premises," *add*—Where it appeared before the justices that the beer sold was drunk by the customer whilst sitting on a bench placed

outside the door of the alehouse. The bench touched the wall of the house, but there was no proof whether it was fixed or not; though there was evidence that it had been there for some time, and for the purpose of being used by the customers of the beershop-keeper to sit and drink beer on. It was held, upon this evidence, the justices were justified in considering that the bench was part of the premises of the beershop, and that, therefore, the conviction was right (*Cross* v. *Watts*, 13 C. B. N. S. 239; 32 L. J. M. C. 73).

Vol. 1, p. 386, BEER, to 11 & 12 Vict. c. 49, sect. 1, n. (*a*), *add*—It is an offence to open a public-house for the sale of beer before half-past twelve in the afternoon on Sunday to any person not being a traveller. The statute is not repealed (*R.* v. *Senior*, 33 L. J. M. C. 125).

Vol. 1, p. 388, ——— to 23 Vict. c. 27, s. 6, "entertainment," *add*—See *Taylor* v. *Oram*, 1 H. & C. 370; 31 L. J. M. C. 252.

Vol. 1, p. 394, ——— to sect. 32, *add*—Upon an information under this section, a metropolitan police magistrate convicted B., and in a case stated it was found that prostitutes assembled on the premises of B. in furtherance of prostitution. The court upheld the conviction (*Belasco* v. *Hannant*, 3 B. & S. 13).

Vol. 1, p. 406, BILLS OF EXCHANGE, to 17 Geo. 3, c. 30, sects. 1—2, *add*—Repealed 26 & 27 Vict. c. 105.

Vol. 1, p. 417, BILLS OF LADING, to 18 & 19 Vict. c. 111, s. 1, *add*—The meaning of this section is that the assignee of the bill of lading who receives the cargo shall have all the rights and liabilities of the contracting party, but that if he assigns the bill of lading before the arrival of the cargo, he parts with all such liabilities (*Somerthwaite* v. *Wilkins*, 31 L. J. C. P. 214).

Vol. 1, p. 417, BILLS OF SALE, to 17 & 18 Vict. c. 36, s. 1, n. (*d*) *add*—In a bill of sale the grantor was described as "James Robert Veal, of No. 25, Bernard Street, Russell Square, in the county of Middlesex, gentleman." The description of his residence was correct, but he was in reality at the time of giving the bill of sale in the employ of C. & Co., of Watling Street, in the city of London, as a buyer of silk. It was held, the bill of sale was invalid by reason of this description being incorrect (*Adams* v. *Graham*, 33 L. J. Q. B. 71; *Banbury* v. *White*, 32 L. J. Ex. 259).

The affidavit must contain a description of the residence and occupation of the maker at the time of making the bill, and not at the time of filing the affidavit. Where, however, the affidavit used the words, "is a gentleman," which was a correct description at the time of making the bill of sale, but not at the time of filing the affidavit, the court held, that the word "is" related back to the time of making the bill (*The London and Westminster Loan and Discount Company* v. *Chace*, 12 C. B. N. S. 730; 31 L. J. C. P. 314; see *Gray* v. *Jones*, 14 C. B. N. S. 743).

Vol. 1, p. 418, BILLS OF SALE, to 17 & 18 Vict. c. 36, s. 1, n. (*g*), *add*—A bill of sale is not invalid in consequence of not having been filed within twenty-one days, if the goods referred to in it are seized within the twenty-one days (*Banbury* v. *White*, 32 L. J. Exch. 258).

Vol. 1, p. 419, ——— to sect. 7, *add*—It seems that to come within this proviso the bill of sale must be for the benefit of ALL creditors (*The General Furnishing Co.* v. *Venn*, 32 L. J. Ex. 220).

Assignment for the benefit of creditors held on the face of it to be a deed for the benefit of all creditors; and therefore exempt from registration by this section as an assignment for the benefit of the creditors (*Ib.*).

Vol. 1, p. 420, ——— to sect. 7, line 1, "any ship or vessel," *add*—See *Swainston* v. *Clay*, 32 L. J. Chanc. 503.

Vol. 1, p. 420, ——— (STAMP), to 24 & 25 Vict. c. 91, sect. 34, *add*—The registration of a bill of sale is not avoided because the stamp is insufficient at the time of registration. The defect may be cured by having the proper stamp affixed afterwards (*Bellamy* v. *Sault*, 32 L. J. Q. B. 366).

Vol. 1, p. 435, BUILDING ACTS, to 18 & 19 Vict. c. 122, s. 3, n. (c), *add*—Although a tenant in the occupation of premises under an agreement, not under seal, for a longer period than three years, is at law only a tenant from year to year, yet the agreement being enforceable in equity as an agreement for a lease, he is entitled, as an adjoining owner, to be served with a proper notice of the works intended to be executed by the building owner (*Cowen* v. *Phillips*, 9 Jur. N. S. 657; 11 W. R. 706; 8 L. T. N. S. 622—R.).

Vol. 1, p. 437, ——— to sect. 9, *add*—Before this Act a communication had been made between two old houses, Nos. 66 and 67, in the same occupation, by openings in the party-wall. After the Act came into operation, it was sought to make a communication between No. 66 and the house adjoining on the other side, by openings in the wall separating the two. These two houses taken together contained less than 216,000 cubic feet, but if Nos. 66 and 67 were to be considered as one building within sect. 28, then such building and the third house, taken together, contained more than 216,000 cubic feet:—Held, that Nos. 66 and 67 were to be considered as one building for the purpose, and that the making the communication was an alteration of an old building within this section (*Ashby* v. *Woodthorp*, 12 W. R. 209; 9 L. T. N. S. 409—Q. B.).

Held, secondly, that evidence was admissible to show whether the wall separating No. 66 and the house with which the communication was to be made, was a party-wall or a cross-wall (*Ib.*).

Held, thirdly, that in making such communication the rules in sect. 28 were obligatory (*Ib.*).

Vol. 1, p. 441, ——— to sect. 30, *add*—The rules contained in this Act, for the

construction of buildings, do not apply to public buildings such as churches; but such public buildings are to be constructed in such manner as may be approved of by the district surveyor, subject, in the event of disagreement, to the determination of the Metropolitan Board of Works (*R.* v. *Carruthers*, 33 L. J. M. C. 107).

Vol. 1, p. 450, BUILDING ACTS, to 18 & 19 Vict. c. 122, s. 97 (5) *add*—A tenant who has been compelled by the building owner to pay the proportion of the expenses of a party wall or structure, the adjoining owner may maintain an action against his landlord to recover the sum so paid, and is not bound (though entitled) to deduct it from rent due or accruing due (*Earle* v. *Maughan*, 14 C. B. N. S. 626; 11 W. R. 911; 8 L. T. N. S. 637).

Vol. 1, p. 461, CANALS, to 8 & 9 Vict. c. 28, s. 1, *add*—Defendants, a canal company, were incorporated by a local and personal Act, which provided that the rates charged by the company of proprietors for the carriage of coal and other merchandise should be equal throughout the whole length of the canal. Defendants having imposed a charge of a penny a ton per mile for all coal conveyed upon their canal, together with an additional rate of one halfpenny a ton for all coal conveyed a less distance than five miles, it was held, defendants might lawfully impose such charges on plaintiffs, and at the same time charge only three farthings a ton per mile for coals conveyed by them for others over a distance less than five miles, such persons having agreed to secure to the defendants a fixed minimum of tolls (*Strick* v. *the Swansea Canal Co.*, 33 L. J. C. P. 240).

Vol. 1, p. 468, CARRIERS, to 11 Geo. 4 & 1 Will. 4, c. 68, s. 1, n. (*d*), *add*—The question whether an article is of the description mentioned in this Act is a question of fact for a jury. Elastic silk webbing, which is a woven fabric composed of one-third silk and two-thirds of india-rubber and cotton, the silk being the most valuable of the materials, and which is called in the trade "silk web," as distinguished from cotton web, is within the definition in the Act of "silks wrought up with other materials" (*Brunt* v. *The Midland Rail. Co.*, 33 L. J. Exch. 187).

Vol. 1, p. 469, ——— to sect. 2, n. (*c*), *add*—affirmed in error (31 L. J. Exch. 299).

Vol. 1, p. 487, CHARITABLE USES, to 9 Geo. 2, c. 36, n. (*a*), last line, *add*—See *Graham* v. *Paternoster*, 31 L. J. Ch. 444; *Re Beaumont's Trust*, 32 Beav. 191.

Vol. 1, p. 488, ——————— to sect. 1, n. (*a*), *add*—A bequest to print, publish, and propagate the works of a particular author is within the 43 Eliz. c. 4; but so far as it is out of real estate it is void under this statute (*Thornton* v. *How*, 31 L. J. Ch. 767; *Graham* v. *Paternoster*, *Ib.* 444).

Vol. 1, p. 489, ——————— to sect. 1, n. (*c*), *add*—A small piece of land was granted by deed (duly executed and enrolled), for a charitable purpose, which could only be carried into effect by funds being provided for the purpose. The deed itself was allowed to remain in the possession of the grantor, whose managing bailiff manured and mowed the land (as he did other land of the same kind belonging to the grantor, and either rented by himself or managed by him as bailiff), and the hay obtained from it was carried to the grantor's stables and there consumed. The funds necessary for carrying into effect the purpose of the deed were provided by the will of the grantor:—Held, that these circumstances did not show the existence of a reservation or condition for the benefit of the grantor such as would avoid the deed (*Fisher* v. *Brierley*, 10 H. L. Cas. 159; 9 Jur., N. S. 313; 32 L. J. Ch. 281; 11 W. R. 404; 8 L. T. N. S. 37).

There was no provision in the deed for appropriating in any way the produce of the land or the rent it might fetch during the interval between the date of the deed and the time when its provisions might be carried into effect:—Held, that this did not constitute a resulting trust, as to avoid the deed (*Ib.*).

Vol. 1, p. 490, CHARITABLE USES, to 9 Geo. 2, c. 36, s. 2, n. (*a*), *add*—See *Burnaby* v. *Barsby*, 4 Hurl. & N. 690.

The interest which a testator has in the proceeds of the sale of land directed by a former testator to be sold for the purposes of distribution is not an interest in land within this sect. A bequest to a charity upon trust to be applied for certain specified purposes will not fail if the object of the gift can be effected, though the charity itself may have ceased to exist (*Marsh* v. *The Attorney-General*, 30 L. J. Ch. 233).

Vol. 1, p. 511, ——————— to 23 & 24 Vict. c. 134, s. 1, *add*—The trust of a fund was to pay the income to Roman Catholic priests for ever, upon condition of their saying masses for the repose of the soul of the founder:—Held void, and the fund was ordered to be paid to the representative of the founder (*In re Blundell*, 30 Beav. 360).

Vol. 1, p. 622, COLONIES, to 6 & 7 Vict. c. 94, sect. 1, *add*—Where, in pursuance of this sect., the Ottoman government had acquiesced in allowing to the British government a jurisdiction between British subjects and the subjects of other Christian states. By an order in council the consular court may determine suits between an English subject and a foreigner, who voluntarily submits to its jurisdiction, but there is no compulsory power over any but English subjects (*The Laconia—The Colchide*, 33 L. J. Adm. 11).

Vol. 1, p. 651, COMPANIES (JOINT-STOCK), 7 & 8 Vict. c. 110, sect. 4, n (*a*), *add*—On an indictment against F., as servant to A. and others, for embezzlement, proof was given that F. was servant to a trading company, calling itself the R. Coal Company, Limited; that this name was over the office door of the company; that there were eighty shareholders, of whom A. was one; that its affairs were managed by directors; that its shares were transferable by certificate, without the consent of the other shareholders; and that

a minute book of resolutions was kept. No certificate of incorporation was put in evidence, it was held, that there was no evidence for the jury that the company was incorporated, and that F. was properly alleged in the indictment to be the servant of A. and others (*Reg.* v. *Frankland*, 32 L. J. M. C. 69).

Vol. 1, p. 654, COMPANIES (JOINT-STOCK) to 7 & 8 Vict. c. 110, sect. 13, *add*—The non-return of a transfer to the registrar, though leaving the transferor liable for the debts of the company as between himself and the creditors of the company, does not leave him so liable as between himself and the other shareholders; and, consequently, the omission to make such return affords no ground for placing him on the list of contributories (*In re British Provident Life and Fire Assurance Society, re Orpen*, 9 Jur. N. S. 615; 32 L. J. Ch. 633; 11 W. R. 741; 8 L. T. N. S. 596—V. C. K.).

Vol. 1, p. 660, ——————— to sect. 29, n. (*c*), *add*—The promoters of an assurance company, provisionally registered, agreed with the provisional trustees to assign to them a lease of a house, and a *Treatise on Life Assurance*, in consideration of £750, and a per-centage on the policy-premiums received. By the deed of settlement, executed shortly afterwards, the promoters were made directors. The company was afterwards completely registered, and the directors passed a resolution adopting the transaction, but it was never sanctioned by any general meeting of shareholders. It was held, the promoters not being actually directors at the time of the transaction, this section did not apply, and that the sanction of a general meeting of shareholders was not requisite to give the contract validity. The promoters afterwards agreed with their co-directors to surrender the per-centage secured to them under the first contract, in consideration of receiving fixed annuities, and this new arrangement was never submitted to a general meeting of shareholders. It was held, it was invalid, for want of the sanction of a general meeting (*Ex parte Paul, in re the Waterloo Life Assurance Society*, 33 L. J. Ch. 545).

Vol. 1, p. 661, ——————— to sect. 29, n. (*d*), *add*—Directors of a company mortgaged monies belonging to the company, to secure advances made by one of their number, and a financial statement of assets and liabilities of the company, without specific mention of the mortgage, was made at the next (and last) general meeting, as appeared from a minute found in the company's books:—Held, that this was not sufficient evidence on which to presume subsequent sanction, and that the mortgage was therefore void (*British Provident Society* v. *Norton*, 9 Jur. N. S. 1308—V. C. K.).

Vol. 1, p. 664, ——————— to sect. 45, line 7, "two of the directors," *add*—It seems that a joint-stock company cannot by its deed of settlement declare that deeds given by them shall not be valid unless signed by three directors (*Agar* v. *Athenæum Life Assurance Society*, 3 C. B. N. S. 725).

Vol. 1, p. 666, COMPANIES (JOINT-STOCK), to 7 & 8 Vict. c. 110, s. 54, *add*—A transfer of shares is valid, if everything due and payable up to the execution of the transfer has been paid by the transferor; accordingly a transfer of shares on which a call was due, but not payable, at the date of the transfer, is valid, though it would not have been valid under 8 & 9 Vict. c. 16, s. 16 (*British Provident Life and Fire Insurance Society, In re, ex parte Orpen*, 9 Jur. N. S. 615; 32 L. J. Chanc. 633; 11 W. R. 741; 8 L. T. N. S. 596—V. C. K.). Afterwards, on appeal against this decision, a compromise was effected (9 Jur. N. S. 1097; 33 L. J. Chanc. 67; 9 L. T. N. S. 277—L. L.).

Vol. 1, p. 702, ——————— to sect. 105, *add*—*In re Fire Annihilator Company*, 9 Jur. N. S. 633; see 8 L. T. N. S. 412—R.

Vol. 1, p. 706, ——————— to 19 & 20 Vict. c. 47, Table B. *add*—*In re The Stearic Acid Company*, 32 L. J. Ch. 784.

Vol. 1, p. 706, ——————— to Table B., No. 2, *add*—A company, on the memorandum of association being duly signed, may make calls upon the shareholders, although all the capital has not been subscribed for, nor all the shares taken up (*Ornamental Pyrographic Woodwork Company* v. *Brown*, 9 Jur. N. S. 578; 32 L. J. Exch. 190; 11 W. R. 600; 8 L. T. N. S. 506).

Vol. 1, p. 720, ——————— to 20 & 21 Vict. c. 14, sect. 27, n. (*d*), *add*—An insurance company registered under 7 & 8 Vict. c. 110 (vol. i. p. 649), which professed to be established for the following purposes: "The granting of policies of insurance upon lives or survivorships, the granting of endowments to children and adults, the granting of annuities to commence either immediately or prospectively, and to continue either for a definite time or until death. The assurance to persons of both sexes a weekly sum or payment during sickness, and to married women a certain weekly sum during the period of accouchement, either with or without medical attendance and medicine, and the granting loans and making advances upon personal or other security, so as the interest made payable upon any such loan or advance shall not exceed 7½ per cent; and the doing of all acts incident thereto," was not disqualified, by reason of the enactments contained in these sections, from suing either at law or in equity, unless registered under the 19 & 20 Vict. c. 47 (vol. i. p. 681), and this Act (vol. i. p. 717) (*London and Provincial Provident Society* v. *Ashton*, 12 C. B. N. S. 709, 723, Exch. Cham.).

Vol. 1, p. 724, ——————— to 21 & 22 Vict. c. 60, sect. 17, *add*—In an action for calls by liquidators of a company, registered with limited liability, a contributory may plead by way of set-off, a debt due from him to the company (*Garnett and Mossley Gold Mining Company of America* v. *Sutton*, 3 B. & S. 321; 9 Jur. N. S. 542; 32 L. J. Q. B. 47).

Vol. 1, p. 725*m*, COMPANIES (JOINT-STOCK), to 25 & 26 Vict. c. 89, s. 74, n. (*c*), *add*—Upon a verbal application for shares in a company, the secretary required a deposit, which was paid by the applicant upon a promise of its return if the shares were not given to him; shares were allotted to him, and entered in his name in a book described as a "Register of the Allotment of Shares." Notice of the allotment was never sent to him, and his name was not entered in the register of members. Under an order to wind up the company, it was held, that the allottee must be put on the list as a contributory (*Ex parte Bloxam, in re New Theatre*, 33 L. J. Ch. 510).

Vol. 1, p. 725*q*, ——————— to sect. 99 *add*—See *In re the Southampton Improvement Steamboat Co.*, 33 L. J. Bank. 49.

Vol. 1, p. 739, COMPANIES (CLAUSES), to 8 & 9 Vict. c. 16, sect. 36, n. (*c*), *add*—The court will not grant a rule for a *scire facias* against a party as a shareholder in a company, upon a judgment obtained against the company, unless the affidavits disclose reasonable grounds for believing that the party sought to be charged is a shareholder. The fact of his having applied for and received an allotment of shares, and paid a deposit thereon, is not enough (*Edwards* v. *Kilkenny and Great Southern and Western Railway Company*, 14 C. B. N. S. 526).

Vol. 1, p. 758, COMPANIES (WINDING-UP ACTS), to 7 & 8 Vict. c. 111, n. (*a*), *add*—A company of unlimited liability, registered under 7 & 8 Vict. c. 110, after carrying on business, was registered as a limited company, under 19 & 20 Vict. c. 47, and was afterwards ordered to be wound-up: Held, that the same must be done under the jurisdiction in bankruptcy, both as to matters before as well as after registration, under 19 & 20 Vict. c. 47 (*Stevenson, Ex parte, in re Liverpool Tradesman's Loan Company*, 32 L. J. Chanc. 96—L. J.).

A company was, in 1852, registered as one of unlimited liability, under 7 & 8 Vict. c. 110. After 19 & 20 Vict. c. 47, it was re-registered as one of limited liability. In 1858, Kindersley, V. C., made an order for winding-up the company, and appointed an official manager, who proceeded in the winding-up. On appeal, the court discharged the order for winding-up, and subsequently a commissioner in bankruptcy made an order for winding-up, and appointed an official liquidator. The official manager paid over all the assets in his hands to such official liquidator, and presented a petition to the commissioner for payment of his costs and expenses, as official manager, out of the estate of the company, but the petition was dismissed on the ground that there was no jurisdiction to make the order (*Harding, Ex parte, in re Plumstead, Woolwich, and Charlton Water Company*, 32 L. J. Chanc. 145; 7 L. T. N. S. 550—L. J.).

Vol. 1, p. 773, ——————— to 11 & 12 Vict. c. 45, sect. 1, n. (*b*), *add*—Industrial and provident societies will not be wound-up in Chancery; they must be registered under 25 & 26 Vict. c. 87, and then wound-up in the county court (*In re the Midland Counties Benefit Building Society*, 33 L. J. Ch. 520).

Vol. 1, p. 811, COMPANIES (WINDING-UP ACTS), to 12 & 13 Vict. c. 108, *add*—This statute is repealed by 25 & 26 Vict. c. 80. This section, excepting companies formed for working mines on the cost-book principle from the operation of the Winding-up Acts, except on the petition of one-tenth in value of the shareholders, does not apply to a mine in Devonshire, notwithstanding 18 & 19 Vict. c. 32, extending the jurisdiction of the Stannaries Court to the latter county (*South Lady Bertha Copper Mining Company, In re*, 32 L. J. Chanc. 92).

Vol. 1, p. 816, ——————— to sect. 33, *add*—This section applies to the time at which the order was pronounced by the judge, and not to the time at which the order was drawn up (*In re the Risca Coal and Iron Company*, 31 L. J. Ch. 429).

Vol. 1, p. 819, ——————— to 20 & 21 Vict. c. 78, sect. 7, *add*—See *Thomas* v. *Wells*, 33 L. J. C. P. 111.

Vol. 1, p. 880, COPYHOLD, to sect. 6 of the 21 & 22 Vict. c. 94, *add*—Where copyhold lands are taken by a railway company, such fines for admittance as would, upon a compulsory enfranchisement under this section be payable by the tenants requiring enfranchisement, are not claimable by the lord against the company (*Wilson, In re*, 32 L. J. Chanc. 191).

Vol. 1, p. 893, COPYRIGHT (BOOKS, &c.), to 5 & 6 Vict. c. 45, s. 13, n. (*a*), *add*—An assignment of copyright made after the 54 Geo. 3, c. 156, and before this Act, need not be attested (*Cumberland* v. *Copeland*, 1 H. & C. 194; 9 Jur. N. S. 253).

Vol. 1, p. 896, ——————— to sect. 18, *add*—By the effect of this section the proprietor of a periodical is precluded from re-publishing without the consent of the author articles written by the latter for and published in such periodical in any other form than as reprints of the entire numbers of the periodical in which those articles appeared. And a republication in supplemental numbers of a selection of tales formerly published in a periodical, is a separate publication within the section (*Smith* v. *Johnson*, 33 L. J. Ch. 137).

Vol. 1, 898, ——————— to sect. 22, n. (*a*), *add*—Where by the same deed the administrator of the author assigned to plaintiff, after this Act, the copyright and acting-right in a dramatic piece first published after the 3 & 4 Will. 4, c. 15. The plaintiff can maintain an action for penalties under the latter Act against defendant for performing the piece without his licence, within twenty-eight years of its publication, although the deed has not been registered; as the plaintiff's right is under the 3 & 4 Will. 4, c. 15, and there is nothing in this Act which renders registration necessary in the case of an assignment of such a right of representation (*Lacy* v. *Rhys*, 33 L. J. Q. B. 157). *Quære*—Whether registration would have been necessary if the piece had

been published more than twenty-eight years?

Vol. 1, p. 903, COPYRIGHT (ENGRAVINGS, &c.) to 17 Geo. 3, c. 57, n. (*b*), *add*—If a print, the copyright of which is conferred on the engraver or publisher by the Engraving Copyright Acts, 8 Geo. 2, c. 13, and 7 Geo. 3, c. 38, be copied by the process of photography, this is a copying for which an action may be maintained under this statute (*Gambart* v. *Ball*, 32 L. J. C. P. 166; 14 C. B. N. S. 306). *Quære*—whether single copies by hand, or a transfer of the design to an article of manufacture, would be within this Act? (*Ib.*)

Vol. 1, p. 905, ———— (DRAMA), to 3 & 4 Will. 4, c. 15, s. 1, n. (*a*), *add*—*Lyon* v. *Knowles*, 32 L. J. Q. B. 71.

Vol. 1, p. 905, ———————— to n. (*d*), *add*—See *Lacy* v. *Rhys*, 33 L. J. Q. B. 157, *ante*, note to p. 898.

Vol. 1, p. 909, ———— (DESIGNS, &c.), to 5 & 6 Vict. c. 100, sect. 4, *add*—In a bill to restrain the infringement of a design, registered under this Act, compliance with the Act is sufficiently pleaded by alleging that the design and proprietorship have been duly registered (See *Sarazin* v. *Hamel*, 32 Beav. 145; 32 L. J. Ch. 378).

A proprietor of a design duly registered under this Act, and 24 & 25 Vict. c. 73, whether he is a British subject or a foreigner, forfeits the benefit of the Acts unless the proper registration marks are attached to all articles and substances to which the design is applied, whether the same are sold abroad or in the British dominions (*Sarazin* v. *Hamel*, 33 Beav. 151; 32 L. J. Chanc. 380).

Vol. 1, p. 915. ———————— to 6 & 7 Vict. c. 65, s. 2, *add*—This statute applies only to new designs having reference to some purpose of utility; and in order to obtain the benefit of the Act, the purpose must be specified in the description supplied for registration. And where a coachmaker caused to be registered, under this Act, a design for a dog-cart, specifying as the purpose of utility that "higher front wheels could be used or closer coupling effected," and the design consisted of parts 1, 2, 3, 4, of which 1, 2, and 3 had nothing to do with front wheels or closer coupling, and No. 4 was not new; it was held, that no exclusive privilege was gained by registration (*Windover* v. *Smith*, 32 Beav. 200, 32 L. J. Ch. 561).

Vol. 1, 921, ———————— to 24 & 25 Vict. c. 73, s. 1, *add*—See *Sarazin* v. *Hamel*, 33 Beav. 151; 32 L. J. Ch. 380.

Vol. 1, p. 924, ———— (INTERNATIONAL), to 7 Vict. c. 12, s. 19, *add*—By this Act, a British subject, who first publishes abroad, is, equally with a foreigner, deprived of any copyright save such as he may acquire under this Act; and if there be no treaty in force giving effect to the Act in his particular case, he has no copyright in this country; and in reference to the right of dramatic representation, first representation abroad is a first publication abroad within the meaning of this section (*Boucicault* v. *Delafield*, 33 L. J. Ch. 38).

Vol. 1, p. 963, CORPORATIONS, to sect. 9 of 5 & 6 Will. 4, c. 76, *add*—An attorney, in conjunction with his partner, occupied a house within the limits of a borough for which he was elected town councillor, such occupation being for the purposes of business only, he residing out of the borough. This was held a sufficient qualification for the office (*Oreeke, In re*, 9 Jur. N. S. 646; 32 L. J. Q. B. 89; 11 W.R. 234; 7 L. T. N. S. 596).

Vol. 1, p. 973, ———————— to ss. 32-35, *add*—The mayor of a borough not divided into wards, who, with the two assessors, presides at, and declares the result of, an election of town councillors for the borough, is precluded from being a candidate for election as town councillor, inasmuch as acting as returning officer he cannot return himself (*Reg.* v. *Owens*, 2 El. & El. 86).

Vol. 1, p. 984, ———————— to sect. 57 n. (*a*), *add*—A mayor of a borough, who is a justice of the peace by virtue of his office, is not a justice of the quorum. Per Cockburn, C. J.; *Semble*, by Blackburn, J., that he is (*Reg.* v. *Llangian*, 32 L. J. M. C. 225).

Vol. 1, p. 1010, ———————— to ss. 103 & 105, *add*—The power of removal of the clerk of the peace of a borough for misbehaviour is vested in the recorder, and not in the town council (*Reg.* v. *Hayward*, 2 B. & S. 585; 9 Jur. N. S. 45).

Vol. 1, p. 1065, ———————— to 7 Will. 4 & 1 Vict. c. 78, s. 49, n. (*a*), *add*—A charter of incorporation granted under this Act, to a borough previously possessing a body corporate, but not named in the schedules confers upon it the same powers and privileges as if it had been so named (*Att.-Gen.* v. *Avon*, 9 Jur. N. S. 1117; on appeal, 9 L. Times, N. S. 187).

Vol. 1, p. 1096, ———————— to 22 Vict. c 35, sect. 9, *add*—The offence of "personation," under this section, is complete when a person, not the voter, hands in a nomination paper to the polling officer; and it is immaterial that he does not persist, but answers "No," when questioned whether he is the voter. A conviction under this section, that the defendant "induced J. F., to personate" a voter, is good without setting out the means of inducement (*Reg.* v. *Hague*, 33 L. J. M. C. 81).

Vol. 1, p. 1114, COSTS, to 3 & 4 Vict. c. 24, sect. 2, n. (*b*), *add*—*Frean* v. *Serjeant*, 32 L. J. Exch. 281.

Vol. 1, p. 1171, COURTS (ADMIRALTY), to 3 & 4 Vict. c. 65, sect. 6, *add*—No jurisdiction is conferred on the Court of Admiralty by this section to entertain a claim for necessaries supplied to a ship in a foreign port (*The India*, 32 L. J. P. M. & A. 185).

The words "claim in the nature of towage," do not include a claim by a towed vessel against her tug for misconduct. The damage referred to by this section and by 24 Vict. c. 10, s. 7, p. 1177, is that which results from a collision (*The Robert Pow*, 9 L. T. N. S. 237; 32 L. J. Adm. 164).

This section is not superseded by sect. 5 of the 24 Vict. c. 10, p. 1176, which applies to British and Colonial ships exclusively (*The Ella A. Clark*, 9 Jur. N. S. 312; 32

L. J. Adm. 211; 11 W. R. 534; 8 L. T. N. S. 119).

Vol. 1, p. 1176, COURTS (ADMIRALTY), to 24 Vict. c. 10, ss. 4 & 5, *add*—These sections apply only to British ships (*The India*, 32 L. J. P. M. & A. 185).

Vol. 1, p. 1176, ——————— to sect. 5, *add*—The word "owner" means "owner at the time of supply," not "owner at the time of the institution of the cause" (*The Ella A. Clark*, 32 L. J. P. M. & A. 211).

Vol. 1, p. 1177, ——————— to sect. 6, *add*—This section and section 35 taken together, give a remedy in rem to the owner of imported goods for breach of contract by the foreign shipowner, are remedial, and, subject to equitable considerations applying to proceedings in rem, confer jurisdiction over causes of action which accrued in personam before the date of the Act coming into operation. But the remedy conferred is not against any other ship than that in which the goods are carried into England or Wales (*The Ironsides*, 1 Lushington, 458).

The refusal by the master of a ship to deliver goods under a claim to stop in transitu is a breach of duty, which gives the Court of Admiralty jurisdiction (*The Tigress*, 9 Jur. N. S. 361; 32 L. J. Adm. 97; 11 W. R. 538; 8 L. T. N. S. 117).

A right of action is given to a consignee in all cases in which there is a non-delivery of goods, subject only to the condition of the arrival of the vessel upon which the goods were to be shipped within an English port (*The Danzig*, 32 L. J. Adm. 164; 9 L. T. N. S. 236).

A foreign vessel was chartered to carry coals on the charterers' account to a foreign port, and bring home to England a return cargo of timber; the charterers sued the ship, claiming damages for non-delivery of coals on the outward voyage, and for improper delivery of the timber on the return voyage:—Held, that they were not entitled to sue in respect of the non-delivery of the coals abroad, as the statute did not give the court such jurisdiction (*The Kasan*, 9 Jur. N. S. 234; 32 L. J. Adm. 97).

Vol. 1, p. 1177, ——————— to sect. 7, *add*—The Court of Admiralty has jurisdiction over a cause of damage done by a sea-going vessel to a barge within the body of a county (*The Malvina*, 1 Lushington, 493; 9 Jur. N. S. 527; 11 W. R. 576; 8 L. T. N. S. 403—P. C. See *The Robert Pow*, 32 L. J. P. M. & A. 164).

Vol. 1, p. 1177, ——————— to sect. 10, *add*—The master's liability for wages due to the crew, and for necessaries furnished at his order to the ship, is not included in the term "disbursements" (*The Chieftain*, 9 Jur. N. S. 388; 32 L. J. Adm. 106; 11 W. R. 537; 8 L. T. N. S. 120).

Vol. 1, p. 1179, ——————— to sect. 34, *add*—These provisions apply to a case where a plaintiff suing *in rem* is a British subject, resident in the jurisdiction (*The Cameo*, 1 Lushington, 408).

Vol. 1, p. 1192, COURTS (COUNTY), to 9 & 10 Vict. c. 95, s. 58, n. (*b*), *add*—See *Blackmoore* v. *Higgs*, 33 L. J. C. P. 157.

Vol. 1, p. 1193, COURTS (COUNTY), to 9 & 10 Vict. c. 95, s 58, n. (*a*), *add*—Where a replevin is commenced in a county court, and is not removed by the defendant by *certiorari*, the judge may proceed to try it without the consent of the parties, although a question of title may prove to be involved in it (*Reg.* v. *Gurdon*, 12 W. R. 201; S. C. nom. *Fordham* v. *Akers*, 9 L. T. N. S. 478—Q. B.).

Vol. 1, p. 1194, ——————— to sect. 60, n. (*e*), *add*—These words mean the place where the defendants carry on their general business, and not where they carry on part of that general business, however large (*In re Brown* v. *London and North-Western Rail. Co.*, 32 L. J. Q. B. 318).

Vol. 1, p. 1194, ——————— to s. 60, n. (*f*), *add*—Where an action having been tried and judgment given without such leave, the Court of Queen's Bench refused to rule the judge of the county court to issue execution (*Brown* v. *the London and North-Western Rail. Co.*, 32 L. J. Q. B. 318).

Vol. 1, p. 1195, ——————— to sect. 63, n. (*d*), *add*—The fact of one item in a tradesman's bill being separated from the rest by an interval of several years, does not prevent its operating (if accruing within the jurisdiction of the county court within which the defendant dwells) to take the case out of the concurrent jurisdiction clause (*Copeman* v. *Hart*, 14 C. B. N. S. 731).

Vol. 1, p. 1213, ——————— to sect. 128, n. (*b*), line 19, after "*Hickie* v. *Salamo*," *add*—Accord. *Bennett* v. *Benham*, 33 L. J. C. P. 153.

Vol. 1, p. 1214, ——————— to sect. 128, after the word "dwells" *add*—A registered joint-stock company for the manufacture and sale of goods, dwells and carries on business at the place of manufacture and sale, and not at the registered office of the company (*The Keynsham Blue Lias Lime Co. Lim.* v. *Baker*, 33 L. J. Exch. 41).

Vol. 1, p. 1214, ——————— to sect. 128, n. (*b*), first column, line 19, after "*Wood* v. *Perry*," *add*—Accord. *Copeman* v. *Hart*, 33 L. J. C. P. 107.

Vol. 1, p. 1224, ——————— to 13 & 14 Vict. c. 61, s. 11, n. (*a*), line 4, cancel the word "not," and *add*—*Boulding* v. *Tyler*, 32 L. J. Q. B. 85.

Where money is paid into court and the plaintiff accepts it in satisfaction of his claim, he "recovers" the amount within the meaning of this sect. (*Chambers* v. *Wiles* overruled; *Parr* v. *Lillicrap*, 32 L. J. Ex. 150; 1 H. & Colt. 615).

Vol. 1, p. 1224, ——————— to sect. 11, n. (*a*), *add*—Where a plaintiff (in a case within the London Small Debts Act), upon a compulsory order of reference, by which the costs of the cause are to abide the event of the award, recovers less than 10*l.*, he is not entitled to costs without an order (*Robertson* v. *Sterne*, 13 C. B. N. S. 248).

Where a plaintiff in an action in a superior court proves a debt exceeding 20*l.*, and the defendant proves a set-off, which reduces the verdict to a sum not exceeding 20*l.*, the plaintiff recovers the balance only, within this act and therefore is not en-

titled to costs (*Beard* v. *Perry*, 2 B. & S. 493).

Vol. 1, p. 1224, COURTS (COUNTY), to 13 & 14 Vict. c. 61, s. 11, n. (*b*), *add*—In an action of debt, a verdict was entered for plaintiff, damages 13*l.*, subject to the award of an arbitrator, who, by the order of reference, which was in terms drawn up by consent, was to have the powers of a judge at Nisi Prius as to certifying, and to enter the verdict as he thought fit; the costs of the cause to abide the event of the award. The arbitrator awarded that the verdict should be vacated, and that defendant should pay to plaintiff 2*l.* 16*s.* 1½*d.*, but did not certify. It was held that plaintiff had recovered less than 20*l.* within the meaning of this section, and was, therefore, deprived of his costs by that section (*Smith* v. *Edge*, 33 L. J. Ex. 9).

Vol. 1, p. 1230, ——————— to 15 & 16 Vict. c. 54, s. 4, n. (*a*), *add*—In an action brought to recover a sum beyond the jurisdiction of the county court, the defendant paid into court a sum under 20*l.*, which the plaintiff accepted in satisfaction and discharge of his claim. The parties dwelt more than twenty miles apart. It was held, that plaintiff was entitled to his costs under this section (*Waylett* v. *Windham*, 33 L. J. Ex. 172; *Boulding* v. *Tyler*, 32 L. J. Q. B. 85).

Vol. 1, p. 1235, ——————— to 19 & 20 Vict. c. 108, s. 15, *add*—(*In re Brown* v. *London and North Western Railway Co.*, 32 L. J. Q. B. 318).

Vol. 1, p. 1237, ——————— to sect. 32 n. (*c*), *add*—Orders for regulating the practice and procedure of county courts under the Bankruptcy Act, 1861, sanctioned by the lord chancellor, 6th November, 1863, and which came into force on the 1st day of January, 1864 (*see* Ord. Bank., 9 Jur. N. S. Part 2, pp. 430—439; 33 L. J. N. S. App. i.; *Pollock* v. *Nichols*, C. C. 387).

Vol. 1, p. 1242, ——————— to sect. 67, *add*—Where an action of replevin is commenced in a county court, and defendant does not take steps to remove it under this section, the court has power to try the action notwithstanding title to an incorporeal hereditament comes in question, sect. 58 of 9 & 10 Vict. c. 95 not applying to an action of replevin (*In re Fordham* v. *Akers*, 33 L. J. Q. B. 67).

Vol. 1, 1258, COURTS (ECCLESIASTICAL), to 53 Geo. 3, c. 127, s. 7. n. (*b*), *add*—At the hearing of a summons to enforce payment of a church-rate, although the justices are the tribunal to decide in the first instance whether the defendant's objection is *bonâ fide* or not, they cannot, by deciding contrary to facts, that it is not *bonâ fide*, give themselves jurisdiction; and the court will review their decision (*R.* v. *Huntsworth*, 33 L. J. M. C. 131; see *Pease* v. *Chaytor*, 32 L. J. M. C. 121: *Reg.* v. *Blackburn*, 32 L. J. Ex. 41).

Vol. 1, p. 1274, COURTS (PROBATE AND DIVORCE), to 20 & 21 Vict. c. 85, s. 3, *add*—The court has jurisdiction to vary a decree of the Ecclesiastical Court allotting permanent alimony (*Harmar* v. *Harmar*, 32 L. J. P. M. & A. 118; 18 W. R. 750; L. T. N. S. 291).

Vol. 1, p. 1276, ——————— to sect. 16, n. (*d*), *add*—Wife's evidence of unnatural connexion had, or attempted to be had, with her by the husband,—Held not sufficient to establish such a charge (*N.* v. *N.*, 9 Jur. N. S. 1203; 9 L. T. N. S. 265—Div.)

Where the evidence showed that a wife had reasonable ground for apprehending personal violence if she returned to live with her husband,—Held (affirming the judgment of the judge ordinary, 3 S. & T. 126; 9 Jur., N. S. 309; 32 L. J. P. M. & A. 81; 11 W. R. 589; 8 L. T. N. S. 26), that she was warranted in presenting her suit, though one object might have been, that she might have access to her children (*Cooke* v. *Cooke*, 9 Jur. N. S. 754; 32 L. J. P. M. & A. 154; 11 W. R. 957; 8 L. T. N. S. 644).

A wife in consequence of her husband's cruelty left his house. She afterwards came back, but refused to return to his bed except upon condition that he would restore her to her position in the household as his wife, with which he refused to comply. In consequence of his ill-treatment, she again left and never returned. After the final separation, in consideration of the wife's agreement to apply part of her settled income for the benefit of the children of the marriage, the husband promised to allow them to visit her from time to time. This promise he failed to perform, and in consequence of the breach of his agreement, and not from fear of personal violence, the wife six years after the separation instituted a suit for judicial separation:—Held, that the wife was entitled to a decree of judicial separation (*Ib.*).

Condonation, to be perfect, must be voluntary and unconditional. A forced return to cohabitation is no proof of condonation (*Ib.*).

Much less is sufficient to destroy condonation than to found an original suit (*Ib.*).

Mere lapse of time is not of itself a bar to a suit for judicial separation on the ground of cruelty, but taken in connexion with other circumstances, such as pecuniary motives for instituting the suit, may be a sufficient reason for dismissing a petition (*Ib.*).

Vol. 1, p. 1276, COURTS (DIVORCE), to 20 & 21 Vict. c. 85, s. 16, n. (*e*), *add*—A husband and wife executed a deed of separation, but none of its provisions were ever carried into effect, and the cohabitation was continued after its execution. The husband having subsequently deserted the wife, it was held, she was entitled to relief on the ground of that desertion, notwithstanding the deed (*Cock* v. *Cock*, 33 L. J. P. M. & A. 157).

A wife reproached her husband with his connexion with another woman, upon which he said that he wished to go from her, and would rather be with the other woman. She said, "go if you like, and when you are sick of her, come back to me;" but she made him swear that he would return to her. He never did return:—Held, guilty of desertion (*Haviland* v. *Haviland*, 32 L. J. P. M. & A. 65; 11 W. R. 373).

A husband charged with desertion traversed the charge. On his examination he admitted that he had insisted that his wife should leave his house, but said that he did

so for a good cause, which he stated :—Held, guilty of desertion (*Baker* v. *Baker*, 32 L. J. P. M. & A. 145 ; 11 W. R. 502).

Vol. 1, p. 1278, COURTS (DIVORCE), to 20 & 21 Vict. c. 85, s. 21, *add*—Under this statute no Police Magistrate or Justices, other than those by whom the order was made, can discharge an order of protection given to a married woman. *Quære* — Whether the Court for Matrimonial Causes has not power in all cases to discharge such an order (*Ex parte Sharpe*, 33 L. J. M. C. 152).

Vol. 1, p. 1279, ———————— to sect. 27, *add*—(*In re Foster* v. *Foster*, 32 L. J. Q. B. 321).

Vol. 1, p. 1281, ———————— to sect. 30, n. (*a*), *add*—A husband agreed to withdraw a suit for dissolution of marriage in consideration of a sum of money to be paid him by the co-respondent, in lieu of costs and damages, but made no stipulation as to his wife's future conduct. The co-respondent did not fulfil his part of the agreement, and the husband filed a second petition. At the hearing, the adultery was proved :—Held, that the husband's conduct amounted to connivance or consent to his wife's intercourse with the co-respondent, and the petition was dismissed (*Gipps* v. *Gipps and Hume*, 3 S. & T. 116 ; 9 Jur. N. S. 233 ; 32 L. J. P. M. & A. 78 ; 11 W. R. 402 ; 7 L. T. N. S. 861).

Vol. 1, p. 1282, ———————— to sect. 31, *add*—See *Lautour* v. *Her Majesty's Proctor*, 33 L. J. P. M. & A. 89.

Vol. 1, p. 1282, ———————— to sect. 31, n. (*f*), *add*—A ward in chancery who had no means of his own, at sixteen, married clandestinely a prostitute of about the age of thirty-five. The Master of the Rolls a month after the marriage, ordered that the husband should be delivered into the custody of his guardian, with liberty for the guardian to send him abroad, and that the wife should be restrained from holding any communication with him. In pursuance of this order, he was sent abroad against his will. The wife being left without means of support, she applied to her husband's guardian for money, but it was refused. For some months after the marriage she conducted herself properly, and then relapsed into her former course of life. In a suit by the husband for dissolution of marriage,—Held, that as the separation was on the husband's part, involuntarily, and he had no means wherewith to contribute to his wife's support, he had not wilfully separated himself from her, nor been guilty of such neglect or misconduct as had conduced to the adultery so as to give the court a discretionary power to refuse to dissolve the marriage (*Beavan* v. *Beavan*, 2 S. & T. 652 ; 8 Jur. N. S. 1110 ; 32 L. J. P. M. & A. 36 ; 11 W. R. 155).

Vol. 1, p. 1283, ———————— to sect. 31, n. (*a*), *add*—Where in a suit by a husband the adultery of the wife is proved, the court will not refuse to decree a divorce, unless some act of misconduct specified in that section is established ; it will not act on mere suspicions (*Davies* v. *Davies and Hughes*, 9 Jur. N. S. 828 ; 32 L. J. P. M. & A. 111 ; 11 W. R. 402 ; 8 L. T. N. S. 703).

Vol. 1, p. 1283, COURTS (DIVORCE), to 20 & 21 Vict. c. 85, s. 32, n. (*b*), *add*— The court has no jurisdiction to order that a husband who obtains a decree of judicial separation by reason of his wife's cruelty, should make any provision for her maintenance (*Dart* v. *Dart*, 9 Jur. N. S. 474 ; 32 L. J. P. M. & A. 125 ; 11 W. R. 551 ; 9 L. T. N. S. 23).

Vol. 1, p. 1286, ———————— to sect. 35, n. (*a*), *add*—The court refused to order that a wife who had obtained a decree of judicial separation, should have the custody of an idiot child who was properly taken care of by the husband, where the custody was asked for, in order that the child might be placed in an asylum for its own benefit, and not in order that the wife might have the solace of its society (*Cooke* v. *Cooke*, 32 L. J. P. M. & A. 180 ; 11 W. R. 957).

Semble, that an application for the custody of a child upon such a ground should be made to the Court of Chancery (*Ib.*).

Vol. 1, p. 1287, ———————— to sect. 36, n. (*a*), *add*—Although in a suit for judicial separation the court may in its discretion refuse to direct that questions of fact be tried by a jury, it will generally, at the request of either of the parties, allow a jury. The circumstance that cruelty is in issue is no ground for refusing a jury (*Taylor* v. *Taylor*, 32 L. J. P. M. & A. 126 ; 9 L. T. N. S. 24).

Vol. 1, p. 1288, ———————— to sect. 40, *add*—Where an issue is ordered to be tried at the assizes, it should be framed as an issue sent by the Court of Chancery (*Hogg* v. *Hogg*, 32 L. J. P. M. & A. 209).

Vol. 1, p. 1289, ———————— to sect. 43, *add*—The court has only power to order that the petitioner attend on the hearing of the petition. It cannot order his attendance at the hearing of the case of the Queen's proctor, if the intervention was after a decree *nisi* had been pronounced (*Pollack* v. *Pollack*, 32 L. J. P. M. & A. 28).

Semble, however, that though the court has no power in such a case to order the attendance of the petitioner, it may stay proceedings in the suit until he appears (*Ib.*).

Where, at the hearing of a suit for dissolution of marriage, the petitioner is present, if the court allows the counsel of the respondent to call him, he must be treated as the witness of the respondent ; he cannot be cross-examined by the respondent ; and before he is sworn, the respondent's case must be opened (*Giles* v. *Giles and Quartley*, 32 L. J. P. M. & A. 209 ; 12 W. R. 20).

Vol. 1, p. 1289, ———————— to sect. 43, n. (*a*), *add*—In a suit by a husband for dissolution of marriage, the only evidence of the wife's adultery was a confession by her and proof of some slight familiarities between her and the co-respondent. The court deemed this evidence insufficient,

and examined the petitioner, who was the sole witness of an act of impropriety conclusively proving adultery, and upon his evidence pronounced a decree *nisi*, but refused to condemn the co-respondent, who had not been personally served, in costs (*Tatham* v. *Tatham and Nutt*, 33 L. J. P. M. & A. 140).

Vol. 1, p. 1289, COURTS (DIVORCE), to 20 & 21 Vict. c. 85, s. 45 *add*—Under the marriage settlement of her father, a wife, upon the ground of whose adultery a divorce had been granted, was entitled to a sum of money after the death of her father in the event of his not otherwise disposing of it; but it was held that this was not property to which the wife was entitled in reversion, and that the Court had no power under this section to order a settlement of it (*Stone* v. *Stone*, 33 L. J. P. M. & A. 95).

Vol. 1, p. 1290, ——————— to sect. 51, *add*—The court which hears the suit has absolute authority over costs, and no appeal as to costs only lies (*Glennie* v. *Glennie and Bowles*, 3 S. & T. 109; 7 L. T. N. S. 696).

Vol. 1, p. 1291, ——————— to sect. 57, *add*—Where, after a decree of dissolution of marriage, one of the parties to such marriage was married in fact within the time limited by this section, and during the lifetime of the other party to the marriage, the latter de facto marriage is null and void in law (*Chichester* v. *Mure* (f. c. *Chichester*), 9 Jur. N. S. 779; 11 W. R. 990; 8 L. T. N. S. 676—Div.).

Vol. 1, p. 1297, ——————— to 22 & 23 Vict. c. 61, s. 5, *add*—A husband, with monies received by him in right of his wife, purchased railway stock, which was transferred into their joint names. By a deed of separation, this stock was vested in trustees upon trust for the husband for life, then for the wife for life, and afterwards for the children of the marriage, subject to the proviso that in the event of the marriage being dissolved the trusts should become null and void. The marriage was dissolved on the ground of the wife's adultery, and the trustees thereupon sold the railway stock and paid the proceeds to the wife; and it was held, that assuming the deed of separation to be a post-nuptial settlement within the meaning of this section, the trusts of the deed having determined, the Court had no power to deal with the property comprised in it (*Stone* v. *Stone*, 33 L. J. P. M. & A. 95).

Vol. 1, p. 1298, ——————— to sect. 6, *add*—In a suit by a wife for *judicial separation* on the ground of adultery coupled with cruelty, the evidence of the parties is inadmissible; but if the husband has appeared and has filed an answer, the court will at the hearing, upon the wife abandoning the charge of adultery, allow it to be struck out of the petition, in order that such evidence may be admitted (*Hudson* v. *Hudson*, 33 L. J. P. M. & A. 5).

Vol. 1, p. 1298, ——————— to 23 & 24 Vict. c. 144, s. 2, *add*—The court has no power to extend the time (fourteen days) limited by this section, for appealing against a decision of the Judge Ordinary granting or refusing a rule for a new trial (*Boulting* v. *Boulting*, 33 L. J. P. M. & A. 81).

Vol. 1, p. 1299, COURTS (DIVORCE), to 23 & 24 Vict. c. 144, s. 7, *add*—See *Forster* v. *Forster*, 32 L. J. P. M. & A. 206.

Vol. 1, p. 1300, ——————— to sect. 7, n. (*a*), *add*—The Queen's Proctor can only intervene in his official capacity in a case of collusion (*Lautour* v. *Her Majesty's Proctor*, 33 L. J. P. M. & A. 89).

Vol. 1, p. 1306, COURTS (PROBATE), to 20 & 21 Vict. c. 77, s. 35, n. (*a*), *add*—The court has a discretion as to the ordering issues of fact to be tried by a jury, except where an heir-at-law, party to the proceedings, asks for a jury. In other cases the court will not direct a trial by jury, though one of the parties asks for a jury, if the case is more fit to be tried by the court itself (*Quick* v. *Quick*, 33 L. J. P. M. & A. 108).

Vol. 1, p. 1310, ——————— to sect. 61, n. (*b*), *add*—A testamentary suit was commenced by caveat, and after warning of the caveat and entry of appearance by the next-of-kin, the executrix, under an alleged will, filed a declaration propounding the will; and it was held leave to cite the heir-at-law of testator under this section, could not be granted until a plea had been filed denying the validity of the will (*Coplestone* v. *Nicholes*, 33 L. J. P. M. & A. 57).

Vol. 1, p. 1311, ——————— to sect. 64, *add*—Probate of a will is admissible without being stamped with the seal of the court. The stamp of the seal of the court is required for a copy only (*Rippon* v. *Priest*, 3 F. & F. 644—Keating J.).

Vol. 1, p. 1312, ——————— to sect. 71, *add*—Upon motion for appointment of a receiver, under this section, it must appear upon affidavit that the heir-at-law has been cited (*Purdey* v. *Field*, 33 L. J. P. M. & A. 73).

Vol. 1, p. 1312, ——————— to sect. 73, *add*—See *In the goods of Hagger*, 32 L. J. P. M. & A. 96.

Where A. was entitled to administration of the effects of B., who was a pauper lunatic, and as such was confined in a county lunatic asylum, and no committee of her person or effects had been appointed. A.'s next-of-kin having been cited and not having appeared, the court, under this section, granted administration of the effects of B. to the guardians of the poor at whose expense A. was maintained, for A.'s use and benefit, limited to the period of her lunacy (*Southwell* v. *Findlay*, 33 L. J. P. M. & A. 21).

Vol. 1, p. 1313, ——————— to sect. 73, n. (*d*), *add*—When a foreigner dies intestate in this country in itinere, without any relative or agent here resident, the custody of his property belongs to the Crown; but under special circumstances the court will, without a formal notice to the Queen's proctor, grant administration to a responsible per-

son limited ad collegendum bona defuncti (*Wyckoff, In goods of*, 3 S. & T. 20; 9 Jur. N. S. 84; 32 L. J. P. M. & A. 214; 11 W. R. 218; 7 L. T. N. S. 565).

A. died intestate, leaving four children, of whom one was of age, but was abroad, and the other three were minors. An immediate grant of administration being necessary, the court granted administration to the duly elected guardian of the minors for their use and benefit, limited until one of the children should apply for a grant (*Burgess, In goods of*, 9 Jur. N. S. 553; 32 L. J. P. M. & A. 158; 11 W. R. 687; 9 L. T. N. S. 86).

Vol. 1, p. 1315, COURTS (PROBATE), to 20 & 21 Vict. c. 77, s. 82, n. (*a*), *add*—A. died intestate, leaving B. his only next-of-kin, and solely entitled in distribution. His personal estate was of the value of about 55*l.*, and it seemed that he had no debts. B. being unable, through poverty, to obtain sureties to the amount of 200*l.*, the penalty of the requisite bond, the court, under this section, reduced the penalty to 60*l.* (*Harrigan, In goods of*, 32 L. J. P. M. & A. 204).

Vol. 1, p. 1315, ——————— to sect. 83, *add*—Upon affidavits showing a breach of the condition of an administration bond, the court allowed a citation to issue, calling upon one of the sureties to show cause why it should not be assigned, in order that it might be put in suit against him (*Marshman* v. *Brookes—Jones, In Goods of*, 32 L. J. P. M. & A. 25).

A creditor of an intestate to whom an admission bond has been assigned, under this section although thereby empowered to sue in his own name, is in all other respects in the same position as the ordinary was, and may, therefore, maintain an action thereon for the general benefit of all parties interested in the estate, but not for his own or the benefit of any one in particular (*Saundrey* v. *Mitchell*, 3 B. & S. 405; 9 Jur. N. S. 968; 32 L. J. Q. B. 100; 11 W. R. 363; 7 L. T. N. S. 849).

Vol. 1, p. 1330, CROWN SUITS, to 18 & 19 Vict. c. 90, s. 1, n. (*d*), *add*—The crown is only liable in suits to which the attorney-general or the lord advocate are parties; not so where the suit is by the queen in her office of Admiralty (*The Leda*, 9 Jur. N. S. 208; 32 L. J. Adm. 58; 11 W. R. 302; 7 L. T. N. S. 864).

Vol. 1, p. 1333, ——————— to 22 & 23 Vict. c. 21, s. 26, *add*—See *The Alexandra* case, 33 L. J. Ex. 209.

Vol. 1, p. 1334, ——————— to 23 & 24 Vict. c. 34, ss. 6, 7, *add*—*Tobin* v. *The Queen*, 32 L. J. C. P. 216.

Vol. 1, p. 1349, DEATH BY ACCIDENT, to 9 & 10 Vict. c. 93, s. 1, n. (*b*), *Pym* v. *The Great Northern Rail. Co.*, *add*—Affirmed in error, 32 L. J. Q. B. 377.

Vol. 1, p. 1350, ——————— to sect. 2, line 2, "child," *add*—An illegitimate child is not such (*Dickinson* v. *North-Eastern Rail. Co.*, 33 L. J. Ex. 91).

Vol. 1, 1383, EVIDENCE, to 14 & 15 Vict. c. 99, s. 3, n. (*c*), *add*—On the hearing of an information before two justices of the peace, preferred under 9 Geo. 4, c. 61, s. 21, against a person licensed to sell exciseable liquors by retail, for that he did "unlawfully and knowingly permit and suffer persons of notoriously bad character to assemble and meet together in his house and premises:"—Held, that he was not a competent witness (*Parker* v. *Green*, 2 B. & S. 299; 31 L. J. M. C. 133).

Vol. 1, p. 1384, ——————— to sect. 6, n. (*e*), *add*—See *The Chartered Bank of India, &c.*, v. *Rich*, 32 L. J. Q. B. 300.

Vol. 1, p. 1385, ——————— to sect. 7, *add*—An order of a foreign court made *ex parte* on a shareholder of an insolvent company to contribute to the assets, is an order or other judicial proceeding within this section, and may be proved by a certified copy (*Leishman* v. *Cochrane*, 12 W. R. 181; 9 L. T. N. S. 104—P. C.).

Where a document purported to be an official copy of a Belgian patent sealed with the Belgian seal, it was admitted without proof of its being an examined copy or proof of the seal, inasmuch as it came within the words, "or other act of state," in this section (*Ex parte Betts*, 9 Jur. N. S. 137; 11 W. R. 221; 7 L. T. N. S. 577—P. C.).

Vol. 1. p. 1391, ——————— to 17 & 18 Vict. c. 125, s. 23, *add*—Under this section it is not competent to a party to prove that his own witness has formerly made a statement inconsistent with his present testimony (*Ryberg* v. *Ryberg and Smith*, 32 L. J. P. M. & A. 112; 11 W. R. 502).

Vol. 1, p. 1400, ——————— to 1 Will. 4, c. 22, s. 4, n. (*e*), *add*—If a plaintiff in an action seeks to have his deposition taken as a witness on his own behalf, on the ground that he is about to leave the country, he must himself make an affidavit that the application is *bonâ fide*, and that the voyage he is about to take is one of necessity, and he must also give security for costs. The order may be made before appearance (*Fisher* v. *Hahn*, 32 L. J. C. P. 209).

Vol. 1, p. 1402, ——————— to sect. 9, n. (*b*), *add*—The costs of taking the evidence of a witness cannot be allowed to the party taking it as costs in the cause, unless the deposition has been used at the trial by the party taking it (*Ridley* v. *Sutton*, 1 H. & C. 741; 9 Jur. N. S. 358; 32 L. J. Exch. 122; 11 W. R. 314; 7 L. T. N. S. 693).

If a witness is so old and infirm that it is a prudent course to take his examination, but he is afterwards able to attend the trial, the plaintiff may be allowed the costs of the commission, as well as the costs of the witness's attendance at the trial (*Duke of Beaufort* v. *Earl Ashburnham*, 13 C. B. N. S. 598; 9 Jur. N. S. 822; 32 L. J. C. P. 97; 11 W. R. 267; 7 L. T. N. S. 710).

Vol. 1, p. 1403, ——————— to sect. 10, n. (*a*), *add*—Pregnancy is not (*Haviland* v. *Haviland*, 32 L. J. P. M. & A. 144).

Vol. 1. p. 1405, EVIDENCE, to 17 & 18 Vict. c. 125, s. 51, *add*—This section does not prescribe that the practice of the common law courts in regard to interrogatories is in future to follow that of the equity courts in regard to bills of discovery (*Bartlett* v. *Lewis*, 9 Jur. N. S. 202—C. P.).

Vol. 1, p. 1435, EXECUTORS, to 21 & 22 Vict. c. 56, Schedule E, *add*—This schedule runs, "An inventory of the personal estate and effects of the said C. D. at the time of his death, situated, &c.;" but the court looking to 23 & 24 Vict. c. 80, s. 5,—Held, that the words "at the time of his death" are, since that Act, properly omitted in Scotch confirmations, and directed such a confirmation to be sealed (*In Goods of Hay*, 9 L. T. N. S. 454—Prob.).

VOL. II.

Vol. 2, p. (12), CRIMINAL LAW, to 7 Geo. 4, c. 64, sect. 21, n. (*c*), *add*—See *Nash* v. *The Queen*, 33 L. J. M. C. 94.

Vol. 2, p. (36), ———— to 11 & 12 Vict. c. 42, s. 17, n. (*b*), *add*—In order to render depositions taken before a magistrate admissible in evidence under this sect. upon the trial of a prisoner, they must be taken in his presence and in that of the magistrate, and the prisoner must have an opportunity of cross-examining the witnesses in the presence of the magistrate (*Reg.* v. *Watts*, 1 L. & C. C. C. 330; 12 W. R. 112; 9 L. T. N. S. 453).

Indisposition from recent childbirth may be illness within this section (*Reg.* v. *Stevenson*, 31 L. J. M. C. 147).

Vol. 2, p. (60), ———— to 14 & 15 Vict. c. 100, s. 1, n. (*d*), *add*—An indictment charged with the intent to kill and murder Annie Welton. The prosecution failed to prove the child had ever borne such a name:—Held, that the indictment might be amended under this Act (*Reg.* v. *Welton*, 9 Cox, C. C. 297—Byles J.).

Vol. 2, p. (90), ———— to 22 & 23 Vict. c 17, *add*—see *R.* v. *Puidge*, 33 L. J. M. C. 74.

Vol. 2, p. (90), ———— to sect. 1 "PERJURY," *add*—It has been doubted whether an indictment for giving false evidence before a court-martial, is within this section (*R.* v. *Heane*, 33 L. J. M. C. 115).

Vol. 2 p. (91), ———— to 24 & 25 Vict. c. 94, *add*—An accessory after the fact to a felony cannot be convicted upon an indictment charging the commission of the felony only; he should be indicted as an accessory after the fact, under this Act (*Reg.* v. *Fallon*, 1 Cox, C. C. 242; 32 L. J. M. C. 66).

Vol. 2, p. (164), ———— to 11 Geo. 4 & 1 Will. 4, c. 73, s. 3, *add*—The duty of the court, in giving leave to take such proceedings, is judicial, and not merely ministerial, and that therefore the court has a discretionary power to direct or withhold proceedings (*Jones* v. *Young*, *In re Chaplain*, 9 Jur., N. S. 726; 32 L. J. Exch. 254; 11 W. R. 1079; 8 L. T. N. S. 672).

Vol. 2, p. (173), CRIMINAL LAW, to 9 Geo. 4, c. 69, s. 4, *add*—On the trial of an indictment for entering upon land armed for the purpose of taking game, the magistrates' warrant, on which the prisoners were arrested, was put in proof in order to show that the proceedings in the prosecution had been commenced within twelve calendar months after the offence committed. The warrant recited that an information had been laid on oath respecting the offence:—Held, the information ought to have been proved, and that the warrant alone was no evidence of the commencement of the prosecution (*R.* v. *Parker*, 33 L. J. M. C. 135).

Vol. 2, p. (179), ———— to 5 Geo. 4, c. 83, s. 4, n. (*f*), *add*—A husband and wife separated by mutual consent, the latter being left in possession of sufficient means for her support. These being exhausted, she became chargeable to the parish, but there was no evidence of knowledge of his wife's chargeability on the part of the husband, who in the meantime had committed bigamy:—Held, that he could not be convicted as a rogue and vagabond (*Sweeney* v. *Spooner*, 3 B. & S. 329; 9 Jur. N. S. 691; 32 L. J. M. C. 82; 11 W. R. 264; 7 L. T. N. S. 623).

Vol. 2, p. (179), ———— to sect. 4, *add*—An information charged, that the appellants were found in the dwelling-house of the respondent "for an unlawful purpose, to wit, for the purpose of feloniously stealing and converting to their own use certain provisions" of the respondent's. The facts were, that the appellants had been admitted into the house of the respondent by night, and without his knowledge, by his servants, and there entertained by them with the provisions in question. The justices convicted the appellants of the offence charged, upon the ground that they were, under the circumstances proved on the hearing, in the house for an unlawful purpose, within the meaning of the act:—Held, that the conviction was bad, as not amounting to a conviction for felony, the offence charged in the in-

formation (*Kirkin* v. *Jenkins*, 9 Cox, C. C. 311; 9 Jur. N. S. 1013; 32 L. J. M. C. 140; 11 W. R. 618; 8 L. T. N. S. 243—Q. B.).

Vol. 2, p. (192), CRIMINAL LAW, to 24 & 25 Vict. c. 96, s. 5, *add*—It is no objection in point of law that an indictment charges several distinct felonies in different counts; the statute does not alter the law in this respect. But the ordinary course of charging two or three distinct acts of stealing against the same person to have been committed within six months, ought not to be departed from (*R.* v. *Heywood*, 33 L. J. M. C. 133).

Vol. 2, p. (195), ——————— to sect. 23, *add*—This section does not apply where the killing, though unlawful, was done by the party for the protection of his own property, and under the bonâ fide belief that he was acting in the exercise of a legal right (*Taylor* v. *Newman*, 9 Cox, C. C. 314; 32 L. J. M. C. 186.)

Vol. 2, p. (195), ——————— to sect. 24, *add*—A person charged with unlawfully and wilfully destroying fish in a non-navigable river, set up a bonâ fide claim of right to fish in that river on the ground that the public had fished there without interruption for sixty years:—Held, first, that the mere assertion of such a claim, being a claim of right impossible at law, did not oust the jurisdiction of the justices (*Hudson* v. *M'Rae*, 12 W. R. 80—Q. B.).

Upon the hearing of an information against a defendant for fishing with a net in a tidal river in which the prosecutor claimed a private right of fishing, evidence was given to show that he had such right by reason of his being lord of the manor and otherwise. The defendant denied his right to the fishing, and contended that himself and the public had a right of fishing in the river, and called witnesses to show that they had fished it for many years without interruption. No prosecution had been instituted against any one for doing so. The justices were called upon to hold their hands, and not to adjudicate upon the question raised. They nevertheless convicted the defendant:—Held, that they ought not to have done so, as there was reasonable evidence to show that the question of title raised by the defendant was *bonâ fide*, and that, therefore, their jurisdiction was at an end (*Reg.* v. *Stimpson* and *Reg.* v. *Peek*, 32 L. J. M. C. 208; 8 L. T. N. S. 536—Q. B.).

Vol. 2, p. (202), ——————— to sect. 45, n. (*a*), *add*—To constitute the offence of demanding money with menaces under this section, the menace or threat must be of a character to produce in a reasonable man some degree of alarm or bodily fear, and such alarm must be of a nature and extent to unsettle the mind upon which it operates, and take away that free voluntary action which constitutes consent (*Reg.* v. *Walton*, 9 Cox, C. C. 268; 1 L. & C. C. C. 288; 9 Jur. N. S. 259; 32 L. J. M. C. 79).

Vol. 2, p. (204), ——————— to sect. 58, *add*—Where persons are charged under this Act with being found by night armed with an offensive weapon, with intent to break and enter into a dwelling-house or other building, and to commit a felony therein, the particular house or building must be specified in the indictment, and proof given of their intent to break and enter such house or building (*Reg.* v. *Jarrald*, 9 Cox, C. C. 307; 1 L. & C. C. C. 301; 9 Jur. N. S. 629; 32 L. J. M. C. 258).

It is necessary to support a conviction under this section, that the prisoner should be proved to have the particular intent, and proof of a general intent to break into houses is not sufficient (*R.* v. *Jarrald*, 32 L. J. M. C. 258).

Vol. 2, p. (219), CRIMINAL LAW, to 24 & 25 Vict. c. 96, s. 113, *add*—That is, whether the defendant honestly believed in the existence of such a state of facts as would, if it had existed, have afforded a justification for the arrest (*Roberts* v. *Orchard*, 33 L. J. Ex. 65; *Hermann* v. *Seneschall*, 32 L. J. C. P. 43; 13 C. B. N. S. 392).

Vol. 2, p. (251), ——————— to 24 & 25 Vict. c. 97, s. 25, *add*—On a charge for maliciously damaging a fence, it appeared that the defendant had been fishing in a canal, and had passed over a field of growing wheat in the occupation of the prosecutor, and was going away when (whether wilfully or not was disputed) he damaged the fence, which he alleged was not upon land of the prosecutor's, and he produced a letter from a person who claimed to be the owner, and had given him leave to fish in the canal:—Held, that this was evidence of a *bonâ fide* claim of title, and reasonable colour of right, which ousted the jurisdiction of the magistrates, and that they were wrong in proceeding to convict (*Reg.* v. *Snape*, 11 W. R. 434—Q. B. See *Clapham* v. *Atkinson*, 9 L. T. N. S. 679—Q. B.).

Where, in order to oust the jurisdiction of justices to adjudicate upon an information for trespassing in pursuit of game, a claim of title is set up, the justices are not conclusively the judges of the *bona fides* of the claim (*Reg.* v. *Derbyshire* (*Justices*), 11 W. R. 780—B. C.—Mellor, J.).

Vol. 2, p. (264), ——————— to 24 & 25 Vict. c. 98, s. 19, n. (*b*), *add*—Making on a glass plate a positive impression of an undertaking of a foreign state for the payment of money by means of photography, without lawful authority or excuse, is a felony within this section (*Reg.* v. *Rinaldi*, 1 L. & C. C. C. 330; 33 L. J. M. C. 28).

Vol. 2, p. (267), ——————— to sect. 23, n. (*c*), *add*—A turnpike toll-gate ticket is a receipt for money within this section (*Reg.* v. *Fitch*, 1 L. & C. C. C. 159).

Vol. 2, p. (280), ——————— to 24 & 25 Vict. c. 100, s. 6, line 1, "indictment," *add*—This comprehends inquisitions taken before coroner (*R.* v. *Ingham*, 33 L. J. Q. B. 183; 6 & 7 Vict. c. 83, s. 2).

Vol. 2, p. (282), ——————— to sect. 11, n. (*b*), *add*—An attempt to commit suicide is not an attempt to commit murder within the meaning of this section, and is not merged in any of the felonious attempts to commit murder made punishable by that

act, but remains a misdemeanor at common law triable by the court of quarter sessions (*Reg.* v. *Burgess*, 1 L. & C. C. C. 258; 9 Cox, C. C. 247).

Vol. 2, p. (289), CRIMINAL LAW, to 24 & 25 Vict. c. 100, s. 53, *add*—A. was indicted for fraudulently alluring C. out of the possession of her mother and stepfather, the latter having the lawful care of her; and B. with being an accessory before the fact. C. was sent by her mother to live with her grandmother. Instead of going there, she went to B.'s house, and did not return home when desired to do so by her mother. After remaining with B. a month, she left with A., her paternal uncle, and was married to him without her mother's knowledge:—Held, that the averments that the girl was in the possession and under the care of her stepfather might be rejected as surplusage (*Reg.* v. *Burrell*, 1 L. & C. C. C. 354; 12 W. R. 149; 9 L. T. N. S. 426).

Held, also, that the facts did not support the indictment (*Ib.*).

Vol. 2, p. (291), ——— to sect. 59, *add*—Upon an indictment, under this section, for supplying a certain noxious thing, knowing that the same is intended to be used with intent to procure miscarriage, it is necessary to prove that the thing supplied is noxious. The supplying an innoxious drug, whatever may be the intent of the person supplying it, is not an offence against that enactment (*Reg.* v. *Isaacs*, 1 L. & C. C. C. 220; 9 Cox, C. C. 228; 32 L. J. M. C. 52).

In order to constitute the offence of supplying a noxious substance, with the intention that it shall be employed in procuring abortion within the meaning of this Act, it is not necessary that the intention of employing it should exist in the mind of any other person than the person supplying it (*Reg.* v. *Hillman*, 1 L. & C. C. C. 343; 12 W. R. 111; 9 L. T. N. S. 518).

Vol. 2, p. 23, FACTORIES, to 7 & 8 Vict. c. 15, s. 73, *add*—A child under thirteen was employed in a room in a building, within the precincts of which there was a quantity of machinery moved by steam, and devoted to the manufacture of an article composed of wool and cotton mixed, but the child was not employed in any respect upon, or in attendance to the machinery, nor was there any machinery in the room in which he was employed in pricking pieces of leather with an awl, to fit them for adaptation to form parts of the thing manufactured in the building:—Held, not to be a case within the exception (*Taylor* v. *Hickes*, 12 C. B. N. S. 152; 9 Jur. N. S. 21—C. P.)

T. was owner of premises in M., in which he carried on the manufacture of cotton sewing thread. He also had premises in L., to which he was in the habit of sending the thread in hanks, and where it was wound by machinery, moved by steam power, firstly, on to cops, and, secondly, on to spools. No other process except this particular winding was carried on at L.:—Held, 'that these latter premises were a mill or factory within 3 & 4 Will. 4, c. 103, s. 1, and also within this section and section 27, and that T. was liable to the penalty imposed by the latter Act for the offence of not keeping such a register (*Haydon* v. *Taylor*, 33 L. J. M. C. 30; 12 W. R. 103; 9 L. T. N. S. 382—Q.B.).

Vol. 2, p. 31, FACTORIES, to 8 & 9 Vict. c. 22, s. 2, *add*—A child employed in finishing goods in a shed, in which finishing alone is carried on, but which communicates internally with other buildings in which printing is carried on, is employed in a print work within the meaning of this section, whether the particular finishing be incidental to the process of printing or not; and a surgeon's certificate of its health is therefore necessary under section 20 (*Hardcastle* v. *Jones*, 3 B. & S. 153; 9 Jur. N. S. 19; 32 L. J. M. C. 49; 11 W. R. 36; 7 L. T. N. S. 322—Q. B.).

Vol. 2, p. 50, ——— to 23 & 24 Vict. c. 78, *add*—See 25 Vict. c. 8, and 26 & 27 Vict. c. 38.

Vol. 2, p. 52, ——— to sect. 7, *add*—The process of "finishing" is not included, unless carried on as incidental to the processes of bleaching or dyeing (*Howarth* v. *Coles*, 12 C. B. N. S. 139; 9 Jur. N. S. 251—C. P.; see 26 & 27 Vict. c. 38, ante, p. 52*c*).

Vol. 2, p. 57, FACTORS, to 6 Geo. 4, c. 94, s. 4, *add*—Where the plaintiffs, who were cloth manufacturers, were informed by E., who was a factor and commission agent, that he could get them a customer for some of their goods, giving the name of Sykes as that of the intended purchaser. It is a common practice for manufacturers to send their goods to agents, who warehouse them, and sell them in their own names. The plaintiffs, believing the representations of E., sent parcels of goods from time to time to his warehouse, where he was to see them "perched," and was then to transmit them to Sykes. The statements made by E. with reference to Sykes were untrue, and he sold the goods to defendants, who purchased them *bonâ fide*. It was held by *Wightman, J.* and *Crompton, J.*, that E. was an agent intrusted with the goods within the meaning of this section, and that therefore the purchase by the defendants was protected. And by *Blackburn, J.*, that at any rate the question ought to be left to the jury to say whether or not the facts showed that he was such an agent, and whether it was in the ordinary course of business that the sale had taken place (*Baines* v. *Swainson*, 32 L. J. Q. B. 281).

Vol. 2, p. 59, ——— to 5 & 6 Vict. c. 39, s. 1, n. (*a*), *add*—Certificates of railway stock are not goods within this section (*Freeman* v. *Appleyard*, 32 L. J. Ex. 175).

Vol. 2, p. (59), ——— to sect. 1, n. (*b*), *add*—A clerk to a wine merchant, who is authorised by his employer to sign delivery orders per procuration, and who by doing so obtains possession of dock warrants relating to goods belonging to his master, and afterwards obtains an advance of money upon the security of such dock warrants, is not an agent entrusted with the possession of documents of title to goods within the meaning of this Act, so as to give validity to the contract, and his employer may recover possession of such dock warrants from the per-

son with whom they are pledged, though the advance was made *bonâ fide* (*Lamb* v. *Attenborough*, 31 L. J. Q. B. 41).

A., who transacted business on commission, but whose ordinary business was not to sell on commission, was entrusted by defendant with some pictures. Either at that time or afterwards defendant directed A. to sell the pictures. Subsequently, A., in fraud of defendant, pledged the pictures with plaintiff. It was held plaintiff was entitled to retain the pictures as against defendant till his advance was repaid, for that A was an "agent" within the meaning of this Act (*Hayman* v. *Flewker*, 32 L. J. C. P. 132; 13 C. B. N. S. 519).

Vol. 2, p. 105, FINES AND RECOVERIES, to 3 & 4 Will. 4, c. 74, s. 38, *add—In re Piers*, 13 Ir. Ch. Rep. 459.

Vol. 2, p. 106, ——————— to sect. 41, n. (*d*), *Honeywood* v. *Foster*, *add*—30 Beav. 1, accord. (*Gibbons* v. *Snape*, 9 Jur. N. S. 1096; 9 L. T. N. S. 132—L. J.).

Vol. 2, p. 106, ——————— to sect. 41, n. (*e*), *add*—A disentailing assurance under the Act for the Abolition of Fines and Recoveries of an equitable estate in copyholds must be entered upon the rolls of the manor court within six months after its execution (*Gibbons* v. *Snape*, 33 L. J. Ch. 103).

Vol. 2, p. 113. ——————— to sect. 74, *add*—See *In re Piers*, 13 Ir. Ch. Rep. 459.

Vol. 2, p. 116, ——————— to sect. 85, n. (*f*), *add*—With respect to acknowledgments of deeds by married women taken in any colony or foreign possession being part of the dominions of the crown, it is ordered that affidavits verifying the same made before any court or judge, magistrate, commissioner, notary public, or other person authorised to administer an oath, and containing in the jurat a statement by such court or judge, magistrate, commissioner, notary public, or other person, of the name or title of the office or authority which he or they respectively hold and execute, shall be received as sufficient (Reg. Gen. C. P. Jan. 13, 1863; 13 C. B. N. S. 406).

Vol. 2, p. 119, ——————— to sect. 91, n. (*c*), *add*—The court will not permit a married woman to execute a conveyance without the concurrence of her husband (he having refused to concur), upon an affidavit merely stating that the wife had left her husband in consequence of his violence, and was living apart from him (*Price, in re*, 13 C. B. N. S. 286; 7 L. T. N. S. 327).

Vol. 2, p. 123, ——————— to Reg. Gen. H. T. 4 W. 4, *add*—From and after the first day of Easter Term (1863), inclusive, every affidavit of the verification of certificates of acknowledgments of deeds of married women, except as hereinafter provided, shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Provided that this rule shall not be applicable to any such affidavits, where the acknowledgments have been taken out of England and Wales, under special commissions issued prior to the said first day of Easter Term next (Reg. Gen. C. P. M. T. 1862; 13 C. B. N. S. 2).

The officer with whom all such certificates are filed is empowered, in the interval between the date of this rule and the said first day of Easter Term next, to receive and file any affidavits of verification, whether drawn up in the first or third person (*Ib.*).

Vol. 2, p. 138, FISH, to 24 & 25 Vict. c. 109, s. 11, *add*—This section prohibits the catching of salmon by any means, within fifty yards below any dam, except by rod and line, unless the dam has a fish-pass attached thereto; and therefore any ancient right or mode of fishing by means of a fixed engine or otherwise, by virtue of any grant or charter or immemorial usage, although reserved by the Act in certain cases, does not exempt the possessor of such right of fishing from the penalties imposed by this section (*Moulton* v. *Wilby*, 32 L. J. M. C. 164).

The right to take possession of or to destroy such engines extends to all persons, and is not confined to conservators or overseers appointed under sect. 33, for the preservation of salmon and enforcing the provisions of the Act (*Williams* v. *Blackwall*, 32 L. J. Ex. 174).

Vol. 2, p. 139, —— to sect. 15, *add*—Where an information charging A. with having in his possession the young of salmon, to wit, samlets, the justices dismissed the information, on the ground that A., though he had taken the samlets, and had them in his possession, did not know that they were samlets. It was held, that the information was rightly dismissed (*Hopton* v. *Thirlwall*, 12 W. R. 72; 9 L. T. N. S. 327—Q. B.).

Vol. 2, p. 140, —— to sect. 20, *add*—A fishing mill-dam is a fishery within the meaning of this section (*Hodgson* v. *Little*, 14 C. B. N. S. 111; 32 L. J. M. C. 220).

A proprietor or an occupier of a fishing mill-dam on a salmon river is bound by this Act, during the close season, to remove all obstructions to the free passage of fish up the stream, even though he had ceased to use the dam for the purpose of fishing (*Ib.*).

Vol. 2, p. 142, —— to sect. 35, *add*—A prosecution under this Act having been conducted by the agents of an association for the preservation of salmon, and a conviction obtained before justices who were active members of the association was quashed, on the ground of the justices' interest (*R.* v. *Allen*, 33 L. J. M. C. 98).

Vol. 2, p. 145, —— after 24 & 25 Vict. c. 109, *add* 26 Vict. c. 10.

Vol. 2, p. 150, FRAUDS (STATUTE OF), to 29 Car. 2, c. 3, s. 4, "debt or default of another," *add*—A promise to indemnify another, if he will become bail for the appearance of the third party to answer for a criminal charge,

is not within this statute (*Cripps* v. *Hartnoll*, 32 L. J. Q. B. 381).

Vol. 2, p. 150, FRAUDS (STATUTE OF), to 29 Car. 2, c. 3, s. 4, n. (*a*), *add*—Agreement to cash bills given on account of the price of goods to be supplied by a third person, must be in writing (*Mallett* v. *Bateman*, 33 L. J. C. P. 243).

Vol. 2, p. 153, ——————— to n. on sect. 4, *add*—At the request of a defendant the plaintiff became bound in a recognisance of bail for the appearance of the defendant's daughter at the Central Criminal Court, to which court she had been committed for trial; the defendant having verbally promised the plaintiff to indemnify him against all liability. The defendant's daughter did not appear, and the recognisance was estreated and the plaintiff was obliged to pay the amount, and was put to other expenses:—It was held, that this was not a promise to answer for the debt or default of another person (*Cripps* v. *Hartnoll*, 32 L. J., Q. B. 381—Exch. Cham.).

Vol. 2, p. 160, ——————— to sect. 4, n. (*b*), *add*—A promise in writing, signed, to pay any one unnamed, who shall furnish goods to the writer, or to a third person making default, will become a binding contract with any one, whosoever he may be, who shall accept the promise in writing and furnish the goods (*Williams* v. *Byrnes*, 1 Moore, P. C. C. N. S. 154; 9 Jur. N. S. 363; 11 W. R. 487; 8 L. T. N. S. 69).

Upon a contract of guarantie for the purchase of a steam-engine, not addressed to any one, and in which the name of the person by whom the steam-engine was to be furnished did not appear, though he was known to the party by whom the memorandum was made, the contract being in these words:—"I will furnish H. with funds for the purchase of a steam-engine and machinery for a flour-mill, on his suiting himself with the same, and notifying the purchase to me:"—Held, in action upon such contract, that there being no acceptance of the contract in writing, it was not a sufficient note or memorandum in writing (*Ib.*).

Vol. 2, p. 166, ——————— to sect. 17, n. (*a*), *add*—The judge at the trial, is to decide whether the evidence of a constructive delivery of goods bargained and sold, is sufficient to satisfy the statute (*Kealy* v. *Tenant*, 13 Ir. Com. Law. Rep. 394—Q. B.).

Vol. 2, p. 167, ——————— to sect. 17, n. (*a*), *add*—A plaintiff by parol agreed to buy of the defendant all the potatoes in a certain field of the defendant's, at so much a ton, and to dig and remove them at his own expense. He employed and paid labourers to dig them, and sent his own sacks to the field, in which sacks the potatoes, as they were dug, were placed by his men, and the sacks were then carried to another part of the field, and the potatoes there emptied out of them in heaps, or clamped on the ground. During the digging one sackful of the potatoes was, by the plaintiff's authority, taken by one of the men employed, and consumed by him for food. Before the whole were dug, the defendant refused to complete his contract, or to permit the residue of the potatoes to be dug, or those which had been dug to be removed from his field:—Held that there was evidence of a part delivery and acceptance of the goods (*Smith* v. *Hudson*, 8 L. T. N. S. 253—Exch.).

Vol. 2, p. 170, FRAUDS (STATUTE OF), to 29 Car. 2, c. 3, s. 17, n. (*a*), *add*—Hops were sold by sample, and before prompt day, the buyer's foreman attended at the workhouse of the seller's factors to see them weighed, compared each pocket with the sample, and adjusted allowances on some which he objected to:—Held, that this was a sufficient acceptance (*Simmonds* v. *Humble*, 13 C. B. N. S. 258; 9 L. T. N. S. 168).

Vol. 2, p. 173, ——————— to sect. 17, n. (*b*), *add*—A broker having bought for the defendant part of a cargo of fruit lying at a wharf, belonging to one owner, was desired by the defendant to buy some more, and bought on the same day another part of the same cargo, lying at the same wharf, but belonging to the plaintiff, and he sent sold notes of each lot to each owner, but one bought note of the whole to the defendant, all three notes being signed by himself as broker. The defendant having refused to accept the fruit:—Held, in an action for not accepting the parcel bought of the plaintiff, that even if evidence of a custom, in such cases, to send one bought note was admissible, yet, as the bought and sold notes varied, there was no contract with the plaintiff within the statute (*Fisenden* v. *Levy*, 11 W. R. 258—Q. B.; S. C. at Nisi Prius, 3 F. & F. 477).

The plaintiff wrote to the defendants, offering to sell them seed of growing turnips, to which the defendants replied asking what turnips he had in growth, their quantities and prices. The plaintiff answered that all that he could offer them at present was the produce of five acres of white globe seed at 18*s.* per bushel. The defendants offered to take two or three acres at 16*s.* 6*d.* per bushel. The plaintiff replied that he could not accept less than 18*s.* The defendants then wrote to him as follows:—"In reply to your favour of this morning, we beg to say as our neighbours are giving you 18*s.* per bushel for white globe turnips, we, as a beginning with you, will take the produce of three acres at that price, to be delivered, as soon as harvested, 1861, free of carriage to London station; waiting your reply." The plaintiff wrote no answer to this letter, but subsequently saw one of the defendants at their warehouse, on which occasion it was found by the jury that the plaintiff verbally assented to the terms contained in that letter:—Held, that there was a sufficient memorandum or note in writing of the contract (*Watts* v. *Ainsworth*, 1 H. & C. 83).

Vol. 2, p. 175, ——————— to sect. 17, n. (*c*), *add*—D., a hop-grower, having sent samples of his hops to his factor, E. went to the factor and offered to buy some at 16*l.* 16*s.* a cwt. After some negotiation between E., the factor, and D., the latter

agreed to sell the hops at that price, and the factor wrote in his book, in the presence of D. and E., a memorandum of the bargain in duplicate, one part of which he headed with the name of E., and the other part with the name of D. E. requested that the date might be altered, so that by the custom of the hop trade he would have a week's more time for payment. D. consented, and the alteration was made by the factor, who tore from his book the part of the memorandum headed with the name of E., and delivered it to him, and kept the counterfoil in his possession:—Held, that there was evidence for the jury that the factor was the agent of both parties for the purpose of drawing a record of the contract binding on them; and that, if he were, the name of E., at the head of that part of the memorandum delivered to him, was a sufficient signature by his agent (*Durrell* v. *Evans*, 1 H. & C. 174; 9 Jur. N. S. 104—Exch. Cham.).

Vol. 2, p. 204, FRIENDLY SOCIETIES, to 6 & 7 Will. 4, c. 32, s. 1, n. (*a*), *add*—*Hughes* v. *Layton*, 33 L. J. M. C. 89.

Vol. 2, p. 208, ——————— to 3 & 4 Vict. c. 110, s. 16, *add*—An order for payment by a justice of the peace, must be for immediate payment; he has no jurisdiction to order payment in a certain time from making the order (*Parker* v. *Boughey*, 3 B. & S. 43; 9 Jur. N. S. 118).

Vol. 2, p. 222, ——————— to 18 & 19 Vict. c. 63, s. 23, after "upon demand in writing," *add*—A bill filed to recover the amount is a sufficient demand (*Absolom* v. *Gething*, 32 Beav. 322; 32 L. J. Ch. 786).

Vol. 2, p. 226, ——————— to sect. 40, n. (*b*), *add*—Semble, that where a dispute has arisen between a member and the trustees of a friendly society, for the decision of which a specific tribunal is provided by the rules of the society, the jurisdiction of the county court is ousted (*Denton* v. *Marshall*, 1 H. & C. 654; 7 L. T. N. S. 689).

Vol. 2, p. 237, GAME, to 1 & 2 Will. 4, c. 32, s. 10, n. (*a*), *add*—If wild rabbits be both started and killed on the same estate, they are the absolute property of the landowner, and not of the captor (*Bludes* v. *Higgs*, 32 L. J. C. P. 182—Exch. Cham.).

Vol. 2, p. 243, —— to sect. 30, n. (*b*), *add*—Firing at game from a highway is a trespass in pursuit of game within this Act (*Mayhew* v. *Wardley*, 14 C. B. N. S. 550; 8 L. T. N. S. 504).

Vol. 2, p. 243, —— to sect. 30, n. (*d*), *add*—See also *Reg.* v. *Stipmson* and *Reg.* v. *Peck*, 32 L. J. M. C. 208.

Vol. 2, p. 251, —— after 24 Vict. c. 8, *add*—25 & 26 Vict. c. 114.

Vol. 2, p. 276, GAMING, to 8 & 9 Vict. c. 109, s. 18, *add*—If a broker be employed to make wagering contracts, illegal under this section, and at the request of his principal pays the amount due under such contract, he can recover the amount so paid from his principal; and the illegal nature of the contract with reference to which the money is paid is no defence to an action founded on such a claim (*Rosewarne* v. *Billing*, 33 L. J. C. P. 55).

Vol. 2, p. 317, GAS, to 23 & 24 Vict. c. 125, s. 4, *add*—A gas company, by sect. 24 of a private gas Act, passed in 1851, was precluded from charging more than 4*s.* for every 1000 cubic feet of common gas supplied by them of a certain quality:—Held, that the provisions of this Act were so inconsistent with those of the private Act as to price, that sect. 24 of the private Act was repealed; and that the company was entitled to charge 4*s.* 6*d.* per 1000 feet for common gas (*Great Central Gas Consumers' Company* v. *Clarke*, 13 C. B. N. S. 838; 32 L. J. C. P. 41—Exch. Cham.).

Vol. 2, p. 334, GUNPOWDER, to 23 & 24 Vict. c. 139, s. 7, *add*—Upon an information charging L. with making and keeping fireworks, explosive preparations, and compositions in a building wherein it was not lawful to make and keep them, it appeared that fog signals were manufactured and kept upon his premises, that he had not obtained a licence for their manufacture, and that his premises were within the specified distance from other buildings. Fog signals are concave pieces of tin filled with gunpowder and fitted with nipples and percussion caps, and then firmly attached to each other, in order to secure the greatest amount of explosive power. The only process carried on in his premises was mechanical. Fog signals were made for and used by railway companies. When the fog is so thick that the ordinary signals cannot easily be seen, one of them is placed on the rails, and is exploded by the pressure upon the copper caps of the wheels of an engine passing over it, making a report which is heard at a considerable distance. The construction of them is attended with some degree of danger to the persons employed in the manufacture:—Held, by Wightman, Blackburn, and Mellor, JJ., Cockburn, C. J. dubitante, that L. was liable to a penalty (*Bliss* v. *Lilley*, 3 B. & S. 128; 9 Jur. N. S. 410; 32 L. J. M. C. 3; 7 L. T. N. S. 319).

Semble, per Wightman, J., that fog signals are fireworks, and therefore L. was liable for making and keeping them contrary to this section; and per Blackburn and Mellor, JJ., L. was liable for making them in a place not licensed, contrary to sect. 6 (*Ib.*).

Vol. 2, p. 337, ——————— to sect. 25, *add*—By 25 & 26 Vict. c. 98, s. 1, it is enacted that the twenty-fifth and twenty-seventh sections of the principal Act shall be construed and applied as if the word gunpowder therein-mentioned included loaded percussion caps, ammunition, fireworks, fulminating mercury, or any other preparation or composition of an explosive nature.

Vol. 2, p. 340, HABEAS CORPUS, *add*—By 25 Vict. c. 20, post, Vol. IV. p. 967, writ not to issue out of England into any colony, &c. having a court with authority to grant such writ.

Vol. 2, p. 375, HACKNEY CARRIAGES, to 16 & 17 Vict. c. 127, s. 14, *add*—If two children under ten years of age are carried in excess of two persons, they shall be counted and paid for as one adult; but that if one child

only be so conveyed in excess, he shall still be considered as an extra person within the meaning of the Act, and paid for accordingly (*Norton* v. *Jones*, 11 W. R. 573; 8 L. T. N. S. 241—Q. B.).

Vol. 2, p. 382, HARBOURS, DOCKS AND PIERS, to 10 Vict. c. 27, s. 45, *add*—A dock company had power by a special Act to detain until payment any goods, on which the owner, consignor, or consignee should not have paid the charges for wharfage, warehouse-room, or rent, allowed by the Act; and if the goods should have been removed without payment, to distrain and detain and sell any goods of the owner, consignor, or consignee. By a subsequent Act, certain parts of this Act, including this section, were incorporated. The company, having received timber, entered or transferred into the names of C. M. & Co., who were merely agents and not the true owners, refused to deliver it to the real owners until the rates due on other goods entered or transferred into the names of C. M. & Co., in the company's books, had been paid:—Held, first, that assuming the charges to be for wharfage, the company, having dealt under the special and general Acts of parliament, had not any general lien which might have belonged to them as wharfingers at common law (*Dresser* v. *Bosanquet*, 9 Jur. N. S. 458; 32 L. J. Q. B. 57. Affirmed on appeal, 32 L. J. Q. B. 374; 11 W. R. 840—Exch. Cham.).

Vol. 2, p. 406, HAWKERS AND PEDLARS, to 50 Geo. 3, c. 41, s. 6, n. (*g*), *add*—*Mason* v. *Hope*, 2 B. & S. 498.

Vol. 2, p. 422, HEALTH (PUBLIC), to 11 & 12 Vict. c. 63, s. 2, n. (*b*), *add*—See *Peck* v. *The Waterloo Board of Health*, 33 L. J. M. C. 11, *post*, sect. 69.

Vol. 2, p. 422, ———————— to sect. 2, *add*—Held that the word "justice" in a county, means a justice acting within the petty sessional division in which the matter arises; and therefore that justices of the county, not acting within the petty sessional division of it in which the offence under sect. 148 had been committed, had no jurisdiction to convict under sect. 129 (*Reg.* v. *Brodhurst*, 32 L. J. M. C. 168; 11 W. R. 425—Q. B.).

Vol. 2, p. 441, ———————— to sect. 54, *add*—Held, that the power to determine the nature and extent of the works required to be done, is vested in the local board; and that when proceedings are taken before justices to recover penalties for non-compliance with the notices, such justices have no power to review the determination of the board (*Hargreaves* v. *Taylor*, 9 Jur. N. S. 1053; 32 L. J. M. C. 111; 11 W. R. 562; 8 L. T. N. S. 149—Q. B.).

Vol. 2, p. 444, ———————— to sect. 64, *add*—Brick-making is not necessarily a noxious or offensive business, trade or manufacture (*Wansteed Board of Health* v. *Hill*, 13 C. B. N. S. 479; 9 Jur. N. S. 972; 32 L. J. M. C. 135; 11 W. R. 368; 7 L. T. N. S. 744).

Vol. 2, p. 446, ———————— to sect. 69, *add*—The expense of each owner should be apportioned according to the frontage of the premises, irrespective of the width of the street (*Reg.* v. *Newport Local Board of Health*, 3 B. & S. 341; 9 Jur. N. S. 746; 32 L. J. M. C. 97; 11 W. R. 263).

A railway and canal company, whose premises abut on a street, but with a fence between them and the street, is liable to be charged (*Ib.*).

This only authorizes an arbitration in respect of the proportion to be borne by defaulting owners, and not in respect of any question as to the expenses being reasonable or properly incurred by the board. A notice to pave, given under this section, which did not specify any particulars necessary to enable the party to do the work required, but contained a statement at the foot of it that particulars of the necessary works might be obtained from the borough surveyor's office, and it appeared that plans and specifications were lodged at that office and were seen there by the party on whom the notice had been served—was, in the absence of evidence that such plans and specifications did not give ample information of the work to be done, held sufficient (*Bayley* v. *Wilkinson*, 33 L. J. M. C. 161; see 26 & 27 Vict. c. 70, s. 10).

Vol. 2, p. 446, HEALTH (PUBLIC), to 11 & 12 Vict. c. 63, s. 69, n. (*b*), *add*—See *R.* v. *Dukinfield Township*, 32 L. J. M. C. 230.

Vol. 2. p. 446, ———————— to sect. 69, n. (*c*), *add*—The service of a notice under this section on a person *de facto* receiving the rent, is a service on the "owner" within the meaning of the 2nd section of this Act (*Peck* v. *The Waterloo and Seaforth Local Board of Health*, 33 L. J. M. C. 11).

Service of a notice under this section at the owner's place of business by delivering and reading it to his clerk, is a good service even under the 150th section (*Mason* v. *Bibby* 33 L. J. M. C. 105).

Vol. 2, p. 453, ———————— to sect. 89, n. (*a*), *add*—See *Ringland* v. *Lowndes*, 33 L. J. C. P. 25.

A local board of health having erroneously made a special rate, B. paid his quota before the error was discovered; five years afterwards he commenced an action against the board to recover the money back, and obtained a judgment, and afterwards sued them on the judgment demanding in his declaration a mandamus to them to make and levy a rate for the purpose of satisfying the judgment:—Held, that assuming the debt so contracted by the board was a charge within the 89th section, B. was not entitled to a mandamus to levy a rate, as the original action was not commenced within six months after the charge was incurred (*Burland* v. *Kingston-upon-Hull Local Board of Health*, 3 B. & S. 271; 9 Jur. N. S. 275; 32 L. J. Q. B. 17).

Vol. 2, p. 463, ———————— to sect. 124, *add*—See the circumstances under which a party attending a referee and taking part in the proceedings is precluded from saying that the arbitrator had no jurisdiction to

proceed with the reference, on the ground that the time limited for making the award had expired (*Ringland* v. *Lowndes*, 33 L. J. C. P. 25).

Vol. 2, p. 463, HEALTH (PUBLIC), to 11 & 12 Vict. c. 63, s. 125, *add*—If arbitrators appointed under this Act allow twenty-one days from the last of their appointments to expire without entering upon the reference or making an award, they may nevertheless, if called upon by the parties afterwards, make a valid appointment of an umpire at any time before the end of three months from the date of the last appointment. Where an umpire, on a reference under the before-mentioned statute, orders one party to pay the costs of the reference, not fixing the amount, the award is perfectly valid, and the successful party may commence an action for the costs, without first having had the amount of the costs settled by the Master on taxation (*Holdsworth* v. *Wilson*, 32 L. J. Q. B. 289, Ex. Ch.; 31 L. J. Q. B. 145).

Vol. 2, p. 469, ——————— to sect. 150, *add*—Service of a notice under section 69, at the owner's place of business by delivering and reading it to his clerk, was held a good service even under this section. Per Pollock, C.B.—This section is in aid of the service of notices, and applies where the name of the owner or occupier is unknown, in which case it prescribes a particutar mode of delivery (*Mason* v. *Bibby*, 33 L. J. M. C. 105).

Vol. 2, p. 477, ——————— to 18 & 19 Vict. c. 121, s. 2, *add*—A person to whom an owner of premises resident abroad sent a power of attorney, authorising him to receive the rents, is not thereby constituted owner, so as to render him personally liable for the costs and expenses of the abatement of a nuisance on the premises previously to the receipt of his authority (*Blything Union (Guardians)* v. *Warton*, 3 B. & S. 352; 9 Jur. N. S. 867; 32 L. J. M. C. 132; 11 W. R. 306; 7 L. T. N. S. 672).

Vol. 2, p. 481, ——————— to sect. 14, *add*—A penalty for disobedience of an order to abate a nuisance, cannot be enforced without a previous summons of the persons on whom it is imposed (*Reg.* v. *Jenkins*, 3 B. & S. 116; 9 Jur. N. S. 570; 32 L. J. M. C. 1).

Vol. 2, p. 482, ——————— to sect. 22, *add*—Held, that the expression repair does not mean the reconstruction of a sewer which has been originally defectively made; but the keeping the original sewer in proper repair (*Reg.* v. *Epsom Union*, 11 W. R. 593; 8 L. T. N. S. 383—Q. B.).

Vol. 2, p. 483, ——————— to sect. 26, *add*—Repealed, 26 & 27 Vict. c. 117, s. 1.

Vol. 2, p. 493, ——————— to 21 & 22 Vict. c. 98, s. 12, *add*—See 26 & 27 Vict. c. 70, ss. 7, 8.

Vol. 2, p. 494, ——————— to sect. 15, *add*—By 26 Vict. c. 17, s. 7, the power of adopting any part or parts of "The Local Government Act, 1858," given by this act and the acts amending the same, shall not be exhausted by one adoption, but may be exercised from time to time.

26 & 27 Vict. c. 70, s. 8, enacts, where any local authority acquires under this Act any powers by virtue of section fifteen of "The Local Government Act, 1858," which are repugnant to or inconsistent with those of the local Act, the local authority shall proceed under the powers and provisions of "The Local Government Act, 1858," and wherever in any such case the last-mentioned Act and the local Act contain provisions for effecting the same or a similar object, but in different modes, the local authority may proceed under "The Local Government Act, 1858," or under the local Act.

Vol. 2, p. 494, HEALTH (PUBLIC), to 21 & 22 Vict. c. 98, s. 16, *add*—A district not having any ascertained or defined boundary, and a portion of a parish obtained from the Secretary of State for the Home Department an order under this sect. settling its boundaries for the purposes of this Act, and subsequently adopted this Act within the district. Afterwards the parish adopted the Act. The court refused a mandamus to the Secretary of State to publish the notice of the adoption of the Act by the district, under sect. 19, holding that sect. 14 applied to places the boundaries of which were settled by an order of the Secretary of State, and therefore that the district could not adopt the Act unless the parish had refused to do so (*In re Matlock Bath District*, 2 B. & S. 543).

Vol. 2, p. 495, ——————— to ss. 17 & 18, *add*—By 26 Vict. c. 17, s. 3, it is enacted that petitions appealing against the resolution of adoption, and praying for exclusion from the operation of the Local Government Act, under the seventeenth section of that Act, and appeals from owners and ratepayers who dispute the validity of the vote for adoption under the eighteenth section of the same Act, may be presented and had at any time before the expiration of six weeks from the date of any resolution adopting the Act. But this section is not to apply to appeals against resolutions of adoption in cases coming within 26 & 27 Vict. c. 70, s. 7.

Vol. 2, p. 495, ——————— to sect. 17, *add*—See 26 & 27 Vict. c. 70, s. 7.

Vol. 2, p. 495, ——————— to sect. 20, *add*—See 26 & 27 Vict. c. 70, s. 7.

Vol. 2, p. 499, ——————— to sect. 34, *add*—A local board made a bye-law, which provided, that "if any owner or person should construct, or cause to be constructed, any works, or do any act, or omit to do any act, or comply with any requirements of the local board, or should make any alterations in any works after they have been completed, whether in new or existing buildings, contrary to the provisions therein contained, the local board might cause such works to be removed, altered, or pulled down:"—Held, that the bye-law was invalid as exceeding the powers conferred by this section (*Brown* v. *Holyhead Local Board of Health*, 1 H. & C. 601).

This section applies only to buildings that

have been taken down "without any previous approval of a plan, &c., for their re-election," &c. (*Slee* v. (*Mayor, &c.*) *Bradford*, 9 Jur. N. S. 815; 8 L. T. N. S. 491—V. C. S.).

Vol. 2, p. 499, HEALTH (PUBLIC), to 21 & 22 Vict. c. 98, s. 34, n. (*a*), *add*—The defendants, some time before the coming into operation of this Act, proposing to lay out a new street, gave the necessary notices required by the 11 & 12 Vict. c. 63, to the local board, but did not proceed to lay the street out till May, 1862. In the meantime, the local board had made a bye-law requiring notices to be given of a more detailed character than required by 11 & 12 Vict. c. 63, and they contended that the street had not been begun within the meaning of that Act, and that therefore the defendants ought to have given fresh notices so as to satisfy the new bye-law, and that they were liable to a penalty for proceeding to lay out the street without having done so. The local board thereupon summoned the defendants before justices, who dismissed the complaint:—Held, that the decision of the justices was right (*Felkin* v. *Berridge*, 9 L. T. N. S. 333—C. P.).

Vol. 2, p. 500, ——————— to sect. 38, *add*—See 26 & 27 Vict. c. 70, s. 10.

Vol. 2, p. 505, ——————— to sect. 55, *add*—Held, that a dock came under the description of "land covered by water," and that a railway constructed, under an Act of parliament for the transportation of traffic, and as accessory to the dock, but free to the public upon payment of certain rates and tolls, was a railway within the meaning of the proviso, although neither used nor intended for the conveyance of passengers (*Reg.* v. *Newport Dock Company*, 9 Jur. N. S. 73—Q. B.).

Vol. 2, p. 507, ——————— to sect. 62, *add*—Notice to one who receives the rent of land de facto, without right thereto, satisfies the provision requiring notice to the owner (*Peek* v. *Waterloo-with-Seaforth Local Board of Health*, 9 Jur. N. S. 1344; 33 L. J. M. C. 11—Exch.).

Vol. 2, p. 507, ——————— to sect. 63, *add*—Held, that the six months limited by 11 & 12 Vict. c. 43, sect. 11, for making or laying complaint or information, must be taken to run, not from the date of the apportionment, but from the expiration of the three months within which the owner may dispute his liability (*Jacomb* v. *Dodgson*, 9 Jur. N. S. 848; 32 L. J. M. C. 113; 11 W. R. 308—Q. B.).

Vol. 2, p. 509, ——————— to sect. 73, *add*—T., the lessee of a mill upon the river Skerne, enjoyed, as the representative of an ordinary riparian proprietor, the benefit and advantage of the waters of the river for the working of the mill. For the purpose of flushing sewers made by the board, some of the water was taken away from the river, and the working of the mill was stopped. During the construction of one of the sewers, some of the water of the river, and also some underground springs, which would otherwise have percolated into the river, oozed into the sewer, and thus T. lost the enjoyment of such quantity of water. By reason also of the making of the sewers, T. lost the use of certain surface drainage water, which had before been accustomed to flow into the river. No consent in writing had been obtained from T. It was held, that assuming T. had sustained injuries by the construction and continuance of these sewers, the board had injuriously affected the river and the supply of water therein, and that having acted illegally in doing so, they were not liable under the compensation clause, sect. 144 of 11 & 12 Vict. c. 63, *ante* 468 (*R.* v. *The Darlington Local Board of Health*, 33 L. J. Q. B. 305).

Vol. 2, p. 524, HEALTH (PUBLIC), to 24 & 25 Vict. c. 61, s. 28, *add*—In order to constitute a street which is a question of fact for the jury, there must be a row of houses sufficiently continuous and sufficiently proximate to one another. *Semble*—that a set of detached houses not being in a continuous line, but some facing one way and some another, and having no appearance of uniformity, is not a street within the above-mentioned Act of parliament (*R.* v. *Fulford*, 33 L. J. M. C. 122).

Vol. 2, p. 529, HIGHWAYS IN GENERAL, to 5 & 6 Will. 4, c. 50, s. 18, *add*—The majority of two-thirds of the vestrymen present at a vestry meeting of a parish having voted for the appointment of such a board, a poll was demanded by the minority, which the chairman refused, and a board was then nominated and appointed. It was held, that a poll was demandable of common right; that the right was not excluded by the words of the statute; and the board were therefore not duly elected (*R.* v. *How*, 33 L. J. M. C. 53).

Vol. 2, p. 544, ——————— to sect. 70, *add*—This section applies to the case of a portable steam-engine upon wheels and drawn by horses, and used to drive a thrashing machine within a barn, although such steam-engine was not in any way fixed in the soil (*Smith* v. *Stokes*, 32 L. J. M. C. 199; 11 W. R. 753; 8 L. T. N. S. 425—Q. B.).

Vol. 2, p. 547, ——————— to sect. 82, *add*—Where a highway, which was situate locally within the boundaries of a parish, was also within the limits of a local improvement Act, and the commissioners appointed by that Act were liable to repair, and entitled to the control and management of the highway, but no provision was made by the local Act for its diversion, the inhabitants of the parish in which the road was situate, in vestry assembled, have no authority under this Act to direct their surveyors to make an application to the justices to view the same in order to its being stopped up or diverted, and a certificate of two justices grounded on such an application is void (*Wright* v. *Frant*, 32 L. J. M. C. 204; 11 W. R. 883; 8 L. T. N. S. 455—Q. B.).

Vol. 2, p. 550, ——————— to sect. 85, n. (*d*), *add*—*Quære*—The certificate seems not to be bad by reason of its not stating that the proposed new highway is

nearer and more commodious to the public (*Wright* v. *Frant*, 32 L. J. M. C. 204).

Justices can only certify the diversion of a highway with reference to the existing state of circumstances, and they cannot certify on the ground that the new road will be shorter than the existing road when the latter shall have been altered pursuant to the powers given by a local Act (*Reg.* v. *Local Board of Midgley*, 33 L. J. M. C. 188).

Vol. 2, p. 551, HIGHWAYS IN GENERAL, to 5 & 6 Will. 4, c. 50, s. 87, *add*—On an appeal against a certificate ordering the diversion of a highway and the stopping up of several others, the Quarter Sessions may quash it as to the diversion, and confirm it as to the stopping up; although this section, giving this power of partial confirmation, is confined in terms to an appeal against a certificate for diverting more highways than one (*R.* v. *The Local Board of Midgley*, 33 L. J. M. C. 188).

Vol. 2, p. 553, ——————— to sect. 90, line 1, "required," *add*—This is imperative (*R.* v. *Yorkshire, W. R.*, 31 L. J. M. C. 271; 2 B. & S. 811).

Notice of appeal to sessions against stopping a highway having been given, the respondent gave notice of abandonment. The appeal was nevertheless entered, and was called on, when, no one appearing in support of it, it was struck out. An application was made later in the day for the appellant to reinstate the appeal, and order the appellant's costs, which was refused:—It was held, that the appellant was entitled to have the appeal reinstated, and an order made for costs under this section (*Ib.*).

Vol. 2, p. 556, ——————— to sect. 95, n. (*d*), *add* — Under this section an indictment having been directed by justices to be preferred, a bill was found at the spring assizes, and at the following summer assizes the defendants pleaded guilty, having some days before given notice to the prosecutor of their intention to do so:—Held, overruling the previous cases, that the judge had power to direct the costs of the prosecution to be paid out of the highway rate (*Reg.* v. *Haslemere*, 3 B. & S. 313; 9 Jur. N. S. 573).

An indictment for non-repair of a highway came on to be tried at the assizes, when the jury were discharged without a verdict, they being unable to agree:—Held, that the judge could not direct the costs of such trial to be paid out of the highway rate (*Reg.* v. *Heytesbury*, 8 L. T. N. S. 315—Q. B.).

Vol. 2, p. 556, ——————— to sect. 95, *add*—See *R.* v. *James*, 32 L. J. M. C. 211; 23 & 24 Vict. c. 68, s. 40.

Vol. 2, p. 562, ——————— to sect. 113, *add*—See *Wright* v. *Frant*, 32 L. J. M. C. 204.

Vol. 2, p. 589, ——— (SOUTH WALES), to 23 & 24 Vict. c. 68, s. 40, *add*—Where, on the hearing of a summons, under this sect. against the district surveyor of highways for the non-repair of a highway in a parish, the liability to repair is disputed on behalf of the parish, the justices have power to direct an indictment to be preferred under sect. 95 of the General Highway Act, 5 & 6 Will. 4, c. 50 (*R.* v. *James*, 32 L. J. M. C. 211).

Vol. 2, p. 590b, HIGHWAYS IN GENERAL, to 25 & 26 Vict. c. 61, s. 7, *add*—A parish claimed to be exempted from being included in a highway district, under this section, by reason of its highways being under the superintendence of a board established under 5 & 6 Will. 4, c. 50, s. 18. The highway board under 5 & 6 Will. 4, c. 50, s. 18, was constituted at a vestry meeting in November, 1862, by a majority of two-thirds of the vestrymen present, the chairman having refused to grant a poll which was demanded at the meeting:—Held, that a poll ought to have been granted, and that therefore the highway board, under sect. 18 of 5 & 6 Will. 4, c. 50, was not properly created, and so the parish was not exempt from being included in the highway district (*Reg.* v. *How*, 9 L. T. N. S. 385—Q. B.).

Vol. 2, p. 591 ——————— to sect. 9, *add*—For removing doubts as to highway boards established under this act being liable to contribute to repair of turnpike roads, in pursuance of 4 & 5 Vict. c. 59, &c., see 26 & 27 Vict. c. 94.

Vol. 2, p. 591, ——————— to sect. 10, n. (*c*), *add*—As to the penalty on highwardens being concerned in contracts within their own districts, see 26 & 27 Vict. c. 61.

Vol. 2, p. 596, ——— (TURNPIKE), to 3 Geo. 4, c. 126, s. 28, n. (*a*), *add*—R. went through a turnpike with a cart laden with garden produce, packed in baskets, paid the toll, and returned next day with the cart laden with manure, upon the top of which were placed the empty baskets. The toll-keeper demanded toll in respect of the baskets, which R. refused to pay:—Held, that he was exempt from payment of toll, by this section, which is unrepealed by 5 & 6 Will. 4, c. 18, s. 1 (*Richens* v. *Wiggens*, 9 Jur. N. S. 1055; 32 L. J. M. C. 144; 11 W. R. 617; 8 L. T. N. S. 384—Q. B.).

Vol. 2, p. 598, ——————— to sect. 32, n. (*b*), *add*—A carriage and horses belonging to the queen, driven by her coachman, and used by a member of her household, or his family, with the queen's permission, though not upon her service, are exempt from turnpike tolls (*Westover* v. *Perkins*, 2 El. & El. 57).

Vol. 2, p. 606, ——————— to sect. 55, n. (*e*), *add*—A lessee of turnpike tolls compounded with a person using the road for tolls for three years:—Held, that such an agreement was not prohibited by this sect. (*Stott* v. *Clegg*, 13 C. B. N. S. 619; 9 Jur. N. S. 945; 32 L. J. C. P. 102; 11 W. R. 366; 7 L. T. N. S. 714).

Vol. 2, p. 607, ——————— to sect. 57, *add*—Held, that an agreement for the letting of tolls, signed by the clerk of trustees, and by the lessee or farmer of the tolls, was valid, and therefore could be enforced by the trustees notwithstanding it had not been signed by the sureties; their execution of the agreement being a

formality for the benefit of the trustees, which they might waive without prejudice to their rights against the lessee or farmer of the tolls (*Markham* v. *Stanford*, 14 C. B. N. S. 376; 8 L. T. N. S. 277).

Vol. 2, p. 625, HIGHWAYS (TURNPIKE), to 3 Geo. 4, c. 126, s. 121, *add*—A vehicle composed of a rough skeleton of woodwork, fifteen feet long, having two wheels placed behind the centre, the forepart being shod with iron, which in going down hill comes in contact with the ground, retarding its descent, is not a wheel carriage, within this section (*Radnorshire County Roads Board* v. *Evans*, 3 B. & S. 400; 9 Jur. N. S. 890; 32 L. J. M. C. 100; 7 L. T. N. S. 677).

A person using such a vehicle for the carriage of straw, cannot be convicted, straw not being of *ejusdem generis* with timber or stone (*Ib.*).

Vol. 2, p. 668, ——— to 1 & 2 Will. 4, c. 25, s. 1, *add*—The exemption from toll on a turnpike-road, contained in this section, in respect of sheep or cattle going to pasture, is not confined to farmers occupying farms in the locality of a toll-gate. And a person who was a cattle-dealer as well as farmer, and who, occupying two pasture-fields between which was a turnpike-road and toll-gate, removed sheep from one field to the other to pasture, in order to send them the next day fresher to market, and in so removing them passed them on the turnpike road and through the said toll-gate, was held entitled to such exemption (*Warnby* v. *Deakin*, 32 L. J. M. C. 201).

Vol. 2, p. 685, ——— to 24 & 25 Vict. c. 126, n. (*a*), *add*—Volunteers in uniform, going to attend a mere voluntary rifle match at a duly appointed place of rifle practice, but open to all the world, are not entitled to exemption from toll under this Act (*Teather* v. *Turner*, 11 W. R. 425; 7 L. T. N. S. 785—Q. B.).

Vol. 2, p. 826, INDIA, to 21 & 22 Vict. c. 106, *add*—A pension awarded by the secretary of state for India, subsequently to this Act, to an officer in her majesty's Indian army upon his retirement from service, and also an annuity granted by the secretary of state for India to the same officer, in addition to his retiring pension, held to be assignable (*Carew* v. *Cooper*, 33 L. J. Ch. 289).

Vol. 2, p. 845, INSURANCE, to 14 Geo. 3, c. 48, s. 1, n. (*a*), and s. 3, *add*—A promise by a creditor to a debtor that the payment of the debt shall not be enforced during his (the creditor's) lifetime, is not sufficient (without any consideration or circumstance to make such promise binding) to confer upon the debtor an insurable interest in the life of the creditor (*Hebden* v. *West*, 9 Jur. N. S. 747; 32 L. J. Q. B. 85; 11 W. R. 422; 7 L. T. N. S. 854).

A contract between a master and servant for seven years' service, at a fixed salary, is sufficient to create such an interest, but to the extent only of so much of the period of seven years as remained at the time of the effecting of the policy (*Ib.*).

Where a person, having an insurable interest in the life of another, insured such life to the full extent of his interest in more than one company, from one of which, at the falling of the life insured, he received payment of the amount for which the policy was effected:—Held, that he was precluded from recovering or receiving more from the others (*Ib.*).

Vol. 2, p. 858, INTERMENT, to 15 & 16 Vict. c. 85, s. 32, *add*—See *Hornby* v. *The Toxteth Park Board*, 31 Beav. 53.

Vol. 2, p. 862, ——— to sect. 52, n. (*a*), *add*—Mandamus to the overseers of a parish, reciting that a burial board had been appointed for the parish, commanded them to pay out of the poor rates of the parish the expenses incurred by that board. Return, that, in 1840, before the constitution of the burial board for the parish, that parish had been, under 58 Geo. 3, c. 45, divided into three separate parishes for all ecclesiastical purposes; but did not show that either of the new parishes had appointed a burial board under 20 & 21 Vict. c. 81, s. 5:—Held, no answer (*Reg.* v. *Walcot* (*Overseers*), 2 B. & S. 555).

Vol. 2, p. 869, ——— to 18 & 19 Vict. c. 128, s. 4, *add*—It was held that a vacancy having occurred, the vestry might fill it up after the month had expired, the burial board not having done so (*R.* v. *the Overseers of South Weald*, 33 L. J. M. C. 193).

Vol. 2, p. 869, ——— to sect. 11, *add*—Where two parishes or places, each maintaining its own poor, are united together for ecclesiastical purposes, a burial board for the whole district, appointed by the vote of the vestry, or meeting in the nature of a vestry, is properly constituted (*Reg.* v. *Coleshill* (*Overseers*), 2 B. & S. 825; 9 Jur. N. S. 226).

Vol. 2, p. 870, ——— to sects. 12 & 13, *add*—Prior to this statute, the parish of T. included T. W., an ecclesiastical district formed under 58 Geo. 3, c. 45, and S., a hamlet containing a church, to which a district had been assigned under 1 & 2 Will. 4, c. 38. Neither T. W. nor S. separately maintained their own poor (there being a common poor-rate for the entire parish of T.), but each had its separate burial ground. A vestry meeting "of the inhabitants of the parish of T." was called by notice affixed to the doors of all the churches in the parish, including that at S., but excluding those in T. W., to consider whether a burial ground should be provided for such part of the parish of T. as was not included in T. W., and, if so, to appoint a burial board for such part of the parish. A burial board for T., excluding T. W., was appointed at this meeting:—Held, that the board was well appointed; that a poor-rate made on that part of T. for which such board was appointed, for defraying the expenses of the board, was good; and that occupiers of property in S. were properly assessed to the rate; for that though T. W. was entitled to a separate burial board, S was not (*Viner* v. *Tonbridge* (*Overseers*), 2 El. & El. 9).

Vol. 2, p. 873, ——— to 20 & 21 Vict. c.

81, s. 5, *add*—A mandamus, reciting that the parish of W. had been divided into three parishes for ecclesiastical purposes, and that the vestry of the parish of St. S., being one of them, had appointed a burial board, and resolved that a burial ground should be provided, and that the burial board should be authorised to incur expenses for that purpose, and that the burial board has certified that 49*l.* 5*s.* 9*d.* was required for defraying expenses incurred, and directed the overseers of the parish of W. to pay such sum to the clerk of the burial board; commanded the overseers to pay or raise the said sum according to the certificate. Return, that, before the meeting of the vestry of St. S. for determining whether a burial ground should be provided for that parish, a burial board was appointed for the original parish of W.:—Held, no answer; as the appointment of a burial board for the original parish did not prevent the ecclesiastical parish of St. S. from appointing a separate burial board (*Reg.* v. *Walcot, St. Swithin* (*Overseers*), 2 B. & S. 571).

Vol. 2, p. 880, INTERPLEADER, to 1 & 2 Will. 4, c. 58, s. 1, n. (*a*), *add*—An equitable claim is not the subject of an interpleader summons (*Hurst* v. *Sheldon*, 13 C. B. N. S. 750).

A court of law is not bound by the principles which govern courts of equity upon a bill of interpleader, and may give relief although one of the parties has incurred to another a personal obligation independently of the question of property, and the claims are not identical (*Best* v. *Hayes*, 1 H. & C. 718; 32 L. J. Exch. 129).

The defendant, an auctioneer, sold for the plaintiff some furniture, and paid him a part of the proceeds; but whilst the balance was in his hands, G. gave him notice that the furniture belonged to her. The plaintiff having brought an action against the defendant for the balance, he sought to deduct his charges for commission, and applied for an interpleader order between the plaintiff and G. as to the residue, G. being willing to allow the defendant his charges:—Held, that a judge has power to make the interpleader order, if not under this section, under the 12th section of the 23 & 24 Vict. c. 126 (*Ib.*).

Vol. 2, p. 888, JUDGMENTS, to 43 Geo. 3, c. 46, s. 4, n. (*d*), *add*—In an action upon a judgment, the court in which the action is brought, or a judge, has a discretion vested in them, by this statute, as to whether the plaintiff shall have his costs of the action or not; and that discretion is not taken away by 7 & 8 Vict. c. 96, s. 57, by reason of the sum recovered in the original action not exceeding 20*l.* (*Dickinson* v. *Angell*, 32 L. J. Q. B. 183; *Adams* v. *Rad*, 6 H. & N. 261 disproved. *Ib.*).

Vol. 2, p. 893, ——————— to 1 & 2 Vict. c. 110, s. 13, n. (*a*), *add*—See *Eyre* v. *M'Dowell*, 9 H. L. Cas. 620.

Vol. 2, p. 895, ——————— to sect. 18, *add*—An order of the Probate Court for the payment of money is not a charge on land within the meaning of this section (*Pratt* v. *Bull*, 4 Giff. 117: 9 Jur. N. S. 40. Affirmed on appeal, 9 Jur. N. S. 239; 32 L. J. Ch. 144; 11 W. R. 294; 7 L. T. N. S. 702—C.).

Vol. 2, p. 895, JUDGMENTS, to 1 & 2 Vict. c. 110, s. 18, n. (*f*), *add*—A decree for payment of what shall be found due to the plaintiff upon an account directed by the decree, does not entitle him to a charging order under this section (*Chadwick* v. *Holt*, 8 De G. Mac. & G. 584).

Vol. 2, p. 909, ——————— to 23 & 24 Vict. c. 38, s. 3, *add*—This section does not apply to judgments obtained against a personal representative; and consequently such judgments, if obtained before decree, must, though not registered until after decree, be paid in perference to simple contract debts, and in order of priority according to the dates of their being entered up (*In re Rigby*, and *Jennings* v. *Rigby*, 33 L. J. Ch. 149).

This section is not restricted in its operation to the protection of heirs, executors, and administrators against claims by unregistered judgment creditors, but absolutely deprives unregistered judgment debts of all priority in the administration of assets; and the Act applies equally to judgments of County Courts as to other judgments (*In re Turner*, and *Walter* v. *Turner*, 33 L. J. Ch. 232).

Vol. 2, p. 964, JUSTICES OF THE PEACE, to 11 & 12 Vict. c. 43, s. 5, *add*—See *Wilson* v. *Stuart* or *Stewart*, 32 L. J. M. C. 198—Q. B.

Vol. 2, p. 965, ——————— to sect. 10, n. (*a*), *add*—The using several oaths on one and the same occasion is one offence only (*R.* v. *Scott*, 33 L. J. M. C. 15).

Vol. 2, p. 965, ——————— to sect. 11, n. (*b*), *add*—To constitute an offence under 5 Geo. 4, c. 83, s. 4, there must be a running away and deserting a wife or child, and a chargeability to a parish by reason of it. Therefore it is sufficient, if the information is laid within six months of the chargeability, although the running away took place more than six months before the information was laid (*Reeve* v. *Yeates*, 1 H. & C. 435).

Vol. 2, p. 967, ——————— to sect. 14, *add*—It is the duty of justices summarily convicting to cause the conviction to be lodged with the clerk of the peace pursuant to this section, and on proof of neglect to do so on the part of the justices in any particular instance, proceedings may be had against them; but the clerk to the justices being only their servant, a mandamus cannot be granted to compel him to lodge all the convictions which have been made by the justices during a certain period (*Hayward, Ex parte*, 9 Jur. N. S. 820; 32 L. J. M. C. 89; 11 W. R. 258; 7 L. T. N. S. 622—Q. B.).

Vol. 2, p. 970, ——————— to sect. 27, n. (*a*), *add*—On an appeal against a poor-rate, the Court of Quarter Sessions awarded 21*l.* 15*s.* 2*d.* to be paid to the respondents for their costs, and further directed the appellant to pay the same to the clerk

of the peace for the use of the parties entitled to the same:—This was held a proper form of order (*Gay* v. *Matthews*, 33 L. J. M. C. 14).

Vol. 2, p. 973, JUSTICES OF THE PEACE, to 11 & 12 Vict. c. 43, s. 35, *add*—By 26 & 27 Vict. c. 77, it is enacted, That "the thirty-fifth section of the principal Act shall not apply to or control the sixth section of the same Act, and such last-mentioned section shall be construed as if the thirty-fifth section were not and never had been contained in the principal Act; and any Acts done or orders made by justices previously to the passing of this Act which would have been valid if this Act had been passed at the respective dates of such Acts being done or orders made, shall be and are hereby declared to be valid accordingly."

Vol. 2, p. 995, ——————— to 20 & 21 Vict. c. 43, s. 2, n. (*c*), *add*—A case was sent to the appellant's attorney, and by him forwarded by the next post to his London agent, with instructions to lodge it at the office of the court. The London agent, under the impression that it would be in time if lodged previously to the commencement of the ensuing term, detained it for eight days before doing so:—Held, that this was not a compliance with this section, the transmission being incomplete until actual lodgment of the case in the office of the court (*Banks* v. *Goodwin*, 9 Jur. N. S. 891; 32 L. J. M. C. 87; 11 W. R. 309; 7 L. T. N. S. 740—Q. B.).

After a case has been stated and signed by the justices, and delivered to the appellant, it becomes wholly inoperative, and no appeal can be had upon it, unless the appellant transmit it to the court within three days after he has received it from the justices. If after the expiration of the three days the case remains in the appellant's hands, and he takes it back to the justices, the justices have no power of amending it; and if they do so in fact, the appellant does not gain a further period of three days from the date of the amendment for transmitting the case to the court (*Gloucester Board of Health*) v. *Chandler*, 32 L. J. M. C. 66—Q. B.).

Vol. 2, p. 996, ——————— to sect. 6, n. (*h*), *add*—The duty of the court is simply to answer the question of law put to them by the magistrates (*Buckmaster* v. *Reynolds*, 13 C. B. N. S. 63).

Vol. 2, p. 997, ——————— to sect. 6. n. (*b*), *add*—A respondent, though he do not appear, may be liable to the costs of an appeal (*The Wednesbury Local Board of Health* v. *Stephenson*, 33 L. J. M. C. 111).

Where a case had been lodged with the officer of the court, but due notice had not been given by the appellant to the respondent, the court has no jurisdiction over it, and therefore cannot give costs to the respondent (*Conway* v. *Richardson*, 9 L. T. N. S. 549—Q. B. Ir.).

Vol. 2, p. 998, ——————— to schedule A, *add*—On an appeal from justices, the case was sent back to be re-stated, and ultimately judgment was given for the appellant, with costs. On the taxation, the master allowed to the appellant the costs of preparing the case beyond the fees allowed to the clerk of the justices by sect. 3, and schedule A., and also the costs of amending the case:—Held, that the taxation was right (*Glover* v. *Booth*, 2 B. & S. 807; 9 Jur. N. S. 76).

Vol 2, p. 1088, LANDLORD AND TENANT, to 52 Hen. 3, c. 4, s. 1, n. (*a*), *add*—Where a landlord distrains goods of his tenant for rent in such a manner as to render himself a trespasser *ab initio*, the measure of damages is the full value of the goods seized (*Attack* v. *Bramwell*, 9 Jur. N. S. 892; 32 L. J. Q. B. 146).

Vol. 2, p. 1102, ——————— to 2 Will. & M. sess. 1, c. 5, s. 2, *add*—Upon the equity of this statute a tender by the tenant of the rent due, and costs, to the person distraining, within five days after the distress is taken, and before sale, though after the distress has been impounded, in accordance with 11 Geo. 2, c. 19, s. 10, is a good tender (*Johnson* v. *Upham*, 2 El. & El. 250).

Vol. 2, p. 1104, ——————— to sect. 2, n. (*c*), *add*—See *King* v. *England*, 33 L. J. Q. B. 145.

Vol. 2, p. 1109, ——————— to 8 Ann. c. 14, s. 7, n. (*c*), *add*—The distress must be made during the possession of the tenant from whom the rent becomes due (*Turner* v. *Barnes*, 2 B. & S. 435).

Vol. 2, p. 1109, ——————— to sects. 6 & 7, *add*—*Quære*—Where, in a lease for years, &c., there is a proviso for re-entry on non-payment of rent, and rent being in arrear, the lessor distrains within six months after the forfeiture had accrued—whether, since this Act the distress, without more, would be a waiver of the forfeiture (*Ward* v. *Day*, 33 L. J. Q. B. 3).

Vol. 2, p. 1119, ——————— to 11 Geo. 2, c. 19, s. 10, n. (*a*), *add*—Semble, that a distress is sufficiently impounded, in accordance with this section, where, with the consent of the tenant, the person distraining makes an inventory of part of the goods distrained, serves it, together with notice of the distress, on the tenant, and leaves a man in possession on the premises, but does not disturb, lock-up, or remove any of the goods (*Johnson* v. *Upham*, 2 El. & El. 250, *supra*).

Vol. 2, p. 1138, ——————— to 4 & 5 Will. 4, c. 22, s. 2, n. (*e*), *add*—If a company is so constituted that its dividends are to be declared, and therefore become due at fixed periods, such dividends are within this Act and apportionable (*In re Maxwell*, 9 Jur. N. S. 350; 32 L. J. Ch. 333).

Secus, as to the dividends of companies; as railway companies governed by the Companies' Clauses Act, which have no fixed period for declaring a dividend, and are under no obligation to declare a dividend at all (*Ib.*).

When a dividend is apportionable, it is

with reference to the last payment, not to the period during which the profits were earned, that the proportions are to be calculated (*Ib.*).

Where stocks are sold between dividend days, the court of chancery will not apportion the proceeds of sale, so as to give a tenant for life the value of the current dividend included in the proceeds (*Scholefield* v. *Redfern*, 32 L. J. Ch. 627).

The rule is the same, though the subject matter sold may consist of debentures or securities carrying interest *de die in diem* (*Ib.*).

Vol. 2, p. 1148, LANDS CLAUSES, to 8 Vict. c. 18, n. (*a*), *add*—The provisions of this Act with respect to costs of sales and conveyances of lands taken for an undertaking, held to be applicable to sales and conveyances under an Act of later date, which authorised taking of lands, but made no provision for such costs, notwithstanding the later Act in no way referred to this Act (*Re Cherry's Estate*, 31 L. J. Ch. 38, 351, distinguished; *Ex parte the Vicar & C. of St. Sepulchre's*, 33 L. J. Ch. 372).

Vol. 2, p. 1150, ——————— to sect. 7, n. (*c*), *add*—Land stood limited to A. for life, with remainder to C. and D., husband and wife, in fee:—Held, that the wife could convey (*Cooper* v. *Gostling*, 11 W. R. 931; 9 L. T. N. S. 77—V. C. S.).

Vol. 2, p. 1151, ——————— to sect. 9, *add*—*Baker* v. *The Metropolitan Rail. Co.*, 31 Beav. 504.

Vol. 2, p. 1152, ——————— to sects. 16 & 17, *add*—These sections were intended to prevent bubble schemes from being set on foot, and to provide an ample security to the public that their land should not be taken and persons disturbed without a reasonable certainty of the undertaking being carried into effect. The reason, therefore, for the enactment does not apply to the case of an old-established company, and one which has ample funds for the purpose (*Weld* v. *The South-Western Rail. Co.*, 32 Beav. 340; 33 L. J. Ch. 142; see *The Queen* v. *The Great Western Rail. Co.*, 1 Ell. & B. 253).

Vol. 2, p. 1152, ——————— to sect. 18, *add*—See *Bourne* v. *The Mayor of Liverpool*, 33 L. J. Q. B. 15, *post*, sect. 63.

Vol. 2, p. 1155, ——————— to sect. 23, n. (*a*), *add*—A claim for compensation is properly submitted to a sheriff's jury wherever the amount claimed exceeds 50*l.* (*Read* v. *The Victoria & Pimlico Rail. Co.*, 7 H. & C. 826; 9 Jur. N. S. 1061; 32 L. J. Ex. 167).

Vol. 2, p. 1158, ——————— to sect. 38, *add*—This section does not apply to inquiries taken under sect. 68, as to lands injuriously affected. The promoters of the undertaking may make fresh offers of compensation so long as they make them before giving the requisite notice of the time and place of inquiry (*In re Heywood* v. *The Metropolitan Rail. Co.*, 33 L. J. Q. B. 73).

Vol. 2, p. 1159, ——————— to sect. 39, n. (*a*), *add*—If the sheriff is interested in the transaction (as being a shareholder in the company requiring the land), a *certiorari* will issue to bring up the inquisition (*Reg.* v. *The London and North-Western Rail. Co.*, 9 L. T. N. S. 423—B. C.—Blackburn, J.).

Vol. 2, p. 1162, LANDS CLAUSES, to 8 Vict. c. 18, s. 51, n. (*b*), *add*—See *The Metropolitan Rail. Co.* v. *Turnham*, *post*, sect. 68. To sect. 53, n. (*d*), see *ib.*

Vol. 2, p. 1162, ——————— to sect. 51, *add*—This section applies to inquiries taken under sect. 68, as to lands injuriously affected (*In re Hayward* v. *The Metropolitan Rail. Co.*, 33, L. J. Q. B. 73).

Vol. 2, p. 1164, ——————— to sect. 63, *add*—The plaintiffs, who were brewers, were the owners in fee of a public-house which was let for an unexpired term of seven years, and there was in the lease a covenant by the tenant not to sell on the premises any beer other than that purchased of plaintiffs; defendants were empowered, by their special Act, to take the premises:—It was held, that in ascertaining, under sects. 18 and this section the amount of purchase-money and compensation to be paid by defendants to plaintiffs, the additional value of the premises by reason of the covenant to sell plaintiffs' beer only was to be taken into consideration (*Bourne* v. *the Mayor, &c., of Liverpool*, 33 L. J. Q. B. 15).

Vol. 2, p. 1164, ——————— to sect. 68, n. (*b*) *add*—After compensation awarded by a sheriff's jury, the party against whom such compensation has been adjudged, may, nevertheless, in an action against him for the amount and costs, plead that the lands in respect of which the compensation was allotted were not injuriously affected (*Read* v. *The Victoria & Pimlico Rail. Co.*, 7 H. & C. 826; 9 Jur. N. S. 1061; 32 L. J. Ex. 167).

Vol. 2, p. 1164, ——————— to sect. 68, n. (*d*) *add*—Where a railway company took land of L. under their Act, and proposed to make their railway on it so close to a cotton-mill belonging to L. that by reason of the proximity of the railway and the danger of fire from the trains using the line the building was less suitable for a cotton-mill, could only be insured at an increased premium, and was rendered of less saleable value:—It was held, that L. was entitled to compensation in respect of the mill being so injuriously affected, and that the rule that compensation could only be given for that which unless sanctioned by the private statute would otherwise have been an actionable wrong, had no application to cases where the act complained of was done on claimant's own land, taken from him by the company by force of their statute (*In re the Stockport, Timperley & Altringham Rail. Co.*, 33 L. J. Q. B. 251).

Loss of trade is an injurious affecting (*Senior* v. *The Metropolitan Rail. Co.*, 32 L. J. Ex. 235; *Chamberlain* v. *West End Rail. Co.*, 31 L. J. Q. B. 201).

On an inquisition under this section the only question that can be inquired into is the amount of compensation for the damage actually done, and there is no jurisdiction to inquire into the legal rights of the claimant (*R.* v. *The Metropolitan Rail. Co.*,

32 L. J. Q. B. 367; *R.* v. *London & North-Western Rail. Co.*, 3 E. & B. 443).

Where the claimant, under this section, claims one sum as compensation for premises having been injuriously affected, and another in respect of loss of business, it is not necessary in the offer to mention one lump sum, but the promoters may offer one sum as compensation in respect of the premises having been injuriously affected, and another as compensation in respect of loss of business, and if the jury give the same sum in the aggregate as the sum offered, although they reverse the position of the two sums, the claimant cannot get the costs of the inquiry (*In re Hayward* v. *The Metropolitan Rail. Co.*, 33 L. J. Q. B. 73).

Vol. 2, p. 1166, LANDS CLAUSES, to 8 Vict. c. 18, s. 68, *add*—If the inquiry takes place before a jury and the costs are settled by one of the Masters of the Queen's Bench under sect. 52, his decision, if subject to review at all, is only subject to the review of the Court of Queen's Bench (*The Metropolitan Rail. Co.* v. *Turnham*, 32 L. J. M. C. 249).

Vol. 2, p. 1166, ——————— to sect. 68, n. (*a*) *add*—An offer of compensation in respect of lands injuriously affected by the execution of works coming within this Act, may be made at any time before the notice of the time and place of inquiry is given to the person claiming compensation under this section, such notice being given as required by section 46, not less than ten days before the inquiry is to take place (*In re Hayward* v. *The Metropolitan Rail. Co.*, 33 L. J. Q. B. 73).

Vol. 2, p. 1166, ——————— to sect. 68, n. (*b*) *add*—See *Knapp* v. *London, Chatham, &c., Rail. Co.*, 32 L. J. Ex. 236.

Vol. 2, p. 1173, ——————— to sect. 82 *add*—The H. Rail. Co. agreed to pay for certain lands which they required a sum equal to thirty-five years' purchase on the ground-rents. The lands required were held in lease with other lands, and an apportionment became necessary, in the course of which considerable expenses were incurred:—It was held that the costs of apportioning the ground-rents must be regarded as incurred in ascertaining the price, and not as incidental to the conveyance or deduction of title, and that the company was otherwise not liable to pay the same under this section (*In re the Hampstead Junction Rail. Co., ex parte Buck*, 33 L. J. Ch. 79).

Vol. 2, p. 1173, ——————— to sect. 84, *add*—The Thames Embankment Act incorporates this Act, with the additional provision, that the word "lands" shall include easements and interests in land. M., the owner of a wharf on the Thames, had a right of free access from the river, and also the right of loading and unloading barges at his wharf. There was no campshed or hard, but at low water the barges rested on the mud of the foreshore. The Metropolitan Board of Works were proceeding, under the Thames Embankment Act, to fill up the river in front of M.'s wharf. Thereupon M. filed a bill to restrain them from doing so without first making a deposit and entering into a bond under this Act:—It was held, that the Metropolitan Board was not taking and using for the purposes of the undertaking any easement or interest in lands belonging to the plaintiff, but was only injuriously affecting his rights (*Macey* v. *The Metropolitan Board of Works*, 33 L. J. Ch. 377).

Whether the machinery for ascertaining compensation prescribed by the Lands Clauses Act, or that prescribed by the Metropolitan Local Management Act, 18 & 19 Vict. c. 120 s. 225, is primarily applicable to the Thames Embankment Act—*quære* (*Ib.*).

Vol. 2, p. 1176, LANDS CLAUSES, to 8 Vict. c. 18, s. 92, n. (*b*) *add*—It seems doubtful whether a strip of meadow land is a "part of a house," within the meaning of this section. On appeal, Lord Justice Turner held that the strip of land being held for pleasure only, and not of necessity for the enjoyment and occupation of the residence, it would not have passed by a conveyance of the "house" simply. Dissentiente Lord Justice Knight Bruce (*Fergusson* v. *the London, Brighton, &c., Rail. Co.*, 33 L. J. Ch. 29).

Vol. 2, p. 1176, ——————— to sect. 92, n. (*c*) *add*—Where the plaintiffs had erected and covered in three new houses; but while they were in an unfinished state, a railway company required a portion of the land intended to be attached to them as gardens, it was held under this section that the company was bound to purchase the whole of the property; although the houses had never been completed, and had fallen into a state of great dilapidation (*Alexander* v. *the Crystal Palace Rail. Co.*, 30 Beav. 556. See *Gardner* v. *The Charing Cross Rail. Co.*, 2 John. & Hem. 248; 31 L. J. Ch. 181).

Vol. 2, p. 1176, ——————— to sect. 92, n. (*d*), *add*—A landowner, part of whose house within the meaning of this Act is taken by a railway company, cannot, under this section, compel the company to take any portion, beyond what it requires, less than the whole (per Turner, L. J., semble, agreeing with the Master of the Rolls). A field, separated from the garden of a house by a ha-ha, traversed by a gravel walk leading to a coachman's house at the further end thereof, and used occasionally for purposes of pleasure (as archery and dancing), though chiefly as pasture for cows, was held, by Turner, L. J. (dubitante Knight Bruce, L. J.) not to be part of the house within this section. This section is applicable, although the landowner may have only a leasehold interest—semble (*Pulling* v. *London, Chatham, &c., Rail. Co.*, 33 L. J. Ch. 505).

Vol. 2, p. 1182, ——————— to sect. 121, *add*—See *Knapp* v. *London, Chatham, &c., Rail. Co.*, 32 L. J. Ex. 236.

VOL. III.

Vol. 3, p. 3, LIMITATION OF ACTIONS, to 21 Jac. 1, c. 16, s. 3, n. (*a*), *add*—A. was owner of houses standing on land which was surrounded by the lands of B., C., and D. E. was owner of mines running underneath the lands of all these persons. He worked the mines in such a manner (without actual negligence) that the lands of B., C., and D. sank in; and after more than six years' interval the sinking occasioned an injury to the houses of A. :—Held, that a right of action accrued to A. when this injury actually occurred, and that his right was not barred by the Statute of Limitations (*Backhouse* v. *Bonomi*, 9 H. L. Cas. 503).

Vol. 3, p. 4, ——————— to sect. 3, n. (*a*), *add*—A note being given by A. and a surety, to a banker, and a contemporaneous memorandum of agreement, showing the note to be given as security for the banking account to be kept by A. with the bank :—Held, that the Statute of Limitations did not run from the time when A. became indebted to the bank, but from the time when the balance was struck (*Hartland* v. *Jukes*, 1 H. & C. 667; 9 Jur. N. S. 180; 32 L. J. Ex. 162; 11 W. R. 519; 7 L. T. N. S. 792).

Vol. 3, p. 14, ——————— to 9 Geo. 4, c. 14, s. 1, n. (*a*), *add*—In 1853, H., as principal, and the defendant as surety, gave to the plaintiff their joint and several promissory note for payment of 200*l.* on demand. In 1861, H. assigned all his property for the benefit of his creditors, and the defendant signed and gave to the plaintiff the following letter :—"I hereby consent to your receiving the dividend under H.'s assignment, and agree that your so doing shall not prejudice your claim upon me for the same debt." The plaintiff accordingly received the dividend, and in 1862 sued the defendant for the balance of the note :—Held, first, that the letter was not an acknowledgment of the debt, so as to take the case out of the Statute of Limitations (*Cockrill* v. *Sparke*, 1 H. & C. 699; 9 Jur. N. S. 307; 32 L. J. Ex. 118; 11 W. R. 428; 7 L. T. N. S. 752).

An agreement to refer certain accounts between the parties hereto, after reciting that disputes had arisen between them in respect of them, empowered the arbitrators by their award to ascertain what was due and of right payable, and to order any sum which might be found due to be paid at such times and in such proportions as they should seem fit. The arbitration having proved abortive:—Held, that the agreement amounted to a conditional recognition of the debt only on the part of the debtor, and that the condition being unfulfilled, it did not amount to a sufficient acknowledgment of the debt to take it out of the operation of the statute (*Hales* v. *Stevenson*, 9 Jur. N. S. 300—Q. B.—Affirmed on appeal, 11 W. R. 952; 8 L. T. N. S. 798—Exch. Cham.).

Commissioners under a local improvement Act, which required the attendance of five at least to form a quorum at their meetings, appointed a sub-committee of three to examine into the state of their finances. The sub-committee made a report, showing certain sums to be due from the commissioners; and at a regular meeting of the commissioners, resolutions were passed, thanking the sub-committee, and ordering the report to be printed, and certain additional rates, recommended by the report, to be levied :—Held, that this did not amount to a sufficient acknowledgment of the debt to defeat the operation of the statute (*Bush* v. *Martin*, 9 Jur. N. S. 851; 11 W. R. 1078; 8 L. T. N. S. 509—Exch.).

Vol. 3, p. 18, LIMITATION OF ACTIONS, to 9 Geo. 4, c. 14, s. 1, n. (*a*), *add*—A defendant, in order to take a debt, pleaded as a set-off, out of the operation of the Statute of Limitations, gave in evidence a letter written by the plaintiff to Q., a third person, stating an account showing the existence of the debt from the plaintiff to the defendant, but also that a balance was due from the defendant to the plaintiff; and proposing to settle the matter upon payment by the defendant to the plaintiff of a sum named. The defendant had not acceded to the proposal :—Held, that the letter was not a sufficient acknowledgment of the debt, to defeat the operation of the statute (*Francis* v. *Hawkesley*, 1 El. & El. 1052).

Vol. 3, p. 19, ——————— to sect. 1, n. (*a*), *add*—After an administration decree, an executor has no right, as against parties interested in the estate, to give an acknowledgment to take a debt out of the operation of this statute (*Phillips* v. *Beale*, 32 Beav. 26).

Vol. 3, p. 33, ——————— to 3 & 4 Will. 4, c. 27, s. 7, n. (*a*), *add*—In 1830, A. enclosed about six acres of waste land, and built a cottage thereon, and was allowed to remain in possession, without acknowledgment or payment of rent, to 1845, when the steward of the owner of the fee served him with a declaration and notice in ejectment; whereupon A. consented to give up four acres of the land, on his being allowed to continue in possession of the cottage and the other two acres until his death. A. died in 1861 :—Held, that that which took place in 1845 amounted to an actual entry, and operated as a determination of the original tenancy at will, and the creation of a new tenancy; and consequently that the period of limitation was to be reckoned from that time (*Locke* v. *Matthews*, 13 C. B. N. S. 753; 9 Jur. N. S. 874; 32 L. J. C. P. 98; 11 W. R. 343; 7 L. T. N. S. 824).

Vol. 3, p. 41, ——————— to sect. 18, *add*—See *Pelly* v. *Bascombe*, 33 L. J. Ch. 100.

Vol. 3, p. 43, LIMITATION OF ACTIONS, to 3 & 4 Will. 4, c. 27, s. 24, n. (*b*), *add*—A testator, by will, charged all his real estate with payment of his debts, if his personal estate was insufficient to pay them, and directed his executors to raise sufficient for their payment by mortgage or otherwise :—Held (affirming the decision of Romilly, M. R., 31 Beav. 511 ; 9 Jur. N. S. 60), that this did not create an express trust within the exception contained in this Act (*Dickenson* v. *Teasdale*, 1 De G. J. & Sm. 52 ; 9 Jur. N. S. 237 ; 32 L. J. Ch. 37 ; 7 L. T. N. S. 655).

Vol. 3, p. 46, ——————— to sect. 25, n. (*a*), *add*—A devise of real estate subject and charged with legacies does not create an express trust in favour of the legatees (*Proud* v. *Proud*, 32 Beav. 234 ; 32 L. J. Ch. 125).

Vol. 3, p. 50, ——————— to sect. 28, n. (*b*), *add*—A first mortgagee in possession for more than twenty years was applied to by the solicitor of a subsequent incumbrancer for an account of the rents and profits. He replied as follows:—"In answer to your letter, I beg to say that I deny the claim of your client. I need only add, that if he were entitled to the account it would be of no use, as the rents and profits of the estate have never been sufficient to pay the interest of the first charge :"—Held, not to be an acknowledgment of the second incumbrancer's right to redeem (*Thompson* v. *Bowyer*, 9 Jur. N. S. 863 ; 11 W. R. 975—R.).

Vol. 3, p. 60, ——————— to sect. 42, n. (*a*), *add*—By a mortgage of freeholds, in 1848, to secure money advanced by twelve persons, the property was conveyed to a trustee, with a proviso for redemption and a power of sale, and a declaration that out of the proceeds of sale he should pay the principal "and all interest thereon from the day of the date thereof." The mortgagor having died insolvent, and the trustee having, in 1862, sold the property :—Held, that the case was not taken out of this section by the declaration of trust of the proceeds of sale, and therefore that only six years' arrears of interest could be retained (*Mason* v. *Broadbent*, 12 W. R. 1118 ; 9 L. T. N. S. 565—R.).

Vol. 3, p. 60, ——————— to sect. 42, n. (*b*), *add*—An acknowledgment by a mortgagor of more than six years' arrears of interest being due upon a first mortgage does not preclude a puisne mortgagee from relying on the Statute of Limitations (*Bolding* v. *Lane*, 1 De G. J. & Sm. 122 ; 9 Jur. N. S. 506).

Therefore where a mortgagor was, but a second mortgagee was not, a party to a transfer of a first mortgage, the interest on which was, and was in the transfer recited to be, upwards of six years in arrear :—Held, that notwithstanding this recital, the second mortgagee was entitled to redeem the first mortgagee, on payment of principal and six years' arrears only of interest (*Ib.*).

Vol. 3, p. 64, ——————— to 3 & 4 Will. 4, c. 42, s. 5, n. (*c*), *add*—In 1833, trustees of a marriage settlement lent to the husband, at interest, some of the money settled to the separate use of his wife, on security of the joint bond of the husband and the defendant. No interest was paid ; but on the 31st October, 1847, it was arranged between the trustees and the husband and wife that she should give the trustees her receipt for the interest up to that date, which she accordingly did. She afterwards from time to time gave receipts for each half-year's interest up to November, 1860. No money ever passed :—Held, that the transaction amounted to a payment or satisfaction of the interest (*Amos* v. *Smith*, 1 H. & C. 238).

Vol. 3, p. 69, LIMITATION OF ACTIONS, to 19 & 20 Vict. c. 97, s. 14, *add*—An acknowledgment by one of several drawers of a joint and several promissory note, does not (since this Act) take it out of the statute as against the others (*Cockrill* v. *Sparke*, 32 L. J. Ex. 118 ; 9 Jur. N. S. 307).

Vol. 3, p. 87, LONDON SMALL DEBTS ACTS, to 15 Vict. c. 77, s. 122, line 5, "for which no plaint could have been entered," *add*—These words apply to those cases for which no plaint can be *legally* entered, and not to actions which although legally brought, cannot be successfully maintained in the inferior courts (*Noble* v. *The Bank of England*, 33 L. J. Ex. 81 ; 9 Jur. N. S. 778).

Vol. 3, p. 89, ——————— to 20 & 21 Vict. c. 157, s. 15, n. (*a*), *add*—See *Cox* v. *The Mayor, &c. of London*, 32 L. J. Ex. 282.

Vol. 3, p. 99, LUNATICS, to 3 & 4 Vict. c. 54, s. 5, *add*—On an appeal against an order made on a board of guardians for the maintenance of a criminal lunatic, under this section, the practice follows the procedure in use in appeals against orders of removal, and when application is made within the twenty-one days from the service of the order for a copy of the depositions, the board have, as in the case of poor-law appeals, fourteen days from the time the copy is sent in which to give their notice of appeal. The clerk of the board, an attorney, signed the notice of appeal, "H. H., clerk to the aforesaid guardians :"—This was held a sufficient notice of appeal on the part of the guardians (*R.* v. *Newport Poor-Law Union*, 32 L. J. M. C. 155).

Vol. 3, p. 143, ——————— to 16 & 17 Vict. c. 70, s. 137, *add*—The court has power to make an order for the appointment of new trustees, where the power of appointment was vested in a tenant for life, a lunatic, but it declined to do so in the absence of the committee of the lunatic (*In re Parke*, 9 Jur. N. S. 998 ; 11 W. R. 655 ; 8 L. T. N. S. 378—R.).

Vol. 3, p. 144, ——————— to sect. 140, "stock," *add*—*In re Ives*, 32 L. J. Ch. 673).

Vol. 3, p. 149, ——————— to 16 & 17 Vict. c. 96, s. 9, n. (*a*), *add*—If a man voluntarily takes upon himself the care and charge of a lunatic brother, and keeps him in his private house, and wilfully neglects him, he is indictable for a misdemeanor under this sect. (*R.* v. *Porter*, 33 L. J. M. C. 126).

Vol. 3, p. 164, ——————— to 16 & 17 Vict. c. 97, s. 35, *add*—A house appropriated by the

visitors to the use of the chaplain of a county lunatic asylum is not within this sect. As the chaplain, though required by the visitors, is not required by this statute to be resident; but a residence so appropriated to the medical superintendent is within this enactment, as he is required by sect. 55 to be "resident in the asylum;" and a separate house, but conveniently situate near the other buildings, with garden and reasonable accommodation for a man of his education and position, is assessable only at the lower value (*Congreve* v. *Upton*, 33 L. J. M. C. 83).

Vol. 3, p. 204, LUNATICS, to 25 & 26 Vict. c. 86, s. 11, *add*—See *In re* ———, 33 L. J. Ch. 333.

Vol. 3, p. 208, ——— to 25 & 26 Vict. c. 111, s. 8, *add*—By 26 & 27 Vict. c. 110, the words "chronic lunatics" in this section is to include chronic lunatics chargeable to other parishes or unions, as well as chronic lunatics chargeable to the parish or union into the workhouse of which they are proposed to be received.

Vol. 3, p. 224, MARKETS, to 10 Vict. c. 14, s. 42, *add*—See as to the validity of by-law made by a local board under the Public Health and the Markets and Fairs Clauses Acts, confining the sale of meat to a particular part of the market and imposing a penalty for exposing to sale elsewhere in the market, although by a local Act such sale would have been exempt from penalty (*Savage* v. *Brook*, 33 L. J. M. C. 42).

Vol. 3, p. 254, MARRIAGE, to 6 & 7 Will. 4, c. 85, s. 20, *add*—Evidence in support of a plea of coverture that the defendant was married in a catholic chapel, according to the rites of the Roman Catholic Church, to a person with whom she afterwards lived as wife, is *primâ facie* sufficient to show a valid marriage under this Act, as the law will presume that the chapel was registered and the registrar present as required by this Act (*Sichel* v. *Lambert*, 33 L. J. C. P. 137).

Vol. 3, p. 286, MASTER AND SERVANT, to 20 Geo. 2, c. 19, s. 1, n. (*h*), *add*—A master is entitled to a deduction in respect of bad workmanship; and the justices, upon satisfactory evidence, should order the payment of so much "as shall seem just and reasonable" (*Sharp* v. *Hainsworth*, 3 B. & S. 139; 9 Jur. N. S. 353; 7 L. T. N. S. 320—Q. B.).

Vol. 3, p. 296, ——— to 17 Geo. 3, c. 56, s. 10, n. (*c*), *add*—A warehouse occupied for business purposes only, and not within the curtilage of or connected with any dwelling-house, is a place within the meaning of this section (*Reg.* v. *Edmundson*, 2 El. & El. 77).

Vol. 3, p. 303, ——— to 4 Geo. 4, c. 34, s. 3, n. (*c*), *add*—An iron shipbuilder contracted in writing with six skilled handicraftsmen to plate a vessel, they agreeing exclusively to serve him subject to the rules and regulations of the yard, and to execute the whole of the skilled and unskilled labour requisite to complete the entire hull of the vessel, of the best workmanship and to the entire satisfaction of their employer (they employing and paying such skilled and unskilled assistants as might be requisite to complete the vessel with all dispatch), and to be paid 5*l.* per ton for the work so done by them:—Held, that the contracting parties were "handicraftsmen or artificers" (*Lawrence* v. *Todd*, 14 C. B. N. S. 554; 32 L. J. M. C. 238; 11 W. R. 835; 8 L. T. N. S. 505; see also *Ex parte Gordon*, 25 L. J. M. C. 12).

Vol. 3, p. 315, MASTER AND SERVANT, to 6 Geo. 4, c. 129, s. 3, n. (*a*), *add*—In order to be within this section a threat need not be a threat of actual violence, but it will be sufficient if it be a threat to follow out some unlawful purpose (*O'Neil* v. *Longman*, 11 W. R. 947; 8 L. T. N. S. 657—Q. B.).

Vol. 3, p. 319, ——— to 1 & 2 Will. 4. c. 37, s. 1, n. (*a*) *add*—Butty colliers working in partnership under a verbal contract with the colliery owner, by the day, by the ton, or by the yard, according to the nature of the work, and, though not allowed to underlet the work, employing others to assist them, for whose wages they were responsible, are according to *Ingram* v. *Barnes*, not "artificers" receiving wages, &c. (*Sleeman* v. *Barrett*, 33 L. J. Ex. 153).

Vol. 3, p. 320, ——— to sect. 9, *add*—To constitute an offence it is not necessary that the payment of wages in goods instead of money should be the result of any contract or understanding between the employer and the workman; the mere payment is enough (*Wilson* v. *Cookson*, 13 C. B. N. S. 496; 9 Jur. N. S. 177; 32 L. J. M. C. 177; 11 W. R. 426; 8 L. T. N. S. 53).

The offence is not purged by a subsequent payment in money, whether made voluntarily or compulsorily under an order of justices (*Ib.*).

Vol. 3, p. 340, MEDICAL PRACTITIONERS, to 21 & 22 Vict. c. 90, s. 29, *add*—The General Council of Medical Education and Registration are sole judges of whether a registered medical practitioner has been guilty of infamous conduct in a professional respect; and the council having after due inquiry so adjudged and ordered the name of the medical practitioner to be removed from the register accordingly, this Court cannot interfere (*Ex parte La Mert*, 33 L. J. Q. B. 69).

Vol. 3, p. 340, ——— to sect. 31, *add*—A physician, if registered, can recover reasonable charges for professional visits, without a special agreement, provided he is not prohibited from suing by any bye-law of his college (*Gibbon* v. *Budd*, 9 Jur. N. S. 525; 32 L. J. Ex. 182; 8 L. T. N. S. 321).

Vol. 3, p. 341, ——— to sect. 32, *add*—Defendant, the medical officer of a foreign ship of war lying in the Thames, agreed to pay plaintiff, who was a foreign medical man domiciled and practising in England, a certain monthly sum for the latter's medical attendance on the sick crew of the ship during defendant's temporary absence. The agreement was made on board the ship, but plaintiff was not registered:—It was held, that the Act applied though the agreement was made be-

tween two medical men, and that plaintiff's inability to prove his registration prevented him from recovering even if the ship where the agreement was made were considered as a foreign territory (*Alverez de la Rosa* v. *Prieto*, 33 L. J. C. P. 262).

Vol. 3, p. 341, MEDICAL PRACTITIONERS, to 21 & 22 Vict. c. 90, s. 32, n. (*c*) *add*—A medical practitioner is entitled to maintain an action for attendances and medicines, though not registered at the time of such attendance, it is enough if he appears to be duly registered at the time of the trial (*Turner* v. *Reynall*, 14 C. B. N. S. 328; 9 Jur. N. S. 1077; 32 L. J. C. P. 164; 11 W. R. 700; 8 L. T. N. S. 281).

Where a business is carried on by two partners, one of whom is registered as a surgeon and an apothecary, and the other as a surgeon only; this is no answer to a joint claim for attendances and medicines supplied in both capacities (*Ib.*).

Semble, that it would be enough if one member of the firm only had been registered (*Ib.*).

Vol. 3, p. 357, METROPOLITAN (MANAGEMENT), to 18 & 19 Vict. c. 120, s. 21, *add*—Held, that an intentional obstructing of the voting by actual violence, is an offence within this section (*Buckmaster* v. *Reynolds*, 13 C. B. N. S. 63).

Vol. 3, p. 366, ——————— to sect. 76, *add*—Held, that this does not empower them to demolish the building, without first giving the party guilty of the omission an opportunity of being heard; and that the 211th section, which gives an appeal to the Metropolitan Board of Works, does not prevent the builder or owner of the premises from suing them for so doing (*Cooper* v. *Wandsworth Board of Works*, 14 C. B. N. S. 180; 9 Jur. N. S. 1155; 8 L. T. N. S. 278).

Vol. 3, p. 368, ——————— to sect. 88, *add*—A vestry resolved to erect a urinal in a situation where the vestry deemed such accommodation was required by the public, but where B. and other occupiers of houses considered that it would be a private nuisance; and the court granted an injunction, on the grounds that the Act conferred no power to enable the vestry to erect that which would be a nuisance to any one; that the vestry had no power to suppress nuisances; and that the Act conferred no arbitrary power (which appeared to have been exercised) on the metropolitan vestries (*Biddulph* v. *St. George's Hanover Square* (*Vestry*), 9 Jur. N. S. 434; 11 W. R. 524; 8 L. T. N. S. 44—V. C. S. But the injunction was dissolved, upon appeal, by the Lords Justices. See 33 L. J. (Ch.) 411.

Vol. 3, p. 369, ——————— to sect. 90, n. (*a*), *add*—By a local Act for a parish, the vestrymen, governors, and directors of the poor, or any nine of them, or on their failure, the churchwardens, were to make a rate on the parish, called the composition rate, for raising a sum for payment of the rector's stipend, and for the repairs and expenses of the church:—Held, that the power of making this rate was transferred to the new vestry elected under those statutes; though it may be that if the new vestry fail to make any rate, the churchwardens may still make one under the powers of the local Act (*Reg.* v. *Stretfield*, 32 L. J. M. C. 236; 11 W. R. 736—B. C.—Wightman, J.; *Reg.* v. *Lambeth* (*Vestry*), 3 B. & S. 1; *R.* v. *St. George*, 32 L. J. Q. B. 160).

Vol. 3, p. 377, METROPOLITAN (MANAGEMENT), to 18 & 19 Vict. c. 120, s. 135, n. (*a*), *add*—No power is conferred on the Metropolitan Board of Works by this section of erecting any works in the soil or bed of the river Thames. That power is conferred by 21 & 22 Vict. c. 104, s. 2, subject, by section 27, to the assent of the Admiralty being previously obtained in respect of all works below high-water mark which may interfere with the navigation. Where, therefore, a contractor, by direction of the Metropolitan Board, had placed piles in the bed of the river to protect sewage works there, without having obtained the consent of the Admiralty, the Metropolitan Board and the contractor were held liable to damages in an action brought by the owner of a vessel, which had been injured by grounding on the piles (*Brownlow* v. *the Metropolitan Board of Works*, 33 L. J. C. P. 233—Ex. Ch.).

Vol. 3, p. 378, ——————— to sect. 140, *add*—See sect. 195.

Vol. 3, p. 382, ——————— to sect. 160, *add*—See sect. 195.

Vol. 3, p. 386, ——————— to sect. 180, *add*—By an Act of Parliament the whole area of Grosvenor Square was placed under the management of trustees, and they, in pursuance of powers contained in the Act, borrowed money, which, together with interest, was charged on the rates to be levied under the Act, such rates being payable one-half by the owner, and the other by the occupier of each house in the square:—Held, that though this Act left in the trustees the inclosed ground and footway round it, together with all duties and powers in relation to the future maintenance of such ground, and to levy rates for defraying the expenses incurred in the execution of such duties and powers, it transferred the debt charged on the rates under the special Act to the vestry of the parish; and the court granted a peremptory mandamus to the vestry to take the necessary steps for paying the principal and interest (*Reg.* v. *St. George's, Hanover Square*, 32 L. J. Q. B. 160; 11 W. R. 722).

Vol. 3, p. 387, ——————— to sect. 181, *add*—The parish of A., not being one of the parishes within the area of this Act, but being liable to a mortgage debt under the Metropolitan Sewers Act (11 & 12 Vict. c. 112), the Metropolitan Board of Works, intending to act under this section, issued their precept to the overseers of A. to pay a certain sum "for defraying the expenses of the board in the execution of the Act," and a rate was made accordingly "for levying the sum required by the Metropolitan Board of Works for the purposes of the said Act." It was held, the precept and rate were bad on the face of them, as purporting to be made for purposes for which A. was not liable to be rated; and that the rate therefore could not be enforced (*R.* v. *Ingham*, 32 L. J. M. C. 214).

Vol. 3, p. 390, ——————— to

sect. 195, *add*—When an order of the Board of Works has been made, under sect. 140, that the whole of a street situate in more than one district should be under the exclusive management of one particular vestry, and that vestry makes an order, under sect. 160, upon one of the other districts for contribution towards the expenses, if the order is good on the face of it, the only mode of appeal open to the district is by contesting the propriety of the assessment at the audit, under this section; and the Court, on a return to a mandamus ordering the payment of the sum assessed, will not go into the matter, but grant a peremptory mandamus (*R.* v. *the Board of Works of the Strand District*, 33 L. J. M. C. 33).

Vol. 3, p. 405, METROPOLITAN (MANAGEMENT), to 19 & 20 Vict. c. 112, s. 3, n. (*b*), *add*—See *R.* v. *Stretfield*, 32 L. J. M. C. 136.

Vol. 3, p. 419, ——————— to 25 & 26 Vict. c. 102, s. 75, *add*—In a proceeding before a magistrate, under this section, for erecting an "erection" beyond the general line of buildings in a street, the certificate of the superintending architect of the Metropolitan Board of Works as to what line is "the general line of buildings," does not preclude the magistrate from questioning and determining whether such line be the true general line of buildings in that street or not. A small conservatory having been erected over a projecting shop-front in a street, and the magistrate having decided that it was not an erection within the meaning of the above section, the Court refused to review his decision (*St. George, Hanover Square* v. *Sparrow*, 33 L. J. M. C. 118).

Vol. 3, p. 443, MORTGAGES, to 17 & 18, Vict. c. 113, s. 1, n. (*a*), *add*—This Act does not apply to leaseholds (*Solomon* v. *Solomon*, 33 L. J. Ch. 473).

Vol. 3, p. 451, NOTICE OF ACTION, to 5 & 6 Vict. c. 97, s. 4, *add*—Notice of action (*Freeman* v. *Read*, 32 L. J. M. C. 226).

Vol. 3, p. 501, PARLIAMENT, to 2 Will. 4, c. 45, s. 27, n. (*b*), *add*—The claimant was tenant of the whole of the upper floor of a building; his holding consisted of two rooms, opening on to the common staircase. The staircase was approached from the street by a passage, at the end of which, next to the street, was a door, which could be closed, but had no lock or fastening of any kind. The other floors were occupied by other tenants in a similar way. The claimant had exclusive control of the door leading to his own two rooms, which were completely severed from the rest of the building:—Held, that he was tenant of a house and entitled to the borough franchise (*Henrette* v. *Booth*, 33 L. J. C. P. 61).

Vol. 3, p. 504, ——————— to sect. 30, "assistant overseer," *add*—See *Caunter* v. *Adams*, 33 L. J. C. P. 68.

Vol. 3, p. 507, ——————— to sect. 36, n. (*b*), "alms," *add*—See *Smith* v. *Hall*, 33 L. J. C. P. 59.

Vol. 3, p. 524, ——————— to 6 Vict. c. 18, s. 17, n. (*b*), *add*—At a vestry meeting of the ratepayers of a parish, held in April, 1859, Y. was elected assistant overseer of the parish, and his election was confirmed by the justices in petty sessions, pursuant to 59 Geo. 3, c. 12. In March, 1861, Y. gave a notice to the board of guardians of the parish of his intention to resign the office of assistant overseer, but he did not give notice of such intention to the justices in petty session, nor was his resignation accepted by the board of guardians. The vestry then increased Y.'s salary, and he continued to perform the duties of assistant overseer until September, 1863; but after the increase of his salary, Y. never received any fresh confirmation in his office by two justices. In November 1862, A. served a notice of claim to be placed on the list of voters, and he was placed on the list:—Held, that at the time the notice was served on Y., he was assistant overseer; that he held that office until his resignation was actually accepted; and that the notice by A. to Y. was a valid notice (*Caunter* App., *Addams*, Resp., 9 Jur. N. S. 1295; 9 L. T. N. S. 391—C. P).

Vol. 3, p. 539, PARLIAMENT, to 6 Vict. c. 18, s. 74, *add*—Where a member of a building society purchased freehold land of the society, in which he held one share. The society advanced the purchase-money of the land, the member mortgaging the land as a security. The member was bound to make certain monthly payments to the society, which amounted annually to 4*l.*, and upon his failure to do so, the society might re-enter and take possession of the land. The land would have been clear of all payments when the member had paid instalments to the amount of 73*l.*, of which he had paid 71*l.* on the 31st of January 1863. The annual value of the property unincumbered was 3*l.*:—Held, the member had an interest of the clear yearly value of 40*s.*, and was entitled to vote as a freeholder (*Robinson* v. *Dunkley*, 33 L. J. C. P. 57).

Vol. 3, p. 558, ——————— to sch. B. No. 11, *add*—F. sent to one Sidney Rice Force a notice of objection as follows:—"To Sidney Rice Force. I hereby give you notice that I object to the name of Force Sidney Rice being retained on the list:"—Held, that the notice of objection was not rendered invalid by reason of the above-mentioned departure from the form, the inaccuracy being cured by section 101 (*Force* v. *Floud*, 33 L. J. C. P. 71). Semble, also, that the notice would have been held good independently of that section (*Ib.*).

In the parish of St. Paul, Bedford, there are two lists of voters for the borough, called "the ten-pound list, or new qualification list," and "the reserved right list." A notice of objection described the objector, who was on the new qualification list, as being "on the list of voters for the parish of St. Paul:"—Held, sufficient (*Samuel* App., *Hitchmough*, Resp., 1 K. & G. 522; 13 C. B. N. S. 3; 9 Jur. N. S. 414; 32 L. J. C. P. 55; 11 W. R. 92; 7 L. T. N. S. 360).

Where there is more than one list of voters for a parish or borough, a person objecting to the vote of another must, in his notice of objection, state in which list his (the objector's) name is to be found (*Cronother*, App.,

Bradney, Resp., 12 W. R. 176; 9 L. T. N. S. 444—C. P.).

Vol. 3, p. 697, PLEADING, PRACTICE, &c. (AT LAW), to 3 & 4 Will. 4, c. 42, s. 17, n. (*k*), *add*—An action on contract was removed from the county court into the superior court, at the instance of defendant, and plaintiff obtained a verdict for less than 20*l.*:—Held, that as there was no indorsement on a writ of summons, and therefore no writ of trial could be issued, rule 7, of the Directions to the taxing Masters, Hilary Term, 1853, did not apply, and plaintiff was entitled to have his costs taxed on the higher scale (*Perry* v. *Bennett*, 33 L. J. C. P. 45).

Where in an action of contract the plaintiff does not claim more than 20*l.*, and the cause is sent to be tried before the sheriff, under this Act, the defendant, if he succeeds, is only entitled to have his costs taxed on the lower scale (*Copley* v. *Hemingway*, 33 L. J. C. P. 152).

Vol. 3, p. 722, ———
to 15 & 16 Vict. c. 76, s. 11, *add*—The six months during which a writ of summons continues in force, after its renewal, are to be computed inclusive of the day of renewal (*Anon.*, 1 H. & C. 664; 32 L. J. Ex. 88; 11 W. R. 293; 7 L. T. N. S. 718).

Therefore, where a writ of summons was originally issued on the 23rd of January, 1861, and successively renewed, the last renewal being on the 19th of July, 1862, and on Monday, the 19th of January, 1863, the officer, on being applied to, declined to impress the renewal seal on the writ:—Held, that the writ had expired, and the court refused to direct the officer to impress the seal, nunc pro tunc, as of that date (*Ib.*).

The last day for resealing a writ of summons, so as to save the Statute of Limitations, expired on Saturday, the 28th December, within the Christmas holidays. A party who attended at the office on that day for the purpose found it shut, and the officer having refused to reseal the writ on the following Monday, the court refused to order him to do it afterwards, nunc pro tunc (*Evans* v. *Jones*, 2 B. & S. 45).

Vol. 3, p. 723, ———
to sects. 17 & 18, *add*—The exception of Scotland and Ireland from this section has not the effect of allowing a writ of summons to be issued in the ordinary form, under section 2, against a person resident in Scotland and Ireland, and service of it at a place of business of the defendants in England, to be treated as a substituted service under section 17. "Reasonable efforts" to effect personal service, mean "reasonable" according to the actual facts, and not according to the information possessed at the time by the person making the efforts (*Flower* v. *Allan*, 33 L. J. Ex. 83).

Vol. 3, p. 724, ———
to sect. 18, n. (*a*), *add*—The defendant, a merchant resident in Norway, and not a British subject, drew in Norway his bill of exchange at four months on E. in this country, and after endorsing it to the order of D., sent it by post to D. in London, who indorsed it to plaintiff in London:—It was held, that there was not a cause of action which arose in this country nor a breach of a contract made within it, and that therefore the plaintiff could not sue defendant in this country on the bill under sections 18 and 19 (*Sichel* v. *Borch*, 33 L. J. Ex. 179).

Vol. 3, p. 726, PLEADING, PRACTICE, &c. (AT LAW), to 15 & 16 Vict. c. 76, s. 26, *add*—This section has not abolished the necessity of appointing a guardian to an infant defendant before the plaintiff can sign judgment by default (*Jarman* v. *Lucas*, 33 L. J. C. P. 108).

Vol. 3, p. 729, ———
to sect. 37, n. (*b*), *add*—Where under this section the name of one of two defendants is struck out of the record, at the trial, on the terms of the plaintiff paying the costs of such defendant, and the plaintiff obtains the verdict against the other defendant, the defendant whose name has been so struck out is entitled, in the absence of special circumstances, to a moiety of the joint costs of both defendants, although they both appeared and pleaded jointly by the same attorney (*Redway* v. *Webber*, 13 C. B. N. S. 254; 32 L. J. C. P. 84).

Vol. 3, p. 749, ———
to sect. 186, *add*—In an action of ejectment the court has power to order a person at whose instance and for whose benefit the action was brought, though not a claimant named in the writ, to pay costs to a successful defendant (*Mobbs* v. *Vandenbrande*, 33 L. J. Q. B. 177; and see *Thornton* v. *Wilkinson*, 9 Jur. N. S. 606; 11 W. R. 916; 8 L. T. N. S. 507—Exch.).

Vol. 3, p. 775, ———
to 17 & 18 Vict. c. 125, s. 28, *add*—Where a bill was filed in equity for the administration of an estate, and in proof of a debt promissory notes insufficiently stamped were tendered in evidence, and on objection taken to the reception of them, the proper stamp duty, with the penalty, under this section, was tendered to the registrar:—Held, that the notes could not be received, nor the deficient amount of duty (*Stubbin* v. *Fisher*, 9 Jur. N. S. 38—V. C. S.).

Vol. 3, p. 775, ———
to sect. 31, n. (*b*), *add*—It is not competent to a judge at nisi prius to reserve a question as to the admissibility of a document on a stamp objection, unless he decides against its admissibility (*Cory* v. *Davis*, 14 C. B. N. S. 370).

Vol. 3, p. 778, ———
to sect. 50, n. (*a*), *add*—*Wooley* v. *Pole*, 32 L. J. C. P. 263.

Vol. 3, p. 778, ———
to sect. 50, n. (*b*), *add*—An order for discovery under this section can only be made upon an affidavit of the party himself to the cause, and a judge or court has no power to dispense with such affidavit (*Christophersen* v. *Lotinga*, 33 L. J. C. P. 121).

Vol. 3, p. 778, ———
to sect. 51, *add*—*Stern* v. *Sevastopulo*, 32 L. J. C. P. 268.

Vol. 3, p. 780, ———
to sect. 52, *add*—An order, requiring plaintiff in ejectment to answer interrogatories as to the nature of his title, will not be

made on an affidavit merely satisfying the requirements of this section. Such order will only be made where there is an affidavit showing special circumstances to justify it (*Pearson* v. *Turner*, 33 L. J. C. P. 224).

Vol. 3, p. 784, PLEADING, PRACTICE, &c. (AT LAW), to 17 & 18 Vict. c. 125, s. 79, n. (*b*), *add*—The court will not grant a writ of injunction when by so doing the defendant would be called upon to do an illegal act (*London & North-Western Rail. Co.* v. *Webb*, 12 W. R. 51; 9 L. T. N. S. 291—C. P.).

A plaintiff lent some photograph portraits to a person who became insolvent, and his assignees having offered the photographs for sale by auction, the defendant purchased them; and by photographically printing from negatives, he obtained reduced copies, which he published and sold. The plaintiff brought an action against him, and recovered nominal damages for the infringement of the plaintiff's right:—Held, that the plaintiff was entitled to a writ of injunction to restrain the defendant from taking or selling any more copies of the photographs, and also to recover them or their value *in detinue* (*Mayall* v. *Higbey*, 1 H. & C. 148).

Vol. 3, p. 784, ——————— to sect. 82, *add*—Where a declaration, claiming a writ of injunction, did not disclose facts showing clearly that there could not be an injunction, the court refused to allow the defendants to demur to so much of the declaration as claimed the writ (*Bilke* v. *The London, Chatham, &c., Rail. Co.*, 33 L. J. Ex. 206).

Vol. 3, p. 788, ——————— to sect. 87, *add*—See *Noble* v. *The Bank of England*, 9 Jur. N. S. 778, *ante*, n. to p. 86, tit. "LONDON SMALL DEBTS ACTS."

Vol. 3, p. 795, ——————— to Reg.-Gen., H. T., 1853, n. (*a*), *add*—The directions to the masters do not apply to an action commenced in a county court, and removed by *certiorari* to a superior court (*Perry* v. *Bennett*, 14 C. B. N. S. 402).

Vol. 3, p. 797, ——————— to r. 16, *add*—Copies must be delivered at the judges' chambers (*Howell* v. *Wynne*, 9 Jur. N. S. 1041; 32 L. J. M. C. 241; 11 W. R. 807—C. P.).

Where a respondent, in a special case, delivered the copies to the judges' clerk at Westminster, the court directed him to pay the appellant the cost of the copies delivered at the judges' chambers by the appellant in default (*Ib.*).

Vol. 3, p. 852, ——————— (IN EQUITY), to 4 & 5 Will. 4, c. 82, n. (*a*), *add*—The power of the court to direct process to be served on a defendant out of the jurisdiction, and to proceed upon such service as if it had been made within the jurisdiction, is confined entirely to such suits as answer the description contained in 2 Will. 4, c. 33 and this statute; and the language of the 7th rule of the 10th consolidated order is *extra vires* so far as it relates to suits which do not answer that description (*Cookney* v. *Anderson*, 32 L. J. Ch. 427, adhered to, *Foley Maillardet*, 33 L. J. Ch. 335).

Vol. 3, p. 895, PLEADING, PRACTICE, &c. (IN EQUITY), to 15 & 16 Vict. c. 86, s. 52, *add*—An order of revivor may be made under this sect. at the instance of a plaintiff against a co-plaintiff on whom a new interest has devolved (*Foster* v. *Bonner*, 33 L. J. Ch. 384).

Order to revive a creditor's suit made on motion *ex parte* after decree at the instance of creditors whose debts had been allowed by the chief clerk, who, however, had not yet made his certificate (*Bell* v. *Bell*, 33 L. J. Ch. 384).

Vol. 3, p. 916, ——————— to 21 & 22 Vict. c. 27, s. 2, n. (*b*), *add*—A plaintiff, though barred by acquiescence or otherwise from his remedy by injunction, may obtain damages under this Act, and that even though no action would be maintainable at law by the plaintiff (*Eastwood* v. *Lever*, 33 L. J. Ch. 355). See *Howe* v. *Hunt*, 31 Beav. 420; *Calton* v. *Wild*, 32 Beav. 266).

Vol. 3, p. 921, ——————— to 25 & 26 Vict. c. 42, s. 1, n. (*a*), *add*—In a suit to restrain an infringement of a patent where there are mingled questions of fact and law, the proper course is for the validity of the patent to be tried by the court of chancery and not by an issue at law (*Young* v. *Fernie*, 12 W. R. 221—C.).

Vol. 3, p. 937, POLICE (METROPOLITAN), to 2 & 3 Vict. c. 47, s. 23, *add*—A superannuation allowance granted to a police officer, pursuant to the order of the secretary of state, under this section, on his being incapable, from ill-health, of discharging his duties, is revocable at the discretion of the secretary of state (*R.* v. *the Receiver for the Metropolitan P. D.*, 33 L. J. Q. B. 52).

Vol. 3, p. 940, ——————— to sect. 44, *add*—See *Wilson* v. *Stewart*, 32 L. J. M. C. 198.

Vol. 3, p. 941, ——————— to sect. 54, *add*—It is no offence to turn cattle into a thoroughfare, provided they are under the care and control of some person attending them for the purpose, and manual restraint is unnecessary (*Sherborn* v. *Wells*, 9 Jur. N. S. 1104; 32 L. J. M. C. 179; 11 W. R. 594—Q. B.).

Vol. 3, p. 943, ——————— to sect. 57, *add*—Repealed, 27 & 28 Vict. c. 55.

Vol. 3, p. 969, ——————— (RURAL), to 1 & 2 Will. 4, c. 41, s. 19, n. (*c*), *add*—A notice of action need not be given in action of replevin (*Gay* v. *Mathews*, 32 L. J. M. C. 58—Q. B.).

Vol. 3, p. 1016, POOR, to 43 Eliz. c. 2, s. 1, n. (*d*), *add*—Under this Act there must be at least two overseers for a parish; and the appointment of one overseer (it appearing that there is no other appointment of another) is bad; and the court quashed such appointment, although it appeared that there was in the parish but one inhabitant householder, who had been appointed (*R.* v. *Cousins*, 33 L. J. M. C. 87).

Vol. 3, p. 1020, —— to n., line 12, after *R.* v. *Smith*, *add*—*R.* v. *Morrish*, 32 L. J. M. C. 245; to n. first column, line 24, *add*—See *R.* v. *Stapleton*, 33 L. J. M. C. 17.

Vol. 3, p. 1034, POOR, to 13 & 14 Car. 2, c. 12, s. 1, n. (*b*) *add*—AN order of removal is good, though made by justices not of the quorum. Mayor of a borough is a justice of the quorum (*R.* v. *Overseers of Llangian*, 32 L. J. M. C. 225).

Vol. 3, p. 1076, ——— to 17 Geo. 2, c. 38, s. 6, n. (*g*), *add*—See *R.* v. *Hampshire J.*, 33 L. J. M. C. 140.

Vol. 3, p. 1150, ——— to 6 Geo. 4, c. 57, s. 2, n. (*b*), *add*—*R.* v. *West Ardley*, 32 L. J. M. C. 255.

Vol. 3, p. 1167, ——— to 4 & 5 Will. 4, c. 76, s. 46, n. (*d*), *add*—A chaplain of a poor law union is a paid officer, and so removable by the Poor Law Board as unfit for his office, at their discretion, without assigning any special grounds for such removal, and the court will not grant a certiorari to bring up and review such an order of removal (*Ex parte Molyneux*, 11 W. R. 233; 7 L. T. N. S. 599—Q. B.).

Vol. 3, p. 1206, ——— to 2 & 3 Vict. c. 84, s. 1, *add*—Where, by an Act of Parliament powers are conferred upon justices to issue a distress warrant, "if they shall think fit," they must not refuse to issue it merely because they think the Act of Parliament does an injustice in giving such power in the particular case (*R.* v. *Boteler*, 33 L. J. M. C. 101).

Vol. 3, p. 1286, ——— to 20 Vict. c. 19, ss. 1 & 2, *add*—In order to bring a place within these sections, and render an appointment of one overseer valid, it must actually be, or be reputed to be, extra-parochial; and it is not sufficient that it has been separately entered in the report of the Registrar General on the last census as extra-parochial (*R.* v. *Cousins*, 33 L. J. M. C. 87).

Vol. 3, p. 1289, ——— to 24 & 25 Vict. c. 55, s. 1, *add*—A pauper, having resided more than three years in the parish of his settlement, went to reside in another parish in the same union, and on his becoming chargeable after a residence there of a few months, an order was made to remove him to his parish of settlement:—Held (by Cockburn, C. J., and Shee, J., Crompton, J., dissenting), that the order was rightly made: for that the pauper had not become irremovable by reason of this residence in his parish of settlement, though in the same union as the other parish (*R.* v. *The Inhabitants of Great Salkeld*, 33 L. J. M. C. 185; but see 27 & 28 Vict. c. 105).

Vol. 3, p. 1295, POOR, to 25 & 26 Vict. c. 103, s. 15, *add*—See *Halkett* v. *Long Bennington*, 33 L. J. M. C. 137.

Vol. 3, p. 1310, PRESCRIPTION, to 2 & 3 Will. 4, c. 71, s. 1, n. (*c*), *add*—Fishery *in alieno solo* bad. (*Hudson* v. *Mc Rae*, 38 L. J. M. C. 65; *Constable* v. *Nicholson*, 32 L. J. C. P. 240).

Vol. 3, p. 1314, ——— to sect. 4, n. (*a*), *add*—The question of acquiescence for one year is for the jury. It need not be evidenced by action (*Bennison* v. *Cartwright*, 33 L. J. Q. B. 137).

Vol. 3, p. 1385, PRIVY COUNCIL, to 6 & 7 Vict. c. 38, s. 11, *add*—By 26 & 27 Vict. c. 24, this section is repealed so far as it relates to appeals from Vice Admiralty Courts.

Vol. 3, p. 1434, PROPERTY TAX, to sect. 146, sch. E. *add*—As to who are persons exercising the office mentioned in this schedule, see *Att.-Gen.* v. *The Lancashire, &c., Rail. Co.*, 33 L. J. Ex. 163, *post*, p. 1463, n. (*a*).

Vol. 3, p. 1456, PROPERTY TAX, to 16 & 17 Vict. c. 34 s. 40, *add*—See 27 Vict. c. 18, s. 15.

Vol. 3, p. 1471, PROVIDENT SOCIETIES, to 25 & 26 Vict. c. 87, s. 17, *add*—Industrial and provident societies will not be wound up in Chancery; they must be registered under 25 & 26 Vict. c. 87, and then wound up in the county court (*In re The Midland Counties Benefit Building Society*, 33 L. J. Ch. 520).

VOL. IV.

Vol. 4, p. 22, RAILWAYS, to 8 & 9 Vict. c. 20, s. 13, *add*—A railway company, with whose Act this Act was incorporated, by their deposited plans and sections proposed to build over a turnpike road an arch, of a span of forty-five feet. The company afterwards proposed to the trustees of the road to vary their plans, and to build a bridge of a span of thirty-five feet; but the proposal was rejected. Subsequently the company's agents commenced the erection of a bridge of the lesser span; and thereupon one of the trustees filed an information for an injunction:—Held, that the word "accordingly," in this section, meant, according to the deposited plans and sections; and that the company was bound to erect the bridge according to the plans which had been deposited (*Att.-Gen.* v. *Tewkesbury & Malvern Rail. Co.*, 9 Jur. N. S. 618; 8 L. T. N. S. 196—V. C. S. Affirmed on appeal, 9 Jur. N. S. 951; 32 L. J. Ch. 482; 8 L. T. N. S. 682—L. J.).

A bridge, forming part of the line of railway itself, is an engineering work, within sect. 14 (*Ib.*)

Vol. 4, p. 23, RAILWAYS, to 8 & 9 Vict. c. 20, s. 16, *add*—This section authorises the permanent diversion of public roads, and not only a temporary diversion for the purpose of constructing a railway (*Phillipps* v. *Lon-*

don, Brighton, & South Coast Rail. Co., 4 Giff. 46; 9 Jur. N. S. 348).

Vol. 4, p. 29, RAILWAYS, to 8 & 9 Vict. c. 20, s. 46, n. (*f*), *add*—Where a railway is carried over a highway by means of a bridge, no liability to keep in repair the immediate approaches on each side of the bridge is cast upon the company by reason of any of the provisions in this Act, even though the company have lowered the level of the old highway in making those approaches (*London & North Western Rail. Co.* v. the *Surveyor of Skerton*, 33 L. J. M. C. 158).

Vol. 4, p. 30, ———— to sect. 46, n. (*b*), *add*—A railway company, in constructing its line of railway across a public road, lowered a portion of the surface of the road, in order to give the railway bridge the legal height, and to have the proper ascent and descent on the road. The portion so lowered was not used by the company, but, having become worn by the public traffic, it was sought to make the company liable:—Held, that there was no obligation on the company to keep in repair the portion of the road in question, not being an approach to the bridge, within the meaning of this section (*Forsberry* v. *Waterford & Limerick Rail. Co.*, 13 Ir. Com. Law Rep. 494—C. P.).

Vol. 4, p. 34, ———— to sect. 58, n. (*d*), *add*—A railway company having used certain roads by the carriage of stone, bricks, timber, and other material over the same, to be used, and which were actually used in the making of their railway and works. In the opinion of two justices they had thereby done damage to such roads:—Held, that they were liable to make good the damage so done, although the materials were really conveyed in the carts of the contractors or sub-contractors, or of other persons employed by them (*The West Riding & Grimsby Rail. Co.* v. *The Wakefield Local Board of Health*, 33 L. J. M. C. 174).

Vol. 4, p. 53, ———— to sect. 145, n. (*b*), *add*—A railway Act enacted, that "so much of the Railways Clauses Act, 1845, as relates to the mode of crossing roads and construction of bridges, shall respectively, except so far as the same may be by this Act otherwise provided for, and except such of the provisions thereof as may be inconsistent with the provisions herein contained, be incorporated and form part of this Act," incorporated not only all the provisions of the Act which regulate the crossing of turnpike roads by the railway and the construction of railway bridges, together with the 65th section, but also the sections which relate to the mode of enforcing such penalties (*Bristol & Exeter Rail. Co.* v. *Tucker*, 13 C. B. N. S. 207).

Vol. 4, p. 67, ———— to 17 & 18 Vict. c. 31, note, *add*—See *Baxendale* v. *Great Western Rail. Co.*, 32 L. J. Q. B. 225.

Vol. 4, p. 70, ———— to sect. 7, n. (*e*), *add*—A condition in a special contract that the company will not be answerable for the loss, or detention of, or damage to wrappers, or packages of any description charged by the company as "empties," is unreasonable (*Aldridge* v. *The Great Western Rail. Co.*, 33 L. J. C. P. 161; *Peek* v. *North Staffordshire Rail. Co.*, 32 L. J. Q. B. 241; see *Hodgman* v. *West Midland Rail. Co.*, 33 L. J. Q. B. 233).

Vol. 4, p. 71, RAILWAYS, to 17 & 18 Vict. c. 31, s. 7, n. (*e*), line 7, *McManus* v. *The Lancashire & Yorkshire Rail. Co.*, *add*—Accord *Gregory* v. *The West Midland Rail. Co.*, 33 L. J. Ex. 155).

Vol. 4, p. 72, ———— to n., after "*Peck* v. *The North Staffordshire Rail. Co.*," *add*—But the House of Lords reversed the decision of the Exchequer Chamber, holding that no general notice given by a railway company is valid in law for the purpose of limiting the common law liability of the company as carriers; but such common law liability may be limited by such conditions as the Court or Judge shall determine to be just and reasonable:—So held by the House of Lords, and,—per the Lord Chancellor and Lord Wensleydale (Lord Cranworth and Lord Chelmsford dissenting) — such conditions must be embodied in a special contract in writing, to be signed by the owner or person delivering the goods:—Held, further (Lord Chelmsford dissenting), that a condition that the company would not be responsible for the loss of or injury to marbles unless declared and insured according to their value, was neither just nor reasonable, as the effect of such a condition would be to exempt the company from responsibility for injury however caused, whether by their own negligence, or even by fraud or dishonesty on the part of their servants. It was held, further (Lord Chelmsford dissenting), that a letter stating such condition did not constitute a special contract in writing, the words "not insured" being insufficient either expressly or by reference to embody the condition itself into the letter (33 L. J. Q. B. 241).

Vol. 4, p. 79, REGISTRATION (DEEDS), to 7 Anne, c. 20, s. 6, *add*—See *Neve* v. *Pennell*, 33 L. J. Ch. 19, *ante*, sect. 1, p. 76.

Vol. 4, p. 100, ———— (BIRTHS, &c.), to 6 & 7 Will. 4, c. 86, s. 7, *add*—The clerk to the board of guardians of a union created under 4 & 5 Will. 4, c. 76, has no right to be superintendent registrar except in the case of the first appointment after this Act coming into operation; and on any subsequent vacancy the power of appointment is in the board of guardians (*Reg.* v. *Acason*, 2 B. & S. 795).

Vol. 4, p. 168, SET OFF, to 2 Geo. 2, c. 22, s. 13, n. (*a*), *add*—A corporation kept an account at a banking-house. Afterwards, becoming invested with the functions of a local board of health, the corporation opened a second and separate account with the bank. The bank stopped payment, at which time there was due to the corporation, on account of its municipal affairs, about 5000*l*., and there was due from the bank to the corporation about an equal sum in respect of the local board's account at the bank:—Held, that the corporation was entitled to set off one of those sums against the other; for though the accounts were separate, the corporation was a creditor in the first account, and a debtor in the second, and in the same

right (*Pedder* v. *Preston* (*Mayor, &c.*), 9 Jur. N. S. 496—C. P.).

During the voyage the shipowner assigned the accruing freight on goods conveyed for the defendant in a ship. Before notice of the assignment the shipowner had become indebted to the defendant:—Held, in an action by the shipowner for and on account of the assignee against the defendant for the freight, that the defendant was entitled to set off the debt due from the shipowner to the defendant; and that the assignment did not prevent him from so doing (*Wilson* v. *Gabriel*, 11 W. R. 803: 8 L. T. N. S. 502).

Where a factor sells goods to an agent without stating at the time that he is selling as a factor, and not on his own account, the principal of the agent has a right to set off a debt due to him from the factor against the price of the goods, he being ignorant of the fact that the factor was not selling on his own account, although his agent, by previously acquired knowledge knew it (*Dunn* v. *Norwood*, 14 C. B. N. S. 574; 32 L. J. C. P. 201; 11 W. R. 624; 8 L. T. N. S. 247. But this was reversed in Ex. Ch. on appeal, 34 L. J. C. P. 48).

Vol. 4, p. 243, SHIPPING, to 6 Geo. 4, c. 125, ss. 58 & 59, *add*—The employment of a licensed Goole pilot is generally compulsory upon vessels inward bound to Goole, including vessels belonging to that port; not, however, by the Hull Pilot Act, but by these sections and 17 & 18 Vict. c. 104, s. 353 (*The Killarney*, 1 Lushington, 427).

The exception, attached to the exemption from compulsory pilotage, applies to a Goole ship in Goole inward bound to that place, by reason of 52 Geo. 3, c. 39, s. 21, by which provision was made for the appointment of pilots by the Hull Trinity House, for ships "into or out of any ports, harbours, or places within the limits of their jurisdiction;" and, consequently, the exemption did not apply (*Ib.*)

Vol. 4, p. 264, ——— to 17 & 18 Vict. c. 104, s. 57, n. (*a*), *add*—The property in a ship passes, as between the vendor and his asignees and the vendee, by a bill of sale, although the transfer be not registered pursuant to this Act (*Stapleton* v. *Haymen*, 33 L. J. Ex. 170).

Vol. 4, p. 265, ——— to sect. 66, *add*—Where a bill of sale of a ship has been executed in the form prescribed by sect. 55, these provisions do not prevent the owners from showing that the transfer, though absolute in its terms, was intended as a security only (*Ward* v. *Beck*, 13 C. B. N. S. 668; 9 Jur. N. S. 912; 32 L. J. C. P. 113).

The 25 & 26 Vict. c. 63, s. 3 (*post*, p. 421) is a declaratory enactment that this is the true interpretation (*Ib.*).

Vol. 4, p. 286, ——— to sect. 191, n. (*d*), *add*—This does not alter the relation of the master to the seamen, and he cannot compete with them to their detriment for a share in a fund. Neither can he compete with the bondholder for his wages against the ship's freight where he binds himself by the bond. Where, however, he has incurred no such personal obligation, he is not barred (*The Salacia*, 32 L. J. Adm. 41).

Vol. 4, p. 298, ——— to sect. 240, n. (*b*), *add*—An attempt by the master of a ship to defraud is sufficient ground to induce the court to act and to order his removal (*The Royalist*, 9 Jur. N. S. 852; 32 L. J. P. M. & A. 105).

The power of the court is not limited to the offences mentioned in sect. 239 (*Ib.*).

Vol. 4, p. 309, SHIPPING, to 17 & 18 Vict. c. 104, s. 295, (3), *add*—Held, that a notice published in the Gazette, purporting to be given by the lords commissioners of the admiralty, but signed only "by command of their lordships, W. G. Romaine," was, by production of the Gazette, proved to be duly made by the admiralty (*The Olivia*, 1 Lushington, 497).

Vol. 4, p. 309, ——— to sect. 296, n. (*d*), *add*—These rules, though in the opinion of many nautical men of experience capable of being modified with advantage, must be strictly complied with (*General Iron Screw Co.* v. *Moss*, 15 Moore, P. C. C. 122).

Vol. 4, p. 310, ——— to sect. 296, *add*—Ss. 296, 297, 298, do not apply to a foreign ship navigating the Solent, between the Isle of Wight and Hampshire, and within three miles of the British coast; and if a collision there happens between a British ship and a foreign ship, the conduct of each ship is to be tried by the law maritime (*The Saxonia—The Eclipse*, 1 Lushington, 410—P. C.).

Vol. 4, p. 310, ——— to sect. 297, *add*—By a narrow channel is meant a channel bounded on either side by land *primâ facie*, so that it is impossible, under the circumstances, to navigate at any great width between the two banks (*The Florence Nightingale—The Mæander*, 9 Jur. N. S. 475; 11 W. R. 542; 8 L. T. N. S. 34—P. C.).

Vol. 4, p. 310, ——— to sect. 297, n. (*e*), *add*—A steamer going down a river, having disobeyed, without cause, the direction of keeping to the starboard side of the channel, and the pilot as well as those on board being remiss in keeping a lookout, is liable for damage to a barge (*The Malvina*, 9 Jur. N. S. 527; 11 W. R. 576—P. C.).

Vol. 4, p. 311, ——— to sect. 298, n. (*f*), *add*—In a cause of collision against vessel B. by the owners of cargo laden on board vessel A., the court found both vessels to blame, and vessel A. for a breach of the rule imposed by sect. 296:—Held, that the plaintiffs should recover one-half of their damages (*The Milan*, 1 Lushington, 388).

Vol. 4, p. 311, ——— to sect. 298, n. (*b*), *add*—It does not apply to the owner of cargo suing (*The Milan*, 1 Lushington, 388).

Vol. 4, p. 325, ——— to sect. 379, *add*—A foreign-going vessel casually employed in taking a cargo from Liverpool to London is not a "ship employed in the coasting trade of the United Kingdom," and therefore, while so employed, is compellable to take a pilot (*The Lloyds*, otherwise *Sea Queen*, 32 L. J. Adm. 197; 9 L. T. N. S. 236).

Vol. 4, p. 337, ——— to sect. 460, n. (*b*), *add*—This section and 25 & 26 Vict. c. 63, s. 49, *post*, p. 429, being read together, enact, that all disputes as to the amount of salvage, where either the sum claimed does not exceed 200*l.* or the value of the pro-

perty saved does not exceed 1000*l.* shall be referred to justices of the peace, and thereby in those cases exclude the jurisdiction of the court of admiralty (*The William and John*, 9 Jur. N. S. 284; 32 L. J. P. M. & A. 102; 11 W. R. 535; 8 L. T. N. S. 56.)

By "the sum claimed" is meant the sum claimed before the dispute is referred (*Ib.*).

No action is maintainable by a seaman for his share of salvage awarded by two justices, and paid to the owner of the salvor vessel (*Atkinson* v. *Woodhall*, 1 H. & C. 170).

The word "owners" means whoever is interested in the property at the time, and therefore where there is a dispute between the salvors and a mortgagee of a vessel, the justices have jurisdiction (*The Louisa*, 9 Jur. N. S. 676; 11 W. R. 614—Adm.).

Vol. 4, p. 338, SHIPPING, to 17 & 18 Vict. c. 104, s. 464, *add*—The meaning of the words "sum in dispute," is not to be limited to the sum awarded by the justices (*The Andrew Wilson*, 9 Jur. N. S. 474; 32 L. J. P. M. & A. 104; 8 L. T. N. S. 177).

Vol. 4, p. 422, ——— to 25 & 26 Vict. c. 63, s. 3, n. (*a*), *add*—The court has jurisdiction over all equitable rights and claims of owners and mortgagees of ships (*Samuel* v. *Jones*, 7 L. T. N. S. 760—V. C. W.).

Vol. 4, p. 431, ——— to sect. 54, *add*—Where a British ship and a foreign ship are involved in a collision beyond the limits of British jurisdiction, and the foreign ship institutes a suit against the British ship in the English court of admiralty for damage, the British ship is entitled to limited liability: and so would a foreign ship in like manner if sued by a British ship (*The Amalia*, 9 Jur. N. S. 1111; 32 L. J. P. M. & A. 191; 12 W. R. 24; 8 L. T. N. S. 805—P. C.).

Vol. 4, p. 432, ——— to sect. 63, *add*—Regulations for preventing collisions at sea, issued in pursuance of the Act, and of an Order in Council dated 9th Jan., 1863, see 1 Lushington, App. i.—ix.

Vol. 4, p. 581, STAMPS, to 13 & 14 Vict. c. 97, schedule, tit. "CONVEYANCE," *add*—The consideration for the transfer of the whole undertaking of one railway company to another consisted of the purchasing company taking on themselves the liabilities of the vendors, and creating and allotting to the shareholders of the selling company preference stock of the purchasing company equal in amount to the capital of the other, which was to be extinguished. This preference stock was held to be stock within the meaning of the schedule, and therefore liable to pay duty on its market value (*The Furness Rail. Co.* v. *Comrs. of Inland Revenue*, 33 L. J. Ex. 173).

Vol. 4, p. 588, ——— to sched. tit. "Settlement," n. (*b*), *add*—Foreign stocks and bonds, and India stock (though created since the passing of this Act) are "definite and certain" sums of money within the meaning of this Act (*Alsager* v. *The Comrs. of Inland Revenue*, 32 L. J. Ex. 161).

Vol. 4, p. 593, STAMPS, to 16 & 17 Vict. c. 59, s. 10, *add*—A contingent debt is included in the words "mortgage or other debt" in this section; and therefore a conveyance of a reversionary interest, subject to the payment by the purchaser to a third party, within three months after the death of N., provided N. should die without issue male, is chargeable with an ad valorem duty on that sum (*Mortimore* v. *The Inland Revenue Comrs.*, 33 L. J. Ex. 263; see *ante*, vol. 4, 506, n. (*a*)).

Vol. 4, p. 610, ——— to 19 & 20 Vict. c. 81, s. 3, n. (*b*), *add*—Although the Treasury have consented to accept the penalty and stamp articles of clerkship more than six months after execution, under this Act, yet, both for the purpose of protecting the revenue and insuring the respectability of those who are to become attorneys, before the court will allow the service under the articles while unstamped and unenrolled to count, pursuant to 6 & 7 Vict. c. 73, s. 9, the circumstances must be shown to be such as satisfactorily to account for the omission to pay the stamp-duty and enrol the articles in due time (*Ex parte Wilson*, 33 L. J. Q. B. 89; S. P. *Ex parte Belk*, 33 L. J. Ex. 73; see *Ex parte Edwards*, 32 L. J. C. P. 213).

Vol. 4, p. 632, ——— to sect. 12 of 25 & 26 Vict. c. 22, *add*—This section repeals sect. 29 of 11 Geo. 4 & 1 Will. 4, c. 64, and takes away any right, privilege, permission, or exemption from prohibition that may have previously existed to sell beer by retail at fairs without a licence (*Huxham* v. *Wheeler*, 33 L. J. M. C. 153; see 26 & 27 Vict. c. 33, s. 2).

Vol. 4, p. 645, SUCCESSION DUTY, to 16 & 17 Vict. c. 51, s. 2, n. (*b*), *add*—This Act applies to persons wherever domiciled, and the rule "mobilia sequuntur personam" cannot, as under the Legacy Duty Acts, be made the ground of an exemption from duty (per *Lord Justice Turner*, *In re Wallop's Trusts*, 33 L. J. Ch. 351; *Att.-Gen.* v. ——— *Ex.* June, 1864).

Vol. 4, p. 645, ——— to sect. 2, *add*—A., an officer of Customs, subscribed to the "Annuity and Benevolent Fund" for the capital of 500*l.* This fund, which was established by Act of Parliament, is raised on the principle of life insurance by the quarterly subscriptions of the officers of Customs, a contribution of poundage deducted from their salaries, and the profits derived from the publication of the "Customs Bills of Entry." By the rules and regulations made under the authority of that Act, if an annuity be insured for the benefit of the widow of a subscriber, equal to one-third of the whole insurance, the subscriber is empowered to direct, by his will or instrument in writing, that the capital money insured shall be applied or paid in any manner or proportion he may think proper for the benefit of his widow, children, or relatives, or his nominee, if duly admitted by the directors of the fund. Where there is no widow or nominee, the whole capital money is subject to the directions of the subscriber. If the subscriber shall not

have applied it, it becomes the property of his children. If no child, it is to be appropriated to increase the widow's annuity. If no widow or child, the capital money is to be paid to the personal representatives of the subscriber, to be by them applied according to the Statute of Distributions. A., who was never married, by his will gave the capital money to his sister :—Held, that she took a succession, and that A. was the predecessor, and consequently she was chargeable with duty on the capital money (*Att.-Gen.* v. *Abdy*, 1 H. & C. 266).

Vol. 4, p. 646, SUCCESSION DUTY, to 16 & 17 Vict. c. 51, s. 2, n. (*b*), *add*—Where a testator, who died in 1832, devised real estate to his wife for life, and the reversion to R., who died in 1844. Testator's wife died in 1859, and R.'s son, in whom the reversionary interest of his father was vested, as his heir, became entitled in possession. R. and his son were strangers in blood to testator :—Held, the son was liable on the death of the wife, to a duty of 10*l.* per cent. upon a succession derived from testator, and not to a duty of 1*l.* per cent. as on a devolution from his father (*Att.-Gen.* v. *Rushton*, 33 L. J. Ex. 184; and see *Floyer* v. *Bankes*, *infra*, sect. 17).

Vol. 4, p. 647, ——————— to sect. 4, n. (*a*), *add*—A. bequeathed his residuary personal estate, on the death of his daughter B., unmarried, to trustees, for such purposes as she should by will appoint, and in default of appointment in trust for his brother C. and his sister D. B. died unmarried, having bequeathed his residuary estate (subject to the payment of debts, funeral and testamentary expenses, legacies and annuities) to her uncle C. and her aunt D. :—Held, that B.'s will operated as an exercise of her power of appointment, and that C. and D. were liable to pay duty on the fund appointed at the rate of 5*l.* per cent. and not 3*l.* per cent., the rate at which they would have been liable if they could have taken directly under A.'s will (*Att.-Gen.* v. *Brackenbury*, 1 H. & C. 782; 32 L. J. Ex. 108).

Vol. 4, p. 649, ——————— to sect. 15, line 2, "other derivative title," *add*—A title by descent is a "derivative title" within this section (*Att.-Gen.* v. *Rushton*, 33 L. J. Ex. 184).

Vol. 4, p. 650, ——————— to sect. 17, n. (*b*) *add*—The consideration of marriage is not a valuable consideration in money or money's worth within the meaning of this section. The release by the lady of a bare possibility of future dower or freebench is not a sufficient consideration to exempt the jointure from duty. On the marriage of G. B. with G. C. N. real estates were limited by the father and elder brother of G. B. to the use, that G. C. N. might, in case she survived G. B., receive during her life for her jointure, in lieu and satisfaction of dower and thirds, a yearly rentcharge of 800*l.*, to be issuing thereout, without any deduction or abatement whatsoever on account of or in respect of any taxes, charges, impositions, or assessments already taxed, charged, assessed or imposed, or thereafter to be taxed, charged, or imposed, on the hereditaments, or on the said annual rentcharge, or on the said G. C. N. or her assigns, in respect thereof, by authority of parliament, or otherwise howsoever. The marriage took effect, and G. B. died after the passing of the Succession Duty Act, in the lifetime of G. C. N. :—Held, first, that the jointure was a succession within the meaning of the 2nd section of the Succession Duty Act, and (reversing the decision of the Master of the Rolls) that it was not exempted from duty by the operation of this section of the Act; and, secondly, that as between G. C. N. and the estates charged with the jointure, she was entitled to receive it free from succession duty (*Floyer* v. *Bankes*, 33 L. J. Ch. 1. In error, reversing the decision of the M. R. 32 L. J. Ch. 610).

Vol. 4. p. 652, SUCCESSION DUTY, to 16 & 17 Vict. c. 51, s. 26, "annual value," *add*—That is present actual annual value, and not possible or prospective annual value (*Att.-Gen.* v. *Earl of Sefton*, 32 L. J. Ex. 230).

Vol. 4, p. 661, SUNDAY, to 29 Car. 2, c. 7, s. 1, n. (*a*), *add*—A farmer is not within this section (*R.* v. *Silvester*, 33 L. J. M. C. 79).

Vol. 4, p. 698, TITHES, to 6 & 7 Will. 4, c. 71, s. 42, n. (*e*), *add*—*Trimmer* v. *Walsh*, 32 L. J. Q. B. 20; reversed on error, *Ib.* 364.

Vol. 4, p. 761, TOWNS IMPROVEMENT, to 10 & 11 Vict. c. 34, s. 49, *add*—Commissioners under this Act are liable to an action, in their corporate capacity, at the suit of a person who has suffered damage from a highway, within the limits of the defendants' special Act, being allowed by them to remain in a dangerous condition (*Hartnall* v. *The Ryde Commissioners*, 33 L. J. Q. B. 39).

Vol. 4, p. 761, ——————to sect. 52, *add*—This imposes on the commissioners elected under the Act the duty of fencing footpaths, if needed for the protection of passengers, and leaves them no discretion, and such commissioners are therefore liable, in their corporate capacity, to an action at the suit of a person injured by the negligent omission to fence a footpath (*Ohrby* v. *Ryde Commissioners*, 33 L. J. Q. B. 106).

Vol. 4, p. 791, TRUSTEES, to 10 & 11 Vict. c. 96, n. (*a*), *add*—*In re Barber's Will*, 32 L. J. Ch. 709.

Vol. 4, p. 794, ——— to 12 & 13 Vict. c. 74, *add*—Three trustees were possessed of a fund, which it was desirable to pay into court. One of the trustees being invalided, the other two petitioned, under this Act, for leave to pay in the fund. The order was made (*In re Broadwood*, 8 L. T. N. S. 632—V. C. K.).

Vol. 4, p. 798, ——— to 13 & 14 Vict. c. 60, s. 15, *add*—A mortgagee in fee, by an instrument in the form of a trust for sale dying intestate as to mortgaged estates, and his heir not being known, is sufficiently a trustee to enable the court, on the petition of his executors, to make a vesting order (*In re Keeler*, 9 Jur. N. S. 95; 32 L. J. Ch. 101—V. C. K.).

Semble, the court has no jurisdiction to

make a vesting order, as to leaseholds, where the surviving trustee, who had died intestate, had not proved the will, or acted in the trusts, and no administration had been taken out to his estate (*In re Robinson*, 9 Jur. N. S. 885; 11 W. R. 1035; 9 L. T. N. S. 12 —R.).

Vol. 4, p. 809, TRUSTEES, to 22 & 23 Vict. c. 35, s. 30, n. (*a*), *add*—The court will not give its opinion on an hypothesis; therefore, when a petition was presented to obtain the advice of the court as to the mode in which calls not yet made on account of shares specificially bequeathed by a testator were to be met, the court ordered the petition to stand over till the call had been actually made (*In re Box*, 11 W. R. 945—V. C. W.).

Vol. 4, p. 810, ——— to sect. 32, n. (*a*), *add* —*Mortimer* v. *Picton*, 33 L. J. Ch. 337.

Vol. 4, p. 833, USURY, to 17 & 18 Vict. c. 90, *add*—*Flight* v. *Reed*, 32 L. J. Ex. 265.

Vol. 4, p. 836, VACCINATION, to 16 & 17 Vict. c. 100, s. 9, *add*—There can be no second conviction (*Pilcher* v. *Stafford*, 33 L. J. M. C. 113).

Vol. 4, p. 838, ——— to 24 & 25 Vict. c. 59, s. 2, *add*—See *Pilcher* v. *Stafford*, 33 L. J. M. C. 113.

Vol. 4, p. 931, WILLS, to 1 Vict. c. 26, s. 9, n. (*e*), *add*—A will was signed by a testator in the absence of the two attesting witnesses, and the survivor of them negatived an express acknowledgment then, but admitted that the will was on the table, signed, before the testator, and that it was handed over to them to sign. The drawer and the defendant, who were present, swore to an express acknowledgment:—Held, that there was an express acknowledgment; but, besides, that there was enough to constitute a virtual one in law (*Todd* v. *Thompson*, 9 L. T. N. S. 177—Ir. Prob.).

Vol. 4, p. 933, ——— to sect. 9, n. (*a*), *add*—A. signed her will below the signatures of the attesting witnesses, but before they signed. She afterwards executed a codicil, but signed it after the witnesses who attested it, though on the same occasion. The will held entitled to probate, but the codicil was not (*In Goods of Hoskins*, 32 L. J. P. M. & A. 158).

Vol. 4, p. 936, ——— to sect. 20, n. (*c*), *add*—A testatrix devised real estates, and, by a subsequent deed, attested by two witnesses, she conveyed them on other trusts:—Held, that the deed (assuming it to be void as turpis contractus) was not such a "writing declaring an intention to revoke" the will, as is required by this section, and therefore that the will operated on such estate and interest as she possessed in the property at her death (*Forde* v. *De Pontès—De Pontès* v. *Kendall*, 30 Beav. 572).

Vol. 4, p. 936, ——— to sect. 20, n. (*d*), *add*—In 1856, A. duly executed a will, which remained in his custody and possession. In 1861, the draft of a new will was forwarded to him for perusal, but such will was never completed. A few months before his death, in conversation, he referred to the executed will as being still in existence, and at a later period expressed an intention to settle the terms of the new one; he died, however, without carrying out his intention. On his death the draft of the new will was found, but not the executed will:—Held, that as the executed will having been in his possession was not found on his death, the presumption arose that he had destroyed it *animo revocandi*; and that, as no evidence was forthcoming to rebut that presumption he died intestate (*In Goods of Mitcheson*, 6 Jur. N. S. 360; 32 L. J. P. M. & A. 202).

Vol. 4. p. 942, WILLS, to 1 Vict. c. 26, s. 27, n. (*a*), after *Moss* v. *Harter*, *add*—See *Bush* v. *Cowan*, 32 Beav. 228.

Vol. 4, p. 947, ——— to 17 & 18 Vict. c. 113, s. 1, n. (*c*), *add*—But it does not apply to leaseholds (*Solomon* v. *Solomon*, 33 L. J. Ch. 473).

Vol. 4, p. 947, ——— to sect. 1, n. (*e*), *add*—Devises of a real estate which had been mortgaged by the testator, held entitled to have the mortgage paid out of the other real and the personal estate devised for payment of debts, notwithstanding this Act (*Newman* v. *Wilson*, 31 Beav. 33).

By will, made in 1847, a testator, after directing payment of his debts out of his personal estate, bequeathed the residue to his daughter, who pre-deceased him without issue. He also devised his real estate to trustees, for the benefit of his daughter and her children, with a gift over. The real estate was subject to a mortgage. In 1861, he made another testamentary disposition, but it made no reference to the former will, and only contained the bequest of a legacy. The devisee claimed to have his real estate exonerated from the mortgage debt:—Held, that the testamentary instrument of 1861 did not bring the will within the operation of this Act, and, therefore, the devisee was entitled to have the estate exonerated out of the personalty (*Rolfe* v. *Perry*, 9 Jur. N. S. 853; 32 L. J. Ch. 471; 11 W. R. 674; 8 L. T. N. S. 441—C.).

Vol. 4, p. 967, HABEAS CORPUS, to 25 Vict. c. 20, *add*—The Isle of Man is not a *foreign* dominion of the Crown within the meaning of this Act, and the writ of *habeas corpus ad subjiciendum* may issue out of the English courts to that island (*In re Brown*, 33 L. J. Q. B. 193). *Quære*, whether in order to bring a colony or foreign dominion of the Crown within that enactment, it must have a court capable of issuing the writ of *habeas corpus* itself, or whether any analogous process would be sufficient (*Ib.*).

INDEX.

ABATEMENT. See *Pleading, &c.*

In Personal Actions.

death of either party between verdict and judgment not error, vol. i. 1, 4.
if judgment entered within two terms after verdict, *ib.*
cases to which statute applies, vol. i. 1, n. (*a*).
death of either party after interlocutory and before final judgment, when no abatement, vol. i. 2, 4.
writ of revivor in such case, vol. i. 4.
death of one or more of several plaintiffs or defendants no abatement, vol. i. 3, and n. (*b*) and (*d*).
suggestion of death by, or against survivors, vol. i. 3.
death of plaintiff or defendant not, *ib.*
proceedings in case of death of sole, or sole surviving, plaintiff, *ib.*
of sole, or sole surviving, defendant, *ib.*
how continuance or abandonment of action may be compelled in case of death, vol. i. 6.
death of public officer of joint stock banking company not to abate action, vol. i. 200.
marriage of feme, plaintiff or defendant, not, vol. i. 4.
judgment in such case how to be obtained, *ib.*
joinder of claims by husband and wife with claims in right of husband, vol. i. 10.
abatement of action brought by husband and wife by death of either, *ib.*
bankruptcy of plaintiff when not, vol. i. 4.

In Error.

death of plaintiff in error not, vol. iii. 747.
nor of defendant in error, *ib.*
marriage not to abate proceedings in error, *ib.*

In Ejectment.

ejectment not to abate by death of claimant or defendant, vol. i. 5.
proceedings upon death before trial where right survives, *ib.*
where right does not survive, *ib.*
proceedings upon death of one of several claimants before execution, *ib.*
in case of death of claimant where right does not survive, *ib.*
upon death of one of several joint defendants, *ib.*
upon death of all defendants before trial, *ib.*
upon death of all defendants after verdict, vol. i. 6.
upon death before trial of defendant who defends separately for part, *ib.*

ABATEMENT—*continued.*

upon death of defendant defending separately for property in respect of which others also defend, vol. i. 6.
death of tenant in suit for partition no abatement, vol. i. 7.
death of king no abatement, vol. i. 3.
variance of process in names of kings not, *ib.*
death, &c., of judges not, *ib.*
preferment of plaintiff to dignity not, *ib.*

Pleas in,

must be verified by affidavit, vol. i. 6.
requisites of such affidavit, vol. i. 6, n. (*a*).
none allowed in partition, vol. i. 7.
nor for non-joinder of other persons protected by statutes of limitations, *ib.*
plea of non-joinder when not allowed, *ib.*
amendment of proceedings after such plea, vol. i. 9.
replication of bankruptcy or insolvency to such plea, vol. i. 7.
provision in case of subsequent proceedings against parties named in such plea, vol. i. 7, 9.
for misnomer abolished, vol. i. 7.
defendant may compel plaintiff to amend the declaration, *ib.*
when initials of defendant's christian name may be used in proceedings, vol. i. 8.
non-joinder and mis-joinder of plaintiffs, when and how amended before trial, *ib.*
at trial, *ib.*
upon notice or plea of non-joinder of plaintiffs, proceedings may be amended, *ib.*
mis-joinder of defendants, when and how amended before or at trial, vol. i. 9.
upon plea of non-joinder of defendants, proceedings may be amended, *ib.*
form of declaration after plea of non-joinder, vol. i. 10.
of nuisances to highways, turnpike roads, &c. See *Highway.*

ABDUCTION.

of an heiress, &c., against her will from motives of lucre, vol. ii. (289).
fraudulent, of an heiress, &c., under age against the will of her father, &c., *ib.*
offender incapable of taking any of her property, *ib.*
forcible, of any woman with intent to marry, &c., vol. ii. (289), (290).
of a girl under sixteen years of age, vol. ii. (290).
of a child under fourteen years of age, *ib.*
action by guardian for ravishment of ward, vol. ii. 829.

ABETTORS. See *Aiders and Abettors.*

ABJURATION, OATH OF.
21 & 22 Vict. c. 48.
oath to be taken instead of oaths of allegiance, supremacy and abjuration, vol. iii. 461.
name of the sovereign for the time being to be used in oath, vol. iii. 462.
oath to be taken in the same cases and in like manner as oaths of allegiance, supremacy and abjuration were taken, *ib.*
existing provisions to be construed accordingly, *ib.*
persons having already taken oaths of allegiance, &c., not required to take oath, &c., *ib.*
Quakers and persons permitted to affirm may subscribe affirmation instead of taking the oath, *ib.*
form of affirmation, *ib.*
effect of affirmation, *ib.*
persons professing Jewish religion may make a declaration in all cases within 9 Geo. 4, c. 17, *ib.*
act not to affect Roman Catholic Relief Act (10 Geo. 4, c. 7), *ib.*
21 & 22 Vict. c. 49.
either house of parliament may modify form of oath required to be taken by its members in favour of persons professing Jewish religion, vol. iii. 594.
in other cases persons professing Jewish religion may take oath appointed instead of oaths of allegiance, &c., in modified form, vol. iii. 595.
22 Vict. c. 10.
form of affirmation to be made by Quakers and others, &c., instead of taking oath substituted for the oaths of allegiance, supremacy and abjuration, vol. iii. 463.
the name of the sovereign for the time being to be substituted for the name of present queen, vol. iii. 464.

ABOMINABLE CRIME.
punishment, vol. ii. (291), (292).
attempt to commit, vol. ii. (292).
letter threatening to accuse of, vol. ii. (202).
accusing of, with intent to extort property, *ib.*
inducing persons to execute deeds, &c. by threat of, vol. ii. (202), (203).

ABORTION.
administering drugs, &c., or using instruments to procure, vol. ii. (290).
procuring drugs or instruments to be so used, vol. ii. (291)
immaterial whether woman be or be not with child, vol. ii. (290), n. (*c*).

ABSCONDING DEBTORS. See *Arrest.*

ABUTTALS. See *Pleading, &c.*

ACCESSORIES. See *Aiders and Abettors.*
before the fact may be dealt with in all respects as principals, vol. ii. (91).
or may be indicted as accessories, or as substantive felons, *ib.*
after the fact may be indicted as such, or as substantive felons, *ib.*
punishment of, *ib.*

ACCESSORIES—*continued.*
may be prosecuted after the principal has been convicted but not attainted, vol. ii. (91).
separate accessories may be tried together in absence of the principal, *ib.*
where a felony is wholly committed in England or Ireland, any accessory to it may be tried in any place where he became accessory, or where the principal may be tried, vol. ii. (91), (92).
in every other case he may be tried where he is apprehended or in custody, *ib.*
accessories within the jurisdiction of the admiralty guilty of felony, vol. ii. (92).
in murder and other offences against the person, punishment of, vol. ii. (293).
in offences against the Larceny Act, vol. ii. (216).
Malicious Injuries Act, vol. ii. (256).
Coin Act, vol. ii. (124).
Forgery Act, vol. ii. (275).

ACCIDENT. See *Death by Accident.*

ACCOUNT.
remedy by auditors, &c., vol. i. 10.
against bailiffs, &c., for not accounting, *ib.*
for executors and executors of executors, vol. i. 11.
against executors, joint tenants, &c., *ib.*
escape of accountants, remedy for, vol. i. 10.
when auditors may commit accountants to prison, *ib.*
accountants' relief thereon, *ib.*
exigent against accountant, *ib.*
limitation of actions for merchants' accounts, vol. iii. 349.

ACCUMULATION.
trusts for, beyond certain periods, or for certain purposes, rendered void, vol. iv. 916 *et seq.*

ACKNOWLEDGMENT.
of debt to take it out of the statute of limitations must be in writing, vol. iii. 13 *et seq.*
of title, in writing, to be equivalent to possession or receipt of rents, vol. iii. 37.
effect of written, in certain actions on specialties, vol. iii. 64.
of deeds by married women, vol. ii. 115 *et seq.*, 127, 128.
register of authority to attorneys to take, vol. i. 184.
judge of county court may take, vol. i. 1243.
of recognizance or other instrument in name of another without authority, vol. ii. (271).

ACTION.
in king's courts under 40*s.* prohibited, vol. i. 119.
does not lie against persons acting in obedience to warrant of commissioners of bankruptcy, &c., vol. i. 286.
when creditor estopped, by election in bankruptcy, vol. i. 336.

ACTS OF PARLIAMENT. See *Statutes.*
acts done in pursuance of statutes, what are, vol. ii. 248, n. (*d*); 560, n. (*h*); 631 n. (*b*) (*c*); 947, n. (*c*); 989, 1186; vol. iii. 304, n. (*a*); 932; 956. See Roberts *v.* Orchard, 33 L. J. Ex. 65.

ADDITIONS, STATUTE OF. See *Outlawry.*

ADMINISTRATOR AND ADMINISTRATION.
See *Assets; Courts (Probate); Executor; Wills.*
powers of ecclesiastical courts to grant administration abolished and vested in court of probate, vol. i. 1301.
appointment of administrator, and who to be,
ordinary to pay debts, as executors are, vol. i. 1408.
ordinary to appoint the nearest and most lawful friends of intestate, vol. i. 1409, 1413.
or the widow or next of kin, *ib.*
husbands not compellable to make distribution, vol. i. 1422.
as to *bona notabilia* and appeal, &c. See *Executors.*
practice as to taking out administration,
ordinary to take bond, &c., vol. i. 1417, 1418, and *notes.*
condition of bond, *ib.*
repeal of former acts as to administration bonds and new enactments, vol. i. 1314, 1315.
special administration, vol. i. 1425.
during minority of infant to guardian, &c., vol. i. 1427.
his power, *ib.*
to creditor, &c., if executor not residing in jurisdiction twelve months, vol. i. 1425.
affidavit to entitle creditor to such administration, vol. i. 1426.
form of such administration, *ib.*
transfer stock, &c., vol. i. 1427.
persons empowered to collect debts during suit in equity, *ib.*
administrator *de bonis non* may sue out *scire facias*, vol. i. 1417.
administration *pendente lite*, vol. i. 1312.
fraudulent administration obtained, administrator liable as executor *de son tort*, vol. i. 1416, 1417.
fees for granting administration, vol. i. 1414.
stamp, regulations as to. See *Stamps.*
administrator to give the proper security, before administration stamped, vol. iv. 473.
penalty for not paying full duty in a given time, after discovery of too little paid, vol. iv. 473, 474.
penalty for not taking out, in a given time, vol. iv. 472.
ecclesiastical courts, not to grant administration without affidavit of value of effects, vol. iv. 472, 473.
such affidavits free of stamp, and to be transmitted, &c., vol. iv. 473.
penalty for neglect, *ib.*
provision where too high a duty paid, *ib.*
where too little paid, *ib.*
ecclesiastical courts not to take surrender of administration on ground only of wrong duty paid, vol. iv. 474.
commissioners may give credit for duty in certain cases, *ib.*
may extend credit if necessary, *ib.*
if stamped upon credit, letters of administration to be deposited with commissioners, *ib.*
duty for which credit given, a debt to the crown, *ib.*

ADMINISTRATOR, &c.—*continued.*
provision for case of administration *de bonis non*, taken out before payment of duty, for which credit given, vol. iv. 474, 475.
construction of this section, vol. iv. 475, n. (*a*).
return of duty on, to be made in respect of debts if claimed in three years, vol. iv. 475.
duty on letters of administration without a will annexed, vol. iv. 545.
as to their interest in chattels, &c., choses in action, and payment of debts and legacies, &c. See *Executor.*
distribution of effects by,
ordinary empowered to take a bond from, vol. i. 1417, and n. (*f*).
his power to call on them to account and make distribution, &c., vol. i. 1419.
to whom distribution to be made, *ib.*
one-third to wife of intestate, *ib.*
residue by equal portions among his children, and persons representing them, vol. i. 1419, 1420.
except children having advancement by portion, &c., vol. i. 1420.
heir to have an equal part, *ib.*
where no children, &c., then one moiety to go to wife and the rest to next of kin, &c., vol. i. 1421.
no representatives to be admitted among collaterals after brother's, &c. children, vol. i. 1422.
if no wife, then to go amongst children, *ib.*
if no children, then amongst next of kin, &c. *ib.*
distribution not to be made till after a year, *ib.*
if debts afterwards appear, then all to refund proportionably, *ib.*
statute not to extend to administration *cum testamento annexo*, *ib.*
customs of London and York, &c., reserved, vol. i. 1419.
this section repealed, vol. i. 1432.
husband not compellable to make distribution of wife's personal estate, vol. i. 1422.
brother and sister to share equally with mother, vol. i. 1423.
not liable to account except to persons interested, *ib.*
so as to persons in York, vol. i. 1423, 1424.
so as to persons in London, *ib.*
brothers and sisters, and the representatives of them to share, vol. i. 1423.
remedies by and against. See *Executor.*
heir or devisee of real estate not to claim payment of mortgage out of personal assets, vol. i. 1432.
except a contrary intention appear by the will, *ib.*
repeal of s. 4 of 22 & 23 Car. 2, c. 10, and part of s. 18 of 11 Geo. 1, c. 18; vol. i. 1432.
save with respect to estate of persons who have died before 1857, *ib.*
special customs concerning the distribution of personal estate of intestates abolished, *ib.*
deposits not exceeding £50 in savings' banks

ADMINISTRATOR, &c.—*continued.*
may be paid to next of kin without letters of administration, vol. iv. 125, 126, 130.
so as to sums not exceeding £50 due to members of Friendly Societies, vol. ii. 224.
so as to sums not exceeding £50 due to debenture holders in Loan Societies, vol. ii. 207.
so as to money or effects of deceased seaman not exceeding in value £50, vol. iv. 288, 289.
subjects of foreign states dying in the Queen's dominions, without any person to administer their estates, the consuls of such foreign states may administer, vol. iv. 950.

ADMIRALTY. See *Colonies; Privy Council.*
3 & 4 Vict. c. 65.
dean of arches to sit for judge of court of admiralty in certain cases, vol. i. 1171.
advocates, surrogates, and proctors of court of arches to be admitted in court of admiralty, *ib.*
whenever a vessel shall be arrested, &c., the court to have jurisdiction over claims of mortgagees, *ib.*
court to decide questions of title in all causes of possession, salvage, &c., *ib.*
appeals to the court of admiralty on distribution, *ib.*
the court, in certain cases, may adjudicate on claims for services, and necessaries, though not on the high seas, *ib.*
evidence may be taken *viva voce* in open court, vol. i. 1172.
or before a commissioner, *ib.*
attendance of witnesses and production of papers may be compelled by subpœna, *ib.*
provisions of 3 & 4 W. 4, c. 42, extended to court of admiralty, *ib.*
power to direct issues, *ib.*
cost of issues and commissions, *ib.*
new trials, *ib.*
granting or refusing new trial, matter of appeal, *ib.*
bills of exceptions to be allowed on trials of issues, *ib.*
record of issue to be transmitted to court of admiralty, vol. i. 1173.
provisions of 2 & 3 W. 4, c. 92, as to appeals to apply to suits in court of admiralty, *ib.*
certified notes of evidence taken admissible on appeal, *ib.*
power for judge of admiralty to make rules of court, *ib.*
protection of judge, *ib.*
gaolers to receive prisoners committed by court of admiralty or by admiralty coroners, *ib.*
prisoners in contempt may be discharged, *ib.*
jurisdiction to try questions concerning booty of war, *ib.*
jurisdiction of courts of law and equity not taken away, *ib.*
17 & 18 Vict. c. 78 (*Admiralty Court Act*, 1854).
short title, vol. i. 1174.
commencement of act, *ib.*
judge of admiralty may appoint solicitors and notaries to administer oaths, &c., *ib.*
commissioner's appointment to bear a stamp of one pound, *ib.*
personal answers may be taken without a commission, *ib.*
commisson for examination of witnesses dispensed with, and examiners empowered to administer oaths, vol. i. 1174.
answers, affidavits, &c., how to be sworn and taken in England and Wales, *ib.*
answers, affidavits, &c., how to be sworn and taken out of England and Wales, *ib.*
penalty for false swearing, &c., *ib.*
penalty for forging signature or seal of judge, &c., vol. i. 1175.
power to appoint persons under special circumstances to administer oaths, &c., *ib.*
power of judge to issue commissions as heretofore, to administer oaths, &c., *ib.*
power to court to proceed by way of monition, *ib.*
order in council may vary, alter, or abolish fees, and provide for their collection by stamps, *ib.*
after such order fees to be received in stamps, *ib.*
commissioners of inland revenue to give necessary directions as to the stamps, and to keep separate accounts, *ib.*
provision for sale of stamps, *ib.*
commissioners of inland revenue may make regulations as to allowance for spoiled stamps, *ib.*
provisions of former acts relating to stamps to be applicable to stamps under this act, *ib.*
no document to be received or used unless stamped, *ib.*
officers guilty of fraud or wilful neglect in relation to stamps liable to be dismissed, vol. i. 1176.
power to treasury to order pensions for retiring officers, *ib.*
provisions to extend to instance, prize, and other matters, *ib.*
21 & 22 Vict. c. 95.
judge of admiralty and judge of court of probate may sit for each other, vol. i. 1323.
22 & 23 Vict. c. 6.
serjeants, barristers, attorneys, and solicitors may practise in court of admiralty, vol. i. 1176.
precedence between advocates, serjeants, and barristers the same as before the judicial committee of the privy council, *ib.*
attorneys and solicitors so practising to be subject to the authority of the judge, *ib.*
24 Vict. c. 10 (*The Admiralty Court Act*, 1861), *ib.*
interpretation of terms, *ib.*
commencement of act, *ib.*
court to have jurisdiction over claims for building, equipping or repairing of ships, if ship or proceeds under arrest, *ib.*
court to have jurisdiction over claims for necessaries, unless owner domiciled in England, *ib.*
proviso as to costs, *ib.*
court to have jurisdiction over claims for damage to cargo imported, unless owner of ship domiciled in England, vol. i. 1177.
proviso as to costs, *ib.*
court to have jurisdiction over claims for damage by any ship, *ib.*
court to have jurisdiction to decide questions as to ownership, &c., *ib.*
court to have jurisdiction over earnings of any ship registered at any port in England, *ib.*

ADMIRALTY—*continued.*
court may direct the said ship to be sold, vol. i. 1177.
court to have jurisdiction over claims for wages and for disbursements by master of a ship, *ib.*
extending 17 & 18 Vict. c. 104, as to claims for salvage of life, *ib.*
3 & 4 Vict. c. 65, in regard to mortgages extended to court of admiralty, *ib.*
sections 62 to 65 of 17 & 18 Vict. c. 104, extended to court of admiralty, *ib.*
part 9 of 17 & 18 Vict. c. 104, extended to court of admiralty, *ib.*
court to be a court of record, *ib.*
decrees and orders of court of admiralty to have effect of judgments at common law, *ib.*
as to claims to goods taken in execution, *ib.*
powers of superior courts extended to court of admiralty to compel party to answer interrogatories and to produce document, vol. i. 1178.
party in court of admiralty may apply for an order for inspection by Trinity masters, *ib.*
admission of documents, *ib.*
power to court of admiralty when personal service of citation has not been effected, to order parties to proceed, *ib.*
as to the service of subpœna out of England and Wales, *ib.*
power to issue new writs or other process, *ib.*
judge and registrar to have same power as to arbitration as judges and masters at common law, *ib.*
section 15 of 17 & 18 Vict. c. 104, extended to registrar of court of admiralty, *ib.*
powers of registrar and of deputy or assistant registrar, *ib.*
false oath or affirmation deemed perjury, *ib.*
appointment of registrar and of deputy or assistant registrar, *ib.*
appointment of examiners, vol. i. 1179.
stamp duty not payable on subsequent admissions of proctors or solicitors, *ib.*
proctor may act as agent of solicitors, *ib.*
2 Hen. 4, c. 11, repealed, *ib.*
power of appeal in interlocutory matters, *ib.*
bail given in the court of admiralty good in the court of appeal, *ib.*
as to the hearing of causes and cross causes, *ib.*
jurisdiction of the court, *ib.*

Vice Admiralty Courts,
2 Wm. 4, c. 51 [repealed (except as to India) by 26 Vict. c. 24].
power to make regulations, and establish fees in vice admiralty courts abroad, vol. i. 1170.
appeal to high court of admiralty in cases of costs, *ib.*
vice admiralty courts to have jurisdiction in certain maritime cases, *ib.*
26 Vict. c. 24. (*Vice-Admiralty Courts Act*, 1863).
interpretation of terms, vol. i. 1179.
appointment of vice-admiral, vol. i. 1180.
appointment of judge, *ib.*
appointment of registrar and marshal, *ib.*
names of appointees, &c., to be notified to the Home Government, *ib.*
saving the powers of the admiralty, *ib.*
past proceedings confirmed, *ib.*

ADMIRALTY—*continued.*
protection of officers, vol. i. 1180.
jurisdiction of vice-admiralty courts, *ib.*
nothing to restrict existing jurisdictions, *ib.*
as to matters arising beyond limits of colony, *ib.*
her majesty empowered to establish and alter rules and tables of fees, *ib.*
rules and tables of fees to be laid before the House of Commons, *ib.*
to be entered in the records of the courts, *ib.*
to be hung up in court, vol. i. 1180*a*.
established fees to be the only fees taken, *ib.*
taxation may be revised by the High Court of Admiralty, *ib.*
registrar may administer oaths, *ib.*
as to the hearing of cross causes, *ib.*
no appeal save from final sentence or order, *ib.*
appeal to be made within six months, *ib.*
acts repealed, *ib.*
saving rules established under 2 & 3 Will. 4, c. 51, *ib.*

Punishment and Trial of Offences committed within Jurisdiction of,
payment of expenses of prosecutions in court of, vol. ii. (14).
offences prosecuted in court of, to be punished same as offences on land, vol. ii. (17).
Central Criminal Court may try offences committed within jurisdiction of, vol. ii. (23).
justices of oyer and terminer may try offences committed on high seas, without special commission, vol. ii. (26), (27).
offences against Post Office Acts, committed within jurisdiction of, to be dealt with as other offences within that jurisdiction, vol. ii. (227).
provisions for the prosecution and trial, in the colonies, of offences committed within the jurisdiction of the admiralty, vol. i. 624.
extended to the East Indies, vol. i. 1176.
accessories to felonies becoming such within jurisdiction of, vol. ii. (92).
indictable offences mentioned in Larceny Consolidation Act, committed within the admiralty jurisdiction, to be deemed offences of the same nature and liable to same punishments as if committed on land, and to be dealt with, &c., in any county or place in which the offender shall be apprehended or be in custody, vol. ii. (219).
same provision in the Malicious Injuries Consolidation Act, vol. ii. (259).
in the Forgery Consolidation Act, vol. ii. (275).
in the Coinage Consolidation Act, vol. ii. (124).
in Offences against the Person Consolidation Act, vol. ii. (293).

ADMISSIONS TO COURTS, &c. See *Copyholds; Stamps.*

ADMISSIONS. See *Courts (Equity)*, tit. *Admissions.*
neglect or refusal to admit documents for purposes of trial, consequences of, vol. iii. 740.
how such admissions proved, *ib.*

ADULTERATION.
of food or drink, prevention of, vol. ii. 517.

ADULTERY. See *Courts (Divorce)*; *Dower.*
of wife works a forfeiture of her dower, vol. i. 1352.
unless husband voluntarily reconciled to her, *ib.*

AD VALOREM STAMP DUTY. See *Stamps.*
what conveyances exempted from, vol. iv. 471.
releases and conveyances of annuities or rent charges exempted from, on repurchase, *ib.*
on conveyances, vol. iv. 581.

ADVERSE CLAIMS. See *Interpleader.*

ADVERTISING VEHICLES.
prohibited in the metropolis, vol. ii. 371.

ADVOCATE. See *Barrister.*

ADVOWSON.
remedy for disturbance of, vol. i. 12.
quare impedit now commonly used, vol. i. 12, n. (*a*).
an actual seisin must be shown, *ib.*
patron entitled to *quare impedit* notwithstanding usurpation, vol. i. 12, 14.
usurpation of, when no prejudice to reversioner, vol. i. 12.
presentation during coverture of women, vol. i. 13.
judgments against party entitled, how reversed, *ib.*
plea of plurality, *ib.*
presentation by composition, *ib.*
remedy for disturbance after particular estate ended, *ib.*
damages for disturbance, *ib.*
remedy for disturbance of prebends, hospitals, &c., *ib.*
disturbance by *indicavit*, *ib.*
disturbance by coparceners, *ib.*
king when not barred by six months lapse, *ib.*
presentation by coparceners after partition, vol. i. 14.
sale of advowsons, &c., by parishioners and others, &c., *ib.*
no colleges to hold more advowsons than equal to moiety of their fellows, vol. i. 490, 491.
as to simony, vol. i. 523, n. (*a*). See *Clergy*; *Simony.*
as to presentation by papist, vol. i. 527.
grant of, by papist, vol. i. 531.

AFFIDAVITS.
In the Superior Courts of Common Law.
commissioners may be appointed to take, in England, Wales, and the Isle of Man, vol. i. 14.
in Scotland and Ireland, vol. i. 19.
within ten miles of London, vol. i. 22.
in the Isle of Man and the Channel Islands, vol. i. 23.

AFFIDAVITS—*continued.*
by whom such commissioners to be appointed, vol. i. 14, 19, 22, 23.
style of certain commissioners, vol. i. 22, 23.
commissions for taking, to continue in force notwithstanding demise of the crown, vol. i. 19.
judges of assize on circuit may take certain affidavits, vol. i. 17.
penalty for perjury, in England, *ib.*
in Scotland and Ireland, vol. i. 19.
fee for taking, vol. i. 17, 22, 23.
commission for taking, not to be issued to practising conveyancer, vol. i. 14, n. (*a*).
unless he is an attorney or solicitor, *ib.*
sworn before attorney in the cause, or his clerk, cannot be read, *ib.*
exceptions, vol. i. 15, n. (*a*).
must be entitled of the court, *ib.*
and of the cause, where cause pending, *ib.*
sworn before judge of superior court may be used in his court, though not entitled of that court, *ib.*
but cannot be used in any other court, unless entitled, *ib.*
authority of commissioner must appear on face of, *ib.*
what sufficient for this purpose, *ib.*
statement of place and time where taken, vol. i. 16, n. (*a*).
reception of, when sworn before foreign functionaries, *ib.*
requisites of, when sworn by two or more deponents, *ib.*
interlineation or erasure in jurat, *ib.*
addition and place of abode of deponent must be inserted, *ib.*
exceptions, *ib.*
by illiterate person, *ib.*
time for filing, *ib.*
in civil proceedings must be drawn up in the first person, vol. i. 17, n. (*a*).
and divided into paragraphs numbered consecutively, *ib.*
in answer to affidavit upon new matter, vol. i. 20.
examination of person refusing to make affidavit, *ib.*
proceedings thereon, vol. i. 21.
by party seeking discovery of document, and his attorney or agent, *ib.*
by party proposing to interrogate the opposite party, *ib.*
In the Courts of Equity.
commissioners may be appointed to take, in Scotland and Ireland, vol. i. 19.
by whom such commissioners to be appointed, *ib.*
penalty for perjury, vol. i. 20.
fee for taking, *ib.*
In the Court of Probate.
commissioners may be appointed to take in the Isle of Man and in the Channel Islands, vol. i. 21.
by whom such commissioners to be appointed, *ib.*
before whom they are to be sworn when parties reside abroad, *ib.*
when parties reside in any place out of England under the Queen's dominion, *ib.*
forgery of seal or signature in such case attached, vol. i. 22.
false affidavits perjury, *ib.*

AFFIDAVITS—*continued.*
In Court for Divorce and Matrimonial Causes, vol. i. 1296.
In the Courts of the Duchy and County Palatine of Lancaster,
before whom to be sworn, vol. i. 17, 18.
fees to be taken, *ib.*
In the Courts of the County Palatine of Durham, vol. i. 18.
In the Courts of Equity in Ireland (55 Geo. 3, c. 157), *ib.*
In the Courts of the Stannaries of Cornwall (4 & 5 Will. 4, c. 42), *ib.*
suppression of voluntary and extrajudicial affidavits and substituting declarations in lieu thereof, vol. iii. 453.

AFFIRMATION. See *Oath.*

AGENT. See *Attorney; Factor.*
embezzling money, &c., intrusted to him with a written direction, vol. ii. (210).
or goods, &c., power of attorney to transfer stock, &c., intrusted to him for safe custody, &c., *ib.*
fraudulently selling, &c., property intrusted to him for safe custody, *ib.*
obtaining advances on the property of his principal without authority, vol. ii. (210), (211).

AGREEMENT. See *Contracts; Frauds, Statute of.*

AIDERS AND ABETTORS. See *Accessories.*
in misdemeanors, vol. ii. (92).
in offences punishable on summary conviction, vol. ii. 964.

ALEHOUSES. See *Beer.*
repeal of statutes previous to 9 Geo. 4, c. 61, vol. i. 31.
universities of Oxford and Cambridge not affected by that act, vol. i. 32.
nor the London Vintners' Company, *ib.*
nor the time of granting licences in the city of London, *ib.*
nor the excise laws, *ib.*
nor the sale of beer at fairs, vol. i. 33.
universities of Oxford and Cambridge not affected by 5 & 6 Vict. c. 44, vol. i. 36.
interpretation clause of 9 Geo. 4, c. 61, vol. i. 33.
Licences.
general licensing meetings to be held annually, vol. i. 23.
time of holding such meetings, *ib.*
time and place how to be appointed, vol. i. 24.
notice of meetings to be given, *ib.*
adjournment of meetings, *ib.*
notice to be given of such adjournment, *ib.*
boroughs having a separate commission of the peace to be deemed towns corporate for the purposes of the 9 Geo. 4, c. 61, although they have not a separate court of quarter sessions, vol. i. 1098.
special sessions for the transfer of licences, vol. i. 24.
notice to be given of such special sessions, *ib.*
transfer of licences by justices at petty sessions, vol. i. 35.
special proviso as to metropolitan police district, *ib.*

ALEHOUSES—*continued.*
certain justices disqualified from acting in the grant and transfer of licences, vol. i. 24, 35.
penalty on justices so disqualified acting, vol. i. 24.
when in liberties, &c., two justices not disqualified do not attend, county justices may act, vol. i. 25.
this provision not to extend to the cinque ports, *ib.*
majority of justices at meeting to decide as to grant or transfer of licence, *ib.*
and to sign licence, *ib.*
notice of application for new licence, *ib.*
form of, &c., vol. i. 25, 33.
notice of application to transfer licence, vol. i. 25.
form of, &c., vol. i. 25, 34.
when applicant unable to attend licensing meeting, may attend by deputy, vol. i. 25.
form of licence, vol. i. 26, 34.
duration of licence, vol. i. 26.
temporary licences may be granted in certain cases, vol. i. 26, 35.
duration of such licences, vol. i. 26.
notice of application for such licence, *ib.*
fees to be paid for licences, *ib.*
penalty for taking larger fees, *ib.*
loss of licence, how remedied in certain cases, vol. i. 35.
fee for endorsing copy licence, *ib.*
to whom licences shall not be granted, vol. i. 27.
excise licences not to be granted except to persons licensed under 9 Geo. 4, c. 61, *ib.*
General Offences.
selling exciseable liquors without licence, *ib.*
licensed person selling liquors to be consumed on unlicensed premises, *ib.*
proviso in case of death, or bankruptcy of person offending, *ib.*
what are exciseable liquors, vol. i. 27, n. (*a*).
opening house on morning of Sunday, &c., for sale of liquor, &c., vol. i. 386.
opening house for sale of beer, &c., on afternoon of Sunday, &c., and morning of following day, vol. i. 387.
allowing persons to play at billiards, &c., at unlawful hours, or on Sundays, &c., or at times when sale of wine, &c., is prohibited, vol. ii. 275, 276.
selling liquors on board boats moored, &c., within metropolitan district during time when prohibited to be sold in public-houses, vol. i. 35.
not selling by standard measures, vol. i. 27.
keeping open house ordered to be closed during riot, *ib.*
harbouring constable, vol. iii, 973.
refusing to admit constable, vol. i. 387.
refusing to quarter soldier (Annual Mutiny Act).
refusing compensation for stabling, *ib.*
paying money to soldier, *ib.*
Offences against the tenor of the Licence, vol. i. 27, 34.
penalties for first, second, and third offence, vol. i. 28.
mode of proceeding for such penalties, *ib.*
hearing of charge of third offence may be adjourned to quarter sessions, *ib.*
quarter sessions may adjourn hearing, *ib.*

ALEHOUSES—*continued.*
appointment of petty constable as prosecutor, vol. i. 29.
expenses of prosecution to be charged on county rates, *ib.*
penalty on witnesses not attending before justices, *ib.*
penalties on justices and others, how to be recovered, *ib.*
how to be applied, *ib.*
conviction to be on oath of witnesses, vol. i. 31.
form of, *ib.*
to be returned to quarter sessions and filed, *ib.*
no *certiorari* allowed, *ib.*
Appeal to Quarter Sessions, vol. i. 29.
notice of, and proceedings upon, *ib.*
judgment of quarter sessions on appeal to be final, vol. i. 30.
what justices may hear appeals, *ib.*
proviso where complaint has arisen within corporate towns, liberties, &c., *ib.*
costs of appeal, *ib.*
attendance of witnesses on appeal, how secured, *ib.*
actions against justices, &c., within what time to be brought, vol. i. 31.
general issue may be pleaded, *ib.*

ALIENATION.
on sale of lands, feoffee to hold of chief lord, and not of feoffor, vol. i. 822.
of land devised to executors to be sold, may be, by acting executors only, vol. i. 1411, 1412.
of contingent or executory interests, and of rights of entry, &c., in freehold, copyhold, or leasehold land, vol. i. 825.

ALIENATION FINES. See *Sheriffs.*

ALIENS. See *Criminal Law.*
king's children inheritable here, wherever born, vol. i. 36.
inheritance of other children born beyond sea, *ib.*
trial of bastardy of, *ib.*
children of natural born subjects born abroad not aliens (7 Anne, c. 5), vol. i. 37, 38.
exceptions (4 Geo. 2, c. 21), vol. i. 38.
nor their children, vol. i. 40.
provisoes, &c., vol. i. 40, 41.
natural born subjects may inherit, though their parents were aliens, vol. i. 37, 40.
limitation of this provision (25 Geo. 2, c. 39), vol. i. 40.
naturalization of foreign protestants, vol. i. 37.
persons born abroad of British mother capable of holding real or personal estate, vol. i. 44.
alien friends may hold personalty, except chattels real, *ib.*
and land for residence or trade for twenty-one years, vol. i. 45.
but may not vote for members of parliament, *ib.*
may maintain personal actions, vol. i. 44, n. (*b*).
contracts with alien enemy wholly void, *ib.*
with alien friend, how affected by subsequent war, *ib.*
subject to the Bankrupt Law, *ib.*

ALIENS—*continued.*
cannot serve on a jury, except *de medietate*, vol. i. 44, n. (*b*).
Naturalization of (7 & 8 Vict. c. 66).
what aliens may be naturalized, vol. i. 45.
rights and capacities of naturalized aliens, *ib.*
how aliens to become naturalized, vol. i. 45, 46.
memorial to secretary of state, vol. i. 45.
certificate of naturalization, *ib.*
to be enrolled in chancery, *ib.*
oath, vol. i. 46.
fees, *ib.*
women married to natural born subjects naturalized, *ib.*
rights of persons naturalized before 7 & 8 Vict. c. 66, *ib.*
by colonial legislatures, valid, vol. i. 47.
Act of 7 & 8 Vict. c. 66 not to extend to colonies, *ib.*
Registration of (6 & 7 Will. 4, c. 11).
repeal of former statutes, vol. i. 41.
masters of vessels from foreign parts to declare what aliens are on board, or have landed, *ib.*
penalty for omission to make declaration, *ib.*
act for, not to extend to foreign mariners navigating the vessel, *ib.*
alien on arrival to declare name, &c., and produce passport, vol. i. 42.
officer of customs to register declaration and deliver certificate, *ib.*
officer of customs to transmit declaration, &c., to secretary of state, *ib.*
certificate of alien departing realm to be transmitted to secretary of state, *ib.*
new certificates to be issued in lieu of such as are lost, *ib.*
certificate to be granted without fee, *ib.*
penalty for taking fee or omitting requisites of act, *ib.*
penalty for forging certificates, &c., *ib.*
prosecution of offences, *ib.*
act not to affect foreign ministers or their servants, *ib.*
nor aliens who have been resident three years, and obtained certificate thereof, vol. i. 43.
nor aliens under fourteen years of age, *ib.*

ALKALI WORKS.
for the more effectual condensation of muriatic acid gas in, vol. iv. 951.

ALLEGIANCE.
endeavouring to seduce persons serving in her majesty's forces by sea or land from their allegiance, vol. ii. (114).
one oath substituted for the oaths of allegiance, supremacy, and abjuration, vol. iii. 461. See *Abjuration, Oath of.*

ALMANACKS. See *Stamps; Time.*

AMBASSADORS (7 Anne, c. 12).
process against person or goods of, void, vol. i. 48.

AMBASSADORS—*continued.*
against person or goods of their servants void, vol. i. 48.
unless servant a trader, vol. i. 49.
extent of this privilege, vol. i. 47, n. (*a*), 48, n. (*a*).
penalty on persons suing forth such process, vol. i. 48.
penalty not enforceable where servant not registered, &c., vol. i. 49.
will not be compelled to give security for costs, vol. i. 47, n. (*a*).
suit against the Czar's ambassador avoided, vol. i. 47.
enabled to administer oaths and do notarial acts, vol. iii. 460.

AMENDMENT AND JEOFAILS. See *Criminal Law; Pleading.*
distinction between statutes of amendment and those of jeofail, vol. i. 49, n. (*a*).
general powers of amendment in civil cases given to judges of the superior courts of common law, vol. i. 61, 62.
what amendments will be allowed, vol. i. 61, n. (*b*).
no appeal against refusal of judge at nisi prius to amend, *ib.*
but his decision may be reviewed, *ib.*
amendment in cases of misnomer, nonjoinder, misjoinder, &c. See *Abatement.*
amendment of variances in criminal cases, vol. i. 60.
when made, *ib.*
how to be made, vol. i. 61.
must be made before verdict, vol. i. 61, n. (*a*).
proceedings after, vol. i. 61.
amendment of grounds of removal or appeal, vol. iii. 1265.
amendment of orders of removal, *ib.*
fines and recoveries in certain cases made valid without amendment, vol. ii. 98.
Earlier Statutes relating to amendments.
amendment by judge of assize although not judge of court in which action depending, vol. i. 56.
amendment in civil and criminal cases during the trial of variances in written documents, *ib.*
defects in records amendable before or after judgment, vol. i. 49, 50.
erasures and interlineations in processes immaterial, vol. i. 50.
defects occasioned by misprision of clerk amendable, vol. i. 49, 50, 51.
when not, vol. i. 50.
variance between record and certificate thereof, *ib.*
record exemplified and enrolled not to be reversed, *ib.*
processes in Wales, vol. i. 51.
process in outlawries, *ib.*
after trial, judgment to be given notwithstanding jeofail or mispleading, *ib.*
after trial, judgment to be given notwithstanding proceedings informal, &c., vol. i. 51, 53.
so after demurrer joined, vol. i. 52.
after judgment by *nil dicit*, vol. i. 54.
statutes of jeofails extended to *mandamus* and *quo warranto*, vol. i. 55.
amendment of writs of error allowed, *ib.*
variance between writs and pleadings, &c., not objectionable after verdict, *ib.*

AMENDMENT AND JEOFAILS—*continued.*
statutes of amendments and jeofails extended to English forms, vol. i. 55.
and to penal actions, *ib.*
in what cases record may be amended, vol. i. 57.
nature of variance between proof and record, *ib.*
must not be material to the merits of the case, vol. i. 59.
nor such as to prejudice the opposite party, *ib.*
judge's order for amendment to be endorsed on postea, *ib.*
new trial may be had for improper amendment, *ib.*
judge may direct facts to be found specially instead of amending, vol. i. 60.
court may give judgment according to the justice of the case, *ib.*

ANATOMY. See *Medical Practitioners.*
regulation of schools of, vol. iii. 332.

ANCIENT DEMESNE. See *Fines and Recoveries.*
recoveries in courts of, may be suffered by attorney, vol. i. 841.
fines and recoveries of lands in, vol. ii. 97, 98.

ANIMALS. See *Horses.*
penalty for cruelly beating, &c., vol. i. 63.
keeping or using places for bull-baiting, dog-fighting, &c., *ib.*
encouraging bull-baiting, &c., *ib.*
summary recovery of damages done by persons guilty of cruelty to, *ib.*
not to affect the punishment of such persons, vol. i. 64.
nor to prevent remedy by action, *ib.*
not providing impounded animals with food, *ib.*
persons may enter pounds for purpose of feeding cattle, *ib.*
how expense of providing food to be recovered, vol. i. 64, 69.
persons licensed to slaughter horses wantonly ill-treating them (7 & 8 Vict. c. 87, s. 3).
improperly conveying animals, vol. i. 65.
proprietor of public vehicle not producing driver, &c., when complaint made of cruelty to, vol. i. 66.
using dogs drawing carts, &c., vol. i. 69.
licensed horse slaughterer not having name, &c., over door, &c., vol. i. 64.
not cutting hair from neck of horse, &c., immediately upon being brought to be slaughtered, *ib.*
not killing horse, &c., within three days after being brought, *ib.*
not supplying horse, &c., with food and water, *ib.*
using, or permitting to be used, horse, &c., brought to be slaughtered, *ib.*
licensed person making false entry as to owner (26 Geo. 3, c. 71, s. 10).
not making entry of description of horses, &c., sent to be slaughtered, vol. i. 65.
not producing book before justice or allowing inspection, &c., *ib.*
obstructing constables, &c., vol. i. 66.
obstructing inspector (7 & 8 Vict. c. 87, s. 5).
lending house, &c., for slaughtering cattle, other than for butcher's meat, without licence (26 Geo. 3, c. 71 s. 13).

ANIMALS—*continued.*
inspector guilty of neglect or violation of duty (7 & 8 Vict. c. 87, s. 6).
licensed horse slaughterer not to be licensed as horse dealer, vol. i. 65.
Procedure under 12 & 13 *Vict. c.* 92 (*Prevention of Cruelty to Animals*).
apprehension of offenders, vol. i. 65.
complaint before justice to be made within one calendar month, *ib.*
no information in writing required, *ib.*
summoning party accused, *ib.*
service of summons, *ib.*
warrant may be issued without summons, *ib.*
justices may summon witnesses, *ib.*
proprietors of public vehicles may be summoned to produce their servants, vol. i. 66.
commitment on non-payment of penalty, *ib.*
vehicles may be detained, *ib.*
distribution of penalties, *ib.*
conviction, form of, *ib.*
to be returned to quarter sessions, vol. i. 67.
not to be removed by certiorari, *ib.*
appeal to quarter sessions, *ib.*
actions for anything done in pursuance of act, *ib.*
within what time to be brought, *ib.*
notice of action to be given, *ib.*
venue, vol. i. 68.
costs, *ib.*
killing with intent to steal carcase, &c., vol. ii. 193.
larceny of domestic, vol. ii. (195).
maliciously killing, vol. ii. (254).

ANNUITIES.
apportionment of, vol. ii. 1138.
purchase of, through the medium of savings' banks, vol. iv. 132.
registration of, where granted after the 26th April, 1855, vol. i. 80.
what annuities must be registered, *ib.*
annuities granted by marriage settlement need not be registered, *ib.*
nor annuities given by will, *ib.*
where to be registered, *ib.*
fees on registration, *ib.*
searches, *ib.*
fees on searches, *ib.*
consequences of not registering, *ib.*
Enactments of repealed Statutes relating to Registration of.
17 Geo. 3, c. 26; vol. i. 70.
deeds granting annuities, requisites of, *ib.*
in what cases such deeds may be cancelled, *ib.*
to be enrolled in Chancery, *ib.*
enrolment of warrants of attorney securing annuities, *ib.*
contracts with infants for purchase of annuities void, vol. i. 71.
persons procuring grant of annuity by minor, punishable, *ib.*
procuration fee to be taken, *ib.*
penalty for exceeding, *ib.*
cases to which Act does not extend, *ib.*
53 Geo. 3. c. 141.
memorials to be enrolled in Chancery, vol. i. 71.
form of memorials, vol. i. 72.
decisions as to form, vol. i. 72, *in notis.*

ANNUITIES—*continued.*
names of witnesses, what necessary description, &c., vol. i. 73, n. (*f*) and (*g*); 78, n. (*f*).
companies to be described by usual name, vol. i. 74.
names of parties beneficially interested to be stated, vol. i. 75.
omission of enrolling collateral deeds, vol. i. 78.
copies of deeds granting annuities may be obtained, vol. i. 75.
fees for such copies, *ib.*
delivery of, how compellable, vol. i. 76.
staying proceedings against grantor of annuity in certain cases, *ib.*
book to be kept by clerk of enrolments, vol. i. 77.
fee on enrolment, *ib.*
statute does not give any additional validity to deed, vol. i. 78.
contracts with infants for purchase of annuities void, vol. i. 77.
punishments of persons inducing infants to grant annuities, *ib.*
procuration fee to be taken, and penalty for exceeding, *ib.*
proviso as to enrolment, &c., of annuities in Scotland or Ireland, or granted by will, &c., or without pecuniary consideration, &c., *ib.*

APOTHECARIES. See *Medical Practitioners.*
certificate under common seal of Apothecaries' Company to be received in evidence without proof, and to be sufficient proof of qualification, vol. i. 1386.

APPEARANCE.
to writ of summons.
time for, if defendant is in jurisdiction, vol. iii. 759, 760.
if defendant is out of jurisdiction, vol. iii. 723.
distringas to compel, abolished, vol. iii. 725.
sec. stat. abolished, vol. iii. 726.
proceedings in default of,
when writ specially indorsed, *ib.*
not specially indorsed, vol. iii. 727.
when defence allowed if not entered in time, vol. iii. 726.
affidavit to support application, *ib.*
may be entered any time before judgment, vol. iii. 727.
notice of, if after time specified in writ, *ib.*
effect of such notice, *ib.*
in person, shall give an address, *ib.*
when may be set aside as irregular, *ib.*
mode of entering, by delivering memorandum, *ib.*
form of memorandum, *ib.*
proceedings taken in default of, *ib.*
by some defendants only, after special indorsement, *ib.*
to writ of revivor,
may be made by notice in writing, vol. iii. 742.
to suggestion on death of sole defendant, *ib.*
to writ of ejectment, vol. iii. 748.
obtaining leave to appear to actions on bills and notes under "The Summary Proceedings on Bills of Exchange Act," vol. i. 414.

APPOINTMENT.
illusory, made good in equity as well as at law, vol iii. 1308.
by will, how to be executed, vol. iv. 934.
by deed, how to be executed, vol. iii. 1308.
stamp duty on, of a chaplain, vol. iv. 487.
of a gamekeeper, vol. iv. 512.
to offices, vol. iv. 487.

APPORTIONMENT.
of rents, annuities, and other periodical payments, vol. ii. 1138.
of rent charges under Tithe Commutation Act, vol. iv. 711.
of rent charges under Copyhold Enfranchisement Act, vol. i. 853.

APPRAISEMENT AND APPRAISER, &c.
before sale of distress, vol. ii. 1102—1104.
stamp duty on, vol. iv. 487, 569.
exemptions from, *ib.*
licence to act as appraiser, duty on, vol. iv. 521, 569.
must be taken out, when, *ib.*
persons appraising property for hire to be deemed appraisers, vol. iv. 459.
penalty on unlicensed person appraising, *ib.*
auctioneers duly licensed may act as appraisers without licence, *ib.*
appraisers to write appraisement on stamped paper, *ib.*
penalty for persons receiving appraisement not on stamped paper, *ib.*
appraisements extending to more than one piece of paper, liable only to one stamp, *ib.*

APPRENTICES. See *Factories; Justices; Master and Servant; Mines and Collieries; Poor; Stamps.*
settlement of disputes between masters and, in certain cases, by justices, vol. iii. 287, 288; 1100, 1101; 292, 293; 303; 318.
to attorney. See *Attorney*, tit. *Articled Clerks.*
to notary. See *Notary.*
on bankruptcy of master, apprentice discharged from indenture, and fee to be returned, vol. i. 327.
masters not providing necessary food, &c., for, vol. ii. (285).
or doing bodily harm to, *ib.*
by whom prosecution for such offences to be instituted, vol. ii. (293).
as to relief of poor by apprenticeship. See *Poor.*
parish apprentices, Act regulating binding of. See *Poor.*
compulsion to take parish apprentices abolished, vol. iii. 1222.
stamp duties as to, vol. iv. 487—489, 596.
on assignment of, *ib.*
exemptions from, vol. iv. 489.

APPROVEMENT OF COMMONS. See *Inclosure.*

ARBITRATION.
who may be parties to reference to, vol. i. 80, n. (*b*).
feme covert when necessary party to reference to, *ib.*
attorney in action may refer it, *ib.*

ARBITRATION—*continued.*
has solicitor in suit in equity similar authority? vol. i. 80, n. (*b*).
as to the authority of agents to refer to, *ib.*
what matters may be referred to, vol. i. 81, n. (*a*).
reference to, does not oust the courts of their jurisdiction, *ib.*
submission to, may be in writing not under seal, vol. i. 82, n. (*b*).
submission to, in writing may be made a rule of court, unless contrary intention appear, vol. i. 97.
parties may agree that their submission to, shall be made a rule of court, vol. i. 80.
where assignees of bankrupt agree to refer to, the agreement may be made a rule of court, whether the agreement contain a clause to that effect or not, vol. i. 322.
when submission may be made a rule of court, vol. i. 82, n. (*b*).
such agreement may be inserted in submission, vol. i. 82.
procuring rule of court upon such agreement, vol. i. 83.
party disobeying arbitration subject to penalties of contempt of rule, *ib.*
unless award be shown to be undue or corrupt, &c., vol. i. 84.
when attachment will be granted to enforce, vol. i. 83, n. (*b*).
corrupt arbitration void, and may be set aside, vol. i. 85.
other grounds on which award will be set aside, vol. i. 85, n. (*b*).
within what time application must be made to set aside, vol. i. 85, and 89, n. (*c*).
to what tribunal such application must be made, vol. i. 85.
submission not revocable without leave of court, vol. i. 87, and 90, n. (*a*).
term for making award, how enlarged, vol. i. 90.
attendance of witnesses, how compelled, vol. i. 91.
power for the arbitrators to administer oaths, *ib.*
when witnesses may be examined on oath, vol. i. 91; and see 14 & 15 Vict. c. 99, s. 16, vol. i. 1388.
penalty for false swearing, vol. i. 91.
if action commenced after agreement to arbitrate, proceedings may be stayed, vol. i. 95.
instances in which this power will be exercised, vol. i. 95, and *ib.*, notes.
supplying vacancy by failure of arbitrator, vol. i. 95.
when arbitrator appointed by one party may act alone, vol. i. 96.
appointment of umpire by arbitrators, *ib.*
within what time award to be made, *ib.*
rule to deliver possession of land pursuant to award, how enforced, *ib.*
compulsory reference to, under Com. Law Proc. Act, 1854; vol. i. 93.
matters of account may be referred to, before trial, *ib.*
special case may be stated, or issue tried, auxiliary to arbitration, vol. i. 94.
arbitrator may state special case, *ib.*
matters of account may be referred to arbitration at trial, *ib.*
proceedings before and power of arbitrator, *ib.*

ARBITRATION—*continued.*
case may be sent back to arbitrator, vol. i. 94.
application to set aside award, when to be made, vol. i. 95.
enforcing award, vol. i. 93, 94, 95.
rules of court to have the effect of judgments, vol. i. 91.
enforcing rules, *ib.*
not to affect realty, &c., until registered, vol. i. 92.
in suits, &c., relating to tithes, vol. iv. 694.
in differences respecting manorial rights, &c., vol. i. 845, 846.
in proceedings for compulsory enfranchisement of copyholds, vol. i. 869, 870.
reference to, of suits in county courts, vol. i. 1198.
reference to, of matters of appeal to quarter sessions, vol. iv. 164, 165.
enabling railway companies to settle their differences with other companies by, vol. iv. 73.

ARMS.
training to, or practising military exercises, without lawful authority, prohibited, vol. ii. (114).

ARMY.
officers of, on full pay, exempt from serving on juries, vol. ii. 911.
limitation of actions against officers of, vol. ii. 959.
venue in actions against, *ib.*
when exempt from tolls, vol. ii. 599, 600.
when assignees of bankrupt officer entitled to pay, &c., of, vol. i. 368*p*.
sale of commissions, &c., in, how far legal, vol. iii. 470.

ARREST. See *Bail; Pleading; Practice,* &c.; *Sheriff.*
clergy summoned to convocation and their servants, &c., exempted from, vol. i. 97.
clergyman or other minister on duty not liable to, vol. i. 116, 117.
ambassadors and their servants not liable to, vol. i. 48.
of soldiers and royal marines, in what cases allowed, vol. i. 116, and *ib.* n. (*a*).
freedom of bankrupt from, and how discharged if in custody, vol. i. 287—289.
not to be made on Sunday, vol. i. 97.
sheriff not to deliver warrant for, without having writ, vol i. 98.
writ to be delivered by attorney, &c., indorsed with his name, &c., vol. i. 105.
warrants of sheriff, &c., contrary thereto, void, vol. i. 106.
exception for suits by officers of courts, *ib.*
what to be done with defendant on arrest, vol. i. 99.
provisions for protecting prisoners against extortion by sheriff's officers, vol. i. 99, 100.
prisoner not to be taken to public house without his consent, vol. i. 98.
nor to private house of sheriff's officer, vol. i. 99.
nor to house of tenant or relation of sheriff's officer, *ib.*
nor to gaol within twenty-four hours, *ib.*

ARREST—*continued.*
not to be charged beyond a fixed sum for lodgings and diet, vol. i. 99.
to send for food where he likes, vol. i. 100.
copy of certain clauses of 32 Geo. 2, c. 28, to be given to prisoners, &c., *ib.*
penalty for neglect, *ib.*
none on mesne process where cause of action not of sufficient amount, exclusive of costs, *ib.*
consequences of arresting for more than sum due, vol. i. 102.
on mesne process abolished in actions in inferior courts, vol. i. 106.
abolished except in certain cases in actions in superior courts, vol. i. 106.
in what cases allowed, vol. i. 107.
judge's order for, how obtained, vol. i. 107, 108 and notes.
what affidavit for, must contain, vol. i. 107, and *ib.* n. (*b*).
may be sworn before writ of summons issued, vol. i. 107, n. (*b*).
may be made at any stage of proceedings before final judgment, vol. i. 109.
application for, not to be made to the court, vol. i. 108, n. (*b*).
must not be made before writ of summons has issued, *ib.*
capias may be sued out on such order, vol. i. 108.
form of capias, vol. i. 108, 112.
within what time after capias issued, arrest must be made, vol. i. 108.
defendant to remain in custody until bail or deposit, *ib.*
defendant may apply to court or judge for his discharge, vol. i. 109, and note.
appeal against judge's order on such application, vol. i. 110.
provisions of 1 & 2 Vict. c. 110, applicable to Courts of Lancaster and Durham, vol. i. 111.
bailing, &c., defendant on arrest.
as to bail bond, &c. See *Bail Bond.*
defendant may deposit money with sheriff in lieu of bail, vol. i. 100—103.
what to be done with money deposited, vol. i. 101, 103.
instead of perfecting bail money may be paid into court, vol. i. 103.
or defendant may pay debt and £20 into court, *ib.*
subsequent proceedings thereon, vol. i. 104, 105.
as to arrests in Wales, Cheshire, Lancaster, or Durham, vol. i. 105.
Of absconding Debtors.
14 & 15 Vict. c. 52 (*The Absconding Debtors' Arrest Act,* 1851), vol. i. 112.
on warrant of bankruptcy commissioner or county court judge, vol. i. 112.
in what cases such warrant may be issued, vol. i. 113.
form of warrant, vol. i. 113, 115.
indorsement on warrant, vol. i. 114.
within what time warrant must be executed, vol. i. 113.
capias to be sued out, *ib.*
warrant auxiliary to capias, *ib.*
time and place of arrest to be indorsed on warrant, *ib.*

ARREST—*continued.*
person arrested on warrant entitled to discharge in certain cases, vol. i. 113.
effect of capias on previous proceedings, *ib.*
person arrested may apply to any commissioner of bankruptcy or county court, or superior judge for discharge, vol. i. 114.
officer responsible for due execution of warrant, *ib.*
costs of warrant, *ib.*
fees to be taken, vol. i. 114, 115.
contributory (to company in process of being wound up), &c., about to abscond, vol. i. 115.
contributory arrested may apply to court for his discharge, vol. i. 116.
fees for arrest. See *Sheriff.*
escape on. See *Sheriff.*
In criminal Cases.
of offenders under the Larceny Consolidation Act, vol. ii. (217).
under the Malicious Injuries to Property Act, vol. ii. (256), (257).
under the Offences against the Person Act, vol. ii. (292).
under the Prevention of Offences Act, vol. ii. (245).

ARSENIC.
regulations as to the sale of, vol. iii. 922.

ARSON. See *Burning.*

ART.
destroying or damaging works of, in museums, churches, or public places, vol. ii. (253).

ASSAULTS.
common, summary conviction of, vol. ii. (287).
aggravated, on females and children under 14 years of age, *ib.*
certificate of dismissal, &c., vol. ii. (287), (288).
such certificate or conviction a bar to other proceedings, vol. ii. (288).
summary provisions not to apply to attempts to commit felony, &c., &c., *ib.*
on clergymen and other ministers, vol. ii. (286).
on magistrates preserving wreck, *ib.*
with intent to commit felony, vol. ii. (287).
resist apprehension or detainer, *ib.*
on peace officers or their assistants, *ib.*
with intent to obstruct sale or passage of grain, flour, &c., *ib.*
on seamen, keelmen or casters, *ib.*
in pursuance of any conspiracy to raise the rate of wages, or respecting any trade or manufacture, *ib.*
punishment on conviction on an indictment of common assault, vol. ii. (288).
assault occasioning actual bodily harm, *ib.*
costs may be ordered to be paid by defendant on conviction on indictment of any assault, vol. ii. (293), (294).
costs may be levied by distress, vol. ii. (294).
with intent to rob, vol. ii. (200), (201).
on borough constables, vol. i. 996.
on officers of prisons, vol. iii. 1368.
on bailiffs of inferior courts, vol. i. 1272.

ASSAULTS—*continued.*
on bailiffs of county courts, vol. i. 1208.
on poor law officers, vol. iii. 1281, 1283.

ASSETS. See *Executors; Wills.*
Administration of.
heir or devisee of real estate not to claim payment of mortgage out of personal assets, vol. i. 1432.
unless a contrary intention signified by the will, *ib.*
not to affect rights claimed under any will, &c., made before 1st June, 1855, *ib.*
Judgment of in future against executors.
proceedings upon, 17 & 18 Vict. c. 125, s. 91; vol. iii. 788.
Liability of real estates of British subjects in India, 9 Geo. 4, c. 33.
real estates of British subjects dying in India to be deemed assets, vol. i. 1428.
executors may sell such estates for payment of debts, *ib.*
executors chargeable with full amount of such real estates, *ib.*
sequestration may be issued in suits against executors, *ib.*
conveyances of such estates valid, *ib.*
quality or tenure of estates not to be altered, *ib.*
Freehold and Copyhold Estates, 3 & 4 Will. 4, c. 104.
made assets for payment of simple contract debts, vol. iv. 927, 928.
how to be administered, *ib.*
Distribution of.
executors and administrators, after having given notices as in an administration suit, may distribute assets, vol. iv. 809.
not afterwards liable to claims of which they had no notice, *ib.*
right of claimant to follow assets of the deceased preserved, *ib.*

ASSIGNMENTS
or grants of leases or other interests in land to be in writing, vol. ii. 147.
certain, must be by deed, vol. i. 824.
of satisfied terms rendered unnecessary, vol. i. 826.
of personalty may be made directly to assignor and another, vol. i. 831.

ASSIZES.
the authority of justices of assize and gaol delivery, vol. ii. 938.
statute against perjury to be proclaimed at, vol. ii. (146).
to be held in county palatine of Chester and in Wales, vol. i. 1122.
justices of assize, or others acting under commissions of oyer and terminer, and gaol delivery, may try offences committed on the high seas without a special commission, vol. ii. (26), (27).
power to her majesty in council to alter circuits of judges, vol. iv. 964.
Appointment of places for holding assizes, 3 & 4 Will. 4, c. 71.
For preventing the interference of Spring Assizes with April Quarter Sessions, 4 & 5 Will. 4, c. 47.
justices authorised to fix time for holding sessions, vol. iv. 154.

ATTACHMENT.
Of debts.
judgment debtor may be examined as to debts due to him, vol. ii. 903.
judge may order such debts to be attached, *ib.*
order for attachment to bind such debts, *ib.*
execution, *ib.*
suing garnishee, vol. ii. 904.
garnishee discharged by payment or execution, *ib.*
attachment book, *ib.*
costs, *ib.*
judge may refuse to interfere in proceedings to attach debts on account of smallness of debt, vol. iii. 793.
proceedings where third person has a lien on the debt, *ib.*
judge may bar claim of third person and make orders, *ib.*

ATTAINDER
of principal, not necessary for conviction of accessory, vol. ii (91).
in respect of another crime not pleadable, vol. ii. (16).
after death of person attainted his descendants may inherit, vol. ii. 836.
lands, stock, or chose in action not to escheat or be forfeited by reason of attainder of trustee or mortgagee, vol. iv. 805.
not to prevent escheat or forfeiture of beneficial interest, *ib.*

ATTAINT.
writ of, abolished, vol. ii. 926.

ATTESTATION
of deeds made before 30 July, 1814, executing powers of appointment, valid notwithstanding omission of word "signed," vol. iii. 1306, 1307.
attesting witness need not be called except in certain cases, vol. iii. 775.

ATTORNEYS.
Abjuration.
attorneys to take oath of, 13 Will. 3, c. 6; vol. i. 143, n. (*a*).
Acknowledgments.
all future authorities to take, to be registered, vol. i. 184.
provision for registration of existing authorities, *ib.*
Admiralty.
attorneys may practise in court of, vol. i. 176.
Admission.
no person to act as attorney or solicitor unless admitted and enrolled, vol. i. 131, 149, 183.
attorney admitted in one court at Westminster may practise in all other common law courts, vol. i. 121, 146.
solicitor admitted in chancery may practise in all inferior courts of equity and in bankruptcy, vol. i. 146.
no one to be admitted unless he shall have served clerkship, vol. i. 131.
affidavit of payment of duty on articles of clerkship to be made before, vol. i. 121.
examination before. See *Examination.*
of persons whose service had expired before 6 & 7 Vict. c. 73; vol. i. 163.

ATTORNEYS—*continued.*
oaths to be taken before, vol. i. 136, 143, and 143, n. (*a*).
of colonial attorneys to English courts, vol. i. 175.
of proctors and their clerks to practise as attorneys, vol. i. 175.
fees on, vol. i. 147, 172.
stamp duty on, vol. iv. 476.
Agents.
attorneys not to act as, for persons not duly qualified, vol. i. 148, and n. (*a*).
proctors may act as, for attorneys in testamentary matters, vol. i. 1317.
Allegiance.
attorneys practising without having taken oath of, a *præmunire*, 7 & 8 Will. 3, c. 24, vol. i. 143, n. (*a*).
Ambassadors.
punishment of attorneys for suing out process against, or their servants, vol. i. 48, 49.
Annuities.
repeal of 53 Geo. 3, c. 141, s. 9, limiting attorney's procuration fee on grant of, vol. iv. 833.
Appearance by attorney.
suit may be by attorney in old county and hundred courts, vol. i. 117, 118.
and in all cases where appeal lieth not, vol. i. 119.
all persons may make a general attorney to sue for them, *ib.*
at common law parties could not appear by attorney, vol. i. 117, n. (*a*).
secus as to corporations aggregate, *ib.*
how right to appear by attorney first given, *ib.*
qualifications of the right, *ib.*
defendant cannot plead to the jurisdiction by attorney, *ib.*
nor coverture, *ib.*
defendants in penal actions may appear by attorney, vol. i. 120.
except where they are aliens, *ib.*
what constitutes attorney attorney in action, vol. i. 118, *note.*
changing attorney in action, *ib.*
death of attorney in action, *ib.*
attorney compromising action against his client's direction, *ib.*
when authority of attorney in action determines, *ib.*
sheriff may discharge party in custody under *ca. sa.* by authority of attorney, vol. i. 119, *note.*
sheriff may withdraw from possession under *fi. fa.* by authority of attorney, *ib.*
in county court, vol. i. 174, 1231.
at petty sessions, *ib.*
Articled clerks.
in general must serve five years, vol. i. 131.
no attorney to have more than two at one time, *ib.*
or to take or retain any clerk after discontinuing business, *ib.*
may serve one year with barrister or special pleader, and one year with London agent, vol. i. 132.
who have passed certain examinations before articles to be admitted after four years' service, vol. i. 177, and n. (*a*).
graduates of certain universities may be admitted after three years' service, vol. i. 177.

ATTORNEYS—*continued.*
barristers may be admitted after three years' service, vol. i. 177.
barrister must be disbarred before being articled, vol. i. 134, *note.*
persons having been *bonâ fide* clerks to attorneys, &c., for ten years, may be admitted after three years' service, vol. i. 177.
writers to the signet may be admitted as attorneys after three years' service, vol. i. 181.
how to be employed, vol. i. 133, and n. (*d*).
not to hold other office or employment during service, vol. i. 180.
bankruptcy or imprisonment of master, vol. i. 132.
lunacy of master, vol. i. 132 n. (*b*), 134 *note,* and 147 n. (*b*).
death or ceasing to practise of master, vol. i. 134.
neglect of masters to take out certificate, not to prejudice, vol. i. 174.
to make affidavit of service before admission, vol. i. 135.
defects in service, &c., of master not to disqualify, vol. i. 147, 174.
application to strike attorney off roll for defective service, when to be made, vol. i. 147.
Articles of Clerkship.
stamp duty payable upon, vol. iv. 599.
to be stamped prior to engrossment, vol. i. 122.
duplicate may be stamped after execution, *ib.*
may be stamped by authority of treasury after six months from date on payment of penalty, vol. i. 175.
duty having once been paid upon, no further duty payable on new contracts with other masters, vol. i. 122.
affidavit of payment of duty on, to be made before admission, vol. i. 121.
affidavit of execution of, to be filed within six months, vol. i. 132.
consequences of not filing within six months, vol. i. 133, 173.
with whom to be filed, vol. i. 143.
fee for filing, vol. i. 147, 172.
to be produced on admission, vol. i. 133.
book to be kept for entering, *ib.*
inrolment of, vol. i. 132, 173.
provisions of 34 Geo. 3, c. 14, as to inrolment of, repealed, vol. i. 173.
to be produced to the registrar and entered within three months from enrolment, vol. i. 179.
in courts of counties palatine, &c., may be stamped with extra duty for the admission of the parties in the courts at Westminster, vol. i. 129.
if lost, court may order copy thereof to be enrolled, vol. i. 130.
fees for registering, vol. i. 147.
Bankrupt.
master of articled clerk becoming, vol. i. 132.
Bankruptcy Court.
practising in, vol. i. 146, 368*ff.*
Barratry.
attorney practising after conviction of, vol. i. 120.
Barristers.
service of articles by, vol. i. 177.

ATTORNEYS—*continued.*
qualification to hold offices by attorneys who have been, vol. i. 181.
Bill of Costs. See *Costs.*
Boards of Guardians.
clerks and officers of, may conduct proceedings before justices at petty or special sessions, or out of sessions, although not attorneys, vol. i. 174.
Catholics, Roman.
oath, &c., to be taken by, admitted as attorneys, vol. i. 143, n. (*a*).
Certificate to practise.
attorneys to take out annual certificates, vol. i. 123, 128.
at what time of the year such certificates are to be taken out, vol. i. 128.
stamp duty payable upon, vol. iv. 599, 600.
attorney practising without, cannot recover his fees, vol. i. 146.
penalty for acting without, vol. i. 124.
for acting without entering, *ib.*
for delivering in wrong place of residence, *ib.*
how obtained, vol. i. 123, 144, 145, 181, 182.
registrar to certify that person applying for, is entitled to, vol. i. 144.
registrar's certificate to be stamped, vol. i. 181.
on application for registrar's certificate, declaration to be signed and entered, vol. i. 144, 181, 185.
declaration to be in duplicate, vol. i. 181.
form of registrar's certificate, vol. i. 145, 172, 181, 185.
refusal of registrar to issue certificate, vol. i. 145.
fees for, vol. i. 147, 181.
consequences of neglecting to renew within proper time, vol. i. 124, 145, 182.
neglect of master to take out, not to prejudice his articled clerk, vol. i. 174.
amount of duty on, to be determined by place of business, vol. i. 181.
to be entered with the registrar, vol. i. 182.
when to bear date, and when to determine, vol. i. 124, 182.
law list to be *primâ facie* evidence of, vol. i. 182.
in case of neglect to obtain, application to be made to the court or a judge, vol. i. 145, and n. (*b*).
in case of neglect for a year to renew, order of court or judge necessary, vol. i. 182.
clerks of boards of guardians may practise in certain matters without, vol. i. 174, 184.
Chancery, Court of.
solicitors to be entitled to practise as attorneys on the common law side of the, vol. iii. 862.
Chester.
attorneys of courts of county palatine of, may practise in courts in Westminster, on certain terms, vol. i. 129, 130.
Clerks. See *Articled Clerks.*
for ten years, may be admitted after three years' service under articles, vol. i. 177.
of the king's coroner and attorney in the King's Bench may be admitted and practise as attorneys, vol. i. 127, 128.
and officers of boards of guardians may conduct proceedings before justices at petty or special sessions, or out of sessions, although not attorneys, vol. i. 174.

ATTORNEYS—*continued.*
Clerkship.
no one to be admitted unless he shall have served, vol. i. 181.
Colonial Courts.
admission of attorneys of, to English courts, vol. i. 175.
Costs.
not recoverable, unless attorney qualified, vol. i. 146, 149, 183.
delivery of bill of, vol. i. 149.
particulars to be contained in bill of, vol. i. 152, n. (*a*).
no action to be brought for, before a month after delivery of bill, vol. i. 149—153 and *notes.*
power to judge in certain cases to authorise action before expiration of month, vol. i. 159.
on application of party chargeable (within one month), to be referred to taxation, vol. i. 153—156.
whether relating to business in court or not, vol. i. 154.
decisions on the statute as to taxation of costs, &c., vol. i. 153—156 *in notis.*
taxation after the month, vol. i. 156.
taxation after twelve months, vol. i. 157.
costs of taxation, *ib.*
taxation under special circumstances, vol. i. 158.
court may order attorney to deliver bill of, and to deliver up deeds, &c., *ib.*
evidence of delivery of bill of, vol. i. 159.
may be taxed on application of third parties, vol. i. 159, and n. (*b*).
taxation of, chargeable on executors and trustees, vol. i. 159.
delivery of bill to third parties, vol. i. 160.
re-taxation when allowed, *ib.*
taxation of bill after payment, vol. i. 160, and n. (*d*).
taxing officer may require officers of other courts to assist him, vol. i. 162.
application for taxation, how to be made, *ib.*
certificate of taxation, *ib.*
judgment may be entered up after taxation, vol. i. 163, n. (*b*).
taxation in divorce court, vol. i. 176.
court of chancery may order payment of interest on, vol. i. 183.
courts may charge property recovered with payment of, *ib.*
provision for in matters of lunacy in case of death, *ib.*
of attorney, for proceedings on behalf of any parish in a court of law, may be paid out of poor rates within a year after the termination of the proceedings, but not afterwards, unless by order of poor law commissioners, vol. iii. 1268.
payment of attorneys' bills by parishes, vol. iii. 1288.
Counties Palatine.
articles in courts of, may be stamped with extra duty for the admission of the parties in courts at Westminster, vol. i. 129; vol. iv. 592, 593.
attorneys of, not to be admitted without examination, vol. i. 180.
admission in, of attorneys admitted in certain other courts, vol. i. 121, 122.
admission of attorneys of, to practise at Westminster, without examination, vol. i. 163, 181.
attorneys of, practising in courts at Westminster without admission, vol. i. 121.
County Courts.
unqualified persons cannot act as attorneys in, vol. i. 149, and n. (*c*).
appearance of attorneys in, vol. i. 174, 1231.
no privilege to be allowed to attorneys in, vol. i. 1222.
Deceit and Malpractices of, penalties for, vol. i. 119, 120.
Divorce Court.
attorneys may practise in, vol. i. 1276.
Early Statutes, relating to, vol. i. 117—120.
Ejectment, Writ of.
duty of attorney in issuing and indorsing, vol. iii. 747, 748.
Embezzlement.
by attorney of money or securities intrusted to him with a written direction, vol. ii. (210).
or goods, &c., or power of attorney entrusted to him for safe custody, *ib.*
attorney fraudulently selling property entrusted to him for safe custody, *ib.*
Enrolment.
no one to act as attorney or solicitor unless enrolled, vol. i. 131, 149, 183.
of names of attorneys, vol. i. 143, 144.
effect of non-enrolment, vol. i. 143, n. (*b*).
fees on, vol. i. 147, 172.
copies of enrolments to be sent to registrar at end of each term, vol. i. 181.
Examination of. See *Articled Clerks.*
applicants for admission to be examined as to fitness and capacity, vol. i. 135, 136, n. (*c*), 137—140, and 140 n. (*a*).
judges and master of rolls may appoint examiners, vol. i. 136, 137, 139.
in general knowledge, either before articles, or before admission, vol. i. 179, 180.
general rules as to such examinations, *see* vol. i. 177, n. (*a*).
power of judges to dispense with such regulations in special cases, vol. i. 180.
in legal knowledge, during articles, vol. i. 186.
general rules as to such examinations, *see* vol. i. 177, n. (*a*).
before admission to extend to all business usually transacted by attorneys, vol. i. 180.
where articles expire in vacation, examination may take place in term preceding, *ib.*
persons not to be admitted in palatine courts without, *ib.*
attorneys of palatine courts may be admitted to practise at Westminster without, vol. i. 163, 181.
fees on, vol. i. 147, 172, 181, and 177, n. (*a*).
Forgery.
penalty on attorney practising after conviction of, vol. i. 120.
Frauds by. See *Barratry, Embezzlement, Forgery, Malpractices, Perjury.*
Graduates. See *Articled Clerks.*
Guardians. See *Boards of Guardians.*
Idiot.
cannot appear by attorney, vol. i. 117, n. (*a*).

ATTORNEYS—*continued.*
Incorporated Law Society.
to be registrar of attorneys, vol. i. 144.
Infant.
cannot appear by attorney, vol. i. 117 n. (*a*).
exception, *ib.*
Inferior Court,
attorneys entitled to practise in, vol. i. 146.
Interpretation Clauses.
of the several Acts relating to attorneys, vol. i. 163, 176.
Justice of the Peace.
attorney not to be, in any county, vol. i. 149.
proviso for places having justices by charter, *ib.*
Lunatic.
may appear by attorney, vol. i. 117 n. (*a*).
Malpractices of, vol. i. 119. See *Barratry, Embezzlement, Forgery, Perjury.*
Married Woman.
cannot in general appear by attorney, vol. i. 117 n. (*a*).
exception, *ib.*
the attorney of a woman, plaintiff or defendant, appointed by her when *sole,* may after her marriage continue the action or defence, unless his authority be countermanded by the husband, and the attorney changed according to the practice of the court, vol. iii. 743.
Oaths.
authority to attorney to administer, to be registered, vol. i. 184.
provisions for registering authorities previous to 23 & 24 Vict. c. 127, *ib.*
to be taken by, before admission, vol. i. 143 n. (*a*).
Palatine Courts. See *Counties Palatine.*
Penal Action.
defendant may appear by attorney in, vol. i. 120.
except where he is an alien, *ib.*
Penalty.
for wrongfully acting as attorney, vol. i. 183.
Perjury.
attorney practising after conviction of, vol. i. 120.
Perpetual Commissioner.
appointment of attorney as, to be registered, vol. i. 184.
Petty Sessions. See *Boards of Guardians.*
parties allowed to plead by attorneys, vol. i. 174.
Prisoner.
attorney being, not to practise, vol. i. 147.
Probate Court.
attorney may practise in, vol. i. 175.
power of judge of, over attorneys, vol. i. 1327.
Proctors
and their clerks, admission of as, vol. i. 175.
may act as agents for attorneys in testamentary matters, vol. i. 1317.
Procuration Fees.
to be taken by, on loans, vol. iv. 829.
on annuities, vol. i. 77.
repeal of statutes limiting amount of, vol. iv. 833.
Queen's Bench.
clerks of the queen's coroner and attorney in, may be admitted and practise as attorneys, vol. i. 127, 128.
attorneys of, may practise on the crown side of that court, vol. iii. 716, 717.

ATTORNEYS—*continued.*
Registrar of
Incorporated Law Society to be, vol. i. 144.
Repeal of former Statutes relating to, vol. i. 130, 164—172, 173, 177.
Roll of. See *Striking off Roll.*
custody of, vol. i. 143.
officers having custody of, to transmit to registrar copies of enrolments at the end of each term, instead of annual certificate, vol. i. 181.
Roman Catholics. See *Catholics, Roman.*
Stamp Duty. See *Stamps.*
on articles of clerkship, vol. iv. 599.
stamping articles before engrossment, vol. i. 122.
after execution, vol. i. 128, 175.
on articles of clerkship in great sessions and counties palatine, vol. i. 129; vol. iv. 592, 593.
on certificate, vol. iv. 599, 600.
on admission, vol. iv. 476.
Striking off Roll
on account of defects in articles or service, vol. i. 147.
rule for, to be entered with registrar, vol. i. 182.
attorney struck off roll of one court to be struck off the rolls of other courts, *ib.*
Treatises
on the law of, vol. i. 117 n. (*a*).
Undertakings by Attorneys, ib.
Universities. See *Articled Clerks.*
persons having taken degrees at, service of articles by, vol. i. 132, 175, 177.
Writers to the Signet.
service of articles by, vol. i. 181.
Writ of Summons.
duty of attorney in issuing and indorsing, vol. iii. 720.
Writs.
attorney issuing, under the Common Law Procedure Act, 1852, may be called upon to declare the plaintiff's calling and abode, *ib.*

ATTORNMENT.
of tenants rendered unnecessary, vol. ii. 1106.
of tenants to strangers, &c., void, vol. ii. 1119.
except attornment in pursuance of judgment, &c. *ib.*

AUCTION.
repealing duties of excise on sales by, and provisions as to licences, liabilities, &c., of auctioneers, 8 & 9 Vict. c. 15.
persons may sell by auction under decree, &c., of Court of Chancery, without being liable to duty on auctioneers' licences, vol. iii. 903.
sales by, within statute of frauds, vol. ii. 158 n.; 162 n. (*a*); 175 n.
how far hawkers, &c., prohibited selling by —See *Hawkers.*

AUCTIONEERS. See *Auction.*

AUDITORS.—See *Account.*

AUGMENTATION.
extending the provisions of the Acts for the augmentation of benefices, vol. i. 585.
of certain benefices, the right of presentation to which is vested in the Lord Chancellor, vol. i. 604c.

AVOWRY.—See *Landlord and Tenant.*

AWARD.—See *Arbitration.*
setting aside and enforcing, vol. iii. 771, 773.
under compulsory reference, vol. iii. 773.
stamp on, vol. iv. 624.

BAIL AND BAIL BOND.
who may be held to bail.—See *Arrest.*
practice rules respecting bailable proceedings, bail, and bail in error, vol. i. 186—192 *in notis.*
sheriff to take bail on reasonable securities, vol. i. 185.
who may be bailed, *ib.*
condition of bond, vol. i. 186.
must be assigned to plaintiff on request, vol. i. 193, and *ib.* n. (*b*).
in actions by king, to be assigned to king, 6 Geo. 4, c. 108, s. 99.
deposit in lieu thereof.—See *Arrest.*
before whom affidavit, &c., may be sworn, vol. i. 14.—See *Affidavit.*
defendant may justify bail in vacation, when a prisoner, vol. i. 193.
justification of bail before judge at chambers as well in term as vacation, vol. i. 194.
commissioners in country may be appointed to take, vol. i. 187.
and in actions in the Court of Common Pleas at Lancaster, vol. i. 1118, 1119.
commissions not to cease by demise of the crown, vol. i. 19.
proceedings on bail so taken, &c., vol. i. 191.
commissioner's fee, *ib.*
power for judges to make rules for justifying such bail, &c., vol. i. 193.
commissioners for taking bail in town in vacation, vol. i. 195.
judges may sit apart to justify, vol. i. 194.
judge of assize may take bail, vol. i. 193.
execution to fix bail may be tested and returnable in vacation, vol. iii. 788.
where capias is issued under the 1 & 2 Vict. c. 110, vol. i. 108, 109.
on information under Customs Acts, 16 & 17 Vict. c. 107, ss. 266, 300.
felony to become bail in another's name, vol. ii. (271).
rendering in discharge, defendant not being in custody, vol. i. 194.
defendant being in custody, vol. i. 195.

BAIL IN ERROR.—See *Pleading, &c.*
execution upon judgments in the superior courts not stayed by proceedings in error unless bail put in, vol. i. 1365.
time at which such bail must be put in, *ib.*
amount of recognizance, *ib.*
in ejectment, vol. i. 1368.
in misdemeanors, vol. ii. (27), (29), (64).
from inferior courts of record where damages under 10*l.*, vol. i. 1363.
practice rules respecting, vol. i. 186, n. (*b*).

BAIL IN OTHER CIVIL CASES.—See *Arrest.*
on outlawry, on 31 Eliz. c. 3, and 4 & 5 W. & M. c. 18, vol. iii. 476, 477.
on removal of causes by *habeas*, &c., 19 Geo. 3, c. 70, s. 6, vol. i. 1363; 7 & 8 Geo. 4, c. 71, s. 6, vol. i. 102.

BAIL IN CRIMINAL CASES.
power of justice to admit to bail person charged with indictable offence, vol. ii. (38), (39).
justice cannot admit to bail person charged with treason, vol. ii. (39).
by what authority person charged with treason may be bailed, *ib.*
coroners may admit to bail persons charged with manslaughter, vol. i. 943.
justice may bail person charged with offence against laws of Inland Revenue, vol. ii. 837, n. (*c*).
on summary convictions. See *Justices of the Peace.*

BAILEE.
when guilty of larceny, vol. ii. (191.)
may be convicted on indictment for larceny, *ib.*

BAILIFFS. See *Sheriff.*
of inferior courts, act for regulating, vol. i. 1272.
remedies against for neglect in certain cases, vol. i. 251, 252.
of county courts. See *Courts* (*County*).

BAKEHOUSE REGULATION ACT, 1863.
26 & 27 Vict. c. 40.
short title, vol. iv. 951.
interpretation of terms, *ib.*
limitation of hours of labour of persons under eighteen years, *ib.*
regulations as to cleanliness of bakehouse, *ib.*
as to sleeping-places near bakehouses, vol. iv. 952.
power to local authority to enforce provisions of this Act, *ib.*
as to expenses of local authority acting under this Act, *ib.*
Penalties:
recovery of penalties, *ib.*
jurisdiction of certain magistrates, *ib.*

BANK OF ENGLAND.
exclusive privileges of, continued, subject to redemption after 1st of August, 1833, vol. i. 195.
continued, subject to redemption after 1st of August, 1844, or 1st of August, 1855, vol. i. 209, 210, 211.
continued, subject to redemption since 1st of August, 1855, vol i. 219.
provisos saving the privileges of Bank of England out of certain acts, vol. i. 204, 207, 234.
may empower agents to carry on business at branch establishments, vol. i. 202.
notes issued at branch establishments to be payable in coin there, vol. i. 203, 209.
notes of Bank of England exempted from stamp duty, vol. i. 215.
to be a legal tender except at the bank and branch banks, vol. i. 210.
banks of more than six persons not to issue notes payable on demand in London or within 65 miles thereof, vol. i. 209.
any co-partnership may carry on business of bankers in London or within 65 miles thereof, on certain conditions, *ib.*
banks of more than six persons within 65 miles of London, cannot accept bills at less than six months, *ib.*

BANK OF ENGLAND—*continued.*
accounts of bullion, &c., and notes in circulation to be sent weekly to the Chancellor of the Exchequer, vol. i. 210.
and published monthly in the London Gazette, vol. i. 210, 213.
certain other accounts to be sent to the commissioners of stamps and taxes weekly, vol. i. 215.
form of such account, vol. i. 215, 220.
publication of such account in the London Gazette, vol. i. 215.
public to pay the bank one-fourth of debt of £14,686,800, vol. i. 210.
capital stock of, may be reduced, *ib.*
governor, &c., not to be disqualified by reduction of their shares, vol. i. 211.
nor proprietors, *ib.*
to deduct annual sum from sum allowed for management of national debt, vol. i. 211, 215.
separation of issue and banking departments, vol. i. 214.
management of the issue by, *ib.*
proportion of silver bullion to be retained in the issue department, *ib.*
all persons may demand of the issue department notes for gold bullion, vol. i. 215.
powers to increase securities in the issue department and issue additional notes, vol. i. 215.
to allow the public the profits of increased circulation, *ib.*
may compound with issuing banks, vol. i. 218.
all shares of public stocks standing in the books of, in the name of any deceased person may be transferred by the executors, notwithstanding any specific bequest, vol. i. 230.
may require all the executors to join in the transfer of stock, *ib.*
not to register specific bequests, *ib.*
powers of attorney for receipt of dividends in the case of one of two joint owners being under disability, vol. i. 231.

BANKERS,
during exclusive privileges of Bank of England, no other bank to be erected by Parliament, vol. i. 195.
no banking partnership of more than six persons formerly allowed to issue notes payable in less than six months, &c., vol. i. 196.
when co-partnerships of more than six persons may now carry on business as bankers, vol. i. 197, 209.
such copartnerships may not issue within certain limits bills payable on demand, &c., *ib.*
but may draw, &c., bills not payable on demand, vol. i. 219.
may not draw bills on partners, &c., resident within limits for less than £50, vol. i. 197.
except as provided by 3 & 4 W. 4, c. 83, s. 2, vol. i. 208.
nor borrow money or take up bills contrary to 39 & 40 Geo. 3, c. 28, vol. i. 197.
proviso, vol. i. 198.
penalty for infringing the above provisions, vol. i. 203, 204.
how such penalty recoverable, vol. i. 204.

BANKERS—*continued.*
such copartnerships before issuing notes to deliver to stamp office an account, &c., vol. i. 198.
form of such account, vol. i. 204.
such account to be filed and may be inspected, vol. i. 198.
fee for inspection, *ib.*
verification of account, *ib.*
certified copies of account, &c., to be evidence, when, *ib.*
stamp commissioners to give copies of affidavits, *ib.*
fee for same, *ib.*
account of any new members, &c., in course of year to be returned by public officer, vol. i. 199.
and to be filed, *ib.*
form of such account, vol. i. 204.
penalty for neglecting to return, or returning false accounts, vol. i. 203.
how such penalties recoverable, vol. i. 204.
such copartnerships to sue and be sued in the name of their public officers, vol. i. 199, and n. (*c*).
action not to abate by death, &c., of public officers, vol. i. 200.
how forgery, &c., may be laid in indictments, *ib.*
no more than one action for the recovery of one demand, *ib.*
decrees in equity against public officers to take effect against copartnership, *ib.*
so judgments against, *ib.*
execution upon judgment against public officer may be issued against any partner, vol. i. 201.
but leave of court must be first obtained, *ib.*
and within certain time, *ib.*
officer in such cases to be indemnified by copartnership, *ib.*
such copartnership may sue and be sued by their partners, vol. i. 212.
extension to such suits, &c., of foregoing provisions, *ib.*
pleading in bar former actions, *ib.*
member's share not a set off against demands of his copartners, *ib.*
such copartnerships may issue unstamped notes on giving bond, vol. i. 203.
condition of such bonds, *ib.*
proviso for their renewal, *ib.*
such copartnerships not compelled to take out more than four licences, *ib.*
may issue certain unstamped notes and bills on obtaining licence and paying composition, &c., vol. i. 205.
except bankers in London or within three miles thereof, *ib.*
commissioners of stamps may grant such licences, *ib.*
separate licence to be taken out for each place, vol. i. 205, 218.
exception and proviso in favour of bankers having taken out four licences under 9 G. 4, c. 23, &c., *ib.*
regulations respecting licences, vol. i. 205.
power to commissioners to cancel existing licences and grant new ones, vol. i. 206.
during licence, bankers not to issue for first time notes on stamped paper, *ib.*

BANKERS—*continued.*
for what period notes, &c. to be deemed in circulation, vol. i. 206.
bond to be given by bankers licensed to issue unstamped notes, &c. *ib.*
regulations respecting such bonds, *ib.*
fresh bonds to be given on alteration of copartnerships, vol. i. 207.
penalty for neglecting to renew bonds, *ib.*
for post-dating unstamped notes, &c. *ib.*
on persons issuing unstamped notes, &c., not in accordance with 9 G. 4, c. 23, *ib.*
recovery of penalties, *ib.*
allowance for stamps, &c., made useless by 9 G. 4, c. 23, *ib.*
to make periodical returns of notes in circulation to the stamp office, vol. i. 208, 213, 217.
such returns to be verified on oath, vol. i. 208, 213.
form of such returns, vol. i. 217, 220.
penalty for default in making such returns, vol. i. 208, 213, 217.
false swearing punishable as perjury, vol. i. 208.
account made up from returns to be published monthly in London Gazette, vol. i. 213, 217.
commissioners of stamps may cause books of bankers containing accounts of their notes in circulation to be inspected, vol. i. 217.
penalty for refusing to allow such inspection, *ib.*
no new bank of issue to be established after May 6, 1844, vol. i. 216.
restriction against issue of bank notes, *ib.*
bankers ceasing to issue notes may not resume issue, *ib.*
existing banks of issue to continue under certain limitations, *ib.*
provision for united banks, *ib.*
duplicate certificate to be published in the Gazette, *ib.*
Gazette to be evidence, *ib.*
in case banks become united, commissioners to certify the amount of bank notes which each bank was authorised to issue, *ib.*
penalty on banks issuing in excess, vol. i. 217.
to return their names, &c., once a year to the stamp office, *ib.*
list of names so returned to be published annually in newspaper, vol. i. 218.
to take out a separate licence for every place at which they issue notes or bills, *ib.*
proviso in favour of bankers who had four such licences in force on the 6th May, 1844, *ib.*
compensation to certain bankers, vol. i. 218, 220.
bank of England allowed to compound with issuing banks, vol. i. 218.
limitation of compositions, vol. i. 219.
compositions to cease on 1st Aug., 1856, *ib.*
7 & 8 *Vict. c.* 113 (*repealed by* 20 & 21 *Vict. c.* 49, *s.* 12).
no joint stock bank established after 6th May, 1844, to carry on business unless by virtue of letters patent granted according to that act, vol. i. 221.
banks established previously to that day may carry on business till patent granted, vol. i. 221, 227.

BANKERS—*continued.*
company to petition for charter, vol. i. 221.
charter how granted, *ib.*
deed of settlement, what to contain, *ib.*
no company to commence business till deed executed, *ib.*
nor until all the shares subscribed for and at least half paid up, *ib.*
company to be incorporated, vol. i. 222.
incorporation not to limit shareholder's liability, *ib.*
actions by or against shareholders, *ib.*
decree or judgment to be enforced against company and shareholders, *ib.*
execution against company to precede execution against shareholders, *ib.*
extent of liability of former shareholders, *ib.*
reimbursement of individual shareholders, *ib.*
shareholders paying under execution and not reimbursed to have execution against the company, *ib.*
how such execution against company to be had, vol. i. 223.
contribution to be recovered from other shareholders, *ib.*
further remedy in case of bankruptcy, &c., of company's shareholders, *ib.*
memorial of certain particulars to be registered, vol. i. 224.
memorials of occasional changes, *ib.*
form of memorials, vol. i. 224, 229.
memorials to be filed and registered, and to be open to inspection, vol. i. 224.
fee for such inspection, *ib.*
evidence of memorials, *ib.*
certified copies of memorials, how procured, *ib.*
existing liabilities to continue till new memorials, vol. i. 225, and *ib.* n. (*a*).
bills and notes, how to be signed, vol. i. 225.
manager not be personally liable, *ib.*
transfers of shares to be registered, *ib.*
form of transfer, vol. i. 225, 230.
transfer not to be made until all calls paid, vol. i. 225.
closing of transfer books, *ib.*
transmission of shares by other means than transfer to be authenticated by a declaration, *ib.*
proof of transmission by marriage, will, &c., vol. i. 226.
notices to joint proprietors of shares, to whom to be given, *ib.*
receipts for money payable to minors, &c., by whom to be given, *ib.*
company not bound to regard trusts of shares, *ib.*
power to make calls, *ib.*
interest on calls unpaid, *ib.*
enforcement of calls by action, *ib.*
declaration in actions for calls, *ib.*
matter to be proved in actions for calls, *ib.*
proof of proprietorship, vol. i. 227.
forfeiture of shares for non-payment of calls, *ib.*
notice of forfeiture to be given before declaration thereof, *ib.*
forfeiture to be confirmed by general meeting, *ib.*
sale of forfeited shares, *ib.*
evidence as to forfeiture of shares, *ib.*
no more shares to be sold than sufficient for payment of calls, *ib.*
on payment of calls on forfeited shares, shares to revert, *ib.*

BANKERS—*continued.*
service of notices, &c., on the company, vol. i. 227.
existing companies may continue their trades until twelve months after the passing of this Act, *ib.*
existing companies may be brought under this Act, vol. i. 228.
agreements entered into with companies after their incorporation, to be enforced as if made before incorporation, *ib.*
existing companies to have the powers of suing and being sued, *ib.*
banking companies to be deemed trading companies, *ib.*
interpretation clause, vol. i. 229.
20 & 21 Vict. c. 49 (*The Joint Stock Banking Companies' Act*, 1857).
Preliminary.
short title of Act, vol. i. 231.
joint stock companies' Acts incorporated, *ib.*
Registration of existing Banking Companies.
Sec. 2 of 19 & 20 Vict. c. 47, not to extend to banking companies, *ib.*
no banking companies to be registered as limited, *ib.*
liabilities if so registered, vol. i. 233.
but see now, 21 & 22 Vict. c. 91, vol. i. 234.
certain companies must register, vol. i. 231, 233.
penalty on neglect to register, vol. i. 231.
other companies may register, *ib.*
no fees on registration of existing companies, vol. i. 232.
previous obligations not affected by registration, *ib.*
liabilities of shareholders who were such previous to registration, *ib.*
continuation of existing actions and suits, *ib.*
Winding-up of Banking Companies.
companies' winding-up Acts not to apply, *ib.*
winding-up to take place under the joint stock companies Acts, 1856, 1857, *ib.*
Repeal.
7 & 8 Vict. c. 113, and 9 & 10 Vict. c. 75, repealed, *ib.*
Formation of new Banking Companies.
seven persons may register as a company, subject to certain conditions, vol. i. 233.
more than ten persons carrying on the business of banking must register, *ib.*
Examination of Affairs.
inspectors not to be appointed unless one third in number and value of shareholders apply, *ib.*
Banking Companies in Scotland.
sec. 19 of Joint Stock Companies Act 1856, not to extend to, *ib.*
Transfer of trust property.
property held on trust for company to vest on its being registered, *ib.*
but no merger, unless company consents, *ib.*
Banking Companies not registered as such.
not to be illegal if not registered, or registered as limited, *ib.*
but liable to be wound-up, *ib.*
contributories in either case liable for the whole amount, *ib.*
but see now 21 & 22 Vict. c. 91, vol. i. 234.
Saving Clauses.
exemption of certain existing companies, vol. i. 233.

BANKERS—*continued.*
7 & 8 Vict. c. 32, and 8 & 9 Vict. c. 38, not to be affected, vol. i. 234.
21 & 22 Vict. c. 91 (*Limited Liability*).
act prohibiting banking companies from being registered with limited liability repealed, *ib.*
companies issuing notes not to be entitled to limited liability in respect of such issue, *ib.*
liability of shareholders of such companies, *ib.*
registered banking companies may re-register as limited, *ib.*
on such re-registration notice must be given to customers, *ib.*
in default of notice unlimited liability to continue, *ib.*
limited banking companies to make a certain statement half-yearly, *ib.*
form of statement, *Schedule*, *ib.*
copies of statement to be put up in office, *ib.*
penalty in case of default, *ib.*
how limited banking companies are to be wound-up, *ib.*
27 & 28 Vict. c. 50.
assignments and transfers of India stock in the bank of Ireland valid, although not accepted in writing, vol. iv. 953.
27 & 28 Vict. c. 32.
banks discontinuing the issue of bank notes empowered to sue and be sued by their public officer, vol. iv. 954.
act not to empower any bank to carry on business in London, or within sixty-five miles, *ib.*

BANKERS' DRAFTS.
penalties (under 55 Geo. 3, c. 184) for issuing, receiving, or paying unstamped draft, &c., on banker, if same post-dated, and does not specify place of issue, vol. i. 235.
post-dated draft on banker void, unless stamped, *ib.* n. (*b*).
duty of 1*d.* imposed on, vol. iv. 591, 596.
unstamped not to be circulated beyond 15 miles of place where made payable, vol. i. 236.
penalty on persons offending, *ib.*
when lawfully issued unstamped may, by fixing thereto an adhesive stamp, be negotiated beyond the distance of 15 miles, *ib.*
repeal of provisions of 17 Geo. 3, c. 30, as to drafts on bankers, *ib.*
under £5 in England made legal, *ib.*
so also drafts for less than 20*s.*, vol. iv. 623.
adhesive stamps may be used for receipts or drafts without regard to their special appropriation, vol. i. 236.
certain bankers drafts, &c. (formerly exempt), to be charged with duty of 1*d.*, vol. i. 236, 237.
made payable to bearer on demand, and drawn upon banker residing within 15 miles of place where issued, chargeable with 1*d.* stamp, *ib.*
the duty to be under care of inland revenue, vol. i. 237.
bankers may affix stamps to drafts upon them, vol. i. 238.
but this not to relieve person liable to penalty for issuing unstamped draft, &c., *ib.*

BANKERS' DRAFTS—*continued.*
payable to order, and on which order purports to be made sufficient authority for payment, vol. iv. 596.
Crossed Cheques.
crossed with banker's name, &c., to be payable only to or through some banker, vol. i. 236.
who included in the term "banker," vol. i. 236, 237.
such crossing to be deemed a material part of the cheque, vol. i. 237.
cheques, &c., crossed with a banker's name to be only payable to such banker, *ib.*
cheques, &c., crossed without a banker's name to be only payable to a banker, *ib.*
cheques, &c., issued uncrossed, may be afterwards crossed with or without a banker's name, *ib.*
cheques, &c., issued crossed without a banker's name, may be afterwards crossed with a banker's name, *ib.*
effect of such crossing of cheques after their issue, *ib.*
persons obliterating, &c., crossing with intent to defraud, guilty of felony, vol. ii. (269).
banker not to be responsible for paying a cheque which does not plainly appear to have been crossed or altered, vol. i. 237.
unless he act *malâ fide*, or is guilty of negligence, *ib.*

BANKRUPTCY.
Abatement.
of proceedings, not to take place on assignees' death or removal, vol. i. 323.
of action by bankruptcy of plaintiff, vol. i. 4.
of proceedings in county court, vol. i. 1242.
Absence.
from illness, &c., of commissioner, vol. i. 263, 264.
appointment of substitute for commissioner in case of, vol. i. 263.
of registrar, vol. i. 264.
Acceptance.
of lease, &c., by assignees, effect of, vol. i. 318—320.
Accountant to the Crown.
proceeding when bankrupt fraudulently makes himself, vol. i. 305.
Accountants.
charges, &c. of, to be settled by the master, vol. i. 364.
in country districts and county courts to be settled by the registrars of such courts, *ib.*
penalty on accountant taking fees improperly, vol. i. 367, 368.
Accounts.
account of bankrupt's estate to be rendered by official assignee to creditors assignee, vol. i. 368*o*.
such account to be audited, and printed copy sent to creditors who have proved, *ib.*
creditors' assignee to render, to official assignee every three months, vol. i. 368*p*.
if no creditors' assignee, official assignee to render to registrar in like manner, *ib.*
registrars of county courts to render to judges, *ib.*
to be examined by official assignee or registrar, or judge, *ib.*

BANKRUPTCY—*continued.*
of creditors' assignees to be printed and circulated, vol. i. 368*p*.
statement of accounts of bankrupt to be filed previous to last examination, vol. i. 368*q*.
such statement to be open to inspection of creditors, vol. i. 368*q*, 368*r*.
abstract of, to be printed and circulated, *ib.*
official assignee to assist bankrupt in preparing such statement, vol. i. 368*r*.
other assistance in its preparation, *ib.*
person assisting to certify approval or disapproval, *ib.*
statements of account to be examined by assignees, *ib.*
of assignees not to be audited in public sittings, vol. i. 368*x*.
but as in act or by general orders directed, *ib.*
audit or examination of, under deed of arrangement, subject to jurisdiction of court, vol. i. 368*z*.
Action.
not to be brought against persons acting in obedience to warrant of court, vol. i. 286, 287.
on bankruptcy of one partner, court may authorise action or suit in names of assignees, and of remaining partner, vol. i. 322.
or suit not to abate by death or removal of assignees, vol. i. 323.
when money may be paid into court by debtor to bankrupt's estate, *ib.*
against person acting under Bankrupt Act, to be within three months, vol. i. 323, 324.
general issue and evidence on, *ib.*
costs of, *ib.*
may be instituted or defended by assignees with leave of court, vol. i. 322.
not to be brought for dividends, vol. i. 339.
when evidence of petitioning creditor's debt or trading, or act of bankruptcy is not required, vol. i. 346, 347.
Acts of Bankruptcy.
notice of, to corporate bodies, vol. i. 282.
no person to be liable upon if committed more than twelve months before filing petition for adjudication, *ib.*
purchases with notice of, when not to be impeached, vol. i. 310.
notice of, prevents right of set-off, vol. i. 330.
evidence of, when not to be required, vol. i. 346, 347.
by departing the realm, vol. i. 271.
remaining abroad, *ib.*
departure from dwelling house, *ib.*
otherwise absenting, vol. i. 271, 272.
beginning to keep house, vol. i. 272.
suffering to be arrested, vol. i. 272, 273.
or taken in execution for debt not due, vol. i. 273.
or to be outlawed, vol. i. 273, 274.
yielding to prison, vol. i. 273.
by procuring to be arrested, vol. i. 274.
goods, &c., to be taken in execution, &c., *ib.*
by making any fraudulent grant or conveyance, *ib.*
by making or causing to be made any fraudulent gift, &c., vol. i. 277.
conveyance of all trader's property not to

BANKRUPTCY—*continued.*
be, unless petition for adjudication be filed within three months, &c., vol. i. 277, 278.
by filing declaration of insolvency, vol. i. 368*c*, 368*d*.
by compounding with petitioning creditor, vol. i. 278.
by not paying or compounding for judgment debt within seven days after notice requiring payment, vol. i. 368*d*, 368*e*.
by disobeying order of court of equity, &c., for payment of money, *ib*.
non-traders departing the realm, or fraudulently conveying property, &c., with intent, vol. i. 368*b*, 368*c*.
non-traders remaining abroad six months to defeat creditors, *ib*.
debtor lying in prison or escaping out of prison, vol. i. 368*c*.
filing declaration of inability to meet engagement, vol. i. 368*c*, 368*d*.
trader debtor suffering execution to be levied for demands exceeding 50*l*., vol. i. 368*d*.
petition, by or against debtor for adjudication in the colonies, &c., conclusive evidence of, vol. i. 368*d*.
by non-payment after judgment summons, vol. i. 368*d*, 368*e*.
petition of debtor against himself an act of bankruptcy, vol. i. 368*e*.
by signing admission, and not paying, &c., within a certain time, vol. i. 280, 281.
by admitting part only of demand, and not paying, &c., or giving bond for payment if recovered in an action, vol. i. 281.
what to be deemed a refusal to admit debt, *ib*.
time for admission and entering into bond may be enlarged, *ib*.
admission of debt signed elsewhere than in court, if attested by trader's attorney, to have same force as if signed in court, *ib*.
costs may be awarded to creditor or trader summoned, *ib*.
under what circumstances defendant in action shall have costs, vol. i. 281, 282.
by filing petition for arrangement between trader and his creditors, vol. i. 278, 279.
by member of parliament, vol. i. 279.
Acts of Bankruptcy by non-payment after Summons.
trader may be summoned after creditor has made affidavit of his debt, and of notice requiring payment, &c., vol. i. 279.
manner of proceeding upon appearance of trader, vol. i. 280.
by not attending summons, or refusing to admit the demand, and not satisfying it within a certain time, or giving bond for payment, if recovered in action, &c., *ib*.
trader signing admission, and not paying &c., within a certain time, vol. i. 280, 281.
trader admitting part of demand, and as to residue, not paying, &c., vol. i. 281.
Adjournment.
of examination of bankrupt *sine die*, vol. i. 324.
Adjudication.
proceedings to obtain, to be by petition, vol. i. 283, 368*f*.
power of court over bankrupt and his property, after filing of petition for, vol. i. 283.
petition for, where to be filed, vol. i. 368*f*.

BANKRUPTCY—*continued.*
powers to transfer petition, vol. i. 368*f*.
petition for, may be made by public officer of certain partnerships, vol. i. 368*k*.
debtor may petition for, against himself, vol. i. 368*e*.
such petition an act of bankruptcy, *ib*.
in colonies, &c., conclusive evidence of act of bankruptcy, vol. i. 368*d*.
on not obtaining by creditor within three days, or by debtor within twenty-four hours after petition, court to act, vol. i. 368*k*.
against prisoner for debt, effect of, vol. i. 368*m*.
procedure after, vol. i. 368*m*, 368*n*.
of bankruptcy, sequestration or insolvency may be had in England, Scotland, or Ireland against debtor adjudged bankrupt or insolvent in India or the colonies, &c., and residing or having property in Great Britain, vol. i. 368*gg*.
rules to be observed before making, against non-traders, vol. i. 368*b*, 368*c*.
registrar may make, in favour of pauper prisoners, vol. i. 368*l*.
proceedings for, in case of lunatic prisoners for debt, vol. i. 368*m*.
petition for, to be filed within two months after debtor's declaration of insolvency, vol. i. 368*c*, 368*d*.
against a debtor not appearing on judgment debtor summons, or failing to pay or secure, &c., vol. i. 368*e*.
debtor to have time to show cause against, under judgment debtor summons, *ib*.
what course may be pursued in case of petitions against one or more partners of a firm, vol. i. 283.
how to be prosecuted in case of second or other petition against one or more members of a firm, vol. i. 283, 284.
after petition for, trader about to quit England, or to dispose of goods to defraud creditors, may be arrested, vol. i. 284.
witnesses may be summoned to prove trading and act of bankruptcy, *ib*.
upon what proof to be made, *ib*.
official assignee to be forthwith appointed upon, *ib*.
proceeding in case of insufficient petitioning creditor's debt, vol. i. 285.
notice of, to be given to bankrupt before advertisement in Gazette, *ib*.
bankrupt may show cause against, *ib*.
may be annulled, when, *ib*.
if no satisfactory cause shown against, may be advertised, *ib*.
not to be reversed by reason of concert, vol. i. 289.
after advertisement of, money and securities to be delivered to official assignee, vol. i. 306.
amount of debt of creditor petitioning for, vol. i. 368*f*.
if petition for, be falsely or maliciously filed, court may order satisfaction, vol. i. 368*k*.
petition of debtor for, when debts under 300*l*., where to be presented, *ib*.
against pauper, &c., prisoners, provisions relating to, vol. i. 368*l*, 368*m*.
consequences of, with regard to certain descriptions of property, vol. i. 292 *et seq*.
Admission.
not giving admission of debt, when act of bankruptcy, vol. i. 280.

BANKRUPTCY—*continued.*
effect of, of part of debt, vol. i. 281.
what a refusal to give, *ib.*
of debt, after summons, if out of court, to be attested by trader's attorney, *ib.*
of debt due to bankrupt's estate, effect of, vol. i. 292.
attestation not required to give effect to, vol. i. 368*n.*
Advertisement.
of adjudication in bankruptcy, when to be made, vol. i. 285.
exemption of, from stamp duty, vol. i. 311, 312.
in London Gazette and newspaper, when to be evidence, vol. i. 347, 348.
inserting without authority a misdemeanor, vol. i. 352.
several bankruptcies may be comprised in one advertisement, vol. i. 368*dd.*
general orders to fix price for insertion of, in Gazette, *ib.*
Advowson.
right of nomination to, not vested in assignees, vol. i. 320.
Affidavit.
verifying petition for adjudication to be in specified forms, vol. i. 283.
of prisoner petitioning *in formâ pauperis*, may be sworn before gaoler, v. i. 368*l.*
proof of debt on, in court or in chambers, vol. i. 368*r.*
by debtor to accompany trust deed, vol. i. 368*bb.*
of trustee, when debtor is unable to obtain the requisite majority of creditors, vol. i. 368*dd.*
provisions relating to affidavits, vol. i. 368*ee*, 368*ff.*
Affirmation.
provisions relating to, vol. i. 368*ee*, 368*ff.*
Agent.
when liable to become bankrupt, vol. i. 270.
proof by owner in respect of goods entrusted with, on bankruptcy of, vol. i. 335.
of a copartnership may file a petition, or sue out adjudication of bankruptcy, vol. i. 368*k.*
as to proof of debts by, vol. i. 368*r.*
Alien.
liable to bankrupt laws, vol. i. 352.
Allowance.
for spoiled stamps, vol, i. 266.
to bankrupt for attendance in settling accounts, vol. i. 286.
for maintenance, vol. i. 340.
scale of, to be made to bankrupt who has obtained his discharge, *ib.*
may be made to one partner, though other not entitled, vol. i. 341.
to persons discovering bankrupt's effects, vol. i. 352.
creditors to determine as to allowance to bankrupt up to time of last examination, vol. i. 368*m.*
Alum Makers.
liable as traders to become bankrupt, vol. i. 268.
Annuity.
value of, may be proved, vol. i. 332, 333.
proof by sureties for payment of, vol. i. 333.
Annulling.
meaning of the term, vol. i. 368*kk.*
BANKRUPTCY—*continued.*
adjudication of bankruptcy, vol. i. 285.
not to take place by reason of concert, vol. i. 289.
effect of, on *bonâ fide* payments, &c., to assignees, vol. i. 322, 323.
Apothecary.
liable as a trader to bankruptcy, vol. i. 268.
Appeal.
from court of bankruptcy, formerly to vice-chancellor, vol. i. 262.
within what time it must be entered, *ib.*
deposit of costs on, *ib.*
to the vice-chancellor transferred to lords justices, *ib.* n. (*f*).
from decisions of lords justices lies to House of Lords, vol. i. 263, n. (*g*).
must be brought on by motion, vol. i. 263, n. (*c*).
to be entered in chief registrar's office, vol. i. 263.
against grant or refusal of order of discharge, vol. i. 368*x.*
decisions of county court judges subject to, vol. i. 368*b.*
order of discharge not to be drawn up until time for, has expired, vol. i. 368*x.*
Apprehension.
of person suspected of having bankrupt's property, vol. i. 291.
Apprentices.
to bankrupts discharged from indentures, vol. i. 327.
Arbitration.
with leave of court, disputes may be submitted to, vol. i. 322.
reference to, may be made a rule of court, *ib.*
Arrangement.
provisions as to change from bankruptcy to, vol. i. 368*z.*
creditors may resolve that debtor's estate shall be wound up under deed of, *ib.*
court may declare complete execution of deed to be binding on non-executants, *ib.*
thereupon bankruptcy annulled, *ib.*
power of court to examine on oath in respect of deed of, vol. i. 368*z*, 368*aa.*
if deed of, not duly produced, &c., bankruptcy to proceed, vol. i. 368*aa.*
if bankruptcy annulled order to be filed, and notice given in Gazette, *ib.*
Arrest.
act of bankruptcy by procuring, vol. i. 274.
of trader about to quit England, or to dispose of goods in fraud of creditors, vol. i. 284.
trader may apply to court to be discharged from, *ib.*
bankrupt's freedom from, on coming to surrender, vol. i. 287.
trader or non-trader lying in prison, or escaping from prison, on arrest for debt, an act of bankruptcy, vol. i. 368c.
bankrupt to be discharged from, upon producing protection, vol. i. 289.
of bankrupt keeping out of way, or about to quit England, vol. i. 291.
Assessed taxes.
for not exceeding one year may be ordered to be paid out of bankrupt's estate, vol. i. 326.
Assignees.
definition of, vol. i. 368*kk.*

BANKRUPTCY—*continued.*
of bankrupt's estate, when and how to be chosen, vol. i. 312.
may be rejected by the court, when, vol. i. 313.
when joint creditor may prove under separate estate to vote in the choice of, *ib.*
may elect to take or decline lease or agreement for lease for a limited period, vol. i. 368*p*.
bankrupt's personal estate to vest in, vol. i. 313.
property abroad to vest in, vol. i. 368*ll*.
bankrupt's real estate to vest in, vol. i. 317.
certificate of appointment of, when to be registered, vol. i. 318.
not to take crop in any other way than bankrupt might have done, vol. i. 318.
to elect whether they will accept conveyance or lease, *ib.*
may be compelled by vendor of lands to elect whether or not they will perform contract for sale, vol. i. 320.
may execute powers vested in bankrupt, *ib.*
may redeem conditional estates granted by bankrupt, vol. i. 321.
may appoint bankrupt to superintend management of the estate, *ib.*
are subject to orders of the court, *ib.*
when action or suit may be authorized in name of, and of remaining partner, vol. i. 322.
with leave of court may commence or defend actions or suits, *ib.*
may compound debts due to estate, *ib.*
may refer disputes to arbitration, *ib.*
assignee indebted to bankrupt's estate becoming bankrupt, his certificate shall not discharge his future effects in respect of such debt, vol. i. 323.
actions, &c., not to abate by death or removal of, *ib.*
when money may be paid into court in actions by, *ib.*
limitation of actions against, vol. i. 323, 324.
their power to mortgage or pledge bankrupt's property, vol. i. 368*p*.
may apply, pay, half pay, &c., in payment of bankrupt's debts, *ib.*
may obtain sequestration of benefice of bankrupt clergymen, vol. i. 368*p*, 368*q*.
how differences between, and creditors to be determined, vol. i. 368*q*.
may sell book debts, good will, &c., of bankrupt, *ib.*
proof of debt may be sent to, vol. i. 368*r*.
to examine all statements of accounts and make out list of creditors who have proved, *ib.*
may be heard against bankrupt's discharge, vol. i. 368*f*.
how accounts of, to be audited, vol. i. 368*x*.
assignee may require certificate from accountant in bankruptcy as to amount, &c., he desires to pay into Bank of England on his discharge, vol. i. 368*x*.
may obtain adjudication, &c., against bankrupt or insolvent adjudged so in India or the colonies, and having property or residing in Great Britain, vol. i. 368*gg*.
may act as prosecutor in respect of misdemeanour by bankrupt, vol. i. 368*ii*.

BANKRUPTCY—*continued.*
Assignment.
for benefit of creditors, where an act of bankruptcy, vol. i. 277, 278.
Attachment.
against bankrupt's lands or goods before filing petition for adjudication, when to be valid, vol. i. 307—310.
Auction.
goods taken in execution to be sold by, vol. i. 368*d*.
Auctioneer.
liable to bankruptcy as a trader, vol. i. 268.
charges, &c., of, by whom settled, vol. i. 364.
Audit.
how held, vol. i. 368*x*.
of official assignee's accounts by creditors' assignee, vol. i. 368*o*.
Bankers.
liable to bankruptcy as traders, vol. i. 268.
Bankrupt.
definition of, vol. i. 368*kk*.
enumeration of several persons liable to become, as traders, vol, i. 268.
other debtors liable to become, vol. i. 368*b*.
may show cause against adjudication, vol. i. 285.
may consent to advertisement before expiration of time for showing cause, *ib.*
to deliver up books of account to official assignee, vol. i. 286.
if not in custody to attend assignees, *ib.*
may inspect books, *ib.*
to attend assignees in settling accounts after allowance of certificate, *ib.*
to be allowed 5*s*. per day for attendance, *ib.*
body or property of, may be seized by messenger, vol. i. 287.
to be free from arrest on coming to surrender, *ib.*
privilege of, from arrest, vol. i. 289.
when release of, from custody may be ordered, vol. i. 287, 288.
proceedings notwithstanding death of, vol. i. 289.
may be summoned and examined by court, vol. i. 290.
declaration to be signed by, *ib.* 368*ff*.
what questions must be answered by, vol. i. 290.
wife of, may be summoned and examined by court, vol. i. 290, 291.
keeping out of way or about to quit England, may be apprehended, vol. i. 291.
letters addressed to, may be ordered to be re-directed or delivered to official assignee, vol. i. 292.
goods in possession or order of, to be deemed his property, vol. i. 292 *et seq.*
power of court over certain voluntary conveyances made by, vol. i. 305.
personal estate of, to vest in assignees, vol. i. 313.
real estate of, to vest in assignees, vol. i. 317.
when not liable to rents, or covenants in conveyances, leases, &c., vol. i. 318.
powers vested in, may be executed by assignees, vol. i. 320.
majority in value of creditors to determine as to allowance to, up to passing last examination, vol. i. 368*m*.
proceedings against, may be suspended on resolution of majority in value of creditors, vol. i. 368*n*.

BANKRUPTCY—*continued.*
power of court to dispose of his copyholds, vol. i. 368*n*.
life estate in remainder of non-trader not to be sold without direction of court, *ib.*
custody of books of, vol. i. 368*o*.
books of, not subject to lien, *ib.*
valuation of property of, *ib.*
estate of, to be converted into money by creditors' assignee, *ib.*
debts of, may be discharged by mortgage or pledge of his property, vol. i. 368*p*.
pay, half-pay, &c. of, may be applied in payment of his debts, *ib.*
if a clergyman, sequestration of profits of benefice may be obtained, *ib.*
assignees may sell his book debts and goodwill, vol. i. 368*q*.
disposal of his books, &c., on winding up affairs, *ib.*
to file statement of accounts previous to last examination, *ib.*
to be assisted by official assignee in preparing such statement, vol. i. 368*r*.
may be ordered to join in conveyances, vol. i. 320, 321.
may be appointed to superintend management of estate, *ib.*
when in custody to be attended with books, vol. i. 324.
allowance for maintenance to, vol. i. 340.
allowance to, after certificate, *ib.*
allowance to one partner though other not entitled, vol. i. 341.
surplus of estate to be paid to, after payment of interest on debts, *ib.*
not to be protected in respect of certain debts, vol. i. 287, 288.
provisions as to discharge of, vol. i. 368*t*, *et seq.*
may apply for discharge after certificate refused, vol. i. 368*v*.
may plead order of discharge on arrest or suit, *ib.*
release of, when arrested after discharge, *ib.*
partners of, not released, &c., by discharge of, vol. i. 368*w*.
not bound by contracts, &c., made pending proceedings in bankruptcy, *ib.*
discharged from process for contempt of court for non-payment by order of discharge, *ib.*
application of, for rehearing of order of discharge, vol. i. 368*x*.
power of appeal of, in regard to order of discharge, *ib.*
allowance to, on discharge, vol. i. 368*y*.
and his wife to sign declaration, but not to be exempt thereby from examination on oath, vol. i. 368*ff*.
Bills of costs.
of attorneys and solicitors, by whom to be taxed, vol. i. 364.
of auctioneers, accountants, &c., by whom to be taxed, *ib.*
Bleachers.
liable to bankruptcy as traders, vol. i. 268.
Book.
non-production of, how punishable, vol. i. 349.
custody and inspection of books relating to bankrupt's estate, vol. i. 368*o*.
bankrupt's books not subject to lien, *ib.*
disposal of bankrupt's books after his affairs are wound up, vol. i. 368*q*.

BANKRUPTCY—*continued.*
bankrupt destroying or falsifying books, guilty of misdemeanor, vol. i. 368*hh*.
Book debts.
assignees may sell, vol. i. 368*q*.
Bottomry.
proof in respect of bonds, vol. i. 331.
Brick-makers.
liable to bankruptcy as traders, vol. i. 269.
Brokers.
liable to bankruptcy as traders, *ib.*
Builders.
liable to bankruptcy as traders, *ib.*
Buying and selling.
persons seeking their living by, liable to bankruptcy as traders, vol. i. 270.
Calenderers.
liable to bankruptcy as traders, vol. i. 269.
Carpenters.
liable to bankruptcy as traders, *ib.*
Carriers.
liable to bankruptcy as traders, *ib.*
Cattle Salesmen.
liable to bankruptcy as traders, *ib.*
Certificate.
of lunacy of prisoner for debt, vol. i. 368*m*.
of appointment of creditors' assignee, vol. i. 368*o*.
of approval or disapproval to be appended to bankrupt's statement of accounts, vol. i. 368*r*.
from accountant in bankruptcy to assignee as to money, &c., to be paid into Bank of England by the latter on discharge, vol. i. 368*z*.
by trustee to accompany trust deed, vol. i. 368*bb*.
of trustee, when debtor is unable to obtain the requisite majority of creditors, vol. i. 368*dd*.
of being directed to act as prosecutor to be given to assignee or creditor so directed, vol. i. 368*ii*.
on production of, costs of prosecutor to be allowed, *ib.*
Certificate of Conformity.
classification of certificates abolished, vol. i. 368*t*.
bankrupt may apply for discharge three years after certificate refused, vol. i, 368*v*.
Chief Registrar.
seals to be provided for each bankruptcy court by, vol. i. 264.
appeals to be entered in office of, vol. i. 263.
copies of entries, adjudications, &c., to be transmitted by registrars to, vol. i. 283.
to discharge duties of accountant in bankruptcy, *ib.*
transfer of funds to account of, *ib.*
return of fees taken by official assignees to be made to, vol. i. 366.
surplus of messengers' fees to be paid to his account, *ib.*
retiring pensions and compensations to be paid out of his account, *ib.* 367.
to frame a general return of all business in bankruptcy, to be laid before parliament, vol. i, 368*b*.
Clergyman.
bankrupt, sequestration of benefice of, may be obtained, vol. i. 368*p*.
Clerk.
of bankrupt may be paid certain amount of salary, vol. i. 326.
may prove for residue, *ib.*

BANKRUPTCY—*continued.*
may prove debt for his principal, vol. i. 368*r*.
Coach Proprietors.
liable to bankruptcy as traders, vol. i. 269.
Coffee House Keepers.
liable to bankruptcy as traders, *ib.*
Colonies.
certificate of appointment of assignees when to be registered in, vol. i. 318.
petition, by or against debtor, for adjudication of bankruptcy in Queen's dominions, colonies, or dependencies, conclusive evidence of act of bankruptcy, vol. i. 368*d*.
as to person adjudged bankrupt in, and having property or residing in Great Britain, vol. i. 368*gg*.
Commission.
evidence may be taken by, abroad, vol. i. 368.
Commissioners.
each to have power of court of record, vol. i. 261, 262.
in London, how appointed, vol. i. 363.
vacancies need not be filled up, vol. i. 365.
powers of, as to fiats issued before 11th November, 1842, vol. i. 263.
to exercise powers of 17 & 18 Vict., c. 34, as to attendance of witnesses out of jurisdiction, vol. i. 368*ff*, 368*gg*.
of district courts, transfer of jurisdiction to judges of county courts on vacancy, vol. i. 363.
of district courts, jurisdiction of, to be exercised by judges of new county courts, *ib.*
penalty on, for taking fees improperly, vol. i. 367, 368.
attendance of, in vacation, to be regulated by lord chancellor, vol. i, 368.
may sit in chambers, *ib.*
opinion of, may be taken during proceedings before a registrar, vol. i. 368*a*.
warrants to be under hand of, and under seal of court, vol. i. 368*b*.
Commitment.
not to be made by registrar, vol. i. 264.
debtor, whether trader or not, committed to prison for debt, or escaping from prison, an act of bankruptcy, vol. i. 368*c*.
form of warrant of, of bankrupt, vol. i. 368*n*.
discharge from, under *habeas corpus, ib.*
Company.
members of, not to be deemed traders liable to bankruptcy, vol. i. 271.
notice of bankruptcy to agent of, vol. i. 282.
shares standing in bankrupt's name in, may be ordered to be transferred, vol. i. 305.
proof of debts by, vol. i. 324, 325.
Composition.
with petitioning creditor an act of bankruptcy, vol. i. 278.
deeds of. See *Trust Deeds.*
Construction of Statutes.
so much of the 12 & 13 Vict. c. 106, and 17 & 18 Vict. c. 119 as are unrepealed, to be construed with the 24 & 25 Vict. c. 134 as one act, vol. i. 368*ll*.
Contempt.
money, costs, &c., owing under process of, may be proved as a debt, vol. i. 368*r*.
bankrupt released from, by order of discharge, vol. i. 368*w*.
persons practising as solicitors not being such, guilty of, vol. i. 368*ff*.
Contingent liability.
proof in respect of, vol. i. 335.

BANKRUPTCY—*continued.*
Contracts.
of bankrupt, before filing petition for adjudication, when valid, vol. i. 307.
with creditors made pending proceedings in bankruptcy not binding on bankrupt, vol. i. 368*w*.
with intent to induce forbearance of opposition, void, *ib.*
saving, for *bonâ fide* holders without notice, *ib.*
Conveyances.
power of court over certain, made by bankrupt, vol. i. 305.
before filing petition for adjudication, when to be valid, vol. i. 307.
when bankrupt not liable to rents or covenants in, vol. i. 318.
bankrupt may be ordered to join in, vol i. 320.
Copies.
of proceedings in bankruptcy, if sealed with seal of court, admissible in evidence, vol. i. 368*dd*, 368*ee*.
of order of adjudication to be evidence of insolvency, vol. i. 368*ee*.
Copyholds.
fraudulent surrender of, an act of bankruptcy, vol. i. 277.
of bankrupt, how disposed of, vol. i. 368*n*.
Corporation.
notice of act of bankruptcy to agent of, vol. i. 282.
proof of debts by, vol. i. 324, 325.
Costs.
may be awarded to creditor or trader summoned, vol. i. 281.
when trader summoned is entitled to costs of action brought against him, *ib.*
in case of verdict against petitioning creditor, vol. i. 286, 287.
petitioning creditor to proceed at his own, until choice of assignees, vol. i. 289.
occasioned by persons refusing to answer, &c., to be paid by such persons, vol. i. 368*a*.
payment of money agreed to by parties to a special case may be with or without, *ib.*
of action and execution in case of bankruptcy to be paid out of proceeds, vol. i. 368*d*.
of duplicate of judgment debtor's summons given to sheriff, &c., vol. i. 368*e*.
effect of non-payment of, on judgment debtor summons, *ib.*
due in respect of debts to be reckoned as debts for purposes of petition, vol. i. 368*k*.
court may award, in disputes relating to bankrupt's estate, vol. i. 368*q*.
of assisting in preparation of bankrupt's statement of accounts to be paid out of estate, vol. i. 368*r*.
owing under process of contempt may be proved as a debt, *ib.*
of application to expunge or reduce proof, vol. i. 368*s*.
under deed of arrangement, vol. i. 368*z*.
court of bankruptcy may award, vol. i. 368*ff*.
remedies for recovering, *ib.*
order for, must be registered, *ib.*
of prosecution of bankrupt for misdemeanor, vol. i. 368*ii*.
of persons acting under the bankruptcy acts, vol. i. 324.

BANKRUPTCY—*continued.*
plaintiff or defendant obtaining judgment entitled to prove in respect of, vol. i. 336.
to be paid to witnesses, vol. i. 348.

County Courts.
jurisdiction of judges of, vol. i. 363.
transfer to judges of, of jurisdiction, &c., of district commissioners on vacancy, *ib.*
additional, may be established, *ib.*
qualification for judges of new courts, vol. i. 364.
oath to be taken by judges of, before acting in bankruptcy, *ib.*
registrars of, to act as registrars and official assignees, *ib.*
high bailiffs of, to discharge duties of messengers, *ib.*
costs in, to be taxed by registrars, *ib.*
jurisdiction of, as to insolvent debtors, abolished, vol. i. 365.
provision for pending business, *ib.*
penalty on officers of, taking fees improperly, vol. i. 367, 368.
power to frame general orders for, vol. i. 368.
registrars of, may exercise powers of registrars of court of bankruptcy, vol. i. 368*a*.
decisions of judges of, subject to appeal, vol. i. 368*b*.
presentation of petition for adjudication when debts under 300*l.*, vol. i. 368*k*.
transfer of proceedings, *ib.*
proceedings in, on petitions *in formâ pauperis*, vol. i. 368*l*.
prisoners imprisoned under acts relating to, not to be included in gaoler's return, vol. i. 368*m*.
judge of, to exercise discretion as to conduct, &c., of judgment debtor in disposal of his property after judgment, *ib.*
creditors to determine as to transfer of proceedings in bankruptcy to, *ib.*
registrars of, as official assignees, to render accounts to judges, vol. i. 368*p*.
appeal against decision of judge of, granting or refusing order of discharge, vol. i. 368*x*.

Court of Appeal in Chancery.
judges of, may direct questions of fact to be tried before themselves by a jury, vol. i. 368*a*.
judges of, may direct issues to be tried at common law, vol. i. 368*a*, 368*b*.
orders of county court judges subject to appeal to, vol. i. 368*b*.
appeal to, on grant or refusal of order of discharge, vol. i. 368*x*.
orders of, subject to provisions of 1 & 2 Vict. c. 110, s. 18, vol. i. 368*ff*.

Court of Bankruptcy.
to continue a court of law and equity, vol. i. 261.
has same powers, as a court of record, as superior courts, *ib.*
every bankruptcy commissioner to form, *ib.* 262.
powers and jurisdiction of, vol. i. 363.
salaries of officers of, vol. i. 366.
retiring pensions to officers of, *ib.*
per-centage on estates in, abolished, vol. i. 367.
officers of, taking fees improperly, *ib.*
sittings of, vol. i. 368.
how evidence taken in, *ib.*

BANKRUPTCY—*continued.*
warrants and summons to be under seal of, vol. i. 368*b*.
records of, to be under seal, *ib.*
in London, and district courts in England, may administer oaths and receive affidavits, &c., to be used in other courts, vol. i. 368*ff*.
no fees for oaths, &c., to be taken before, *ib.*
commissioners of, to exercise powers of 17 & 18 Vict. c. 34, as to attendance of witnesses out of jurisdiction, *ib.*
examination of witnesses by court of bankruptcy in Ireland concerning matters of bankruptcy in England, vol. i. 368*gg*.
orders made by, in England, to be enforced in Scotland and Ireland, and *vice versâ*, *ib.*
courts in England to be auxiliary to courts in Scotland, Ireland, the colonies, &c., *ib.*
jurisdiction and powers of, with respect to offences committed by bankrupts, vol. i. 368*ii*.
may commit persons wilfully disobeying rules or orders, vol. i. 368*ii*, 368*kk*.
present districts of, to remain until altered, vol. i. 262.
country districts may be altered, *ib.*
several courts of, to be auxiliary to each other, vol. i. 263.
seal to be provided for each, vol. i. 264.

Courts of Common Law.
judges of court of appeal may direct issues to be tried in, vol. i. 368*a*.

Covenant.
made with intent to induce forbearance of opposition, void, vol. i. 368*w*.

Cowkeepers.
liable to bankruptcy as traders, vol. i. 269.

Creditors.
choice of assignees by, vol. i. 312, 313.
joint, entitled to prove under separate estate in order to vote in choice of assignees, vol. i. 313.
court to appoint meeting of, after adjudication becomes absolute, vol. i. 368*m*.
majority in value to determine as to security to be given by creditors' assignee, vol. i. 368*o*.
to determine as to appointment of manager, or committee, *ib.*
on petition of, court may remove creditors' assignee or manager, *ib.*
election by, of new creditors' assignee, *ib.*
accounts of creditors' assignee, after examination, to be circulated among, vol. i. 368*p*.
disputes, &c., between, and assignees may be determined by the court, vol. i. 368*q*.
statement of accounts filed previous to last examination to be open to inspection of, *ib.* 368*r*.
contracts, &c., made with, to induce forbearance of opposition, void, vol. i. 368*w*.
obtaining money, &c., by connivance, vol. i. 368*x*.

Crops.
assignees not to take, in any other way than bankrupt would have been entitled to do, vol. i. 318.

Damages.
may be awarded by court, in case of groundless, fraudulent, or malicious petition for adjudication, vol. i. 351.
proof in respect of unliquidated, vol. i. 368*s*.

BANKRUPTCY—*continued.*
Death.
of bankrupt not to stop proceedings, vol. i. 289.
of assignee not to abate action or suit, vol. i. 323.
Debts.
amount of, of creditor petitioning for adjudication of bankruptcy, vol. i. 368*f*.
of a non-trader, so petitioned against, must be contracted after 11 Oct. 1861, vol. i. 368*k*.
if not really due, as stated by creditor, satisfaction to be made, *ib.*
what shall be reckoned as debts for purposes of petition, vol. i. 368*k*, 368*l*.
under £10 to be collected by official assignee, vol. i. 368*p*.
admitted to be due to bankrupt's estate may be ordered by court to be paid, vol. i. 292.
such order to have effect of judgment, *ib.*
due to bankrupt to vest in assignees, vol. i. 318 *et seq.*
due to bankrupt's estate may be compounded for or payment postponed, vol. i. 322.
when and how to be proved, vol. i. 368*r*.
contracted after act of bankruptcy, when provable, vol. i. 325.
provisions respecting mutual, vol. i. 327.
not payable at time of bankruptcy may be proved with rebate of interest, vol. i. 330.
when sureties liable to, may prove, *ib.*
contingent at time of bankruptcy, proof in respect of, vol. i. 333.
interest upon, when provable, vol. i. 335.
proof of, to be an election not to proceed by action, vol. i. 336.
expunging proof of, vol. i. 368*s*.
Declaration.
proof of debts by, vol. i. 368*r*.
bankrupt and his wife to be examined upon, vol. i. 368*ff*.
to be made by short-hand writer, vol. i. 368*b*.
of inability to meet engagements, filing of, by debtor, an act of bankruptcy, vol. i. 368*c*.
provisions relating to declarations, vol. i. 368*ee*, 368*ff*.
before whom they may be made, vol. i. 368*ee*.
Defendant.
where he may prove for costs, vol. i. 336.
Denizen.
subject to bankrupt laws, vol. i. 352.
Destruction
or falsification of books by bankrupt, consequences of, vol. i. 368*hh*.
Discharge.
sitting for application of bankrupt for, vol. i. 368*q*, 368*t*.
provisions as to bankrupt's order of, vol. i. 368*t*—368*x*.
of bankrupt, if suspended, to be stated in order, vol. i. 368*t*.
to state also if bankrupt has been imprisoned, *ib.*
assignees or creditor may be heard against, *ib.*
rules to be observed in granting orders of, *ib.*
may be refused or suspended if bankrupt convicted of misdemeanor, vol. i. 368*u*.
bankrupt may apply for, after refusal of certificate, vol. i. 368*v*.
effect of order of, *ib.* 368*w*.

BANKRUPTCY—*continued.*
bankrupt arrested after, may be released, vol. i. 368*v*.
contract to induce creditor to forbear opposition to, vol. i. 368*w*.
penalty for obtaining money, &c., as an inducement to forbear opposition to, vol. i. 368*x*.
rehearing of order of, *ib.*
when order of, suspended on rehearing, subsequent creditors to prove first against subsequent property, *ib.*
order of, when to be drawn up, *ib.*
appeal against grant or refusal of order of, *ib.*
form of order of, *ib.*
of creditors' assignee, vol. i. 368*y*.
Distress.
not to be available for more than one year's rent prior to filing petition, vol. i. 305.
Dividends.
provisions as to, vol. i. 368*x*, 368*y*.
action not to be brought for, but payment to be ordered by court, vol. i. 339.
Dyer.
liable to bankrupt laws as trader, vol. i. 269.
Estates-tail.
clauses in 3 & 4 Will. 4, c. 74, respecting disposition of, under bankruptcies, extended to proceedings under petition for adjudication, vol. i. 343.
life estate in remainder of non-trader in, when not to be sold, vol. i. 368*u*.
Evidence.
upon what, trader to be adjudged bankrupt, vol. i. 284.
in actions against petitioning creditor, vol. i. 287.
in actions against persons for things done in pursuance of the bankrupt Acts, vol. i. 323, 324.
proceedings in bankruptcy, and copies sealed with seal of court admissible in, vol. i. 368*dd*, 368*ee*.
respecting proceedings to be supplied by proper officer of court, vol. i. 345.
when Gazette is to be conclusive, *ib.*
of petitioning creditor's debt, or trading, or act of bankruptcy, when not to be required, vol. i. 346, 347.
in suits, vol. i. 347.
of declaration of insolvency, *ib.*
copies of advertisements, when to be, *ib.*
provisions of 6 & 7 Vict. c. 85, made applicable to proceedings under bankrupt Acts, vol. i. 348.
on death of witness, deposition or copy thereof to be, *ib.*
how to be taken, vol. i. 368.
petition for adjudication in the colonies, &c., conclusive evidence of act of bankruptcy, vol. i. 368*d*.
order of discharge, evidence of bankruptcy, vol. i. 368*v*.
deeds, &c., made by trader for benefit of his creditors not evidence unless registered, vol. i. 368*bb*.
judicial notice to be taken of signature and seal of court, vol. i. 368*ee*.
of insolvency, *ib.*
Examination.
of bankrupt, vol. i. 290.
of bankrupt's wife, *ib.*
of persons suspected to have bankrupt's property, vol. i. 291.

BANKRUPTCY—*continued.*
of persons summoned or present at sitting, vol. i. 291.
adjournment of bankrupt's last, *sine die*, vol. i. 324.
of creditor seeking to prove debt, vol. i. 325.
commitment of bankrupt or his wife for refusing to sign, vol. i. 349.
taken before a registrar to be reduced to writing, vol. i. 368*a*.
shorthand writers may be employed in taking down, vol. i. 368*b*.
Execution.
against lands or goods before filing petition of adjudication, when to be valid, vol. i. 307.
trader debtor suffering levy of, for demand exceeding 50*l.*, an act of bankruptcy, vol. i. 368*d*.
goods, &c., taken in, for demands exceeding 50*l.* to be sold by auction, *ib.*
Expunging.
of proof, in respect of contingent liability, vol. i. 335.
of proof of debts not due, vol. i. 368*s*.
Extent.
sale of bankrupt's estate when to be valid against, vol. i. 305.
Factor.
liable to bankruptcy as a trader, vol. i. 270.
on bankruptcy of, having pledged goods, owners may prove for amount paid for redemption or for value of goods, vol. i. 335.
Farmer.
not liable to bankruptcy as a trader, vol. i. 271.
Fees.
emuneration of documents to be stamped, vol i. 368*mm*.
for office copies, vol. i. 266.
on production of proceedings by officer of court, vol. i. 345.
to be taken by official assignees, vol. i. 366.
by messengers. *ib.*
court fee abolished, vol. i. 367.
general orders to direct what, shall be received, *ib.*
to be received in stamps, *ib.*
may be altered by general orders, *ib.*
officers taking, improperly, vol. i. 367, 368.
to solicitor in respect of sittings for joint and separate estates, vol. i. 368*y*.
none to be taken by court of bankruptcy for oaths, &c., vol. i. 368*ff*.
general orders to allow what, for oath, &c., before magistrate, *ib.*
none to be taken for affidavits by prisoners, *ib.*
Fiat.
not to be issued after 11th October, 1849, vol. i. 261.
depending on that day how to be prosecuted, *ib.*
issued before 11th November, 1842, vol. i. 263.
Fictitious Capital.
trading with, ground for suspending or refusing discharge, vol. i. 368*u*.
Fictitious Losses or Expenses.
setting up, a misdemeanor in trader, vol. i. 368*ii*.
Fines and Recoveries.
clauses relating to bankrupts in 3 & 4 W. 4, c. 74, extended to bankrupt Acts, vol. i. 343.

BANKRUPTCY—*continued.*
Forfeitures.
under bankrupt Acts how to be applied, vol. i. 352.
Forgery.
of seal of court, or of signature of officer of court, felony, vol. i. 352, 368*ee*.
Form.
proceedings not invalid for want of, vol. i. 368*b*., 368*n*.
Forms, vol. i. 354—360, 368*nn*.—368*pp*.; of order of discharge, vol. i. 368*x*.
Friendly Society.
money in the hands of bankrupt officers of, to be paid before other debts, vol. i. 326.
Fullers.
liable to bankruptcy as traders, vol. i. 269.
Gaoler.
suffering escape of person committed, &c., vol. i. 352.
to take affidavit of prisoner petitioning in *formâ pauperis*, vol. i. 368*l*.
to make returns of all prisoners for debt, *ib.*
persons imprisoned under county court Acts, not to be included in such returns, *ib.*
to require justice to visit lunatic prisoners for debt, vol. i. 368*m*.
to receive prisoner's affidavit without fee, vol. i. 368*ff*.
who is, vol. i. 368*kk*.
Gazette.
deed for benefit of trader's creditors to be advertised in, vol. i. 277.
advertisement of adjudication of bankruptcy in, vol. i. 285.
of sittings for proof of debts in, vol. i. 324.
when to be conclusive evidence of certain acts as against bankrupt and others, vol. i. 345.
advertisements in, when to be evidence, vol. i. 347.
General Orders.
provisions relating to, vol. i. 368.
Gift.
when an act of bankruptcy, vol. i. 277.
Grazier.
not liable to bankruptcy as trader, vol. i. 271.
Hazardous Speculation.
ground for refusing or suspending bankrupt's discharge, vol. i. 368*u*.
High Bailiffs.
of county courts to act as messengers, vol. i. 364.
Holidays
to be observed in bankruptcy court, vol. i. 368.
Hotel-keepers.
liable to bankruptcy as traders, vol. i. 269.
Impounding Proceedings, vol. i. 368*f*.
Imprisonment.
trader having privilege of parliament, when liable to, vol. i. 271.
bankrupt to be discharged from, except in cases specified, vol. i. 287, 288.
India.
as to persons adjudged bankrupt in, and residing or having property in Great Britain, vol. i. 368*gg*.
Indictment.
sufficient to set forth substance of offence in, vol. i. 368*ii*.
Innkeepers
liable to bankruptcy as traders, vol. i. 269.

BANKRUPTCY—*continued.*
Insolvency.
declaration of, where to be filed, vol. i. 362.
certified copy of, evidence, vol. i. 347.
Insolvent Debtors' Court.
court of bankruptcy to have jurisdiction and powers possessed by, vol. i. 363.
provisions as to, vol. i. 365.
jurisdiction, &c., of commissioners of, to cease, *ib.*
jurisdiction of county courts in relief of insolvents to cease, *ib.*
provisional assignee of, to be an official assignee of the court of bankruptcy, *ib.*
provisions for winding up matters pending in, *ib.*
Insurers of Ships, &c.
liable to bankruptcy as traders, vol. i. 269.
Interest.
may be proved upon debts though not agreed for, vol. i. 335.
to be allowed, if bankrupt's estate pay 20*s.* in the pound, vol. i. 341.
to be charged against assignees retaining unclaimed dividends, vol. i. 350.
due in respect of debts to be reckoned as debt for purposes of petition, vol. i. 368*k*.
to be paid by creditor's assignee keeping money in hand, vol. i. 368*y*.
arising from unclaimed dividend account to be carried to account of chief registrar, vol. i. 368*z*.
Interpretation Clause.
in the Bankrupt Act, 1861 (24 & 25 Vict. c. 134), vol. i. 368*kk*.
Interrogatories.
witness may be examined upon, as to trading and act of bankruptcy, vol. i. 284.
bankrupt and his wife may be examined upon, vol. i. 290.
creditors may be examined upon, vol. i. 325.
Ireland.
Bankrupt Act, 1849 (12 & 13 Vict. c. 106), does not extend to, except by express provision, vol. i. 261.
nor the Bankrupt Act, 1861 (24 & 25 Vict. c. 134), vol. i. 368*ll*.
postmaster-general in, to observe order respecting bankrupt's letters, vol. i. 292.
stock or shares standing in bankrupt's name may be ordered to be transferred, vol. i. 305.
as to examination of witness in matters of bankruptcy in England by courts in, vol. i. 368*gg*.
courts in England to be auxiliary to courts in, in examination of witness, &c., *ib.*
orders of English Bankrupt Court to be enforced in, *ib.*
Joint Creditors.
may prove under separate estate to vote in choice of assignees, vol. i. 313.
Joint Stock Companies.
acts for winding up, not affected by Bankrupt Act, 1849 (12 & 13 Vict. c. 106), vol. i. 261.
members of, when not liable to bankruptcy, vol. i. 271.
Judges.
of county courts, their jurisdiction in bankruptcy, vol. i. 363.
transfer to, of jurisdiction of district commissioners on vacancy, *ib.*
of new county court in country districts to be appointed by lord chancellor, vol. i. 364.

BANKRUPTCY—*continued.*
qualification of, vol. i. 364.
jurisdiction and powers of, *ib.*
of county courts to proceed in winding up pending insolvencies, vol. i. 365.
penalty on, for taking fees improperly, vol. i. 367, 368.
of county courts to frame general orders on appointment by the lord chancellor, vol. i. 368.
of court of appeal in chancery may direct trial by jury of questions of fact, vol. i. 368*a*.
may direct issues to be tried at common law, *ib.*
of county courts, appeal from, vol. i. 368*b*.
of county courts, to order attendance at gaol of registrar, in case of pauper prisoners for debt, &c., vol. i. 368*l*.
of county courts, discretion to be exercised by them on hearing of judgment summons, vol. i. 368*m*.
may discharge from custody in default of copy of examination being delivered to person committed, vol. i. 368*n*.
on writ of habeas corpus, *ib.*
of superior court may release bankrupt arrested after order of discharge, vol. i. 368*v*, 368*w*.
to take judicial notice of signature of commissioner or registrar, and of seal, of courts of bankruptcy, vol. i. 368*cc*.
Judge's Order.
given within two months of filing petition to be void, vol. i. 310.
to be void in all cases unless filed within twenty-one days, vol. i. 311.
given by way of fraudulent preference, invalid, vol. i. 310.
Judgment.
order to pay debt to bankrupt's estate to have effect of, vol. i. 292.
plaintiff or defendant obtaining, entitled to prove for costs, vol. i. 336.
Judgment Debtor Summons.
creditors entitled to sue out, in what cases, vol. i. 368*d*.
out of what court to issue, *ib.*
service of, vol. i. 368*e*.
sheriff, &c. to have duplicate, *ib.*
on non-service of it, may be published in Gazette, *ib.*
adjudication upon, on non-payment or failure to secure, &c., *ib.*
debtor refusing to conform may be committed, *ib.*
may be impounded, &c., by the court in London, vol. i. 368*f*.
against non-trader, must be in respect of a debt incurred after passing of 24 & 25 Vict. c. 134, vol. i. 368*k*.
may be sued out by public officer of copartnership, *ib.*
Jurisdiction.
of court of bankruptcy, vol. i. 262, 363.
of commissioner named in any fiat prior to 11th November, 1842, determined, vol. i. 263.
of vice-chancellor in bankruptcy, transferred to court of appeal in chancery, vol. i. 262, n. (*f*).
of court as to matters arising under deed of arrangement, vol. i. 368*z*.
of court after registration of trust deed, &c., vol. i. 368*cc*.

BANKRUPTCY—*continued.*
of courts with respect to misdemeanors committed by bankrupt, vol. i. 368*ii*.
of insolvent court transferred to bankruptcy court, vol. i. 363.
Labourer.
not liable to bankruptcy as a trader, vol. i. 271.
if bankrupt, may be paid certain amount of wages in full, vol. i. 326, 327.
may prove for residue, *ib.*
Last Examination.
provisions relating to, vol. i. 368*q*, 368*r*.
court to appoint sitting for, vol. i. 368*q*.
notice of, to be given in Gazette, *ib.*
bankrupt to file statement of accounts previous to, *ib.*
not to be passed unless such statement filed, *ib.*
such statement to be open to creditors, *ib.*
preparation of such statement, vol. i. 368*r*.
Lease.
when bankrupt not to be liable to rents or covenants in, vol. i. 318.
assignees to elect when they will accept, vol. i. 318—320.
may elect to take up to quarterly or half-yearly rent-day, vol. i. 368*p*.
Letters.
addressed to bankrupt may be ordered to be re-directed or delivered to official assignee, vol. i. 292.
Liability (contingent).
proof in respect of, vol. i. 333, 335.
Lien.
bankrupt's books, &c., not to be subject to, vol. i. 368*o*.
Life Estate.
in remainder of bankrupt non-trader not to be sold without direction of court, vol. i. 368*n*.
Lime Burners.
liable to bankruptcy as traders, vol. i. 269.
Limitation.
of actions against persons acting under bankrupt Acts, vol. i. 323.
Limitations, Statute of.
debt barred by, insufficient to support petition, vol. i. 368*k*, 368*l*.
Livery Stable Keepers.
liable to bankruptcy as traders, vol. i. 269.
Lunacy.
disobeying order in, when an act of bankruptcy, vol. i. 368*d*.
Lunatic Prisoners for Debt.
provisions respecting, vol. i. 368*m*.
Magistrate.
affidavits may be sworn before, vol. i. 368*ee*.
Maintenance.
allowance for bankrupt's to be decided at meeting of creditors, vol. i. 368*m*, 340.
Manager.
of estate, creditors to determine as to appointment of, vol. i. 368*o*.
removal of, *ib.*
Market Gardeners.
liable to bankruptcy as traders, vol. i. 269.
Member of Incorporated Company.
not liable to bankruptcy as such, vol. i. 271.
Messengers.
high bailiffs of county courts to discharge duties of, vol. i. 364.
continuance in office of the present, *ib.* 365.
duties and securities of, *ib.*
subject to dismissal by Lord Chancellor, *ib.*

BANKRUPTCY—*continued.*
vacancies in office of, not to be filled up until number reduced, vol. i. 365.
remuneration of, vol. i. 366.
definition of, vol. i. 368*kk*.
search warrant may be granted to, vol. i. 286.
to follow instructions of official assignee, vol. i. 362.
no action to be brought against, if acting in obedience to warrant of court, vol. i. 286.
may break open bankrupt's doors, &c., and seize upon his body or property, vol. i. 287.
execution of warrant of, in Ireland, *ib.*
in Scotland, *ib.*
Millers.
liable as traders to bankruptcy, vol. i. 269.
Misdemeanor.
trader having privilege of parliament may be arrested for, vol. i. 271.
inserting advertisements in Gazette without authority is, vol. i. 352.
false declaration in proof of debt is, vol. i. 368*r*.
rules to be observed in charging bankrupt with, vol. i. 368*t*, 368*u*.
bankrupt convicted of, to have his discharge refused or suspended, vol. i. 368*u*.
provisions relating to misdemeanors, vol. i. 368*hh*, 368*ii*.
offences which will render bankrupt guilty of a, *ib.*
jurisdiction of courts of bankruptcy with respect to misdemeanors committed by bankrupts, vol. i. 368*ii*.
reference of papers to attorney-general, *ib.*
sufficient if indictment for, set forth substance of offence, *ib.*
Mortgage.
may be redeemed by assignees, vol. i. 321.
power to mortgage bankrupt's property, vol. i. 368*p*.
Mortgagee,
with leave of court, may bid at sale of mortgaged property, *ib.*
Mutual debts and credits
may be set off, notwithstanding prior act of bankruptcy, vol. i. 327.
Non-traders.
subject to provisions of the Bankrupt Act, 1861 (24 & 25 Vict. c. 134), vol. i. 368*b*.
departing the realm, or fraudulently conveying, &c., his property, an act of bankruptcy by non-trader, *ib.*
rules to be observed before adjudication against non-trader, *ib.*
non-trader lying in prison an act of bankruptcy, vol. i. 368*c*.
declaration of insolvency by, an act of bankruptcy, *ib.*
failure to pay or secure debt after judgment summons, an act of bankruptcy by, vol. i. 368*e*.
Notices.
what, may be sent by post, vol. i. 368*dd*.
notice of act of bankruptcy invalidates certain transactions, vol. i. 307.
Oath.
to include legal declaration or affirmation, vol. i. 368*kk*.
persons summoned may be examined upon, vol. i. 291.
creditor proving debt may be examined upon, vol. i. 325.
to be taken by county court judge before acting in bankruptcy, vol. i. 364.

BANKRUPTCY—*continued.*
evidence may be taken on, *vivâ voce*, or in writing, vol. i. 368.
debtor petitioning against himself to verify his statement by, vol. i. 368*k*.
court may examine on, in disputes relating to bankrupt's estate, vol. i. 368*q*.
bankrupt and creditor may be heard on, in support of, or in opposition to, deed of arrangement, vol. i. 368*z*.
no fee for, to be taken by courts of bankruptcy, nor from prisoners, vol. i. 368*ff*.
definition of, vol. i. 368*kk*.
Offences against Bankrupt Law.
punishment for, not to exceed three years' imprisonment, vol. i. 368*hh*.
what are, vol. i. 368*hh*, 368*ii*.
jurisdiction and powers of commissioners in proceedings in respect of bankrupt guilty of, vol. i. 368*ii*.
by giving false evidence, vol. i. 349.
refusal to be sworn, or to answer, or to sign examination, or to produce books, *ib.*
by assignees under fiats issued on or prior to 11th November, 1842, retaining unclaimed dividends, vol. i. 350.
by official assignee not filing certificate of unclaimed dividends, *ib.*
by assignees not investing money, &c. *ib.*
in respect of filing petition for adjudication without sufficient grounds, or fraudulently or maliciously, vol. i. 351.
petitioning creditor compounding with trader after bankruptcy, *ib.*
concealing bankrupt's effects, vol. i. 352.
inserting advertisements without authority, *ib.*
forging signature of any officer or seal of court, *ib.*
Office Copies.
charge for, vol. i. 266.
by whom to be supplied, vol. i. 345.
Official Assignees.
appointment and qualification of, vol. i. 241.
registrars of county courts to act as, vol. i. 364.
reduction in number of, *ib.*
fees of, vol. i. 366.
salaries of, *ib.*
penalty on, for taking fees improperly, vol. i. 367.
to make annual returns of business to chief registrar, vol. i. 368*b*.
appointment of official assignee where petition is transferred, vol. i. 368*f*.
to take possession of bankrupt's estate immediately on adjudication, vol. i. 368*m*.
to inform creditors of bankrupt's estate and effects, *ib.*
to render account of bankrupt's estate and list of creditors to creditors' assignee, vol. i. 368*o*.
accounts of, to be audited by creditors' assignee, *ib.*
may have custody of bankrupt's books, &c., *ib.*
to collect debts under £10, vol. i. 368*p*.
creditors' assignee to render accounts to, every three months, *ib.*
where no creditors' assignee, official assignee to render accounts to registrar every three months, *ib.*
registrars of county courts acting as, to render their accounts to judges, *ib.*

BANKRUPTCY—*continued.*
may be appointed to act with creditors' assignee or alone, vol. i. 368*q*.
to send abstract of statement of accounts to creditors, vol. i. 368*q*., 368*r*.
to assist bankrupts in preparing statement of accounts previous to last examination, vol. i. 368*r*.
to report to court on bankrupt's affairs, *ib.*
may act as prosecutors on trial of bankrupt for misdemeanor, vol. i. 368*u*.
to prepare list of creditors entitled to dividend, and send notice to each, vol. i. 368*y*.
to act after discharge of creditors' assignee, *ib.*
to give security, &c., vol. i. 265.
to be appointed forthwith after adjudication, vol. i. 284.
when to act as sole assignee, vol. i. 265.
may dispose of perishable property, *ib.*
not to interfere in appointment of solicitor, *ib.*
nor in sale of estates, *ib.*
not personally liable for acts done in execution of duty, *ib.*
when chargeable with interest, vol. i. 350.
appointment of another in case of death, vol. i. 265.
may be appointed under old fiats, *ib.*
bankrupt's books to be delivered to, vol. i. 286.
moneys or securities for money to be delivered to, vol. i. 306.
not filing certificate of unclaimed dividends, vol. i. 350.
disqualified from serving parochial offices and on juries, vol. i. 266.
Opposition.
contracts or securities given to induce forbearance of, void, vol. i. 368*w*.
saving for *bonâ fide* holders, *ib.*
penalty on creditor obtaining money, &c., as inducement to forbear, vol. i. 368*x*.
Order of Discharge. See *Discharge.*
Orders. See *General Orders.*
Packers.
liable to bankruptcy as traders, vol. i. 269.
Parliament.
general orders to be laid before, vol. i. 368.
return of business to be laid before, vol. i. 368*b*.
traders having privilege of, liable to bankruptcy, vol. i. 271.
how far exempt from arrest and imprisonment, *ib.*
may commit act of bankruptcy by not satisfying creditor or appearing to action, vol. i. 279.
Parochial Rates.
court may order payment of one year's, due by bankrupt, vol. i. 368*t*.
Partners.
of bankrupt not released by his order of discharge, vol. i. 368*w*.
Partnership.
delivery of notice requiring payment in case of, vol. i. 279.
petition by public officer of, vol. i. 368*k*.
petitions may be presented against one or more partners, vol. i. 283.
petitioning creditor's debt in case of, vol. i. 368*f*.
in case of second petition against one or more members of a firm, the same shall

BANKRUPTCY—*continued.*
be prosecuted in the court where first was prosecuted, vol. i. 283, 284.
proof of debts where one or more members of a firm are bankrupt, vol. i. 313.
on bankruptcy of one partner, action or suit to be in names of assignees and of remaining partner, vol. i. 322.
one partner may receive allowance, although others not entitled, vol. i. 341.
Pay.
portion of pay, half pay, &c., may be applied to payment of bankrupt's debts, vol. i. 368*p*.
Payment into Court.
in action against debtor to bankrupt's estate, vol. i. 323.
Payments.
by or to bankrupt before filing petition for adjudication, when valid, vol. i. 307.
by way of fraudulent preference not protected, vol. i. 308, 309.
not protected where notice of act of bankruptcy, vol. i. 308.
Penalty.
recovery and application of, under repealed statutes, vol. i. 261.
on officer for detaining protected bankrupt, vol. i. 289.
on assignee for retaining or employing money, or not investing it, vol. i. 350.
on petitioning creditor for compounding with trader after bankruptcy, vol. i. 351.
for concealing bankrupt's effects, vol. i. 352.
on gaoler for suffering escape, *ib.*
persons swearing falsely before registrar liable to penalties of perjury, vol. i. 368*a*.
person making false declaration in proof of debt liable to penalties of perjury, vol. i. 368*r*.
on creditor obtaining money, &c., for forbearing to oppose, vol. i. 368*x*.
for misdemeanors committed by bankrupt, vol. i. 368*hh*.
Per Centage.
on estates abolished, vol. i. 367.
Perishable Property.
disposition of, by official assignee, vol. i. 265.
Perjury.
giving false evidence to be, vol. i. 349.
persons swearing falsely before registrar liable to penalties of, vol. i. 368*a*.
person making false declaration in proof of debt guilty of, vol. i. 368*r*.
money forfeited by conviction for, how to be sued for, vol. i. 352.
Personal Estate.
of bankrupt to vest in assignees, vol. i. 313.
Petition.
for adjudication, form of, vol. i. 283.
filing of, for arrangement between creditor and his debtors, vol. i. 278.
for adjudication to be filed within two months after declaration of insolvency, vol. i. 368*c*., 368*d*.
for adjudication by or against debtors in colonies, &c., vol. i. 368*d*.
for adjudication and proceedings thereon, vol. i. 368*e*.
proceedings to obtain adjudication of bankruptcy to be by, vol. i. 368*f*.
for adjudication, where to be filed and prosecuted, *ib.*
proceedings on, may be consolidated, impounded, or transferred, *ib.*

BANKRUPTCY—*continued.*
fraudulently or maliciously filing petition for adjudication, vol. i. 368*k*.
for adjudication may be filed by public officer of copartnership, *ib.*
of debtor against himself, where debts do not exceed £300, where to be presented, *ib.*
for adjudication, debtor a prisoner presenting, to give notice to gaoler, *ib.*
power for court to adjudicate upon, where petitioner does not proceed, *ib.*
what are debts for purposes of, *ib.*
in formâ pauperis of prisoners for debt, vol. i. 368*l*.
presented pending time for registration of trust deed, vol. i. 368*dd*.
or copy thereof under seal, evidence, vol. i. 368*dd*., 368*ee*.
Petitioning Creditor.
who is, vol. i. 368*kk*.
compounding with, vol. i. 278.
costs in case of verdict against, vol. i. 286, 287.
what evidence sufficient to render him liable in action against him, vol. i. 287.
to proceed at his own costs until choice of assignees, vol. i. 289.
if debt sworn to by him be not due, or if act of bankruptcy be not proved, and it appear that petition was filed fraudulently or maliciously, court may order satisfaction, vol. i. 351.
compounding with trader after bankruptcy, *ib.*
amount of debt of, vol. i. 368*f*.
debt of, of non-trader, when it must have been contracted, vol. i. 368*k*.
mode of proceeding where debt of, is insufficient, vol. i. 285.
Pledge.
redemption of, by assignees, vol. i. 321.
Policy of Insurance.
proof of loss under, vol. i. 331.
proof for premiums upon, vol. i. 368*s*.
Powers.
vested in bankrupt may be executed by his assignees, vol. i. 320.
Printers.
liable to bankruptcy as traders, vol. i. 269.
Prison.
seizure of bankrupt's property when he is in, vol. i. 287.
bankrupt to be released from, except in certain cases, vol. i. 288.
bankrupt in, to be attended to enable him to prepare balance sheet, vol. i. 324.
Prisoners.
pauper, petition by, vol. i. 368*l*.
proceedings on such petition, *ib.*
for debt, gaoler to make monthly return of, *ib.*
pauper, refusing to conform, may be committed, *ib.*
adjudication against, effect of, vol. i. 368*m*.
committed under county court Acts not entitled to petition, *ib.*
lunatic prisoners for debt, *ib.*
Proceedings.
to be sealed with seal of court, vol. i. 368*b*.
not invalidated by want of form, *ib.*
transfer of, in county courts, vol. i. 368*k*.
may be suspended on resolution of three-fourths in value of creditors, vol. i. 368*n*.
stay of, by deed of arrangement, vol. i. 368*z*.

BANKRUPTCY—*continued.*
pending time for registration of trust deed, vol. i. 368*dd*.
how made admissible in evidence, vol. i. 368*dd*, 368*cc*.
office copies of, vol. i. 345.
Production.
of books, &c., may be required by court, vol. i. 291.
by lords justices, vol. i. 263.
of books to bankrupt in custody, to enable him to prepare balance-sheet, vol. i. 324.
of proceedings by officer of court, vol. i. 345.
bankrupt or his wife may be committed for not producing books, &c., vol. i. 349, 350.
Proof of Debts.
right of landlord to prove for rent not recovered by distress, vol. i. 305, 306.
when and how to be made, vol. i. 324, 368*r*.
false declaration for, a misdemeanor, vol. i. 368*r*.
by deposition in court, or at chambers, &c., *ib.*
official assignee to examine, *ib.*
person tendering, may be examined on oath, *ib.*
proof for money, &c., payment of which may be enforced by process of contempt, *ib.*
with respect to payments falling due at fixed periods, *ib.*
in case of debts payable by instalments, vol. i. 368*s*.
in respect of distinct contracts, *ib.*
of unliquidated damages, *ib.*
for premiums upon policy of insurance, *ib.*
may be expunged or reduced, *ib.*
by joint creditor under separate estate, vol. i. 313.
by corporations and public companies, vol. i. 324, 368*r*.
where debt contracted after act of bankruptcy, vol. i. 325.
debts not payable at time of bankruptcy may be proved, deducting rebate of interest, vol. i. 330.
by sureties, *ib.*
in respect of bottomry or respondentia bonds and policies of insurance, vol. i. 331.
by annuity creditors, vol. i. 332.
by sureties for payment of annuity, vol. i. 333.
debt contingent at time of bankruptcy proveable, *ib.*
in respect of liability contingent at time of bankruptcy, vol. i. 335.
by plaintiff or defendant obtaining judgment, &c., in respect of costs, vol. i. 336.
in respect of goods entrusted with and pledged by agent, vol. i. 335.
where interest may be proved for, although not reserved, *ib.*
to be an election not to proceed at law, vol. i. 336.
Proper County Court.
definition of, vol. i. 368*ll*.
Protection.
of bankrupt on attending to surrender, vol. i. 287.
grant of, to pauper prisoners, vol. i. 368*l*.
of debtor after registration of trust deed, vol. i. 368*cc*, 368*dd*.

BANKRUPTCY—*continued.*
Purchases.
before filing petition for adjudication, when valid, vol. i. 307.
bonâ fide, with notice of act of bankruptcy, to be valid at end of twelve months, vol. i. 310.
for valuable consideration, where not invalidated by appointment of assignees, vol. i. 318.
Rates. See *Parochial Rates.*
Real Estate.
of bankrupt to vest in assignees, vol. i. 317.
sale of life estate in, of non-trader, vol. i. 368*n*.
Records.
to be sealed with seal of court, vol. i. 368*b*.
Registrars.
present continued in office, vol. i. 364.
removal of, *ib.*
may be appointed temporarily, vol. i. 361.
appointment of substitutes for, *ib.*
may act for commissioner, when, vol. i. 264.
not to have power of commitment, *ib.*
seal of court to be provided by chief registrar, *ib.*
may act for each other, *ib.*
vacancy to be filled up by lord chancellor, vol. i. 364.
lord chancellor may appoint additional, *ib.*
of county courts, their duties in bankruptcy, *ib.*
in country districts and in county courts to be taxing officers, *ib.*
as to filling up vacancies, vol. i. 365.
their salaries, vol. i. 366.
retiring pensions of, *ib.*
penalty on, for taking fees improperly, vol. i. 367.
their powers and jurisdiction, vol. i. 368, 368*d*.
summons to be under hand of registrar an seal of court, vol. i. 368*b*.
to make annual returns of business to chief registrar, *ib.*
registrar to attend at gaol and examine prisoners for debt, vol. i. 368*l*.
his powers when so acting, *ib.*
official assignee's account to be audited before registrar, vol. i. 368*o*.
signatures of, to be judicially noticed, vol. i. 368*ee*.
forgery of signature of registrar, felony, *ib.*
to transmit copies of entries, adjudications, &c., to chief registrar, vol. i. 283.
Registration.
of certificate of assignee's appointment when necessary, vol. i. 318.
of trust deed, vol. i. 368*bb*, 368*cc*, 368*dd*.
Rehearing.
of order of discharge, vol. i. 368*x*.
Rent.
distress not to be available for more than one year's, vol. i. 305.
due at stated periods, as to proof for, vol. i. 368*r*.
right of landlord to prove for residue, vol. i. 305.
when bankrupt not liable for, vol. i. 318.
Repeal.
of statutes and parts of statutes relating to bankruptcy, vol. i. 261, 368*ll*.
Reputed Ownership.
goods in, of bankrupt may be sold for benefit of his creditors, vol. i. 292—305.

BANKRUPTCY—*continued.*
transfer or assignment of ship or share thereof duly registered, not affected by, vol. i. 305.
Resolution.
of majority in value of creditors to stay proceedings in bankruptcy, vol. i. 368*n*.
notice thereof to be given to creditors, *ib.*
when made, bankrupt's estate may be administered as majority of creditors shall direct, *ib.*
order of discharge after, *ib.*
of creditors in meeting, if equitable, to be regarded in disputes relating to bankrupt's estate, vol. i. 368*q*.
of creditors to stay proceedings, vol. i. 368*z*.
Respondentia.
proof in respect of bonds, vol. i. 331.
Retiring Annuities and Compensations.
under former acts continued, vol. i. 267.
provision in case of recipient of, taking new office, *ib.*
Returns.
of fees taken by official assignees to be made half yearly, vol. i. 366.
to be kept by chief registrar, vol. i. 368*b*.
to be open to inspection, *ib.*
of business to be made to the chief registrar, *ib.*
chief registrar to make general return, to be laid before parliament by the lord chancellor, *ib.*
gaoler to make monthly return of all prisoners for debt, vol. i. 368*l*.
such return not to include persons committed under county court acts, vol. i. 368*m*.
Rules. See *General Orders.*
to be made as to deposit of costs on appeal, vol. i. 262.
as to transmission of proceedings from the country, vol. i. 263.
respecting business of accountant's office, vol. i. 264.
as to official assignees, vol. i. 265.
making and delivery of office copies, vol. i. 266.
want of form in, not to invalidate proceedings, vol. i. 368*b*.
court may commit for wilful disobedience of, vol. i. 368*ii*, 368*kk*.
Sale.
of securities may be ordered by lord chancellor, vol. i. 265.
of perishable property by official assignee, *ib.*
of goods in reputed ownership of bankrupt to be ordered by court, vol. i. 304.
with notice of act of bankruptcy, when not impeachable, vol. i. 310.
goods taken in execution for demands exceeding 50*l*. to be sold by auction, vol. i. 368*d*.
of mortgaged property, mortgagee may bid at, vol. i. 368*p*.
Scotland.
12 & 13 Vict. c. 106, does not extend to, vol. i. 261.
nor 24 & 25 Vict. c. 134, vol. i. 368*ll*.
execution of messenger's warrant in, vol. i. 287.
postmaster-general in, to observe order respecting bankrupt's letters, vol. i. 292.
stock, &c., in bankrupt's name in, may be ordered to be transferred, vol. i. 305.

BANKRUPTCY—*continued.*
as to examination of witnesses in matters of bankruptcy in England, by courts in, vol. i. 368*gg*.
courts in England to be auxiliary to courts in, *ib.*
48 Geo. 3, c. 123, as to discharge of small debtors does not extend to, vol. i. 241.
Scriveners.
liable to bankruptcy as trader, vol. i. 269.
Seal of Bankruptcy Court.
to be provided by chief registrar, vol. i. 264.
warrants and summonses to be under, vol. i. 368*b*.
proceedings and copies thereof under, receivable in evidence, vol. i. 347.
deposition of deceased witness under, to be evidence, vol. i. 348.
forgery of, felony, vol. i. 352, 368*ee*.
all records and proceedings to be under, vol. i. 368*b*.
to be judicially noticed, vol. i. 368*ee*.
Search Warrant.
when it may be granted, vol. i. 286.
Security.
to be given by official assignees, vol. i. 265.
may be taken by assignees for payment of debts, vol. i. 322.
creditors having, not to receive more than other creditors, vol. i. 338.
by creditors' assignee, vol. i. 368*o*.
given to induce forbearance of opposition void, vol. i. 368*w*.
saving for *bonâ fide* holders, *ib.*
to be given by messengers, vol. i. 365.
Seizure.
of trader and his property about to quit England or remove his goods, vol. i. 284.
of bankrupt's property by messenger and his assistants, vol. i. 287.
Separate Estate.
joint creditor may prove under, in order to vote at choice of assignees, vol. i. 313.
Sequestration.
of profits of benefice of bankrupt clergyman, vol. i. 368*p*.
certificate of appointment of assignee, sufficient authority for granting, *ib.*
allowance to bankrupt under, *ib.*
Serjeant and Bailiff.
fees of, under 8 & 9 Vict. 127, vol. i. 259.
Servants.
of bankrupt may be paid certain amount of wages, vol. i. 326.
to prove for residue, *ib.*
Service.
of judgment debtor summons, vol. i. 368*e*.
publication in Gazette when service cannot be effected, *ib.*
of particulars of demand against trader, and of notice requiring payment, how to be made, vol. i. 279.
on bankrupt of duplicate adjudication, vol. i. 285.
of summons on witness, where personal service cannot be effected, vol. i. 291.
Set off.
of mutual debts and credits notwithstanding bankruptcy, vol. i. 327.
prevented by notice of act of bankruptcy, vol. i. 330.
Sheriff.
when he may proceed with execution, vol. i. 368*d*.
to whom he shall pay the proceeds, *ib.*

BANKRUPTCY—*continued.*
to sell by auction goods taken in execution for demands exceeding £50, vol. i. 368*dd*.
order for examination of witnesses by courts in Scotland in matters of bankruptcy in England to be directed to, vol. i. 368*gg*.
Shipowners.
liable to bankruptcy as traders, vol. i. 269.
Ships.
insurers of, liable to bankruptcy as traders *ib.*
transfer of, if duly registered, not affected by reputed ownership clause, vol. i. 305.
proof in respect of insurance upon, vol. i. 331.
Shipwrights.
liable to bankruptcy as traders, vol. i. 269.
Shorthand Writers.
appointment of, vol. i. 368*b*.
Short Title.
of 12 & 13 Vict. c. 106, vol. i. 261.
of 24 & 25 Vict. c. 134, vol. i. 368*ll*.
Signature.
of commissioner or registrar to be judicially noticed, vol. i. 368*ee*.
to affidavit, &c., to be judicially noticed, *ib.*
Sittings.
of bankruptcy court to be throughout the year (certain days excepted), vol. i. 368.
of the bankruptcy court in vacation, *ib.*
of commissioners in chambers, *ib.*
of registrars in chambers, *ib.*
Solicitor.
official assignee not to interfere in appointment of, vol. i. 265.
admitted in bankruptcy may practice in bankruptcy court, vol. i. 368*ff*.
may plead in bankruptcy court without counsel, *ib.*
bill of costs of, may be taxed by the master, vol. i. 364.
costs of, under deed of arrangement, subject to jurisdiction of court, vol. i. 368*z*.
person practising as, not being such, guilty of contempt of court, vol. i. 368*ff*.
Special case.
parties may state questions in, for opinion of court, vol. i. 368*a*.
Stamps.
certain documents to be stamped in lieu of fees, vol. i. 367.
documents not to be received without, *ib.*
provision for the case where they have been received without, *ib.*
trust deed to bear *ad val.* stamp, vol. i. 368*bb*.
no such deed to be registered unless stamped, vol. i. 368*cc*.
amount of stamp duty on such deeds, *ib.*
fees to be received by means of, vol. i. 367.
may be impressed or adhesive, *ib.*
officers of court may be dismissed for fraud or wilful neglect in relation to, vol. i. 368.
commissioners of inland revenue to give directions as to accounts of stamp duties, vol. i. 266.
sums collected for, to be paid to chief registrar's account, *ib.*
persons to be appointed for sale of, *ib.*
former stamp acts to be applicable to stamps in bankruptcy, *ib.*
exemption of deeds and other instruments relating to bankruptcy from, vol. i. 311.

BANKRUPTCY—*continued.*
Stock in funds or in public companies.
to which bankrupt is entitled, may be transferred by order of court, vol. i. 305.
in name of bankrupt as trustee may be transferred by lord chancellor's order, vol. i. 306.
Subscriber to incorporated Company.
not liable to bankruptcy as trader, vol. i. 271.
Substitution.
of another debt if petitioning creditor's debt be insufficient, vol. i. 285.
Suggestion.
in action or suit, in case of death or removal and new choice of assignees, vol. i. 323.
Suit.
not to abate by death or removal of assignees, *ib.*
what evidence not to be required in, vol. i. 347.
definition of, vol. i. 368*ll*.
Suitors.
when poundages may be demanded from, under 8 & 9 Vict. c. 127, vol. i. 257.
list of unclaimed money of, to be made out under 8 & 9 Vict. c. 127, *ib.*
money of, paid into court and unclaimed for six years, to go into the court fund, *ib.*
Suits.
for sums exceeding 10*l.* removable into superior courts under 8 & 9 Vict. c. 127, *ib.*
Summons.
to be under hand of registrar and seal of court, vol. i. 368*b*.
to be in writing and signed by commissioner, vol. i. 263.
against trader having privilege of parliament, vol. i. 279.
trader debtor summons, *ib.*
manner of proceeding upon trader's appearance, vol. i. 280.
costs may be awarded to creditor or trader upon, vol. i. 281.
of witnesses to prove trading and act of bankruptcy, vol. i. 284.
of bankrupt for examination, vol. i. 290.
of bankrupt's wife, vol. i. 291.
of person known or suspected to have bankrupt's property, *ib.*
service of, where person summoned keeps out of the way, *ib.*
examination of person summoned, *ib.*
of judgment debtor, vol. i. 368*d*.
out of what court to issue, *ib.*
rules respecting, *ib.*
duplicate of, where debtor in custody, vol. i. 368*e*.
proceedings where service of, cannot be affected, *ib.*
to witnesses under 8 & 9 Vict. c. 127, vol. i. 257.
Sureties.
and persons liable for bankrupt's debts may prove after payment thereof, vol. i. 330.
for payment of annuities granted by bankrupt, how to come in under bankruptcy, vol. i. 333.
Surplus.
of estate to be paid to bankrupt, after paying interest on debts, vol. i. 341.
Surrender.
time to be appointed for bankrupt's, vol. i. 285.

BANKRUPTCY—*continued.*
time for, may be enlarged, vol. i. 285.
bankrupt's freedom from arrest on coming to, vol. i. 287.
non-surrender of bankrupt a misdemeanor, vol. i. 368*hh.*
Tavern-keeper.
liable to bankruptcy as trader, vol. i. 269.
Taxation.
of bill of costs of person assisting in preparing bankrupt's statement, vol. i. 368*r.*
of amount of money, &c., owing under process of contempt, *ib.*
of costs, &c., under deed of arrangement, vol. i. 368*z.*
Taxes.
receiver-general of, not liable to bankruptcy as trader, vol. i. 271.
Taxing Master.
appointment of, vol. i. 250.
duties of, vol. i. 364.
registrars in country districts to be taxing-officers, *ib.*
Time.
computation of, vol. i. 368*ll.*
for appealing to lords justices, vol. i. 262, 368*x.*
act of bankruptcy must be within 12 months of petition for adjudication, vol. i. 282.
certain warrants of attorney, cognovits, and consents to judges' orders, within two months of petition for adjudication, to be void, vol. i. 310.
warrant of attorney and cognovit must be filed within 21 days after execution thereof, vol. i. 311.
so also with regard to judges' order obtained by consent, *ib.*
actions against persons for acts done in pursuance of bankrupt acts to be brought within three months, vol. i. 323, 324.
for showing cause against adjudication, vol. i. 285.
Title.
short, of 12 & 13 Vict. c. 106, vol. i. 261.
of 24 & 25 Vict. c. 134, vol i. 368*ll.*
to property sold under bankruptcy, when not to be impeached, vol. i. 306.
when safe, notwithstanding act of bankruptcy, vol. i. 310.
Trader.
meaning of the word, vol. i. 368*ll.*
enumeration of different denominations of traders liable to bankruptcy as such, vol. i. 268.
certain persons not to be deemed traders, vol. i. 271.
Transfer.
of petition for adjudication may be made by court in London, vol. i. 368*f.*
of fiats issued on or prior to 11th November, 1842, vol. i. 263.
of jurisdiction of district commissioners to county courts in case of vacancies, vol. i. 363.
of proceedings to county court from London court, vol. i. 368*k.*
Trust.
consequences of breach of, vol. i. 288.
Trust deeds, composition and inspectorship deeds.
provisions relating to, vol. i. 368*aa et seq.*
to be valid on certain conditions, *ib.*
particulars of, to be entered by chief registrar, vol. i. 368*bb.*
BANKRUPTCY—*continued.*
deed to be registered in court of bankruptcy, vol. i. 368*bb.*
in default not to be received in evidence, *ib.*
no trust deed to be registered without *ad val.* stamp, vol. i. 368*cc.*
maximum of such stamp, *ib.*
memorandum of registration to be written thereon, *ib.*
jurisdiction of court, and rights and liabilities of parties, after registration of, *ib.*
protection to debtor after notice of filing, &c. of deed, *ib.*
stay of proceedings in bankruptcy after execution of, vol. i. 368*dd.*
provision in case debtor cannot obtain assent of requisite majority of creditors, *ib.*
Trustee.
new one to be appointed by lord chancellor in place of bankrupt, vol. i. 306.
Uncertificated Bankrupt.
may apply for order of discharge, vol. i. 368*v.*
Unclaimed Dividends.
to be paid into the bank to the credit of the accountant in bankruptcy, vol. i. 339.
in the hands of assignees, how to be disposed of, *ib.*
assignees under fiats issued on or prior to 11th November, 1842, retaining, vol. i. 350.
official assignee not filing certificate of, subject to penalty, *ib.*
to be paid or carried to unclaimed dividend account, *ib.*
all unclaimed produce of bankrupts' estates to be transferred to that account, vol. i. 368*z.*
Unliquidated Damages.
proof of debt against bankrupt liable in, vol. i. 368*s.*
Vexatious Defence.
ground for refusal or suspension of order of discharge, vol. i. 368*v.*
Vice-Chancellor
jurisdiction of, in bankruptcy transferred to court of appeal, vol. i. 262, n. (*f*).
Vice-Consul.
affidavits may be sworn before, abroad, vol. i. 368*ee.*
Victualler.
liable to bankruptcy as a trader, vol. i. 269.
Visiting Justices.
to receive affidavits without fee, vol. i. 368*ff.*
Wages.
certain, to be paid in full, vol. i. 326, 327.
Warehouseman.
liable to bankruptcy as a trader, vol. i. 269.
Warrant.
to be under seal of court and hand of commissioner, vol. i. 263, 368*b.*
may be granted when bankrupt's property is suspected to be concealed, vol. i. 286.
persons acting in obedience to, not liable to action, *ib.*
execution of in Ireland and Scotland, vol. i. 287
may be issued for apprehension of bankrupt keeping out of way or about to quit England, vol. i. 291.
for apprehension of person summoned and not attending court, *ib.*
may be granted to commit persons for refusing to be sworn or to answer, vol. i. 349.

BANKRUPTCY—*continued.*
or to sign examination or to produce books, vol. i. 349.
bankrupt apprehended by and conforming, vol. i. 324.
under 8 & 9 Vict. c. 127, may be executed out of jurisdiction, vol. i. 258.
officers acting in execution of warrants and orders of court subject to provisions of 9 & 10 Vict. c. 95, vol. i. 368*kk*.
what shall be specified or referred to in warrant of commitment, vol. i. 368*n*.
form of such warrant, *ib*.
form of, against person disobeying rule or order of court, vol. i. 368*ii*, 368*kk*.
Warrant of Attorney.
given by way of fraudulent preference, invalid, vol. i. 310.
given within two months of petition for adjudication, when to be void, vol. i. 311.
given by any trader to be void, unless filed within 21 days after execution, vol. i. 311.
Wearing Apparel.
necessary, of bankrupt, his wife, and children, reserved to bankrupt, vol. i. 368*hh*.
of bankrupt in prison not to be seized, vol. i. 287.
of bankrupt assignee, vol. i. 323.
and bedding and tools exempt from seizure under 8 & 9 Vict. c. 127, vol. i. 255.
excepted from 7 & 8 Vict. c. 76, vol. i. 252.
and from 48 Geo. 3, c. 123, vol. i. 241.
Wharfinger.
liable to bankruptcy as a trader, vol. i. 269.
Wife.
power to summon and examine bankrupt's, vol. i. 290, 291
bankrupt's, to sign declaration in prescribed form, vol. i. 368*ff*.
Witnesses.
may be summoned before adjudication to prove trading and act of bankruptcy, vol. i. 284.
attendance of, before registrar on summons, vol. i. 368*a*.
examination of, by the court, in respect of deed of arrangement, vol. i. 368*z*, 368*aa*.
attendance of, out of jurisdiction, vol. i. 368*ff*.
examination of, by courts in Scotland, in matters of bankruptcy in England, vol. i. 368*gg*.
examination of, by court of bankruptcy in Ireland, *ib*.
attorney to attest admission of debt by trader out of court, vol. i. 281.
in case of admission of debt due to bankrupt's estate, vol. i. 292, 368*n*.
depositions of, or copy thereof, when to be evidence in case of death, vol. i. 348.
necessary expenses of, to be tendered to, *ib*.
summons of, under 8 & 9 Vict. c. 127, vol. i. 257.
Workman.
of bankrupt, to be paid certain amount of wages due, vol. i. 326, 327.
may prove for residue, *ib*.
for hire not liable to bankruptcy as trader, vol. i. 271.

BANNS. See *Marriage.*

BARGAIN AND SALE.
for a year rendered unnecessary on the conveyance of freehold estates, vol. i. 823.

BARGAIN AND SALE—*continued.*
to pass estate of freehold or inheritance, to be enrolled in one of the king's courts at Westminster, or with *custos rotulorum*, vol. iv. 824.
or in certain cases by officers of corporate town, vol. iv. 825.
or in the palatine courts, *ib*.
for making tenant to writ of entry, want of enrolment of, in due time, not to invalidate recovery, vol. ii. 99.
by tenant in tail to be valid, if enrolled within six calendar months after execution, vol. ii. 106.
may be proved by copy of enrolment, vol. i. 1373.
stamp duty on, vol. iv. 492.
stamp on, where lands are conveyed by, and also by lease and release, vol. iv. 461.
penalty on officer's enrolling without being duly stamped, *ib*.

BARRISTER. See *Attorneys.*
may be admitted as attorney after three years' service under articles, vol. i. 177.
must be disbarred before being articled, vol. i. 134*n*.
right of, to appear at petty sessions, vol. i. 174.
at county court, vol. i. 174, 1231.
may practice in court of admiralty, vol i. 176.
in the divorce court, vol. i. 1276.
in the court of probate, vol. i. 1307, 1323.
cannot appear for party in revising barrister's court, vol. iii. 530.
exempt from serving on juries while practising, vol. ii. 911.
stamp on admission of, vol. iv. 476, 1033.

BASE FEES. See *Fines and Recoveries.*

BASTARDS. See *Marriage. Poor.*
statutes providing for the affiliation of, vol. iii. 1217, 1238.
as to maintenance, &c., of. See *Poor.*
settlement of. See *Poor.*
who are, vol. iii. 1015*n*.
the word "child" does not in general include, vol. iii. 1055, n. (*b*).
money in savings banks belonging to bastard depositors dying intestate, to whom to be paid, vol. iv. 130.

BATHS AND WASH-HOUSES (PUBLIC).—9 & 10 Vict. c. 74.
Act may be adopted in certain boroughs and parishes, vol. ii. 415.
interpretation of Act, vol. ii. 415, 416.
council of any borough may adopt provisions contained in Act, vol. ii. 416.
expenses of carrying Act into execution in boroughs, *ib*.
on the requisition of ten ratepayers, churchwardens, &c., to convene vestry meeting to determine whether Act shall be adopted, *ib*.
if vestry resolve to adopt Act, copy resolution to be sent to secretary of state, *ib*.
where Act adopted vestry to appoint commissioners for carrying same into execution, *ib*.
resignation of commissioners, *ib*.
vacancies how filled up, *ib*.

BATHS AND WASHHOUSES—*continued.*
meetings of commissioners, vol. ii. 417.
special meetings of commissioners, *ib.*
quorum of meetings of commissioners, *ib.*
commissioners may appoint and remove officers, &c., *ib.*
minutes of proceedings of commissioners to be entered in a book, *ib.*
commissioners to keep accounts which shall be open to inspection, *ib.*
penalty for refusing to allow inspection, *ib.*
auditors to be appointed yearly, *ib.*
their duties, *ib.*
expenses of executing Act in parishes, *ib.*
overseers to levy, as part of the poor's rate, such sums as vestry shall deem necessary to pay expenses, *ib.*
moneys raised, and the income arising from baths, &c., in the parish, to be applied towards defraying expenses, *ib.*
vestries of two or more parishes may concur in carrying Act into execution, subject to approval of secretary of state, vol. ii. 417, 418.
incorporation of commissioners, vol. ii. 418.
councils, &c., may borrow money for the purposes of the Act with approval of the treasury, *ib.*
public works loan commissioners may advance money for the purposes of the Act, *ib.*
8 & 9 Vict. c. 16, incorporated with this Act for certain purposes, *ib.*
council may appropriate, with consent of treasury, lands vested in mayor, &c., *ib.*
commissioners may, with approval of vestry, &c., appropriate lands belonging to parish, or contract for purchase of same, *ib.*
councils and commissioners may erect, &c., public baths and wash-houses and open bathing-places, vol. ii. 418, 419.
councils and commissioners may enter into contracts for the purposes of the Act, vol. ii. 419.
no contract above £100 to be entered into without notice, *ib.*
purchase of existing baths, *ib.*
power to water and gas companies to supply water and gas to baths, *ib.*
councillors and commissioners not to be personally liable, *ib.*
appeal against orders of councils and commissioners, *ib.*
council, &c., empowered to make sale and exchange of lands with consent, *ib.*
when baths, &c., considered too expensive they may be sold, vol. ii. 419, 420.
application of proceeds of sale, *ib.*
management of baths and wash-houses, vol. ii. 420.
power to make bye-laws, *ib.*
publication of bye-laws, *ib.*
proportion of baths for the labouring classes, *ib.*
charges to be fixed not exceeding those in schedule, *ib.*
recovery of charges at wash-houses, *ib.*
penalty for council, commissioners, or officers taking fees beyond salaries, or being interested in contracts, *ib.*
application of penalties, *ib.*
provisions respecting, in Towns Improvement Acts, vol. iv. 773—774.

BAWDY HOUSE.
keeping of prohibited, and penalty, vol. ii. 266, 267.

BEACONS. See *Ship. Shipping.*

BEAST. See *Animal.*

BEER.
Generally.
powers, provisions, and penalties of Excise Act (7 & 8 Geo. 4, c. 53), &c., extended to various Acts, vol. i. 371, 385, 388.
interpretation clauses, vol. i. 376, 385.
brewers may use sugar in brewing, vol. i. 385.
not allowed to use molasses or diluted or manufactured sugar, &c., vol. i. 385.
except as colouring, vol. i. 385.
penalty on brewer using other sugar, or taking into his possession molasses, honey, &c. vol. i. 385, 386.
drawback on beer exported, vol. i. 397.
may be sold at fairs without licence, vol. i. 375, 399.
table-beer, sale of, by retail, not to be drunk on the premises, vol. i. 397.
Sale of beer by retail.
what is a sale of beer, &c., by retail, vol. i. 379.
all persons licensed under 11 Geo. 4 & 1 Wm. 4, c. 64, may sell beer, &c., by retail, vol. i. 369.
universities of Oxford and Cambridge and Vintners' Company not affected by that Act, vol. i. 375.
nor by 3 & 4 Vict. c. 61, vol. i. 385.
nor sale of beer at fairs prohibited, vol. i. 75.
Licences for sale of beer by retail.
any person desirous of retailing beer may take out excise licence, vol. i. 369 and n. (c).
excepting sheriff's officer, officer executing legal process, or non-householder, vol. i. 369.
licence not to be granted to person who is not resident occupier, vol. i. 381.
nor in respect of house rated below a certain value, vol. i. 381.
proviso, vol. i. 384.
how rateable value ascertained, vol. i. 381, 382.
nor to convicted felon, vol. i. 382.
nor to person convicted of selling spirits without licence, vol. i. 382.
nor to person convicted of forging certificate, vol. i. 382.
licences to sell table-beer at not more than 2*d.* a quart, not to be drunk on premises, may be granted without rating or certificate, vol. i. 397.
application for licence, what to contain, vol. i. 369.
bond to be given by person requiring licence, vol. i. 370.
no licensed person competent to be a surety in such bond, *ib.*
by whom licence to be granted, vol. i. 369.
no licence to authorise drinking on the premises, unless granted upon certificate, vol. i. 377, 378.
what such certificate is to contain, vol. i. 377.
form of such certificate, vol. i. 380.
by whom it is to be given, vol. i. 377.

BEER—*continued.*
penalty on overseers refusing to certify, vol. i. 377.
may be dispensed with in certain cases, vol. i. 379.
what is a drinking on the premises, vol. i. 377.
duty upon licence, vol. i. 369, 378, 379.
management of licence duty, vol. i. 370, 379.
when licence expires, vol. i. 399.
licences to be renewed annually, vol. i. 370.
form of licence, vol. i. 376, 380.
register of licences to be kept, vol. i. 370.
to be open to inspection of magistrates, *ib.*
copy to be transmitted periodically to magistrates' clerk, *ib.*
partners carrying on business in one house only, not obliged to take out more than one licence, vol. i. 371.
persons not to sell cyder or perry without licence, vol. i. 375.
penalty on unlicensed persons selling, vol. i. 379.
licences to sell cyder and perry, how granted, vol. i. 375.
duty upon, vol. i. 375, 379.
provisions and penalties relating to sale of beer to apply to sale of cyder and perry, vol. i. 375.
licence not to extend to any other house than that mentioned in it, vol. i. 371.
licensee may also retail cyder and perry, vol. i. 375.
covenant against using demised premises as public house to prevent their being used as beer house, vol. i. 376.
licence void on conviction of licensee of felony, vol. i. 382.
or of selling spirits without licence, *ib.*
or of having wine, spirits, or sweets in his possession, vol. i. 383.
or of forging certificate, vol. i. 382.
death of licensee, provisions for carrying on business after, *ib.*
licensee to make entry with the excise, vol. i. 383.
excise officers may enter premises of licensee, *ib.*
and premises where beer sold at 1½*d.* or less the quart, *ib.*
constables may visit and enter licensed houses, vol. i. 377, 386, 387.
General offences.
selling beer, &c., without proper licence, or after expiration of licence, vol. i. 370, 383.
selling beer, &c., after conviction of felony, or spirits without licence, vol. i. 382.
beer retailer keeping wine, &c., vol. i. 383.
not placing board with name, &c., over door, vol. i. 370, 379.
keeping open house at improper hours, vol. i. 372, 383, 384, 386.
during certain hours on Sundays, Christmas days, and Good Fridays, &c., vol. i. 372, 383, 384, 386, 387.
exception in favour of travellers, vol. i. 386, 387, and 387 n. (*b*).
not using standard measures, vol. i. 371.
refusing to admit constables, vol. i. 377, 386, 387
harbouring constables, vol. iii. 973.
refusing to quarter soldier (Annual Mutiny Act).
refusing compensation for stabling (Annual Mutiny Act).

BEER—*continued.*
paying money to soldier (Annual Mutiny Act).
refusing to produce licence on requisition of magistrates, vol. i. 378.
permitting drunkenness, &c., vol. i. 371.
selling adulterated liquors, vol. i. 372.
selling beer during term of disqualification, vol. i. 372.
selling beer on forbidden premises, *ib.*
suffering wine, &c., to be brought on premises, or consumed there, vol. i. p. 379.
Offences against licence.
what are offences against licence, *see* form of licence, vol. i. 380.
selling beer not made from malt and hops, vol. i. 372.
mixing drugs with beer, &c., *ib.*
diluting beer, *ib.*
using illegal measures, vol. i. 371.
permitting drunkenness, *ib.*
suffering gaming, vol. i. 370.
permitting bad characters to meet, vol. i. 371.
permitting beer, &c., to be drunk on premises, or conveyed from them during unlawful hours on Sunday, &c., *ib.*
not maintaining good order, *ib.*
refusing to quarter soldiers, *ib.*
Offences by other than Beer Sellers.
overseer refusing certificate as to rated inhabitants, vol. i. 377.
overseer refusing certificate as to rated premises or claim to be rated, vol. i. 382.
overseer giving false certificate of rating, *ib.*
giving false certificate, vol. i. 378, 382.
forging, &c., certificate, vol. i. 382.
Penalties how recoverable, vol. i. 371, 372, 383, 385.
justices may mitigate penalties, vol. i. 384.
when penalties not paid proceedings may be had against sureties, vol. i. 373.
penalty on witnesses not attending, vol. i. 374.
penalties may be levied by distress, *ib.*
commitment in default of distress, *ib.*
on payment of penalties and costs, &c., to gaoler, prisoner to be discharged, *ib.*
application of penalties, *ib.*
justices of liberties not attending sessions, county justices may act, *ib.*
power not to extend to the cinque ports, *ib.*
conviction, form of, vol. i. 375.
to be returned to quarter sessions and filed, *ib.*
not to be removed by *certiorari*, *ib.*
Appeal to Quarter Sessions, vol. i. 372.
costs of appeal, vol. i. 373.
proceedings in certain cases to be carried on by petty constable, *ib.*
expenses of prosecution to be charged on county rates, *ib.*
actions against justices, vol. i. 375.
Public and refreshment houses, 27 & 28 Vict. c. 64.
short title, vol. iv. 954.
limits of act, *ib.*
definition of "corporate borough," &c., *ib.*
definition of "refreshment houses," *ib.*
as to the closing of public houses and refreshment houses between one and four in the morning, *ib.*
penalty, *ib.*
selling to persons lodging in house, vol. iv. 955.
as to Sundays, Christmas Day, &c., *ib.*
application of act to free vintners, *ib.*

BEER—*continued.*
occasional licence may be granted, exempting party from this act, vol. iv. 955.
definition of "local authority," *ib.*
as to adoption of act by corporate borough, improvement commissioners, &c., *ib.*
not to apply to sales at railway stations between one and four in the morning, *ib.*

BENEFICE. See *Augmentation; Clergy.*
provisions as to, in case of bankruptcy. See *Bankruptcy.*

BENEFIT BUILDING SOCIETIES.
See *Friendly Societies.*
Regulation of Benefit Building Societies, 6 & 7 Will. 4, c. 32, vol. ii. 203.
societies may be established for the purchase or erection of dwelling houses, *ib.*
subscription, *ib.*
rules, &c., vol. ii. 204.
bonus, &c., not to be usurious, *ib.*
forms of conveyance, &c., *ib.*
provisions of 10 Geo. 4, c. 56, and 4 & 5 Will. 4, c. 40, made applicable, *ib.*, vol. ii. 190 n. (*a*).
receipt indorsed on mortgage sufficient discharge without reconveyance, vol. ii. 205.
not to invest in savings' bank, *ib.*
benefit of act extended to all societies established prior to June, 1836, *ib.*
exemption from stamp duties, *ib.* n. (*a*).
joint stock company cannot be member of a building society, vol. ii. 203 n. (*b*).
when society duly constituted, *ib.*
what number of shares may be held by each member, *ib.* n. (*c*).
settlement of disputes, *ib.* n. (*d*).
cannot be converted into freehold land society, vol. ii. 204 n. (*a*).
not duly certified and enrolled liable to the operation of 11 & 12 Vict. c. 45 (the Joint Stock Companies' Winding-up Act, 1848), vol. i. 774.

BENEFIT OF CLERGY.
abolished, vol. ii. (16).
abolition not to prevent joinder of counts in indictments as before, *ib.*
provisions for punishment of felonies consequent upon abolition of, vol. ii. (16), (17).
removing doubts as to liability of lords and peers of parliament to punishment in certain cases of felony, vol. ii. (25), (26).

BENEFIT SOCIETY. See *Friendly Society.*

BETTING HOUSES. See *Gaming.*
suppression of (16 & 17 Vict. c. 119), vol. ii. 279.
definition of, to be deemed common gaming houses, *ib.*
penalty on owner or occupier, and mode of proceeding against, *ib.*
receiving money, &c., as deposit for a bet on any race, &c., penalty, vol. ii. 280.
deposit for a bet, recovery of, *ib.*
stakes to be paid to owner of a horse not affected by this act, *ib.*
advertising betting house, penalty and mode of recovery, *ib.*
costs and penalties, to be levied by distress, *ib.*
penalties, application of, *ib.*
neglect by prosecutor to proceed, justice

BETTING HOUSES—*continued.*
may authorise another to do so, or issue fresh summons, vol. ii. 280.
suspected houses, justice or commissioner of police may authorise search of, vol. ii. 281.
appeal to sessions, recognizances, &c., *ib.*
objection in matter of form, no removal by *certiorari*, *ib.*
distress not unlawful for want of form, but persons aggrieved by, may recover, *ib.*
tender of amends and payment into court, *ib.*
limitation and notice of action, vol. ii. 282.
interpretation of terms, *ib.*
not to extend to Scotland, *ib.*

BIGAMY.
marrying another at any place during the life of the former husband or wife, vol. ii. (169)—(171).
exceptions.
where second marriage is out of England and Ireland by a person not a British subject, *ib.*
where husband or wife has been absent for seven years, and not known to be living, *ib.*
divorce & vinculo matrimonii, *ib.*
where first marriage has been declared void, *ib.*
offender may be tried where apprehended or in custody, *ib.*

BILLIARDS.
licences for, vol. ii. 274.

BILLS OF EXCEPTIONS.
obligation of judge to seal bill of, when tendered to him, vol. i. 399.
note thereon, *ib.* n. (*a*).
it lies on a nonsuit if the plaintiff appears, *ib.*
secus, if he do not appear, *ib.*
may be tendered on trial of ejectment, vol. iii. 749.
and on the trial of issues directed by the High Court of Admiralty, vol. i. 1172, 1173.

BILLS OF EXCHANGE. See *Bankers, Gaming, Stamps, Usury.*
bills drawn in the united kingdom and the islands adjacent on any person resident within them, to be deemed inland, vol. i. 416.
bills may be protested for non-payment, vol. i. 400.
protest or notice thereof to be given 14 days after made, &c., vol. i. 401.
bills may be protested for non-acceptance, vol. i. 405.
when protest necessary, and what to be done to charge drawer, &c., *ib.*
protest of inland bill, unnecessary, vol. i. 400 n. (*a*).
no protest necessary if inland bill be not for 20*l.* &c., vol. i. 405.
by whom protest to be made, *ib.*
at what place bills expressed to be payable in any place other than residence of drawee to be protested, vol. i. 411.
not necessary to present bill to acceptor for honour or referee till after maturity, vol. i. 412.
provision in case of Sunday, *ib.*

BILLS OF EXCHANGE—*continued.*
taking bill a satisfaction of debt in case of laches as to protest, vol. i. 405.
form of protest, vol. i. 401.
notice of protest, *ib.*
expenses, *ib.*
proviso as to remedy against drawer, &c., vol. i. 405.
in case of loss, &c., drawer to give another bill, &c., vol. i. 401.
action on lost bill, vol. i. 412.
court may order that loss shall not be set up on certain conditions, vol. i. 412.
promissory notes placed on same footing as bills, vol. i. 401.
essentials to the validity of promissory notes, vol. i. 401 n. (*b*).
acceptance at a banker's, &c., a general acceptance, vol. i. 408.
acceptance at a banker's, &c., only, a qualified acceptance, *ib.*
acceptances of inland bills must be in writing on the bill, vol. i. 409.
acceptances of bills, whether foreign or inland, to be in writing on them, and to be signed, vol. i. 416.
falling due on Good Friday, payable the day before, vol. i. 407.
protest, &c., thereof to be made accordingly, *ib.*
falling due day before Good Friday or Christmas day, and dishonoured, notice, &c., to be given day after Good Friday, vol. i. 410.
falling due on fast or thanksgiving day, payable the day before, *ib.*
Good Friday, &c., to be treated as a Sunday, vol. i. 410.
provisions do not extend to Scotland, vol. i. 411.
notes, &c., for 20*s.* and less than 5*l.* to specify names, &c. to whom payable, vol. i. 406.
signature to such notes to be attested, *ib.*
penalty for disobedience, *ib.*
all such notes issued before 1st Jan., 1778, to be payable on demand, *ib.*
17 Geo. 3 not to extend to notes under 5*l.* payable on demand, stamped for bankers, and issued out of bank in a certain time, and which notes issuable, &c., until 5th April, 1829, vol. i. 409.
penalty for issuing before 5th April, 1829, notes under 5*l.* payable on demand, except such as allowed by Act, *ib.*
or for issuing any note on demand for less than 5*l.* after 5th April, 1829, vol. i. 410.
penalty on uttering, &c., notes payable to order or bills under 5*l.* (not payable on demand) otherwise than according to 17 G. 3, *ib.*
how penalties recoverable, *ib.*
Scotch and Irish bills and notes under 5*l.* not to be uttered in England under penalty of 20*l.* vol. i. 411.
notes for less than 20*s.* void, vol. i. 408.
17 Geo. 3, c. 30, &c., restraining negotiation of notes and bills for a payment of 20*s.*, or above that sum and less than £5, repealed, vol. iv. 953.
penalty for uttering such notes, vol. i. 408.
stamp duties as to, vol. iv. 492.
penalty for making, &c., not duly stamped, vol. iv. 469.
penalty for post-dating, *ib.*

BILLS OF EXCHANGE—*continued.*
penalty for issuing unstamped bills on bankers, without specifying place where issued, or if post-dated, vol. i. 235.
penalty for re-issuing contrary to law, and for not cancelling them, vol. iv. 469.
penalty for taking, re-issued contrary to law, vol. iv. 470.
duty on inland bills and notes, vol. iv. 492.
on foreign, vol. iv. 494.
payable on demand and indorsed abroad to be deemed foreign, vol. iv. 1031.
Summary Procedure on (18 & 19 Vict. c. 67).
all actions upon bills of exchange, &c., may be by writ of summons as form in schedule A. vol. i. 412.
within what time actions under this Act must be brought, *ib.*
plaintiff, on filing affidavit of personal service, may at once sign final judgment as form in schedule B. vol. i. 413.
defendant, showing within 14 days a defence upon the merits to have leave to appear, vol. i. 414.
judge may, under special circumstances, set aside judgment, *ib.*
judge may order bill to be deposited with officers of court in certain cases, *ib.*
remedy for recovery of expenses of noting dishonoured bill, *ib.*
holder may issue one summons against all or any of the parties to the bill, *ib.*
Common Law Procedure Act and rules to extend to this Act, *ib.*
Act to apply to courts of common pleas, Lancaster and Durham, *ib.*
her majesty may direct Act to apply to courts of record in England and Wales, *ib.*
order in council applying Act to the County Courts, vol. i. 414 n. (*c*).
extent of Act, vol. i. 415.
short title, *ib.*
for debt not exceeding 20*l.* no costs in superior Courts, vol. i. 1233.
Inducing person to accept, indorse, &c., by false pretences, vol. i. 416.

BILL OF LADING. See *Ship.*
rights under, to vest in consignee or indorsee, vol. i. 417.
right of stoppage *in transitu*, and claims for freight, not to be affected by 18 & 19 Vict. c. 111, *ib.*
in hands of consignee, &c., without notice, conclusive evidence of the shipment as against master, *ib.*
proviso, *ib.*
as to possession of, being evidence of ownership, &c. See *Factor.*
stamp duty on, vol. iv. 496, 565.
not to be stamped after signing, vol. iv. 563.
penalty for signing unstamped, *ib.*

BILL OF SALE. See *Fraudulent Conveyances &c.*
of ships. See *Ships, Registry of.*
exempt from stamp duty, *ib.*
stamp duty on, in general, vol. iv. 496.
Registration of, 17 & 18 Vict. c. 36.
bill of sale to be void, unless bill or copy thereof, filed within twenty-one days, in like manner as warrants of attorney, vol. i. 417.
requisites of affidavit verifying same, vol. i. 417, n. (*d*).

BILL OF SALE—*continued.*
defeasance or conditions of every bill of sale to be written on the same paper, &c., vol. i. 418.
officer of court to keep book, containing particulars of each bill of sale, vol. i. 418.
officer entitled to fee of 1s. for filing bill of sale, vol. i. 419.
office copies or extracts to be given, *ib.*
satisfaction may be entered, *ib.*
interpretation of terms, *ib.*
doctrine of reputed ownership not affected by 17 & 18 Vict. c. 36, vol. i. 417, n. (*b*).
bill of sale to be produced stamped on filing copy, vol. i. 420.

BISHOPRICS.
upon vacation of, the queen may exchange her tenths, appropriate parsonages, &c., within the diocese, for a competent portion of possessions of, vol. ii. 1212.
amending the provisions of 6 & 7 Will. 4, c. 19, for separating the palatine jurisdiction of the county of Durham from the bishopric of Durham, vol. i. 1147.

BLASPHEMY, vol. ii. (157), (158).

BODILY INJURY.
causing, with intent to murder, vol. ii. (281), (282).
attempting to cause, with like intent, vol. ii. (282), (283).
with intent to maim, disfigure, &c., vol. ii. (283).
to prevent apprehension or detainer, *ib.*
inflicting with or without a weapon, vol. ii. (284).
causing gunpowder to explode with intent to cause, vol. ii. (285).
placing gunpowder near buildings with like intent, *ib.*
setting spring guns with like intent, vol. ii. (285), (286).
drivers of carriages causing, vol. ii. (286).
causing to any apprentice or servant, vol. ii. (285).

BONA NOTABILIA.
wages for work done in the queen's yards or docks not to be, vol. i. 1424, 1425.
law of, seems to be rendered obsolete by operation of s. 46 of 20 & 21 Vict. c. 77, vol. i. 1307.
certain Indian government notes to be deemed, in England, vol. i. 1328.

BOND. See *Pleading, &c.*
payment of principal, &c., allowed in action, &c., on, vol. i. 424.
plea of payment to action on, vol. i. 423.
in action on, plaintiff must assign breaches, vol. i. 421, n. (*a*).
plaintiff may assign as many breaches as he pleases, vol. i. 420.
jury may assess damages thereon, vol. i. 422.
defendant paying damages, execution may be stayed, vol. i. 423.
but judgment is to remain to answer further breaches, *ib.*
stamp duty on, vol. iv. 496.
when not subject to *ad valorem* duty, vol. iv. 496, n. (*c*), 498, n. (*a*).

BOND—*continued.*
for payment of rent, vol. iv. 496, n. (*c*).
when one stamp only necessary, *ib.*
exemptions from duty, vol. iv. 499.
stealing, vol. ii. (196), (197).
forgery of, vol. ii. (264).

BOOKS. See *Copyright.*
prevention of sale of obscene books, pictures, prints, and other articles, vol. ii. (183).

BOROUGHS. See *Corporations.*

BOTTOMRY AND RESPONDENTIA. See *Ship.*
bottomry loans on ships trading to the East Indies may be on ship and merchandise only, vol. ii. 839, 840.
no lender on bottomry to receive more than value of his interest in ship and cargo, &c., *ib.*
admiralty court may decide questions of title in bottomry causes, vol. i. 1171.

BOUNDARIES.
trustees under turnpike Acts may set up boundary stones of parishes where they cross a road. See *Turnpike.*
penalty for defacing them, *ib.*

BRASS.
stealing from buildings, &c., vol. ii. (198).

BRAWLING.
jurisdiction of ecclesiastical courts in suits for, abolished, as against persons not in holy orders, vol. i. 1266.
penalty on persons making a disturbance in churches, &c., vol. i. 1267.
apprehension of offender, *ib.*
appeal against conviction, *ib.*
limitation of suit for, vol. i. 1255.

BREAD. See *Bakehouse Regulation Act.*
acts for regulating the making and sale of, vol. i. 424.

BREWERS.
use of sugar by, vol. i. 385.

BRIBERY. See *Parliament.*

BRIDGES.
As to highways in general. See *Highways.*
As to turnpike roads. See *Turnpike Roads.*
REPAIRS OF, *who to repair, &c.*
who in general liable, vol. ii. 685, n. (*b*), 688, n. (*b*), 689, n. (*a*).
description of bridges inhabitants of county liable to repair, vol. ii. 695.
Act not to extend to bridges repairable by tenure, *ib.*
who to repair where doubtful liability, vol. ii. 688.
certiorari in such cases, vol. ii. 691.
county, &c., to repair the 300 feet at ends, vol. ii. 690.
county bridges repaired under contract may be so without presentment, vol. ii. 699.
private persons to repair as usual, vol. ii. 692.
trustees, counties, parishes may contract to, vol. ii. 621.
repair within corporations, costs, &c., vol. ii. 699.

BRIDGES—*continued.*
JUSTICES TO INQUIRE AS TO REPAIRS, &c.
justices may award process against them who neglect to repair, vol. ii. 687.
they may make process into every shire against offenders, vol. ii. 690.
orders, &c., respecting county bridges in Yorkshire to be made, when, vol. ii. 695.
sessions may appoint justices to superintend repairs, vol. ii. 696.
and they may expend 20*l.* *ib.*
the two justices to remain in office for one year, &c. *ib.*
justices at sessions may appoint two justices before Easter sessions, *ib.*
provisions of Easter appointments to apply, *ib.*
as to justices' power to contract, &c., see *infra.*
PRESENTMENT, *&c., for not repairing* (see 5 & 6 W. 4, c. 50, s. 99, vol. ii. 558), vol. i. 1150.
but county bridges repaired under contract may be so without presentment, vol. ii. 699.
fines, &c., for not repairing to be paid to treasurer, and applied to repairs, vol. ii. 692.
no *certiorari* allowed on indictments against county, *ib.*
when allowed where right to repair, &c., disputed, vol. ii. 691.
SURVEYOR'S APPOINTMENT *and duty, &c.*
appointment of two surveyors, vol. ii. 690.
usually the high constable, *ib.*
salaries of, *ib.*
allowance for costs, &c., of, vol. ii. 690.
empowered to get materials, &c., vol. ii. 693.
tools, &c., vested in, vol. ii. 694.
further empowered to get stones, &c., vol. ii. 697. See *infra.*
surveyors to account to justices, &c. vol. ii. 690.
MANNER, *&c., of* REPAIRING, *and obtaining materials.*
surveyors of county bridges empowered to get materials for repairs, same as surveyors of highways, vol. ii. 693.
tools and materials vested in surveyor, vol. ii. 694.
these provisions extended to bridges, &c., repaired by hundreds or other divisions of counties, vol. ii. 697.
further powers for surveyors, &c., to take stones for repair of county bridges, *ib.*
consent of two justices of peace necessary, *ib.*
quarries situated in gardens, &c., not used without consent of owners, *ib.*
satisfaction for stone and damage, vol. ii. 698.
in case of refusal to treat, justices at sessions to cause value of stones and amount of damage to be ascertained by jury, *ib.*
witnesses called before jury to be examined on oath, *ib.*
justices may require sheriffs or bailiffs to return juries, *ib.*
fine on jury and witnesses neglecting to attend, *ib.*
expenses of jury, how defrayed, *ib.*
appeal, &c., to general quarter sessions, *ib.*
recognizance to be entered into, vol. ii. 699.
justices to determine the matter in a summary way, *ib.*
materials for repairs exempted from toll,

BRIDGES—*continued.*
3 Geo. 4, c. 126, s. 32, *infra*, tit. "TURNPIKE."
ALTERING *situation and widening of, &c.*
quarter sessions may widen, improve, or alter situation of, &c., vol. ii. 694 (*Reg.* v. *Southampton*, 21 L. J., M. C. 201).
buildings as well as land may be purchased for alteration, &c., vol. ii. 697.
CONTRACTS FOR REPAIRING, &c. vol. i. 1150, 1153.
justices may contract with persons for repairs, vol. ii. 692, 697, 699.
upon public notice, vol. ii. 692, 699.
contracts to be entered in book with clerk of the peace, &c., vol. ii. 693.
justices may purchase lands, &c., to build county bridges, vol. ii. 693, 697.
CHARGES AND ASSESSMENTS FOR REPAIRING, &c.
justices may tax inhabitants with the assent of two constables, vol. ii. 689.
two collectors to be appointed, vol. ii. 690.
collectors and surveyors to account to justices, *ib.*
allowance for costs, &c., *ib.*
3*d.* in the pound to be allowed, vol. ii. 692.
excessive charges restrained, *ib.*
justices may assess every town, &c. in proportion, vol. ii. 691.
how assessment to be levied, *ib.*
how moneys to be applied and paid to treasurer, &c., *ib.*
penalty on constable, &c., neglecting to assess, &c., vol. ii. 692.
general issue, double costs, &c. in actions against collectors, &c., *ib.*
forfeitures, &c. to be applied to repairs, *ib.*
DAMAGING, &c.
inhabitants of counties may sue for damages in name of surveyor, vol. ii. 694.
punishment for, vol ii. (252).
liberties of cinque ports, &c., reserved, vol. ii. 690.

BRITISH LINEN COMPANY
may issue small notes on unstamped paper, accounting for duties, vol. iv. 470.

BROKERS. See *Agent; Factor.*
traders within Bankrupt Act, vol. i. 269.
regulations of brokers in London and its liberties, vol. i. 425.
fee on admission of, in London, *ib.*
how fees to be applied, *ib.*
penalty for acting as broker in London without admittance, *ib.*
punishment of frauds by, vol. ii. (210).

BUBBLE ACT. See *Companies. Insurance.*
history of, vol. i. 642.

BUILDING.
placing gunpowder near with intent to do bodily harm, vol. ii. (285).
destroying with gunpowder with intent to murder, vol. ii. (282).
setting fire to, vol. ii. (246)—(248).
demolishing with gunpowder, vol. ii. (248).
rioters demolishing, vol. ii. (153), (154).
injuring, *ib.*

BUILDING ACTS (METROPOLITAN).
Accesses.
to buildings, how made, vol. i. 439.

BUILDING ACTS (Metropolitan)—*continued.*
Account.
of work to be given by building to adjoining owner, vol. i. 449.
may be appealed against, vol. i. 450.
Actions.
notice of, vol. i. 452.
limitation of time, *ib.*
venue, *ib.*
Adjoining Owner.
who, vol. i. 446.
what he may require of the building owner, vol. i. 447, see *Notice.*
difference when it arises, vol. i. 448.
what security he may require of building owner as to works, vol. i. 449. See *Expenses.*
may appeal against account, vol. i. 450.
Appeal.
to County Court against award of surveyors, vol. i. 448.
from County Court, vol. i. 451.
from justices, vol. i. 452.
but with their consent, and upon security given for costs, *ib.*
and in the form of a special case, *ib.*
under 8 Vict. c. 84, concerning dangerous and noxious businesses, vol. i. 431.
Surrey and Kent under 8 Vict. c. 84, vol. i. 431.
Arches.
over public ways their construction and thickness, vol. i. 440.
under public ways, *ib.*
Architect, Superintending.
to audit accounts of surveyor's fees, vol. i. 444.
how appointed, *ib.*
must not practice, *ib.*
may appoint a deputy, vol. i. 445.
his salary, *ib.*
moneys received by him to be paid to the metropolitan board, *ib.*
Architects.
British Institute of, to examine district surveyor, vol. i. 441.
Area.
what under the Act, vol. i. 435.
meaning of under section 13, vol. i. 437.
Assistant Surveyor.
may be appointed, vol. i. 441.
Award of Surveyors.
how appealed against, vol. i. 448.
costs of, *ib.*
Balcony.
how made, vol. i. 440.
Balustrades, ib.
Bank.
buildings of, not within the Act, vol. i. 436.
Base.
of a wall, what, vol. i. 435.
Bond Timbers.
not to be built into party walls, vol. i. 437.
Breast of.
chimney, vol. i. 438, 439.
not to be cut away without direction of surveyor, vol. i. 439.
Bressummers.
rules concerning, vol. i. 437.
Brick Trimmers.
to support slabs in chimneys, vol. i. 439.
Bridges.
exempted, vol. i. 436.

BUILDING ACTS (Metropolitan)—*continued.*
British Museum.
exempt, vol. i. 436.
Builder.
failing to give notice subject to penalty, vol. i. 442.
failing to obey surveyor's notice, penalty, vol. i. 443.
Building Owner.
who, vol. i. 446.
his rights under the Act, vol. i. 447.
intermixed property, *ib.*
arches, &c., *ib.*
difference with adjoining owner, vol. i. 448.
when he may enter and do works, vol. i. 447, 449. See *Expenses.*
to give an account to adjoining owner, vol. i. 449.
Buildings.
containing a certain number of cubic feet, what, exempt, vol. i. 436.
what shall be deemed new, vol. i. 436, 437.
alterations and additions to, what, within the act, vol. i. 437.
roofs of, how constructed, vol. i. 438.
for trade and manufacture, roofs of, not to incline more than forty-seven degrees, *ib.*
how separated, vol. i. 440.
how united, *ib.*
not to be meddled with if comformable with the old statutes, vol. i. 428.
Canal Company.
buildings belonging to, exempt, vol. i. 436.
Cattle Market.
exempt from the act, vol. i. 436.
Cellars.
how to be constructed, vol. i. 439.
Certificate.
of district surveyors as to dangerous structures, vol. i. 445.
Chamberlain
of London, payments to, vol. i. 446.
Chambers.
how separated, vol. i. 440.
Chases.
in party walls when permitted, vol. i. 438.
Chimneys.
rules concerning, vol. i. 438.
arch of brick or stone must be built over the opening, *ib.*
jambs, *ib.*
of the chimney shaft, *ib.*
must be made good, vol. i. 449.
Clerks.
of the metropolitan building office, how compensated, vol. i. 453.
Close Fires.
rules concerning, vol. i. 439.
Commissioners.
who, vol. i. 445.
when to put up hoards, *ib.*
when to proceed against owners and occupiers for suffering dangerous structures, *ib.*
may cause their repair or removal, vol. i. 446.
when they may sell, *ib.*
how indemnified, *ib.*
their powers over iron buildings, vol. i. 453.
Companies Clauses Act.
incorporated for the purposes of arbitration, vol. i. 450.
Compensation.
to officers appointed under 8th Vict. c. 84, vol. i. 453.
to official referees and registrar, vol. i. 453.

BUILDING ACTS (Metropolitan)—*continued.*
to clerks in the office of metropolitan buildings, vol. i. 453.
Contracts.
made previously to passing of act, vol. i. 453.
Contribution.
betwixt owners, vol. i. 450.
Coping.
of stone or iron, vol. i. 440.
Cornice, vol. i. 440.
Costs
of surveyor's award, vol. i. 448.
security to be given for, upon appeal, vol. i. 452.
County Buildings.
not within the act, vol. i. 436.
County Court.
appeal to against award of surveyors, vol. i. 448.
appeal from to Superior Court, upon giving security, vol. i. 451.
judge of, when he may give consent on behalf of owner, vol. i. 450.
jurisdiction of, vol. i. 451.
how to settle differences, *ib.*
appeal from, *ib.*
to decide in cases of contracts made before the act, vol. i. 453.
Covent Garden Market.
buildings of, exempt, vol. i. 436.
Cross Wall.
what it is, vol. i. 435.
thickness of, vol. i. 457.
Dangerous Businesses.
buildings near, vol. i. 428.
removal of, by purchase, vol. i. 431.
Dangerous Structures.
survey of, vol. i. 445.
inmates may be removed from, vol. i. 446.
fees of district surveyor in respect of, *ib.*
Distilleries.
exempted from 8 Vict. c. 84, vol. i. 432.
District Surveyor.
to supervise all buildings not exempted, vol. i. 441.
may be dismissed by the Board of Works, *ib.*
when compensated, *ib.*
to be examined by the British Institution of architects, *ib.*
to keep an office, vol. i. 441.
may appoint a deputy, *ib.*
must not act on his own account, *ib.*
notices to, vol. i. 442.
may enter and view buildings, *ib.*
what he may do in cases of irregularity, *ib.*
fees of, vol. i. 443.
returns by, vol. i. 444.
his duty with respect to iron or other buildings not within the Act, vol. i. 442.
his duty with respect to dangerous structures, vol. i. 445.
limitation of time for his entering premises when no notice of building has been given to him, vol. i. 452.
his fees cannot be questioned upon appeal, *ib.*
how protected from actions, *ib.*
his fees by schedule, vol. i. 457.
Dock Company.
buildings belonging to, exempt, vol. i. 436.
Dormer,
how constructed, vol. i. 438.
Dwelling Houses.
open spaces near, vol. i. 441.
East India House.
exempt, vol. i. 436.

BUILDING ACTS (Metropolitan)—*continued.*
Embankment Walls,
exempted, vol. i. 436.
Exemption.
of what buildings from the ordinary rules of the act, vol. i. 436.
what privileges attach to them, *ib.*
Expenses of act.
how borne, vol. i. 445.
general rules as to payment of, by owners, vol. i. 450.
surplus after payment of, in cases of sale of dangerous structures—to whom paid, vol. i. 446.
how borne respectively by building and adjoining owners, vol. i. 449.
External Wall.
definition of, vol. i. 435.
when to be carried above gutter, vol. i. 438.
when the building owner may remove, vol. i. 447.
expenses of the work, vol. i. 449.
rules concerning, vol. i. 454—456.
timber in, vol. i. 437.
Facia, vol. i. 440.
Fees.
of district surveyor, vol. i. 443, 457.
only one chargeable for works in one notice, *ib.*
special, *ib.*
when due, *ib.*
accounts of, how audited, vol. i. 444.
cannot be appealed against, vol. i. 452.
of district surveyor, by schedule for new buildings, vol. i. 457.
for additions or alterations, vol. i. 457.
for inspecting dangerous structures, *ib.*
Flat.
of building, how constructed, vol. i. 440, 438.
Flues.
openings into, when exempted, vol. i. 436.
rules concerning, vol. i. 438.
none against party structure without a withe, vol. i. 439.
must be made good, vol. i. 449.
expenses, *ib.*
Footings.
when they may be cut away, vol. i. 447.
expenses, vol. i. 449.
Gaols and Prisons.
exempt from the act, vol. i. 436.
Gas-works.
exempted from 8 Vict. c. 84, vol. i. 432.
Greenhouses.
exempt, vol. i. 436.
Greenwich Hospital.
not within the act, vol. i. 436.
Gutter.
adjoining external walls, rule concerning, vol. i. 438.
adjoining party walls, *ib.*
generally, its construction, *ib.*
Inmates.
may be removed from dangerous structures, vol. i. 446.
Intermixed property. See *Building Owner.*
expenses concerning, vol. i. 449.
Iron buildings.
constructed before the act to be under the jurisdiction of commissioners of works, vol. i. 453.
Issues.
under the act, how tried, vol. i. 448.

BUILDING ACTS (Metropolitan)—*continued.*
Jambs.
of chimneys, vol. i. 438.
Jetty.
exempt, vol. i. 436.
Justice of the Peace.
jurisdiction of, under the act, vol. i. 451.
appeal from, vol. i. 452.
Landlord and Tenant.
liabilities of, not affected by the act, vol. i. 453.
Lantern Light.
how made, vol. i. 438.
Limitation of Time.
for actions, vol. i. 452.
Limits.
what the act embraces, vol. i. 435.
Loophole Frames.
what may be fixed in external wall, vol. i. 437.
Lunatic Asylums.
exempted, vol. i. 436.
Mansion House, ib.
Metropolitan Board of Works.
what they may do, vol, i. 444.
their power as to fees, vol. i. 445.
may modify rules, *ib.*
and fix salaries, vol. i. 445.
and pay them out of rates, *ib.*
Metropolitan Police Magistrate.
under the act, vol. i. 451.
appeal from, vol. i. 452.
Notice.
to district surveyor, vol. i. 442.
when given, *ib.*
primâ facie evidence of facts, *ib.*
penalty for neglect, *ib.*
by district surveyor as to irregularity, *ib.*
forms of, may be ordered by metropolitan board, vol. i. 444.
to owner and occupier as to dangerous structures, vol. i. 445.
of three months before commissioners sell such structures, vol. i. 446.
by building to adjoining owner, vol. i. 448.
how served, vol. i. 451.
of action against district surveyor, &c., vol. i. 452.
Noxious Businesses.
provisions in 8 Vict. c. 84, concerning, vol. i. 429.
removal of, by purchase, vol. i. 431.
Occupier.
notice to, regarding dangerous structures, vol. i. 445.
to repair in default of owner, *ib.*
Official referees.
how to be compensated, vol. i. 453.
Openings.
in party walls, how to be made, vol. i. 440.
to be stopped when buildings cease to be in the same occupation, vol. i. 441.
Open Spaces, ib.
Orders.
how served, vol. i. 451.
Owner.
who, under this act, vol. i. 435.
notice to, for dangerous structures, vol. i. 445.
if he neglect it, he may be compelled to repair, *ib.*
Palaces.
exempt, vol. i. 436.

BUILDING ACTS (Metropolitan)—*continued.*
Parapet.
when to be made and of what thickness, vol. i. 438.
Party Arch.
its construction and thickness, vol. i. 439.
Party Fence Walls.
not within the act, vol. i. 436.
Party Structure.
what it shall be said to include, vol. i. 435.
when may be pulled down, vol. i. 447.
or cut into, *ib.*
expenses of repair, vol. i. 449.
of raising, *ib.*
of cutting into, *ib.*
Party Walls.
meaning of, under the new act, vol. i. 435.
recesses in, what allowable, vol. i. 437.
not to have bond timbers or wood plates, *ib.*
must be carried above roofs, and to what height, vol. i. 438.
chases in, what may be made, *ib.*
openings in, how made, vol. i. 440.
Penalties.
as to close fires and pipes, vol. i. 439.
as to habitable rooms and cellars, vol. i. 439.
as to notices by builders, vol. i. 442.
for not allowing inspection of building, *ib.*
on builder, if he neglect surveyor's notice of irregularity, vol. i. 443.
on workmen for disobedience, *ib.*
for resisting building owner in doing lawful works, vol. i. 449.
on building owner refusing to execute required works, vol. i. 450.
generally under the act, how recovered, vol. i. 451.
application of, vol. i. 452.
in cases of dangerous businesses, vol. i. 429.
noxious businesses, *ib.*
Piers.
not within the act, vol. i. 436.
Pipes.
for vapour or water, rules concerning them, vol. i. 439.
Portico.
how to be made under the act, vol. i. 440.
Projections.
rules concerning, *ib.*
Public Buildings.
to be constructed after the mode approved by the district surveyor, vol. i. 441.
Railway Buildings.
exempt, vol. i. 436.
Rates.
when liable to expenses of act, vol. i. 445.
Receiver.
of metropolitan police, payment to, vol. i. 446.
Recesses.
and openings in walls, rules concerning, vol. i. 437.
Registrar.
of metropolitan buildings, his compensation, vol. i. 453.
Repeal.
of acts, vol. i. 452.
Returns.
by district surveyors, vol. i. 444.
Roofs.
of buildings, how to be constructed, vol. i. 438, 440.
for trade, &c., not to incline more than forty-seven degrees, *ib.*

BUILDING ACTS (Metropolitan)—*continued.*
Rooms.
rules concerning, vol. i. 439.
Royal Exchange.
exempt, vol. i. 436.
Salary.
of superintending architect and clerks, vol. i. 445.
Schedules.
as to the structures of buildings, vol. i. 454—457.
as to the fees of district surveyors, vol. i. 457.
Separate Building.
what is a, vol. i. 440.
Separation.
of buildings, *ib.*
Sheriff's Court.
jurisdiction of, under the act, vol. i. 451.
Shop Front.
how far it may project, vol. i. 440.
Sky-light.
how made, vol. i. 438.
Slabs.
to be laid before the opening of chimneys, *ib.*
Special Case.
when it may be stated, vol. i. 448, 452.
Stairs.
rules concerning, vol. i. 439.
Steam vessels.
buildings for the manufacturing of machinery and boilers for, vol. i. 457.
Summons.
under the act, how served, vol. i. 451.
Surveyor. See *District surveyor.*
when to be appointed to settle differences between building and adjoining owner, vol. i. 448.
award of, conclusive, unless appealed against, *ib.*
Templet.
of stone or iron must be used to bear the bressummer, vol. i. 437.
Timber Partitions, ib.
Timber.
rules concerning in chimneys, vol. i. 439.
Trial.
of cases within 8 Vict. c. 84, vol. i. 436.
Turret.
how made, vol. i. 438.
Ventilating Valves.
what exempted from the act, vol. i. 436.
Venue.
in actions, vol. i. 452.
Verandah, vol. i. 440.
Walls.
construction of, vol. i. 437.
recesses and openings in, *ib.*
of dwelling houses, vol. i. 454.
of the warehouse class, vol. i. 456.
cross walls, vol. i. 457.
Warehouses.
how divided, vol. i. 440.
Warehouse Class Houses.
walls of, rules concerning, vol. i. 456.
Ways (Public).
arches over, vol. i. 440.
arches under, *ib.*
Wharfs.
walls of exempt, vol. i. 436.
Window Dressing, vol. i. 440.
Withe.
of flue of what thickness, vol. i. 439.

BUILDING ACTS (Metropolitan)—*continued.*
Wood plates.
not to be built in any party wall, vol. i. 437.

BUILDING SOCIETIES. See *Benefit Building Societies; Friendly Societies.*

BURGLARY.
punishment of, vol. ii. (203).
breaking out of house in the night, *ib.*
night, from 9 p.m. till 6 a.m., vol. ii. (191).
what buildings are part of the house, vol. ii. (203).

BURIAL. See *Interment.*

BURNING.
setting fire to church, chapel, meeting house, or other place of divine worship, vol. ii. (246).
dwelling house, any person being therein, *ib.*
house, stable, coach-house, out-house, warehouse, office, shop, mill, malt-house, barn, storehouse, granary, hovel, shed, fold, farm-building, building or erection used in farming land, or carrying on any trade or manufacture, vol. ii. (246), (247).
station or out-building belonging to any railway, port, dock, harbour, canal, or navigation, vol. ii. (247).
building belonging to the queen, or to any county, &c., or place, or to any university, &c., inn of court, or dedicated to public use, or maintained by public subscription, *ib.*
any other building, *ib.*
goods in any building, *ib.*
crop of hay, grass, corn, grain, pulse, &c., vol. ii. (249).
wood, coppice, or plantation of trees, *ib.*
heath, gorse, furze, or fern, *ib.*
stack of corn, grain, pulse, tares, hay, straw, haulm, stubble, &c., furze, gorse, heath, fern, turf, peat, coals, charcoal, wood, or bark, or steer of wood or bark, *ib.*
mine of coal, cannel coal, or anthracite, vol. ii. (251).
ship or vessel, vol. ii. (254).
attempting to set fire to buildings, vol. ii. (248).
crops of corn, &c., vol. ii. (249).
stacks or steers, &c., *ib.*
mines, vol. ii. (251).
ships, vol. ii. (254), (255).

CALENDAR.
regulating the commencement of the year, and correcting the calendar, vol. i. 665, 670.

CALENDAR MONTH.
word *month* in statutes means, vol. iv. 637.

CALICOES.
copyright, &c., in prints, &c. See *Copyright.*

CANALS. See *Railways.*
keeping the peace on, vol. i. 458.
appointment of constables, *ib.*
power of, &c., *ib.*

CANALS—*continued.*
payment of, vol. i. 458.
dismissal of, *ib.*
assaults on, vol. i. 459.
persons having instruments for unlawfully obtaining wine, *ib.*
unlawfully injuring packages, *ib.*
power of constables to search vessels, *ib.*
to apprehend without warrant *ib.*
stolen property offered for pawn detained, *ib.*
offences, trial of, penalties, vol. i. 460.
penalties, distress, conviction, &c., *ib.*
appeal, *ib.*
power of companies to be exercised by directors, vol. i. 461.
canal companies may vary their tolls, *ib.*
tolls to be charged equally, vol. i. 461, 464.
application to existing companies, vol. i. 462.
saving rights, *ib.*
not to raise dues to exceed maximum profit, vol. i. 463.
companies may become carriers on canals, *ib.*
subject to bye-laws, *ib.*
may provide boats, vol. i. 464.
tolls to be charged equally, *ib.*
companies may sue and be sued as carriers, *ib.*
provisions as to common carriers to apply, *ib.*
power to contract with other companies, *ib.*
to lease tolls, vol. i. 465.
to relet tolls, *ib.*
application of act, borrowing powers, vol. i. 465, 466.
stealing from vessels on, vol. ii. (206).
breaking down bank, dam, wall, quay, lock, sluice, floodgate, &c., vol. ii. (252).
removing piles and other materials used to secure the bank, wall, or dam of, *ib.*
opening floodgates or sluice of, or doing any other injury to, *ib.*
setting fire to building belonging to, vol. ii. (247).

CANNEL COAL.
stealing from mine, vol. ii. (200).

CAPIAS AD SATISFACIENDUM, WRIT OF. See *Pleading, &c.; Sheriff.*

CARNAL KNOWLEDGE.
definition of, vol. ii. (292).

CARNALLY KNOWING.
girl between 10 and 12 years of age, vol. ii. (289).
girl under 10 years of age, *ib.*
attempting to commit those offences, *ib.*

CARRIAGES.
duties of drivers of. See *Hackney Carriages; Highways; Turnpike.*

CARRIERS.
neglecting fastening dogs to carts, penalty for, 20*s.*, vol. ii. 654.
travelling of, on Sundays, &c., prohibited, vol. iv. 659.
protection of coach proprietors, &c. against loss of parcels, &c., 11 Geo. 4 & 1 Will. 4, c. 8, not liable for loss of certain goods

CARRIERS—*continued.*
above 10*l.*, unless delivered as such, and increased charge accepted, vol. i. 466.
general object and effect of act, vol. i. 467, n. (*b*).
right to demand increased rate of charge, vol. i. 469.
notice of increased rates of charge to be affixed in office, *ib.*
persons sending or delivering parcels bound by notice, without further proof, *ib.*
carriers to give receipts acknowledging increased rate, *ib.*
consequence of neglect to give receipt or affix notice, *ib.*
notice not to limit liability in respect of goods not specified in act, *ib.*
every office used to be deemed a receiving house, vol. i. 469, n. (*d*).
nature of contract of booking-office keeper, *ib.*
one of several coach proprietors, &c., may be sued alone, vol. i. 469.
act not to affect special contracts, vol. i. 470.
parties entitled to damages for loss may also recover extra charges, *ib.*
loss or injury from felonious acts of servants not protected, *ib.*
servants liable in case of personal neglect, *ib.*
extent of liability of coach proprietors, &c., *ib.*
payment of money into court, *ib.*

CARTS.
to have names and places of abode of owners thereon, vol. ii. 352, 546.

CAT,
stealing, vol. ii. (195).
maliciously wounding, vol. ii. (254).

CATHOLICS. See *Charitable Trusts.*
enumeration of the Roman Catholic relief acts, vol. i. 471.

CATTLE. See *Animals.*
for preventing the spreading of contagious or infectious disorders among sheep, cattle, and other animals, vol. ii. 472.
for preventing cruelty to animals, vol. i. 63, 68.
stealing, vol. ii. (193).
killing with intent to steal, *ib.*
maliciously killing or maiming, vol. ii. (254).

CELLARS.
occupied separately as dwellings, provisions as to, vol. ii. 444.

CEMETERIES. See *Interment.*
the Cemeteries Clauses Act, 1847, vol. ii. 846.

CENTRAL CRIMINAL COURT.
establishment of, vol. ii. (19).
indictments may be preferred before grand jury at, in same manner as before any other grand jury, vol. ii. (29).
powers of justices in quarter sessions within limits of, vol. ii. (58).
court of queen's bench may order certain offenders to be tried at, vol. ii. (74).

CERTIFICATE.
of dismissal of charge of assault, vol. ii. (287), (288).
of previous conviction in Larceny Act, vol. ii. (219), (220).
in Coin Act, vol. ii. (124).
of baptism, burial or marriage, forging, altering, &c., vol. ii. (271).

CERTIORARI. See *Justice of the Peace; Poor.*
nature of, and when taken away, vol. i. 471, n. (*b*).
writ of, to inferior court must be delivered before jury sworn, vol. i. 1269.
must be delivered before issue or demurrer joined, vol. i. 1270.
not allowed in causes under 5*l.*, vol. i. 1271.
nor in causes under 10*l.*, unless recognizance entered into in court below, vol. i. 1363.
on convictions, vol. i. 476. See post, *Justice of the Peace.*
no *certiorari* allowed to remove justice's order without a recognizance to prosecute, *ib.*
on refusal of recognizance, justices to proceed on appeal, &c., vol. i. 477.
recognizances to be certified into Q. B., *ib.*
for removal of proceedings before magistrates, when and how to be applied for, *ib.*
not allowed unless indictee be bound to pay costs, vol. i. 472.
certiorari in term time, vol. i, 473.
in vacation, vol. i. 475.
recognizance, condition, &c., vol. i. 473.
filing, *ib.*
default, *ib.*
parties grieved, who are, vol. i. 474, n. (*b*).
to remove proceedings for not repairing highway, vol. i. 475.
certiorari to remove proceedings from quarter sessions, vol. i. 476.
justices may rectify defects of form on appeals, *ib.*
application for, when made, vol. i. 477.
within six calendar months, *ib.* n. (*e*).
six days' notice to justices, &c., vol. i. 478.
nature of, *ib.* n. (*b*).
no indictment from inferior courts to be removed without leave, vol. i. 479.
defendant to enter into recognizance, vol. i. 480.
amendments of orders, &c., on return to *certiorari*, vol. i. 481.
rule for a *certiorari* must state the objections, *ib.*
indictments not removable by, vol. i. 482.
unless fair trial cannot be had in court below, *ib.*
or unless difficult question of law involved, *ib.*
or unless view of premises required, *ib.*
or unless special jury required, *ib.*
or in case of indictments against bodies corporate, *ib.*
or on the application of the attorney-general on behalf of the crown, *ib.*
recognizance to be given for payment of costs, where indictment removed by, *ib.*
if no recognizance given, court to try as if no *certiorari* awarded, *ib.*
taken away by Offences against Person Act, vol. ii. (293).
by Larceny Act, vol. ii. (219).

CERTIORARI—*continued.*
by Malicious Injuries Act, vol. ii. (258).
by Coin Act, vol. ii. (124).

CHAMPERTY.
what, vol. i. 483, n. (*a*).
doctrine of, in great measure obsolete, *ib.*
acts of parliament against, vol. i. 483—485.

CHANCERY. See *Courts of Equity, Pleading and Practice in Equity.*

CHAPEL.
rioters demolishing, vol. ii. (153).
injuring, vol. ii. (154).

CHAPLAIN. See *Clergy.*
stamp duty on appointment of, vol. iv. 487.

CHARACTER.
representations as to, must be in writing to render party liable, vol. ii. 177, vol. iii. 24.

CHARITABLE TRUSTS.
16 & 17 Vict. c. 137 (*The Charitable Trusts Act*, 1853).
her majesty empowered to appoint charity commissioners, secretary, and inspectors, vol. i. 493.
qualification of commissioners, *ib.*
power to appoint additional inspectors, vol. i. 506.
officers of the board, *ib.*
salaries, vol. i. 493, 506.
no paid commissioner, secretary, or inspector to sit in the house of commons, vol. i. 493.
style of commissioners, who may sit as a board, *ib.*
board to frame general minutes, *ib.*
acts of board, how authenticated, vol. i. 506.
minutes of proceedings and orders, &c., to be entered, and copies of entries signed by the secretary to be received in evidence, vol. i. 493.
board to inquire into condition and management of charities, vol. i. 494.
power to require accounts and statements, *ib.*
extension of such powers, vol. i. 506.
power to require trustees and others to attend and be examined, *ib.*
how orders, &c., of board enforced, vol. i. 507.
officers having custody of records to furnish copies and extracts, if required by board, vol. i. 494.
inspector may examine witness on oath, *ib.*
persons giving false evidence guilty of a misdemeanour, *ib.*
person refusing to render accounts, &c., to be deemed guilty of a contempt of court, *ib.*
saving for persons claiming adversely to charities, vol. i. 495.
board to entertain applications for their opinion or advice, *ib.*
persons acting on advice of board to be indemnified, *ib.*
notice of legal proceedings as to any charity by any person, except the attorney-general, to be given to the board, *ib.*
courts not to entertain proceeding as to charities, except upon certificate of the board, *ib.*

CHARITABLE TRUSTS—*continued.*
saving for the attorney-general acting *ex officio*, vol. i. 495, 496.
board may, upon the report of an inspector, authorize proceedings where no notice has been given to them, and may in other cases cause local inquiries by their inspector, vol. i. 496.
power for board to certify certain cases to the attorney-general, *ib.*
board may sanction building leases, working mines, doing repairs and improvements; and may authorize the application of the charity funds or the raising of money on mortgage for those purposes, *ib.*
commissioners to authorize trustees to remove officers, *ib.*
board may sanction compromise of claims on behalf of charity, vol. i. 497, 509.
board, under special circumstances, may authorize sale or exchange of charity lands, vol. i. 497.
board may authorize the redemption of rent-charges, *ib.*
leases, sales, &c., authorized by the board to be valid, *ib.*
trustees of charities enabled to purchase sites for building from owners under disability, &c., according to the provisions of Lands Clauses Consolidation Act, 1845, vol. i. 497, 498.
construction of the above provision, vol. i. 510.
in cases of charities the incomes of which exceed 30*l.*, master of the rolls and vice-chancellors, upon application to them at chambers, to have the same jurisdiction as the court of chancery or lord chancellor now has upon information, &c., vol. i. 498.
provision as to charities within the jurisdiction of the court of chancery of the county palatine of Lancaster, *ib.*
provisions as to charities exceeding 30*l.* per annum to extend to charities in London not exceeding 30*l.*, *ib.*
lord chancellor, with the advice of master of the rolls and vice-chancellors, or two of them, to make general orders, *ib.*
district courts of bankruptcy and county courts to have jurisdiction in cases of charities the incomes of which do not exceed 70*l.*, vol. i. 499.
deputy sitting for county court judge not to exercise jurisdiction, *ib.*
where two or more courts have concurrent jurisdiction, board to direct to which court applications shall be made, *ib.*
board may direct cases within the jurisdiction of a district or county court to be taken before a judge of the court of chancery in the first instance, *ib.*
no order of district or county court for the appointment or removal of trustees or approval of a scheme to be valid unless confirmed by board, *ib.*
board, if dissatisfied with the order of district or county court, may remit the case for re-consideration, or may transfer the matter to a judge of the court of chancery, vol. i. 499, 500.
how orders of district or county court under this act to be enforced, vol. i. 500.
proceedings on appeal, *ib.*
bond to prosecute appeal may be put in suit, vol. i. 500, 501.

CHARITABLE TRUSTS—*continued.*
no chancery judge, or district or county court, in proceedings under this act, to try titles, &c., vol. i. 501.
notice to be published of application for schemes or appointment or removal of trustees under this act, *ib.*
by whom applications may be made, *ib.*
attorney-general may petition under 52 G. 3, c. 101, *ib.*
statement in certificate of board of the amount of income of any charity to be sufficient evidence for determining the jurisdiction or proceedings under this act, *ib.*
proviso as to particular endowments, *ib.*
lord chancellor to make orders for regulating proceedings before district and county courts. Judges to regulate proceedings, *ib.*
reservation of rights and privileges of church of England with respect to charities, vol. i. 502.
secretary to be treasurer of charities: such treasurer to be a corporation, *ib.*
land holden upon trust for a charity, subject to jurisdiction of court of chancery and of judge, may be vested in treasurer. Proviso, *ib.*
orders may be made revesting land, &c., in the trustees of the charity, *ib.*
treasurer to be a bare trustee, *ib.*
judge may order trustees, &c., holding stock &c., belonging to a charity subject to his jurisdiction to transfer same to official trustees, *ib.*
secretary to keep separate accounts of funds of each charity, vol. i. 503.
trustees may deposit deeds, &c., for security in a repository provided by the board, *ib.*
power to board to frame schemes for the appropriation of charitable property to varied trusts, *ib.*
notice to be given before approval of schemes, and objections may be submitted for the consideration of the board, *ib.*
construction of the above provision, vol. i. 510.
board may alter or modify or approve of schemes, vol. i. 503.
the matter of schemes may be referred to an inspector for local inquiry, *ib.*
inspectors to report the result of inquiry to the board, *ib.*
schemes when approved to be certified by the board, *ib.*
construction of the above provision, vol. i. 510.
copy of such certificate to be deposited in the parish or district, and notice given, vol. i. 503, 504.
annual report to be laid before parliament, which shall set forth all the schemes approved, vol. i. 504.
accounts of trustees of charities to be delivered to the clerks of county courts, clerks of the peace, and to the board, *ib.* But see now 18 & 19 Vict. c. 124, s. 44, vol. i. 510.
exemptions from the operation of act, vol. i. 504.
provisions as to charities supported partly by voluntary subscriptions, *ib.*
exempted charities may petition commissioners to have benefit of act, vol. i. 504, 505.

CHARITABLE TRUSTS—*continued.*
disputes among members of exempted charities may be referred to arbitration of commissioners, vol. i. 505.
legal estate of lands now vested in municipal corporations on charitable trusts to be vested in trustees, *ib.*
interpretation of terms, *ib.*
18 & 19 Vict. c. 124 (*The Charitable Trusts Amendment Act*, 1855).
16 & 17 Vict. c. 137 and this act to be construed together, vol. i. 506.
provision as to the salary of one of the commissioners repealed, *ib.*
power to appoint additional inspectors, *ib.*
acts of the board, how to be authenticated, *ib.*
entries in and extracts from the books of the board, how to be authenticated, *ib.*
powers of the commissioners and inspectors to inquire into charities extended, *ib.*
power to require trustees and others to attend and be examined, *ib.*
precepts or orders for the preceding purposes, how to be made, vol. i. 507.
persons not complying with requisitions, &c., to be deemed guilty of contempt of the court of chancery, *ib.*
power to apportion parochial charities after division of parishes, *ib.*
evidence as to annual income of any charity not exceeding 30*l.*, *ib.*
the official trustees of charitable funds may be empowered to call for transfers to them of stock, &c., *ib.*
notices to be given of certain orders of the board, *ib.*
proceedings upon the receipt of objections or suggestions, *ib.*
the official trustee of charity lands constituted, *ib.*
power to acting trustees to grant leases, vol. i. 507, 508.
appointments of official trustees of charitable funds regulated, vol. i. 508.
such trustees to have perpetual succession and may hold funds in that name, *ib.*
funds to vest in the official trustees for the time being, *ib.*
official trustees to keep banking account, *ib.*
mode of drawing on banking account, *ib.*
trustees may transfer stock to official trustees, *ib.*
as to disposal of principal moneys paid to them, *ib.*
all dividends and interest due to the official trustees of charitable funds to be placed to their banking account, *ib.*
regulating transfers and payments to or by the official trustees, *ib.*
copies of orders affecting the account of the official trustees to be sent to the board, *ib.*
indemnity to the bank and others, vol. i. 508, 509.
dividends on stock in name of official fund trustees to be carried to account free from income-tax, vol. i. 509.
restrictions of charges and leases of charity estates, *ib.*
sinking fund to be provided for paying off mortgages in lieu of provision in mortgages, *ib.*
extension of power of board as to compromise of claims, *ib.*

CHARITABLE TRUSTS—*continued.*
board may authorise payment for equality of exchange or partition, vol. i. 509.
power to ascertain lands charged with rents to charities, *ib.*
expenses of exchanges and partitions, and determining application of charges, *ib.*
incorporated charities and trustees for charities may re-invest in land, *ib.*
order of board for investments to be carried into effect and cost to be raised, *ib.*
board may direct official trustees to convey lands, &c., *ib.*
leases, &c., to be valid notwithstanding disabling acts, vol. i. 510.
board may approve schemes for letting charitable property, *ib.*
power to refer bills of costs in charity matters to taxation, *ib.*
construction of s. 27 of 16 & 17 Vict. c. 137, *ib.*
deeds, &c., relating to charities may be enrolled at the office, and copies to be evidence, *ib.*
construction of ss. 55 and 59 of 16 & 17 Vict. c. 137, *ib.*
amendment of s. 61 of 16 & 17 Vict. c. 137, and other provisions made as to the annual returns of accounts by trustees of charities, vol. i. 510, 511.
board may make orders as to delivery and publication of accounts by trustees, vol. i. 511.
application of s. 64 of 16 & 17 Vict. c. 137, *ib.*
acts not to apply to Roman Catholic charities, until 1st September, 1856, *ib.*
as to the term charity, *ib.*
acts not to extend to Eton or Winchester, *ib.*
short title, *ib.*
23 & 24 Vict. c. 136 (*The Charitable Trusts Act*, 1860).
the Charitable Trusts Act to be construed with this act, vol. i. 512.
certain administrative powers to be exercisable by the charity commissioners, vol. i. 512, 513.
board to notify to trustees of charity their intention of exercising jurisdiction, vol. i. 513.
the powers to be exercisable over no charities of which the gross income shall exceed 50*l.* without application of trustees, *ib.*
the board shall not exercise jurisdiction over contentious cases, *ib.*
notices to be given of certain orders, and objections or suggestions to be received, *ib.*
publication of definitive orders, *ib.*
powers to appeal against orders of board, *ib.*
who may be the respondent on appeals, vol. i. 514.
power to be applicable to charities vested in corporations, &c., *ib.*
jurisdiction of the district courts of bankruptcy and county courts enlarged, *ib.*
official trustees of charitable funds may be empowered to receive arrears of dividends, *ib.*
power for magistrates to give possession of school buildings and property held over by officers or recipients of charities, *ib.*
masters and mistresses of endowed schools to be removable, vol. i. 514, 515.

CHARITABLE TRUSTS—*continued.*
notice to schoolmasters, &c., vol. i. 514, 515.
sect. 21 of 16 & 17 Vict. c. 137, extended to other objects which boards may consider beneficial, vol. i. 515.
a majority of trustees to have legal power of dealing with the charity estates, *ib.*
official trustee not to be accountable for loss unless occasioned by his own neglect, *ib.*
accounts to be laid before parliament, *ib.*
power to require the transmission of documents belonging to charities, *ib.*
orders to be enforceable as under former acts, *ib.*
board to make minutes, *ib.*
salary of the secretary, *ib.*
indemnity to the Bank of England and others, *ib.*
commissioners, &c., exempted from serving on juries, vol. i. 516.
short title, "The Charitable Trusts Act," 1860, *ib.*
23 & 24 Vict. c. 134 (*The Roman Catholic Charities Act*).
no gift upon lawful charitable trust for exclusive benefit of Roman Catholics shall be invalid by reason only that it is subject to superstitious trusts; but court of chancery may apportion same that a portion thereof be subject to the lawful charitable trust declared by the donor, and the residue as the court may consider just, vol. i. 511, 512.
no proceedings to be instituted as to dealings with Roman Catholic charities prior to 2 & 3 Will. 4, c. 115, vol. i. 512.
certain deeds for Roman Catholic charities not to be void if enrolled within twelve months from passing of act, 9 Geo. 2, c. 36; 9 Geo. 4, c. 85, *ib.*
expense of enrolment, how to be defrayed, *ib.*
the trusts of charities, in the absence of settlements, may be ascertained from the usage, *ib.*
the act not to prejudice past or pending proceedings or adverse possession, *ib.*
nothing in this act to repeal provisions of 10 Geo. 4, c. 7, *ib.*
interpretation of "charity," *ib.*
short title—"The Roman Catholic Charities Act," *ib.*
extent of act, *ib.*

CHARITABLE USES.
no manors, lands, &c., nor money to be laid out in lands to be given for, unless by deed executed, &c., twelve months before death of donor, and enrolled, &c., vol. i. 486.
such limitation not to extend to purchases, &c., made for value, vol. i. 489.
deeds relating to purchase of lands for, valid, though formalities not complied with, vol. i. 491.
except deeds avoided by suits, vol. i. 492.
gifts, &c., made otherwise, absolutely void by 9 Geo. 2, c. 36, vol. i. 490.
but not to prejudice universities, or colleges of Eton, &c., *ib.*
other institutions exempted from operation of 9 Geo. 2, c. 36, vol. i. 491, n. (*a*).
no college to hold more advowsons than equal to one moiety of their fellows, vol. i. 490.
decisions on the act, vol i. 486 n.

CHARITABLE USES—*continued.*
act not to extend to estates in Scotland, vol. i. 491.
nor does it extend to lands in Ireland, or in the colonies, vol. i. 491, n. (*a*).
Roman Catholics subject to the same laws as dissenters with respect to places of worship, &c., vol. i. 492.
schoolmaster's oath, *ib.*
property subject to 9 Geo. 2, c. 36, vol. i. 493.
24 Vict. c. 9.
no future deed, &c., for charitable uses to be void by reason of not being indented [or containing any grant or reservation of rent, &c., or] of specified stipulations for donor's benefit, or (as to copyholds) for want of deed, vol. i. 516.
where charitable uses of any future deed, &c., are declared by any separate or other deed, &c., enrolment of such separate or other deed, &c., requisite within six months, *ib.*
no past deed, &c., for charitable uses upon valuable consideration to be void for any reason if enrolled in chancery, *ib.*
where charitable uses of any past deed, &c., not enrolled are declared by any other deed, &c., enrolment of such other deed, &c., sufficient, vol. i. 517.
where neither deed, &c., is enrolled, enrolment of such separate or other deed, &c., requisite within six months, *ib.*
act not to invalidate certain deeds, nor to extend to deeds, &c., already avoided, or to pending suits, *ib.*
when acknowledgment not necessary, *ib.*
act not to extend to Scotland or Ireland, nor to prejudice the two universities, or the colleges of Eton, Winchester, or Westminster, *ib.*
26 & 27 Vict. c. 106.
deeds by which lands are demised for charitable uses, to take effect from the making thereof, vol. iv. 958.
27 Vict. c. 13.
time for enrolment of deeds and assurances extended to 17th May, 1866, vol. iv. 956.
act to apply to separate deeds or instruments referred to, *ib.*
provision where original deed is lost, enrolment order, *ib.*
valuable consideration payable as rent to be equivalent to a consideration in money actually paid within the statute 9 Geo. 2, c. 36, vol. iv. 957.

CHARITIES.—See *Charitable Trusts; Charitable Uses; Friendly Societies.*
summary remedy for breach of trust relating to, by petition to court of equity, vol. iii. 831—833; vol. ii. 324.
exoneration of charitable institutions (under 150*l.* per annum) from land tax, vol. ii. 1066.
application of and inquiry into bequests and benefactions to poor criminal prisoners, vol. iii. 1325.
court of chancery empowered to appoint trustees of, vol. iv. 805.
poor law board may call for accounts of charity estates applicable to relief of poor, vol. iii. 1179, 1180.
corporation charities, management of, vol. i. 992—995.
enabling charitable societies to invest their proceeds in savings banks, vol. iv. 142.

CHARTERPARTY. See *Ships.*
stamp duty on, vol. iv. 502.

CHARTERS.
to corporations, companies, or fellowships of any art or mystery, or to societies for trade or merchandise, exempted from operation of statute against monopolies, vol. iii. 626.

CHEAT. See *False Pretences.*

CHECKS ON BANKERS. See *Bankers' Drafts.*

CHEMISTS, PHARMACEUTICAL. See *Apothecaries*, supra.
charter of 1843 confirmed, vol. iii. 335.
power to council to alter by-laws, provided they are approved by a general meeting of society and the secretary of state, *ib.*
manner of voting, *ib.*
council to appoint registrar, &c., *ib.*
registrar to make registers of members of society, &c., and to keep an index and books, as may be required, *ib.*
all members, associates, &c., of the society at the passing of this act entitled to be registered, *ib.*
registrar bound to certify, &c., and his certificate good evidence in absence of the contrary, *ib.*
persons appointed under charter or by-laws or this act, to conduct examinations, *ib.*
power to examiners to grant certificates, *ib.*
examiners to be appointed for Scotland, vol. i. 335, 336.
certificated persons entitled to be registered; persons registered as pharmaceutical chemists eligible to be members. Eligibility of persons registered as assistants, &c. Exceptions, vol. i. 336.
persons not duly registered shall not assume or use name or title of pharmaceutical chemist, or any name, title, or sign implying the same. Penalty on persons offending. Penalties, how recoverable in England and Wales, *ib.*
in Scotland, *ib.*
limitation for recovery of penalties, &c., *ib.*
application of penalties, *ib.*
registrar falsifying register, &c., guilty of a misdemeanour, *ib.*
any person wilfully procuring false certificate guilty of a misdemeanour, *ib.*
not liable to serve on juries, vol. ii. 935.

CHEQUES ON BANKERS. See *Bankers' Drafts.*
penalty for not specifying place where drawn, vol. i. 235.
all cheques to be stamped, vol. i. 236, 237.
payment of crossed cheques, *ib.*
forging, altering, &c., crossing of, vol. ii. (269).

CHESHIRE.
subjected to the general law respecting coroners, vol. i. 945.

CHILD.
abandoning or exposing, vol. ii. (285).
carnal knowledge of, vol. ii. (289).
stealing, vol. ii. (290).
concealing birth of, vol. ii (291).

CHIMNEY SWEEPERS AND CHIMNEYS.
penalty for compelling or allowing children to climb chimneys, vol. i. 427.
no child under 16 to be apprenticed to a chimney sweeper, *ib.*
regulation of construction of chimneys, *ib.*
penalty on making chimney of wrong construction, *ib.*
before whom convictions may be had, *ib.*
penalties, how to be levied and applied, *ib.*
in default of payment of penalty, party convicted to be imprisoned, vol. i. 427, 428.
inhabitants not incompetent witnesses by reason of paying rates, vol. i. 428.
distress not unlawful for want of form, *ib.*
tender of amends, *ib.*
appeal to quarter sessions, *ib.*
conviction not be quashed for want of form, *ib.*
27 & 28 Vict. c. 37 (*The Chimney Sweepers' Regulation Act*, 1864).
General.
short titles, vol. iv. 959.
commencement of act, *ib.*
interpretation, *ib.*
"sheriff," *ib.*
"chimney sweeper," *ib.*
this act to be construed with principal act, *ib.*
application of penalties, *ib.*
Protection of Children and young Persons.
restriction on employment of children under ten, *ib.*
chimney sweeper entering houses to sweep chimneys, &c., not to bring with him persons under sixteen, *ib.*
penalties for before-named offences, *ib.*
power to justices to impose imprisonment, *ib.*
burden of proof of age to lie on chimney sweeper, *ib.*
abolition of minimum penalty, *ib.*

CHLOROFORM.
administering in order to commit an offence, vol. ii. (284).

CHOKE.
attempt to, in order to commit an offence, vol. ii. (284).

CHOSE IN ACTION.
where any person shall refuse to sue for, or recover, for 28 days after an order of the court of chancery for that purpose, the court may make an order vesting the right to sue for and recover the chose in action in another person, vol. iv. 807.

CHRISTMAS DAY. See *Sunday.*

CHURCH BUILDING ACTS, vol. i. 517.

CHURCH BUILDING COMMISSIONERS' ACTS, *ib.*

CHURCH BUILDING LIFE TRUSTEES' ACT, *ib.*

CHURCH BUILDING SOCIETY'S ACT OF INCORPORATION, vol. i. 518.

CHURCH DISCIPLINE.
definition of terms, vol. i. 573.
bishop may issue a commission of inquiry, *ib*

CHURCH DISCIPLINE—*continued.*
notice to be previously given, vol. i. 574.
proceedings of the commissioners, *ib.*
report of the commissioners, vol. i. 575.
bishop may pronounce sentence by consent, without further proceedings, *ib.*
articles and depositions to be filed, *ib.*
service of copy of the articles on the party, *ib.*
bishop may require the party to appear before him, *ib.*
and may pronounce judgment on admission, *ib.*
how notice and requisition to be served, vol. i. 575, 576.
proceedings on a hearing before the bishop, vol. i. 576.
sentence of the bishop to be effectual in law, *ib.*
bishop may send the cause to the court of appeal of the province, *ib.*
judge of the court may make orders for expediting such suits, *ib.*
no appeal from interlocutory decree, *ib.*
bishop empowered to inhibit party accused from performing services of the church, &c., *ib.*
what appeals may be, vol. i. 577.
archbishops and bishops, members of the privy council, to be members of the judicial committee, on all appeals under this act, *ib.*
attendance of witnesses, and production of papers, &c., may be compelled, *ib.*
witnesses to be examined on oath, and to be liable to punishment for perjury, *ib.*
provisions of act not to interfere with persons instituting suits to establish a civil right, *ib.*
suits to be commenced within two years, *ib.*
proviso, *ib.*
27 G. 3, c. 44, not to apply, vol. i. 578.
as to exempt or peculiar places, *ib.*
no other suit to be instituted, *ib.*
if bishop patron, archbishop to act, *ib.*
powers of bishop and archbishop, *ib.*

CHURCHES.
provisions for the union of churches or benefices, vol. i. 546, 580, 600.
notices, &c., not to be given in, but affixed to doors, vol. iii. 1197, 1198.
riotous, violent, or indecent conduct in, vol. i. 1266, 1267.
rioters demolishing, vol. ii. (153).
injuring, vol. ii. (154).
injuring statues, monuments, &c., in, vol. ii. (253).
list of Church Building Commissioners' Acts, vol. i. 517.

CHURCH RATES.
where not exceeding 10*l.* in amount may be recovered before two justices, vol. i. 1257.
jurisdiction of justices ousted where validity of rate disputed, *ib.*
appeal to quarter sessions, *ib.*
due from quakers, not exceeding 50*l.* in amount, may be recovered before two justices, *ib.*
limiting imprisonment for, vol. ii. 576.
exemption from, of places of worship, vol. iii. 1154.

CHURCHWARDENS AND OVERSEERS.
See *Poor.*

CHURCHYARDS.
riotous, violent, or indecent conduct in, vol. i. 1266, 1267.
injuring statues, monuments, &c., in, vol. ii. (253).
stealing fixtures in, vol. ii. (198).

CIDER, sale of. See *Beer.*

CINQUE PORTS.
18 & 19 Vict. c. 48.
jurisdiction of lord warden in civil proceedings abolished, vol. i. 518.
writs and judgments to be directed and executed in the cinque ports as in other places, *ib.*
on petition of inhabitants of parishes within the Thanet division, her majesty may order such parishes to be part of said county, and county justices to have jurisdiction, *ib.*
justices of Kent empowered to levy county rates in the parishes and places which may be severed from Dover, *ib.*
51 Geo. 3, c. 36, 5 & 6 Will. 4, c. 135, and section 11 and part of section 10 of 6 & 7 Will. 4, c. 105, repealed as to places severed from Dover, vol. i. 519.
places severed from Dover to continue liable to existing debt, *ib.*
saving as to persons committed or held to bail in places separate from Dover, vol. i. 520.
compensations, *ib.*
prisoners in gaol of Dover castle to be removed to county gaol, *ib.*
saving as to the rights of lord warden, &c., *ib.*
20 & 21 Vict. c. 1, qualifies 18 & 19 Vict. c. 48, s. 5, *ib.*

CLERGY.—See *Advowson; Leases; Tithes.*
deeds to defeat successor's remedy for dilapidations, void, &c., vol. ii. 1213.
sequestration of benefice, &c., under bankrupt act. See *Bankruptcy*, supra.
Leases of Livings, Benefices, &c.
how long lease of benefice to endure, vol. i. 521.
what charges on benefices are invalid, *ib.*
parson having two benefices, allowed to leave to curate, &c., vol. i. 522.
Presentation to Benefices, &c., and Penalty against Simony.
presentations, &c., contrary to intent of founders, *ib.*
penalty for taking reward for voice in electing fellow into college, *ib.*
penalty for giving or taking money for resigning place in college, *ib.*
at every election, 31 Eliz. c. 6, and statutes of house to be read, vol. i. 523.
who to have forfeitures, and how recoverable, *ib.*
penalty for presenting to benefice, or being presented for reward, vol. i. 523, 524.
for presenting, or collating, or for being presented, to benefice with cure, for reward, vol. i. 525.
by 31 Eliz. no title to confer by lapse but after six months' notice, *ib.*
penalty for corrupt resigning or exchanging of benefice with cure, *ib.*

CLERGY—*continued.*
inflicted by ecclesiastical law not taken away, vol. i. 525.
for giving, &c., reward to make ministers, to give licence to preach, *ib.*
no presentation before 9th April, 1827, void on account of agreement to resign when another person specially named becomes qualified to take same, vol. i. 541, n. (*b*).
simoniacal contract not to prejudice after death of persons presented, vol. i. 527.
lease made *bonâ fide* by simonist good, *ib.*
persons refusing declaration disabled to present, *ib.*
universities shall then present, *ib.*
trustees for papists disabled, &c., *ib.*
3 Jac. 1, c. 5, enlarged as to papists not convict, &c., *ib.*
penalty on trustees presenting without notice, vol. i. 527, 528.
presentation of person beneficed void, vol. i. 528.
taking oath, &c., purges disability, *ib.*
what absence makes living void, *ib.*
penalty for taking for money the next avoidance, &c., *ib.*
a recusant shall not present to a benefice, nor grant an advowson, vol. i. 526.
the chancellor and scholars of Oxford shall present to a recusant's benefice in certain counties, *ib.*
the chancellor and scholars of Cambridge in others, *ib.*
none shall be presented who have another benefice, *ib.*
every grant made of living, &c., by papist, &c., void, unless made for a valuable consideration to a protestant purchaser, &c., vol. i. 531.
every devise made of living by a papist, with intent, &c., void, *ib.*
when any presentation is brought to any archbishop, &c., he may tender to the person, if present, the declaration in 25 Car. 2, c. 2, vol. i. 529.
if absent, summon him to appear, *ib.*
refusing to make the declaration, or to appear, the presentation shall be void, *ib.*
and the archbishop, &c., shall certify such refusal to the university, who shall present, &c., *ib.*
bishops, &c., to examine persons presented on oath, vol. i. 529, 530.
refusing to be examined, the presentation shall be void, vol. i. 530.
university may exhibit bill in chancery to discover fraudulent trust, *ib.*
quare impedit, in such cases, oath, *ib.*
answer of the patron evidence, *ib.*
loss of presentation, *ib.*
no lapse until three months after answer, vol. i. 530, 531.
university may sue out *quare impedit*, vol. i. 531.
the court may enforce the production of deeds relating to trusts, *ib.*
Resignation Bonds, &c., 9 G. 4, c. 94.
validity of resignation bonds, &c., in certain cases, vol. i. 541.
validity of presentations, vol. i. 542.
deposit of instrument with registrar of diocese, &c., *ib.*
requisites of resignation, &c., *ib.*
nullity of resignation for want of presentation, *ib*

CLERGY—*continued.*
act not to affect presentations by crown, &c., vol. i. 542.
Leases, 6 & 7 Will. 4, c. 20, vol. ii. 1221.
restrictions on ecclesiastical persons granting leases, *ib.*
recitals of lease to be taken as evidence of fact, vol. i. 1222.
See 6 & 7 W. 4, c. 64, vol. i. 1223.
penalty on introduction of false recitals, vol. i. 1222.
certain leases grantable conformable to usual practice, *ib.*
exchange of livings, *ib.*
act not to prevent grants under acts of parliament, &c., *ib.*
validity of leases, vol. ii. 1223.
enabling incumbents to demise lands of their benefices, 5 Vict. c. 27, post leases, vol. ii. 1223.
17 Geo. 3, c. 53 (*Erection, &c., of Parsonage Houses*).
incumbent of any living where there is no house, &c. (with consent of the ordinary and patron), may borrow money to build one, and mortgage the glebe, &c., for 25 years, vol. i. 532.
mortgagee to execute counterpart of the mortgage to be kept by the incumbent, &c., *ib.*
mortgagee may distrain, *ib.*
money borrowed to be paid to such persons as ordinary, &c., shall appoint, vol. i. 533.
contract for the buildings, &c., *ib.*
how the balance shall be disposed of, *ib.*
ordinary to cause inquiry to be made of the condition of the buildings when incumbent entered on the living, *ib.*
directions for payment of the principal and interest of the mortgages, &c., *ib.*
proportioning the annual payment in case of avoidance, vol. i. 534.
the ordinary of any living worth 100*l.* per annum which has no proper habitation may proceed in execution of this act, *ib.*
money received for dilapidations, &c., shall be applied in part of the payments, &c., *ib.*
where new buildings are necessary, ordinary, &c., may purchase any convenient house, &c., vol. i. 534, 535.
purchase money to be raised by sale, &c., of part of the glebe or tithes, vol. i. 535.
governor of queen Anne's bounty empowered to lend, &c., *ib.*
colleges, &c., may lend any sum without interest, *ib.*
who is to act for patron who shall be a minor, &c., *ib.*
writings not liable to stamp duty, *ib.*
proviso, when ordinary a body corporate, &c., *ib.*
consent of rector, &c., vol. i. 536.
disputes touching residence, &c., *ib.*
patron, &c., to make allowance for applying the money, &c., *ib.*
in what manner the consent of the crown shall be made known, &c., *ib.*
lords of manors may grant a part in perpetuity, &c., *ib.*
1 & 2 Vict. c. 106 (*Pluralities and Residence*).
both acts, 21 H. 8, c. 13, and 57 Geo. 3, c. 99, repealed, saving as to penalties incurred or licences granted, vol. i. 543.

CLERGY—*continued.*
not more than two preferments to be held together, vol. i. 543.
nor two benefices unless within 10 miles of each other, *ib.*
nor if population of one be more than 3,000 or joint yearly value shall exceed 1,000*l.*, *ib.*
if yearly value of one be less than 150*l.* and the population shall exceed 2,000 persons the two may be held jointly after statement of reasons by the bishop, vol. i. 543, 544.
proviso as to residence on larger parish, vol. i. 544.
licence to hold together any two benefices must be obtained from the archbishop of Canterbury, *ib.*
a statement of certain particulars to be made by every spiritual person to the bishop of the diocese previous to application for a licence, *ib.*
bishop may inquire as to the accuracy of statement, *ib.*
bishop to transmit a certificate to the archbishop of Canterbury, setting forth particulars, *ib.*
how annual value of two benefices to be held together by dispensation to be estimated, vol. i. 544, 545.
certificate to be deposited in office of faculties, and be conclusive evidence of value, population, and distance, vol. i. 545.
in other cases how annual value to be estimated, *ib.*
acceptance of preferment, contrary to this act, vacates former preferment, *ib.*
present rights of possession saved, *ib.*
saving of other rights, *ib.*
saving as to former chaplains to the house of commons, vol. i. 546.
acts 37 H. 8, c. 21, and 17 C. 2, c. 3, for uniting churches, repealed, *ib.*
and their provisions re-enacted and extended, *ib.*
glebe lands, &c., may in certain cases be excepted out of any united benefice to augment the provision for any other adjoining poor benefice, by an exchange in such manner that the augmentation shall be situate within the limits of such other benefice, vol. i. 547.
such conveyances in exchange to be by deed in writing, under hands and seals, to be enrolled, *ib.*
approval of bishop, vol. i. 548.
no union except under this act, *ib.*
provisions for partly disuniting united benefices, *ib.*
incumbent may resign one or more of disunited benefices, and patron may present, *ib.*
portion of glebe, &c., may be assigned to each of the dissevered benefices, *ib.*
and shall belong to the incumbent, *ib.*
more than one house may be provided in disunited benefices, vol. i. 549.
provisions for annexing isolated places to the contiguous parishes, or making them separate benefices, *ib.*
power of adjusting disputes arising out of the foregoing alterations, *ib.*
spiritual persons not to take to farm for occupation above eighty acres, without consent of the bishop, and then not beyond seven years, under penalty of 40*s.* per acre, vol. i. 550.
no spiritual person beneficed, or performing ecclesiastical duty, shall engage in trade, or buy to sell again for profit or gain, *ib.*
not to extend to spiritual persons engaged in keeping schools, or as tutors, &c., in respect of anything done or any buying or selling in such employment, or to selling anything *bonâ fide* bought for the use of the family, or to being a manager, &c., in any benefit or life or fire assurance society, or buying and selling cattle, &c., for the use of his own lands, &c., *ib.*
spiritual persons illegally trading may be suspended, and for the third offence deprived, *ib.*
See 4 Vict. c. 14, vol. i. 579.
penalties for non-residence on incumbent not having a licence or exemption unless he be resident on another benefice, vol. i. 551.
licence to reside out of the usual house if unfit, *ib.*
houses purchased by governors of queen Anne's bounty to be deemed residences, *ib.*
vicar or perpetual curate may reside in rectory house, vol. i. 552.
widow of any spiritual person may continue in the house of residence for two months after his decease, *ib.*
certain persons exempt from penalties for non-residence, *ib.*
privileges for temporary non-residence, *ib.*
performance of cathedral duties, &c., may be accounted as residence under certain restrictions, *ib.*
existing rights as to exemptions and licences preserved, vol. i. 552, 553.
if house of residence not kept in repair the incumbent to be liable to the penalties for non-residence, vol. i. 553.
every petition for licence for non-residence to be in writing, and to state certain particulars, *ib.*
bishop may grant licences for non-residence in certain cases, *ib.*
appeal to archbishop in case of refusal, vol. i. 554.
in cases not enumerated bishops may grant licences to reside out of limits of benefice, subject to allowance by the archbishop, *ib.*
by whom licences may be granted while a see is vacant, &c., *ib.*
duration of licences, *ib.*
fee for licence, *ib.*
licences not to be void by the death or removal of the grantor, *ib.*
licences may be revoked, *ib.*
copies of licences or revocations to be filed in the registry of the diocese, and a list kept for inspection, *ib.*
and copies transmitted to churchwardens, and publicly read at the first visitation, *ib.*
list of licences allowed by the archbishop or granted in his own diocese to be annually transmitted to her majesty in council, who may revoke licences, &c., vol. i. 555.
licence although revoked to be deemed valid between the grant and revocation, *ib.*
incumbent to answer questions transmitted by bishop, *ib.*

CLERGY—*continued.*
annual return to be made of residents and non-residents, &c., vol. i. 555.
residence may be enforced by monition, or the living sequestered, *ib.*
appeal against sequestration to the archbishop, vol. i. 556.
incumbent returning to residence on monition to pay the costs, *ib.*
incumbent returning to residence on monition, but again absenting himself within twelve months, the bishop may without further monition sequester, vol. i. 557.
reasons for remitting penalties for non-residence of a certain amount to be transmitted to the queen in council, *ib.*
benefice continuing so sequestrated one year, or being twice so sequestrated within two years, to become void, *ib.*
contracts for letting houses in which any spiritual persons required by bishop to reside to be void, vol. i. 557, 558.
penalty for holding adverse possession, forty shillings for every day, vol. i. 558.
incumbent not liable to penalty for non-residence while the tenant occupies, *ib.*
vicar's oath relating to residence abolished, *ib.*
on avoidance of benefice, not having fit house of residence, bishop to raise money to build one by mortgage, &c., for thirty-five years, *ib.*
bishop to transmit copies of report, &c., to patron and incumbent, who may object within two months; and, if so, bishop may order plan to be modified or abandoned, vol. i. 559.
every mortgagee to execute a counterpart of the mortgage to be kept by the incumbent, &c., *ib.*
on failure of payment of principal and interest for forty days after due, mortgagee may distrain, *ib.*
money borrowed to be paid to such persons as the bishop shall appoint, *ib.*
who shall contract for the buildings, &c., and see the same executed and pay for them, &c., *ib.*
how the balance remaining shall be disposed of, vol. i. 559, 560.
directions for payment of principal and interest of the mortgages, vol. i. 560.
as soon as the buildings are completed, incumbent to insure them against fire, *ib.*
for proportioning the annual payment in case of death or other avoidance, *ib.*
all money received for dilapidations, &c., shall be applied in part of the payments under the aforesaid estimate, *ib.*
or in making some additional improvements, &c., *ib.*
where new buildings are necessary for the residence of the incumbent the bishop may purchase any conveniently situated house and a certain portion of land, *ib.*
buildings and lands to be conveyed to patron in trust for the incumbent for the time being, vol. i. 561.
governors of queen Anne's bounty empowered to lend certain sums to promote the execution of this act, *ib.*
colleges in Oxford and Cambridge, and other corporate bodies, patrons of livings, may lend any sums without interest to aid the execution of this act, *ib.*

CLERGY—*continued.*
allowance to persons nominated by the bishop to pay and apply money, vol. i. 561.
non-resident incumbents neglecting to appoint curates, the bishop to appoint, *ib.*
curate to reside on benefices under certain circumstances, *ib.*
if duty inadequately performed, the bishop may appoint a curate, *ib.*
but incumbent may appeal, vol. i. 562.
in large benefices an assistant curate may be required, *ib.*
appeal, *ib.*
stipend to be paid by committee of lunatic's estate, *ib.*
bishops may enforce two services on Sundays in certain cases, *ib.*
not to affect the provision of the act 58 Geo. 3, c. 45, s. 65, *ib.*
statement of particulars necessary to be given, and declaration to be made, on application for a licence for a curate, *ib.*
fee for licence, vol. i. 562, 563.
bishops shall appoint stipends to curates, vol. i. 563.
and decide differences respecting them, *ib.*
stipends to curates of incumbents before 20th July, 1813, not to exceed a certain rate, *ib.*
stipends to curates to be according to specified scale, proportioned to the value and population of the benefice, *ib.*
larger stipends in certain cases of larger value and population, *ib.*
bishop may require two curates, *ib.*
appeal, vol. i. 564.
smaller stipends in certain cases, *ib.*
stipend of curates engaged to serve interchangeably at different benefices belonging to the same incumbent, *ib.*
how the stipends shall be adjusted where the curate is permitted to serve in two adjoining parishes, *ib.*
agreements for stipends to curates contrary to this act, void, *ib.*
curate's stipend, if of the value of the benefice, liable to all charges, *ib.*
bishop may allow incumbent to deduct from curate's stipend for repairs to a limited amount in certain cases, vol. i. 564, 565.
curate directed to reside in parsonage house, in case of non-residence of incumbent, may have certain portion of glebe assigned to him by bishop, vol. i. 565.
curates to pay taxes of parsonage houses in certain cases, *ib.*
curate to quit cure upon having six weeks' notice from new incumbent within six months after his admission, and in other cases incumbent, with bishop's permission, may dispossess curate of cure on six months' notice, *ib.*
appeal, *ib.*
curate peaceably to deliver up possession of house of residence within six months after notice, or pay 40*s.* per day, *ib.*
curate not to quit curacy without three months' notice to incumbent and bishop, under a penalty, *ib.*
bishop may license curates employed without nomination, revoke any licence, and remove the curate, subject to appeal to the archbishop, vol. i. 566.
bishop may appoint curates to all sequestered benefices, *ib.*

CLERGY—*continued.*
stipend of curate of sequestered benefice to be paid by sequestrator, vol. i. 566.
proviso for payment by succeeding incumbent, where profits during sequestration insufficient, *ib.*
licences to curates, and revocations thereof, to be entered in the registry of the diocese, *ib.*
repeal of part of 6 & 7 Will. 4, c. 77, *ib.*
provision for benefices in certain Welsh dioceses, vol. i. 567.
provision for curates in certain Welsh dioceses, *ib.*
no spiritual person to serve more than two benefices in one day, *ib.*
provisions relating to bishops to apply to archbishops in their own dioceses, *ib.*
power of archbishops and bishops as to exempt or peculiar benefices, &c., *ib.*
where jurisdiction is given to bishops, &c., all concurrent jurisdiction to cease, *ib.*
sequestrations under this act to have priority, *ib.*
the mode of appealing to the archbishop of the province, vol. i. 568.
regulations respecting monitions and sequestrations, *ib.*
sequestration not to issue after monition to reside until service of order, *ib.*
recovery of penalties against spiritual persons, *ib.*
recovery of fees, &c., *ib.*
penalty on registrar for neglect, vol. i. 569.
recovery of penalties against laymen or unbeneficed clergymen, *ib.*
penalties not recoverable for more than one year, *ib.*
application of penalties, *ib.*
commencement and conclusion of the year, *ib.*
how months to be calculated, *ib.*
certified copy of entry of licence to be evidence, *ib.*
statements how to be verified, *ib.*
definition of the term "cathedral preferment," *ib.*
and "benefice," *ib.*
who to be considered patron, *ib.*
how consent of patron to be testified where patronage in the crown, *ib.*
how, where patron is an incapacitated person, vol. i. 570.
how, where patronage is attached to the duchy of Cornwall, *ib.*
distance how to be computed, *ib.*
population how to be computed, *ib.*
tables of fees to be taken by officers with respect to admissions to benefices, by whom to be established, *ib.*
act not to affect powers of bishops, vol. i. 571.
act not to extend to Ireland, *ib.*
4 Vict. c. 14.
no association or co-partnership, or contract entered into by any of them, to be illegal by reason only of spiritual persons being members thereof, vol. i. 579.
no spiritual person beneficed or performing ecclesiastical duty to act as director, *ib.*
13 & 14 Vict. c. 98 (*Pluralities*).
spiritual persons not to hold benefices in plurality except under certain circumstances, *ib.*
spiritual persons may hold two benefices subject to provisions of this act, *ib.*

CLERGY—*continued.*
explanation of term "benefice," vol. i. 579.
how value of benefice estimated, *ib.*
deans of cathedrals not to hold office of heads of colleges or halls in the universities, vol. i. 579, 580.
proviso, vol. i. 580.
heads of colleges in the universities not to hold cathedral preferments, except in certain cases, *ib.*
presentation of the same person to two benefices to be void, *ib.*
the Queen in council may order union of benefices in certain cases, *ib.*
not to affect preferment or benefices to which persons have been admitted before the passing of this act, *ib.*
persons already holding one benefice may hold one other benefice if nominated or appointed for next presentation, previously to 23rd December, 1837, *ib.*
extending provisions of 4 & 5 Vict. c. 39, as to holding benefices with honorary canonries, &c., *ib.*
previous provisions not to extend to Ireland, *ib.*
faculties for the same person to hold two livings in Ireland not to be granted, *ib.*
14 & 15 Vict. c. 104 (*Episcopal and Capitular Estates*).
power of ecclesiastical corporations, with approval of church estate commissioners, to sell, enfranchise, or exchange church lands, or to purchase the interest of their lessees, vol. i. 581.
provision for apportionment of rent on surrender of part of lands comprised in any lease, *ib.*
the interest acquired by lessees to be subject to the equities and bound by the covenants of renewals to which their leases may be subject, *ib.*
leaseholders' interest not to be purchased without consent of sub-lessees who have covenants of renewals, vol. i. 581, 582.
confirmation of conveyances by church estates commissioners sufficient, vol. i. 582.
moneys to arise from sale, exchange, or enfranchisement, to be laid out as hereinbefore authorized, or in the purchase of other lands, *ib.*
moneys subject to purchase of lands for use of ecclesiastical corporation may be applied in purchasing interests, *ib.*
provision in case of increase or deficiency of income in consequence of sales, &c., *ib.*
how leases of lands acquired by any ecclesiastical corporation under this act may be made, *ib.*
general report of proceedings of church estates commissioners to be sent annually to secretary of state, vol. i. 583.
16 & 17 Vict. c. 35.
persons appointed to preferments, &c., in cathedral or collegiate churches upon certain vacancies not entitled to compensation in case of abolition, &c., *ib.*
to what dignities, &c., this act extends, *ib.*
16 & 17 Vict. c. 50 (*Exchange of Patronage*).
power for archbishop, &c., by authority of a scheme of ecclesiastical commissioners, to exchange patronage, vol. i. 584.
commissioners, before submitting scheme for approval, to inquire into and certify particulars, *ib.*

CLERGY—*continued.*
as to the meaning of the word "person," vol. i. 584.
who to assent in cases of exchange of benefices in right of the crown, *ib.*
as to patronage of benefices taken by the crown, or given in exchange, vol. i. 584, 585.
provisions of 1 & 2 Will. 4, c. 45, respecting the annexation of laws, &c., to any church, &c., extended to this act, vol. i. 585.

17 & 18 Vict. c. 84 (*Augmentation of Benefices*).
powers given to rectors and vicars of making annexations or grants in aid, may be exercised by incumbents, &c., *ib.*
incumbent entitled to glebe land, &c., may annex the same to church of district wherein situate, *ib.*
consent of bishop and patron to annexation and grant, *ib.*
section 13 of 1 & 2 Will. 4, c. 45, to extend to annexations under this act, *ib.*
rectories impropriate, tithes, &c., may be released from rent-charges, with the consent of bishop, &c., *ib.*
who shall be deemed the patron to consent, vol. i. 586.
act to be construed as though contained in 1 & 2 Will. 4, c. 45, *ib.*
as to apportionment of income, where two benefices belong to the same patron, *ib.*

17 & 18 Vict. c. 116 (*Episcopal and Capitular Estates*).
14 & 15 Vict. c. 104, continued, *ib.*
on sale or exchange of part of lands, &c., comprised in any lease, rent may be apportioned, *ib.*
trustees of will or settlement may raise money for enfranchisement, vol. i. 586, 587.
arbitrators may be named, vol. i. 587.
how copyholders' right of renewal to be ascertained, *ib.*
provision relating to apportionment of proceeds of sales, vol. i. 588.
like provision in respect of purchases and exchanges, *ib.*
provision respecting local claim on tithes, *ib.*
reference to arbitration to determine value of lands vested or to be vested in ecclesiastical commissioners, *ib.*
ecclesiastical commissioners to state like particulars as church estates commissioners, *ib.*
basis of report of 1850 may be taken, *ib.*
how computations on the duration of lives are to be calculated, *ib.*
interpretation, *ib.*

18 & 19 Vict. c. 127 (*Union of Contiguous Benefices*).
contiguous benefices may be united under this act, without regard to the aggregate population or yearly value, vol. i. 589.
on representation of inhabitants of any two or more parishes that their benefices might be advantageously united, the bishop shall inquire into the same, *ib.*
church building commissioners may propose scheme for transfer of surplus revenues to poor parishes, *ib.*
scheme to be posted on church doors, &c., vol. i. 590.
parties interested may show cause against scheme, *ib.*

CLERGY—*continued.*
if no sufficient cause shown, commissioners to certify to queen in council, vol. i. 590.
proviso, *ib.*
protests against the scheme may be considered by judicial committee, *ib.*
queen in council may make orders affirming or approving any scheme, *ib.*
orders in council to be gazetted and registered and to have force of law, *ib.*
commissioners may propose scheme for erection of new church or parsonage, removal of old church or parsonage, sale of site, &c., for purposes of this act, vol. i. 590, 591.
no burial ground or site of church to be sold under this act, vol. i. 591.
vaults and tablets, *ib.*
church and vestry of church left standing to be the church and vestry of united parishes, *ib.*
bishop of London may, under certain circumstances, appropriate for service in Welsh one of the churches in London, otherwise to be pulled down, *ib.*
bishop may prepare a scheme for transference of lectures from churches to be pulled down, *ib.*
commissioners may reappropriate pews of churches left standing in united benefices, *ib.*
sites of churches to be pulled down to vest in commissioners, in trust to sell, and apply the proceeds to purposes indicated in order in council, vol. i. 591, 592.
commissioners may make valid conveyances of such sites, vol. i. 592.
proviso, *ib.*
commissioners to report, *ib.*
extent of act, *ib.*
continuance of act, *ib.*

19 & 20 Vict. c. 50 (*Advowsons*).
interpretation of certain terms, vol. i. 592.
power to direct sale of an advowson where required by owners, being inhabitant ratepayers, &c., present at a meeting convened for the purpose, vol. i. 592, 593.
incumbent to be chairman, vol. i. 593.
majority present to bind minority, *ib.*
if sale is decided by meeting, trustees to execute act, *ib.*
if no trustee, persons to be appointed "elected trustees," *ib.*
certificate by two justices to be sufficient evidence, *ib.*
if determined to sell advowson, the same to become absolutely vested in trustees, and trustees to proceed to a sale, *ib.*
conveyance of the advowson, *ib.*
receipts of trustees to be sufficient discharges, *ib.*
application of moneys, *ib.*
investing moneys, vol. i. 594.
concurrence of two-thirds of trustees necessary, *ib.*
supplying vacancies in the number of trustees, *ib.*
trustees not to be accountable for involuntary losses, *ib.*
vacancies in the incumbency before sale to be filled up, *ib.*
owners may consent to advance of money for certain purposes authorised, *ib.*
certificate of justices' evidence of consent, *ib.*
extent of act, *ib.*

CLERGY—*continued.*
19 & 20 Vict. c. 104 (*New Parishes*).
power to constitute new districts, though they contain consecrated churches, vol. i. 595.
district containing a church to become a new parish on being constituted a separate district by order in council, *ib.*
district may be constituted without providing endowment as required by sect. 9 of 6 & 7 Vict. c. 37, *ib.*
section 22 of 6 & 7 Vict. c. 37, to apply to ecclesiastical and collegiate corporations, *ib.*
right to pews in the old parish church not to be retained after occupation of sittings in the new, *ib.*
pew rents may be taken according to scale, and applied towards repair of church and providing endowments, *ib.*
upon permanent endowment of any church or chapel a proportionate number of sittings to be declared free, or scale of pew rents to be reduced, *ib.*
scale of pew rents may be altered, *ib.*
clerk and sexton to be appointed by incumbent, vol. i. 596.
freeholds of titles of churches and burial-grounds to vest in incumbents, *ib.*
offices of the church may be authorised to be performed on application of the incumbent, *ib.*
reserved fees to belong to original incumbent until first avoidance, then to the incumbent of new parish, *ib.*
provisions of 19th sect. of 6 & 7 Vict. c. 37, extended, *ib.*
districts may become separate and distinct parishes, *ib.*
incumbents of new parishes to have exclusive cure of souls therein, *ib.*
provisions contained in sect. 20 of 6 & 7 Vict. c. 37 extended, vol. i. 597.
patronage may be conferred upon contributors to endowment or their nominees upon certain considerations, *ib.*
assignment of patronage to be made with certain consents, *ib.*
notices to be sent to patrons, *ib.*
who to be deemed patrons, *ib.*
patronage not to be sold, *ib.*
penalty of lapse for so doing, *ib.*
patronage may be vested in certain cases in incumbent of original parish, *ib.*
land, tithes, &c., and other endowments, to vest in incumbent and his successors, vol. i. 598.
appointment of trustees, &c., *ib.*
parishes may be divided with certain consents, *ib.*
in new parishes and parishes already divided a division and resettlement of endowments may be made, *ib.*
as to providing houses of residence for spiritual persons serving any church or chapel, vol. i. 599.
churchwardens to be paid compensation for rights of common, *ib.*
nothing to affect provisions of 13 & 14 Vict. c. 41, &c., *ib.*
powers of 3 & 4 Vict. c. 113, and 4 & 5 Vict. c. 39, extended to this Act, *ib.*
commissioners may apportion endowment, *ib.*
for purposes of burial parishes to be ecclesiastical districts, *ib.*

CLERGY—*continued.*
interpretation of certain terms, vol. i. 599.
extent of act, *ib.*
short title of acts, *ib.*
23 & 24 Vict. c. 142 (*Union of Contiguous Benefices*).
contiguous benefices within the metropolis as defined by 18 & 19 Vict. c. 120, may be united, vol. i. 600.
interpretation of terms, *ib.*
power to bishops of London or Winchester to issue commissions, *ib.*
commission, how to be nominated, *ib.*
the number to constitute a quorum, their powers, and the return to the commission, *ib.*
disqualification of commissioners, and the issuing of a fresh commission, vol. i. 601.
bishop to prepare and transmit proposals for a scheme to churchwardens and vestry, *ib.*
vestry to notify assent or objections, and bishop to transmit final proposals to ecclesiastical commissioners, to prepare scheme and certify same to the queen in council, *ib.*
what the commissioners shall insert in the scheme, *ib.*
part of a benefice or united benefice may be severed and included in scheme, *ib.*
surplus revenue of united benefice may be annexed as an endowment to any other benefice in the metropolis or its vicinity, vol. i. 602.
patronage of benefices may be exchanged for facilitating unions, *ib.*
orders in council when published in the Gazette and registered to have force of law, *ib.*
scheme may provide for erection of new church or parsonage, removal of old church or parsonage, sale of site, &c., vol. i. 603.
schemes to be laid before parliament before being submitted to her majesty, *ib.*
judicial committee to consider appeal or protest against scheme, *ib.*
site of church pulled down not to be sold or let without certain consents, *ib.*
after union of benefices parishes to become united for ecclesiastical purposes, and scheme to determine which church to be parish church, vol. i. 604.
bishop may allow additional church left standing to be used for certain services, *ib.*
estates of parishes united to remain distinct as before union, except as affected by this act, *ib.*
property belonging to separate parishes how to be applied, *ib.*
providing fund for payment of expenses of carrying act into execution, *ib.*
scheme to be valid notwithstanding informalities or omissions, vol. i. 604*a*.
as to consents of patrons and vestries to schemes, *ib.*
supplemental orders may be made, *ib.*
bishop may prepare a scheme as to lectures customarily preached in churches to be pulled down, *ib.*
bishop of diocese may direct churches to be reseated, and seats to be apportioned for the accommodation of parishioners, vol. i. 604*b*.
appropriation of seats in church of united parish, *ib.*

CLERGY—*continued.*
property to be sold to vest in ecclesiastical commissioners, vol. i. 604*b*.
extending provisions of 1 & 2 Vict. c. 106, and 18 & 19 Vict. c. 127, *ib.*
act not to interfere with powers of 1 & 2 Vict. c. 106, &c., *ib.*
as to nomination of clerical commissioners in certain cases, *ib.*
26 & 27 Vict. c. 82 (*English Church Services in Wales*).
power to bishops of Welsh dioceses to license chapels for performance of divine service in English, and nominate minister thereto, *ib.*
as to cases in which incumbent refuses or fails to nominate, *ib.*
licensed building not to be a parochial chapel without assent of incumbent, *ib.*
incumbent's rights not to be affected, *ib.*
26 & 27 Vict. c. 120 (*Augmentation of Benefices*).
power to lord chancellor to sell advowsons in first schedule, vol. i. 604*c*.
parties desirous of purchasing to make an offer to lord chancellor, stating terms, *ib.*
more offers than one may be received, *ib.*
power to lord chancellor to require from incumbents a return of income and outgoings, *ib.*
Mode of Payment of Purchase Money:
purchasers may pay the money into the bank, or in other modes, with consent of lord chancellor, *ib.*
Application of Purchase Money:
purchase money may be applied under direction of lord chancellor, vol. i. 605.
annuities or rent-charges may be purchased, *ib.*
parsonage houses may be built out of purchase money, *ib.*
what proportion may be applied to augmentation of living, *ib.*
inquiry as to title and the sufficiency of value of proposed security, *ib.*
Mode of Conveyance:
form of instrument of conveyance, *ib.*
form of annuity, vol. i. 605*a*.
form of mortgage, *ib.*
incidents of annuity, *ib.*
annuity to be payable half-yearly, *ib.*
apportionment of annuity between incumbents on vacancy, *ib.*
recovery of annuity, *ib.*
when advowson purchased, the title to be indefeasible, *ib.*
power for limited owners to purchase, *ib.*
power to persons, corporate or unincorporate, to purchase, &c., advowsons, but not to hold more than four of them, *ib.*
purchaser of advowson under this act not to re-sell until expiration of five years, *ib.*
questions concerning application of act to be argued before lord chancellor, *ib.*
tenant in tail or in fee of lands within the limits of certain livings may apply for the purchase of the advowsons, *ib.*
proviso as to the number of livings to be sold under amount herein named, &c., *ib.*
purchase-money for such livings to be paid to ecclesiastical commissioners to credit of a distinct account, vol. i. 605*b*.
lord chancellor may augment benefices in his gift, *ib.*
proviso as to such augmentation, *ib.*
how annual value is to be ascertained, *ib.*

CLERGY—*continued.*
Miscellaneous Provisions:
limiting amount of fees on the purchase of advowsons, vol. i. 605*b*.
limiting fees to be paid in office of land registry, *ib.*
payment of expenses under this act, *ib.*
As to the Lord Chancellor's Secretary of Presentations:
by whom business to be transacted, *ib.*
returns to be made to parliament, *ib.*
lord chancellor to make general orders for regulating proceedings, *ib.*
lord chancellor not to incur personal liability, &c., in respect of proceedings under this act, *ib.*
provisions of 8 & 9 Vict. c. 18, to apply to this act, *ib.*
saving crown rights, *ib.*
interpretation of terms, *ib.*
commencement of act, *ib.*
27 & 28 Vict. c. 37.
lands and hereditaments may be transferred by cathedral corporations to ecclesiastical commissioners for money payments, vol. iv. 960.

CLERGYMAN.
arrest of, under certain circumstances prohibited, vol. i. 117; vol. ii. (286).
exempt from serving on juries, vol. ii. 911.
obstruction of, in discharge of his duties, vol. i. 116, 117; vol. ii. (286).
not bound to solemnise marriage of person whose former marriage has been dissolved on ground of his or her adultery, vol. i. 1291.
but is bound to allow such marriage to be solemnised in his church by any other clergyman, *ib.*

CLERK.
larceny by, vol. ii. (206), (207).
embezzlement by, vol. ii. (207).
assisting agents or factors in fraudulently disposing of property intrusted to them, vol. ii. (211).

CLERK OF THE PEACE.
repeal of so much of 12 R. 2, c. 10 and 14 R. 2, c. 12, as directs payment of wages to, vol. ii. (73).
enabling justices to settle fees of, vol. ii. 972
his duties on estreats of fines, &c., vol. iv. 222—226, 165.
duties imposed on town clerks by 3 Geo. 4, c. 46, to be performed by clerks of the peace, vol. i. 1093.
compellable to take custody of copies of special acts relating to incorporated companies, vol. i. 757.
payment of, by salary instead of fees, vol. ii. (57).
fee payable to, on deposit of inclosure award, vol. ii. 816.
conveyance of county property to, vol. ii. 999.
removal of, vol. iv. 1019, 1020.

CLERK TO JUSTICES.
settling fees to be taken by, vol. ii. 955.
enabling justices to settle fees to be taken by, vol. ii. 972.
payment of, by salary instead of fees, vol. ii. (57).

CLERK TO JUSTICES—*continued.*
clerk to borough justices not to be alderman or councillor; or clerk of the peace of the borough or county, nor by himself or partner to be employed or interested in prosecutions, vol. i. 1098.

COAL. 1 & 2 Will. 4, c. lxxvi.; 1 & 2 Vict. c. ci., 8 & 9 Vict. c. ci.; 14 & 15 Vict. c. cxlvi., 24 & 25 Vict. c. 42.
duty on, vol. i. 607, 618.
patent fuel not liable to duty, *ib.* n. (*a*).
accounts to be laid before parliament, vol. i. 607.
coals to be sold by weight, *ib.* 606, n. (*a*).
existing contracts for coals to be completed by weight instead of measure, vol. i. 607.
penalty for selling one sort of coals for another, *ib.*
seller's ticket to be sent with coals, vol. i. 607, 613, 614.
not necessary where coals delivered from vendor's ship, vol. i. 614, n. (*c*).
action not maintainable for price of coals, without delivery of ticket, vol. i. 614, n. (*b*).
coals to be delivered in sacks, containing certain quantity, vol. i. 607.
may be delivered in bulk, *ib.*
carman to weigh carriage and coals if required, *ib.*
penalty on deficiency in weight of coals, vol. i. 608.
carman to carry weighing machine in cart, vol. i. 614.
penalty for neglect, *ib.*
weighing machine may be altered, vol. i. 608.
carman to weigh any of the sacks if required, *ib.*
coals to be weighed, if required, vol. i. 609.
penalty for refusal, &c., *ib.*
attendance of constable, *ib.*
what quantities not to be delivered without being weighed, *ib.*
weighing machines to be kept at watchhouses and police stations, vol. i. 610.
recovery and application of fines and penalties not exceeding 25*l.*, *ib.*
power to justices to proceed by summons, without information, vol. i. 617.
part of penalties may be given to informers, vol. i. 611.
payment of witnesses' expenses, *ib.*
penalties incurred by carmen recoverable from employers, *ib.*
employers may recover back penalties from carmen, *ib.*
appeal, *ib.*
attendance of witnesses, how compelled, *ib.*
perjury, *ib.*
how penalties above 25*l.* to be recovered, vol. i. 612.
distress not unlawful for want of form, *ib.*
form of conviction, *ib.*
plaintiff not to recover after tender of amends, &c., *ib.*
limitation of actions, &c., *ib.*
double costs, *ib.*
vessels laden with coal departing without discharging cargo, vol. i. 615.
duties on coal by railways, vol. i. 616.
application of duty, vol. i. 618.
penalties, *ib.*
stealing of, from mine, vol. ii. (200).

COAL AND WINE DUES (LONDON).
24 & 25 Vict. c. 42, vol. i. 617.
"The London Coal and Wine Duties Continuance Act, 1861," *ib.*
1 & 2 Will. 4, c. 76, vol. i. 618.
1 & 2 Vict. c. 101, *ib.*
8 & 9 Vict. c. 101, *ib.*
14 & 15 Vict. c. 146, *ib.*
continuation of wine duties to fifth day of July, one thousand eight hundred and seventy-two, *ib.*
continuance of coal duties, in respect of coal arriving within the limits of the metropolitan police district, *ib.*
metropolitan police district substituted for the London district, *ib.*
commencement of metropolitan police district to be marked in canals, railways, and roads, *ib.*
application of duties, *ib.*
application of the duty of 4*d.* to the payment of the interest and principal of sums charged thereupon for improvements, vol. i. 619.
drawback upon coals to continue to be allowed, *ib.*
duty to be laid out and form an accumulating fund for improvements till appropriated by parliament, *ib.*
consolidation of improvement funds, *ib.*
continuance of above-mentioned acts, except as altered, *ib.*
short title, *ib.*

CODICIL. See *Will.*
stealing, &c., vol. ii. (197).
forging, vol. ii. (264).

COGNOVIT. See *Warrant of Attorney.*
to be filed in 21 days, or void in case of bankruptcy, vol. iv. 856.
attestation of, vol. iv. 857.
given within two months of bankruptcy, in collusive action, or before action, the party being unable to meet his engagements, to be void, vol. i. 310.
given by trader and not filed pursuant to 3 Geo. 4, c. 39, to be deemed fraudulent and void, vol. i. 311.

COIN.
weights used in sale of bullion, vol. iv. 898.
provisions of 2 & 3 Wm. 4, c. 34, extended to the colonies, vol. ii. (116).
importing counterfeit into the colonies, *ib.*
act consolidating and amending statute law against offences relating to, *ib.*
definition of current gold and silver coin, copper coin, false or counterfeit coin, and current coin, *ib.*
what shall be deemed custody or possession, vol. ii. (117).
counterfeiting gold or silver coin, *ib.*
colouring counterfeit coin or pieces of metal to make them pass for gold or silver coin, *ib.*
colouring or altering genuine coin to make it pass for a higher coin, *ib.*
impairing gold or silver coin, vol. ii. (118).
unlawful possession of filings or clippings of gold or silver coin, *ib.*
buying or selling counterfeit gold or silver coin for less than its denomination, *ib.*

COIN—*continued.*
importing counterfeit coin, vol. ii. (117).
exporting counterfeit coin, *ib.*
uttering counterfeit gold or silver coin, vol. ii. (119).
accompanied by possession, or uttering of other counterfeit coin, *ib.*
possession of three or more pieces of counterfeit gold or silver coin with intent to utter, vol. ii. (119), (120).
uttering, after a previous conviction, vol. ii. (120).
uttering foreign coin, medals, &c., for current coin, *ib.*
counterfeiting copper coin, *ib.*
uttering counterfeit copper coin, *ib.*
stamping words on coin, *ib.*
tender of coin so stamped, vol. ii. (121).
counterfeiting foreign gold and silver coin, *ib.*
importing counterfeit foreign gold and silver coin, *ib.*
uttering counterfeit foreign gold and silver coin, *ib.*
after one or two previous convictions, *ib.*
counterfeiting other foreign coin, *ib.*
possession of more than five pieces of counterfeit foreign coin, *ib.*
making, &c., or possessing coining tools, &c., vol. ii. (121), (122).
conveying coining tools out of the mint, vol. ii. (122).
suspected coin may be tested by cutting, &c., vol. ii. (122), (123).
counterfeit coin and coining tools, &c., may be seized, secured, &c., vol. ii. (123).
where offenders may be tried, *ib.*
what is sufficient proof that coin is counterfeit, *ib.*
what is a sufficient counterfeiting, *ib.*
any person may apprehend persons found committing any indictable offence relating to the coin, vol. ii. (123), (124).
no *certiorari*, vol. ii. (124).
venue, notice of action, and other proceedings for anything done under the Coin Act, *ib.*
trial of offences in Scotland, *ib.*
principals in second degree and accessories, *ib.*
offences committed at sea, *ib.*
evidence of previous conviction, and proceedings on the trial for subsequent offence, *ib.*
costs of prosecution where government prosecutes, vol. ii. (125).
where private persons prosecute, *ib.*

COINING TOOLS. See *Coin.*

COLLEGES. See *Leases.*
setting fire to buildings belonging to, vol. ii. (247).

COLLIERIES. See *Mines and Collieries.*
prohibiting employment of women and girls in, and regulating employment of boys, &c., vol. iii. 430.
regulation and inspection of, vol. iii. 433, 439.

COLLIERIES—*continued.*
regulations respecting gunpowder kept for, vol. ii. 336, 339, 340.

COLONIAL VOYAGES.
regulation of vessels on, vol. iv. 391.

COLONIES.
recovery of debts in, vol. i. 619.
appointment to offices in, *ib.* n. (*a*).
legislatures of, authorised to pass laws for admission, in certain cases, of unsworn testimony, vol. i. 620.
lands, negroes, and other real estates in colonies to be assets for payment of all debts as real estates in England are for specialty debts, vol. i. 1425.
authorising the establishment of courts of appeal for certain of the West India colonies, vol. i. 625.

6 & 7 Vict. c. 34.
offenders in the colonies escaping into the united kingdom may be there apprehended, vol. i. 620.
for apprehension of offenders escaping to the colonies, *ib.*
offender may be committed to gaol until he can be sent back to the place where the offence was committed, vol. i. 621.
information of committal to be given, *ib.*
copies of depositions may be given in evidence, *ib.*
offenders apprehended to be sent to the place where the offence was committed, *ib.*
if not sent within two months after committal, may apply to be discharged, *ib.*
persons apprehended, if not indicted within six months, or if not convicted, may be sent back, *ib.*
providing for expense of removal of offenders to the united kingdom, *ib.*
proof of the signature of the person issuing the original warrant, vol. i. 622.
warrant not to be indorsed, except in cases of treason or felony, &c. *ib.*

6 & 7 Vict. c. 94.
the power acquired by her majesty in countries out of her dominions shall be held on the same terms as her majesty's authority in the crown colonies, *ib.*
acts done in pursuance of such power to be of the same effect as if done under local laws, *ib.*
courts authorised to procure evidence of such power by application to secretary of state, *ib.*
power to send persons charged with crimes for trial to a British colony, *ib.*
before any such person shall be sent to any colony for trial he may tender any material evidence that he would be unable to produce on trial, and which shall be taken down and transmitted, vol. i. 623.
in case the laws of the place in which the act was committed vary from those of the colony, the court may give effect to them, *ib.*
nothing herein to alter any law respecting crimes committed out of her majesty's dominions, *ib.*
power to send convicts for execution or imprisonment to a British colony, *ib.*
power to transport convicts, *ib.*
limitation of actions, *ib.*

COLONIES—*continued.*
repeal of sec. 4 of 6 Geo. 4, c. 33, and of 6 & 7 Will. 4, c. 78, vol. i. 624.
12 & 13 Vict. c. 96.
all persons charged in any colony with offences committed on the sea may be dealt with in the same manner as if the offences had been committed on waters within the local jurisdiction of the courts of the colony, *ib.*
persons convicted of such offences shall suffer the like punishments as in England, *ib.*
provision for the trial of murder and manslaughter where the death only happens in the colony or upon the sea, *ib.*
jurisdiction of the supreme courts of New South Wales, &c. 9 Geo. 4, c. 83, vol. i. 625.
interpretation of terms, *ib.*
provisions of 2 & 3 Will. 4, c. 34, respecting offences relating to the coin, extended to the colonies, vol. ii. (116).
punishment for importing counterfeit coin into the colonies, *ib.*
admission of attorneys and solicitors of colonial courts to practise in England, vol. i. 175.
naturalisation of aliens in, vol. i. 46, 47.

COLT.
stealing, or killing with intent to steal, vol. ii. (193).
malicious killing, vol. ii. (254).

COMBINATION OF WORKMEN. *See Master and Servant.*
repealing laws relating to, and making other provisions in lieu thereof, vol. iii. 314.
certain agreements not to be deemed "obstruction" or "molestation" within 6 Geo. 4, c. 129, vol. iii. 328.
to raise wages, or respecting any trade, &c., assault in pursuance of, vol. ii. (287).

COMMISSIONERS.
or trustees under acts of parliament may, in certain cases, carry acts into execution, although they may not have held their first meeting according to directions of act, vol. ii. 639.
bodies of, appointed for carrying on undertakings of a public nature, provisions respecting, 10 Vict. c. 16, *The Commissioners Clauses Act*, 1847, vol. i. 625.
extent of act, vol. i. 625.
interpretations in this act, *ib.*
short title of this act, vol. i. 626.
form in which portions of this act may be incorporated with other acts, *ib.*
Commissioners.
joint owners or occupiers when qualified eligible as commissioners, *ib.*
same property not to give two qualifications, *ib.*
no bankrupt or insolvent to be a commissioner, *ib.*
no person holding office or concerned in a contract to be a commissioner, *ib.*
shareholders in companies established by act of parliament not disqualified by reason of contracts, vol. i. 627.
commissioner not incapable of acting as a justice, *ib.*
declaration to be made by commissioners before acting, *ib.*
false declaration a misdemeanor, *ib.*

COMMISSIONERS—*continued.*
declaration to be taken at the first meeting, vol. i. 627.
penalty on commissioner not being qualified acting, *ib.*
commissioner neglecting to act to cease to be one, *ib.*
Election and rotation of commissioners.
one third of commissioners elected by ratepayers and owners to go out of office every three years, *ib.*
commissioners eligible to be re-elected, vol. i. 628.
mode of supplying occasional vacancies, *ib.*
manner of making the rotation list, *ib.*
annual meeting for election of commissioners, *ib.*
returning officer at elections, *ib.*
returning officer to appoint poll clerks, *ib.*
scale of votes of owners and occupiers, *ib.*
electors to vote in ward where their property qualification is situate, but not to vote for more than one ward, vol. i. 629.
commissioners may cause alphabetical list of voters to be made, and may defray the expense out of the rates, *ib.*
returning officer may summon rate collector, &c., to attend the election, *ib.*
penalty on rate collector, &c. for neglect, *ib.*
mode of voting at elections, *ib.*
poll may be closed if no voting paper be tendered for one hour, *ib.*
returning officer to examine poll books and declare the poll, *ib.*
voting papers to be open to inspection for six months after each election, vol. i. 630.
manner of proceeding if any person is elected a commissioner in more than one ward, *ib.*
if no election on day appointed, it may be made on a subsequent day, *ib.*
election not to be void for want of title in presiding officer, *ib.*
expenses of presiding officer to be paid out of rates levied, *ib.*
Meetings of Commissioners.
first meeting of the commissioners, *ib.*
election of chairmen of meetings, *ib.*
manner of voting, *ib.*
quorum of commissioners, vol. i. 631.
commissioners to hold annual and monthly meetings, *ib.*
meetings of commissioners may be adjourned from time to time, *ib.*
monthly meetings shall be held for transacting the ordinary business under this and the special act, *ib.*
no extraordinary business shall be transacted at monthly meetings unless notice be given, *ib.*
no resolution of commissioners to be revoked at a subsequent meeting unless under certain circumstances, *ib.*
as to the holding of special meetings, *ib.*
notice to be given of things to be done by the commissioners by special order only, *ib.*
how notices of meetings of commissioners are to be given, *ib.*
expenses of meetings, *ib.*
power to commissioners to appoint committees, *ib.*
quorum of committee, vol. i. 632.
acts of the commissioners not to be invalidated by reason of vacancies, *ib.*

COMMISSIONERS—*continued.*
informalities in appointment of commissioners not to invalidate proceedings, vol. i. 632.
commissioners may provide public offices, &c., *ib.*
commissioners to provide daily attendance at their office to receive notices, &c. *ib.*
proceedings to be entered in a book, and when signed shall be received in evidence, *ib.*
such books to be open to inspection, *ib.*
Contracts.
power to commissioners to enter into contracts, *ib.*
notice to be given of contracts to the amount of 100*l.* or upwards, vol. i. 633.
commissioners may compound for breach of contract, *ib.*
as to the conveyance of lands by the commissioners, *ib.*
receipt under seal to be a sufficient discharge, *ib.*
Legal Proceedings.
commissioners not to be personally liable for acts done in the capacity of a commissioner, *ib.*
commissioners to be indemnified for acts done in the execution of their office, *ib.*
actions or suits to be brought in the name of any two commissioners or their clerk, *ib.*
executions to be levied on the goods belonging to commissioners by virtue of their office only, *ib.*
commissioners and clerk to be reimbursed all damages, &c., *ib.*
how indictments to be preferred, vol. i. 634.
Officers.
power of commissioners to appoint clerk and other officers, and remove them from time to time, *ib.*
offices of clerk and treasurer not to be held by the same person, *ib.*
officer taking fees other than those allowed, to lose his office and forfeit 50*l.*, *ib.*
security to be taken from all officers entrusted with money, *ib.*
collectors to pay over moneys within seven days to the treasurer, *ib.*
officers to account, *ib.*
summary recovery against parties failing to account, *ib.*
officers refusing to make out account, and deliver up documents, &c. may be committed to prison, vol. i. 635.
where officer about to abscond, a warrant may be issued in the first instance, *ib.*
proceedings against officers not to discharge sureties, *ib.*
Mortgages.
form of mortgage, *ib.*
register of mortgages to be kept and to be open to inspection, *ib.*
transfers of mortgages, *ib.*
register of transfers to be kept, *ib.*
interest on mortgages to be paid half-yearly, vol. i. 635, 636.
power to borrow money at a lower rate of interest to pay off securities at a higher rate, vol. i. 636.
repayment of money borrowed at a time and place agreed upon, *ib.*
repayment of money borrowed when no time or place has been agreed upon, *ib.*

COMMISSIONERS—*continued.*
interest to cease on expiration of notice to pay off mortgage debt, vol. i. 636.
moneys borrowed on security of rates to be paid off in a limited period, *ib.*
mode of paying off mortgages, *ib.*
arrears of interest, when to be enforced by appointment of a receiver, *ib.*
arrears of principal and interest, *ib.*
as to the appointment of receiver, vol. i. 637.
account books to be open to the inspection of mortgagees, *ib.*
Accounts.
accounts to be kept of receipts and disbursements, which shall be open for inspection, *ib.*
penalty for refusal, *ib.*
statement of accounts to be prepared and to be open for inspection, *ib.*
copies of such statement to be furnished, *ib.*
accounts to be examined and settled at the annual meeting, *ib.*
auditors to be appointed, *ib.*
qualification of auditors, *ib.*
auditors to inspect accounts, and may appeal against the same, if they think fit, vol. i. 638.
the court may order payment of the costs of the appeal, *ib.*
annual account to be made up and transmitted to the clerk of the peace in England or Ireland, or to the sheriff clerk in Scotland, and to be open to inspection, *ib.*
Bye-laws.
power to make bye-laws for regulating the conduct of the officers, &c. of the commissioners, *ib.*
fines for breach of such bye-laws, *ib.*
bye-laws to be so framed as that penalties may be mitigated, *ib.*
Notices.
service of notices upon commissioners, *ib.*
notices by advertisement, vol. i. 639.
authentication of notices and orders, *ib.*
proof of debts in bankruptcy, *ib.*
tender of amends, *ib.*
Recovery of Damages and Penalties.
Railway Clauses Consolidation Act, 1845, as to damages, &c., to be incorporated with this and the special act, *ib.*
all things required to be done by two justices in England and Ireland may, in certain cases, be done by one, and in Scotland by the sheriff, &c., *ib.*
penalties, &c., imposed in respect of any offence committed within the metropolitan police district to be paid to the receiver, and applied under 2 & 3 Vict. c. 71, *ib.*
in Ireland part of penalties to be paid to guardians of unions, *ib.*
persons giving false evidence liable to penalties of perjury, vol. i. 640.
nothing in this or the special act to affect the rights of the crown, *ib.*
Access to Special Act.
copies of special act to be kept by commissioners at their office, and deposited with the clerks of the peace, &c. and to be open to inspection, *ib.*
penalty on commissioners failing to keep or deposit such copies, *ib.*

COMMITMENT.
provisions for commitment by justices before whom persons charged with offences may be examined, to the gaol of the county, &c. where offence committed, vol. ii. (37), (38).
by justices in ordinary cases, vol. ii. (39).
duty of constable and gaoler, and provision as to payment of costs of conveying to prison, vol. ii. (39), (40).
of persons summarily convicted under Larceny Act, vol. ii. (218).
of persons summarily convicted under Malicious Injuries Act, vol. ii. (257).

COMMON LAW PROCEDURE ACT, 1852, 15 & 16 Vict. c. 76, vol. iii. 719.

COMMON LAW PROCEDURE ACT, 1854, 17 & 18 Vict. c. 125, vol. iii. 768.

COMMON LAW PROCEDURE ACT, 1860, 23 & 24 Vict. c. 126, vol. iii. 791.

COMMON PLEAS.
powers of, as to acknowledgment of deeds by married women, vol. ii. 115.
powers of, in appeals against decisions of revising barristers, vol. iii. 530, 535.

COMMONS. See *Inclosure.*
approvement of, vol. ii. 713.
approvement; usurpation of, during particular estates, &c. vol. ii. 714.
approvement; houses built on waste, vol. ii. 715.
better cultivation, improvement and regulation of, vol. ii. 718.
lords of manors may convey, for purposes of a residence for the clergy, vol. i. 536.
inclosing portion of for use of poor house, vol. iii. 1085.
preventing depasturing of scabbed sheep in, vol. ii. 722.
enclosure of part of, for cultivation by the poor, vol. iii. 1152, 1188.
conveyance of part of, as sites for poor schools, vol. iii. 1191.
commonable rights of tenant not to be affected by enfranchisement of copyholds, vol. i. 877.
provisions for applications, with authority of Inclosure Commissioners, of compensation paid for common rights under "The Lands Clauses Consolidation Act, 1845," or any railway or other special act, vol. ii. 815.
provisions in case of gross rent charge on land subject to common rights, vol. ii. 826.

COMPANIES (JOINT STOCK). See *Bankers; Companies (Clauses); Companies (Winding-up Acts); Lands Clauses, &c.; Railways Clauses, &c.*
1 Vict. c. 73.
so much of 6 Geo. 4, c. 91, as is hereinbefore set forth, and the 4 & 5 Will. 4, c. 94, repealed, vol. i. 642.
privileges may be granted by letters patent to persons associated for trading or other purposes, *ib.*
the letters patent so granted may provide that suits shall be carried on in the name of one of the officers of any company appointed for that purpose, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
individual liability of members of a company may be restricted by letters patent, vol. i. 642.
deed of partnership to be executed, *ib.*
return to be made as hereinafter mentioned of the granting of letters patent, and style of company, vol. i. 643.
name of company not to be changed after registry, *ib.*
if place of business changed, return to be made, *ib.*
when persons cease to be members of company or corporation, except by transfer of shares, or change of name of member, company to make return within three months, *ib.*
on transfer of shares, notice to be given to the company or corporation by transferee, *ib.*
company or corporation to make return within three months after receiving notice of transfer, *ib.*
any person having made payment in respect of a share in a company under any judgment against such company to make a return thereof to court of chancery, *ib.*
company to make return when repayment is made of money so advanced by any person, *ib.*
on death, resignation, or removal of officer appointed to sue and be sued on behalf of company or body, another to be appointed, and return made, *ib.*
returns how to be signed and verified, vol. i. 644.
return of names of members, &c., not to be rendered invalid by unintentional error, *ib.*
returns, to what office to be made respectively in England, Scotland, or Ireland, *ib.*
by whom returns are to be registered, *ib.*
certified copy of such return, &c., to be received in evidence, *ib.*
regulations as to forms of returns and mode of keeping the register, &c., by whom to be made, *ib.*
no person entitled to share in profits till registered as a member, *ib.*
person ceasing to be a member to continue liable till transfer, &c. registered, vol. i. 644, 645.
proceedings commenced in the name of officer not to be abated by his death, &c. or by change of members of company, vol. i. 645.
evidence of officer or of member of company admissible, *ib.*
effect of judgments against company, *ib.*
bankruptcy of officer of company not to affect company or liabilities of members, *ib.*
service of notice on the company, *ib.*
service of notice by the company, *ib.*
determination of company not to prevent the winding-up of their affairs, *ib.*
duration of charters of incorporation may be limited, vol. i. 645, 646.
limitations as to exemptions to be granted to companies by letters patent, vol. i. 646.
act not to affect existing privileges, *ib.*
notice of application for letters patent to be inserted in the London Gazette, &c. *ib.*

COMPANIES (JOINT STOCK)—*continued.*
7 & 8 Vict. c. 110, *Joint Stock Companies Registration Act (repealed by 25 & 26 Vict. c. 89, s. 205)*, vol. i. 649.
General Provisions.
operation of act as to time, *ib.*
operation of act as to companies, *ib.*
application of the term "joint stock company," *ib.*
future companies, *ib.*
companies for executing parliamentary works, *ib.*
incorporated companies, vol. i. 650.
construction of words, *ib.*
Registration of Companies.
provisional registration, vol. i. 651.
returns by promoters of companies, *ib.*
certificate of provisional registration, *ib.*
penalty as to delaying registration, *ib.*
relief from penalties to promoters by the appointment of a solicitor to make returns, vol. i. 651, 652.
return of appointment and acceptance, vol. i. 652.
penalty on solicitor failing to make returns, *ib.*
complete registration, *ib.*
constitution of companies, *ib.*
provisions of deeds of settlements, *ib.*
covenant to pay instalments on shares, &c., *ib.*
provision in deed for purposes in schedule (A), *ib.*
execution of deed of settlement, *ib.*
authentication of deed, *ib.*
registration of deed, *ib.*
supplementary deed, vol. i. 653.
notification of incompleteness of deeds of settlement, *ib.*
companies for executing parliamentary works to register copies of documents required to be deposited by the standing orders, *ib.*
certificate of complete registration, *ib.*
further registration, *ib.*
returns of further deeds and changes, *ib.*
penalty, *ib.*
half-yearly returns of changes and additions of members, *ib.*
penalty, vol. i. 654.
returns made by request, *ib.*
restriction of rights of shareholders by non-registration of shares transferred, *ib.*
continuance of liability of shareholder transferring, *ib.*
periodical registration of companies, *ib.*
penalty, *ib.*
returns generally, *ib.*
evidence of registration, *ib.*
certificates of registration, *ib.*
effect of certificate as evidence, *ib.*
authentication of returns, *ib.*
regulations as to returns, *ib.*
regulations to apply to all companies, vol. i. 655.
inspection of returns at registry office, *ib.*
certified copies or extracts, *ib.*
legal effect thereof, *ib.*
office for registration, *ib.*
appointment of registrar, &c., of joint stock companies, *ib.*
assistant registrar, *ib.*
leave of absence, *ib.*
registrar's office attendance, *ib.*
fees of registration, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
commissioners of treasury may fix other fees, vol. i. 655.
balance to go to consolidated fund, *ib.*
regulation of fees, *ib.*
return of three-fourths of the fee on capital to companies obtaining acts of parliament, *ib.*
repayment by treasury, *ib.*
extortion a misdemeanor, vol. i. 656.
Powers and Privileges of Companies.
on provisional registration, *ib.*
effect of provisional registration, *ib.*
proceedings of companies before registration, and while a company is not deemed to be provisionally registered, vol. i. 657.
twenty-five pounds penalty against persons offending, *ib.*
on complete registration, *ib.*
powers and privileges obtained thereby, *ib.*
incorporation, *ib.*
without restriction of liability, *ib.*
company empowered to act, *ib.*
restriction of powers of companies for executing parliamentary works before obtaining an act, vol. i. 658.
power to obtain act of parliament, *ib.*
regulation of company under such act, *ib.*
shareholders, *ib.*
restriction of rights prior to execution of deed of settlement, *ib.*
rights thereafter, *ib.*
restriction on disposal of shares, vol. i. 658. 659.
ten pounds penalty, vol. i. 659.
contents of certificates of shares, *ib.*
penalty as to false certificate, *ib.*
Regulation of Companies.
directors, *ib.*
powers of directors, *ib.*
restriction as to lending money, vol. i. 660.
pecuniary qualification of directors, patrons, &c., *ib.*
disqualification of directors, *ib.*
as to contracts, *ib.*
approval of general meeting of shareholders. vol. i. 661.
as to shares, &c., *ib.*
validity of acts of directors, *ib.*
acts of fraud, or wilful omission by directors or officers, a misdemeanor, *ib.*
authentication, and legal effect of books of record, *ib.*
inspection of books of registry, *ib.*
account books, vol. i. 662.
balancing of books, *ib.*
examination of balance sheet, *ib.*
production of the balance sheet, *ib.*
inspection of accounts by shareholders, *ib.*
occasional inspection, *ib.*
auditors, *ib.*
appointment of auditors by company, *ib.*
by board of trade, *ib.*
salary of such auditor, *ib.*
delivery of accounts to auditors, *ib.*
auditors to receive and examine accounts, *ib.*
powers of auditors, *ib.*
assistance to auditors, *ib.*
report by auditors, *ib.*
report, publication of, *ib.*
balance sheet and auditors' report to be registered, *ib.*
contracts, *ib.*
requisites of contracts, *ib.*
report to secretary, vol. i. 663.

COMPANIES (JOINT STOCK)—*continued.*
liability, vol. i. 663.
requisites of bills and notes by company, vol. i. 664.
signatures of two directors, vol. i. 665.
countersign of secretary, *ib.*
indorsation, *ib.*
report and entry thereof, *ib.*
directors and officers not personally liable, *ib.*
liability of company and members, *ib.*
deeds, &c., to be signed by two directors, *ib.*
bye-laws, *ib.*
form of bye-laws, *ib.*
registration and publication thereof, *ib.*
bye-laws to be evidence, *ib.*
capital, *ib.*
register of shareholders, *ib.*
inspection of register of shareholders, *ib.*
requisites of certificates of shares, *ib.*
fee for certificate, *ib.*
form of certificate, *ib.*
legal effect of certificate as evidence, *ib.*
renewal of certificate, *ib.*
substituted certificate, *ib.*
entry thereof, *ib.*
transfer of shares, vol. i. 666.
deed to be registered, *ib.*
indorsement of transfer, *ib.*
effect of non-delivery of transfer, *ib.*
no transfer if shares not paid up, *ib.*
proceedings to recover instalments of capital, *ib.*
form of declaration for instalments, *ib.*
evidence, *ib.*
recovery of instalments and interest, *ib.*
notification to joint proprietors, *ib.*
deeds of settlement, *ib.*
publication thereof, *ib.*
inspection thereof on demand, *ib.*
penalty, *ib.*
existing companies, vol. i. 667
registration of existing companies, *ib.*
returns of matters for registration, *ib.*
certificate of registration gratis, *ib.*
penalty, *ib.*
privileges of future companies under this act extended to existing companies fully constituted, or existing companies fully complying, *ib.*
effect of certificate of complete registration, *ib.*
incorporation, *ib.*
alteration of deeds of settlement in compliance with this act, *ib.*
fees for certificates of complete registration for existing companies, *ib.*
registration of companies begun or formed after the passing of this act, *ib.*
effect of incorporation of existing companies in respect of their obligations, *ib.*
modification of conditions and regulations as to companies, vol. i. 668.
board of trade to receive and decide applications, *ib.*
return to parliament by board of trade, *ib.*
act not to extend to certain partnerships for working mines, *ib.*
nor to Irish anonymous partnerships, *ib.*
Prevention of Fraudulent Companies.
punishment for pretences as to patronage, &c. *ib.*
Legal Proceedings.
effect of judgments against a company and shareholders, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
former shareholders, vol. i. 669.
no execution against former shareholders beyond three years after ceasing to be a shareholder, *ib.*
reimbursement of shareholders against whom execution issued, *ib.*
contribution by other shareholders, *ib.*
proceedings in execution against the person or property of a shareholder, vol. i. 670.
alteration of orders by the court, *ib.*
notice, *ib.*
recovery of penalties, *ib.*
proceedings before two justices, *ib.*
appropriation of penalties, *ib.*
summons in the recovery of penalties, vol. i. 671.
proceedings, *ib.*
compulsory attendance of witnesses, *ib.*
limitation of proceedings, *ib.*
appeal, *ib.*
defects, no *certiorari*, *ib.*
recovery of penalties by action, *ib.*
must be with consent of attorney-general, *ib.*
Miscellaneous.
authentication of acts by committee of privy council, *ib.*
annual report to parliament, vol. i. 672.
10 & 11 Vict. c. 78 (*repealed by* 25 *&* 26 *Vict. c.* 89, *s.* 205).
any company, having obtained certificate of complete registration, being desirous of holding lands, may apply to the board of trade for a licence, who may, if they see fit, grant the same, vol. i. 676.
accounts of licences, renewals, extensions, &c., to be annually laid before parliament, vol. i. 677.
licences granted before passing of this act deemed valid and effectual for the purposes therein expressed, *ib.*
so much of recited act as requires the return to the office for registration of joint-stock companies of a copy of every prospectus, &c., repealed, *ib.*
certain additional particulars required to be returned to the office for registration of joint-stock companies, *ib.*
if any alterations are made in particulars registered, they shall be returned to the registrar, under a penalty, *ib.*
penalty on promoters issuing, at any time before complete registration, any prospectus, &c., containing statement at variance with particulars returned under recited act, *ib.*
penalties under this act to be sued for as under recited act, vol. i. 678.
18 & 19 Vict. c. 133 (*repealed by* 19 *&* 20 *Vict. c.* 47), vol. i. 678, n. (*a*).
mode of obtaining limited liability by companies, vol. i. 678.
mode of obtaining limited liability by existing companies constituted under private acts of parliament, *ib.*
regulations to be observed on complete registration, with limited liability, vol. i. 679.
penalties to be inflicted for non-observance, *ib.*
every increase in the nominal capital to be registered under a penalty, *ib.*
members of certificated companies to be free from personal liability, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
effect of execution against company, vol. i. 679.
if dividends made, and corporation known to be insolvent, each director consenting thereto liable, vol. i. 679, 680.
proviso as to absent directors, vol. i. 680.
notes of shareholders, not receivable in payment of calls, *ib.*
no loan to be made to any company, *ib.*
liability of directors consenting to a loan to shareholders, *ib.*
rights of creditors of existing companies preserved, *ib.*
change in the name of a company under the act not to affect the rights of the company or other parties, *ib.*
companies to be dissolved and wound up when three-fourths of the capital lost, *ib.*
auditors to be appointed, subject to approval of board of trade, *ib.*
recovery of penalties, *ib.*
act to be taken as part of 7 & 8 Vict. c. 110, *ib.*
provisions of 7 & 8 Vict. c. 111, 11 & 12 Vict. c. 45, and 12 & 13 Vict. c. 108, to apply to this act, *ib.*
act not to apply to Scotland, *ib.*
short title, *ib.*
19 & 20 Vict. c. 47 (*amended by* 20 & 21 *Vict. cc.* 14, 80, *and* 21 & 22 *Vict. c.* 60, *and repealed by* 25 & 26 *Vict. c.* 89, *s.* 205).
acts to read together, vol. i. 717.
short title of acts, vol. i. 684, 717, 722.
acts not to apply to banking and insurance companies, vol. i. 684.
extended to banking companies, vol. i. 231.
except provisions as to limited liability, *ib.*
but see now 21 & 22 Vict. c. 91, vol. i. 234.

PART I.

CONSTITUTION AND INCORPORATION.

Registry.
company formed by memorandum of association and registration, vol. i. 684, 685.
penalty on partnerships exceeding a certain number, vol. i. 685.
repealed, vol. i. 717.
matters required to be prescribed by memorandum of association, vol. i. 685.
prohibition against identity of names in registered companies, *ib.*
form of memorandum of association, *ib.*
effect of, *ib.*
shares to be taken by subscribers of memorandum of association, vol. i. 686.
special regulations may be prescribed by articles of association, *ib.*
form and effect of articles of association, *ib.*
stamp on memorandum of association and articles of association, and use of printed copies, *ib.*
registration of memorandum of association, and articles of association, *ib.*
fees payable thereon, *ib.*
effect of registration, *ib.*
certificate of incorporation, *ib.*
registrar to give one to party applying, vol. i. 717.
directors to be liable for debts, if dividend be paid when the company is known to them to be insolvent, vol. i. 687.
proviso as to absent directors, *ib.*
issue of shares by company, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
Register of Shareholders.
particulars of, vol. i. 687.
annual list of shareholders on register, *ib.*
particulars of, *ib.*
penalty on company not keeping a proper register, *ib.*
restrictive definition of shareholder, *ib.*
no notice of any trust to be entered on register, *ib.*
transfer of shares, vol. i. 688.
certificate of shares, *ib.*
calls, a debt to company, *ib.*
inspection of register, vol. i. 689.
copy of, *ib.*
power to close register, *ib.*
remedy for improper entry, or omission of entry in register, vol. i. 689, 717.
register to be evidence, vol. i. 689.
copies of memorandum and articles of association to be given to shareholders, *ib.*
penalty for omission, vol. i. 718.
power of limited company to convert paid-up shares into stock, vol. i. 717.
company to give notice of such conversion to registrar, *ib.*
register to be kept by company of such stock, *ib.*
such register may be inspected, *ib.*
remedy for improper entry or omission in such register, *ib.*

PART II.

MANAGEMENT AND ADMINISTRATION.

General.
registered office of company, vol. i. 689.
notice of situation of registered office to be given to registrar, vol. i. 689, 690.
publication of name by a limited company, vol. i. 690.
penalties on non-publication of name, *ib.*
general meeting of company, *ib.*
power of company to alter regulations by special resolution, *ib.*
definition of special resolution, *ib.*
registry of special resolutions, *ib.*
penalty, *ib.*
copies of special resolutions to be furnished, *ib.*
notice to registrar of increase of capital, *ib.*
penalty, *ib.*
prohibition against holding land, vol. i. 691.
prohibition against carrying on business with less than seven shareholders, *ib.*
evidence of proceedings at meetings, *ib.*
Legal Instruments of Company.
contracts, how made, *ib.*
Deeds.
execution of deeds abroad, *ib.*
promissory notes and bills of exchange, *ib.*
mortgages according to English law, *ib.*
what covenants implied, *ib.*
bond and disposition in security, according to Scotch law, vol. i. 692.
what obligations implied, *ib.*
conveyances according to English law, *ib.*
what covenants implied, *ib.*
disposition in security according to Scotch law, *ib.*
what obligations implied, *ib.*
Examination of Affairs of Company.
examination of affairs of company by inspectors appointed by the board of trade, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
power of inspectors to examine books, &c., administer oaths, &c. vol. i. 692.
result of examination, how dealt with, *ib.*
expenses of, *ib.*
power of company to appoint inspectors, *ib.*
report of inspectors to be evidence, vol. i. 693.
Notices.
services of notices on company, *ib.*
rule as to notices by letter, *ib.*
posting, *ib.*
authentication of notices of company, *ib.*
Legal Proceedings.
recovery of penalties, *ib.*
application of penalties, *ib.*
Alteration of Forms.
board of trade may alter forms in schedule, *ib.*

PART III.

WINDING-UP.
Preliminary.
application of Part III., *ib.*
definition of "the court," vol. i. 694.
power of enforcing orders, *ib.*
liability of present shareholders in respect of debts if company wound up, *ib.*
liability of former shareholders in a company other than a limited company, with respect to debts, *ib.*
liability of former shareholders in a limited company with respect to debts, vol. i. 694, 695.
commencement of winding-up of company defined, vol. i. 695.
definition of "contributory," and legal character of his liability, *ib.*
rights of contributories between themselves, *ib.*
Winding-up by Court.
circumstances under which company may be wound up by court, vol. i. 695, 696.
company when deemed unable to pay its debts, vol. i. 696.
application for winding-up to be by petition, *ib.*
who may petition, *ib.*
course to be pursued by court on petition of a creditor, *ib.*
order for winding-up company on creditor's petition, *ib.*
course to be pursued by court on petition of contributory, *ib.*
effect of the order for winding-up company, *ib.*
power of the court of chancery to remit winding-up to court of bankruptcy, vol. i. 697.
collection and application of assets, *ib.*
fraudulent preference, *ib.*
presentation of petition to correspond with filing a petition for adjudication, *ib.*
conveyance of all effects void, *ib.*
power of court to summon persons suspected of having property of company or capable of giving information, *ib.*
production of books, &c., *ib.*
examination of parties by court, *ib.*
penalty on falsification of books, *ib.*
attachments, sequestrations, and executions within three months of petition to be void, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
creditors' costs, vol. i. 696.
books of company to be evidence, *ib.*
power of court to make calls, *ib.*
calls to be specialty debts, vol. i. 718.
payment of money into the bank, vol. i. 698.
power of court to grant injunction or interdict and stay execution, *ib.*
power of court to stay proceedings, *ib.*
power of court to adjust rights of contributories, *ib.*
power of court to order costs, *ib.*
power to arrest contributory about to abscond or to remove or conceal his goods, vol. i. 718.
goods, &c., of contributory may be seized, *ib.*
on arrest or seizure of his goods, &c., contributory may apply to court, *ib.*
Official Liquidators.
appointment of official liquidators, vol. i. 698, 718, 719.
style and duties of official liquidators, vol. i. 698.
powers of official liquidators, vol. i. 699, 718, 719, 724.
appointment of solicitor to official liquidators, vol. i. 699.
remuneration of official liquidators, *ib.*
dissolution of company, *ib.*
official liquidators to report dissolution to registrar, *ib.*
penalty for omission, vol. i. 719.
registrar to make minute of dissolution of company, vol. i. 699.
assets undistributed may be paid into chancery by official liquidators, vol. i. 719.
power of lord chancellor of Great Britain to make rules, vol. i. 699.
power of lord chancellor of Ireland to make rules, vol. i. 700.
power of court of session in Scotland to make rules, *ib.*
power of vice-warden of stannaries to make rules, *ib.*
court of stannaries, *ib.*
service of process, *ib.*
appeal in cases of winding-up, *ib.*
power of commissioners of bankruptcy to make rules, *ib.*
rules with respect to fees, *ib.*
special commissioners for receiving evidence, *ib.*
their powers, vol. i. 700, 701.
Voluntary Winding-up.
circumstances under which company may be wound-up voluntarily, vol. i. 701.
notice of resolution to wind-up voluntarily, *ib.*
consequences of voluntary winding-up, *ib.*
costs of, vol. i. 702.
creditors may petition for the winding-up of the company by the court, *ib.*
the court may adopt proceedings of the voluntary winding-up, vol. i. 719.
petition for winding-up subject to supervision of court, for certain purposes to be deemed a petition for winding-up by court, vol. i. 722.
in determining how company be wound up, the court may regard the wishes of majority of creditors, *ib.*
in proceedings under section 19 of 20 & 21 Vict. c. 14, court may appoint and remove additional liquidators, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
in making such appointments court may consult creditors, vol. i. 722.
effect of order of court under the said 19th section, *ib.*
power of liquidators, *ib.*
in compulsory winding-up, or continuance of voluntary winding-up by decree or order in Scotland, contributories may be decreed to pay calls, *ib.*
effect of decree, *ib.*
actions and suits not to be proceeded with except with leave of court, vol. i. 723.
inspection of books, *ib.*
where order made for the continuance of a voluntary winding-up is superseded by a compulsory one, court may appoint voluntary liquidators to be official, *ib.*
power of court to give discretion to official liquidators, *ib.*
liquidators, with sanction of court, may make arrangements with creditors, *ib.*
reservation of practice under old winding-up acts, *ib.*
practice in the stannaries, *ib.*
orders made in England, to be enforced in Ireland and Scotland, and *vice versâ*, *ib.*
mode of dealing with orders to be enforced by other courts, *ib.*
evidence of orders, *ib.*
liquidators in voluntary winding-up may apply to court for aid, vol. i. 724.
power of company to fill up vacancies in liquidators, *ib.*
power for official liquidators to invest, *ib.*
in fixing the amount payable by a contributory, his debts and credits as regards the company to be taken into account, *ib.*
calls proveable against bankrupts' or insolvents' estates, *ib.*
sect. 16 of 20 & 21 Vict. c. 14, repealed, and new provisions substituted, *ib.*
power of liquidators to compromise, *ib.*
certain sanctions required, *ib.*
expenses of prosecutions of delinquent directors ordered by courts, *ib.*
or conducted with sanction of court, *ib.*
application of act to existing orders, vol. i. 725.
companies may register for purposes of winding-up, *ib.*
application of act to other acts, *ib.*

PART IV.

Registration Office.
constitution of registration office, vol. i. 702.

PART V.

REPEAL OF ACTS, AND TEMPORARY PROVISIONS.
repeal of 7 & 8 Vict. c. 110; 10 & 11 Vict. c. 78; and 18 & 19 Vict. c. 133, vol. i. 703, 719.
except as to companies registered under them until their registration under these acts, vol. i. 719.
except as respects insurance companies, vol. i. 721.
provisions of companies winding-up acts, not to apply to companies registered under these acts, &c. vol. i. 703.
Temporary Provisions.
registration of registered companies, under 7 & 8 Vict. c. 110, vol. i. 704, 720.

COMPANIES (JOINT STOCK)—*continued.*
requisitions for registration by existing companies, vol. i. 704, 720.
time within which they must register, vol. i. 720.
penalty for omission, *ib.*
power for existing companies to register at their discretion, *ib.*
power for existing companies in certain cases to register amount of stock instead of shares, vol. i. 720, 721.
existing companies required or authorized to register, exempt from fees, vol. i. 721
authentication of statements of existing companies, vol. i. 704.
grant of certificate of registration and effect thereof, vol. i. 705, 721.
power of company to change name, vol. i. 705.
certificate to be evidence of compliance with act, *ib.*
saving rights of creditors, *ib.*

SCHED. (A) memorandum of association, *ib.*
(B) regulations for management, vol. i. 706
shares, *ib.*
transmission of shares, *ib.*
forfeiture of shares, vol. i. 707.
increase in capital, *ib.*
general meetings, *ib.*
votes of shareholders, vol. i. 708.
directors, *ib.*
powers of directors, *ib.*
disqualification of directors, vol. i. 709.
rotation of directors, *ib.*
proceedings of directors, *ib.*
dividends, vol. i. 710.
accounts, *ib.*
audit, vol. i. 711.
notices, *ib.*
form of balance sheet, vol. i. 712.
(C) memorandum of association, vol. i. 713.
(D) table of fees, vol. i. 714.
(E) summary of capital and shares, vol. i. 715
(F) form of transfer, vol. i. 716.
(G) licence to hold land, *ib.*
(H) mortgage for England and Ireland, *ib.*
(I) bond and disposition for Scotland, *ib.*

25 & 26 Vict. c. 89 (*The Companies' Act*, 1862).
Preliminary.
"The Companies' Act, 1862," vol. i. 725.
commencement of act, *ib.*
definition of insurance company, *ib.*
prohibition of partnerships exceeding certain number unless registered, &c., *ib.*
division of act, *ib.*

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.
Memorandum of Association.
mode of forming company, vol. i. 725*a*.
mode of limiting liability of members, *ib.*
memorandum of association of a company limited by shares, *ib.*
memorandum of association of a company limited by guarantee, *ib.*
memorandum of association of an unlimited company, vol. i. 725*b*.

COMPANIES (JOINT STOCK)—*continued.*
stamp, signature, and effect of memorandum of association, vol. i. 725*a*.
power of certain companies to alter memorandum of association, increase capital, &c., *ib.*
power of companies to change name, *ib.*
Articles of Association:
regulations to be prescribed by articles of association, *ib.*
if company limited, and no articles of association, application of Table A., *ib.*
stamp, signature, and effect of articles of association when registered, vol. i., 725*b*, 725*c*.
money payable by members to be a debt due to the company, vol. i. 725*c*.
General Provisions:
registration of memorandum of association and articles of association, with fees, as in table, *ib.*
effect of registration, *ib.*
the company a body corporate, *ib.*
certificate of incorporation evidence, *ib.*
copies of memorandum and articles to be given to members on payment, *ib.*
penalty, *ib.*
prohibition against identity of names in companies, *ib.*
prohibition against certain companies holding land without licence of board of trade, vol. i. 725*d*.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital:
nature of interest in company, *ib.*
personal estate, *ib.*
definition of "member," *ib.*
transfer by personal representative, *ib.*
register of members, *ib.*
particulars, *ib.*
company acting in contravention of this section, penalty, *ib.*
annual list of members, *ib.*
particulars, *ib.*
penalty on company, &c. not keeping a proper register, vol. i. 725*e*.
company to give notice of consolidation or of conversion of capital into stock, *ib.*
effect of conversion of shares into stock, *ib.*
register of members to show the amount of stock held by each member, *ib.*
trusts not to be entered on register, *ib.*
certificate of shares or stock, *ib.*
inspection of register, *ib.*
copy of register, *ib.*
penalty for refusal, *ib.*
judge may order inspection, *ib.*
power to close register, *ib.*
notice of increase of capital and members to be given to registrar, vol. i. 725*e*, 725*f*.
penalty in default, *ib.*
remedy for improper entry or omission of entry in register, vol. i. 725*f*.
the court may decide question, *ib.*
the court may direct an issue for the rectification of the register, *ib.*
notice to registrar of rectification of register, *ib.*
register to be evidence, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
Liability of Members:
liability of present and past members of company, vol. i. 725*f*, 725*g*.

PART III.

MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Provisions for Protection of Creditors:
registered office of company, vol. i. 725*g*.
penalty, *ib.*
notice of situation of registered office, *ib.*
publication of name by a limited company at place of business, in all notices, bills of exchange, &c. *ib.*
penalties on non-publication of name, and person signing promissory note, &c., to be personally liable, *ib.*
register of mortgages affecting property of the company, vol. i. 725*g*, 725*h*.
penalty in default, *ib.*
inspection, *ib.*
certain companies to publish statement entered as in schedule, vol. i. 725*h*.
to be put up in the registered office, *ib.*
penalty, *ib.*
list of directors to be kept at registered office, and sent to registrar, *ib.*
penalty on company not keeping or sending register of directors, *ib.*
promissory notes and bills of exchange made on behalf of company, *ib.*
prohibition against carrying on business with less than seven members, and liability of such members, *ib.*
Provisions for Protection of Members.
general meeting of company, *ib.*
power to alter regulations by special resolution, vol. i. 725*h*, 725*i*.
definition of special resolution, vol. i. 725*i*.
provision where no regulations as to meetings, *ib.*
meetings, voting, *ib.*
registry of special resolutions within fifteen days, *ib.*
penalty, *ib.*
copies of special resolutions to be annexed to articles of association, *ib.*
penalty, *ib.*
execution of deeds abroad on behalf of company, *ib.*
examination of affairs of company by inspectors, upon application, *ib.*
application for inspection to be supported by evidence, vol. i. 725*k*.
security for costs, *ib.*
inspection of books, &c., *ib.*
examination upon oath of officers, *ib.*
result of examination, how dealt with, *ib.*
report to the board of trade, *ib.*
copy shall be delivered to members, *ib.*
expenses, *ib.*
power of company to appoint inspectors, *ib.*
their report, *ib.*
copy report of inspectors to be evidence, *ib.*
Notices:
service of notices on company, *ib.*
rules as to notices by letter, *ib.*
by post, *ib.*
proof, *ib.*
authentication of notices of company, *ib.*

COMPANIES (JOINT STOCK)—*continued.*

Legal Proceedings:
recovery of penalties, vol. i. 725*k*, 725*l*.
application of penalties, vol. i. 725*l*.
evidence of proceedings at meetings, *ib.*
jurisdiction of vice-warden of stannaries, *ib.*
service, process, orders, &c., *ib.*
enforcing seal of the court, *ib.*
judicially noticed, *ib.*
provision as to security for costs in actions brought by certain limited companies, *ib.*
declaration in action against members for calls, &c. vol. i. 725*m*.

Alteration of Forms:
board of trade may alter forms in schedule, *ib.*
to be published in London Gazette, *ib.*

Arbitrations:
power for companies to refer matters to arbitration, in accordance with "The Railways Companies Arbitration Act, 1859," *ib.*
provisions of "The Railway Companies Arbitration Act, 1859," 22 & 23 Vict. c. 59, to apply, *ib.*

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary:
meaning of "contributory," *ib.*
nature of liability of contributory, *ib.*
in the case of bankruptcy of contributory, *ib.*
in case of death of contributories, *ib.*
in case of bankruptcy of contributories, *ib.*
in case of marriage of contributories, vol. i. 725*n*.

Winding-up by Court:
circumstances under which company may be wound up by court, *ib.*
company when deemed unable to pay its debts, *ib.*
definition of "the court," vol. i. 725*n*, 725*o*.
court of chancery may direct proceedings in the court of bankruptcy, vol. i. 725*o*.
application for winding-up to be made by petition, *ib.*
power of court, *ib.*
judge may do in chambers acts which the court may do, *ib.*
commencement of winding-up by court, *ib.*
court may grant injunction and appoint official liquidator, *ib.*
course to be pursued by court on hearing petitions, *ib.*
actions and suits to be stayed after order for winding-up, *ib.*
copy of order to be forwarded to registrar, *ib.*
power of court to stay proceedings, vol. i. 725*p*.
effect of order on share capital of company limited by guarantee, *ib.*
court may have regard to wishes of creditors or contributories, *ib.*

Official Liquidators:
appointment of official liquidator, *ib.*
security to be given by any official liquidator, *ib.*
resignation of liquidator, removals, filling-up vacancies and compensation, *ib.*
style and duties of official liquidator, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
powers of official liquidator, vol. i. 725*p*.
discretion of official liquidator, vol. i. 725*q*.
appointment of solicitor to official liquidator, *ib.*

Ordinary Powers of Court:
court to settle a list of contributories, *ib.*
collection and application of assets, *ib.*
list of contributories to distinguish between contributories in their own right and representatives, heirs, or devisees of contributory, *ib.*
provision as to representative contributories, *ib.*
power of court to require delivery of any sum or property, *ib.*
power of court to order payment of debts by contributory, *ib.*
set-off, vol. i. 725*r*.
power of courts to make calls, *ib.*
power of court to order payment into bank, *ib.*
regulation of account with court, *ib.*
provision in case of representative contributory not paying monies ordered, *ib.*
order upon contributory conclusive evidence of monies due and all pertinent matters, except in proceedings against real estate of deceased contributory, *ib.*
court may exclude creditors not proving within certain time, *ib.*
proceedings in the court of the vice-warden of the stannaries on proof of debts, *ib.*
court to adjust rights of contributories amongst themselves, vol. i. 725*s*.
court may order costs out of the estate, *ib.*
dissolution of company, *ib.*
registrar to make minute of dissolution of company, *ib.*
penalty on liquidator not reporting dissolution of company, *ib.*
petition for winding-up to be lis pendens, *ib.*

Extraordinary Powers of Court:
power of court to summon persons before it suspected of having property of company, *ib.*
or capable of giving information on effects of the company, *ib.*
special provisions as to court of vice-warden of the stannaries, *ib.*
examination of parties by court, *ib.*
power to arrest contributory about to abscond or to remove or conceal any of his property, *ib.*
powers of court cumulative, vol. i. 725*t*.

Enforcement of and Appeal from Orders:
power to enforce orders *ib.*
power to order contributories in Scotland to pay calls, *ib.*
order made in England to be enforced in Ireland and Scotland, *ib.*
mode of dealing with orders to be enforced by other courts, *ib.*
rehearings and appeal from orders, *ib.*
notice of, *ib.*
as to the stannaries, *ib.*
judicial notice to be taken of signature and seal of officers, vol. i. 725*u*.
special commissioners for receiving evidence, *ib.*
powers of examination, &c., *ib.*
court may order the examination of persons in Scotland, *ib.*
proceedings, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
affidavits, &c., may be sworn in Great Britain, Ireland, Scotland, or the colonies before any competent court or person, vol. i. 725*u*.
Voluntary Winding-up of Company:
circumstances under which company may be wound up voluntarily, vol. i. 725*x*.
commencement of voluntary winding-up, *ib.*
effect of voluntary winding-up on status of company, *ib.*
notice of resolution to wind up voluntarily in the London Gazette, *ib.*
consequences of voluntary winding-up, *ib.*
effect of winding-up on share capital of company limited by guarantee, vol. i. 725*y*.
power of company to delegate authority to appoint liquidators, *ib.*
arrangement between company and creditors to be wound up when binding on creditors, *ib.*
power of creditor or contributory to appeal against arrangement, *ib.*
power for liquidators or contributories in voluntary winding-up to apply to court to determine question arising in the winding-up, *ib.*
power of liquidators to call general meeting, *ib.*
meeting at the end of each year and accounts to be laid before meeting, *ib.*
power to fill up vacancy in liquidators, vol. i. 725*z*.
if there is no liquidator, power of court to appoint one, *ib.*
removal of liquidator, *ib.*
liquidators on conclusion of winding-up to make up an account and lay it before meeting, *ib.*
liquidators to report meeting to registrar, *ib.*
penalty for default, *ib.*
costs of voluntary liquidation, *ib.*
saving of rights of creditors, *ib.*
power of court to adopt proceedings of voluntary winding-up, *ib.*
Winding-up subject to the Supervision of the Court:
power of court, on application, to direct voluntary winding-up, subject to supervision, *ib.*
petition for voluntary winding-up, subject to supervision, *ib.*
court, in determining whether company is to be wound up by the court or subject to supervision, may have regard to wishes of creditors or contributories, *ib.*
wishes, meetings for ascertaining, *ib.*
power to court to appoint additional liquidators in winding up, subject to supervision, vol. i. 725*z*, 725*aa*.
effect of order of court for winding up subject to supervision, vol. i. 725*aa*.
appointment in certain cases of voluntary liquidators to office of official liquidators *ib.*
Supplemental Provisions:
dispositions of property of company after the commencement of the winding-up, void, *ib.*
the books of the company as between contributories to be evidence, *ib.*
as to the disposal of books, accounts and documents of the company, *ib.*
inspection of books, *ib.*
power of assignee of thing in action to sue, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
debts of all descriptions to be proved, vol. i. 725*aa*.
general scheme of liquidation may be sanctioned, vol. i. 725*bb*.
power to compromise calls and liabilities, *ib.*
power for liquidators where company is being wound up voluntarily to accept shares, &c., as a consideration for sale of property of company, *ib.*
subject, &c., to proviso, *ib.*
mode of determining price of interest of dissentient member, *ib.*
attachments, execution put in force after winding-up, void, *ib.*
fraudulent preference invalid, and an act of bankruptcy, *ib.*
power of court to assess damages against delinquent directors and officers, and compel repayment of monies misapplied, vol. i. 725*cc*.
penalty on falsification of books, misdemeanor, *ib.*
prosecution of delinquent directors in the case of winding-up by court, *ib.*
prosecution of delinquent directors, &c. in case of voluntary winding-up, *ib.*
penalty of perjury, *ib.*
Power of Courts to make Rules:
power of lord chancellor of Great Britain to make rules, *ib.*
power of court of session in Scotland to make rules, *ib.*
power to make rules in stannaries court, vol. i. 725*dd*.
power of lord chancellor of Ireland to make rules, *ib.*

PART V.

REGISTRATION OFFICE.
constitution of registration office, *ib.*

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES ACTS.
definition of joint stock companies acts, vol. i. 725*ee*.
application of act to companies formed under joint stock companies acts, *ib.*
application of act to companies registered under joint stock companies acts, *ib.*
mode of transferring shares, *ib.*

PART VII.

COMPANIES AUTHORISED TO REGISTER UNDER THIS ACT.
regulations as to registration of existing companies, *ib.*
companies capable of being registered, vol. i. 725*ff*.
definition of joint stock company, *ib.*
proviso as to banking company, *ib.*
no banking company claiming to issue notes entitled to limited liability in respect to such issue, *ib.*
requisitions for registration by companies, *ib.*
requisitions for registration by existing company not being a joint stock company, vol. i. 725*gg*.
power for existing company to register amount of stock instead of shares, *ib.*

COMPANIES (JOINT STOCK)—*continued.*
authentication of statements of existing companies, vol. i. 725*gg*.
registrar may require evidence as to nature of company, *ib.*
on registration of banking company with limited liability, notice to be given to customers, *ib.*
in default, registration with limited liability to have no operation, *ib.*
exemption of certain companies from payment of fees for registration, *ib.*
power to company to change name by adding the word "limited," *ib.*
certificate of registration of existing companies, *ib.*
effect, *ib.*
certificate to be evidence of compliance with act, vol. i. 725*gg*, 725*hh*.
transfer of property to company on registration, vol. i. 725*hh*.
registration under this act not to affect obligations incurred previously to registration, *ib.*
continuation of existing actions and suits, but execution shall not issue against individual member, *ib.*
effect of registration under act, *ib.*
after presentation of petition, court may restrain further proceedings, vol. i. 725*ii*.
after order for winding-up company no suit to be proceeded with, *ib.*

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

winding-up of unregistered companies, *ib.*
who to be deemed contributory in the event of company being wound up, vol. i. 725*kk*.
power of court to restrain further proceedings, *ib.*
effect of order of winding-up company, *ib.*
no suit to be proceeded with, *ib.*
provision in case of unregistered company, vol. i. 725*ll*.
the court may order claims and rights to vest in the official liquidator, who may bring actions, &c. *ib.*
provisions in this part of act cumulative, *ib.*

PART IX.

REPEAL OF ACTS, AND TEMPORARY PROVISIONS.

repeal of acts, *ib.*
saving clause as to repeal, *ib.*
saving of existing proceedings for winding-up, *ib.*
saving of conveyance deeds, *ib.*
compulsory registration of certain companies, *ib.*
no fees chargeable, vol. i. 725*mm*.
penalty on company not registering, *ib.*
temporary power for companies to change registered office, *ib.*
restrictions on issue of certificate, *ib.*

FIRST SCHEDULE.

TABLE A.—Regulations for management of a company limited by shares, *ib.*
Shares, ib.
Calls on Shares, vol. i. 725*nn*.
Transfers of Shares, ib.
Transmission of Shares, ib.
Forfeiture of Shares, ib.

COMPANIES (JOINT STOCK)—*continued.*
Conversion of Shares into Stock, vol. i. 725*oo*.
Increase in Capital, ib.
General Meetings, ib.
Proceedings at General Meetings vol. i. 725*pp*.
Votes of Members, ib.
Directors, vol. i. 725*qq*.
Powers of Directors, ib.
Disqualification of Directors, ib.
Rotation of Directors, ib.
Proceedings of Directors, vol. i. 725*rr*.
Dividends, ib.
Accounts, ib.
Audit, vol. i. 725*ss*.
Notices, ib.

TABLE B.—Table of FEES to be paid to the registrar of joint stock companies by a company having a capital divided into shares, vol. i. 725*uu*.

TABLE C.—Table of FEES to be paid to the registrar of joint stock companies by a company not having a capital divided into shares, *ib.*

FORM D.—Form of STATEMENT referred to in Part III. of the act, *ib.*

SECOND SCHEDULE.

FORM A.—Memorandum of association of a company limited by shares, vol. i. 725*xx*.

FORM B.—Memorandum and articles of association of a company limited by guarantee, and not having a capital divided into shares, *ib.*
Memorandum of Association, ib.
Definition of Members, vol. i. 725*yy*.
General Meetings, ib.
Proceedings at General Meetings, ib.
Votes of Members, vol. i. 725*zz*.
Directors, ib.
Powers of Directors, ib.
Election of Directors, ib.
Business of Company, ib.
Accounts, ib.
Notices, vol. i. 726.
Winding-up, ib.

FORM C.—Memorandum and articles of association of a company limited by guarantee, and having a capital divided into shares, *ib.*
Memorandum of Association, ib.
Articles of Association to accompany preceding Memorandum of Association, ib.

FORM D.—Memorandum and articles of association of an unlimited company, having a capital divided into shares, vol. i. 726*a*.
Memorandum of Association, ib.
Articles of Association to accompany the preceding Memorandum of Association, ib.

FORM E. as required by the second part of the act, vol. i. 726*b*.

FORM F.—Licence to hold lands, *ib.*

THIRD SCHEDULE,
First Part, statutes repealed, vol. i. 726*c*.
Second Part, re-enactment of sections, of repealed statute 7 & 8 Vict. c. 113, s. 47, *ib.*
existing companies to have the powers of suing and being sued, *ib.*
20 & 21 Vict. c. 49, part of section XII., vol. i. 726*d*.
power to form banking partnerships of ten persons, *ib.*

COMPANIES (CLAUSES).
8 Vict. c. 16.
act to apply to all companies incorporated by acts hereafter to be passed, vol. i. 726*i*.
interpretations in this act, *ib.*
short title of the act, vol i. 726*k*.
form in which portions of this act may be incorporated with other acts, *ib.*
Distribution of Capital.
capital to be divided into shares, *ib.*
shares to be personal estate, *ib.*
shareholders, who to be deemed, *ib.*
registry of shareholders, vol. i. 727.
addresses of shareholders, *ib.*
certificates of shares to be issued to the shareholders, *ib.*
certificate to be evidence, vol. i. 728.
certificate to be renewed when destroyed, *ib.*
Transfer of Shares.
transfers of shares to be by deed duly stamped, *ib.*
transfers of shares to be registered, &c., vol. i. 729.
transfer not to be made until calls paid, vol. i. 730.
closing of transfer books, *ib.*
transmission of shares by other means than transfer to be authenticated by declaration, *ib.*
proof of transmission by marriage, will, &c., vol. i. 731.
company not bound to regard trusts, *ib.*
Payment of Calls.
subscriptions to be paid when called for, vol. i. 731, 732.
power to make calls, vol. i. 732.
meaning of the term "call," n. (*b*), *ib.*
interest to be paid on calls unpaid, vol. i. 734.
power to allow interest on payment of subscriptions before call, *ib.*
enforcement of calls by action, *ib.*
declaration in action for calls, *ib.*
matter to be proved in action for calls, vol. i. 736.
proof of proprietorship, *ib.*
Non-payment of Calls.
forfeiture of shares for non-payment of calls, vol. i. 737, 738.
notice of forfeiture to be given before declaration thereof, vol. i. 739.
forfeiture to be confirmed by a general meeting, *ib.*
sale of forfeited shares, *ib.*
evidence as to forfeiture of shares, *ib.*
no more shares to be sold than sufficient for payment of calls, *ib.*
on payment of calls before sale the forfeited shares to revert, *ib.*
Remedies against Shareholders.
execution against shareholders to the extent of their shares in capital not paid up, *ib.*
reimbursement of such shareholders, vol. i. 741.
Power to borrow Money.
power to borrow money, *ib.*
power to re-borrow, *ib.*
evidence of authority for borrowing, *ib.*
mortgages and bonds to be stamped, *ib.*
rights of mortgagees, vol. i. 742.
application of calls, notwithstanding mortgage, *ib.*
rights of obligees, *ib.*
register of mortgages and bonds, *ib.*

COMPANIES (CLAUSES)—*continued.*
transfers of mortgages and bonds to be stamped, vol. i. 742.
transfers of mortgages and bonds to be registered, *ib.*
payment of interest on moneys borrowed, *ib.*
transfers of interest to be stamped, *ib.*
repayment of money borrowed at a time fixed, *ib.*
repayment of money borrowed where no time fixed, vol. i. 743.
interest to cease on expiration of notice to pay off mortgage or bond, *ib.*
arrears of interest, when to be enforced by appointment of a receiver, *ib.*
arrears of principal and interest, *ib.*
appointment of receiver, *ib.*
access to account books by mortgagees, *ib.*
Loans.
power to convert loan into capital, *ib.*
new shares to be considered same as original shares, vol. i. 744.
if old shares at premium, new shares to be offered to the shareholders, *ib.*
shares to vest in the parties accepting; otherwise to be disposed of by the directors, *ib.*
if not at a premium, to be issued as company think fit, *ib.*
Consolidation of Shares.
power to consolidate shares into stock, *ib.*
proprietors of stock may transfer the same, *ib.*
register of stock, *ib.*
proprietors of stock entitled to dividends, *ib.*
application of capital, vol. i. 745.
General Meetings.
ordinary meetings to be held half-yearly, *ib.*
business at ordinary meetings, *ib.*
extraordinary meetings, *ib.*
business at extraordinary meetings, *ib.*
extraordinary meetings may be required by shareholders, *ib.*
notice of meetings, *ib.*
quorum for a general meeting, vol. i. 746.
chairman at general meetings, *ib.*
business at meetings and adjournments, *ib.*
votes of shareholders, *ib.*
manner of voting, *ib.*
regulations as to proxies, *ib.*
votes of joint shareholders, *ib.*
votes of lunatics and minors, &c., *ib.*
proof of a particular majority of votes only required in the event of a poll being demanded, *ib.*
Appointment and Rotation of Directors.
number of directors, vol. i. 747.
power to vary the number of directors, *ib.*
election of directors, *ib.*
existing directors continued on failure of meeting for election of directors, *ib.*
qualification of directors, *ib.*
cases in which office of director shall become vacant, *ib.*
shareholder of an incorporated joint-stock company not disqualified by reason of contracts, *ib.*
rotation of directors, *ib.*
supply of occasional vacancies in office of directors, vol. i. 748.
Powers of Directors.
powers of the company to be exercised by the directors, *ib.*
powers of the company not to be exercised by the directors, *ib.*

COMPANIES (CLAUSES)—*continued.*
Proceedings of Directors.
meetings of directors, vol. i. 748.
permanent chairman of directors, *ib.*
occasional chairman of directors, *ib.*
committees of directors, vol. i. 749.
powers of committees, *ib.*
meetings of committees, *ib.*
contracts by committee or directors, how to be entered into, *ib.*
proceedings to be entered in a book, and to be evidence, *ib.*
informalities in appointment of directors not to invalidate proceedings, vol. i. 750.
directors not to be personally liable, *ib.*
indemnity of directors, *ib.*
Auditors.
election of auditors, *ib.*
qualification of auditors, *ib.*
rotation of auditors, *ib.*
vacancies in office of auditor, *ib.*
failure of meeting to elect auditors, *ib.*
delivery of balance sheets, &c., by directors to auditors, vol. i. 750, 751.
duty of auditors, vol. i. 751.
powers of auditors, *ib.*
Accountability of Officers.
security to be taken from officers intrusted with money, *ib.*
officers to account, on demand, *ib.*
summary remedy against parties failing to account, *ib.*
officers refusing to deliver up documents, &c., to be imprisoned, *ib.*
where officer about to abscond a warrant may be issued in the first instance, *ib.*
sureties not to be discharged, *ib.*
Accounts.
accounts to be kept, vol. i. 752.
books to be balanced, *ib.*
inspection of accounts by shareholders at stated times, *ib.*
balance sheet to be produced at the meeting, *ib.*
bookkeeper to allow inspection of the accounts at the appointed times, *ib.*
Dividends.
previously to declaration of dividends a scheme to be prepared, *ib.*
dividend not to be made so as to reduce capital, *ib.*
power to directors to set apart a fund for contingencies, *ib.*
dividend not to be paid unless all calls paid, *ib.*
Bye-laws.
power to make bye-laws for the officers of the company, *ib.*
fines for breach of such bye-laws, vol. i. 753.
bye-laws to be so framed as that penalties may be mitigated, *ib.*
evidence of bye-laws, *ib.*
Arbitration.
appointment of arbitrator when questions are to be determined by arbitration, vol. i. 753, 754.
vacancy of arbitrator to be supplied, vol. i. 754.
appointment of umpire, *ib.*
board of trade empowered to appoint an umpire, on neglect of the arbitrators, in case of railway companies, *ib.*
power of arbitrators to call for books, &c., *ib.*

COMPANIES (CLAUSES)—*continued.*
costs to be in the discretion of the arbitrators, vol. i. 754.
submission to arbitration to be made rule of court, *ib.*
Notices.
service of notices upon company, *ib.*
service by company on shareholders, *ib.*
notices to joint proprietors of shares *ib.*
notices by advertisement, vol. i. 755.
authentication of notices, *ib.*
proof of debts in bankruptcy, *ib.*
tender of amends, *ib.*
Recovery of Damages and Penalties.
provisions for damages not otherwise provided for, *ib.*
distress against the treasurer, *ib.*
method of proceeding before justices in questions of damages, &c. *ib.*
publication of penalties, *ib.*
penalty for defacing boards used for such publication, vol. i. 756.
penalties to be summarily recovered before two justices, *ib.*
penalties may be levied by distress, *ib.*
imprisonment in default of distress, *ib.*
distress, how to be levied, *ib.*
distress not unlawful for want of form, *ib.*
application of penalties, *ib.*
penalties to be sued for within six months, *ib.*
damage to be made good in addition to penalty, *ib.*
penalty on witnesses making default, vol. i. 757.
transient offenders, *ib.*
form of conviction, *ib.*
proceedings not to be quashed for want of form, *ib.*
Appeal.
parties allowed to appeal to quarter sessions on giving security, *ib.*
court to make such order as they think reasonable, *ib.*
Access to Special Act.
copies of special Act to be kept and deposited, and allowed to be inspected, *ib.*
penalty on company failing to keep or deposit such copies, *ib.*
Act not to extend to Scotland, *ib.*
for recovering calls against shareholders residing in Scotland, *ib.*

26 & 27 Vict. c. 118 (*Companies Clauses Act*, 1863).

PART I.

CANCELLATION AND SURRENDER OF SHARES.
application of Part I., vol. i. 726*d*.
power to company to cancel forfeited shares, *ib.*
declaration before a justice evidence for cancellation of forfeited shares, *ib.*
after cancellation holder precluded from all right, vol. i. 726*e*.
payment of calls in arrear notwithstanding cancellation, *ib.*
value of forfeited shares to be deducted from amount due in respect thereof, *ib.*
provided, if payment of all arrears of calls, shares shall revert, *ib.*
company may cancel forfeited shares with consent of holders, *ib.*
as to surrender of shares, *ib.*

COMPANIES (CLAUSES)—*continued.*
no money to be paid for cancellation or surrender, vol. i. 726*e*.
power to create shares in lieu of cancelled, forfeited, &c. shares to same amount, *ib.*

PART II.

ADDITIONAL CAPITAL.

New Ordinary Shares or Stock:
regulations as to creation and issue of ordinary shares or new ordinary stock, *ib.*
Preference Shares or Stock:
regulations as to creation and issue of new preference shares or new preference stock, *ib.*
saving rights of guarantee or of preference shareholders, *ib.*
preference shares to be entitled to dividends only out of the profits of each year, vol. i. 726*f*.
terms, &c., to be stated on certificates, *ib.*
General Provisions as to new Shares or Stock:
unissued shares and stock may be cancelled, *ib.*
if ordinary stock or shares at a premium new shares or stock to be offered to existing ordinary shareholders at par, *ib.*
proviso, *ib.*
offer to be made by letter, *ib.*
new shares or stock to vest on acceptance, *ib.*
as to disposal of new shares or stock not accepted to others, *ib.*
power to enlarge time for accepting new shares or stock, *ib.*
general power to dispose of unappropriated new shares and stock, *ib.*
not less than the full nominal amount, *ib.*

PART III.

DEBENTURE STOCK.

regulations as to creation and issue of debenture stock, *ib.*
debenture stock to be a prior charge, vol. i. 726*g*.
interest on debenture stock to be a primary charge, to rank next to interest on mortgages or bonds, *ib.*
payment of arrears may be enforced by appointment of receiver or judicial factor, *ib.*
mode of appointing receiver or judicial factor, *ib.*
receiver to distribute rateably among all proprietors, *ib.*
power to cease, when, *ib.*
account, &c. *ib.*
arrears may be recovered by suit against company, *ib.*
debenture stock to be registered, *ib.*
inspection, *ib.*
company to deliver certificate to holders of debenture stock, *ib.*
regulations applicable to certificate of shares shall apply to debenture stock, *ib.*
mortgages and bond not affected by this act, *ib.*
priorities, *ib.*
holders of debenture stock not to vote, entitled to the rights of mortgagees, *ib.*
application of money raised, vol. i. 726*h*.
separate accounts of debenture stock, *ib.*
borrowing powers extinguished to extent of debenture stock, *ib.*

COMPANIES (CLAUSES)—*continued.*
application of Part III. to mortgage preference stock, and funded debt, vol. i. 726*h*.

PART IV.

CHANGE OF NAME.

continuance of powers by new name, *ib.*
original name shall be read as new name, *ib.*
actions, &c. not to abate by reason of the change of name, *ib.*
general saving of rights, *ib.*
contracts, &c., preserved, *ib.*

COMPANIES (WINDING-UP ACTS). See *Companies (Joint Stock).*

11 Vict. c. 45; 12 & 13 Vict. c. 108; 7 & 8 Vict. c. 111; 8 & 9 Vict. c. 98, not applicable to joint stock companies registered under 19 & 20 Vict. c. 47, vol. i. 703.
7 & 8 Vict. c. 111 (*repealed by* 25 & 26 *Vict. c.* 89, *s.* 205).
if any incorporated commercial or trading company, or any other body of persons associated together for commercial or trading purposes, as herein described, shall commit any act which is hereby deemed an act of bankruptcy on the part of such company, a fiat in bankruptcy may issue against the same, and be prosecuted in like manner as against other bankrupts, subject to the provisions hereinafter made, vol. i. 760.
bankruptcy of company not to be construed to be the bankruptcy of any member individually, *ib.*
service of adjudication of bankruptcy on company, and surrender how to be made, *ib.*
declaration of insolvency in pursuance of a resolution of the board of directors under the common seal of the company, or signed by the chairman, and attested by the solicitor of the company, and filed in the office of the secretary of bankrupts, to be an act of bankruptcy, vol. i. 761.
company not paying, securing, or compounding for a judgment debt, upon which the plaintiff might sue out execution, within fourteen days after notice requiring payment, an act of bankruptcy, *ib.*
company disobeying order of any court of equity, &c., for payment of money after service of order for payment on a peremptory day fixed, an act of bankruptcy, *ib.*
creditor filing an affidavit of debt in one of the superior courts, and issuing a writ of summons thereon, if the company do not, within a month, pay, secure, or compound to the satisfaction of the creditor, or satisfy a judge of their intention, to defend on the merits and enter an appearance to the action, an act of bankruptcy, vol. i. 762.
assignees of the estate of a company may maintain action to recover a debt; and any person may claim under a fiat against a company any debt due on the balance of accounts, *ib.*
member's share not to be set off against a demand which the assignees of the estate and effects of a company adjudged bankrupt may have against such member, *ib.*

COMPANIES (WINDING-UP ACTS)—*continued.*
no action, &c. by a creditor of a company, so far as concerns his recourse against the person or property of any individual member, to affect his right to issue or prove under a fiat against the company for any debt remaining unsatisfied; and a fiat, or a proof or proceeding thereon, not to affect any action by a creditor, so far as concerns his recourse to the person or property of an individual member, vol. i. 762.
the law and practice in bankruptcy to extend so far as applicable, to fiats under this Act, vol. i. 763.
the court may order the directors of a company adjudged bankrupt, &c. to prepare and file a balance sheet and accounts, and to make oath of the truth thereof; and the court may make allowance out of the estate for the preparation thereof, *ib.*
persons ordered by the court to prepare the balance sheet to be under the like obligation to surrender at the last examination under the fiat and to submit to be examined, &c. and to incur such danger or penalty for not conforming, &c., as is now provided against a bankrupt, *ib.*
persons ordered to prepare the balance sheet to have the same freedom from arrest, &c., as a bankrupt, *ib.*
the court, before adjudication, may summon any person to give evidence as to the trading and act of bankruptcy; and after adjudication may summon and examine any person who is suspected to have property of the company, or to be indebted, &c. and compel him to produce books, &c. *ib.*
as to costs where a person summoned under a fiat against a company was a member thereof, vol. i. 764.
penalty on members (other than those who are ordered to prepare the balance sheet), and on other persons, wilfully concealing the estate of the company, and allowance to persons making discovery, *ib.*
the court, after adjudication, may order any treasurer, &c. or agent of the bankrupt, to deliver to the official assignee, or to the bank of England, all money, &c., in his custody or power, *ib.*
if any person disobey any order of the court, the court to commit him until he conform, or until order, *ib.*
the court may direct the assignees to petition the court of chancery for directions for winding-up upon which petition an order of reference may be made and accounts taken, and upon the confirmation of the master's report a receiver appointed, *ib.*
the court may make order in individual claims of members in respect of the transactions of the company, vol. i. 765.
rules and orders as to the form and mode of proceeding or settling and enforcing contribution to be made by members of company, and practice, &c., *ib.*
the act 41 Geo. 3 (U. K.), c. 90, to extend to decrees or orders made by the court of chancery, *ib.*
decrees, &c., may be registered in Scotland, and execution may be had as upon a decree interponed upon a bond, with a clause of registration, vol. i. 765.
previous to passing the last examination the court shall inquire into the cause of the failure, and after the last examination shall cause a copy of the balance sheet to be transmitted to the board of trade, and certify the cause of failure, &c. vol. i. 765, 766.
after the court shall have certified to the board of trade the cause of the failure of such company, the queen, upon the recommendation of the board of trade, may revoke and determine the company, vol. i. 766.
and the board may institute prosecutions in certain cases, *ib.*
until determination of company by the crown, it shall be considered as subsisting and, notwithstanding such determination, shall be considered as subsisting so far as necessary for winding-up, *ib.*
notwithstanding determination of company in any other manner, the same to be considered as subsisting so long as any matters remain unsettled, *ib.*
member of company adjudged bankrupt destroying or falsifying books, &c., of the company, or making false entries, &c. guilty of a misdemeanor, *ib.*
9 & 10 Vict. c. 28 (Railway Companies). (*Repealed by* 25 & 26 *Vict. c.* 89, *s.* 205.)
persons who shall have entered into a contract for the formation of a company for making railway, &c., may dissolve the same, vol. i. 767.
committee, &c., may call meetings of shareholders to consider dissolution, vol. i. 768.
shareholders may require committee to call meeting, and in default may call it, *ib.*
meeting to be held duly called, although certain votes may be disallowed, *ib.*
notice of meeting to be by advertisement, *ib.*
notices to specify the day, hour, &c., *ib.*
chairman to be elected, *ib.*
chairman to have a casting vote, *ib.*
chairman bound to put questions proposed, and no other business to be transacted, *ib.*
three scrutineers to be elected, *ib.*
case of the chairman not being entitled to vote, vol. i. 768, 769.
in the event of a quorum not being present at such meetings the same to be adjourned, and votes of persons present at original and adjourned meetings to be received as at one meeting, vol. i. 769.
as to the right of parties entitled to vote at meetings of the shareholders, *ib.*
scale of voting, *ib.*
proxies shall be signed before a master in chancery, &c., *ib.*
number of persons, &c., necessary to constitute a meeting, *ib.*
majority must consist of at least three-fifths of the votes of persons present, *ib.*
minutes of proceedings to be advertised, *ib.*
London Gazette evidence, vol. i. 769, 770.
penalty on signing false minutes, &c., vol. i. 770.
places of meetings shall be held as specified in notice, *ib.*

COMPANIES (WINDING-UP ACTS)—*continued.*
no votes allowed except for scrip, &c. actually issued or given before 31st March, 1846, vol. i. 770.
mode of ascertaining the issued shares, *ib.*
registrars of joint-stock companies to require return of issues, omission, &c. *ib.*
committees of projected railways in Scotland to lodge a return with the sheriff clerk of Edinburgh within twelve days from passing of this act, *ib.*
penalty, *ib.*
the sheriff clerk to give notice by advertisement for returns, *ib.*
in default of return meeting may be called, which must represent one-third of the capital of the company, vol. i. 770, 771.
meeting to decide if dissolution taken to be an act of bankruptcy, vol. i. 771.
Scotland exempted, *ib.*
if meeting decide that affairs shall not be so wound up, &c., then they shall be wound up like ordinary partnerships, *ib.*
dissolution not to affect rights of creditors, *ib.*
if proposal of dissolution rejected, no new meeting to be called for six months to consider the question, *ib.*
any three of the committee, or any creditor or creditors, may petition for a fiat in bankruptcy, *ib.*
on issuing of fiats, companies to be subject to the provisions of the acts for winding-up the affairs of joint-stock companies, *ib.*
sequestration of estates of dissolved Scotch railway companies may be awarded, *ib.*
as to new railways by incorporated companies, *ib.*
member against whom judgment shall have been recovered to be repaid by contribution from other members, together with costs, vol. i. 772.
after dissolution of company no action, &c., to be brought by any attorney, &c., until one month after bill of fees delivered, *ib.*
courts may refer bills for taxation to taxing officers, *ib.*
interpretation of act, *ib.*

11 & 12 Vict. c. 45. (The Joint-Stock Companies' Winding-up Act, 1848.) (*Repealed by 25 & 26 Vict. c. 89, s. 205.*)

Preliminaries.
to what companies act is to apply, vol. i. 773.
act to apply to mining companies and certain building societies, vol. i. 774.
interpretation, *ib.*
short title of act, vol. i. 775.

The Petition, and Proceedings thereon.
who may petition under this act, and in what cases, *ib.*
act of bankruptcy, vol. i. 776.
declaration of insolvency, *ib.*
judgment against the company, *ib.*
decree or order against the company, *ib.*
action against a member for company's debt, *ib.*
creditor's affidavit of debt and writ of summons, *ib.*
dissolution, or ceasing to carry on business, vol. i. 777.

COMPANIES (WINDING-UP ACTS)—*continued.*
other sufficient ground for dissolution, vol. i. 777.
no petition after fiat but under direction of court of bankruptcy, *ib.*
proceedings in bankruptcy to be conclusive, *ib.*
heading of petition and subsequent proceedings, *ib.*
proceedings not to be impeached by reason of the petitioner not having been duly qualified, *ib.*
petition to be advertised and served, vol. i. 777, 812.
court may order petition to stand over for further service, vol. i. 778.
court may make order *nisi* or reference to master, *ib.*
court may apply the provisions of the constitution of the company, vol. i. 779.

The Order absolute, and Proceedings thereon.
court may make order absolute, *ib.*
every order, until order absolute, to be advertised, vol. i. 780.
from what period companies to be dissolved, *ib.*
petitioner to carry in order absolute before master within ten days, *ib.*
on dissolution in suit court may order winding-up under this act, *ib.*
after order absolute assets not to be disposed of, *ib.*
master may appoint interim manager, *ib.*

The Appointment of Official Manager, his Estate, Powers, Duties, &c.
notice of appointment of official managers by the master, vol. i. 781.
master to appoint official manager, *ib.*
in appointing official manager, master may either adopt or reject proposals, *ib.*
recognizances of official manager and of his sureties, vol. i. 781, 812.
master may order official manager and his sureties to pay on their recognizances, vol. i. 782.
master may take security of guarantee society, *ib.*
appointments and removals to be valid without confirmation, and to be advertised, *ib.*
manager to have custody of books, &c. *ib.*
on appointment, all estate, &c. to vest in official manager, *ib.*
registration of orders absolute and appointments of official manager, *ib.*
when order made on petition by direction of court of bankruptcy, all estate, &c. of assignees to vest in official manager, vol. i. 783.
until court shall regulate by general orders, all matters relating to official manager not provided for by the act, practice as to receivers to be followed, *ib.*
court may allow salary to official manager, vol. i. 783, 812.
official manager may employ solicitor, vol. i. 783.
remuneration of such solicitor, vol. i. 813.
duties of official manager, vol. i. 783.
as to passing accounts of official manager, who allowed to surcharge, &c. *ib.*
official manager to keep books of proceedings, which shall be certified by the master, vol. i. 783, 784.

COMPANIES (WINDING-UP ACTS)—*continued.*
official manager may indorse bills and notes and raise money on security of assets, vol. i. 813.
authority of official manager where more than one appointed, *ib.*

General Course of Proceeding under Winding up.
master to determine what parties are to attend proceedings before him, and may appoint representatives of contributories or classes of contributories, vol. i. 784.
all contributories on the list may appear, submit proposals, &c. *ib.*
lunatics to be represented by their committees, and minors by their guardians, *ib.*
parties to name solicitors on whom notices to be served, *ib.*
in default of due diligence, prosecution of proceedings may be given to other parties, *ib.*
death of petitioner, &c. not to abate proceedings, vol. i. 785.
proceedings to be by proposal, and not by state of facts and proposal, *ib.*
master may dispense with warrants, *ib.*
adjournment of proceedings, *ib.*
master may order other advertisements or services, *ib.*
master to give certificate of entries, &c. *ib.*
contributories may inspect books, *ib.*
books of partnership and official manager to be evidence, *ib.*

Actions and Suits by and against the Company and its Contributories.
dissolved companies to sue and be sued in the name of "the official manager" of the particular company, *ib.*
criminal proceedings on behalf of company to be prosecuted by official manager, vol. i. 786.
pending actions, &c. against the company may be prosecuted against the official manager, *ib.*
pending actions, &c. on behalf of the company may be prosecuted in the name of the official manager, *ib.*
death of official manager not to abate action, &c. vol. i. 787.
official manager, with approbation of the master, may compromise, *ib.*
orders and decrees of a court of equity against the official manager to take effect against the company, *ib.*
judgments against official manager to take effect against the company, *ib.*
act not to affect rights of creditors or existing contracts, *ib.*
official manager to be indemnified, *ib.*
no action or suit to be instituted or proceeded with by official manager but by leave of the master, vol. i. 787, 788.
no claim of any contributory in respect of his share to be set off against any demand of the official manager of a dissolved company against such contributory, vol. i. 788.
official manager, with leave of master, may defend actions or suits against individual contributors, *ib.*

Ascertaining and getting in the Estate.
the master may summon any person, whether a member of the company or not, to give evidence as to the affairs, &c. *ib.*
costs of witnesses, *ib.*

COMPANIES (WINDING-UP ACTS)—*continued.*
penalty on contributories, &c. concealing the estate of the company, vol. i. 788.
pending winding up master may require payment of balances, vol. i. 789.
orders may be enforced upon affidavit of default, and without previous demand, *ib.*
conveyances or assignments of real estate or chattels real by official manager, how to be made and certified, *ib.*
as to stock in the funds, &c. vol. i. 789, 790.
payment of money into the bank, vol. i. 790.

Proof of Debts, &c.
list of debts to be made out by the official manager, *ib.*
master to advertise commencement of winding up, *ib.*
no action or suit to be instituted or proceeded with against the company but after proof of debt, *ib.*
proof of debts to be made as in bankruptcy, or otherwise as master shall direct, vol. i. 791.
master to allow or disallow debts, *ib.*

The List of Contributories, and their Mutual Rights.
official manager to make out list of contributories, vol. i. 792—797.
list to be settled by master, and notice given of his beginning to settle, vol. i. 798.
notice to be given to parties included in or excluded from the list, vol. i. 800.
list to be conclusive when settled, unless cause shown to the contrary, vol. i. 801.
no person entitled to appear as contributory, unless name on list, *ib.*
contributories may summon other persons to show cause why they should not be inserted on or excluded from the list, *ib.*

Payment of Debts, Calls, and Distribution of Funds.
master to direct payment of debts, *ib.*
although assets not insufficient until collected, master may make calls, *ib.*
master to apportion amount of calls, vol. i. 802.
repealed by 12 & 13 Vict. c. 108, s. 28, vol. i. 815.
notice of intention to make calls to be given by advertisement, vol. i. 802.
unless cause shown to the contrary, order to be made for payment of calls, *ib.*
order to be advertised and served, *ib.*
official manager may, with approbation of master, enforce payment, give time, &c. *ib.*
master may direct action or suit where assets of a deceased contributory are not admitted, vol. i. 803.
official manager, by direction of master, to circulate accounts and balance sheets, &c. *ib.*

Powers of Master.
power to master to direct issues, special cases, and actions, *ib.*
master to adjudicate on matters of internal contest, *ib.*
orders of master to be valid without confirmation, *ib.*
orders, &c. to be filed, *ib.*
orders of the master to have the effect of orders of court, *ib.*
master to have all usual powers, *ib.*
in case of illness or absence of any master, the master acting for him to have all usual powers, vol. i. 803, 804.

COMPANIES (WINDING-UP ACTS)—*continued.*
master acting during vacations to have all usual powers, vol. i. 804.
Appeals and Special Reports.
appeals to lord chancellor, &c. *ib.*
master may make special report as to matters arising in winding up, *ib.*
rehearing before the lord chancellor, *ib.*
appeal to the house of lords, *ib.*
Costs and Fees.
costs of proving debts, &c. to be at the discretion of master, *ib.*
costs of proceedings before the court, *ib.*
how costs to be ascertained, vol. i. 805.
how recoverable, *ib.*
lord chancellor may fix table of fees, *ib.*
Service, Evidence, and Penalties.
notices may be served by being sent by post, *ib.*
as to advertisements in Ireland, *ib.*
advertisements in Gazette to be evidence, *ib.*
courts to take judicial notice of signature of master or registrar, and of office seals, *ib.*
forging seal, *ib.*
perjury, *ib.*
any contributory of a company dissolved, &c. under this act with knowledge of or in contemplation of dissolution, &c. destroying books, &c. guilty of a misdemeanor, vol. i. 805, 806.
Questions of Jurisdiction and Practice.
enforcement in Ireland of orders of the court of chancery in England, and *vice versâ*, vol. i. 806.
decrees, &c. under this act may be registered in Scotland, and execution may be had as upon a decree interponed upon a bond, &c. *ib.*
where the company shall be wound up in England and where in Ireland, *ib.*
court to have such jurisdiction as upon a suit duly instituted, *ib.*
practice, *ib.*
staying proceedings, *ib.*
matters not provided for to be reported, *ib.*
power to lord chancellor to appoint official managers, vol. i. 806, 807.
Miscellaneous.
lord chancellor, &c. to make general rules and orders, vol. i. 807.
district commissioners of bankruptcy and judges of county courts to be masters extraordinary in chancery, and matters may be referred to them, *ib.*
provisions as to general rules, &c. to apply to such district commissioners and judges, *ib.*
provision as to general orders to apply to Ireland, *ib.*
petition for dissolution, &c. to be a *lis pendens*, *ib.*
forms in schedule may be used, *ib.*
act not to apply to Scotland, *ib.*

12 & 13 Vict. c. 108. (Joint-Stock Companies Winding-up Amendment Act, 1849.) (*Repealed by 25 & 26 Vict. c. 89, s. 205.*)
the 11 & 12 Vict. c. 45, to extend to all partnerships, associations, and companies consisting of not less than seven members, vol. i. 811.

COMPANIES (WINDING-UP ACTS)—*continued.*
petition for dissolution, &c. to be advertised in newspapers besides advertisement in Gazette, vol. i. 812.
petition for dissolution, &c. may be verified by affidavit, *ib.*
on winding up on suit, court may order a resort to the act, *ib.*
extension of provision as to official manager's sureties; withdrawal, increase, or diminution of security; vacating of recognizances, *ib.*
remuneration of official manager to be fixed by master according to the scale herein mentioned, *ib.*
provisions as to remuneration, &c. of official manager to apply to provisional manager, vol. i. 813.
official manager may indorse bills and notes, and raise money on security of assets, *ib.*
the word "contributory" to include alleged contributories as respects the attendance and representation of parties, *ib.*
authority of official manager where more than one appointed, *ib.*
master may fix remuneration of official manager's solicitor, *ib.*
master may award costs, *ib.*
acts of official manager to be valid as respects third parties, though not approved of by master, *ib.*
bankrupt or insolvent contributories to be represented by their assignees, *ib.*
master may adjourn proceedings generally, or take up without adjournment, *ib.*
master may dispense with advertisements, *ib.*
master may review his orders and proceedings, vol. i. 813, 814.
list of contributories, &c. as prepared by official manager to be evidence, vol. i. 814.
master may require any evidence to be given which might have been obtained in a suit by the company, *ib.*
commissioners for receiving evidence, who are to be, *ib.*
master may order the examination of persons in Scotland, *ib.*
witnesses summoned before commissioners to be within provisions, &c. of act, and costs to be costs in the winding up, vol. i. 814, 815.
summonses from England to be good in Ireland, and *vice versâ*, vol. i. 815.
affidavits, &c., may be sworn in Ireland, Scotland, or the colonies, *ib.*
deed of official manager not to be settled by master, unless parties differ, *ib.*
in notices of inclusion in or exclusion from list of contributories, sufficient to state for what interest party is included or excluded, *ib.*
powers of inclusion or exclusion may be exercised so long as any shares remain unadjudicated upon, *ib.*
repeal of section 84 of 11 & 12 Vict. c. 45, *ib.*
master to make calls on contributories for the time being on the list, and to have regard to any probable default of payment, *ib.*

COMPANIES (WINDING-UP ACTS)—*continued.*
official manager may compound claims, &c. of unascertained amount, vol. i. 815.
official manager may prove against estate of bankrupt or insolvent contributories, &c. and receive dividends, *ib.*
if creditors of the company also prove, the dividends payable to the official manager are to go amongst those creditors, vol. i. 816.
if any such creditor be the petitioning creditor under the fiat, the dividends received by him are to be set against dividends payable by the official manager, *ib.*
masters to have powers to order special juries, new trials, and interpleaders, *ib.*
master may make orders in the presence of the parties, though varying from the notice, *ib.*
rehearings not to be moved for after three weeks, *ib.*
order need not be reversed on appeal for want of form only, *ib.*
per centage to be taken in lieu of fees to suitors' fee fund, *ib.*
as to omission of christian names in notices, pre-payment and return of letters sent by the post, vol. i. 816, 817.
extension of lord chancellor's power to make rules and orders, vol. i. 817.
act to be part of Joint-Stock Companies Winding-up Act, 1848, *ib.*
short title, *ib.*
act not to apply to Scotland, *ib.*
20 & 21 Vict. c. 78. (Joint-Stock Companies Winding-up Amendment Act, 1857.) (*Repealed by 25 & 26 Vict. c.* 89, *s.* 205.)
judge or master may call meeting of creditors to appoint representatives, vol. i. 818.
advertisement of meeting, *ib.*
after such advertisement all the creditors, parties to the winding-up, *ib.*
representatives chosen at meeting may be rejected by judge or master, *ib.*
or subsequently removed by him, *ib.*
fresh choice to be made by creditors, *ib.*
assignees of bankrupt companies to be the representatives, *ib.*
assignees of bankrupt companies may compromise with shareholders by leave of court of bankruptcy, *ib.*
such compromise shall bind creditors, *ib.*
certificate of compromise, *ib.*
representatives of creditors may concur in compromises with shareholders, vol. i. 819.
such compromises shall bind shareholders, *ib.*
certificate of compromise, *ib.*
requisites of such compromises, *ib.*
creditors' rights against third persons not to be affected by any compromise, *ib.*
right of appeal, *ib.*
after advertisement of meeting, creditors not to sue, &c. without leave, vol. i. 819, 820.
statutes of limitation not to run against creditors, after such advertisement, vol. i. 820.
security may be required from creditors applying to court, *ib.*

COMPANIES (WINDING-UP ACTS)—*continued.*
creditors may attend meetings, &c. and inspect books, vol. i. 820.
commissioners for receiving evidence in Ireland appointed by English courts, &c., *ib.*
act not to affect judgments obtained in Ireland, *ib.*
but such judgment creditors postponed as to other remedies, *ib.*
mining companies within the jurisdiction of court of stannaries, not to be wound up in chancery, vol. i. 821.
except by leave of court of stannaries, *ib.*
where leave given, proof of debts, &c. to be made through that court, *ib.*
act to be deemed part of winding-up acts, *ib.*
interpretation of terms, *ib.*
short title, *ib.*
see p. 1179, *suprà.*

COMPETENCY OF WITNESSES. See *Evidence; Witnesses.*

CONCEALMENT OF BIRTH.
by secret burying, or otherwise disposing of dead body, vol. ii. (291).
jury may acquit of murder, and find guilty of concealment, *ib.*

CONCEALMENT OF DEEDS.
by vendors or mortgagors, made a misdemeanor, vol. i. 832.
prosecution must have sanction of attorney-general, &c. *ib.*

CONDITION. See *Leases; Trustees.*

CONSPIRACY.
to murder, vol. ii. (280).
indictment for, not to be preferred to grand jury without previous authorisation, vol. ii. (90).

CONSTABLE. See *Justices of the Peace; Police.*
no action against, for acting in obedience to justices' warrant till demand of copy warrant and refusal thereof; and other provisions as to actions against, vol. ii. 951, 952.
constable's account to be delivered quarterly to overseers, and laid before parishioners, and on approval by them (or, if disallowed by them, on being settled by a justice), to be paid out of poor rate, vol. iii. 964.
appointment and payment of parish constables, vol. iii. 982, 989, 1002.
powers of such constables, vol. iii. 985.
vestry may resolve to have paid constables, *ib.*
appointment and duties of, under Town Police Acts, vol. iii. 990, 991.
sum paid by overseers to constables, by order of justices, under 18 Geo. 3, c. 19, or 5 & 6 Vict. c. 109, not to be disallowed by auditors, vol. iii. 1269.
masters of workhouses or relieving officers not to be appointed to office of, vol. iii. 1280.
High Constable.
payment of expenses and allowances to, in certain cases, vol. iii. 965, 966.
his liabilities, duties, and indemnity, in action against the hundred, vol. ii. 708, 709.

CONSTABLE—*continued.*
appointment of, vol. iii. 988.
relief of, from attendance at quarter sessions, from certain duties connected with the county rate, and summoning justices to special sessions, &c. vol. iii. 988, vol. iv. 159.
collection of county rate by, vol. i. 1165.
Special Constables.
payment of expenses and allowances to, in certain cases, vol. iii. 965.
amending law relative to appointment of, vol. iii. 966, 969.
appointment of, in boroughs, vol. i. 996, 997.
if appointed for keeping the peace near public works, the proprietors of such works to pay the expenses, vol. iii. 970.
Borough Constables.
appointment, powers, and duties of, vol. i. 995.
special constables in boroughs, vol. i. 996, 997.
County and District Constables.
establishment of, by authority of justices, where the ordinary officers are not sufficient for the preservation of the peace, vol. iii. 970, 975.
rendering more effectual the police in counties and boroughs—making the establishment of a constabulary imperative, vol. iii. 1003.
amending the laws concerning the police in counties and boroughs, vol. iii. 1010.
Local Constables.
appointment of, in county constabulary districts, vol. iii. 978.
Canal and River Constables.
appointment, powers, and duties of, vol. i. 458.

CONSTRUCTION.
of statutes generally, vol. iv. 637, s. 4.
of all criminal statutes, v. ii. (18), s. 14.

CONSULS. See *Oaths.*
administration of oaths by, vol. iii. 451, 460, 461.
may do any notarial act same as a notary public, vol. iii. 451, 452, 460, 461.
quære as to power of consul to administer oath to hold to bail, vol. iii. 451, n. (*c*).
affidavit of acknowledgment of fine cannot be sworn before, *ib.*
but consul may *certify* as to handwriting and authority of party before whom affidavit sworn, *ib.*
not within 7 Anne, c. 12, vol. i. 47, n. (*a*).
liable to arrest, *ib.*

CONTINGENT REMAINDERS. See *Conveyances.*

CONTINUAL CLAIM.
no right to be preserved by, vol. iii. 36.

CONTRACTS. See *Conveyances; Frauds (Statute of.)*
requisites of agreement by executor and administrator to answer damages out of his own estate, vol. ii. 149.
of promises to answer for the debt or default of another, vol. ii. 149, 150.
consideration for such promise need not appear in writing, vol. ii. 178.

CONTRACTS—*continued.*
of agreements upon consideration of marriage, vol. ii. 150, 155.
of agreements for sale of lands, or any interest therein, vol. ii. 155.
of agreements not to be performed within a year, vol. ii. 155, 156.
of agreements for sale of goods, vol. ii. 165 *et seq.*
bankrupts not liable after order of discharge on any contract made after adjudication to pay debt proveable under the bankruptcy, vol. i. 368*w.*
requisites of acknowledgment or promise to defeat statute of limitations, vol. iii. 13—22, 69.
of promises after full age to pay debt contracted during infancy, vol. iii. 24.
of representations as to character, credit, &c. vol. iii. 24.
for hiring artificers in certain specified manufactures and trades, illegal and void, if wages made payable otherwise than in current coin, or if any stipulation as to manner in which wages shall be expended, vol. iii. 318, 319.
requisites of, for letting houses of residence of beneficed persons, vol. i. 557, 558.
for stipends to curates of less amount than assigned by licence, void, vol. i. 564.
requisites of, by registered joint-stock companies, vol. i. 691.
by companies incorporated by act of parliament, vol. i. 749.
by local boards of health, vol. ii. 450.
by way of gaming or wagering, void, vol. ii. 276, 277.

CONVEYANCES. See *Attorneys; Feme Covert; Fines and Recoveries; Stamps.*
as to fraudulent conveyances. See *Fraudulent Conveyance.*
requisites of conveyance under Statute of Frauds. See *Frauds (Statute of).*
of trader's property, when an act of bankruptcy, vol. i. 274n. (*d*).
by what words in a feoffment, a feoffor bound to warranty, vol. i. 822.
operation of words *give* and *grant, ib.*
feoffee to hold his land of the chief lord and not of feoffor, *ib.*
decisions thereon, *ib.* n. (*c*).
grants and conveyances good without attornment, vol. ii. 1106.
a release effectual, though no lease for a year executed, vol. i. 823.
stamp on the release the same as bargain and sale, or lease for a year, *ib.*
the recital of a lease in a release executed before 1841 evidence of the execution of such lease for a year, *ib.*
construction of the word "freehold," vol. i. 824.
repeal of so much of 7 & 8 Vict. c. 76, as abolishes contingent remainders as from the commencement, *ib.*
and the residue as from 1st Oct. 1845, *ib.*
the immediate freehold of corporeal tenements to lie in grant as well as in livery, *ib.*
stamp duty on grants thereof, *ib.* (13 & 14 Vict. c. 97, s. 6.)
feoffments, partitions, exchanges, leases, assignments, and surrenders (subject to certain exceptions) to be by deed, *ib.*

CONVEYANCES—*continued.*
feoffments not to operate by wrong, nor exchanges or partitions to imply any condition, or give and grant any covenant, vol. i. 825.
strangers may take immediately under an indenture, and a deed purporting to be an indenture shall take effect as such, *ib.*
contingent and other like interests, also rights of entry, made alienable by deed, saving estates in tail, and as regards married women enjoining conformity to 3 & 4 W. 4, c. 74, *ib.*
capacity of married women to disclaim estates or interests by deed extended to England, *ib.*
contingent remainders protected as from 31st Dec., 1844, against the premature failure of a preceding estate, *ib.*
when the reversion on a lease is gone the next estate to be deemed the reversion, *ib.*
act not to extend to Scotland, vol. i. 826.

8 & 9 Vict. c. 112, *Assignment of Satisfied Terms, ib.*
on 31st Dec., 1845, satisfied terms of years attendant on inheritance, &c. of land, to cease, except, &c. *ib.*
satisfied terms now subsisting, &c. to cease on becoming attendant upon inheritance, &c. of lands, *ib.*
construction of act, vol. i. 828.
not to extend to Scotland, *ib.*

22 & 23 Vict. c. 35.
AMENDMENT OF THE LAW OF PROPERTY AND RELIEF OF TRUSTEES.
Leases.
licences to do acts, which would create forfeiture or give right to re-enter, to extend to actual permission only, vol. i. 829.
proceedings may be taken for subsequent breaches, *ib.*
all rights under covenants and powers of forfeiture and re-entry to continue, *ib.*
a licence to one of several lessees or co-owners, not to affect rights of re-entry, &c., as to the others, *ib.*
a licence to lessee or owner in respect of part of property, not to affect rights of re-entry, &c., as to the rest, *ib.*
where the reversion is severed, and rent, &c., apportioned, rights of re-entry, &c. to attach to each part of reversion, *ib.*
Rent-charges.
release of part of land charged not to be an extinguishment as to the rest, vol. i. 830.
Judgments.
release of part of land charged not to affect validity of judgment as to the rest, *ib.*
Powers.
execution and attestation of powers, *ib.*
a deed attested, &c. by two witnesses sufficient, *ib.*
proviso, *ib.*
sale under power not avoided by mistaken payment for timber, &c. to tenant for life, *ib.*
on purchaser paying value of timber, &c. with interest, sale to be established by court, *ib.*
devisees in trust under wills to come into operation may raise money charged on

CONVEYANCES—*continued.*
estates, either by sale or mortgage, notwithstanding want of express power, vol. i. 830.
survivors or successors of such trustees to have the same power, vol. i. 831.
executors to have same power, &c. where there is no sufficient devise of estates charged, *ib.*
purchasers and mortgagees not bound to inquire as to these powers, *ib.*
sects. 14, 15 and 16 not to affect sales, &c. under wills coming into operation before act, *ib.*
not to extend to devises in fee or in tail, *ib.*
Inheritance.
descent how to be traced on failure of heirs of purchaser, &c. *ib.*
from the person last entitled, *ib.*
preceding section incorporated with 3 & 4 Will. 4, c. 106, *ib.*
Assignment of Personalty.
personal property may be assigned to the assignor himself and others, *ib.*
Purchasers.
after 1859, provision as to re-registry contained in 2 & 3 Vict. c. 11, and 18 & 19, Vict. c. 15, extended to crown debts, *ib.*
receipt of purchase or mortgage money by trustee an effectual discharge, vol. i. 832.
persons paying such purchase or mortgage money not answerable for misapplication, *ib.*
unless an express declaration to the contrary in trust, *ib.*
vendor or mortgagor or his agent made guilty of misdemeanor if he fraudulently conceals deeds, &c. vol. i. 832, 833.
or falsifies pedigree, vol. i. 832.
punishment of offenders, *ib.*
action for damages as well, *ib.*
in estimating damages, improvements to land may be regarded, *ib.*
prosecutions must have the sanction of attorney-general, *ib.*
sanction not to be given without previous notice, *ib.*
interpretation of terms, *ib.*
"land," *ib.*
"mortgage," *ib.*
"mortgagor," or "mortgagee," *ib.*
"judgment," *ib.*

23 & 24 Vict. c. 38.
restriction of effect of waiver, vol. i. 832.
provision for cases of future and contingent uses, *ib.*
sect. 24 of 22 & 23 Vict. c. 35, extended to mortgagees, vol. i. 833.
form of applying for advice of judge, &c under sect. 30 of 22 & 23 Vict. c. 35, *ib.*
trustees, &c. petition for opinion of court &c. to be signed by counsel, *ib.*
power to lord chancellors, &c. of England and Ireland to make general orders as to investment of cash under the control of the court, *ib.*
trustees, &c. to invest trust funds in the stocks, &c. in which cash under the control of the court may be invested, *ib.*
clause 32 of 22 & 23 Vict. c. 35, to act retrospectively, *ib.*

CONVEYANCES—*continued.*
extension of s. 40 of 3 & 4 Will. 4, c. 27, s. 40, to cases of claims to estates of intestates, vol. i. 833.
no suit to be brought to recover estate of intestates but within twenty years after right accrued, unless right acknowledged, *ib.*
order to take account of debts, &c., of deceased person under sect. 19 of 13 & 14 Vict. c. 35, may be made immediately after probate granted, vol. i. 833, 834.
act not to extend to Scotland, &c. vol. i. 834.
23 & 24 Vict. c. 145 (*giving to trustees, mortgagees and others certain powers now commonly inserted in settlements, mortgages and wills*).
Powers of Trustees for Sale, &c. and Trustees of renewable Leaseholds.
trustees empowered to sell may sell in lots and either by auction or private contract, vol. i. 834.
sale may be made under special conditions and trustees may buy in, &c. *ib.*
trustees exercising power of sale, &c. empowered to convey, *ib.*
moneys arising from sales, &c. to be laid out in other lands, *ib.*
or in payment of incumbrances, vol. i. 835.
money arising from sales, &c. not to be laid out, nor lands exchanged elsewhere than in the country in which lands sold or exchanged are situate, *ib.*
until purchase of lands, &c. money to be invested at interest, *ib.*
trustees of renewable leaseholds may renew, *ib.*
money for equality of exchange and for renewal of leases may be raised by mortgage, &c. *ib.*
no sale, &c., to be made without consent of tenant for life, &c. *ib.*
Powers of Mortgagees.
powers incident to mortgages, vol. i. 836.
receipts for purchase-money sufficient discharges, *ib.*
notice to be given before sale; but purchaser relieved from inquiry as to circumstances of sale, *ib.*
application of purchase-money, *ib.*
conveyance to the purchaser, *ib.*
owner of charge may call for title deeds and conveyance of legal estate, *ib.*
appointment of receiver, *ib.*
receiver deemed to be the agent of the mortgagor, vol. i. 837.
power of receiver, *ib.*
receiver may be removed, *ib.*
receiver's remuneration, *ib.*
receiver to insure if required, *ib.*
application of moneys received by him, *ib.*
this part of the act to relate to charges by way of mortgage only, *ib.*
Provisions as to Investment of Trust Funds, Appointment and Powers of Trustees and Executors, &c.
on what securities trust funds may be invested, *ib.*
trustees may apply income of property of infants, &c. for their maintenance, *ib.*
provisions for appointment of new trustees on death, &c. vol. i. 837, 838.
trustees' receipts to be sufficient discharges, vol. i. 838.
executors may compound, &c. *ib.*

CONVEYANCES—*continued.*
General Provisions.
tenants for life, &c. may execute powers notwithstanding incumbrances, vol. i. 838
powers, &c., hereby given may be negatived by express declaration, *ib.*
no persons other than those entitled under the settlement, &c. to be affected, *ib.*

25 & 26 Vict. c. 53.
extent of act, vol. i. 838*a*.
registry to be established, *ib.*

PART I.

AS TO THE REGISTRATION OF REAL ESTATES AND TITLE THERETO.

limits of registry, *ib.*
by whom application for registration to be made, *ib.*
Proceedings to obtain Registration of a Title as indefeasible:
examination of title with guarantee, *ib.*
on application for registration no title shall be accepted unless marketable, *ib.*
reference of questions of title to judge, *ib.*
if the title good particulars to be furnished to registrar, *ib.*
the description of land may be verified on oath, *ib.*
claim to mines and minerals, unless in description, not to be included, *ib.*
identity of lands to be established, *ib.*
a map shall be deposited as part of description, *ib.*
notice of intention to register, public advertisement, vol. i. 838*b*.
contents of notice to be served on every adjoining occupier, &c. *ib.*
cause may be shown against registration, *ib.*
registrar may decide on objection, *ib.*
completion of registration, *ib.*
books may be inspected by persons interested, *ib.*
As to the Record of Title:
as to exception, &c. in record of title, registrar may reserve outstanding right or possibility of claim, *ib.*
any question as to true construction of any deed, &c. to be referred by registrar to a judge of court of chancery, *ib.*
registrar may refer in record of title to deed, &c. instead of describing estates of parties, vol. i. 838*b*, 838*c*.
copy thereof shall be delivered to the registrar, *ib.*
persons entitled to principal money, proceeds of any trust for sale, &c. not to be entered in record of title unless registrar thinks fit, vol. i. 838*c*.
When an indefeasible Title shall arise:
persons described in record of title to be deemed as possessed of such estates, and absolutely entitled, &c. free from all rights, *ib.*
informality not to prejudice entry in record of title, *ib.*
before registration applicant and solicitor or agent, &c. to make oath that all deeds, &c. have been made known to registrar, *ib.*
power to registrar to refuse registration, *ib.*
power to registrar to demand security for costs, and to order costs of person appearing to be paid by the applicant, *ib.*

CONVEYANCES—*continued.*

Proceedings for Registration without an indefeasible Title:
registration without guarantee of title may be made under certain conditions, vol. i. 838*c*.

Registration of Leasehold Estates:
leasehold estates of which fifty years are unexpired, or two lives subsisting, may be registered in like manner as freehold lands, vol. i. 838*d*.

General Provisions as to Title:
what charges and liabilities not to be deemed incumbrances, *ib.*
land may be registered as one estate, but particulars of each estate may form a separate record, *ib.*
registered land made subject to certain conditions, &c. as not to be built upon, *ib.*
notice of registration of land to be given by registrar to interested person, *ib.*
if judicial declaration of title may be entered upon register, *ib.*
after registration of land, every estate, charge, &c. to be entered in record of title, vol. i. 838*e*.
estates of registered proprietors subject to existing law, *ib.*
power to registered proprietor, with consent of persons interested, to remove the same from the register, *ib.*

Caveat against Entry of Land on Register:
caveats may be lodged with registrar, to the effect that cautioner is entitled to notice, *ib.*
caveat to be supported by affidavit, *ib.*
how notice to be served, *ib.*
after caveat, no registration to be made of lands till ten days after notice to the cautioner, *ib.*
compensation if caveat lodged without reasonable cause, *ib.*
caveat not to prejudice title of any person, *ib.*
effect of, *ib.*

PART II.

SIMPLIFICATION OF TITLE BY JUDICIAL SALES.

Sales by Court of Chancery:
sales of land may be made with an indefeasible title by the court, on application by owner, *ib.*
application to be served on such persons as the court thinks fit, *ib.*
court shall provide for examination of title, giving notices, &c. before making order for sale, *ib.*
applicant to give security for costs, *ib.*
purchase-money to be paid into the bank as court may direct, *ib.*
court may vest land in the purchaser, subject to incumbrances, *ib.*
such payment to exonerate purchaser from liability, vol. i. 838*f*.
stamp on vesting order, *ib.*
applicant for sale and his solicitor may be examined and give satisfactory evidence concerning title before vesting order made, *ib.*
where sales are made under 20 Vict. c. 120, the court may make order as under this act, *ib.*
vesting order to confer on person in whom land is vested an estate in fee simple, with all rights, privileges, &c. vol. i. 838*f*.
court may make a qualified vesting order, where title is shown for a limited period only, *ib.*
effect of qualified vesting order, *ib.*
court of chancery may require production of deeds, &c. *ib.*
distribution of monies paid into bank, *ib.*
as to disposal of money not immediately distributable, *ib.*
as to disposal of deeds after vesting order made, *ib.*
vesting order to direct entry on register, vol. i. 838*g*.
contents of vesting order, *ib.*
registration with a qualified title not to affect prior claims, *ib.*
entry of discharge of incumbrance, on proof of the discharge, *ib.*
compensation to persons aggrieved, out of money remaining in court, *ib.*
as to costs and expenses, *ib.*
as to assignment of duties amongst judges, *ib.*

PART III.

AS TO THE TRANSFER OF REGISTERED LAND.

conveyance, &c. of registered land, *ib.*
no equitable mortgage on registered land by deposit of deeds, *ib.*
attendance of parties at registry office on sale, &c. of registered land, *ib.*
execution of conveyance, *ib.*
forms of conveyance in schedule hereto of registered land, *ib.*
forms of conveyance in schedule as effectual as other forms now known, *ib.*
forms may be modified or altered, *ib.*

As to Land Certificates:
registrar to deliver to person on the record land certificates, vol. i. 838*h*.
registrar, at request of holder, to compare certificate with registry, *ib.*
certificate shall be granted to person entitled to any mortgage, *ib.*
registered proprietors desirous of selling, &c. may obtain special land certificate, which shall be conclusive evidence of title, *ib.*
certificate to be evidence, *ib.*
conveyance of lands by endorsement on certificate, *ib.*
deposit of certificate the same effect as a deposit of the title deeds, *ib.*
stamp on, *ib.*
estates, &c. in land may be created by will, &c., provided no unregistered estate shall prevail against the title of any subsequent purchaser for valuable consideration duly registered, *ib.*
on conveyance of estate, &c. on register, deed or copy to be sent to registrar, and endorsed on original deed, *ib.*
when deed received by registrar, estate created to be deemed duly registered, *ib.*
entry on "the record of title," *ib.*
notice when to be sent to registrar, vol. i. 838*i*.
entry, *ib.*
where estate transmitted to any person by descent, will, &c. such person to be registered, *ib.*
as to dispute touching the ownership, *ib.*

CONVEYANCES—*continued.*
notice to be given to heir at law, of application for registration of a will, vol. i. 888*i*.
in case of bankruptcy assignees to be registered, *ib.*
memorial of will may be registered instead of copy thereof, *ib.*
execution of instrument proposed to be registered to be proved as registrar may require, *ib.*
memorials of descents, deaths, &c. to be registered, &c., *ib.*
on receiving instruments, &c. registrar to note effect of, *ib.*
official note, what to contain, *ib.*
printed copy of deed, &c. may be delivered to registrar, *ib.*
registrar in certain cases may erase official note, *ib.*
no dealing with registered land effectual until stamp and ad valorem duties paid, *ib.*

PART IV.

GENERAL PROVISIONS TO FACILITATE REGISTRATION.

money charge not ascertained or doubtful, &c. may be referred to judge at chambers, *ib.*
judge may order money not distributable, &c. to be paid into court of chancery, vol. i. 888*k*.
deeds to be stamped, *ib.*
judge may decide questions of priority of incumbrances, *ib.*
As to Restraint of Conveyance:
as to restrictions on conveyance, &c. of land, without notice, without consent, &c. *ib.*
registrar to make a note of such restrictions, &c. *ib.*
court of chancery may exercise powers of 13 & 14 Vict. c. 60, *ib.*
Caution:
person interested may lodge caveat with registrar, *ib.*
caveat to be supported by affidavit, *ib.*
after such caveat statutory disposition of land not to be registered until notice served on cautioner, *ib.*
caveat, when to cease, *ib.*
cautioner to give security against damage sustained by delay of disposition of property, *ib.*
compensation for lodging caution without reasonable cause, vol. i. 888*l*.
Injunction:
court of chancery may upon application of person interested in registered land, issue order restraining disposition of land, &c. *ib.*
court of chancery may annex terms, &c. to such order, *ib.*
jurisdiction of courts of equity not taken away by fraud, *ib.*
acts relating to registries in Middlesex and York not to apply to land on register under this act, *ib.*
Penalty on Fraud, &c.:
person making false statement or suppression guilty of misdemeanor, *ib.*
act done by means of such fraud void, *ib.*
as to persons aggrieved by proceeding, &c. for any act declared a misdemeanor, not to affect remedy, *ib.*

CONVEYANCES—*continued.*
answers to bills, questions, &c. not admissible in evidence, vol. i. 888*l*.
nothing in this act shall entitle any person to refuse to make discovery, *ib.*

OFFICE OF LAND REGISTRY, POWERS OF COURT OF CHANCERY, AND MISCELLANEOUS.

establishment of office of land registry, *ib.*
appointment of registrar, *ib.*
appointment of assistant registrars and examiners of title, *ib.*
messengers and servants, *ib.*
salaries of officers, vol. i. 888*m*.
retiring pension of registrar, *ib.*
superannuation of officers other than registrar, *ib.*

GENERAL PROVISIONS.

crown, &c. lands, *ib.*
provision as to applications made by married women, *ib.*
examinations may be taken under 3 & 4 Will. 4, c. 74, *ib.*
provision for lunatic or other persons under disability, *ib.*
registrars, &c. may administer oaths, and declarations in lieu of oaths, &c. vol. i. 888*n*.
as to loss of land certificate, *ib.*
granting of new certificates, *ib.*
lord chancellor to make rules and orders for carrying into effect purposes of act, *ib.*
as to assignment of duties and appointment of additional clerks, *ib.*
salary, *ib.*
forms of applications and directions to be printed and promulgated, *ib.*
seal of land registry office evidence, *ib.*
addresses of proprietors to be registered, *ib.*
registrar may frame general orders, *ib.*
such orders to have effect as act of parliament, *ib.*
Fees:
registrar to determine amount of fees, *ib.*
matters to be considered in determining amount of fees, *ib.*
collection of fees by stamps, vol. i. 888*o*.
stamp acts applied to stamps under this act, *ib.*
lord chancellor may fix scale of costs, *ib.*
costs of registration may, in certain cases, be raised by mortgage, *ib.*
general orders, scales of fees, &c. to be laid before parliament, *ib.*
Proceedings in Court of Chancery:
applications to court of chancery to be by summons, *ib.*
power of judge, *ib.*
appeal, *ib.*
extension to solicitors of counties palatine of Durham and Lancaster, *ib.*
Forms:
forms, *ib.*
Inspection of Register:
inspection of register and copies, *ib.*
Fraud:
fraud a misdemeanor, *ib.*
entry made by fraud void, vol. i. 888*p*.
punishment, *ib.*
interpretation of terms: "person," "possession," "land," "incumbrance," *ib.*

SCHEDULE—Forms of Transfer, &c., *ib.*

CONVEYANCES—*continued.*

"DECLARATION OF TITLE ACT, 1862."

25 & 26 Vict. c. 67.

parties claiming to be entitled to land may petition court of chancery for declaration of title, vol. i. 838*q*.
petition to set forth incumbrances and particulars affecting title, *ib.*
two persons interested may jointly petition, *ib.*
petition as to copyhold, &c. lands not admitted, *ib.*
court may require registrar to be served with petition, *ib.*
registrar thereupon to be made a party, *ib.*
court may investigate petitioner's title, *ib.*
if court dissatisfied, petition to be dismissed, but subject to appeal, *ib.*
when investigation is satisfactory, court may order a declaration of title to be made, *ib.*
order not to be made until security for costs is given, *ib.*
before order is made petitioner to file affidavit that all documents have been produced, *ib.*
notice of order to be advertised in newspapers, *ib.*
before the proposed declaration of title has been made court may hear petition against declaration of title, or reserve rights, vol. i. 838*q*, 838*r*.
on hearing of petition court may qualify or refuse declaration of title or reserve rights, vol. i. 838*r*.
court may reserve rights of persons under lost deeds, *ib.*
where court sees no reason for refusal, declaration of title to be made, *ib.*
appeal may be made to court of appeal within six months after declaration, *ib.*
parties may appeal from court of appeal to house of lords, *ib.*
declaration of title as approved by house of lords to be final, *ib.*
where court refuses title, petitioner may appeal to court of appeal and house of lords, *ib.*
declaration of title not to be set aside for informality, *ib.*
declaration of title to be registered as an indefeasible title, *ib.*
certificate of court to be given to party obtaining final declaration of title, *ib.*
production of deeds before sealing of certificate, *ib.*
declaration of title to be deemed to have correctly declared land therein referred to, *ib.*
court may make separate declarations or certificates of title, *ib.*
court may cancel original certificate, and give certificates to separate parts of land comprised in cancelled certificate, vol. i. 838*r*, 838*s*.
substitution of certificate, vol. i. 838*s*.
if certificate of title be lost a duplicate may be issued, *ib.*
declaration of title not to affect certain claims, &c., *ib.*
registration of lands with declaration of indefeasible title, *ib.*
court may hear petition for recall or variation of declaration of title, *ib.*

CONVEYANCES—*continued.*

for prevention of dealing with land until petition disposed of, vol. i. 838*s*.
proceedings on petition liable to right of appeal, *ib.*
power to court to order costs, *ib.*
persons alienating lands subject to trusts to invest trust money in purchase of lands to be settled to certain uses, *ib.*
provision as to married women, *ib.*
provision for other persons under disability, vol. i. 838*t*.
proceedings not to abate by death, &c. *ib.*
register of estates, titles, &c. to be kept, *ib.*
power to lord chancellor, &c. to make rules and orders, *ib.*
court of chancery to adopt rules in schedule until general rules are framed, *ib.*
power to lord chancellor to appoint additional clerks, *ib.*
rules and orders to be laid before parliament, *ib.*
penalty on making false statement and suppression of deeds and evidence, *ib.*
penalty on fraudulent alterations, &c., vol. 838*u*.
conviction not to affect civil remedy, *ib.*
enactment of penalty not to exclude obligation to make discovery, *ib.*
construction of terms, &c. in this act: "person," "possession," "land," *ib.*
extent of act, *ib.*
short title, "Declaration of Title Act, 1862," *ib.*
SCHEDULE, *ib.*

CONVEYANCERS. See *Attorney.*

who may draw conveyances, &c. vol. i. 821.
penalty for acting contrary thereto, vol. i. 822.
exceptions as to particular persons and conveyances, &c. *ib.*
stamped certificates not to be issued to conveyancers under the bar without the benchers' annual permission, vol. i. 184.
stamp on certificate of, when to be taken out, vol. iv. 553.

CONVICTION. See *Criminal Law; Justices of Peace.*

CONVICTIONS (SUMMARY).

facilitating the performance of duties of justices out of sessions with respect to (11 & 12 Vict. c. 43), vol. ii. 961, *et seq.*
how ownership of property may be stated in information and other proceedings, vol. ii. 963, 964.
variances between information and evidence, vol. ii. 965.
manner of laying information, *ib.*
information to be laid within six months, except in cases specially provided for, *ib.*
hearing of information, vol. ii. 966.
place of hearing a public court, *ib.*
appearance by counsel or attorney, *ib.*
forms of convictions, vol. ii. 968.
act not to extend to certain convictions, vol. ii. 973.

COPY. See *Evidence; Stamp.*

COPYHOLD,
Infants, Femes covert, Lunatics, &c., 11 Geo. 4, and 1 Will. 4, c. 65.
rules for interpretation of present act, vol. i. 839.
admission of infants, &c. to copyholds, vol. i. 840.
femes covert, infants, &c. to be admitted by their guardian or attorney, *ib.*
in default of appearance, lord may appoint attorney, &c. *ib.*
fines of feme covert, &c. how demandable, *ib.*
if not paid, lord may enter and take profits, &c. *ib.*
lord in that case to account yearly, &c. *ib.*
and deliver up possession on satisfaction, vol. i. 841.
guardians or husbands paying fines may be reimbursed out of rents of, *ib.*
no forfeiture by not appearing or refusing to pay, *ib.*
fines not warranted by custom may be controverted, *ib.*
appointment of attorneys for surrendering, *ib.*

Commutation of, vol. i. 842.

4 & 5 Vict. c. 35. (*The Copyhold Act*, 1841.)
commissioners, seal of, &c. *ib.*
to report, &c. *ib.*
assistant commissioners, *ib.*
salaries, declaration, &c. vol. i. 843.
may delegate their power, *ib.*
lord or tenant being under disabilities, *ib.*
agents may be appointed, *ib.*
meetings may be called for agreeing on terms of commutation, *ib.*
terms of agreement, vol. i. 844.
commutation may be in consideration of fine, *ib.*
provisional agreement, vol. i. 845.
proportional interest, how computed for voting purposes, *ib.*
meetings may be adjourned, *ib.*
form of agreement, *ib.*
differences as to rights or boundaries may be referred, *ib.*
consents of ecclesiastical persons to agreements, vol. i. 846.
agreements to be confirmed by commissioners, *ib.*
valuers to be appointed, *ib.*
their powers, &c. vol. i. 846, 847.
stewards to furnish information to valuers and commissioners, vol. i. 847.
penalty, *ib.*
valuation, vol. i. 848.
schedules of valuation to be deposited, and meetings to hear objections, *ib.*
expenses of proceedings, vol. i. 849.
schedules of apportionment, *ib.*
inspection and confirmation of, *ib.*
copies to be deposited with steward and clerk of the peace, vol. i. 850.
notice to parties, *ib.*
errors, correction of, *ib.*
rent-charge in lieu of fines, &c. *ib.*
schedule to specify when rent-charge to be increased or diminished, vol. i. 851.
in default of valuers, commissioners to appoint, *ib.*
commissioners may hear disputes, *ib.*
rights to mines, *ib.*

COPYHOLD—*continued.*
appeal, vol. i. 851.
proceedings not to abate, vol. i. 852.
death of parties, *ib.*
power to examine witnesses, &c. *ib.*
expenses of witnesses, *ib.*
tenant paying rent-charge, &c. may deduc from rent, *ib.*
lands exempted from act, *ib.*
rent-charge in arrear, distress, vol. i. 853.
accounts, *ib.*
apportionment, *ib.*
suing, *ib.*
voluntary commutation, *ib.*
power of lords to recover commutation fines, vol. i. 854.
supplementary or substituted commutation, *ib.*
apportionment of rent and fines, *ib.*
voluntary enfranchisements, *ib.*
consent of commissioners, vol. i. 855.
payment of enfranchisement money, vol. i. 856.
substituted titles, vol. i. 857.
general expenses, *ib.*
remedy, *ib.*
expenses of trustees, *ib.*
costs may be charged on the lands in certain cases, vol. i. 858.
and on the manor, *ib.*
lands to be charged with enfranchisement consideration as on mortgage, *ib.*
priority, *ib.*
power to mortgage, *ib.*
moneys for enfranchisement, to whom to be paid, *ib.*
if paid to lord not entitled, vol. i. 859.
payments to stewards, *ib.*
receipts sufficient discharges, *ib.*
after confirmation of apportionment, lands to descend as freeholds, vol. i. 860.
gavelkind exempted from act, *ib.*
lands to become freehold, *ib.*
rights of common, *ib.*
proviso as to mortgages, wills, &c. *ib.*
other rights of lords not to be affected, *ib.*
nothing in act to prevent commutation which might be made independently of it, *ib.*
or to revive rights barred, *ib.*
tenants may grant rights of way to lord for mining purposes, *ib.*
equity may decree partition of copyholds, vol. i. 861.
lords may hold customary courts, though no tenant present, *ib.*
and out of court grant lands, *ib.*
and grant admissions, *ib.*
surrenders, &c. at courts whereat a homage shall not be assembled to be entered on the roll, *ib.*
presentment by the homage not essential to admission, vol. i. 862.
lords not to grant common without consent of homage in certain cases, *ib.*
lords may grant licences to tenants to alienate tenements in portions, *ib.*
awards, &c. not liable to stamp, *ib.*
false evidence, perjury, *ib.*
limitation of action, *ib.*
proceedings not to be quashed or removed by *certiorari*, *ib.*
as to crown lands, vol. i. 863.
as to duchy of Cornwall, *ib.*
interpretation clause, *ib.*

COPYHOLD—*continued.*
6 & 7 Vict. c. 23. (*The Copyhold Act*, 1843.)
enfranchisement may be made in consideration of an annual rent, and commutation may be made in consideration of the conveyance of lands subject to the same uses as those commuted, or any right to mines or minerals, vol. i. 864.
power to the person obtaining the enfranchisement of lands to grant an annual rent in consideration of such enfranchisement, *ib.*
power to the person obtaining the commutation or enfranchisement of lands to convey lands in consideration of such commutation or enfranchisement, *ib.*
power to the person having a particular estate in an annual rent to apportion the same, *ib.*
power to the person having a particular estate in lands charged with an annual rent to concur in the apportionment thereof, *ib.*
no apportionment to be made without the consent of the person entitled to the lands, vol. i. 865.
annual rents charged on lands under this act to be first charges on such lands, *ib.*
sub-lessees not to be liable to the payment of a greater sum than they were before liable to, *ib.*
if at the time of the conveyance of any lands in consideration of an enfranchisement there shall be a lease subsisting, the person to whom such lands shall be conveyed shall have the reversion on such lease, and may distrain for the rents and enforce the covenants, &c. *ib.*
if at the time of the commutation or enfranchisement of any lands there shall be any lease subsisting therein, the person seised of or entitled to such lands shall have the reversion on that lease, and may distrain for the rents and enforce the covenants, &c. *ib.*
a schedule of apportionment may be used where six tenants agree to enfranchise, *ib.*
repealed, vol. i. 879.
part of the money received for enfranchisement may be applied in paying off any fee-farm rent or other charge, vol. i. 866.
application of the remainder, *ib.*
commissioners may direct that any other security may be substituted for the payment of money into the bank, *ib.*
altering provision in recited act as to notice of person entitled to next estate of inheritance, *ib.*
payment of enfranchisement money when the lord of the manor has only a limited interest, *ib.* (see 16 & 17 Vict. c. 57).
to what the acts shall be construed to extend, vol. i. 867.
act a part of recited act, *ib.*
7 & 8 Vict. c. 55. (*The Copyhold Act*, 1844.)
provisions of former acts as to recovery of expenses, costs, &c. to extend to cases where there shall not be an apportionment, *ib.*
persons having a limited beneficial interest only may charge expenses on the lands, &c. *ib.*
where trustee is tenant and not beneficially interested, the person beneficially interested at the date of confirmation of commutation, &c. shall be deemed beneficially interested, vol. i. 867.
provisions for charging and securing of the consideration money of any enfranchisement to extend to cases in which there shall not be an apportionment, *ib.*
commutations or enfranchisements may be made in consideration of conveyance of lands, &c. not parcel of the manor, &c. vol. i. 867, 868.
trustee resigning, substitute to be appointed, vol. i. 868.
extending provisions of 6 & 7 Vict. c. 23, to rent-charges, &c. *ib.*
act to be construed as part of the recited acts, *ib.*
14 & 15 Vict. c. 53.
commissioners to come in the place of copyhold and inclosure commissioners, and to complete proceedings under tithe acts, and to exercise all other powers now vested in copyhold, &c. commissioners, *ib.*
as to continuance of secretary and officers, *ib.*
appointments and powers of assistant commissioners continued, *ib.*
provisions as to copyhold, &c. commissioners applicable to this act, vol. i. 869.
powers of assistant commissioners appointed by tithe, &c. commissioners vested in assistant commissioners appointed under this act, *ib.*
matters commenced by tithe commissioners, &c. to be completed by commissioners under this act, *ib.*
15 & 16 Vict. c. 51. (*The Copyhold Act*, 1852.)
for effecting enfranchisement after next admittance, *ib.*
tenant or lord may compel enfranchisement, *ib.*
mode of effecting enfranchisement, *ib.*
appointment of valuer not to be revoked without mutual consent, except that commissioners may remove for misconduct, &c. vol. i. 870.
in case of death, &c. of valuers, others to be appointed, *ib.*
commissioners, &c. may call for and enforce production of books and documents, *ib.*
power of entry for purposes of act, *ib.*
valuers how to proceed, *ib.*
questions of law or fact may be referred to the commissioners, vol. i. 871.
appeal to be had on matter of law on a case stated, *ib.*
award to be confirmed by the commissioners, *ib.*
charge under act to be a first charge, *ib.*
enfranchisements to be according to form in schedule, *ib.*
repealed, vol. i. 879.
form of charge, vol. i. 871.
repealed, vol. i. 879.
certificates to be transferrable by indorsement, vol. i. 872.
stamp on certificates, *ib.*
commissioners may correct any error in award, &c. after notice to parties interested, *ib.*
valuer to take particular circumstances of the cases into consideration, *ib.*

COPYHOLD—*continued.*
if consideration not paid, the lord may take possession, vol. i. 872.
land so obtained by lord may be let for not exceeding seven years, *ib.*
steward's compensation to include preparation of deed of enfranchisement, *ib.*
inspection, &c. of court rolls of the manor, *ib.*
after enfranchisement, the lord may give up to the commissioners all the court rolls, *ib.*
inspection, &c. thereof, *ib.*
title of lord to be made for the purpose of enfranchisement, vol. i. 873.
after an application for enfranchisement, tenant may require commissioners to inquire into the lord's title, *ib.*
identity of lands, *ib.*
as to purchase by the lord in certain cases, *ib.*
power to lord having a limited interest to charge purchase-money on manor, &c., vol. i. 874.
after 1st July, 1853, when a heriot shall be due and payable, the lord or tenant may require or compel enfranchisement, *ib.*
repealed, vol. i. 879.
declaration to be taken by valuers, vol. i. 874.
as to recovery of interest in enfranchisement considerations, *ib.*
as to expense of proceedings under this act, *ib.*
how expenses of enfranchisement to be borne where the lord has but a limited interest in a manor, or is trustee thereof, *ib.*
how tenants' expenses of enfranchisement are to be borne, vol. i. 875.
confirmation of award by commissioners to be proof of prior proceedings being regular, *ib.*
after confirmation of apportionment, &c., in cases of enfranchisement, the customary modes of descent to cease, and the lands to descend and to be subject to dower and curtesy in like manner as freehold lands, *ib.*
proviso, *ib.*
proviso as to gavelkind, *ib.*
commissioners to have power to suspend proceedings, *ib.*
power to lord to sell rent-charge, *ib.*
commissioners to certify the amount of consideration money for redemption, *ib.*
consideration money for redemption of sale, how payable, vol. i. 876.
consideration money in cases of owners under disability, how payable, *ib.*
as to consideration money under 20*l.*, *ib.*
power to commute or enfranchise at fixed fines or rent-charges, *ib.*
tenants may deduct rent-charges, &c. payable to landlord, *ib.*
surrenderee by way of mortgage, &c. to be deemed a tenant for certain purposes, *ib.*
enfranchisement not to affect previous leases or demises, vol. i. 877.
not to affect commonable rights in respect of lands enfranchised, *ib.*
enfranchisement not to affect rights under any wills, settlement, &c. *ib.*
defective titles of lords and tenants, *ib.*

COPYHOLD—*continued.*
act not to extend to mines or minerals, &c. nor to copyholds for lives where tenants have not a right of renewal, vol. i. 877.
copies registered at the office of commissioners to be evidence, *ib.*
agreements, &c. to be exempt from stamp duty, *ib.*
penalty on persons obstructing commissioner, assistant commissioner, valuer, or umpire, *ib.*
construction of words, *ib.*
this act to be deemed part of first-recited act, vol. i. 878.
titles of acts, *ib.*
not to impede enfranchisement irrespective of this act, or powers in other acts of parliament, *ib.*
21 & 22 Vict. c. 94. (*The Copyhold Act*, 1858.)
commencement of act, vol. i. 879.
repeal of acts and parts of acts named, *ib.*
not to affect commutations, &c. already made, or rights vested, &c. vol. i. 880.
copyhold acts not to extend to ecclesiastical manors where tenant has not a right of renewal, *ib.*
application of consideration moneys, in cases where enfranchisements might have been effected under 14 & 15 Vict. c. 104, *ib.*
in cases of ecclesiastical manors where interest is only reversionary, *ib.*
compulsory enfranchisement of copyhold, where last admittance took place before July 1st, 1853, *ib.*
of freehold or customary freehold in respect of heriots, where last heriot became due before July 1st, 1853, *ib.*
proviso, *ib.*
where heriot is due and payable in respect of freehold or customary freehold, lord or tenant may compel enfranchisement, *ib.*
mode of effecting compulsory enfranchisements, *ib.*
if parties do not agree as to consideration, a valuer or valuers to be appointed, *ib.*
commissioners in certain cases may appoint valuer or umpire, vol. i. 881.
if valuers, &c. do not make a decision within forty-two days, commissioners to fix the consideration, *ib.*
time for appointments, &c. may be extended by commissioners, *ib.*
award of enfranchisement to be made by commissioners and confirmed, *ib.*
effect of confirmed award, *ib.*
notice to be given before award is confirmed, *ib.*
corn rentcharges hereafter granted, to be calculated as tithe rentcharges are, *ib.*
receipt for consideration money to be produced before award is confirmed, *ib.*
or conveyance to be confirmed by person entitled to such consideration money, *ib.*
though minerals reserved, owners of enfranchised lands may disturb the soil for purpose of making roads, &c. or erecting buildings, &c. vol. i. 881, 882.
in case of manor held upon charitable trust, enfranchisement money may be paid to official trustees of charitable funds, vol. i. 882.

COPYHOLD—*continued.*
enfranchisement money for the use of a corporation, &c., may, at the option of lord of manor, be paid into the hands of trustees, vol. i. 882.
enfranchisement money for the use of any spiritual person may be paid to the governors of queen Anne's bounty, *ib.*
commencement of enfranchisement, *ib.*
notice to be given to the ecclesiastical commissioners in cases wherein they are interested, *ib.*
notices how to be given, *ib.*
consideration money, &c. may be charged on land, *ib.*
value of land given as consideration for enfranchisement may be charged, *ib.*
lord purchasing tenant's interest may charge purchase money on land purchased or on manor, &c. vol. i. 883.
expenses may be charged, &c., *ib.*
how consideration moneys, &c. may be charged, *ib.*
certain expenses may be charged as consideration money, *ib.*
charge for other expenses not to exceed fifteen years, *ib.*
where it is uncertain who should be ordered to pay expenses, commissioners may grant certificates of charge, *ib.*
certificate of charge, *ib.*
how made, and its effect, *ib.*
transfer of, *ib.*
if interest of lord entitled to charge is limited, charge to be appurtenant to the manor, *ib.*
form and effect of certificate in such case, *ib.*
stamp duty on awards, certificates of charge and transfers, *ib.*
priority of charge, *ib.*
charge not to merge, vol. i. 884.
unless the owner of it declare his will to that effect in writing, *ib.*
recovery of sums charged, *ib.*
owner of certificate to be deemed a mortgagee in fee, *ib.*
form of certificate of charge, *ib.*
form of transfer of certificate, *ib.*
owner of two-thirds in undivided lands to be "tenant," *ib.*
agent for purposes of act may be appointed by power of attorney, *ib.*
form of power, *ib.*
revocation of power, *ib.*
CROWN MANORS.
arbitration in case of difference as to terms of enfranchisement, vol. i. 884, 885.
costs of arbitration, vol. i. 885.
enfranchisements where reversion or remainder belongs to crown, *ib.*
payment of compensation for such enfranchisements, *ib.*
two trustees to be nominated, *ib.*
application of such enfranchisement money, *ib.*
land purchased with enfranchisement money to be settled to same uses as manor may stand limited to, *ib.*
execution of enfranchisement deed, *ib.*
effect of enfranchisement deed, vol. i. 886.
record of such enfranchisements to be preserved in office of land revenue records, *ib.*

COPYHOLD—*continued.*
commissioners of woods, &c. to indemnify trustee nominated for crown, vol. i. 886.
the treasury to direct what fees shall be taken for enrolment of memorials, &c. *ib.*
provision as to manors held in joint tenancy with the crown, *ib.*
"ecclesiastical corporation" not to extend to Christ Church, Oxford, *ib.*
act to be part of the Copyhold Acts, *ib.*
title of act, *ib.*

COPYRIGHT.
Books, Music, &c.
definition of, vol. i. 887, n. (*a*).
cannot be divided, *ib.*
quære whether it exists at common law, *ib.*
English law of, altogether governed by statutes, *ib.*
of foreign author in England, *ib.*
of Englishman resident abroad, *ib.*
none, if work printed abroad, *ib.*
assignment of, how attested, *ib.*
in new arrangement of matter, *ib.*
in corrections and additions to an old work. *ib.*
adaptation of original words to old air, *ib.*
none in work of libellous, immoral, or irreligious tendency, *ib.*
nor in work professing to be written by a known author, but which is not so written, *ib.*
in letters is in the composer, *ib.*
rights of author of unpublished work, *ib.*
what an infringement of, vol. i. 894, n. (*b*).
rights of the two universities in England, the four universities in Scotland, and the colleges of Eton, Westminster, and Winchester, to the copyright in certain books, vol. i. 887—890.
5 & 6 Vict. c. 45. (*Act to amend the Law of Copyright*).
copyright in books, after 1842, to endure for the life of author and seven years afterwards, or for forty-two years, vol. i. 890, 891.
as to subsisting copyright, vol. i. 891.
privy council may licence republication of books, the proprietor refusing, *ib.*
wood engravings in a book within the act, vol. i. 890, n. (*b*).
copies to be delivered at the British Museum, *ib.*
mode of delivery at the British Museum, vol. i. 891.
copies to be delivered at Oxford, Cambridge, Edinburgh, and Dublin, *ib.*
penalty, vol. i. 892.
book of registry to be kept at Stationers Hall, *ib.*
making a false entry in the book of registry a misdemeanor, *ib.*
entries of copyright may be made in the book of registry, *ib.*
registered proprietor may assign his interest, &c. vol. i. 893.
persons aggrieved by any entry in the registry may apply to a court of law in term, or judge in vacation, who may order such entry to be varied or expunged, *ib.*
who are persons aggrieved, *ib.* n. (*b*).

COPYRIGHT—*continued.*
remedy for the piracy of books, or for importing or having in possession, by action on the case, vol. i. 894.
in actions for piracy, importing, selling, &c. notice of objections to be given, vol. i. 895.
no person, except the proprietor, &c., shall import into the British dominions for sale or hire any book first composed, &c. within united kingdom, and reprinted elsewhere, penalty, vol. i. 896.
books shall be seized by officers of customs or excise, vol. i. 896, 928.
copyright in encyclopædias, periodicals, and works published in a series, reviews, or magazines, to be in the proprietor, vol. i. 896.
on payment, vol. i. 897, n. (*a*).
after twenty-eight years the right to publish essays in separate form to revert to author, vol. i. 897.
such essays not to be published separately without consent of author, *ib.*
proviso as to reserved rights, *ib.*
proprietors of encyclopædias, periodicals, and works published in a series, may enter at once at Stationers' Hall, and thereon have the benefit of the registration of the whole, *ib.*
the provisions of 3 & 4 Will. 4, c. 15, as to dramatic pieces, and of 5 & 6 Vict. c. 45, extended to musical compositions, and the term of copyright applied to the liberty of representing dramatic pieces and musical compositions, *ib.*
proprietors of right of dramatic representations to have all the remedies of 3 & 4 Will. 4, c. 15, *ib.*
assignment of copyright of a dramatic piece not to convey right of representation, unless so expressed on register, vol. i. 898.
books pirated or imported shall become the property of the proprietor of the copyright, and may be recovered by action, *ib.*
no proprietor of copyright commencing after this act shall sue or proceed for any infringement before making entry in the book of registry, *ib.*
proviso for dramatic pieces, *ib.*
copyright shall be personal property, *ib.*
general issue, right to plead, *ib.*
limitation of actions; not to extend to actions, &c. in respect of the delivery of books, *ib.*
saving the rights of the universities, and the colleges of Eton, Westminster, and Winchester, vol. i. 899.
saving all subsisting rights, contracts, and engagements, *ib.*
act to extend to British dominions, *ib.*

ENGRAVINGS AND PRINTS.
property of, vested in inventor for twenty-eight years, vol. i. 902.
proprietor's name to be fixed on print, vol. i. 901.
penalty for pirating print, vol. i. 901, 902.
not to extend to purchasers from proprietors, vol. i. 901.
limitation of actions, vol. i. 901, 902.
general issue, vol. i. *ib.*
costs, *ib.*

COPYRIGHT—*continued.*
8 Geo. 2, c. 13, extended to etchings, &c. vol. i. 902, 903.
penalty for infringing right, vol. i. *ib.*
provisions of 17 Geo. 3, c. 57, extended to Ireland (6 & 7 Will. 4, c. 59), vol. i. 903.
as to lithographs, &c. vol. i. 929.
25 & 26 Vict. c. 68.
copyright in paintings, drawings, and photographs hereafter made or sold to vest in the author for his life and for seven years after his death, vol. iv. 960.
copyright not to prevent the representation of the same subjects in other works, *ib.*
such copyrights shall be personal estate, vol. iv. 961.
assignments, licences, &c. to be in writing, *ib.*
register of proprietors of copyright in paintings, drawings, and photographs to be kept at Stationers' Hall as in 5 & 6 Vict. c. 45, *ib.*
certain enactments of 5 & 6 Vict. c. 45, as to keeping the register books: inspection to apply to the books to be kept under this act, *ib.*
penalties on infringement of copyright, *ib.*
penalties on fraudulent productions and sales, *ib.*
penalties, vol. iv. 962.
recovery of pecuniary penalties, *ib.*
superior courts of record in which any action is pending may make an order for an injunction, inspection, or account, *ib.*
importation of pirated works prohibited, *ib.*
application in such cases of Customs Acts, *ib.*
saving of right to bring action for damages, *ib.*
provisions of 7 & 8 Vict. c. 12, to be considered as included in this act, vol. iv. 963.

BUSTS AND SCULPTURES. (54 Geo. III. c. 56.)
right and property of making of, vested in proprietor for fourteen years, vol. i. 904.
name and date to be fixed, *ib.*
additional term of fourteen years, &c. in case of living, vol. i. 905.
penalty, &c. for persons making copies, &c. of, without consent of proprietor, vol. i. 904.
damages and costs, vol. i. 905.
proviso for purchasers from original proprietor, *ib.*
limitation of actions, *ib.*
Dramatic Literary Property, 3 & 4 Will. 4, c. 15.
author to have sole liberty of representing dramatic piece, &c. vol. i. 905.
proviso where consent given before act, vol. i. 906.
when assignee of author entitled to the sole right of representation, *ib.*
penalty for representing pieces without consent, *ib.*
limitation of actions, *ib.*
explanation of words, *ib.*
Lectures, 5 & 6 Will. 4, c. 65. (*Preventing publication of lectures without consent.*)
author to have sole right to publication, vol. i. 907.
penalty for publishing, &c. without leave, *ib.*
penalty on printers, &c. of newspapers publishing without leave, *ib.*
persons having leave to attend lectures not licensed to publish them, *ib.*

COPYRIGHT—*continued.*
act not to prohibit publication after expiration of copyright, vol. i. 907.
not to extend to lectures delivered in unlicensed places, &c. *ib.*

DESIGNS, &c. 5 & 6 Vict. c. 100.
commencement of act, and repeal of former acts, vol. i. 908.
proviso as to existing copyrights, *ib.*
grant of copyright, *ib.*
duration of copyright according to class, *ib.*
conditions of copyright, vol. i. 909.
registration, *ib.*
marks denoting a registered design, *ib.*
the term "proprietor" explained, *ib.*
transfer of copyright, and register thereof, vol. i. 909, 910.
piracy of designs, vol. i. 910.
recovery of penalties for piracy, *ib.*
proviso as to action for damages, vol. i. 911.
registration may in some cases be cancelled or amended, vol. i. 912.
penalty for wrongfully using marks denoting a registered design, *ib.*
limitation of actions, *ib.*
justices may order payment of costs in cases of summary proceeding, *ib.*
registrar, &c. of designs to be appointed, *ib.*
registrar's duties, *ib.*
certificate of registration of design, vol. i. 913.
inspection of registered designs, *ib.*
application of fees of registration, *ib.*
penalty for extortion, *ib.*
interpretation of act, *ib.*
6 & 7 Vict. c. 65.
commencement of act, vol. i. 914.
grant of copyright in designs of articles of manufacture for three years, vol. i. 915.
proviso, *ib.*
conditions of copyright, *ib.*
penalty for wrongfully using marks denoting a registered design, *ib.*
floor or oil cloths included in class six, *ib.*
certain provisions of 5 & 6 Vict. c. 100, to apply to this act, *ib.*
appointment of registrar, &c. *ib.*
registrar's duties, vol. i. 916.
drawings, *ib.*
discretionary power as to registry vested in the registrar, *ib.*
inspection of index of titles of designs, &c. *ib.*
interpretation of act, *ib.*
13 & 14 Vict. c. 104. ("*The Designs Act*, 1850.")
certain designs may be registered provisionally for one year, *ib.*
benefits conferred by provisional registration, vol. i. 917.
the exhibition of provisionally registered designs in certain places not to defeat copyright, &c. *ib.*
sale of articles to which provisionally registered designs, &c. have been applied to defeat copyright, but design itself may be sold, *ib.*
extension of period of provisional registration by board of trade, *ib.*
registration of sculpture, models, &c. *ib.*
benefits conferred by registration of sculpture, &c. *ib.*
designs for ornamenting ivory, &c. may be registered under Designs Act, 1842, for three years, vol. i. 918.

COPYRIGHT—*continued.*
board of trade may extend copyright in ornamental designs, vol. i. 918.
regulations for the registration of designs may be made by board of trade, *ib.*
registrar of designs may dispense with drawings, &c. in certain cases, *ib.*
public books and documents in the designs' office not to be removed without judge's order, *ib.*
judges may order copies of documents to be furnished to be given in evidence, *ib.*
copies of documents delivered by the registrar to be sealed, and to be evidence, *ib.*
certain provisions of Designs Acts, 1842 and 1843, extended to this act, *ib.*
interpretation of terms, vol. i. 919.
short title, *ib.*
21 & 22 Vict. c. 70. ("*The Copyright of Designs Act*, 1858.")
short title, *ib.*
act to be construed as one act with "The Copyright of Designs Acts," *ib.*
extension to three years of copyright as to the tenth class in 5 & 6 Vict. c. 100, *ib.*
proviso, *ib.*
copyright not to be prejudiced if articles marked, vol. i. 919, 920.
pattern or portion of article may be registered instead of copy or description, &c. vol. i. 920.
proprietor of extended copyright to give number and date of registration if applied to, *ib.*
penalty, *ib.*
proceedings for prevention of piracy may be instituted in county court, *ib.*
particulars to be delivered by plaintiff, *ib.*
notice of special defence must be given, *ib.*
provisions of 9 & 10 Vict. c. 95, and 12 & 13 Vict. c. 101, to be applicable to proceedings under this act, *ib.*
24 & 25 Vict. c. 73.
5 & 6 Vict. c. 100, and other acts relating to copyright of designs, extended to designs whether the application thereof be within the united kingdom, or elsewhere, vol. i. 921.
acts not to apply to subjects of her majesty, only, *ib.*

INTERNATIONAL, &c. 7 Vict. c. 12.
repeal of International Copyright Act, 1 & 2 Vict. c. 59, vol. i. 921.
her majesty, by order in council, may direct that authors, &c. of works first published in foreign countries shall have copyright therein, within her majesty's dominions, vol. i. 922.
if the order applies to books, the copyright law as to books first published in this country shall apply to the books to which the order relates, with certain exceptions, *ib.*
if the order applies to prints, sculptures, &c. the copyright law as to prints or sculptures first published in this country shall apply to the prints, sculptures, &c. to which such order relates, *ib.*
her majesty may direct that authors and composers of dramatic pieces and musical compositions first represented abroad shall have similar rights in the British dominions, *ib.*

COPYRIGHT—*continued.*
particulars to be observed as to registry and to delivery of copies, vol. i. 922.
in case of books published anonymously the name of the publisher to be sufficient, vol. i. 923.
the provisions of the Copyright Amendment Act as regards entries in the register book of the company of stationers, &c. to apply to entries under this act, *ib.*
as to expunging or varying entry grounded in wrongful first publication, *ib.*
copies of books wherein copyright is subsisting under this act printed in foreign countries other than those wherein the book was first published prohibited to be imported, vol. i. 923, 924.
officer of stationers' company to deposit books, &c. in the British museum, vol. i. 924.
second or subsequent editions, *ib.*
orders in council may specify different periods for different foreign countries and for different classes of works, *ib.*
no order in council to have any effect unless it states that reciprocal protection is secured, *ib.*
orders in council to be published in Gazette, and to have same effect as this act, *ib.*
orders in council to be laid before parliament, *ib.*
orders in council may be revoked, *ib.*
translations, *ib.* (see 15 & 16 Vict. c. 12).
authors of works first published in foreign countries not entitled to copyright except under this act, *ib.*
interpretation clause, *ib.*

10 & 11 Vict. c. 95.
her majesty may suspend in certain cases the prohibitions against the admission of pirated books into the colonies in certain cases, vol. i. 926.
orders in council to be published in Gazette, *ib.*
orders in council and the colonial acts or ordinances to be laid before parliament, *ib.*

15 & 16 Vict. c. 12.
sect. 18 of 7 & 8 Vict. c. 12, in part repealed, vol. i. 927.
her majesty may direct that authors of books published in foreign countries may for a limited time prevent unauthorized translations, *ib.*
thereupon the law of copyright shall extend to prevent such translations, *ib.*
her majesty may by order in council direct that authors of dramatic works represented in foreign countries may for a limited time prevent unauthorized translations, *ib.*
thereupon the law for protecting their representation shall extend to prevent unauthorized translations, *ib.*
adaptations, &c. of dramatic pieces to the English stage not prevented, *ib.*
all articles in newspapers, &c. relating to politics may be republished or translated; and also all similar articles on any subject, unless the author has notified his intention to reserve the right, vol. i. 927, 928.
no author to be entitled to benefit of this act without complying with certain requisitions, vol. i. 928.
pirated copies prohibited to be imported, except with consent of proprietor, *ib.*

COPYRIGHT—*continued.*
provisions of 5 & 6 Vict. c. 45, as to forfeiture, &c. of pirated works, &c. to extend to works prohibited to be imported under this act, vol. i. 928.
foregoing provisions and 7 & 8 Vict. c. 12, to be read as one act, *ib.*
French translations to be protected as hereinbefore mentioned, without further order in council, *ib.*
rates of duty not to be raised during continuance of treaty, and if further reduction is made for other countries it may be extended to France, vol. i. 929.
for removal of doubts as to construction of schedule to 9 & 10 Vict. c. 58, *ib.*
for removal of doubts as to the provisions of the said acts including lithographs, prints, &c. *ib.*

16 & 17 Vict. c. 107.
books wherein the copyright shall be subsisting, and of which the proprietor shall have given notice, printed out of the united kingdom, imported, to be destroyed, &c. vol. i. 929, 930.
printed lists of prohibited books to be exhibited at custom house, vol. i. 930.
books wherein the copyright shall be subsisting not to be imported if notice given to the commissioners of customs, *ib.*

18 & 19 Vict. c. 96.
persons complaining of prohibition of books in copyright lists may appeal to judge in chambers, *ib.*
declaration of truth of notice of copyright, *ib.*

CORN.
setting fire to crops of, vol. ii. (249).
stacks of, *ib.*
assaults with intent to obstruct sale or free passage of, vol. ii. (287).

CORONER.
what sort of man shall be, vol. i. 931, 932.
to have sufficient land in fee in the county, vol. i. 932.
How elected in Counties.
to be chosen in full county, vol. i. 932, 933.
repeal of 58 Geo. 3, c. 95 ("An Act to regulate the elections of coroners for counties"), vol. i. 939
justices of county may resolve in sessions that a petition be presented to her majesty for division of county, *ib.*
adjournment of further consideration of petition until notice be given to the county coroner, *ib.*
clerk of the peace to give notice of the resolution to the county coroner, *ib.*
and of the time when it will be taken into consideration, *ib.*
coroners to attend the justices' meeting for that purpose, *ib.*
justices to confer with coroners touching the petition, *ib.*
petition with certain particulars to be certified to her majesty, *ib.*
clerk of the peace to furnish copy petition to each coroner of the county, *ib.*
her majesty may by order in council divide the county into districts, *ib.*
such order to be published in London Gazette, *ib.*

CORONER—*continued.*
upon such division justices in sessions to assign one of such districts to each of the then coroners, vol. i. 939.
coroners thereafter to be chosen to be elected according to provisions of 7 & 8 Vict. c. 92, *ib.*
where county divided into districts before passing of 7 & 8 Vict. c. 92, and the same division is made by order under that act, each district is to be assigned to the coroner acting for it before the passing of that act, vol. i. 939, 940.
if a different division made, existing coroners entitled to compensation, vol. i. 940.
clerk of the peace to prepare list of the places in each district, *ib.*
such list to specify the place at which the court for the election of coroner is to be held, *ib.*
and the places at which the poll shall be taken, *ib.*
detached parts of counties, *ib.*
election of coroner to be held in the district for which he is to serve, *ib.*
electors to reside within the district, *ib.*
qualification of electors of county coroner, vol. i. 940, n. (*b*).
sheriff to hold special county court for the election of coroner within the district, vol. i. 940.
within what time such court must be held, *ib.*
if poll demanded, court to be adjourned, *ib.*
to what day adjournment is to be made, *ib.*
duration of poll, vol. i. 940, and n. (*e*), 945.
places for taking the poll, vol. i. 940.
erection of polling booths, *ib.*
at what booth voters are to poll, vol. i. 940, 941.
appointment and oath of poll clerks, vol. i. 941
nomination and appointment of inspector of poll clerk, *ib.*
electors may be required to be sworn before polling, *ib.*
form of oath, *ib.*
punishment of perjury, *ib.*
custody of poll books, *ib.*
declaration of the poll, *ib.*
when to be made, *ib.*
expenses of sheriff on the poll to be paid by the candidates, *ib.*
election of county coroner in county not divided into districts, vol. i. 944, 945.
places where the appointment of coroner takes place otherwise than under the writ *De coronatore eligendo*, not to be affected by 7 & 8 Vict. c. 92, so far as that act relates to the division of counties into districts or the election of coroners, vol. i. 943.
meaning of the word "county" in 7 & 8 Vict. c. 92, *ib.*
royal prerogative not affected by 7 & 8 Vict. c. 92, *ib.*
regulating coroners in county of Durham, vol. i. 936.
election of coroners in county of Chester, vol. i. 943, 945.
How elected in Boroughs.
town council to elect, in boroughs having separate court of quarter sessions, vol. i. 986, 987.

CORONER—*continued.*
person so appointed not to be alderman or councillor, vol. i. 986.
Remuneration of.
repeal of statutes providing for remuneration of county coroners by fees, vol. i. 945.
county coroners to be paid by salary, *ib.*
how and by whom such salaries are to be fixed, *ib.*
power to increase or diminish such salaries, *ib.*
fees of borough coroner, vol. i. 987.
justices and town councils to make schedule of fees, &c. payable by, on holding inquests, vol. i. 936.
and may vary such schedule, *ib.*
copy schedule to be delivered to clerk of peace and coroner, *ib.*
coroner to pay expenses of inquest not exceeding sums set forth in such schedule, *ib.*
such payments to be reimbursed to coroner, together with 6*s.* 8*d.* per inquest, vol. i. 936, 945.
out of what funds, vol. i. 937.
county coroners to lay their accounts before sessions, vol. i. 936.
borough coroners to lay their accounts before town council, *ib.*
justices may order payment of coroner's travelling expenses although inquisition not taken, vol. i. 942, 943.
payment of coroner where acting for sheriff, vol. i. 942.
coroners for boroughs, &c. not contributory to county rates, not entitled to any benefit given to coroners by 7 & 8 Vict. c. 92, vol. i. 943.
Jurisdiction, Powers, and Duties.
of what things coroner shall inquire, vol. i. 931.
stat. *De officio coronatoris* merely directory, vol. i. 931, n. (*c*).
duty of, in cases of murder, vol. i. 933.
duty of, in taking examinations, recognizances, &c. in cases of murder and manslaughter, vol. i. 934, and n. (*b*).
may admit to bail persons charged with manslaughter, vol. i. 943.
recognizances to be taken in such cases, vol. i. 944.
persons against whom coroners' juries have returned verdict of manslaughter entitled to copy depositions, *ib.*
fee for such copy, *ib.*
recognizances forfeited at coroners' inquests, to be returned to clerk of the peace, *ib.*
duty of, in case of inquest upon person killed by accident in mine, vol. i. 946.
directions to be given by, for interment of *felo de se*, vol. ii. 78.
empowered to summon medical witnesses, vol. i. 934.
and to direct *post mortem* examination, *ib.*
majority of jury may require coroner to summon additional medical evidence, *ib.*
fees to medical witnesses, vol. i. 935, 936.
out of what funds payable, vol. i. 935.
no fee for *post mortem* examination made without order of, *ib.*
nor to medical officer of infirmary, &c. where deceased may have died, *ib.*
penalty on medical man summoned and not attending inquest, *ib.*

CORONER—*continued.*
inquest to be held before coroner within whose jurisdiction body is lying dead, vol. i. 937.
notwithstanding cause of death did not arise within his jurisdiction, *ib.*
before whom inquest to be held where body found dead in the sea, &c. *ib.*
jurisdiction of, in case of detached parts of counties, vol. i. 937, 942.
where county coroner elected after passing of 7 & 8 Vict. c. 92, shall reside, vol. i. 939.
elected for district to be considered as coroner for the whole county, vol. i. 942.
but shall only hold inquests within his district, *ib.*
except in certain cases specified, *ib.*
holding inquest within any district other than his own, to certify cause thereof in the inquisition, *ib.*
such certificate to be conclusive evidence of facts therein stated, *ib.*
empowered to fine jurors or witnesses summoned and not attending, vol. i. 941.
such fine not to exceed 40s., *ib.*
mode of enforcing such fines, vol. i. 941, 942.
other powers of coroner not to be affected by his power to punish by fine, vol. i. 942.
county, to act in borough not having separate court of quarter sessions, vol. i. 987.
in case of dead body being found exposed, coroner to give notice to registrar of deaths, &c. vol. iv. 101.
jury to inquire into particulars required for registration, and coroner to inform the registrar of the finding of the jury, vol. iv. 103.
may order body to be buried before registry, *ib.*
information furnished by, for registration, to be in writing, vol. i. 1393, 1394.
in counties of cities and towns, coroners may commit for trial at the assizes for adjoining county, vol. ii. (59).
in certain cases, in counties, coroner may commit to other than the county gaol, *ib.*
remedy where coroner improperly refuses to hold inquest, vol. i. 945.
cannot *mero motu* hold second inquest, vol. i. 931, n. (*d*).
cannot interfere in cases of natural death, vol. i. 931, n. (*e*).
cannot hold inquest respecting origin of a fire, vol. i. 932, n. (*a*).
quære, whether *habeas corpus* can be granted to bring before coroner a person committed by justices for murder, vol. i. 931, n. (*h*).
writ of prohibition may issue to, *ib.*
amotion of, for misdemeanor in his office, vol. i. 933.
chancellor may remove, for neglect of duty, vol. i. 933, n. (*b*), 945.
grounds for such removal, vol. i. 933, n. (*b*).
privilege of, from arrest, vol. i. 937, n. (*e*).
coroner or his partner not to act as attorney for the prosecution or defence where he shall have sat as coroner in the same case, vol. i. 942.

CORONER—*continued.*
Deputy Coroner.
county coroner may appoint a deputy, vol. i. 937.
subject to the approval of the chancellor, *ib.*
such appointment to be in writing under hand and seal, *ib.*
and duplicate transmitted to clerk of the peace, vol. i. 938.
in what cases deputy allowed to act, *ib.* and n. (*a*).
signature of inquisition taken before deputy, vol. i. 938, n. (*a*).
revocation of appointment of deputy, vol. i. 938.
borough coroner may appoint a deputy, vol. i. 1048.
how such appointment to be made, *ib.*
qualification of such deputy, *ib.*
in what cases such deputy may act, *ib.*
inquisition not to be quashed for certain technical defects, vol. i. 938.
amendment of inquisition, vol. i. 939.
inquisition in case of murder or manslaughter must be on parchment, vol. i. 938, n. (*d*).
jurors on coroner's inquest need not be qualified under 6 Geo. 4, c. 50, vol. ii. 925.
expenses of inquest occasioned to any county with respect to any detached part of any other county, vol. i. 943.

CORPORATIONS. See *Corporations (Municipal).*
guilds, fraternities, &c. not to make ordinances against common profit of the people, &c. without consent of the chancellor, &c. vol. i. 946, 947.
no such ordinances to be made to restrain suits in the king's courts, vol. i. 987.
Corporation Act, 13 Car. 2, st. ii. c. i. vol. i. 947.
for the more easy trying and determining the rights of offices and franchises in corporations and boroughs, vol. i. 949.
limiting the time beyond which no member or officer of any borough, city, or town corporate should be disturbed in the enjoyment of his offices or franchises, vol. i. 955.
providing for inspection of records of corporations, vol. i. 956.
preventing inconveniences arising for want of elections of mayors, &c. being made on the day appointed by charter or usage, vol. i. 951.
enabling elections of officers of corporations required to be held on the Lord's day to be held on Saturday next preceding, or on Monday next ensuing, vol. i. 958.
repealing so much of several acts as imposes the necessity of receiving the Lord's Supper as a qualification for certain offices and employments, vol. i. 956.
giving relief in proceedings upon writs of mandamus for the admission of freemen into corporations, vol. i. 954.
making void any act or rule in hospitals, colleges, deaneries, &c. giving a negative voice against any election, grant, lease,

CORPORATIONS—*continued.*
&c. approved by a majority, vol. ii. 1211, 1212.
enforcement of writs of injunction against, vol. iii. 794.

CORPORATIONS (MUNICIPAL).
Absence.
of mayor for more than two calendar months, disqualification, s. 52, vol. i. 981.
so also of alderman or councillor for more than six, *ib.*
Acceptance of Office. See *Office; Burgess.*
declaration to be made on, s. 50, vol. i. 979.
within five days after notice, s. 51, vol. i. 980.
may be enforced, *ib.*
Accounts. See *Auditors.*
of receipts and disbursements to be kept by treasurer, s. 93, vol. i. 1004.
to be audited and published, *ib.*
copies of, open to the inspection of rate-payers, and to be sold to them at a reasonable price, s. 93, vol. i. 1005.
to be transmitted annually to secretary of state, &c. vol. i. 1004, n. (*c*).
by 7 Will. 4 and 1 Vict. c. 78, s. 43, to be made up to last period of audit, *ib.*
Actions.
against persons executing act, s. 133, vol. i. 1021.
proceedings, &c. before magistrates, if within six months, sufficient, *ib.* n. (*d*).
must be tried in the county where fact committed, vol. i. 1021.
so also all indictments, *ib.*
notice and cause of, to be given one month prior to proceedings, s. 133, *ib.*
not necessary in actions brought for neglect to comply with the requisites of the act, vol. i. 1021, n. (*e*).
general issue may be pleaded, s. 133, vol. i. 1021.
tendering amends, s. 133, *ib.*
defendant to recover costs, if verdict for him or plaintiff nonsuited, s. 133, vol. i. 1022.
as to costs in, s. 133, *ib.* and n. (*a*). See *Costs and Penalties.*
Acts. See *Statutes.*
Municipal Corporation Act, 5 & 6 Will. 4, c. 76, vol. i. 959.
title, and when passed, *ib.*
preamble, and charters, how affected, *ib.*
repeal of all old charters, &c. by, *ib.*
boroughs to which the act refers, scheds. (A) and (B), vol. i. 1025, 1029.
local acts relating to the boroughs named in the schedules still in force, vol. i. 959, n. (*a*).
powers of, may be transferred to council, s. 75, vol. i. 995.
offences cognizable by virtue of, within any place which has ceased to be part of a borough, to be within the jurisdiction of the county justices, vol. i. 1043, 1060.
for the relief of the poor not to be affected by the Municipal Act, vol. i. 1044.
relating to land tax, or the assessed taxes, not to be affected, *ib.*
Adjournment.
of meetings of council to be decided by majority, s. 69, vol. i. 991.
power of, incident to every corporate meeting, vol. i. 991, n. (*e*).

CORPORATIONS (MUNICIPAL)—*continued.*
of revision court by mayor, &c. s. 19, vol. i. 969.
of court of quarter sessions, s. 106, vol. i. 1012.
Admiralty.
chartered jurisdictions abolished, s. 108, *ib.* See *Coroner.*
Admission.
of freemen, &c. s. 5, vol. i. 961.
book, *ib.* n. (*a*).
no stamp under the act, *ib.*
stamp duty on, abolished by 1 & 2 Vict. c. 35, in parliamentary boroughs, vol. i. 1070.
but admissions, previous to the passing of this act, if required for the purpose of evidence, must be stamped, vol. i. 961, n. (*a*).
Advowsons, &c.
to be sold, s. 139, vol. i. 1023.
but not when vested in "charitable trustees," *ib.*
vacancy in, before sale, to be filled up by bishop of the diocese, s. 139, *ib.*
proceeds of the sale may be expended in payment of old corporation debts, vol. i. 1045.
as to perpetual cures and benefices presentative, see 1 & 2 Vict. c. 31, vol. i. 1068.
the property still to be liable to all previous obligations, vol. i. 1069.
municipal corporations may still endow priestships, &c. as heretofore, *ib.*
Affirmations. See *Oaths; Quakers.*
power to administer, s. 21 (see *Revision*), vol. i. 969.
perjury, vol. i. 970.
quakers, moravians, separatists, further relieved by 1 & 2 Vict. c. 5 & 1 & 2 Vict. c. 15, vol. i. 1067.
persons entitled to make, vol. i. 969.
declaration, Jews, vol. i. 1079.
Age,
person must be of full, to be a burgess, s. 9, vol. i. 963.
Aldermen.
mode of electing, 7 Will. 4 & 1 Vict. c. 78, s. 14, 1056, 1091.
provision where greater number elected than authorized by Municipal Act, vol. i. 1076.
the mayor, aldermen, and burgesses to be the style of each corporate body, after the first election of councillors, s. 6, vol. i. 962.
with the mayor and councillors to form "the council," s. 25, vol. i. 970.
to be elected from the councillors or persons qualified to be, *ib.*
to be one-third of the number of the councillors, s. 25, *ib.*
power to choose, *ib.*
in every third year one half to go out of office, *ib.*
in 1835 councillors to appoint who to go out in 1838, *ib.*
councillors must appoint immediately after first election, *ib.*
provision for case where no such declaration was made, vol. i. 1077.
after 1838 those shall go out who have been aldermen for the longest time without re-election, vol. i. 970.
may be re-elected forthwith, if qualified, s. 25, vol. i. 971.

CORPORATIONS (MUNICIPAL)—*continued.*
outgoing cannot vote in election of a new alderman, vol. i. 971.
but may vote in the election of mayor, and assist in the appointment of sheriff, *ib.* n. (*a*).
if outgoing alderman be elected mayor, and afterwards preside at the election of aldermen, he may give a casting but not an original vote, *ib.*
to continue members of the council during their offices, s. 26, *ib.*
future vacancies in offices of, how to be filled up, s. 27, *ib.*
persons elected to such vacancies to hold office as long as the person in whose place chosen would have been, *ib.*
but may be re-elected, s. 27, *ib.*
no clergyman or dissenting minister qualified to be, s. 28, *ib.*
nor any one not qualified to be "on the burgess list of such borough," s. 28, *ib.*
meaning of these words, *ib.* n. (*e*).
property qualification of, s. 28, vol. i. 971.
disqualification of, s. 28, *ib.*
persons cannot be, while holding any contract, &c. vol. i. 972.
cannot be clerk to borough justices, vol. i. 1098.
to preside at elections in case of death, &c. of mayor, s. 36, vol. i. 975.
to be appointed by the council for that purpose, *ib.*
existing, to go out of office on passing of the act, s. 38, *ib.*
in boroughs divided into wards, to preside with assessors at election of councillors, s. 43, vol. i. 977.
to have same powers as mayor, &c. *ib.*
neglecting duty under the acts, liable to penalty, s. 48, vol. i. 978.
not to act till declaration of acceptance of office made, s. 50, vol. i. 979. See *Declaration.*
must make declaration as to qualification once in three years, if required, vol. i. 980.
must accept office or pay fine in lieu, *ib.*
alderman elected mayor not liable to fine, vol. i. 980, n. (*b*).
may resign his office on payment of the fine to which he would have been liable for non-acceptance, *ib.*
if declared bankrupt, or become insolvent, or be absent from the borough, to lose office, s. 52, vol. i. 981.
but such persons may be re-elected on obtaining certificate or on payment of debts in full, or on return to the borough, *ib.*
these not causes of amotion at common law, *ib.* n. (*d*).
persons acting as, while disqualified, liable to penalty, s. 53, vol. i. 982.
in case of illness of alderman at election, mayor to appoint another to preside, 7 Will. 4 & 1 Vict. c. 78, s. 16, vol. i. 1056, 1091.

Alehouse Licensing Act.
boroughs having a separate commission of the peace to be deemed towns corporate for the purposes of, though they have no separate court of quarter sessions, vol. i. 1098.

Alien
cannot be a burgess, s. 9, vol. i. 965.

CORPORATIONS (MUNICIPAL)—*continued.*
Alms. See *Parochial Relief; Burgess; Householder.*

Amotion.
of members of corporation, vol. i. 978, n. (*c*)
in cases provided for by the act, s. 52, vol. i. 981.
on acceptance of incompatible office, vol. i. 1046, n. (*c*). See *Office, Loss of; Mayor, &c.*

Ancient Rights. See *Reserved Rights; Freemen.*
how to be declared on in boroughs, where boundaries changed, vol. i. 1044.

Appeal. See *Lords of the Treasury.*
to the lords of the treasury in cases of compensation for dismissal from office, &c. s. 66, vol. i. 989.
such appeal confined wholly to the question of amount, *ib.* n. (*c*).
against borough rate, s. 92, vol. i. 1003, 1080.
relief, as in cases of appeal against a county rate, vol. i. 1003.
persons therefore aggrieved merely as individuals cannot appeal, *ib.* n. (*a*).
notice in case of, necessary, *ib.*
must be given to the town clerk, *ib.*
not necessary to specify grounds of in, *ib.*
the order of quarter sessions, if quashed, cannot be removed by *certiorari, ib.*
against summary conviction under the act, s. 131, vol. i. 1020.
notice to be given, *ib.*
costs in, *ib.*
no *certiorari*, s. 132, *ib.*
against convictions under 22 Vict. c. 35, vol. i. 1096.

Apportionment
of councillors to each ward, s. 41, vol. i. 976

Arbitration. See *Boundaries; Gaols.*
differences respecting any proportion of debt to be assessed on parts cut off, &c to be referred to a barrister, s. 8, vol. i 963.
costs of, by whom to be paid, *ib.*
difference between council and county, as to proportion of county rate to be paid by any borough, to be decided by, s. 117, vol. i. 1016.
in case of difference, as to amount of expenses of prosecutions to be paid to the county, amount to be referred, s. 114, vol. i. 1015.
arbitrator may state a special case, vol. i 1078.
in case of difference, as to proportion of debts to be paid by places included in borough, barrister to be appointed, s. 8, vol. i. 963.
may state a special case, vol. i. 1078.
provision in case of death, *ib.*

Arsenals
exempted from operation of the act, s. 89, vol. i. 998.

Ashton-under-Lyne,
incorporation of, confirmed by parliament, vol. i. 1082.

Assessors.
election of, s. 37, vol. i. 975.
must be qualified to be councillors, *ib.*
shall continue in office one year, *ib.*
semble, cannot be re-elected, *ib.* n. (*c*).
assessors of wards, s. 43, vol. i. 977.

CORPORATIONS (MUNICIPAL)—*continued.*
provision, as to assessors of mayor's ward, repealed, vol. i. 977, 1053.
two assessors to be elected to revise the burgess lists with the mayor, vol. i. 975, 977, 1053.
no burgess roll to be questioned for want of title in mayor or assessors, vol. i. 1053.
no treasurer, town clerk, or councillor can be assessor of a borough, s. 37, vol. i. 975.
quære, whether councillor may not be assessor of a ward, vol. i. 977, n. (*e*).
vacancies in office of, to be filled up within ten days, s. 47, vol. i. 978; s. 11, vol. i. 1091.
must make and sign declaration before acting, s. 50, vol. i. 979.
penalty for acting without qualification, vol. i. 982.
but acts to be valid, *ib.*
cannot be member of the council, vol. i. 1056.
to appoint a deputy, *ib.*
such appointment to be signified to the council, *ib.*
appointment of substitute, vol. i. 1091.

Assize. See *Prisoners.*

Assizes,
prosecutions at, s. 113, vol. i. 1014.

Attorney.
appointment of, by corporation, under corporate seal, vol. i. 984, n. (*d*).
who may practise in borough courts, s. 119, vol. i. 1017.

Auditors.
election of, s. 37, vol. i. 975.
qualification, &c. of, *ib.*
must make and sign declaration before acting, s. 50, vol. i. 979.
penalty for acting without qualification, s. 53, vol. i. 982.
but acts to be valid, *ib.*
to examine treasurer's accounts, &c. s. 98, vol. i. 1004. See *Accounts.*
elective cannot be members of the council, vol. i. 1056.

Bail.
may be taken by recognizance from persons brought before constables in night time for petty misdemeanors, s. 79, vol. i. 996.
amount and condition of recognizance, s. 79, *ib.*

Bank of England,
transfer of stock, &c. in, vol. i. 1063.

Bankrupt,
uncertificated, may be elected councillor or alderman, vol. i. 971, n. (*d*).

Bankruptcy,
or insolvency, loss of office, s. 52, vol. i. 981.

Barracks,
the act not to interfere with, vol. i. 998.

Barrister.
to revise lists of burgesses in first year, vol. i. 969.
to appoint wards, s. 40, vol. i. 976, and vol. i. 1095.
to be appointed arbitrator in case of differences, vol. i. 963, 1015, 1016. See *Arbitration.*

Baths,
expenses of public, may be charged upon borough fund, vol. ii. 416.

CORPORATIONS (MUNICIPAL)—*continued.*
Berwick-upon-Tweed
to be a county of a town corporate, s. 109, vol. i. 1013.

Birmingham.
doubts as to validity of incorporation of vol. i. 1075, n. (*c*).
confirmed by parliament, vol. i. 1075.

Bolton.
doubts as to validity of incorporation of, vol. i. 1075, n. (*c*)
confirmed by parliament, vol. i. 1075.

Bond.
compensation to officers deprived of offices, &c. to be secured by, s. 67, vol. i. 991.
reservation of certain pensions and allowances to be secured by, s. 68, *ib.*

Booths at Elections.
to be erected and divided, &c. s. 33, vol. i. 973.
notice of their situation to be given, *ib.*
persons must vote at booth allotted, *ib.*

Boroughs. See *Boundaries; Borough Courts.*
meaning of word, s. 142, vol. i. 1024.
property in, how affected by the act, vol. i. 959.
incorporation of certain boroughs confirmed, vol. i. 1075, 1082.
having a separate commission of the peace to be deemed towns corporate for the purposes of the Alehouse Licensing Act although they have not a separate court of quarter sessions, vol. i. 1098.
division of, into wards, vol. i. 1095.

Borough Courts of Record.
to be holden as heretofore, s. 118, vol. i. 1016.
in certain cases with extended jurisdiction, vol. i. 1017.
when judge not a barrister, recorder to be judge, *ib.*
jurisdiction of, s. 118, *ib.*
mere disuse of, no excuse for not holding, vol. i. 1016, n. (*d*).
council to appoint registrar, &c. s. 119, vol. i. 1017.
fees payable to, to be settled by the council, s. 124, vol. i. 1018.
to be confirmed by secretary of state, vol. i. 1019.
council may alter, *ib.*
existing, to be taken in the interim, *ib.*
provisions of s. 118 amended and explained by 6 & 7 Will. 4, c. 105, s. 9, vol. i. 1017, n. (*a*).
recorder, &c. to be judge in, vol. i. 1049.
salary to be paid to, *ib.*
every such judge to make, &c. rules of practice, &c. subject to the approval of, vol. i 1049, 1070.
to settle fees of attorneys, vol. i. 1070.
in absence of recorder to be held before deputy, except for the trial of issues in law or in fact, 7 Will. 4 & 1 Vict. c. 78, s 32, vol. i. 1060.
orders, affidavits, &c. may be made before the registrar, vol. i. 1061.
recorders to be sole judges in, *ib.*
jurisdiction of, may be extended on petition, *ib.*
jurors in, may be summoned more than once in same year, *ib.*
must be held four times yearly, 2 & 3 Vict. c. 27, vol. i. 1070.

CORPORATIONS (MUNICIPAL)—*continued.*
all personal actions in, to be commenced by writ of summons, vol. i. 1070.
town council may petition that jurisdiction of any court of local jurisdiction may be excluded in causes whereof county courts have cognizance, and the queen in council may make an order accordingly, vol. i. 1231.
Borough Fund. See *Corporate Property; Council.*
all corporate property, unappropriated fines, &c. to be carried by treasurer to the account of a fund to be called the, s. 92, vol. i. 1000.
one moiety of penalties, under s. 48, to be applied to, vol. i. 979.
payment of debts and salaries, &c. out of, vol. i. 1000.
surplus for the benefit of the borough, s. 92, vol. i. 1001.
if insufficient, borough rate, vol. i. 1002.
expenses at the assizes to be paid out of, s. 114, vol. i. 1014.
as to the maintenance and punishment of offenders, vol. i. 1015.
fines on jurors to be carried to account of, s. 121, vol. i. 1018.
penalties under the act to be paid into, s. 126, vol. i. 1019.
money not to be paid out of, without order in writing, signed by three members of the council, s. 59 (see *Certiorari*), vol. i. 985.
interest and dividends only to be expended, vol. i. 1000, n. (*c*).
act for the better administration of, 6 & 7 Will. 4, c. 104, vol. i. 1045.
further amended by 7 Will. 4 & 1 Vict. c. 78, vol. i. 1052.
new securities may be given for old debts, vol. i. 1045.
application of surplus in defending corporate rights, vol. i. 1001, n. (*c*).
in law expenses, *ib.*
expenses of public baths and washhouses may be charged upon, vol. ii. 416.
Borough Rate.
proviso for parts of boroughs, vol. i. 963.
council may order, s. 92, vol. i. 1002.
for what purposes, s. 92, *ib.*
appeal against, s. 92, vol. i. 1003.
requisites of, *ib.*
order of quarter sessions quashing, cannot be removed, vol. i. 1002, n. (*b*).
may be levied on parts of parishes exclusive of remainder, *ib.*
collection of, in parishes, partly within borough, and also in extra-parochial places, 7 Will. 4 & 1 Vict. c. 81, s. 3; 8 & 9 Vict. c. 110, vol. i. 1066, 1079.
further provisions for levying and recovery of, vol. i. 1079, 1065.
justices in boroughs not within the provisions of the Municipal Corporations Act may make, vol. i. 1092.
land and buildings occupied by scientific or literary societies exempted from, vol. iii. 1214.
costs of charters of incorporation may be paid out of, vol. i. 1086.
Boundaries. See *Gaol.*
of boroughs, general provisions respecting, ss. 7 and 8, vol. i. 962.
of those in second sections of schedules to remain till altered by parliament, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
proviso as to liberties repealed by 6 & 7 Will. 4, c. 103, s. 1, and new provisions made, vol. i. 1043.
places, included in metes and bounds, part of the borough, vol. i. 962.
so where boroughs are counties of themselves, *ib.*
where a felony committed in part added to, or included in a borough, to be tried in such borough, vol. i. 962, n. (*f*).
parts out off to belong to county at large, vol. i. 963.
liability to pre-existing debts, *ib.*
where a difference as to amount occurs, *ib.*
power of senior judge of assize to name arbitrator, *ib.*
award costs, *ib.*
rate to continue, for how long, *ib.*
proviso for gaols, houses of correction, lunatic asylums, courts and judges' lodgings, *ib.*
jurisdiction of borough courts to be extended to the new boundaries, s. 118, vol. i. 1017.
act to make temporary provision for 6 & 7 Will. 4, c. 103, vol. i. 1042.
as to the object and effect of s. 1 of this act, vol. i. 1043, n. (*a*).
county gaols brought by it within boundaries of boroughs, to be deemed part of the county at large, vol. i. 1043, n. (*c*).
ancient rights and new boundaries, *ib.*
Bribery.
definition of, vol. i. 1096.
penalties incurred by, s. 54, vol. i. 982, 1096.
persons convicted of, disqualified from voting or holding office, &c. s. 54, vol. i. 983.
what a gift or reward within the section, *ib.*, n. (*e*) and (*f*).
declaration in action for penalty for, vol. i. 983, n. (*g*).
what a sufficient offering to corrupt, &c., vol. i. 983, n. (*f*).
persons guilty of, but convicting others, indemnified, s. 55, vol. i. 983.
must be prosecuted within two years, s. 56, *ib.*
where proceedings taken in county court within six months, vol. i. 1097, s. 14.
Bridges
within the limits of, and which legally ought to be repaired by, cities or boroughs, to be maintained, &c. under the sole control of the town council, vol. ii. 699.
Building Leases. See *Leases; Council.*
council may grant, s. 96, vol. i. 1006.
either at a reserved rent, or a fine, or both. *ib.* n. (*b*).
and 6 & 7 W. 4, c. 104, s. 2, vol. i. 1045.
Burgess. See *Freemen; Reserved Rights; Householder and Burgess Roll; Revision.*
rights of, in common lands and stock of corporation, s. 2, vol. i. 959.
so also to the rents and profits thereof, *ib.*
so of the widows and kindred, *ib.*
extended to those who have been or shall be admitted, *ib.*
so to the wives, widows, sons or daughters thereof, *ib.*
so to the husbands of a widow or daughter, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
so to an apprentice duly bound, vol. i. 959.
effect of section 2, *ib.* n. (*b*).
proviso limiting the claim to surplus, vol. i. 959.
proviso as to the exemption from tolls, vol. i. 960.
exemption from, to be limited, *ib.*
extended, vol. i. 960, 1047.
liability to fees, &c. saved, vol. i. 960.
as to performance of conditions precedent, *ib.*
rights liable to be questioned as before, *ib.*
not to be made by gift or purchase, *ib.*
qualification of, under the act, s. 9, vol. i. 963.
who cannot be, s. 9, vol. i. 964.
joint occupiers, *semble* may be, vol. i. 963, n. (*a*).
must be rated, vol. i. 964. See *Rates; Householder.*
persons may claim to be, s. 17, vol. i. 967.
to serve on juries in boroughs, s. 121, vol. i. 1017.
in boroughs having separate quarter session, exempt from serving on county juries, s. 122, vol. i. 1018.
no stamp duty payable on enrolment of any burgess under the act, s. 22, vol. i. 970.
on the burgess roll entitled to vote at elections of councillors, &c., s. 29, vol. i. 972.
only three questions can be put to, on his claiming to vote at such elections, s. 34, vol. i. 973.
forms of the questions, vol. i. 974.
to vote in the ward in which property is situated, s. 44, vol. i. 977.
if rated in more than one, entitled to be enrolled in one ward only, *ib.*
when the ward must be selected, *ib.* n. (*f*).
general practice on this point, *ib.*
elected councillor, auditor, or assessor, and refusing the office, to pay a fine, s. 51, vol. i. 980. See *Exemptions.*
to be a competent witness, vol. i. 1046.
not a corporate officer within 6 & 7 Vict. c. 89, vol. i. 1077, n. (*c*).
records of admission of, to be open at any time to the inspection of any two freemen or burgesses on demand, vol. i. 955.
or of any officer or member of the corporation, vol. i. 956.
Burgess Lists. See *Householder; Burgess; Revision.*
what, s. 15, vol. i. 966.
overseers to make out, when, s. 15, *ib.*, 1093, 1094.
who are such overseers, vol. i. 966, n. (*f*).
penalty in case of omission in, to make it out, *ib.* n. (*g*).
where the place is extra-parochial, s. 16, vol. i. 967.
to sign them, s. 15, *ib.*
expenses of, how paid, s. 24, vol. i. 970.
what sufficient by, vol. i. 966, n. (*g*).
to deliver same to town clerk, s. 15, vol. i. 967.
to keep a true copy, and open for inspection, s. 15, *ib.*
town clerk's duties in regard to such lists, s. 15, *ib.*
to deliver a copy to all persons requiring it, s. 15, *ib.*
where to fix it up, s. 15, *ib.*
where there is no town clerk, s. 16, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
persons omitted from list, s. 17, vol. i. 967.
claim to be made, when, and to whom, s. 17, *ib.*
form of, s. 17, *ib.*
objection to persons in schedule (D), s. 17, *ib.*
who may make, and when, s. 17, *ib.*
notice of objections, where and when to be served, s. 17, *ib.*
form of, in schedule (D), s. 17, *ib.*
list of claimants to be published, s. 17, *ib.*
and of parties objected to, s. 17, *ib.*
copies thereof to be kept, s. 17, *ib.*
where to be fixed up, s. 17, *ib.*
burgess roll, what is, s. 22, vol. i. 970.
copies open to inspection, s. 17, vol. i. 968.
Burgess Roll. See *Burgess Lists; Householders.*
to be made by the town clerk, s. 22, vol. i. 970.
who is to copy the revised burgess lists into a book, *ib.*
such book to be the "burgess roll" of the borough, s. 22, *ib.*
to be in force from 1st November to 1st November, *ib.*
where borough divided into wards alphabetical lists of each ward to be made, to be called ward lists, s. 45, vol. i. 977.
copies of, to be printed for sale, s. 23, vol. i. 970.
moneys arising from such sale to be paid to the treasurer of the borough, *ib.*
no person enrolled on, acting as mayor, &c. liable to any penalty on the ground that he was not entitled to be on the burgess list of the borough, 6 & 7 Will. 4, c. 104, s. 7, vol. i. 1046.
persons rejected at the revision may be put on by mandamus, 7 Will. 4 & 1 Vict. c. 78, s. 24, vol. i. 1058.
not to be questioned for want of title in mayor or assessors, vol. i. 1053.
to be in force till revision of new burgess roll, vol. i. 1054, 1093.
corporations not to be dissolved when new list was not duly made, *ib.*
Burial-rate,
power to town council to make, vol. ii. 876.
Bye-laws.
rights under, reserved to freemen, &c. vol. i. 959.
to be made by the council, s. 90, vol. i. 999.
regulations as to making, *ib.*
fine for non-acceptance of office to be regulated by a bye-law, vol. i. 981.
no fine inflicted by bye-law to exceed 5*l.* s. 90, vol. i. 999.
breaches of, how punishable, s. 91, vol. i. 1000.
prosecution for, must be commenced within three months, vol. i. 1019.
council to make, previous to appointment of police magistrate by the crown, s. 99, vol. i. 1008.
Cambridge University.
exempted from the operation of the act, s. 137, vol. i. 1022.
vice-chancellor of, may be appointed justice of borough, vol. i. 1023, n. (*a*), 1050.
his power of licensing ale-houses, vol. i. 1050.
Capital and other Criminal Jurisdictions,
other than specified in the act, abolished, s. 107, vol. i. 1012.

CORPORATIONS (MUNICIPAL)—*continued.*

Casting Vote. See *Mayor.*
in council, s. 69, vol. i. 991.
at election, chairman to have, vol. i. 1056.
outgoing aldermen elected chairman may give, vol. i. 971, n. (*a*), 1056, n. (*c*).

Cathedral Closes and Precincts,
jurisdiction over, preserved, s. 138, vol. i. 1023.

Certiorari. See *Order.*
no conviction, &c. under the act to be removed by, s. 132, vol. i. 1020.

Chaplain of Gaol.
order for payment of money out of borough fund may be removed by, vol. i. 1068.
appointment of, vol. i. 1062, n. (*c*).

Charitable Trustees and Funds. See *Trustees.*
general provision as to, s. 71, vol. i. 992.
meaning of the words, s. 142, vol. i. 1024.
as to mode of transferring stock, &c. belonging to, vol. i. 993, n. (*c*), 1064.
to whom dividends of charity and corporate property standing in the bank books shall be paid, vol. i. 1064.
receipt of any pension from, or other allowance, disqualifies from being a burgess, s. 9, vol. i. 965.
exceptions, s. 10, *ib.*

Charters. See *Petition.*
of incorporation may be granted, vol. i. 1064.
cases on, *ib.*, n. (*c*).
costs and expenses of, how payable, vol. i. 1086.
confirmation of charters of incorporation of certain boroughs, vol. i. 1075, 1082, 1086.

Church Patronage Act. See *Advowsons.*

Cinque Ports.
jurisdiction of, not to be affected, s. 108, vol. i. 1012.
further preserved, ss. 134, 135, vol. i. 1022.
provisions in these sections as to quarter sessions repealed, and new provisions made, 6 & 7 W. 4, c. 105, s. 10, vol. i. 1049.

Citizen. See *Burgess.*

Claims and Claimants. See *Householder; Burgess List; Revision.*
to be rated, by occupier, s. 11, vol. i. 966.
to be put on burgess list, s. 17, vol. i. 967.
form of, schedule (D), *ib.*
list of, to be published and kept for perusal, *ib.*

Clerk to the Justices. See *Justices.*
to be appointed by the justices, s. 102, vol. i. 1009.
removable at pleasure, *ib.*
who may not be appointed or continued, *ib.* 1098.
must not be concerned in prosecution of persons committed by the borough justices, *ib.*
when entitled to compensation on removal, vol. i. 988, 1075.
payment of, by salary in lieu of fees, vol. ii. (57).

Clerk of the Peace.
to be appointed by the council, s. 103, vol. i. 1010.
notice of appeal against a borough rate not to be given to, but to the town clerk, vol. i. 1003, n. (*b*).

CORPORATIONS (MUNICIPAL)—*continued.*

cannot be appointed clerk to the justices, s. 102, vol. i. 1009, 1098.
acting as clerk to the justices, liable to a penalty of 100*l.*, s. 102, vol. i. 1010, 1098.
so also his partner or clerk, *ib.*
to give public notice of holding quarter sessions, and to summon jurors, s. 121, vol. i. 1017.
fees payable to, to be settled by the council, s. 124, vol. i. 1018.
confirmed by the secretary of state, s. 124, vol. i. 1019.
new table of fees may be made, *ib.* See *Town Clerk.*
to perform duties imposed upon town clerk, by 3 Geo. 4, c. 46, vol. i. 1093.
payment of, by salary, in lieu of fees, vol. ii. (57).

Collusive Purchases, Sales, &c. See *Leases.*
how to be questioned, s. 97, vol. i. 1006.

Commissions of the Peace. See *Justices.*
may be issued for persons to act as justices, s. 98, vol. i. 1008.
boroughs which are to have a, in England and Wales, schedule (A), vol. i. 1025.
boroughs which are not to have, unless on petition and grant, schedule (B), vol. i. 1029.

Committees.
may be appointed by the council, s. 70, vol. i. 992.
all acts of such committees to be submitted to the council for approval, *ib.*

Commitment. See *Warrant of.*

Common Lands and Public Stock.
rights in, preserved to freemen, their wives and children, s. 2, vol. i. 959.

Common Lodging Houses Act, 1851.
to be executed by town council, in boroughs not being the district of a local board of health, vol. iii. 73.

Compensation.
to be made to persons on removal, &c. from offices under the act, s. 66, vol. i. 988.

5 & 6 Vict. c. 111, s. 2, vol. i. 1075.
proviso as to officer re-appointed and afterwards removed, vol. i. 990.
office of profit, meaning of words, vol. i. 988, n. (*c*), 1075, n. (*d*).
party claiming to deliver statement of claims, vol. i. 989.
statement to be laid before council, s. 66, *ib.*
if council shall not determine thereon within six calendar months, claim admitted, vol. i. 990.
party objecting to determination of the council may appeal, vol. i. 989.
appeal confined to question of amount, *ib.* n. (*c*).
to be secured by bond under common seal, at the expense of the borough fund, s. 67, vol. i. 991.

Conscientious Ground. See *Affirmation; Fine.*
parties refusing to take oath or accept office on, not liable to fine, vol. i. 1046.

Constables. See *Watch Committee; Police.*
watch committee to appoint, s. 76, vol. i. 995.
how and where to act, *ib.*
to have all powers and privileges of other constables, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
if sued for act done in general discharge of duty, was entitled to double costs under 21 Jac. 6, c. 12, vol. i. 995, n. (*b*).
regulations for guidance of, to be made by the watch committee, s. 77, vol. i. 995.
to apprehend disorderly persons, s. 78, *ib.*
attending at watch-house during night, may take bail in case of petty misdemeanors, s. 79, vol. i. 990.
penalties on, for neglect, s. 80, *ib.*
for assaults on, s. 81, *ib.*
parties may be also indicted, *ib.*
regulation and payment of expenses of, s. 82, *ib.*
rewards to, for activity, *ib.*
special, certain number of, to be appointed, s. 83, *ib.*
payment of, vol. i. 997.
on notice of appointment of constables, the provisions of local acts, as to watching, &c. to cease, s. 84, *ib.*
watch-boxes, &c. to be given up, *ib.*
penalty for not giving up, *ib.*
building used as watch-house to be given up for the use of constables appointed under the act, *ib.*
establishment of superannuation fund for, vol. i. 996, n. (*b*), vol. iii. 1011.
county constable not to vote at municipal elections, vol. iii. 1010.

Contract or Employment.
no person having any interest in, with or on behalf of council, qualified to be an alderman or councillor, s. 28, vol. i. 972.
stat. 5 & 6 Vict. c. 104, vol. i. 1073.
by 7 Will. 4 & 1 Vict. c. 78, s. 39, no mayor, &c. is to be interested in any contract, &c. for building, repairing, or enlarging any gaol, vol. i. 1062.
proprietors of newspapers in which advertisements relating to affairs of a borough inserted, not to be deemed contractors, or disqualified from election to municipal offices thereby, vol. i. 1088, 1089.

Conviction.
summary, by virtue of the act, s. 127, vol. i. 1019.
limitation of time as to punishment of offences by, *ib.*
payment of penalties under, s. 129, vol. i. 1020.
form of, s. 130, *ib.*
appeal against, to quarter sessions, s. 131, *ib.*
not to be quashed for want of form, or to be removed by *certiorari*, s. 132, *ib.*
bribery disqualifies from holding any office, &c. s. 54, vol. i. 983.
verdict without judgment not sufficient to constitute a conviction within, s. 55, vol. i. 983, n. (*h*).

Coroner. See title "CORONERS."
to be appointed by council, in boroughs having separate courts of quarter sessions, s. 62, vol. i. 986.
may appoint deputy when, vol. i. 1048.
vacancy in office of, to be filled up, vol. i. 986.
fees of, for holding inquest, to be paid by treasurer, &c. vol. i. 987.
additional fees of, under 7 Will. 4 & 1 Vict. c. 68, vol. i. 936.
to make annual return to the secretary of state, s. 63, vol. i. 987.

CORPORATIONS (MUNICIPAL)—*continued.*
county coroners to act in boroughs not having separate courts of quarter sessions, s. 64, vol. i. 987.
admiralty to appoint their coroners as heretofore, *ib.*

Corporate Property. See *Borough Fund; Rates; Charitable Funds; Leases; Collusive Sales.*
after payment of debts, all appropriated to public purposes, s. 92, vol. i. 1001.
certain, is now rateable by 4 & 5 Vict. c. 48, vol. i. 1073.
rents, interest, and dividends of, only to be expended, vol. i. 1000, n. (*c*).
powers of council to lease or sell, ss. 94—97, vol. i. 1005—1007.
powers of mortgaging, vol. i. 1005, n. (*c*), 1045.
mode of transferring, standing in bank books, vol. i. 1063.
preventing application of, to the purposes of parliamentary elections, vol. iii. 516.

Corporations.
to be styled mayor, aldermen, and burgesses, s. 6, vol. i. 962.
to have perpetual succession, *ib.*
what acts they may do, &c. *ib.*
are to act through "the council," *ib.*
as to misnomer of, *ib.* n. (*b*).
where seised of advowsons, &c. the same to be sold, s. 139, vol. i. 1023.
future, costs of, vol. i. 1086.
acts to apply to future corporations, vol. 1090.

Costs.
in action for penalties, s. 53, vol. i. 982.
security for, s. 53, *ib.*
full, to be recovered in actions for bribery, s. 54, vol. i. 983.
in actions against clerk to the justices, s. 102, vol. i. 1010.
in actions against persons acting under the act, s. 133, vol. i. 1022.
on application for mandamus, vol. i. 1059.
of future corporations, vol. i. 1086.

Council.
mayor, aldermen, and councillors to constitute, s. 25, vol. i. 970.
to elect the aldermen, s. 25, *ib.*
mayor and aldermen to continue members of, while in office, s. 26, vol. i. 971.
to order payment of overseers' expenses, s. 24, vol. i. 970.
to fill up vacancies in the office of aldermen within ten days, s. 27, vol. i. 971.
to elect mayor annually, s. 49, vol. i. 979.
to appoint town clerk, treasurer, and other officers, s. 58, vol. i. 984.
no money to be paid except by order of, s. 59, vol. i. 985.
officers to account according to orders of, s. 60, *ib.*
corporate body to act by and through the council, who are to have authority and powers of the old corporations, s. 6, vol. i. 962.
all acts of, to be decided by a majority of those present at a meeting, s. 69, vol. i. 991.
provided one-third of whole number be present, vol. i. 992.
quarterly and other meetings of, s. 69, *ib.*
notice must be given before meetings of, to be signed by the mayor, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
five members of, to sign notice in case of refusal of mayor, vol. i. 992.
summons also to attend, stating the business to be transacted, *ib.*
no notice of business to be transacted at the four quarterly meetings of, *ib.*
adjournment of, vol. i. 991, n. (*e*).
minutes of the proceedings of, to be entered and signed, vol. i. 992.
inspection of, &c. *ib.* n. (*b*).
to appoint committee, s. 70, vol. i. 992.
to act as trustees where corporation formerly sole trustees, s. 72, vol. i. 993.
to appoint a limited number to be joint trustees, s. 73, vol. i. 994.
powers vested in trustees under local act transferred to council, s. 75, vol. i. 995.
to appoint a watch committee, s. 76 (see *Constables*), *ib.*
powers of, as to lighting (see *Lighting*), vol. i. 998.
may assume powers of inspectors under 3 & 4 Will. 4, c. 90, *ib.*
to make bye-laws, s. 90 (see *Bye-laws*), vol. i. 999.
to apply surplus of borough fund for benefit and improvement of the borough, s. 92, vol. i. 1001.
powers of local acts, not within jurisdiction of recorder, vested in council, vol. i. 1048.
constitution and functions of, as local board of health, under the Public Health Act, 1848, vol. ii. 427, 428.
Councillors. See *Wards; Burgess; Aldermen.*
number of, s. 25, vol. i. 970.
in each borough, schedule (A) and (B) to the act, vol. i. 1025, 1029.
mayor and aldermen, with the, to constitute "the council," vol. i. 970.
aldermen to be elected from, or from persons qualified to be, s. 25, *ib.*
nomination of candidates for election as. See *Nomination.*
how chosen, s. 25, *ib.*, 1095, 1096.
notice of election of, to be published by town clerk, vol. i. 1095.
when chosen, s. 30, vol. i. 972.
no clergyman or dissenting minister to be, s. 28, vol. i. 971.
nor any one not entitled to be on the burgess list, *ib.*
pecuniary and rating qualification of, s. 28, vol. i. 972.
the same where boroughs divided into wards, *ib.*
uncertificated bankrupts may be elected, vol. i. 971, n. (*d*).
persons holding any office in the gift of the council, other than that of mayor, ineligible as, s. 28, vol. i. 972.
or while sharing in any contract, &c. *ib.*
disqualification not to extend to shareholders of water and insurance companies contracting with council, s. 28, *ib.*
burgesses to vote on the election of, s. 29, *ib.*
one-third part of, to go out of office annually, s. 31, *ib.*
elections to be held before the mayor and assessors, s. 32, vol. i. 973.
but where boroughs divided into wards before aldermen and assessors, vol. i. 973, n. (*c*), 977.
the mode of voting for, s. 32, vol. i. 973.

CORPORATIONS (MUNICIPAL)—*continued.*
no councillor eligible as auditor or assessor of a borough, s. 37, vol. i. 975.
existing mayors and councillors to go out of office on election of councillors under the act, s. 38, *ib.*
where borough is divided into wards, the barristers to assign the number of councillors for each, as therein directed, ss. 40, 41, vol. i. 976.
to be elected in wards, s. 43, vol. i. 977.
at such election alderman to preside, *ib.*
councillor elected in more than one ward to choose for which ward he will serve, s. 46, vol. i. 978.
occasional vacancies in number of, how filled up, s. 47, *ib.* and vol. i. 1091.
course to be pursued, if vacancy not filled in due time, *ib.* n. (*b*).
councillors to subscribe declaration of acceptance of office, and of possession of sufficient qualification, s. 50, vol. i. 979.
burgess duly elected councillor, and not accepting office, to pay a fine not exceeding 50*l.*, s. 51, vol. i. 980.
amount of fine to be fixed by bye-law, s. 51, *ib.*
elected mayor and not accepting office, a fine not exceeding 100*l.*, s. 51, *ib.*
fine, if not paid, shall be levied by distress, s. 51, *ib.*
persons elected, to subscribe declaration of acceptance within five days, or liable to fine, s. 51, *ib.*
declared bankrupt or insolvent, or leaving the borough for more than six months, to lose office, s. 52, vol. i. 981.
but on obtaining certificate, or payment of debts in full, or returning, capable of re-election, s. 52, *ib.*
persons not qualified acting as, to forfeit 50*l.*, but acts to be valid and effectual, s. 53, vol. i. 982.
not to be appointed coroner, s. 62, vol. i. 986.
nor clerk to borough justices, vol. i. 1098.
majority of, at meetings of council, to decide, s. 69, vol. i. 991.
with mayor to form watch committee, s. 76, vol. i. 995.
incapable of being recorder. s. 103, vol. i. 1010.
exemption from serving on juries, s. 122, vol. i. 1018.
in part repealed, vol. i. 1090.
Counties of Cities and Towns Corporate.
councils of to appoint sheriff, s. 61, vol. i. 986.
as to trial of offences committed in, s. 109, vol. i. 1013.
named in first column of schedule (C) to be deemed as next adjoining to the county named in second column of schedule (C), *ib.*
See *Schedule* (C), *ib.*
certain exceptions of 38 Geo. 3, c. 52, repealed, s. 109, *ib.*
County Gaol, &c. See *Gaol.*
to be deemed within the county, notwithstanding change in the boundaries of boroughs, s. 8, vol. i. 963.
so also if included within any borough by 6 & 7 Will. 4, c. 103, vol. i. 1043, 1062.
council may make orders for contracts as to borough prisoners, s. 114, vol. i. 1015.

CORPORATIONS (MUNICIPAL)—*continued.*
mode of estimating expenses incurred in, by the borough prisoners, vol. i. 1014, n. (*d*).
orders as to, under 5 Geo. 4, c. 85, vol. i. 1015.
certain borough debtors and prisoners may be removed to, vol. i. 1063.
payment of expenses of borough prisoners in, 5 & 6 Vict. c. 98, s. 18, vol. iii. 1367.
boroughs having or providing gaol, &c. not liable to contribute to county gaol, &c. except in certain manner, vol. i. 1085.

County Rates. See *Borough Rate.*
borough to which there shall be a grant of quarter sessions exempt from county rate, s. 112, vol. i. 1014.
See 5 & 6 Vict. c. 98, s. 22.
but arrears may be levied and collected, s. 112, *ib.*
collection of, in parishes partly within borough and partly without, vol. i. 1155.
boroughs appointing inspectors of weights and measures not to be liable to contribute to county rate in respect of weights and measures in counties, vol. i. 1090.

Dead Men,
names of, to be expunged by mayor at revision, s. 18, vol. i. 968.

Debts.
the interest on, charged on corporate property, must be paid first, s. 2, vol. i. 959.
after such payment, rights of freemen, &c. not to be defeated by voluntary payments to other creditors, *ib.* (*b*).
incurred before the passing of the act, the first charge on the borough fund, s. 92, vol. i. 1000.
corporate property, if not liable to, before the act, not now liable, s. 92, vol. i. 1004.
any place not heretofore liable to be rated for the payment of, not to be liable, s. 92, *ib.*
where place separated from a borough, liable for proportion of debt incurred before separation, s. 8, vol. i. 963.
new securities may be given for old debts, vol. i. 1045.
money borrowed to discharge any pre-existing debt, shall be deemed a debt incurred before passing of corporation act within 6 & 7 Will. 4, c. 104, s. 1, vol. i. 1060.
proceeds of sale of advowsons may be applied in discharge of, vol. i. 1045.

Declaration. See *Aldermen; Councillors.*
before acting, to be made by mayor, aldermen, &c. s. 50, vol. i. 979.
to be administered by two or more aldermen or councillors to each other, *ib.*
on the declaration being made, office becomes full *de facto*, *ib.* n. (*f*).
to be made within five days after notice of election, vol. i. 981.
what sufficient notice, *ib.* n. (*b*).
under 1 & 2 Vict. c. 15, force of, vol. i. 1067.
by Jews, vol. i. 1079.

Deputy,
as to power to appoint, vol. i. 1010, 1090.
See *Assessor; Coroner; Recorder.*

CORPORATIONS (MUNICIPAL)—*continued.*
Dissenting
ministers disqualified from being councillors, s. 28, vol. i. 971.

Distance
of "seven miles," how to be computed, s. 9, vol. i. 965.

Distress.
penalties to be levied by distress and sale, s. 129, vol. i. 1020.
want of form not to make party trespasser *ab initio*, s. 132, vol. i. 1021.

District Courts and Prisons.
act for establishing, 5 & 6 Vict. c. 53, vol. iii. 1357.
agreements for building, vol. iii. 1357 *et seq.*
powers to raise moneys for building, vol. iii. 1358.
purchase of lands for, vol. iii. 1359.
audit of accounts, vol. iii. 1360.
appointment of officers, &c. *ib.*
gaol sessions, *ib.*
visiting justices of, vol. iii. 1361.
inspection of prisons, *ib.*
disputes to be settled by arbitration, vol. iii. 1362.
sale of old prisons, vol. iii. 1363.
court for the united district, *ib.*
who to be jurors, *ib.*
provision for expenses, vol. iii. 1364.
extension of powers of 5 & 6 Vict. c. 53, as to, vol. iii. 1370.

Division of Boroughs. See *Wards.*
into wards by barristers, s. 39, vol. i. 976.
who are to fix boundaries, &c. *ib.*
and transmit particulars to the secretary of state, *ib.*
such division, if approved, to continue till altered by parliament, *ib.*
into wards, may be altered, vol. iii. 1095.
how such alteration effected, *ib.*
provision for first election after division, *ib.*

Dock-yards,
the provisions of 5 & 6 Will. 4, c. 76, for watching and lighting boroughs, not to interfere with, s. 89, vol. i. 998.

Durham,
university of, act not to interfere with, s. 138, vol. i. 1023.

Ecclesiastical Commissioners,
advowsons to be disposed of under the direction of, s. 139, *ib.*

Elections. See *Councillors; Nomination.*
of mayor on days appointed by charter, &c. vol. i. 951.
notice of election of councillors to be published by town clerk, vol. i. 1095.
of councillors, ss. 30, 32, vol. i. 972, 973, 1095, 1096.
of the same in wards, ss. 43—46, vol. i. 977, 978.
of aldermen, s. 25, vol. i. 970.
not to take place in any church, chapel, or other place of public worship, s. 33, vol. i. 973.
questions at, s. 34, vol. i. 974.
result of, how to be declared, s. 35, *ib.*
of auditors and assessors, s. 37, vol. i. 975.
of assessors in wards, s. 43, vol. i. 977.
of mayors, to take place on 9th November, s. 49, vol. i. 979.
first thing to be done at meeting on that day, s. 69, vol. i. 992.
polling booths at, to be provided by mayor, s. 33, vol. i. 973.

CORPORATIONS (MUNICIPAL)—*continued.*
polling clerks at, to be appointed, vol i. 973.
expenses of, defrayed out of borough fund, s. 92, vol. i. 1000.
not to be questioned for title of presiding officer, vol. i. 1052.
to be held good, though the whole number of aldermen not elected in due time, 7 Will. 4 & 1 Vict. c. 78, s. 2, *ib.*
before the election of assessors, to be valid, vol. i. 1053.
provision as to equality of votes in certain cases, vol. i. 1054.
of mayor and aldermen, how made when no mayor or aldermen, 7 Will. 4 & 1 Vict. c. 78, s. 13, vol. i. 896, 1055.
of aldermen, how to be made in future, s. 14, vol. i. 1056.
in case of equality of votes at, mayor or chairman to have casting vote, *ib.*
when poll may be closed, *ib.*
where required to be held on the Lord's day, to be held on Saturday or Monday, vol. i. 958.
may be held on the day following the appointed time, 7 Will. 4 & 1 Vict. c. 78, s. 25, vol. i. 1059.
county constables not to vote at municipal elections, vol. iii. 1010.

Errors. See *Misnomer; Mistake.*
or mistake in burgess lists to be corrected, s. 18, vol. i. 968.
not to vitiate, when, s. 142, vol. i. 1025.
for the purpose of correcting, a second publication of persons elected under s. 35 cannot be made, vol. i. 974, n. (*e*).

Exclusive Rights of Trading
abolished, s. 14, vol. i. 966.

Exemptions.
beneficial, reserved to freemen, &c. s. 2, vol. i. 959.
from tolls, enjoyed by persons in virtue of other than corporate rights, not to be affected by s. 2 of the act, vol. i. 960, n. (*a*).
see 6 & 7 Will. 4, c. 104, s. 9, vol. i. 1047.
from serving corporate offices, s. 51, vol. i. 981.
from serving on juries, s. 122, vol. i. 1018.
chartered, from serving on juries abolished, s. 123, *ib.*

Expenses.
of barristers in first year, s. 20, vol. i. 969.
of prosecutions at the assizes, ss. 113, 114, vol. i. 1014.
of compensation bond, s. 67, vol. i. 991.
of elections, how defrayed, s. 92, vol. i. 1001.
of overseers making burgess lists, s. 24, vol. i. 970.
of constables, s. 82, vol. i. 996.

Extra-parochial Places. See *Burgess Lists.*
how burgess lists to be made in, s. 16, vol. i. 967.

Evidence. See *Witness.*
in actions for penalties for acting without qualification, s. 53, vol. i. 982.
against persons acting under this act, special matter may be given in evidence under general issue, s. 133, vol. i. 1021.

Fine.
parties not accepting offices liable to, s. 51, vol. i. 980.

CORPORATIONS (MUNICIPAL)—*continued.*
how levied, vol. i. 981.
on payment of, offices may be resigned, vol. i. 1046.
persons declining on conscientious grounds not liable to, *ib.*

Forgery
of nomination or voting papers, vol. i. 1096.

Forms.
of questions to be put to burgesses before voting, s. 34, vol. i. 973.
declaration of acceptance of office and qualification, s. 50, vol. i. 979.
declaration to be made by justices and recorder, s. 104, vol. i. 1011.
of conviction by justices, s. 130, vol. i. 1020.
of list of burgesses, schedule (D), No. 1, vol. i. 1031.
of notice of claim, schedule (D), No. 2, *ib.*
of notice of objection, schedule (D), No. 3, *ib.*
of list of claimants, schedule (D), No. 4, vol. i. 1032.
of list of persons objected to, schedule (D), No. 5, *ib.*
of nomination paper, vol. iii. 1097.
of notice of election of councillors, *ib.*

Franchise. See *Freemen; Burgess.*
parliamentary, reserved to freemen, s. 4, vol. i. 960.

Freedom
not to be acquired by gift or purchase, *ib.*

Freemen. See *Freemen's Roll; Burgess; Ancient Rights; Reserved Rights.*
rights of, in common lands and stock, &c. with all beneficial exemptions reserved to freemen, their wives, widows, and kindred, s. 2, vol. i. 959.
proviso as to total amount to be divided amongst persons whose rights thus reserved, *ib.*
not exempted from tolls payable to body corporate, unless title perfect on 5th June, 1835, vol. i. 960.
none can be made hereafter by gift or purchase, s. 3, *ib.*
parliamentary franchise reserved to, s. 4, *ib.*
roll of, to be made out and kept by the town clerk, s. 5, vol. i. 961.
may be admitted in future in respect of birth, servitude, or marriage, s. 5, *ib.*
claims of, to be examined by mayor, *ib.*
if established, to be enrolled; roll of, to be made by town clerk, who is to keep a copy for perusal, s. 5, vol. i. 962.
duty of mayor and town clerk, respecting, *ib.*
no stamp duty payable on admission of, since 1 & 2 Vict. c. 35, vol. i. 961, n. (*a*), 1070.
records of admission of, to be open at any time to the inspection of any two freemen or burgesses on demand, vol. i. 955.
or of any officer or member of the corporation, vol. i. 956.

Gaol, Borough. See *County Gaol.*
council may contract for committing prisoners to the gaol of another borough, s. 115, vol. i. 1015.
and the county justices may contract with the borough justices for committal to the borough gaol, vol. i. 1047.

CORPORATIONS (MUNICIPAL)—*continued.*
councils of certain boroughs to have the same powers as county justices, under 4 Geo. 4, c. 64, and 5 Geo. 4, c. 85, have at their quarter sessions, s. 116, vol. i. 1016.
except in hearing appeals against convictions, *ib.*
borough justices to make regulations, &c. for their gaols at "quarterly sessions" to be held at usual time of holding the quarter sessions of the peace, vol. i. 1062.
but see 5 & 6 Vict. c. 53, s. 2.
no order, however, for payment of money to be of any force till confirmed by the council, *ib.*
council to have same powers as justices in general or quarter sessions, as to building or enlarging gaols, &c. vol. i. 1061.
proviso, before any building, enlarging, or repairing take place, expediency thereof to be certified by recorder, *ib.*
rules to be approved of by two justices for the borough before sent to secretary of state, *ib.*
mayor, &c. not to be interested in any contract for building, repairing, &c. vol. i. 1062.
penalty on, for so being, *ib.*
borough gaol may be built beyond the limits of the borough, *ib.*
but to be deemed within borough jurisdiction, *ib.*
land may be purchased for site of, *ib.*
powers of borough council as to borrowing money for building, vol. i. 1081.
power of mortgage, *ib.*
boroughs freed from county rate in respect thereof, vol. i. 1085.
gaol of district court, established by 5 & 6 Vict. c. 53, vol. iii. 1357.
justices of any borough having a separate gaol may commit assize prisoners to such gaol, vol. i. 1086.
except persons charged with murder, vol. i. 1087.

Gaoler,
appointment of, in whom vested, vol. i. 1062, n. (c).

Halifax,
charter of incorporation of, confirmed, vol. i. 1086.

Householders. See *Burgess.*
burgesses must be, s. 9, vol. i. 963.
either within the borough or within seven miles thereof, s. 9, vol. i. 964.
distance how computed, s. 9, vol. i. 965.
no lodger or inmate can be deemed, though rated, vol. i. 964, n. (a).
what kind of building they must occupy, vol. i. 963, n. (a).
how long to occupy, s. 9, vol. i. 964.
must be enrolled, *ib.*
must be rated, s. 9, *ib.*
what is rating, *ib.* n. (b).
rates must be paid by party, s. 9, *ib.* n. (c).
so also borough rates, s. 9, vol. i. 964.
exception, s. 9, vol. i. 965.
proviso for not being the same premises, s. 9, *ib.*
as to aliens, s. 9, *ib.*
for having had parochial relief, &c. *ib.*
may demand to be rated, how, s. 11, vol. i. 966.

CORPORATIONS (MUNICIPAL)—*continued.*
so whether landlord is liable or not, s. 11, vol. i. 966.
liability of landlord not discharged, s. 11, *ib.*
where a house, &c. comes by descent, marriage, &c. s. 12, *ib.*
time of occupancy, in such case how reckoned, s. 12, *ib.*
such party may be enrolled, s. 12, *ib.*
person not qualified under the act not to be admitted as burgess, s. 13, *ib.*

Incorporation.
charter of, his majesty empowered to grant upon petition, s. 141, vol. i. 1024.
this section amended by 7 Will. 4 & 1 Vict. c. 78, s. 49, vol. i. 1064.
under which crown may grant charters to borough on petition of the inhabitant householders, *ib.*
notice of such petition must be published in the Gazette one month before, &c. vol. i. 1065.
but publication need not be by royal proclamation, *ib.*
confirmation of incorporation of certain boroughs, vol. i. 1075, 1082, 1086.

Indictment
against persons under the act must be laid and tried in county where fact committed, s. 133, vol. i. 1021.

Infant.
cannot be a burgess, s. 9, vol. i. 963.
nor town clerk, treasurer, &c. vol. i. 984, n. (b).

Inhabitants. See *Burgess; Householders.*
right of present and future, preserved, s. 2, vol. i. 959.

Insolvency.
causes loss of office of mayor, alderman, or councillor, s. 52, vol. i. 981.
party may be re-elected on payment of debts in full, *ib.*
not a cause of amotion at common law, *ib.* n. (d).

Inspector of Weights and Measures
to be appointed by town council, vol. i. 1011, n. (d), 1099.

Jews,
declaration to be made by, vol. i. 1079.

Joint-occupiers. See *Buryess; Occupiers.*
of house, warehouse, &c. *semble,* entitled to be burgesses under the act, vol. i. 963, n. (a).

Jurisdiction. See *Counties of Cities; Gaol.*
of recorder. See *Recorder; Quarter Sessions.*
chartered, of admiralty, abolished, s. 108, vol. i. 1012.
of the cinque ports preserved, *ib.*
further preserved, ss. 134, 135, vol. i. 1022.
existing suits affecting rights of salvors to be determined nevertheless, vol. i. 1012.
offences committed in counties of cities and towns corporate to be tried in adjoining county, until separate commission of gaol delivery issued, s. 109, vol. i. 1013.
offenders committed to borough sessions whose jurisdiction is taken away, to be tried in an adjoining county, s. 110, *ib.*
county justices to have, in all boroughs which have not a court of quarter sessions s. 111, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
of justices, where part of parish in borough, vol. i. 1013, n. (*d*).
See *Quarter Sessions.*
borough court of record to be holden as heretofore, but in some cases with extended, s. 118, vol. i. 1016.
change of, not to affect existing suits, s. 120, vol. i. 1017.
of court of record may be extended on petition, vol. i. 1061.
over precincts of any cathedral, nor rights, &c. of university of Durham, not to be affected by the act, s. 138, vol. i. 1023.
offences against local acts to be within jurisdiction of borough justices, vol. i. 1060.
certain other matters within county jurisdiction, *ib.*
of borough justices extended to all offences and matters arising within the borough, vol. i. 1088.

Jurors. See *Exemptions.*
who shall be, and regulations respecting, s. 121, vol. i. 1017.
exemptions from serving as, s. 122, vol. i. 1018.
in part repealed, vol. i. 1090.
chartered exemptions abolished, s. 123, vol. i. 1018.
in cinque ports, s. 135, vol. i. 1022.
how summoned, s. 121, vol. i. 1018.
may be summoned a second time in the same year, by 7 Will. 4 & 1 Vict. c. 78, s. 36, vol. i. 1061.
fines for not serving, s. 121, vol. i. 1018.
how levied, s. 121, *ib.*
in district courts under 5 & 6 Vict. c. 53, vol. i. 919.

Justices of the Peace. See *Police Magistrate.*

Justices (Borough).
oath, &c. vol. i. 947, 1011.
mayor to be a justice *ex officio*, and for the year following, s. 57, vol. i. 984.
his majesty's commission may be issued for certain persons to act as, in boroughs, in scheds. (A) and (B), s. 98, vol. i. 1008.
such justices need not be qualified by estate, nor be burgesses, s. 101, vol. i. 1009.
must reside in, or within seven miles of, the borough, s. 98, vol. i. 1008.
what is a sufficient residence within the borough, vol. i. 1098.
summons of, where may be served, vol. i. 1009.
not to sit in courts of gaol delivery, &c. or quarter sessions, *ib.*
cannot make or levy any county rate, vol. i. 1009, 1045.
to appoint a clerk, vol. i. 1009.
to appoint special constables (see *Constables*), vol. i. 996.
recorder to be a justice *ex officio*, vol. i. 1010.
recorder and justices not to act till declaration made, and oaths taken, s. 104, vol. i. 1011.
such oaths may be taken before the mayor or any two aldermen, 6 & 7 Will. 4, c. 105, s. 3, vol. i. 1011, 1048. See *Affirmations.*
exempted from serving on borough juries, s. 122, vol. i. 1018.
prosecutions for offences on summary conviction before, s. 127, vol. i. 1019.
empowered to summon witnesses, s. 128, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
not to be incompetent to act on account of contributing to borough fund, s. 128, vol. i. 1019.
may regulate payment of penalties by persons summarily convicted, s. 129, vol. i. 1020.
venue in actions against, s. 133, vol. i. 1021.
to have jurisdiction over certain local offences, previously within county jurisdiction, vol. i. 1043, 1060.
to regulate gaols at quarterly sessions, to be held at the usual times of holding quarter sessions, vol. i. 1062.
no order by, requiring payment of money, to be of any force till confirmed by the council, *ib.*
empowered to act in all matters relating to the relief of the poor within their borough, 12 & 13 Vict. c. 64, vol. i. 1084, 1089.
appointment of overseers in boroughs vested in, 12 & 13 Vict. c. 8, vol. i. 1082.
jurisdiction of, extended to all offences and matters arising within the borough, vol. i. 1088.

Justices (County).
to have jurisdiction in boroughs not having, but not in boroughs having, quarter sessions, s. 111, vol. i. 1013.
when can try appeal against a poor rate, vol. i. 1013, n. (*d*).
to transact at county quarter sessions business of boroughs which have ceased to hold quarter sessions, vol. i. 1065.
may hear and determine complaints against borough officers for not giving up books, &c. s. 60, vol. i. 985.
two or more, at adjourned sessions, may sit apart for the despatch of business, vol. i. 1051.

Labouring Classes Lodging Houses Act, 1851
may be adopted for, and executed by, boroughs, vol. iii. 75.

Leases. See *Contract; Collusive Sales.*
are contracts with the corporation within s. 28, vol. i. 978, n. (*c*).
what may or what may not be granted by the council, ss. 94, 95, vol. i. 1005, 1006.
may sell or grant for longer term, with leave of the lords of the treasury, s. 94, vol. i. 1005.
can also mortgage, by 6 & 7 Will. 4, c. 104, s. 2, vol. i. 1045.
may be renewed by the council, s. 95, vol. i. 1006.
for building or making gardens may also be granted, s. 96, *ib.*
these leases may be either at a reserved rent, or a fine, or both, 6 & 7 Will. 4, c. 104, s. 2, vol. i. 1045.
collusive may be inquired into, s. 97, vol. i. 1006.
costs of inquiry to be paid out of borough fund, vol. i. 1008.
party compelled to produce his original lease for inspection in action brought by the corporation, vol. i. 1007, n. (*a*).

Liberties.
s. 7 of "the act" as to, repealed, vol. i. 1042, 1043.
what, excluded from boroughs, 6 & 7 Will. 4, c. 103, s. 1, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
Libraries,
act for promoting establishment of free public, in municipal towns, vol. ii. 1255.
Lighting,
general regulations respecting, ss. 87, 88, vol. i. 998.
council may assume powers of inspectors, under 3 & 4 Will. 4, c. 90, for lighting any part of borough not within a local act, s. 88, *ib.*
the act not to interfere with the regulations for lighting, &c. relating to his majesty's dockyards, barracks, &c. s. 89, *ib.*
nor with the jurisdiction of the admiralty, *ib.*
Lists. See *Freemen's Roll; Burgess Lists.*
of freemen, how to be made, s. 5, vol. i. 961.
of burgesses, provisions as to making, ss. 15, 16, vol. i. 966, 967, 1093, 1094.
of claimants and persons objected to, s. 17, vol. i. 967.
revision of, ss. 18, 19 (see *Revision*), vol. i. 968, 969.
when revised to be kept by the town clerk, and copied into a book to be called "the Burgess Roll," s. 22, vol. i. 970.
expenses of overseers in making, s. 24, *ib.*
of burgesses in each ward to be made, s. 45, vol. i. 977. See *Ward Lists.*
form of, schedule (D), vol. i. 1031.
Local Acts. See *Justices.*
trustees of, may transfer their powers to the council, s. 75, vol. i. 995.
powers of, exercised by justices, vested in council, vol. i. 1048.
for lighting, s. 87, vol. i. 998.
where corporate body were sole trustees of, council shall be trustees, s. 72, vol. i. 993.
other regulations as to trustees of, ss. 73, 74, vol. i. 994.
for the relief of the poor not to be affected by the act, vol. i. 1044.
Lock-up Houses.
councils of boroughs may agree with justices of counties, or with any other borough, to provide lock-up houses to be maintained at their joint expense, &c. vol. iii. 1000, 1001.
Lord's Day,
election of officers required to be held on, to be held on Saturday or Monday, vol. i. 958.
Louth Grammar School.
act not to affect the letters patent founding, s. 136, vol. i. 1022.
Lunatic Asylums. See post, tit. "LUNATICS."
establishment of, for boroughs, vol. iv. 170.
boroughs having or providing a lunatic asylum not liable to contribute to county asylum, vol. i. 1085.
Lunatics
exempt from serving corporate offices, s. 51, vol. i. 981.
Manchester,
doubts as to validity of incorporation of, vol. i. 1064, n. (*c*), 1075, n. (*c*).
confirmed by parliament, vol. i. 1075.
Mandamus. See *Mayor; Councillor.*
Marriage,
freemen by, rights reserved to, vol. i. 959.
where premises acquired by, occupancy and rating of former owner reckoned, s. 12, vol. i. 966. See *Succession*

CORPORATIONS (MUNICIPAL)—*continued.*
Mayor.
duty of, in regard to registering and admission of freemen or burgesses, vol. i. 961.
power to appoint a deputy, vol. i. 1090.
powers of such deputy, vol. i. 1090, 1091.
notice in case of vacancy by death, &c. vol. i. 1091.
the mayor, aldermen, and burgesses to be the style of the corporate body, s. 6, vol. i. 962.
powers of, *ib.*
to revise the burgess lists with the assessors, to insert and expunge names, and to correct mistakes, &c. s. 18, vol. i. 968. See *Revision.*
to deliver the lists when signed to the town clerk, s. 22, vol. i. 970.
power to elect, s. 25, *ib.*
who not to be mayor, s. 28, vol. i. 971.
election of, s. 49, vol. i. 979.
may be re-elected, *ib.* n. (*c*), 1072. 1073.
to continue in office one whole year, and until successor has accepted office, &c., vol. i. 979, n. (*c*).
with the aldermen and councillors to constitute "the council," s. 25, vol. i. 970.
election of, the first business to be done at meeting on 9th November, s. 69, vol. i. 992.
outgoing aldermen may vote in the election of, vol. i. 971, n. (*a*).
during his office to continue member of the council, s. 26, vol. i. 971.
with the assessors, to preside at election of councillors, s. 32, vol. i. 973.
except when the borough divided into "wards," *ib.* n. (*c*).
to provide polling-booths, or to hire rooms as booths, to fix their situations, &c. and to appoint poll-clerks, s. 33, vol. i. 973.
in case of equality of votes the mayor and assessors to name who shall be elected, s. 35, vol. i. 974.
to cause the voting papers to be kept for six months, s. 35, *ib.*
to publish a list of the names of persons elected, s. 35, *ib.*
in case of death of, or inability to act at any elections, an alderman to be elected by the council for the purpose, vol. i. 975.
at first election of councillors under the act, mayor alone to act, s. 36, *ib.*
after such first election, existing mayor to go out of office, s. 38, *ib.*
precedence and salary of, ss. 57, 58, vol. i. 984, 985, 1097, 1098.
to sign declaration of acceptance of office, vol. i. 979.
councillor elected to office of, must serve or pay fine, s. 51, vol. i. 980.
office of, may be resigned on payment of fine, vol. i. 980, n. (*b*).
by bankruptcy, insolvency, or absence from borough, loses office, s. 52, vol. i. 981.
provisions as to re-election in such cases, *ib.*
penalty on unqualified persons acting as, s. 53, vol. i. 982.
proviso for acts being valid, *ib.*
if enrolled on burgess roll not liable to any penalty for acting, vol. i. 1046.
may issue his warrant for levying borough rate, vol. i. 1003.
certificate of, as to expediency of dividing court of quarter sessions, vol. i. 1051.

CORPORATIONS (MUNICIPAL)—*continued.*
want of title in, not to affect elections, vol. i. 1052.
duty of, at election of alderman, vol. i. 1056, 1091.
has casting vote at, *ib.*
in case of illness, &c. of alderman at election to appoint another to preside, *ib.*
provisions as to mayors elected under 7 Will. 4 & 1 Vict. c. 78, *ib.*
all proceedings against, in *quo warranto*, must be commenced within twelve calendar months, vol. i. 1057, 1076.
if not elected on appointed day, may be elected on day following, vol. i. 1059.
the powers of court of queen's bench under 11 Geo. 1, c. 4, extended to elections under the act, &c. *ib.*
not to be interested in any contract relating to the building, &c. of any gaol, vol. i. 1062.

Meetings of the Council,
when to be held, s. 69, vol. i. 991, 992.
how summoned, and notice of, vol. i. *ib.*
who to preside at, *ib.*
adjournment of, vol. i. 991, n. (*e*).
question of, &c. to be decided by majority present, vol. i. 991.
four quarterly, to be held, vol. i. 922.
first of which on 9th November, *ib.*
summons, stating the business to be transacted, to be served on the councillors, *ib.*
in case the mayor refuse to call a meeting, s. 69, *ib.*

Minister of any Church or Chapel.
party who has performed the duties of minister within the general acceptation of the term entitled to the reservation under s. 68 of the act, vol. i. 991, n. (*c*). See *Dissenting Minister.*

Mimomers,
or inaccurate description in lists, notices, &c. not to vitiate, s. 142, vol. i. 1025.

Mistakes
in burgess lists, to be corrected by mayor, s. 18, vol. i. 968.

Mortgage.
council under certain restrictions may, vol. i. 1005, 1045.

Museums and Libraries,
in boroughs, act for establishing, vol. ii. 1255.

Name
of corporations, s. 6, vol. i. 962.

Newspapers,
proprietors of, not to be deemed contractors by reason of advertisements, vol. i. 1088.
nor disqualified from election to municipal offices, vol. i. 1089.

Nomination
of candidates for office of councillor, vol. i. 1095.
form of, vol. i. 1096, 1097.
to be in writing, vol. i. 1095.
what to contain, *ib.*
by whom to be made, *ib.*
within what time, *ib.*
to be sent to town clerk, *ib.*
town clerk to publish names of persons nominated, *ib.*
no new councillors to be elected but from among those nominated, vol. i. 1096.
provisions in case of there being no nomination, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
or of less than the number to be elected, vol. i. 1096.
or of the number of nominees being the same as the number to be elected, *ib.*

Notice
of election of councillors to be published by town clerk, vol. i. 1095.
of holding revising court, s. 18, vol. i. 968.
of avoidance of office, s. 52, vol. i. 981.
of actions for penalties against persons not qualified, s. 53, vol. i. 982.
to deliver vouchers and accounts, s. 60, vol. i. 985.
of meetings of council, s. 69, vol. i. 992.
of appointment of constables, s. 84, vol. i. 997.
of application for power of leasing, &c. s. 94, vol. i. 1005.
of holding the quarter sessions, s. 121, vol. i. 1017.
of appeal against conviction, s. 131, vol. i. 1020.
of action against persons acting under the act, s. 133, vol. i. 1021.

Oaths. See *Affirmations.*
affirmations may be substituted for, s. 21, vol. i. 969.
to be taken by recorder and justices, s. 104, vol. i. 1011.
may be taken before mayor, or two aldermen or councillors, vol. i. 1011, 1048.
as to quakers, &c. appointed to municipal offices, vol. i. 1067.
as to refusal on conscientious grounds to take, vol. i. 1046.

Objector.
who entitled to be, s. 17, vol. i. 967.

Occupation. See *Joint-occupiers; Householders; Burgess.*
successive, s. 9, vol. i. 965.
how to be reckoned in cases of descent, &c., s. 12, vol. i. 966.
further provisions in such cases, vol. i. 1054.

Occupiers. See *Householders; Burgess.*
of house, warehouse, counting-house, or shop, if rated for, to the relief of the poor, and a resident householder within, or within seven miles of the borough, and duly enrolled, to be a burgess, s. 9, vol. i. 963.
but not to be enrolled unless rated for relief of the poor during occupation, nor unless he shall have paid all rates, except only those due within six months, s. 9, vol. i. 964.
in certain cases entitled to be enrolled although owner rated, vol. i. 1094.
the premises need not be the same, s. 9, vol. i. 965.
may claim to be rated, s. 11, vol. i. 966.
not to be prejudiced by the neglect or refusal of the overseers to put him on the rate, s. 11, *ib.*
where tenant neglects to pay rates, landlord liable, s. 11, *ib.*

Offences.
as to trial of, when committed in counties of cities and towns, s. 109, vol. i. 1013.
certain exceptions in 38 Geo. 3, c. 52, repealed, s. 109, *ib.*
against certain local acts made cognizable by the borough justices, vol. i. 1060.
cognizable by borough quarter sessions, s. 105, vol. i. 1011.

CORPORATIONS (MUNICIPAL)—*continued.*
punishable on summary conviction, s. 127, vol. i. 1019.
limitation of time as to prosecution of, *ib.*
Office or Place of Profit.
holders of any, save that of mayor, cannot be members of the council, s. 28, vol. i. 972.
Officers. See *Mayor; Town Clerk, &c. &c.*
not accounting or paying over money, &c. to be dealt with summarily, ss. 60, 65, vol. i. 985, 987.
council may remove certain, s. 65, vol. i. 987.
entitled to compensation, when, s. 66, vol. i. 988. See *Compensation.*
Oldham.
charter of incorporation of, confirmed, vol. i. 1086.
Orders under the Act,
not removable by *certiorari*, s. 132, vol. i. 1020.
Overseers. See *Burgess Lists; Burgess Roll; Rates.*
see s. 142, interpretation clause, as to meaning of word, vol. i. 1025.
duties of, in regard to registration, s. 15, vol. i. 966.
provision as to precincts, s. 16, vol. i. 967.
annually to make out lists, and to sign and deliver the same to the town clerk on 5th September, s. 15, vol. i. 966.
now on or before 1st September, vol. i. 1093.
omitting to make out or sign the list, liable to penalty, vol. i. 966 n. (*g*).
penalties on overseers neglecting duty, s. 48, vol. i. 978.
expences of, to be paid by treasurer out of borough fund, s. 24, vol. i. 970.
appointment of, for parts of parishes partly within a borough, 7 Will. 4 & 1 Vict. c. 81, s. 3, vol. i. 1066.
for several of such parts of parishes, 8 & 9 Vict. c. 110, s. 8, vol. i. 1081.
appointment of, in boroughs, vested in the justices of the peace, 12 & 13 Vict. c. 8, vol. i. 1082, 15 & 16 Vict. c. 38, vol. i. 1089.
not to apply to London, vol. i. 1083.
or to places regulated by local acts, *ib.*
Oxford University,
rights of, preserved, s. 137, vol. i. 1022.
Parliamentary Elections,
preventing application of corporate property to purposes of, vol. iii. 516.
Parochial Relief, or other Alms. See *Burgess; Householder.*
disqualify from being burgess, s. 9, vol. i. 965.
medical assistance by charity trustees of the borough not to disqualify, s. 10, *ib.*
nor teaching in any public or endowed school, vol. i. *ib.*
Penalties
against parties neglecting duty as to the revision, s. 48, vol. i. 978.
application of such penalties, vol. i. 979.
for refusing to accept office, s. 51, vol. i. 980.
for acting after disqualification, or without qualification, s. 53, vol. i. 982.
limitation of time for, s. 53, *ib.*
incurred by bribery, s 54, *ib.* 1096.
for personation of voters, vol. i. 1096.
for forging nomination or voting papers, *ib.*
on officers for refusing to account, s. 60, vol. i. 985.

CORPORATIONS (MUNICIPAL)—*continued.*
on constables, for neglect, s. 80, vol. i. 996.
for assaults on constables, s. 81, *ib.*
for not giving up watchhouses, arms, &c. s. 84, vol. i. 997.
for aldermen, &c. acting as clerk to the justices, s. 102, vol. i. 1009, 1098.
on jurors, for non-attendance, s. 121, vol. i. 1018.
limitation of time for suing for, s. 127, vol. i. 1019, 1097.
for disobedience of summons, s. 128, *ib.*
on summary conviction, s. 129, vol. i. 1020.
to be levied by distress and sale, or imprisonment, s. 129, *ib.*
for breach of bye-laws, s. 91, vol. i. 1000.
Pensions and Allowances,
granted before 5th June, 1835, to be continued, s. 68, vol. i. 991.
also stipends paid heretofore for seven years, to minister of church or chapel, or master of a school or hospital, s. 68, *ib.*
to inmates of almshouses, s. 68, *ib.*
to be secured by bond under common seal, the expenses being paid out of borough fund, s. 68, *ib.*
Personation of Voters,
at municipal elections, vol. i. 974 n. (*a*), 1096.
Petition. See *Charters.*
of inhabitant householders, what, vol. i. 1064 n. (*c*).
notice of, to be published in the "London Gazette," vol. i. 1065.
Perjury.
persons swearing or affirming falsely to be deemed guilty of, s. 21, vol. i. 970.
Petty Sessions,
act providing for holding of in boroughs, 12 & 13 Vict. c. 18, vol. i. 1083.
places to be provided for, *ib.*
council may agree for use of county court, for, *ib.*
Police. See *Constables.*
justices of counties and councils of boroughs may agree to consolidate county and borough police, vol. iii. 978.
her majesty in council may arrange terms of such consolidations, vol. iii. 1004.
agreement for consolidation not to be put an end to without sanction of Secretary of State, vol. iii. 1006.
Police Magistrate
may be appointed by the crown in certain cases, s. 99, vol. i. 1008.
qualification and salary of, *ib.*
provision in case of vacancy in office of, *ib.*
Police Office,
council to provide and defray expenses of, s. 100, vol. i. 1009.
no public-house, &c. to be used as such, *ib.*
Poll. See *Elections. Vacancies.*
how conducted, and when to begin and end, s. 32, vol. i. 973.
may be closed if one hour elapse without vote, vol. i. 973 n. (*d*), 1056.
clerks, booths, &c. s. 33, vol. i. 973.
Poor,
justices in boroughs may act in all matters relating to the relief of, therein, vol. i. 1084, 1089.
Poor Rate. See *Rating; Revision.*
certain property of corporations to be rated to, vol. i. 1073.

CORPORATIONS (MUNICIPAL)—*continued.*
party claiming to be burgess must have been rated to and paid, s. 9, vol. i. 964. See *Rates.*
Precincts
having no overseer deemed to be in adjoining parish, s. 16, vol. i. 967.
if adjoining two parishes, to be deemed to be within the least populous, *ib.*
cathedral precincts not to be affected by the act, vol. i. 1023.
Preservation of Rights
of property and beneficial exemptions reserved to freemen, their wives and children, s. 2, vol. i. 959.
freemen to retain the parliamentary franchise, s. 4, vol. i. 960.
Presiding Officer. See *Elections; Mayor; Aldermen.*
acts of, to be valid, though without title, vol. i. 982.
elections not to be questioned for want of title in, vol. i. 1052.
provided the person shall have taken upon himself the office, *ib.*
questions by, at elections, vol. i. 974.
Prisoners. See *Gaol; Arbitration; Recorder.*
county, may be committed to borough gaol under contract, vol. i. 1047.
such may be tried at borough sessions, *ib.*
though committed to a prison more than two miles from the borough, *ib.*
expence of trial of borough prisoners at the assizes to be paid by borough, s. 114, vol. i. 1014.
in case of difference as to amount, to be referred to a barrister, vol. i. 1015, 1018.
may be committed to gaol of another borough under contract by council, *ib.*
assize, may be committed to borough gaol, 13 & 14 Vict. c. 91, vol. i. 1086.
except on charge of murder, vol. i. 1087.
keeper of borough gaol to deliver a calendar of, to judge, vol. i. 1086.
to be removed to county gaol previous to trial, vol. i. 1087.
custody of whilst under removal, *ib.*
expences of maintenance, when removed, *ib.*
convicted at assizes for offences within borough may be committed to borough gaol, *ib.*
Publication. See *Elections; Mayor.*
of names of persons elected to be made by the mayor on the next day but one after an election, before two o'clock in the afternoon, s. 35, vol. i. 974.
no second publication after two, though for the purpose of amending error, *ib.* n. (*e*).
in certain cases where poll unnecessary, publication to be made on the morning of election, vol. i. 1096.
Public Health Act, 1848.
constitution and functions of town council, as local board of health under, vol. ii. 427, 428.
Purchases. See *Collusive Sales, &c.*
collusive may be inquired into by council, s. 97, vol. i. 1006.
Quakers. See *Affirmation.*
1 & 2 Vict. c. 5, and 1 & 2 Vict. c. 15, vol. i. 1067.
Qualification
of freemen, ss. 2—5, vol. i. 959—961.
burgesses, ss. 9—13, vol. i. 963—966.

CORPORATIONS (MUNICIPAL)—*continued.*
mayor, aldermen, and councillors, s. 28, vol. i. 971.
auditors, s. 37, vol. i. 975.
assessors, s. 37, *ib.*
coroner, s. 62, vol. i. 986.
justices of the peace, s. 101, vol. i. 1009.
recorder, s. 103, vol. i. 1010.
the acts of persons without, to be valid, s. 53, vol. i. 982.
Quarter Sessions. See *Recorder.*
separate court of, how granted, s. 103, vol. i. 1010.
confirmation of grants of, vol. i. 1075.
to be held once in every quarter or oftener, s. 105, vol. i. 1011.
jurisdiction of court of (see *Recorder*), *ib.*
court of, may be divided, vol. i. 1011, n. (*d*), 1051.
mayor, in absence of recorder, may open and adjourn, vol. i. 1012.
ten days' notice of holding to be given by clerk of the peace, s. 121, vol. i. 1017.
summoning jurors for (see *Jurors*), vol. i. 1018.
appeal to in case of borough rate, s. 92, vol. i. 1003.
appeal against conviction, &c. s. 131, vol. i. 1020.
borough having, exempt from county rates, s. 112, vol. i. 1014.
county justices to have jurisdiction in boroughs having no, s. 111, vol. i. 1013.
burgesses of borough having, exempt from serving on county juries, s. 122, vol. i. 1018.
of counties, to transact business of boroughs no longer holding quarter sessions, vol. i. 1065.
county prisoners may be tried at borough quarter sessions, when committed to borough gaol under contract, vol. i. 1047.
powers formerly vested in justices at, and not within jurisdiction of recorder, vested in the council, vol. i. 1048.
of the cinque ports, vol. i. 1049.
Quarterly Meetings of Council.
four to be holden, s. 69, vol. i. 992. See *Meetings of the Council.*
Quarterly Sessions. See *Justices; Gaol.*
justices to hold, for regulation of the gaol, at the usual times for holding the quarter sessions of the peace, vol. i. 1062.
Quo Warranto,
for statutes relating to (9 Anne, c. 20, 32 Geo. 3, c. 58), vol. i. 949, 955.
no proceedings in, can be taken, except within twelve months, 7 Will. 4 and 1 Vict. c. 78, s. 23, vol. i. 1057.
provision for expediting proceedings in, vol. i. 1077.
see 6 & 7 Vict. c. 89, s. 1, vol. i. 1076.
relators, who may be, vol. i. 1057, n. (*d*).
Reg. Gen. M. T., 3 Vict., as to, *ib.*
Rates. See *Rating; Watch-Rates; Burgess; Appeal; Burial Rate.*
rate in nature of county rate to be made, s. 92, vol. i. 1002.
certain boroughs not to be assessed, or liable to county rates, s. 112, vol. i. 1014.
but boroughs which were liable to county rate before 2 & 3 Will. 4, c. 64, still to contribute, vol. i. 1016.

CORPORATIONS (MUNICIPAL)—*continued.*
may be levied on part (exclusively) of any parish within borough, vol. i. 1060.
omission, in s. 92 of the Act, as to collecting borough rates, &c. supplied by 7 Will. 4 & 1 Vict. c. 81, vol. i. 1065.
overseers may be ordered to pay watch rate, &c. out of poor rate, or to collect a pound rate for the purpose, *ib.*
may be levied by council, for carrying municipal Act into execution, vol. i. 1066.
no appeal from such last rate, *ib.*, n. (*c*).
provisions for collection of in divided parishes, vol. i. 1066, 1079.
repeal of so much of 7 Will. 4 & 1 Vict. c. 81, as applies to making and levying county rate and borough rate in divided parishes, vol. i. 1156.
new provisions for levying county rates, borough rates, &c. in parishes partly within and partly without, the limits of boroughs, vol. i. 1154, 1155.
for the relief of the poor, corporations liable to, vol. i. 1078.
land and buildings occupied by scientific or literary societies, exempted from, vol. iii. 1214.

Rate Book,
mayor empowered to call for production of, s. 19, vol. i. 969.

Rating. See *Rates; Householders; Burgess.*
in cases of title by descent, &c. party may reckon rating of predecessor as his own, vol. i. 966, 1054.
provision that in such cases party need not also have been inhabitant, householder, &c. vol. i. 1054.
in name of former occupant, to be sufficient, *ib.*
where owner rated under 59 Geo. 3, c. 12, s. 19, occupier to be entitled to same municipal franchises, as if he had been rated, vol. i. 1094.
if rates duly paid, *ib.*
tender of rates by occupier, in owner's default, vol. i. 1094.
of corporations and corporate property, vol. i. 1073.

Recorder. See *Quarter Sessions.*
appointment, salary, and duties of, s. 103, vol. i. 1010.
to be a justice of the peace for borough, *ib.*
but not M.P. for the borough, nor alderman, councillor, or police magistrate, vol. i. *ib.*
may appoint a deputy in case of illness, &c. vol. i. 1010, 1078.
to take oath and make declaration before acting, s. 104, vol. i. 1011.
before whom the oaths may be taken, *ib.*
to be sole judge at quarter sessions, s. 105, *ib.*
of what matters to have cognizance, *ib.*
jurisdiction of, *ib.*
not to make or levy any county rate, or to grant any alehouse licences, &c. vol. i. 1012.
is to try appeal against borough rate, vol. i. 1003.
is not, by virtue of his office, to allow, make, levy, or do any act whatever with respect to any rate, vol. i. 1049.

CORPORATIONS (MUNICIPAL)—*continued.*
in absence of, mayor may open and adjourn court of quarter sessions, s. 106, vol. i. 1012.
if sessions likely to last more than three days, may divide the court; provision as to, and for payment of officers of second court, vol. i. 1051.
to be the judge of borough court, vol. i. 1016, 1061. See *Borough Courts.*
may appoint a barrister to be judge of such court, vol. i. 1049.
may appoint a barrister or attorney to transact interlocutory proceedings in his absence, vol. i. 1061.
rules of practice to be signed and approved by, vol. i. 1049.
is to be sole judge where formerly assessor, vol. i. 1061.

Records
of admission of freemen or burgesses to be open at any time to the inspection of any two freemen or burgesses on demand, vol. i. 955.
or of any officer or member of the corporation, vol. i. 956.

Registrar of the Court of Record. See *Borough Courts.*
to be appointed by the council, except where town clerk acts as, s. 119, vol. i. 1017.
not to practise in such courts, *ib.*
fees payable to, to be settled by council, as therein directed, s. 124, vol. i. 1018.
all rules, orders, &c. may be made before, in absence of recorder or his deputy, either in or out of court, vol. i. 1061.

Repeal
of acts, charters, and customs inconsistent with 5 & 6 Will. 4, c. 76, vol. i. 959.
of act authorising town councils to establish a borough police superannuation fund, vol. iii. 1011.

Reserved Rights. See *Exemptions; Freemen; Universities.*
must be decided on by mayor, with reference to local customs, &c. vol. i. 961, n. (*c*).
of freemen, ss. 2 to 5 inclusive, vol. i. 959, 961.

Residence. See *Non-Residence.*

Returning Officer. See *Mayor.*
the mayor to be, in parliamentary elections, s. 57, vol. i. 984.
if more than one mayor, *ib.*

Revision.
mayor and two assessors to revise the burgess list yearly, s. 18, vol. i. 968.
deputy assessor to be appointed, 7 Will. 4 & 1 Vict. c. 78, vol. i. 1056.
assessors, how chosen, s. 18, vol. i. 968 n. (*b*).
notice to be given three clear days before, s. 18, vol. i. 968.
where to be fixed up, s. 18, *ib.*
town-clerk to produce the lists at, s. 18, *ib.*
also of the claims and objections, s. 18, *ib.*
who to attend the court of, s. 18, *ib.*
and answer on oath, ss. 18, 19, *ib.*, 969.
what names mayor to insert at, s. 18, vol. i. 968.
what names to retain, s. 18, *ib.*
so when party objected to, s. 18, *ib.*
mayor to require proof of qualification, s. 18, *ib.*
what names to expunge, *ib.*
so those who are dead, s. 18, *ib.*

CORPORATIONS (MUNICIPAL)—*continued.*
power to correct mistakes, s. 18, vol. i. 968.
or omissions, in what respect, s. 18, *ib.*
names not to be inserted or expunged, except on proof of claim or objection, s. 18, *ib.*
mayor may adjourn the court, s. 19, vol. i. 969.
his powers to order rate-book to be produced, s. 19, *ib.*
may administer oath to town-clerk, s. 19, *ib.*
or affirmation, s. 21, vol. i. *ib.*
and to all other persons, s. 19, vol. i. *ib.*
to decide in open court, s. 19, *ib.*
to sign his initials against names expunged or inserted, s. 19, *ib.*
or against all amended errors, s. 19, *ib.*
by a barrister, when, s. 20, vol. i. 969.
revised lists to be kept by town-clerk, s. 22, vol. i. 970.
duty of town-clerk in regard to, s. 22, *ib.*
lists, when copied alphabetically into a book, to be called the burgess roll, *ib.*
how long to be in force, s. 22, *ib.*
copies of, to be printed for sale, s. 23, vol. i. *ib.*
prices of, s. 23, *ib.*
money how applied, s. 23, *ib.*
when claim rejected or name expunged at revision, party may apply for *mandamus* to be put on burgess roll, vol. i. 1058. See *Burgess Roll; Mandamus.*

Rights of Property. See *Freemen; Burgess.*
how far saved, vol. i. 959.

Rights of Trading.
exclusive, abolished, s. 14, vol. i. 966.

Sacrament.
repeal of statute requiring, vol. i. 956.

Salford,
incorporation of, confirmed by parliament, vol. i. 1082.

Schools. See *Pensions, &c.*
pensions or allowances granted to masters of, before 5th of June, 1835, to be continued, s. 68, vol. i. 991.
instruction in endowed, not to disqualify, s. 10, vol. i. 965.

Securities, See *Debts.*
power to execute new, for old debts, vol. i. 1045.

Servitude,
freedom by, provision as to, s. 5, vol. i. 961.

Sheriff.
council of counties of cities, and towns to appoint, s. 61, vol. i. 986.
to be appointed on 9th November, instead of 1st, vol. i. 1048.
to hold office until appointment of successor, *ib.*
office of, not an office of profit within s. 28, vol. i. 1075.

Small Tenements,
rating of, not to affect the municipal franchise, vol. i. 1094, vol. ii. 582.

Special Constables. See *Constables.*
to be appointed, s. 83, vol. i. 996.
payment of, vol. i. 997.

Stamp Duty
not payable on enrolment of burgess, s. 22, vol. i. 970.

CORPORATIONS (MUNICIPAL)—*continued.*
not payable on appointment of barrister and other officers for second court at quarter sessions, vol. i. 1051.
act abolishing, on admission of freemen, vol. i. 1070.

Stocks, Funds, &c.
transfer of, vol. i. 1063.

Style
of municipal corporations, s. 6, vol. i. 962.

Succession.
premises may be occupied in, s. 9, vol. i. 965.
in title by, occupation, &c. how reckoned, s. 12, vol. i. 966.
so also former persons rating, vol. i. 1054.

Summons, See *Writ of Summons.*
to attend meeting of the council, must state the business, &c. s. 69, vol. i. 992.
of witness by justice, s. 128, vol. i. 1019.
penalties for disobeying, *ib.*
writ of, personal actions in borough courts to be commenced by, vol. i. 1070.

Sunday.
if any day appointed for proceedings under 5 & 6 Will. 4, c. 76, happen on, they are to take place on Monday following, s. 30, vol. i. 972.
see 3 & 4 Will. 4, c. 31, vol. i. 958.

Sunderland.
boundary of, vol. i. 1044.

Superannuation Fund.
repeal of act authorising town councils to establish, for the borough police, vol. iii. 1011.

Surgeon of Gaol,
appointment of, in whom vested, vol. i. 1062, n. (*c*).

Tender. See *Justices; Actions.*
of amends, s. 133, vol. i. 1022.

Tolls and Town Dues. See *Burgess; Freemen.*
exemption from, s. 2, vol. i. 960.
cannot be reduced, when debt chargeable on, s. 92, vol. i. 1002.

Town Clerk,
appointment of, s. 58, vol. i. 984.
to hold office during pleasure, *ib.*
cannot be treasurer, s. 58, vol. i. 985.
duties of, as to freemen's roll, s. 5, vol. i. 961.
as to burgess lists, ss. 15, 17, 18, vol. i. 966, 968.
salary of, s. 58, vol. i. 984.
cannot charge corporation in respect of duties cast on him by the act, *ib.* n. (*d*).
to keep revised burgess lists, and from them to make the "burgess roll," s. 22, vol. i. 970.
to cause burgess roll to be written or printed for sale, s. 23, *ib.*
to publish notice of election of councillors, vol. i. 1095.
to publish names of persons nominated as councillors, vol. i. 1095.
to keep voting papers for six months, s. 35, vol. i. 974.
duty of, as to permitting inspection of, *ib.* See *Voting Papers.*
ineligible as auditor or assessor, s. 37, vol. i. 975.
to keep copy of division of borough into wards, s. 39, vol. i. 976.
liable to a penalty of 50*l.* for neglect of duty in regard to burgess list, s. 48, vol. i. 979.

CORPORATIONS (MUNICIPAL)—*continued.*
to submit his accounts to the council, and summary remedy against for not so doing, s. 60, vol. i. 985.
jurisdiction of county justices in enforcing delivery, &c. of deeds by, *ib.*
to have the custody of all charters, deeds, &c. s. 65, vol. i. 988.
exempt from serving on juries, s. 122, vol. i. 1018.
duties imposed upon by 3 Geo. 4, c. 46, to be performed by clerk of the peace, vol. i. 1093.
duties of, with respect to annual statement of expenditure on highways, vol. ii. 580.
to sign notice of meeting to elect a mayor on vacancy, vol. i. 1091.
Town Hall
to be used, free of rent, for sittings of county courts, vol. i. 1229.
Treasurer,
appointment and qualification of, s. 58, and 6 & 7 Vict. c. 89, s. 6, vol. i. 984, 1077.
to give security for discharge of duties, s. 58, vol. i. 984.
cannot be town clerk, s. 58, vol. i. 985.
as to payment of money by, s. 59, vol. i. 985.
to account, s. 60, *ib.*
summary remedy against, for not accounting, &c. *ib.*
must deliver up all property entrusted to him, *ib.*
may be removed by council, s. 65, vol. i. 987.
duty of, as to accounts, s. 93, vol. i. 1004.
to pay police magistrate's salary, s. 99, vol. i. 1008.
of the county, to keep an account of costs of trial of borough offenders at assizes, s. 114, vol. i. 1014.
as to payment of such costs, s. 114, *ib.*
exempt from serving on juries, s. 122, vol. i. 1018.
penalties to be paid to, s. 126, vol. i. 1019.
his receipt for proceeds of sales of advowsons, s. 139, vol. i. 1023.
may apply proceeds of such sales in discharge of corporate debts, vol. i. 1045.
Trustees. See *Charitable Trustees.*
meaning of the word, s. 142, vol. i. 1025.
provisions as to, till 1st of August, 1836, s. 71, vol. i. 992.
council to act as, where body corporate were sole trustees, s. 72, vol. i. 993.
and to appoint councillors to be joint trustees, s. 73, vol. i. 994.
existing trustees of certain acts continued, s. 74, *ib.*
not to go out of office from ceasing to be of the council, s. 74, *ib.*
of Liverpool docks, excepted from this act, s. 74, vol. i. 995.
powers vested in, may be transferred to the council, s. 75, *ib.*
but see now 20 & 21 Vict. c. 50, vol. i. 1092.
for paving, &c., may transfer their rights and liabilities to corporation, vol. i. 1092.
how such transfer is to be made, *ib.*
not to be made without resolution of council, vol. i. 1093.
Universities. See *Oxford; Cambridge; Durham.*
exempted from the operation of the act, s. 137, vol. i. 1022.
Watch-Rates Act, 2 & 3 Vict. c. 28, not to affect rights of, vol. i. 1071.

CORPORATIONS (MUNICIPAL)—*continued.*
Vacancies. See *Election; Councillor.*
in office of aldermen, how to be filled up, s. 27, vol. i. 971.
occasional or extraordinary, in office of councillor, auditor or assessor, how to be filled up, s. 47, vol. i. 978, 1091.
proviso at end of s. 47 of the act as to, repealed, vol. i. 1054.
when more than one extraordinary vacancy to be supplied, provision as to who shall first go out of office, vol. i. 1055.
retrospective provisions as to certain cases, ss. 12 & 13 of 7 Will. 4 & 1 Vict. c. 78, *ib.*
Venue,
in proceedings against persons acting in pursuance of the act, s. 133, vol. i. 1021.
in indictments for offences committed in counties of cities or towns corporate, s. 109, vol. i. 1013.
Voter,
no inquiry to be made of, at the poll, except as to his identity, and whether he has voted before at the same election, s. 34, vol. i 973.
forms of questions as to those points, s. 34, *ib.*
not to vote until he shall have answered the same, s. 34, vol. i. 974.
wilfully false answering a misdemeanor, s. 34, *ib.*
in the election of auditors and assessors, &c. only one vote, s. 37, vol. i. 975.
personation of, vol. i. 1096.
Voting Papers, s. 35, vol. 1. 974.
proof of, on trial of *quo warranto, ib.* n. (*b*).
to be kept by town-clerk for six months, *ib.* n. (*c*).
of what town-clerk is bound to allow inspection, vol. i. 974.
penalty for forgery of, vol. i. 1096.
on the election of aldermen, to be kept by town-clerk "amongst the records of the borough," vol. i. 1056.
Wakefield,
incorporation of, confirmed by parliament, vol. i. 1082.
Wards. See *Burgess; Assessor; Elections; Revision.*
boroughs divided into, s. 39, vol. i. 976.
how fixed, s. 39, *ib.*
number of councillors for each ward, s. 40, *ib.*
or where ancient divisions retained, s. 41, *ib.*
of the election of councillors and assessors in their respective wards, s. 43, vol. i. 977.
aldermen and assessors to preside at ward election, with the same power as mayor, &c. *ib.*
burgesses to vote in the ward where property is situated, s. 44, *ib.*
list of burgesses in each to be made out yearly, s. 45, *ib.*
mode of proceeding where councillor is elected for more than one ward, s. 46, vol. i. 978.
number of, in boroughs having a commission of the peace, schedule (A) vol. i. 1025.
in boroughs having no commission of the peace, schedule (B), vol. i. 1029.
mayor's ward, proviso as to, repealed by 7 Will. 4 & 1 Vict. c. 78, s. 4, vol. i. 1053.

CORPORATIONS (MUNICIPAL)—*continued.*
boroughs may be divided into, vol. i. 1095.
number and boundaries of, may be altered, *ib.*
how such boundaries determined, *ib.*
provision for first election after division, &c. *ib.*

Warrant. See *Warrant of Commitment.*
may be issued, for apprehending persons, in contempt of summons, s. 127, vol. i. 1019.
mayor may issue for levying borough rate, vol. i. 1046.
under the act, not to be removed by *certiorari*, s. 132, vol. i. 1020.
may be granted against officers for not accounting, giving up books, &c. s. 60, vol. i. 985.

Warrant of Commitment,
not to be void for informality, provided there be a valid conviction, s. 132, vol. i. 1020.

Warrington,
incorporation of, confirmed by parliament, vol. i. 1082.

Wash-houses,
expenses of public, may be charged upon borough fund, vol. ii. 416.

Watch Committee,
the council to appoint sufficient number of their own body, with the mayor, to be the, s. 76, vol. i. 995.
such committee to appoint constables, and to make rules for their management, *ib.* See *Constables.*
subject to the approbation of the council to regulate expenses, &c. s. 82, vol. i. 996.
to transmit quarterly report, &c. to secretary of state, s. 86, vol. i. 998.
the act not to interfere with the watching, &c. of the dockyards, arsenals, &c. s. 89, *ib.*

Watch-houses,
arms, &c. to be given up for the use of constables appointed under the act, s. 84, vol. i. 997.
penalty for not giving up, *ib.*

Watch Rate,
all acts relating to, in boroughs mentioned in schedule (E) to cease on appointment of constable, &c. under "the act," s. 84, *ib.*
but rate for other purposes levied jointly with, may still be levied, s. 84, *ib.*
such rate for other purposes not to exceed the average of the last seven or less number of years, *ib.*
in arrear may be collected and fresh rate levied for the payment of debts, s. 85, *ib.*
proviso of s. 92, as to levying watch rates, vol. i. 1004.
amended by 2 & 3 Vict. c. 28, vol. i. 1071.
under which watch rate may be levied, not exceeding 6*d.* in the pound, or in certain cases the average rate, *ib.*
principle of rating to be adopted, *ib.*
power of council as to, *ib.*
amended act to apply only to certain boroughs, 3 & 4 Vict. c. 28, *ib.*
borough fund not to be liable to any expenses with which not chargeable before 2 & 3 Vict. c. 28, vol. i. 1072.

CORPORATIONS (MUNICIPAL)—*continued.*
the amount of rate (not to exceed 8*d.* in the pound) to be discretionary with the council, *ib.* vol. iii. 1011.
collection of, in places partly within and partly without borough, 8 & 9 Vict. c. 110, vol. i. 1079.
allowance and publication of, vol. i. 1080.
appeal, *ib.*
persons rated may be excused, for poverty, *ib.*
watch rates to be charged only on persons liable thereto, *ib.*
provisions for recovery of, vol. i. 1081.

Weights and Measures,
recorder at quarter sessions might appoint inspector of (under 5 & 6 Will. 4, c. 63, s. 17), vol. i. 1011 n. (*d*).
appointment of such inspector now vested in borough justices, *ib.* 1099.
immunity of borough where such inspector appointed from contributing to county rate in respect of, vol. i. 1090.

Widows of Burgesses or Freemen,
rights of, preserved, s. 2, vol. i. 959.

Witness,
no person to be incompetent as, on ground of contributing to borough fund, s. 128, vol. i. 1019.
burgess not incompetent because member of corporation, vol. i. 1046.
may be summoned by justice to give evidence, s. 128, vol. i. 1019.
penalty for disobedience of summons, *ib.*

Wolverhampton,
incorporation of, confirmed by parliament, vol. i. 1082.

Writ of Summons
to be the commencement of personal actions in borough courts, vol. i. 1070.

CORRUPTION OF BLOOD. See *Attainder.*

COSTS. See *Attorneys*—tit. *Costs.*

Generally,
none recoverable at common law, vol. i. 1099 n. (*b*).
right to them entirely dependent on statutes, *ib.*

Plaintiff's right to,
statute of Gloucester giving costs to plaintiff, where he recovers damages, vol. i. 1099.
effect of that statute, *ib.* n. (*b*).
common informer suing for penalty not entitled to, under that statute, *ib.*
where defendant pleads several matters, vol. i. 1103.
plaintiff not entitled to, in actions on judgment, unless by rule of court, vol. i. 1104.
plaintiff's costs in action for assault and battery or slanderous words brought in inferior courts, vol. i. 1104, 1105.
plaintiff's costs in *scire facias*, vol. i. 1106.
on demurrers, *ib.*
successful party on demurrer always entitled to, vol. i. 1106, n. (*c*).
plaintiff's right to, when he recovers less than 40*s.*, vol. i. 1110 n. (*b*).
plaintiff not entitled to more costs than damages in certain personal actions, if judge certifies that sum recovered is under 40*s.* vol. i., 1110, 1111.
plaintiffs, in actions for slander where damages under 40*s.* vol. i. 1111, 1112.

COSTS—*continued.*
plaintiff not entitled to, in actions of trespass and case where damages under 40*s.* vol. i. 1113.
unless judge certify certain particulars, vol. i. 1114.
this provision not to deprive plaintiff of costs in actions for trespass to land after notice, vol. i. 1115.
plaintiff not entitled to, in actions of tort brought in superior courts, where amount recovered by verdict is less than 5*l.*, if judge certifies certain matters, vol. i. 1118.
Defendant's right to,
defendant entitled to, on nonsuit or verdict for him, vol. i. 1100, 1101, 1105.
and in all cases in which plaintiff, had he recovered, would have been entitled to, vol. i. 1100 n. (*a*).
but not formerly where plaintiff was executor or administrator, vol. i. 1100 n. (*b*).
secus now, *ib.* 1105.
defendant entitled to, on judgment of *non pros*, vol. i. 1100 n. (*c*).
so on judgment for him on demurrer or writ of error, vol. i. 1102.
where defendant pleads several matters, vol. i. 1103.
executors or administrators suing in right of testator or intestate liable to pay, vol. i. 1105.
unless otherwise ordered by court or judge, *ib.*
one or more of several defendants entitled to, where he or they obtain a verdict, or a *nolle prosequi* is entered as to him or them, vol. i. 1101, 1105.
unless judge at trial certifies that there was reasonable cause for making him defendant, *ib.*
defendant's, where *nolle prosequi* entered upon any count of declaration, vol. i. 1106.
defendant entitled to, under rule of court, where plaintiff does not recover the amount for which defendant has (without probable cause) been held to bail, vol. i. 102.
defendant entitled to, in certain cases, where plaintiff has issued trader-debtor summons and afterwards brings an action and does not recover the amount sworn to, vol. i. 281, 282.
Of actions in superior courts, how affected by county court enactments, vol. i. 1116 n. (*b*).
plaintiff not entitled to in certain cases where action might have been brought in county court, vol. i. 1117.
but judge at trial may under particular circumstances certify to entitle plaintiff to costs, *ib.*
so also court or judge at chambers may order that plaintiff shall recover his costs, *ib.*
on judgment by default in actions of contract in superior courts not exceeding 20*l.*, plaintiff to recover no costs, *ib.*
unless court or judge otherwise directs, vol. i. 1118.
In particular actions, &c.
in actions of waste, vol. i. 1102.
in debt upon the statute for not setting forth tithes, *ib.*
in *scire facias*, *ib.*
in debt on judgment, vol. i. 1104.
COSTS—*continued.*
in slander, vol. i. 1111.
in penal actions for defendant, vol. iii. 676.
for irregular distress, vol. ii. 1106, 1125, 1126.
for driving distress out of hundred, vol. ii. 1100 n. (*c*).
in replevin for defendant, vol. ii. 1093, 1094.
in actions for pound breach and rescue, vol. ii. 1105.
for distress for poor rates, vol. iii. 1032.
in prohibition, vol. i. 1102; vol. iii. 1389, 1390.
in *mandamus*, vol. i. 949, 954; vol. iii. 217, 218.
in *quo warranto*, vol. i. 950.
in *quare impedit*, 4 & 5 Will. 4, c. 39.
in actions for infringement of patents, vol. iii. 629, 631, 644.
against justices, vol. ii. 992.
in error, vol. i. 1358, 1360, 1362.
of prosecution for private libels, vol. ii. 1254, 1255.
for assault, vol. ii. (293) (294).
of appeals and issues in judicial committee of the privy council, vol. iii. 1381.
of hearing or inquiry on objection to grant of patent, vol. iii. 637.
of the day for not proceeding to trial, rule for, may be drawn up on affidavit without motion, vol. iii. 737.
of suggestion of new facts after motion in arrest of judgment, or for judgment *non obstante veredicto*, vol. iii. 744.
power of court of appeal over, under Common Law Procedure Act, 1854, vol. iii. 777.
of new trial, when to abide the event, *ib.*
of proving documents on trial, vol. i. 1388.
security for, in second action of ejectment, vol. iii. 788.
in actions, &c. by limited companies, vol. i. 720.
double and treble, abolished, vol. i. 1107.
Taxation and recovery of.
taxation of, by masters of different courts indiscriminately, vol. i. 1106, 1107.
taxation and recovery of, by attorneys and solicitors, vol. i. 149—163.
taxation of costs on private bills in the House of Commons, vol. i. 1107—1109.
court of chancery may order payment of interest on costs in certain cases, vol. i. 183.
courts empowered to charge property recovered in suit, &c. with costs, *ib.*
order for payment of costs out of lunatic's estate, after his death, *ib.*
what costs may be proved against a bankrupt's estate, vol. i. 336.
Miscellaneous.
in the county courts. See *Courts* (*County*).
power of court of bankruptcy to award, vol. i. 368 ff.
how costs so awarded recoverable, *ib.*
order for such costs not to affect lands, &c. unless registered, *ib.*
quarter sessions empowered to give, on appeals, 12 & 13 Vict. c. 45, s. 5.
justices empowered to give, in cases of summary convictions or orders, v. ii. 969.
how such costs recoverable, vol. ii. 969—971.
in crown suits.
where crown is successful, costs to be recovered as between subject and subject, vol. i. 1330.

COSTS—*continued.*
defendant entitled to costs against the crown, if successful, *ib.*
payment of, to and by the crown on proceedings for the recovery of succession duty, vol. iv. 629, 630.
of distresses, for sums not exceeding 20*l.*, vol. ii. 1131.
of criminal prosecutions.
courts may order payment of expenses of prosecutions in all cases of felony, vol. ii. (12) (13).
and in certain cases of misdemeanour, vol. ii. (13) (55).
secretary of state may make regulations as to such costs, vol. ii. (56).
costs of prosecutions for private libels, when to be paid by defendant, vol. ii. 1254, 1255.
costs of prosecutions for assault, when to be paid by defendant, vol. ii. (293) (294).

COTTON YARN OR GOODS.
stealing whilst in the course of manufacture, vol. ii. (205), s. 62.
destroying or damaging whilst, &c. vol. ii. (248), s. 14.
or any warp, *ib.*
or any loom, tool, &c. used in manufacturing cotton goods, *ib.*
forcibly entering any place to commit such offence, *ib.*

COUNTERFEIT. See *Coin.*

COUNTERFEITING
the great seal, privy seal, privy signet, or seal of Scotland or Ireland, vol. ii. (260), s. 1.

COUNTIES. See *Counties Palatine; County Property; County Rates.*
regulating trial of causes, indictments, and other proceedings which arise within the counties of cities and towns, vol. ii. (2) (6), vol. i. 1013.
in counties of cities and towns where there has been no commission of gaol delivery for five years before 1st August, 1851, prisoners may be committed to gaol of city or town, for trial at assizes of adjoining county, vol. ii. (59).
for better regulation of divisions for holding special sessions in counties, 9 Geo. 4, c. 43; 10 Geo. 4, c. 46; 6 & 7 Will. 4, c. 12; 22 & 23 Vict. c. 65, vol. ii. (58).
justices may act in detached parts of other counties locally situated in their county, vol. ii. 960; vol. ii. (31).
detached parts of, to be deemed in counties where locally situated for purposes of county and district constabulary act, vol. iii. 974.
justices in quarter sessions of neighbouring counties, may agree what parts of their several counties shall, for police purposes, be considered part of any other county, vol. iii. 975.
amending the law concerning detached parts of, vol. iii. 1009.
detached parts of, to be deemed in counties where locally situate for purposes of coroners' inquests, vol. i. 937.

COUNTIES—*continued.*
annexing for all purposes (saving certain ecclesiastical and other rights) detached parts of counties to the counties in which they are situated, 7 & 8 Vict. c. 61.
providing for the expense of erecting, &c. lock-up houses on the borders of, vol. iii. 1000.
providing places for holding petty sessions at the joint expense of two or more counties, 12 & 13 Vict. c. 18, s. 3.
facilitating the union of liberties with the counties in which they are situate, vol. ii. 993.

COUNTIES PALATINE. See *Pleading, Practice, &c. at Law.*
who may take affidavits in, vol. i. 17, 18.
attorneys of courts of, practising in courts at Westminster, vol. i. 121.
habeas corpus to run into, vol. ii. 72, 75.
to be taken as three counties on circuit, 1 Geo. 4, c. 55, s. 6.
execution from superior courts upon judgments obtained in palatine courts, vol. i. 1118.
taking bail in actions in the common pleas at Lancaster, *ib.*
removal of causes from inferior courts of county palatine of Lancaster into the common pleas of that county, vol. i. 1119.
practice in the common pleas at Lancaster, vol. i. 1120.
jurisdiction of courts at Westminster extended to Chester and Wales, vol. i. 1121.
present jurisdiction of courts of county palatine of Chester and principality of Wales to cease, *ib.*
suits to be transferred, *ib.*
not to affect the rights of the corporation of Chester, *ib.*
masters extraordinary acting in courts abolished by this act allowed to exercise same powers, upon certain conditions, *ib.*
assizes to be held in Chester and Wales, vol. i. 1122.
writs for removing suits from inferior courts, when returnable, *ib.*
court of common pleas at Lancaster may be holden at any one or more places in the county, and power to divide the county for that purpose, vol. i. 1122, 1123.
improving practice and proceedings in Court of Common Pleas of Lancaster, v. i. 1123, and n. (*a*).
improving practice and proceedings of Court of Pleas of Durham and Sadberge, vol. i. 1123, and n. (a).
15 & 16 Vict. c. 76 (*Common Law Procedure Act*, 1852).
records to be entered, &c. as in other counties, vol. i. 1140.
writs in counties palatine to be directed to the sheriff, *ib.*
certain provisions of Common Law Procedure Act, 1852, extended to common pleas at Lancaster, and Court of Pleas at Durham, *ib.*
powers given by Common Law Procedure Act, 1852, to judges of superior courts at Westminster to make rules, &c. may be exercised by Judges of Common Pleas at Lancaster, and Court of Pleas at Durham, vol. i. 1140, 1141.

COUNTIES PALATINE—*continued.*
judges may make rules for applying other provisions of Common Law Procedure Act, 1852, to Court of Common Pleas at Lancaster, and Court of Pleas at Durham, vol. i. 1141.
provisions of Common Law Procedure Act, 1852, applicable to masters of courts at Westminster to apply to prothonotaries of palatine courts, *ib.*
error from courts of counties palatine, *ib.*
repeal of certain provisions of 4 & 5 Will. 4, c. 62, and 2 & 3 Vict. c. 16, *ib.*
17 & 18 Vict. c. 125 (*Common Law Procedure Act*, 1854).
provisions of Common Law Procedure Act, 1854, relating to superior courts to apply to courts of counties palatine, vol. i. 1145.
provisions of Common Law Procedure Act, 1854, as to masters of superior courts, to apply to prothonotaries of palatine courts, *ib.*
court of Queen's Bench to be the court of appeal from the palatine courts, vol. i. 1145, 1147.
18 & 19 Vict. c. 45.
commissions may be issued to chief justice, &c. of common pleas at Lancaster, authorising them to take the assizes in the said county in like manner as in other counties, vol. i. 1146.
provisions of "the Summary Procedure on Bills of Exchange Act," extended to courts of counties palatine, vol. i. 1146, and n. (*a*).
duties and emoluments of clerks of the crown in counties palatine, vol. i. 1146.
23 & 24 Vict. c. 126 (*Common Law Procedure Act*, 1860).
interpleader in palatine courts, vol. i. 1147.
provisions of Common Law Procedure Act, 1860, relating to superior courts to apply to palatine courts, *ib.*
provisions of Common Law Procedure Act, 1860, as to masters of courts at Westminster to apply to prothonotaries of palatine courts, *ib.*
Court of Chancery of County Palatine of Lancaster.
13 & 14 Vict. c. 43 (*Court of Chancery of Lancaster Act*, 1850).
power to make alterations in forms and proceedings, vol. i. 1133, 1142.
power to adopt, &c. rules of High Court of Chancery, *ib.*
Act not to abridge power of chancellor and vice-chancellor to alter practice of court, except, &c. vol. i. 1134.
power to regulate fees, *ib.*
list of fees to be hung up in registrar's office, *ib.*
officers taking fees not authorised to be deemed guilty of contempt, *ib.*
certain interlocutory matters to be determined by registrars, *ib.*
appeal from their decision, *ib.*
costs on interlocutory matters, *ib.*
power to registrar to assign guardians to infant defendants or persons of unsound mind, *ib.*
special cases, *ib.*
summary jurisdiction may be exercised by court so far as regards persons, &c. within the same, as exercised by High Court of Chancery, vol. i. 1135.
COUNTIES PALATINE—*continued.*
money paid into court, disposal of, in certain cases, vol. i. 1135.
vice-chancellor, powers of, when out of the limits of the jurisdiction of the court, *ib.*
service of process upon persons out of the jurisdiction, *ib.*
decrees or orders against persons out of the jurisdiction, how enforced, vol. i. 1136.
petition of appeal, within what time to be presented, *ib.*
subpœna on witnesses out of the jurisdiction, *ib.*
how disobedience to such subpœna punished, *ib.*
tender of expenses to witnesses, *ib.*
affidavits sworn out of the jurisdiction, vol. i. 1136, 1137.
messenger of the court, power to chancellor of the duchy to appoint, vol. i. 1137.
custody of persons arrested by messenger, *ib.*
persons of unsound mind, jurisdiction of court over, abolished, *ib.*
certain provisions of 1 & 2 Vict. c. 110, extended to county palatine court, *ib.*
decrees, &c. not to affect lands until particulars left with prothonotary, vol. i. 1138.
clerk in court, power to abolish office of, *ib.*
and to admit all attorneys and solicitors to practise therein, *ib.*
clerk in court, compensation to, *ib.*
solicitors desirous of practising in court, fees to be paid by, *ib.*
application of such fees, *ib.*
compensation to clerks in court, out of what funds payable, *ib.*
registrar may be paid by salary, *ib.*
to make out account of fees received by him, vol. i. 1139.
audit of such account, *ib.*
duplicate receipt to be transmitted to auditor of duchy, *ib.*
to pay fees to account of duchy fee fund, *ib.*
to give security, *ib.*
district or deputy may be appointed by chancellor, *ib.*
not to practise as a solicitor in the court, *ib.*
costs, court to have jurisdiction as to, but order to be subject to appeal, *ib.*
17 & 18 Vict. c. 82 (*Court of Chancery of Lancaster Act*, 1854).
court of appeal, formation of, vol. i. 1142.
by whom powers of such court may be exercised, *ib.*
saving rights of the chancellor sitting alone *ib.*
appeal from decrees, &c. of court of appeal *ib.*
decision of majority of court of appeal to be binding, *ib.*
if court equally divided, decree to be affirmed, *ib.*
court of appeal to make regulations for the sittings and business of the court, *ib.*
court of appeal may make orders for the protection of wards, &c. and for punishment of contempt of court, to have the effect of orders of High Court of Chancery, vol. i. 1143.
procedure by court of appeal where parties out of the jurisdiction, *ib.*

COUNTIES PALATINE—*continued.*
proceedings in case of suits transferred to High Court of Chancery, vol. i. 1143.
provisions of 13 & 14 Vict. c. 43, as to enforcing decrees, &c. of Court of Chancery, to apply to courts of appeal, *ib.*
powers of Trustee Act, 1850, and 15 & 16 Vict. c. 55, to extend to real and personal property, in county palatine, *ib.*
powers of Court of Chancery to deal with property of infants, &c. and in administration of assets to be exercised by palatine court, vol. i. 1144.
moneys payable under 13 & 14 Vict. c. 43, s. 12, into the Bank of England, may be paid into branch bank within the county palatine, *ib.*
costs, *ib.*
short title of act, vol. i. 1145.

COUNTING-HOUSE.
breaking into and committing any felony, vol. ii. (204), s. 56.
committing any felony in, &c. breaking out of, *ib.*

COUNTS
for stealing and receiving may be joined in the same indictment, vol. ii. (215), s. 92.

COUNTY BRIDGES. See *Bridges.*
repairs of, and of approaches thereto, vol. ii. 687.
how money for such repairs to be raised, vol. ii. 691, 692.
justices in quarter sessions may purchase land, not exceeding one acre, for enlarging or rebuilding, vol. ii. 693.
remedying defects in the law relative to the building and repairing of, vol. ii. 693, 697.
what bridges counties shall be liable to repair, vol. ii. 695.
repair of highways leading over, vol. ii. 530.
certain powers of surveyors of highways to be vested in county surveyor, with respect to county bridges, *ib.*
providing for repairing, improving and rebuilding, vol. i. 1153.
certain bridges which have been included within the boundaries of cities or boroughs, to be repaired and maintained under the sole control of the council of such cities or boroughs, vol. ii. 699.

COUNTY COURTS.—See *Courts (County).*

COUNTY PROPERTY.
21 & 22 Vict. c. 92.
justices may direct conveyances of land, &c. to be made to clerk of peace, vol. ii. 1000.
clerk of peace to hold and dispose of such lands, &c. as justices direct, *ib.*
contracts and agreements may be entered into by justices in name of clerk of peace, *ib.*
unless special provision, *ib.*
such contracts, &c. may be enforced by or against clerk of peace, *ib.*
costs, &c. of clerk of peace to be reimbursed, *ib.*
lands, &c. heretofore purchased by justices to be vested in clerk of peace, *ib.*
unless special provision, *ib.*
clerk of peace to hold and dispose of such lands as justices direct, *ib.*

COUNTY PROPERTY—*continued.*
grants and conveyances of lands, &c. to or in trust for justices, valid, though not enrolled, vol. ii. 1000.

COUNTY RATE.
12 G. 2, c. 29, vol. i. 1148.
repealed, as to the mode of assessing and collecting, by 15 & 16 Vict. c. 81, s. 1, vol. i. 1156.
justices to make a general rate, vol. i. 1148.
treasurers to keep books, vol. i. 1149.
no rate to be made unless three-fourths of the previous rate expended, vol. i. 1150.
removal, &c. of treasurer, *ib.*
allowance to treasurer, vol. i. 1150, 1152.
appeals by parties against rate, vol. i. 1156.
no part of the rate to be applied in repair of bridges or prisons until presentment, *ib.*
justices may contract for county works, &c. *ib.*
rate in Middlesex, *ib.*
justices may oblige collectors to account, vol. i. 1151.
no action against collector where rate discharged by *certiorari*, *ib.*
but persons over-rated to be relieved, *ib.*
collectors to pay over, *ib.*
certiorari, *ib.*
limitation of action, vol. i. 1152.
55 Geo. 3, c. 51, authorising further allowance to treasurer, vol. i. 1152.
4 & 5 Vict. c. 49 (county bridges).
justices at sessions may borrow money for repairing county bridges on the credit of the county rate, vol. i. 1153.
may charge county rate with interest on the money borrowed, and such further sum as shall insure the repayment thereof in fourteen years, *ib.*
notice to be given of borrowing money on mortgage of county rates, vol. i. 1154.
powers of 6 Geo. 4, c. 40, applied to this act, *ib.*
6 & 7 Vict. c. 36.
exemption of buildings, &c. occupied by scientific or literary societies from county rates, vol. iii. 1214.
12 & 13 Vict. c. 65, vol. i. 1154.
(Repealed, as to collecting county rates, by 15 & 16 Vict. c. 81, s. 1, vol. i. 1156, 1157.)
the overseers of parishes situated partly within boroughs and partly without, to collect the county rates, county police rates, and district police rates, levied on the part of the parish not comprised within the borough, vol. i. 1155.
similar provision for the collection of the borough rate in places similarly situated, *ib.*
appeal against the rate, and audit of the accounts, *ib.*
mode of procuring the funds when the precept is sent to the guardians of the union comprising the divided place, *ib.*
where the amount required for the county or other rate is small, the making of rate for reimbursement may be postponed, vol. i. 1156.
15 & 16 Vict. c. 81.
repeal of 12 Geo. 2, c. 29, 13 Geo. 2, c. 18, 37 Geo. 3, c. 65, 55 Geo. 3, c. 51, 56 Geo. 3, c. 49, 57 Geo. 3, c. 94, 1 & 2 Geo. 4, c. 85, 1 Will. 4, c. cxlviii., 4 & 5 Will. 4,

COUNTY RATE—*continued.*
c. 48, 8 & 9 Vict. c. 111, 12 & 13 Vict. c. 65, vol. i. 1156.
justices at sessions to appoint committees for preparing a basis for assessing county rates, vol. i. 1157.
meetings of committee, *ib.*
committee may appoint a clerk, *ib.*
committees may require returns of the annual value of the property in any parish liable to be assessed, with the date of the last valuation, *ib.*
such returns to be laid before a vestry meeting previous to their being presented to the committee, *ib.*
meaning of "full and fair annual value," *ib.*
committees empowered to inspect rates, assessments, valuations, &c. *ib.*
penalty on overseers or others refusing to attend or produce documents, vol. i. 1158.
committees may cause new valuations to be made, *ib.*
if parish officers, &c. neglect to make returns, or make false returns, expenses of valuations to be paid by parishes, *ib.*
costs of valuations directed by committee, *ib.*
allowances and compensation to persons employed in the execution of this act, *ib.*
basis prepared for a rate, if differing in value from the preceding, to be printed, and distributed to the acting justices and overseers, vol. i. 1159.
overseers to submit it to a vestry meeting, *ib.*
notice of the time within which objections may be made to be sent to the overseers, *ib.*
notice to be given when basis will be taken into consideration by court of quarter sessions, *ib.*
basis to be deemed valid after confirmation by court of general or quarter sessions, *ib.*
appeal against basis, vol. i. 1159, 1160.
notice of appeal, vol. i. 1160.
hearing and determining appeals, *ib.*
sessions to determine costs of appeal and of valuation ordered by sessions, *ib.*
committee may revise basis of rate from time to time, vol. i. 1160, 1161.
justices in general or quarter sessions to make a fair and equal county rate, whenever circumstances appear to require it, vol. i. 1161.
parishes aggrieved may appeal, *ib.*
rate to be raised, notwithstanding appeals, until determination of justices, *ib.*
in case justices order rate to be set aside, decreased, or lowered, vol. i. 1161, 1162.
money paid subsequent to the time of appeal to be returned out of the general county rate, vol. i. 1162.
expenses of appeals or proceedings at law shall be paid in such proportions as the justices or courts of law shall award, *ib.*
costs may be awarded upon notices of appeal not prosecuted, *ib.*
justices of the peace shall send precepts directly to guardians of unions for the payment of county rates, *ib.*
guardians to pay such rates, *ib.*
county treasurer to receive the same, *ib.*
if the guardians fail to pay such rates, the justices may issue warrants to the overseers of parishes, &c. to pay the same, *ib.*

COUNTY RATE—*continued.*
if the overseers, &c. fail to pay, the justices may levy the rate by distress and sale, vol. i. 1163.
parishes not in arrear with contributions to be reimbursed by those which are in arrear, *ib.*
justices may issue precepts to the overseers of parishes, &c. not comprised in unions, or only partly within the jurisdiction of the justices, *ib.*
powers of act to extend to places where there are no separate churchwardens, &c. or where no separate or distinct poor rate is made for any place extending into two or more counties, &c. vol. i. 1163, 1164.
justices not to act beyond their jurisdiction, vol. i. 1164.
the overseers of parishes situated partly within boroughs, and partly without, to collect the county rates leviable on the part of the parish not comprised within the borough, *ib.*
appeal against the rate, and audit of the accounts, *ib.*
mode of procuring the funds when the precept is sent to the guardians of the union comprising the divided place, *ib.*
where the amount required for the county or other rate is small, the making of the rate for reimbursement may be postponed, vol. i. 1165.
mode of collection where the office of high constable has not become vacant, *ib.*
high constable to give security, *ib.*
mode of enforcing repayment by borough treasurers of money expended by counties out of the county rates, as provided by 5 & 6 Will. 4, c. 76, ss. 114, 117, vol. i. 1165, 1166.
delivery of precepts, &c. by post, and evidence thereof, vol. i. 1166.
justices in quarter sessions to appoint justices to fix and determine boundaries between counties, ridings, divisions, or parts of counties, and other places of distinct and separate jurisdiction, *ib.*
appointment of new justices, *ib.*
in case of difference between justices, a referee to be appointed to meet them, and determine boundary, vol. i. 1167.
act not to determine any question of boundary, except for the purpose of rating, *ib.*
limitation of actions, *ib.*
penalty on persons obstructing overseers, &c. *ib.*
penalties and forfeitures, costs and charges, may be levied by distress and sale of offender's goods, *ib.*
committal, *ib.*
application of penalties, vol. i. 1168,
counties where rates have been regulated by particular acts authorised to make use of the provisions of this act, *ib.*
all business relating to the assessment and application of county rate shall be transacted in open court, *ib.*
notice thereof to be given, *ib.*
treasurers of counties or of divisions of counties to publish once in every year an abstract account of their receipts and expenditures, *ib.*

COUNTY RATE—*continued.*
the act extended to all places having separate commission of the peace, and to all rates of the nature of county rates, vol. ii. 1168.
see 21 & 22 Vict. c. 33, vol. i. 1169.
construction of the words "parish," "union," "guardians," vol. i. 1168.
21 & 22 Vict. c. 33,
provisions of 15 & 16 Vict. c. 81, to apply to counties having one commission of peace and separate divisional county treasurers, vol. i. 1169.
in such counties justices of divisions to raise and administer county rates as heretofore in such divisions, vol. i. 1169, 1170.
two or more of such divisions may join together, *ib.*
proviso as to expenses incurred generally for the whole of county, *ib.*

COURTS (ADMIRALTY). See *Admiralty.*

COURTS (BANKRUPTCY). See *Bankruptcy.*

COURTS (COMMON LAW). See *Pleading, Practice, &c. at Law.*

COURTS (COUNTY). See *Bankruptcy; Courts (Probate).*
Abandonment of Excess,
to bring claim within jurisdiction, vol. i. 1196.
how such abandonment made, vol. i. 1196, n. (*a*).
Abatement
in case of bankruptcy, vol. i. 1242.
Abolition of Local Courts, vol. i. 1181,
Absence
of judge, vol. i. 1183.
of registrar, vol. i. 1184.
of high bailiff, vol. i. 1185,
of plaintiff at the hearing, vol. i. 1199.
of defendant at the hearing, *ib.*
Account,
action for balance of, vol. i. 1191, 1192, n. (*d*), 1236.
Accounts,
audit of, by treasurer, vol. i. 1188.
Acknowledgments of married women
may be taken by judge, vol. i. 1243.
Action
against bailiffs acting under warrant, vol. i. 1228, 1242.
joinder of registrar, vol. i. 1228.
against persons acting in execution of Act, vol. i. 1217, 1228, 1231.
by or against officers of court, vol. i. 1235, 1236.
second action for same cause not allowed, vol. i. 1227.
judgment in, how far final, vol. i. 1201, *ib.* n. (*b*).
Adjournment of Court,
on death or absence of judge, vol. i. 1234.
Adjournment of cause,
judge's order for, vol. i. 1200.
Admission of Debt,
under 13 & 14 Vict. c. 61, s. 8, vol. i. 1223.
under 13 & 14 Vict. c. 61, s. 9, vol. i. 1224.
Affidavit,
before whom it may be sworn, vol. i. 1241.
of service of summons in foreign district, vol. i. 1195.
Affirmation,
falsely making is perjury, vol. i. 1200.

COURTS (COUNTY)—*continued.*
Agreement,
to give jurisdiction to court, vol. i. 1236.
as to amount of debt under 13 & 14 Vict. c. 61, s. 9, vol. i. 1224.
Alteration
of order for payment, vol. i. 1205.
Amendment,
general power of, vol. i. 1241.
Appeal,
in what cases it lies, vol. i. 1226, 1242.
lies in cases of jurisdiction by consent, vol. i. 1236, 1243.
parties may agree not to appeal, vol. i. 1243.
constitution of court of, vol. i. 1226, 1229.
to be in form of a case, vol. i. 1227.
notice of, when to be given, vol. i. 1226.
security for prosecuting, *ib.*
judgment of court of, vol. i. 1227.
costs of, vol. i. 1226, n. (*a*).
Appearance.
how parties may appear at hearing, vol. i. 1231.
consequence of non-appearance of plaintiff, vol. i. 1199, 1224.
of non-appearance of defendant, *ib.*
of non-appearance to judgment summons, vol. i. 1204, 1251.
Arbitration.
power of judge to order reference to, vol. i. 1198.
arbitrator may administer oath, *ib.* n. (*a*).
Assault
on bailiffs, penalty for, vol. i. 1208.
Assistant Clerks to Registrar.
appointment of, vol. i. 1184.
removal of, vol. i. 1223.
must reside within district, *ib.*
Attorney,
appearance by, at hearing, vol. i. 1231.
not exempted from provisions of County Court Acts, vol. i. 1222.
suing in superior courts, not entitled to costs, by reason of any privilege as attorney, vol. i. 1225.
Bailiff.
duties of, vol. i. 1185, 1186.
service of process by, *ib.*
may be authorised to act as broker, vol. i. 1221.
his liability for negligence, vol. i. 1208.
his protection when executing warrant, vol. i. 1228, 1242.
penalty for assaulting, vol. i. 1208.
extortion or misconduct by, vol. i. 1208, 1209.
what goods he may take under warrant of execution, vol. i. 1203.
custody of goods by, before sale, vol. i. 1206.
Balance of Account.
sum due on, is within the jurisdiction, vol. i. 1191, 1192.
Bankrupt.
effect of order of discharge on power of judge to commit, vol. i. 1205, 1206.
Bankruptcy.
where action abated by, vol. i. 1242.
notice of defence of, to be given, s. 76, vol. i. 1198.
jurisdiction of county courts in. See *Bankruptcy.*

COURTS (COUNTY)—*continued.*
Barrister,
appearance by, vol. i. 1231.
Bequest.
validity of, cannot be tried in county court, vol. i. 1198.
Bill of Exchange.
action on, may be tried in county court, vol. i. 1191, n. (*f*).
venue in action on, vol. i. 1195, n. (*a*).
may be taken in execution, vol. i. 1203.
how dealt with when so taken, *ib.*
provisions of "Summary Procedure on Bills of Exchange Act, 1855," applied to county courts, vol. i. 1179, n. (*a*).
Breach of Promise of Marriage.
action for, does not lie in county courts, vol. i. 1191—1194.
unless by consent of parties, vol. i. 1236.
Bribery
at municipal elections, proceedings for, vol. i. 1096.
Broker.
when bailiff may act as, vol. i. 1221.
how appointed, vol. i. 1206.
fees of, *ib.*
Case on Appeal,
how stated, vol. i. 1227.
Cause of Action.
meaning of, in 9 & 10 Vict. c. 95, s. 63, vol. i. 1195, n. (*d*); s. 60, vol. i. 1195, n. (*a*); s. 128, vol. i. 1213, n. (*b*).
Certificate
of judge at trial for costs, vol. i. 1225.
at what time it may be given, *ib.* n. (*c*).
Certiorari.
removal of cause by, vol. i. 1201, 1238, 1242.
to remove judgment into superior court, vol. i. 1240.
refusal of, by one court or judge, final, vol. i. 1239.
Challenge of Jury, vol. i, 1198.
Cheque
may be taken in execution, vol. i. 1203.
how sued upon when so taken, *ib.*
City of London
excluded from operation of County Courts Act, vol. i. 1180.
Commitment
of defendant at hearing, vol. i. 1205.
for frauds, s. 99, vol. i. 1204, s. 1, vol. i. 1251; s. 105, vol. i. 1251.
for not attending return of judgment summons, vol. i. 1204, 1251.
for contempt, vol. i. 1208.
to what prisons commitments may be made, vol. i. 1219, 1220, 1243.
Concurrent jurisdiction
of chancery court, vol. i. 1217.
of superior and county court, under 9 & 10 Vict. c. 95, s. 128, vol. i. 1213.
Confession of debt
under 13 & 14 Vict. c. 61, s. 8, vol. i. 1223; s. 9, vol. i. 1224.
Consent
under 19 & 20 Vict. c. 108, s. 28, vol. i. 1236.
enlargement of jurisdiction by, *ib.*
Contempt of Court.
judge's power of committal for, vol. i. 1208.
to what prisons persons may be committed for, vol. i. 1219.
Contracting debts fraudulently.
committal of defendant for, vol. i. 1204.

COURTS (COUNTY)—*continued.*
Contribution,
recovery of, from parties jointly liable, vol. i. 1197.
Copies
of entries in minute book when evidence, vol. i. 1207.
Copyright of Designs Act, 1858,
jurisdiction of county courts under, vol. i. 920.
Corporeal hereditaments,
action touching title to, does not lie in county court, vol. i. 1192.
except by consent, vol. i. 1236.
Costs.
in action against bailiff, vol. i. 1228.
officers generally, vol. i. 1231.
when not recoverable in superior court, vol. i. 1224.
certificate of judge at trial for, vol. i. 1225.
order of court or judge for, vol. i. 1230.
on judgment by default, vol. i. 1237, 1224.
after recovery under writ of inquiry, vol. i. 1224, n. (*a*).
of jury, vol. i. 1198.
of action in county court to be in discretion of judge, vol. i. 1201.
if no special direction by him, to abide event of action, *ib.*
where sum claimed exceeds 20*l.*, vol. i. 1237.
where sum claimed does not exceed 20*l.*, vol. i. 1238.
taxation of, as between party and party, *ib.*
as between attorney and client, *ib.*
of appeal, vol. i. 1226, n. (*a*).
of the day on removal of cause in certain cases, vol. i. 1238, 1239.
Counsel
appearance by, vol. i. 1231.
County Court.
principles of practice in, vol. i. 1199, and *ib.* n. (*a*).
is a court of record, vol. i. 1180.
process of, to be under seal, vol. i. 1191.
Court of Appeal,
how constituted, vol. i. 1229.
Court House,
how provided, vol. i. 1229, 1245.
is under care of registrar, vol. i. 1191.
Coverture,
notice of defence of, to be given, s. 76, vol. i. 1198.
Criminal Conversation,
action for, does not lie in county court, vol. i. 1194.
Cross Judgments,
execution in case of, vol. i. 1202.
Debt,
under 50*l.*, action for, vol. i. 1191, 1222, 1236.
exceeding 50*l.*, action lies for, by consent vol. i. 1236.
order for payment of, by instalments, vol. i. 1239.
confession of, vol. i. 1223.
agreement as to amount of, vol. i. 1224.
Defendant,
non-appearance of, vol. i. 1199.
Deposit,
of money on appeal, vol. i. 1227, 1243.
of money may be made in lieu of giving security, vol. i. 1243.
Deputy,
to judge, in what cases, vol. i. 1183.
how qualified, vol. i. 1234.

COURTS (COUNTY)—*continued.*
must not practise in district, vol. i. 1223.
appointment of, not vacated by death of judge, vol. i. 1234.
to registrar, how appointed, vol. i. 1184.
his powers and duties, *ib.*
Description,
inaccurate, not to vitiate plaint or summons, vol. i. 1194.
Detinue,
may be brought in county court, vol. i. 1180, n. (*d*), 1191, n. (*f*).
Devastavit,
triable in county court, vol. i. 1191, n. (*f*).
Devise,
validity of, cannot be tried in county court, vol. i. 1193.
Discharge from Custody,
on payment of debt, vol. i. 1207.
Distributive Share,
under intestacy, plaint lies for, vol. i. 1196.
District
in which action may be brought, s. i. 1194, 1235.
Districts,
power to alter and redistribute, s. 1, vol. i. 1250.
Double value,
action for, lies in county court, vol. i. 1191, n. (*f*).
Duchy of Lancaster, Chancellor of.
appointment, &c. of judge by, vol. i. 1183.
Dwells or carries on his business,
meaning of, in 9 & 10 Vict. c. 95, s. 60, vol. i. 1194, 1195, *in notis.*
s. 128, vol. i. 1213, 1215, *in notis.*
Ejectment
does not lie in county court, vol. i. 1192.
Entry
in minute book, evidence, vol. i. 1207.
under warrant of possession, vol. i. 1241.
Evidence,
none to be given of any demand not stated in summons, vol. i. 1198.
of parties admissible, vol. i. 1200.
false, or perjury, *ib.*
Examination
of defendant at hearing touching his estate, &c., vol. i. 1205.
on judgment summons, vol. i. 1204.
Execution
on cross judgments, vol. i. 1202.
against goods, *ib.*
how enforced, *ib.*
where payment has been ordered by instalments, vol. i. 1203.
priority of, vol. i. 1240.
what goods may be taken, vol. i. 1203.
when suspended, vol. i. 1206.
to be superseded on payment, vol. i. 1207.
regulating sale of goods taken in, vol. i. 1206.
against the person, how obtained, vol. i. 1203.
in foreign district, vol. i. 1206.
where rent due, vol. i. 1243.
interpleader, claim on, vol. i. 1209, 1243.
where warrant of, may be executed, vol. i. 1235.
Executors and Administrators,
how they may sue and be sued, vol. i. 1197.
Extension of Jurisdiction,
to cases not exceeding 50*l.*, vol. i. 1222.
by consent, vol. i. 1236.

COURTS (COUNTY)—*continued.*
Extortion,
penalties on officers of court for, vol. i. 1208.
Fair,
title to, cannot be tried in county court, vol. i. 1192.
except by consent, vol. i. 1236.
False Pretences,
obtaining credit by, how punishable, vol. i. 1204.
Fees,
account of, to be delivered to treasurer by registrar, s. 41, vol. i. 1188.
for taking affidavit of service of summons in foreign district, s. 62, vol. i. 1195.
for payment of jury, s. 71, vol. i. 1198.
sheriffs', for jury list, s. 72, *ib.*
on hearing, where plaintiff does not appear, s. 79, vol. i. 1199.
by whom payable in first instance, s. 78, vol. i. 1244.
table of, sch. C. vol. i. 1249.
to be posted in registrar's office, s. 78, vol. i. 1244.
Fines,
account of, to be kept, s. 41, vol. i. 1188.
for illegal joinder of offices, s. 30, vol. i. 1185.
for misconduct of officers, s. 116, vol. i. 1208.
on jurymen for non-attendance, s. 72, vol. i. 1198.
on witness for non-attendance, s. 86, vol. i. 1200.
how enforced, s. 87, vol. i. 1201.
for contempt of court, s. 113, vol. i. 1208.
Forgery
of seal or process of court, s. 57, vol. i. 1191.
Franchise,
title to, cannot be tried in county court, s. 58, vol. i. 1191.
except by consent, ss. 23, 25, vol. i. 1236.
General Fund,
unclaimed suitors' money to go to, s. 112, vol. i. 1207.
fees for jury list to be paid out of, s. 72, vol. i. 1198.
Hearing of Cause.
proceedings at, s. 74, vol. i. 1198.
adjournment of, s. 81, vol. i. 1200.
non-appearance of plaintiff at, s. 79, vol. i. 1199; s. 10, vol. i. 1224.
of defendant at, s. 80, *ib.*
examination and commitment of defendant at, s. 101, vol. i. 1205.
of interpleader, s. 118, vol. i. 1209.
in proceedings for recovery of tenements, s. 50, vol. i. 1240.
High Bailiff.
how appointed and removed, s. 31, vol. i. 1185; s. 4, vol. i. 1223; s. 1, vol. i. 1250.
how paid, s. 83, vol. i. 1245.
may appoint bailiffs, s. 31, vol. i. 1185.
must attend sittings of the court, s. 33, vol. i. 1185.
service of process by, s. 33, *ib.*
liability of, s. 33, *ib.*
how protected in execution of process, s. 19, vol. i. 1228; s. 60, vol. i. 1242.
cannot act as clerk or treasurer, s. 28, vol. i. 1185.
penalty for so doing, s. 30, vol. i. 1185.
must give security, s. 36, vol. i. 1186.
appointment of brokers by, s. 106, vol. i. 1206.

COURTS (COUNTY)—*continued.*
his duty in regard to foreign executions, s. 104, vol. i. 1206.
Implements of Trade
protected from seizure in execution, s. 96, vol. i. 1203.
Imprisonment.
of fraudulent debtor, s. 99, vol. i. 1204.
under warrant of commitment, s. 102, vol. i. 1205.
does not extinguish debt, s. 103, vol. i. 1206.
discharge from, on payment of debt, s. 110, vol. i. 1207.
Incorporeal Hereditaments.
action involving title to, does not lie in county court, s. 58, vol. i. 1191.
title to, coming incidentally in question, triable by consent, s. 25, vol. i. 1236.]
Infancy.
notice of defence of, to be given, s. 76, vol. i. 1198.
Infant.
how he may sue, s. 64, vol. i. 1196.
In formâ pauperis.
right of suing, vol. i. 1199, n. (*b*).
Insolvency.
notice of defence of, to be given, s. 76, vol. i. 1198.
Insolvent
cannot be committed for non-payment of scheduled debt, vol. i. 1206, n. (*a*).
Instalments.
order for payment by, s. 45, vol. i. 1239.
execution after order for, s. 95, vol. i. 1203.
order for payment by, on judgment summons, s. 100, vol. i. 1205.
Interpleader Summons.
when it may issue, s. 118, vol. i. 1209.
staying proceedings on, s. 72, vol. i. 1243.
how heard, s. 118, vol. i. 1209.
appeal lies on, s. 68, vol. i. 1242.
Intestacy.
distributive share under, may be sued for in county court, s. 65, vol. i. 1196.
Joinder of Offices.
prohibited, s. 28, vol. i. 1185.
penalty for, s. 30, *ib.*
Joint Liability.
who may be sued in case of, s. 68, vol. i. 1197.
Judge.
adjournment of court on death of, s. 7, vol. i. 1234.
original appointment of, s. 9, vol. i. 1181.
salary of, s. 81, vol. i. 1245.
vacancies in offices of, how supplied, s. 16, vol. i. 1183.
may not practise as barrister, &c. s. 16, vol. i. 1232.
may be removed from one district to another, s. 19, vol. i. 1183.
removable for misbehaviour, &c. s. 18, vol. i. 1183.
appointment of deputy, s. 20, vol. i. 1183.
cannot sit in parliament, s. 4, vol. i. 1251.
may act as county magistrate, s. 21, vol. i. 1184.
may take acknowledgment of married women, s. 73, vol. i. 1243.
may take affidavits, s. 58, vol. i. 1241.
venue in action by or against, s. 19, vol. i. 1235.
or where judge is interested, s. 22, vol. i. 1236.

COURTS (COUNTY)—*continued.*
rule or order in lieu of mandamus to, s. 43, vol. i. 1239.
two persons may be appointed judges of one or more districts, s. 2, vol. i. 1250.
number of judges not to exceed sixty, s. 3, *ib.*
Judgment.
how given under 13 & 14 Vict. c. 61, s. 8, vol. i. 1223.
under 13 & 14 Vict. c. 61, s. 9, vol. i. 1224.
not to be vacated for want of form, s. 136, vol. i. 1216.
how far final, s. 89, vol. i. 1201.
action will not lie on judgment of superior court in county court, s. 27, vol. i. 1236.
second action after, s. 18, vol. i. 1227.
execution on cross judgment, s. 93, vol. i. 1202.
how altered or varied, s. 100, vol. i. 1205; s. 80, vol. i. 1200; s. 89, vol. i. 1201.
when removable into superior court, s. 49, vol. i. 1240.
how enforceable, s. 94, vol. i. 1202; s. 98, vol. i. 1203.
on appeal, final, s. 14, vol. i. 1226.
Judgment by Default.
costs on, s. 11, vol. i. 1224; s. 30, vol. i. 1237.
summons to obtain, s. 28, vol. i. 1236.
Judgment Summons.
what and how obtained, s. 98, vol. i. 1203.
examination on, s. 99, vol. i. 1204.
commitment on, *ib.*
mere non-appearance of defendant on, no ground of committal, s. 1, vol. i. 1251.
order for payment by instalments on, s. 100, vol. i. 1205.
Jurisdiction.
as regards amount and nature of claim generally, s. 58, vol. i. 1191; s. 1, vol. i. 1222.
by consent, ss. 23, 25, vol. i. 1236.
in case of admitted set-off, s. 24, *ib.*
of abandonment of excess, s. 68, vol. i. 1195.
of small tenements, s. 50, vol. i. 1240.
concurrent, s. 128, vol. i. 1213.
over partnership accounts, s. 65, vol. i. 1196.
in respect of distributive share of intestate's estate, *ib.*
in respect of legacies, *ib.*
in testamentary cases. See *Courts (Probate).*
Jury.
in what cases it may be had, s. 70, vol. i. 1197.
notice of demand of, *ib.*
qualification of jurors, s. 72, vol. i. 1198.
number of, s. 73, *ib.*
summons to serve on, how served, s. 72, vol. i. 1198.
challenge and oath of, s. 73, *ib.*
verdict of, must be unanimous, *ib.*
fine for non-attendance on, s. 72, *ib.*
Lancaster, Duchy of.
appointment of judge by chancellor of, s. 16, vol. i. 1183.
removal of judge by chancellor of, s. 18, *ib.*
of registrar by, s. 4, vol. i. 1223.
of high bailiff by, *ib.*
Landlord.
execution where rent due to, s. 75, vol. i. 1243.
liability of, under warrant for possession of tenement, s. 125, vol. i. 1212.

COURTS (COUNTY)—*continued.*
proceedings for recovery of tenement by, ss. 50—56, vol. i. 1240.
Legacy.
action for, lies in county court, s. 65, vol. i. 1196.
Libel.
action for, does not lie in county court, *ib.*
except by consent, s. 23, vol. i. 1236.
Limitation of Actions, s. 138, vol. i. 1217.
Local Courts.
abolition of, by orders in council, s. 5, vol. i. 1181.
London, City of.
not within County Court Acts, s. 1, vol. i. 1180.
London Gazette.
orders in council to be published in, s. 8, vol. i. 1181.
Malicious Prosecution.
action for, does not lie in county court, s. 58, vol. i. 1191.
except by consent, s. 23, vol. i. 1236.
Mandamus.
not to be issued to judge or officer of county court, s. 43, vol. i. 1239.
rule or order substituted for, *ib.*
by whom such rule or order granted, s. 4, vol. i. 1250.
Market.
title to, cannot be tried in county court, s. 58, vol. i. 1191.
except by consent, ss. 23, 25, vol. i. 1236.
Metropolitan Districts.
summons, how issued and served in, s. 18, vol. i. 1235.
to be treated as one district for certain purposes, *ib.*
Minute Book.
entry of proceedings in, s. 111, vol. i. 1207.
such entry evidence, *ib.*
Misnomer.
in plaint or summons, s. 59, vol. i. 1194.
Municipal Elections.
proceedings for bribery at, vol. i. 1096.
New Trial.
where defendant has been absent at hearing, s. 80, vol. i. 1199.
when it may be had, generally, s. 89, vol. i. 1201.
may be ordered by court of appeal, s. 14, vol. i. 1226.
Non-appearance.
at hearing of plaintiff, s. 79, vol. i. 1199, s. 10, vol. i. 1224.
of defendant, s. 80, vol. i. 1199.
Nonsuit,
in what cases, s. 79, vol. i. 1199; s. 89, vol. i. 1201.
cannot be without plaintiff's consent, vol. i. 1199, n. (*c*).
nor where court has no jurisdiction, *ib.*
Notice.
of hearing when cause removed into county court, s. 26, vol. i. 1236.
of objection to trial in county court, s. 39, vol. i. 1238.
of intention to defend, s. 28, vol. i. 1236.
of hearing in foreign court, s. 22, vol. i. 1236.
to plaintiff, of admission of claim, s. 8, vol. i. 1223.
of payment into court, s. 82, vol. i. 1200.
of special defence, s. 76, vol. i. 1198.
of demand of jury, s. 70, vol. i. 1197.
of appeal, s. 15, vol. i. 1226.

COURTS (COUNTY)—*continued.*
of claim by landlord for rent, s. 75, vol. i. 1243.
by sub-tenant to his landlord, s. 53, vol. i. 1241.
of action against officers of court, s. 138, vol. i. 1217.
Oath.
witnesses to be examined on, s. 83, vol. i. 1200.
Objection
to trial in county court, s. 39, vol. i. 1238.
Officers of the Court.
protection of, s. 138, vol. i. 1217; s. 19, vol. i. 1228; s. 60, vol. i. 1242; s. 114, vol. i. 1208; s. 124, vol. i. 1212.
penalty for joinder of offices by, s. 30, vol. i. 1185.
for misconduct of, ss. 116, 117, vol. i. 1208, 1209.
security to be given by, s. 36, vol. i. 1186.
where action against, may be brought, s. 128, vol. i. 1213.
Old County Court.
jurisdiction of, s. 4, vol. i. 1180.
Order.
of court or judge, for costs, s. 4, vol. i. 1230.
rescinding or altering, on hearing of judgment summons, s. 100, vol. i. 1205.
Partnership Accounts.
jurisdiction in respect of, s. 65, vol. i. 1196.
Payment into Court, s. 82, vol. i. 1200.
Penalty.
for assaulting bailiff, &c., s. 114, vol. i. 1208.
for illegal joinder of offices, s. 30, vol. i. 1185.
proceedings for recovery of, ss. 130—137, vol. i. 1216, 1217.
form of conviction for, s. 135, vol. i. 1216.
Perjury, s. 84, vol. i. 1200.
Piecework.
suit by infant for, s. 64, vol. i. 1196.
Plaint.
what and how entered, s. 59, vol. i. 1194.
Plaintiff.
non-appearance of, at hearing, s. 79, vol. i. 1199; s. 10, vol. i. 1224.
Practice of Court,
how regulated, s. 78, vol. i. 1199; s. 32, vol. i. 1237.
Prisoner.
how brought up to give evidence, s. 31, vol. i. 1237.
Privilege.
none allowed to attorneys, s. 18, vol. i. 1222; s. 11, vol. i. 1224.
nor to any other persons, s. 18, vol. i. 1222.
Process of Court.
to be under seal, s. 57, vol. i. 1191.
forgery of, felony, *ib.*
how issued, s. 27, vol. i. 1185.
by whom served, s. 33, vol. i. 1185.
Prohibition, writ of.
application for, how made, s. 22, vol. i. 1228.
to be finally disposed of by rule or order, s. 42, vol. i. 1239.
stay of proceedings on application for, s. 40, vol. i. 1238.
notice of, to be sent to registrar, s. 41, vol. i. 1239.
Reference to arbitration, s. 77, vol. i. 1198.
Registrar.
must be an attorney, s. 24, vol. i. 1184.
appointed by judge, *ib.*
only to be appointed to one court, s. 8, vol. i. 1234.

COURTS (COUNTY)—*continued.*
two registrars may be appointed in populous districts, s. 25, vol. i. 1184.
removal of, s. 4, vol. i. 1223.
must reside within his district, s. 3, vol. i. 1223.
paid by salary, s. 82, vol. i. 1245.
deputy, s. 26, vol. i. 1184; s. 12, vol. i. 1234.
provisional deputy in case of death, s. 13, vol. i. 1235.
has care of court house, s. 55, vol. i. 1191.
to issue process, s. 27, vol. i. 1185.
to keep an account of proceedings of court, s. 111, vol. i. 1207.
to keep and account for monies paid into court, *ib.*
taxation of costs by, ss. 34—36, vol. i. 1238.
mode of keeping his accounts, s. 41, vol. i. 1188; s. 7, vol. i. 1220.
which are to be audited by treasurer, s. 42, vol. i. 1188.
when to be sued jointly with bailiff, s. 19, vol. i. 1228.
cannot be treasurer or high bailiff, s. 28, vol. i. 1185.
nor be attorney for party in his court, s. 29, *ib.*
penalty for so acting, s. 30, *ib.*
for extortion or misconduct, ss. 116, 117, vol. i. 1208, 1209.
must give security, s. 36, vol. i. 1186.
affidavit may be sworn before, s. 58, vol. i. 1241.
may grant replevins, s. 63, vol. i. 1242.
how protected after issuing warrant of possession, s. 124, vol. i. 1212.
Registration of Judgments, s. 18, vol. i. 1232.
Replevin.
may be brought in county court without writ, s. 119, vol. i. 1210.
plaint for, where to be entered, s. 120, *ib.*
registrar may grant, s. 63, vol. i. 1242.
may be commenced in superior court, s. 65, *ib.*
conditions of security to be given when brought in county court, s. 66, *ib.*
removal of, by *certiorari*, s. 67, *ib.*
appeal in action of, s. 68, *ib.*
Rescue
of goods taken in execution, s. 114, vol. i. 1208.
Rules of Practice.
power to make, s. 32, vol. i. 1237.
Salaries
of judges, s. 81, vol. i. 1245.
of registrars, s. 82, *ib.*; s. 84, *ib.*
of high bailiffs, s. 83, *ib.*; s. 84, *ib.*
Sale
of goods taken in execution, s. 106, vol. i. 1206.
Seal of Court.
process to be stamped with, s. 57, vol. i. 1191.
forgery of, felony, s. 57, *ib.*
copies of entries under, evidence, s. 111, vol. i. 1207.
Securities.
what, may be taken in execution, s. 96, vol. i. 1203.
Security.
to be given by officers of court, s. 36, vol. i. 1186.
how given in county court, ss. 70, 71, vol. i. 1243.
to be given by brokers, s. 106, vol. i. 1206.

COURTS (COUNTY)—*continued.*
for costs of appeal, s. 14, vol. i. 1226.
where replevin brought in superior court, s. 65, vol. i. 1242.
where replevin brought in county court, s. 66, vol. i. 1242.
on removal of replevin, s. 67, vol. i. 1242.
Seduction.
action for, does not lie in county court, s. 58, vol. i. 1191.
except by consent, s. 23, vol. i. 1236.
Service.
of process, by whom, s. 33, vol. i. 1185.
of summons, s. 59, vol. i. 1194.
of process, when it may be proved by affidavit, s. 62, vol. i. 1195.
of summons on juryman, s. 72, vol. i. 1198.
of judgment summons, s. 98, vol. i. 1203.
of summons for recovery of tenement, s. 54, vol. i. 1241.
Set-off.
where claim reduced by, court to have jurisdiction, s. 24, vol. i. 1236.
notice of, s. 76, vol. i. 1198.
Settlement.
validity of limitation under, cannot be tried in county court, s. 58, vol. i. 1191.
Sheriff
cannot now grant replevin, s. 63, vol. i. 1242.
Sickness
of defendant, ground for suspending execution, s. 105, vol. i. 1206.
Sittings of Court.
how appointed, s. 56, vol. i. 1191.
notice of, *ib.*
Slander
action for, does not lie in county court, s. 58, vol. i. 1191.
Southwark
high bailiff of county court of, s. 1, vol. i. 1250.
Special Defence.
notice of, to be given, s. 76, vol. i. 1198.
Specialties
may be taken in execution, s. 96, vol. i. 1203.
Splitting demands
not allowed, s. 63, vol. i. 1195.
Stannary Court, s. 141, vol. i. 1217.
Stay of Proceedings.
after judgment, s. 105, vol. i. 1206.
on interpleader claim, s. 72, vol. i. 1243.
by rule *nisi* for *certiorari*, s. 40, vol. i. 1238.
Subpœna
to witness, s. 85, vol. i. 1200.
Suggestion
not necessary to deprive plaintiff of costs, s. 11, vol. i. 1224.
Suit.
in what district it may be brought, s. 60, vol. i. 1194; s. 18, vol. i. 1235.
Suitor's money.
unclaimed, how disposed of, s. 112, vol. i. 1207.
Summons for Recovery of Tenement, s. 50, vol. i. 1240; s. 52, vol. i. 1241.
Summons in Interpleader, s. 118, vol. i. 1209.
Summons to Appear to Plaint.
must be under seal of court, s. 59, vol. i. 1194.
must bear number of plaint in margin, *ib.*
to be in form directed by rules, *ib.*
service of, *ib.*
misnomer not to vitiate, *ib.*

COURTS (COUNTY)—*continued.*
to obtain judgment by default, s. 26, vol. i. 1236.
form of, *ib.*
service of, *ib.*
where issued, s. 60, vol. i. 1194; s. 18, vol. i. 1235.
leave to issue out of district, s. 60, vol. i. 1194; s. 15, vol. i. 1235.
where it may be served, s. 17, vol. i. 1235.
service of out of the district, s. 61, vol. i. 1195.
proof of service of, when defendant does not appear, s. 80, vol. i. 1199.
Summons to Jurors.
how served, s. 72, vol. i. 1198.
Summons to Witness, s. 85, vol. i. 1200.
Superior Court.
certain actions brought in, may be tried in county court, s. 26, vol. i. 1236.
removal of cause into, s. 39, vol. i. 1238.
concurrent jurisdiction with county court, s. 128, vol. i. 1213.
Suspension of Execution, s. 105, vol. i. 1206.
Taxation of Costs.
where debt exceeds 20*l.*, ss. 33—35, vol. i. 1237.
where debt does not exceed 20*l.*, s. 36, vol. i. 1238.
Tenements, Recovery of.
proceedings for, where tenant holds over, s. 50, vol. i. 1240.
landlord may claim for rent, &c. s. 51, *ib.*
where plaint to be entered, *ib.*
summons how served, s. 54, vol. i. 1241.
order for, s. 50, vol. i. 1240.
warrant of possession for, ss. 55, 56, vol. i. 1241.
liability of landlord under, s. 125, vol. i. 1212.
where rent is in arrear, s. 52, vol. i. 1241.
appeal, s. 68, vol. i. 1242.
protection of officers, s. 124, vol. i. 1212.
Title.
question of, where it cannot be investigated in county court, s. 58, vol. i. 1191.
may be investigated by consent, s. 25, vol. i. 1236.
Toll.
title to, cannot be tried in county court, s. 58, vol. i. 1191.
except by consent, s. 25, vol. i. 1236.
Tools.
not to be taken in execution, s. 96, vol. i. 1203.
Tort.
costs in action of, s. 11, vol. i. 1224.
Town Hall.
may be used for holding of county court, s. 24, vol. i. 1229.
Transfer of Property.
fraudulent, how punishable, s. 99, vol. i. 1204.
Travelling Expenses.
of judge allowed, s. 81, vol. i. 1245.
Treasurer.
appointment of, s. 23, vol. i. 1184.
must give security, s. 36, vol. i. 1186.
cannot be registrar or high bailiff, s. 28, vol. i. 1185.
nor act as attorney, s. 29, *ib.*
penalty for so doing s. 30, *ib.*
Unclaimed Suitors' Money.
to go to general fund, s. 112, vol. i. 1207.

COURTS (COUNTY)—*continued.*
Universities
of Oxford and Cambridge not affected by County Court Act, s. 140, vol. i. 1217.
Valuation
of goods taken in execution, s. 106, vol. i. 1206.
Variances.
amendment of, s. 57, vol. i. 1241.
Venue.
in action by or against judge, s. 19, vol. i. 1235.
change of, where judge interested, s. 22, vol. i. 1236.
in other cases, *ib.*, s. 20, vol. i. 1235.
in action against officer of county court, s. 21, vol. i. 1236.
Verdict
of jury must be unanimous, s. 73, vol. i. 1198.
Wages.
action for, by infant, s. 64, vol. i. 1196.
Warrant.
how bailiff protected by, s. 19, vol. i. 1228.
Warrant for Possession of Tenement.
sufficient to justify high bailiff in entering on possession, s. 55, vol. i. 1241.
within what hours it must be executed, *ib.*
when to bear date, s. 56, vol. i. 1241.
how long to remain in force, *ib.*
liability of landlord under, s. 125, vol. i. 1212.
protection of officers acting under, s. 124, vol. i. 1212.
Warrant of Commitment.
for contempt, s. 113, vol. i. 1208.
when to bear date, s. 59, vol. i. 1241.
how long to remain in force, *ib.*
where executed, s. 104, vol. i. 1206; s. 17, vol. i. 1235.
imprisonment under, does not satisfy debt, s. 103, vol. i. 1206.
discharge from custody under, how obtained, s. 110, vol. i. 1207.
Wearing Apparel.
not to be taken in execution, s. 96, vol. i. 1203.
Westminster.
high bailiff of county court of, s. 1, vol. i. 1250.
Will.
validity of limitation under, cannot be tried in county court, s. 58, vol. i. 1191.
Witnesses.
how summoned, s. 85, vol. i. 1200.
penalty for non-attendance, s. 86, *ib.*
to be examined on oath, s. 83, *ib.*
affirmation, s. 83, *ib.*
giving false evidence guilty of perjury, s. 84, *ib.*
parties may be examined as, s. 83, *ib.*
Working Tools
not to be taken in execution, s. 96, vol. i. 1203.
Writ of Error
does not lie from county court, s. 108, vol. i. 1207.
Writ of Trial
cannot be directed to county courts, vol. i. 1180, n. (*c*).

COURTS (CRIMINAL). See *Criminal Law.*

COURTS (DIVORCE).
Absence
of respondent, ground for reversal of judicial separation, s. 23, vol. i. 1297.
Accounts,
yearly, to be laid before parliament, s. 68, vol. i. 1293.
Adjournment
of hearing of petition, court may order, s. 44, vol. i. 1289.
Adulterer
to be made co-respondent to husband's petition for dissolution of marriage, s. 28, vol. i. 1280.
except on special grounds allowed by court, *ib.*
See *Damages against Adulterer.*
his liability to costs where made co-respondent, s. 34, vol. i. 1285.
Adulteress.
court may direct her to be made respondent to wife's petition for dissolution of marriage, s. 28, vol. i. 1280.
Adultery.
judicial separation may be obtained on ground of, s. 16, vol. i. 1276.
court not bound to pronounce decree for dissolution of marriage where petitioner has been guilty of, s. 31, vol. i. 1282.
petitioner not bound to answer question showing that he has been guilty of, s. 43, vol. i. 1289.
clergyman not bound to solemnise marriage of person whose former marriage has been dissolved on ground of his or her, s. 57, vol. i. 1291.
Adultery and cruelty
ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
Adultery and desertion
ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
Advocates
may practise in divorce court, s. 15, vol. i. 1276.
precedence of, *ib.*
Affidavit
to be filed with petition, s. 41, vol. i. 1288.
contents of, *ib.*
parties may verify their cases by, when, s. 46, vol. i. 1289.
cross-examination and re-examination of witnesses giving evidence by, *ib.*
to accompany petition under Legitimacy Declaration Act, 1858, s. 3, vol. i. 1293.
before whom to be sworn—
when parties making them reside out of the queen's dominions, s. 20, vol. i. 1296.
when parties making them are out of England but within the queen's dominions, s. 21, *ib.*
forgery of seal or signature to, s. 22, *ib.*
uttering, *ib.*
venue in indictments for such forgery, *ib.*
power of court to impound, *ib.*
Alimony
may be ordered on wife's petition for judicial separation, s. 17, vol. i. 1277.
may be directed to be paid to wife herself, s. 24, vol. i. 1279.
or to a trustee for her, *ib.*

COURTS (DIVORCE)—*continued.*
husband not duly paying, liable for necessaries supplied to wife, s. 26, vol. i. 1279.
on decree for dissolution of marriage, s. 32, vol. i. 1283.
on petition for dissolution of marriage, *ib.*
Annuities.
yearly account of, to be laid before parliament, s. 68, vol. i. 1293.
Appeal.
none on the subject of costs only, s. 51, vol. i. 1290.
from judge ordinary to full court, s. 55 vol. i. 1291.
within what time it must be brought, *ib.*
to the House of Lords in case of petition for dissolution of marriage, s. 56, *ib.*
within what time it must be brought, *ib.*
power of the House of Lords on such appeal, *ib.*
to House of Lords in cases of nullity of marriage, s. 17, vol. i. 1296.
to House of Lords on proceedings under Legitimacy Declaration Act, 1858, s. 7, vol. i. 1298.
from judge ordinary to House of Lords, s. 3, vol. i. 1298.
Assize, Judges of.
repeal of so much of 20 & 21 Vict. c. 85, as relates to applications to, s. 19, vol. i. 1296.
Attorney-General
to be served with petition under Legitimacy Declaration Act, 1858, s. 6, vol. i. 1293.
to be a respondent upon such petition, *ib.*
Attorneys
may practise in divorce court, s. 15, vol. i. 1276.
must take out annual certificates, s. 63, vol. i. 1292.
authority of judge ordinary with respect to, s. 15, vol. i. 1296.
Barristers
may practise in divorce court, s. 15, vol. i. 1276.
precedence of, *ib.*
Bestiality
ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
Bigamy with Adultery
ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
Bill of Exceptions, s. 39, vol. i. 1288.
Channel Islands.
commissioners may be appointed to administer oaths in, s. 16, vol. i. 1296.
fees of, *ib.*
before whom affidavits to be sworn in, s. 21, vol. i. 1296.
Children.
court may make orders as to custody of, s. 35, vol. i. 1285; s. 4, vol. i. 1297.
Collusion.
court to be satisfied of the absence of, on petition for dissolution of marriage, s. 29, vol. i. 1280.
dismissal of petition for dissolution of marriage on ground of, s. 30, vol. i. 1281.
queen's proctor may intervene in suit for dissolution of marriage to prevent, s. 7, vol. i. 1299.

COURTS (DIVORCE)—*continued.*
Colonies.
before whom affidavits to be sworn in, s. 21, vol. i. 1296.
Commission
for examination of witnesses abroad, s. 47, vol. i. 1290.
Commissioners to Administer Oaths.
may be appointed in Isle of Man, s. 16, vol. i. 1296.
in Channel Islands, *ib.*
fees of, *ib.*
Compensation.
certain proctors entitled to, s. 64, vol. i. 1292.
how compensation to proctors ascertained, *ib.*
yearly account of compensations to be laid before parliament, s. 68, vol. i. 1293.
Co-respondent.
his liability to costs, s. 34, vol. i. 1285.
court may order his dismissal from suit, s. 11, vol. i. 1295.
Costs.
liability of adulterer to, where made co-respondent, s. 34, vol. i. 1285.
discretionary power of court as to, s. 51, vol. i. 1290.
no appeal on the subject of costs only, *ib.*
power of court to award, under Legitimacy Declaration Act, 1858, s. 5, vol. i. 1293.
bills of, to be taxed by registrar, s. 13, vol. i. 1295.
appeal from his taxation, *ib.*
decree for, in Ecclesiastical Courts, how enforced, s. 14, vol. i. 1296.
of queen's proctor, s. 5, vol. i. 1298; s. 7, vol. i. 1299.
Criminal Conversation.
action for, abolished, s. 59, vol. i. 1291.
substituted proceeding for, s. 33, vol. i. 1284.
Cruelty.
judicial separation may be obtained on ground of, s. 16, vol. i. 1276.
with adultery, ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
court not bound to pronounce decree for dissolution of marriage where petitioner has been guilty of, s. 31, vol. i. 1282.
Damages against Adulterer.
claim for, may be inserted in petition for dissolution of marriage, s. 33, vol. i. 1284.
or in petition for judicial separation, *ib.*
may be claimed in petition limited to such object only, *ib.*
claim for, how tried, *ib.*
to be ascertained by verdict of a jury, *ib.*
application of, *ib.*
Decree.
how enforced, s. 52, vol. i. 1291.
under Legitimacy Declaration Act, 1858, how far binding, ss. 1, 2, vol. i. 1293; s. 8, vol. i. 1294.
for divorce to be *nisi* in the first instance, s. 7, vol. i. 1299.
when such decree shall be made absolute, *ib.*
power to show cause against decree being made absolute, *ib.*
power of court on cause shown, *ib.*
intervention of queen's proctor before decree made absolute, *ib.*
or at any time during progress of suit, *ib.*
grounds of such intervention, *ib.*
costs of such intervention, *ib.*

COURTS (DIVORCE)—*continued.*
Delay.
court not bound to pronounce decree for dissolution of marriage where petitioner has been guilty of, s. 31, vol. i. 1282.
Desertion.
judicial separation may be obtained on ground of, s. 16, vol. i. 1276.
with adultery, ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
wife deserted by husband may apply to petty sessions for order of protection, s. 21, vol. i. 1278.
or to the divorce court, *ib.*; s. 6, vol. i. 1295.
effect of such order, s. 21, vol. i. 1278; s. 7, vol. i. 1295.
if made by justices to be entered with registrar of county court, s. 21, vol. i. 1278.
husband or his creditors may apply to have order discharged, *ib.*
discharge of order, how it affects third persons who have dealt with wife, ss. 8, 10, vol. i. 1295.
penalty on husband, &c. intermeddling with wife's property after order made, s. 21, vol. i. 1278.
reversionary interests to be included in the protection given by the order, s. 8, vol. i. 1295.
order to state time at which desertion commenced, s. 9, *ib.*
without reasonable excuse, court not bound to pronounce dissolution of marriage where petitioner has been guilty of, s. 31, vol. i. 1282.
Dismissal
of petition for dissolution of marriage,
if the court is not satisfied of the alleged adultery, s. 30, vol. i. 1281.
if petitioner has been accessory to, connived at, or condoned adultery complained of, *ib.*
if there is collusion between petitioner and respondent, *ib.*
of co-respondent from suit, court may order, s. 11, vol. i. 1295.
Dissolution of Marriage.
petitions for, by whom to be heard, s. 10, vol. i. 1276; s. 1, vol. i. 1298.
on what grounds it may be obtained, s. 27, vol. i. 1279.
by husband for adultery of wife, *ib.*
by wife for incestuous adultery, *ib.*
for bigamy with adultery, *ib.*
for rape, *ib.*
for sodomy or bestiality, *ib.*
for adultery and cruelty, *ib.*
for adultery and desertion, *ib.*
application for, how to be made, *ib.*
petition for, what to state, *ib.*
adulterer to be made co-respondent to husband's petition for, s. 28, vol. i. 1280.
except on special grounds allowed by court, *ib.*
court may direct dismissal of co-respondent from suit, s. 11, vol. i. 1295.
court may direct adulteress to be made respondent to wife's petition for, s. 28, vol. i. 1280.
court may direct her dismissal from suit, s. 11, vol. i. 1295.
trial by jury of petition for, s. 28, vol. i. 1280.
court to be satisfied of absence of collusion on petition for, s. 29, *ib.*

COURTS (DIVORCE)—*continued.*
when petition for shall be dismissed, s. 30, vol. i. 1281.
if court not satisfied of the alleged adultery, *ib.*
if petitioner has been accessory to, connived at, or condoned adultery complained of, *ib.*
if there is collusion between petitioner and respondent, *ib.*
when court shall pronounce decree for, s. 31, vol. i. 1282.
when court not bound to pronounce decree for, *ib.*
if petitioner has been guilty of adultery, *ib.*
or of unreasonable delay in prosecuting petition, *ib.*
or of cruelty, *ib.*
or of desertion without reasonable excuse, *ib.*
or of neglect, &c., conducing to the adultery, *ib.*
alimony on decree for, s. 32, vol. i. 1283.
on petition for, *ib.*
claim for damages in petition for, s. 33, vol. i. 1284.
settlement of wife's property upon, s. 45, vol. i. 1289.
power to parties to marry again after, s. 57, vol. i. 1291.
after what period such power may be exercised, *ib.*
clergyman not bound to solemnise such marriage in certain cases, *ib.*
but it may be solemnised in his church by another clergyman, s. 58, *ib.*
power of court over marriage settlements after decree of, s. 5, vol. i. 1297.
power of court to secure full argument of questions arising on petition for, s. 5, vol. i. 1298.
decree for, to be *nisi* in the first instance, s. 7, vol. i. 1299.
when such decree shall be made absolute, *ib.*
power to any person to show cause against decree being made absolute, *ib.*
power of court on cause shown, *ib.*
intervention of queen's proctor before decree made absolute, *ib.*
or at any time during progress of suit, *ib.*
grounds of such intervention, *ib.*
costs of such intervention, *ib.*

Divorce a mensâ et thoro.
abolished, s. 7, vol. i. 1275.
judicial separation substituted for it, *ib.*

Ecclesiastical Courts.
jurisdiction of, in matters matrimonial abolished, s. 2, vol. i. 1274.
except as to the grant of marriage licenses, *ib.*
decrees of, made before 20 & 21 Vict. c. 85, may be enforced by divorce court, s. 3, vol. i. 1274.
suits pending in, to be transferred to divorce court, s. 4, vol. i. 1274.
advocates of, may practise in divorce court, s. 15, vol. i. 1276.
so also proctors, *ib.*
divorce court to act on principles of, s. 22, vol. i. 1279.
secretary of state may order transmission of records, &c., from, s. 66, vol. i. 1292.
penalty on neglect of order, *ib.*

COURTS (DIVORCE)—*continued.*
decree for costs, how enforced, s. 14, vol. i. 1296.

Evidence.
decrees, &c., and copies thereof, under seal of court to be, s. 13, vol. i. 1276.
how to be taken, s. 46, vol. i. 1289.
may be given in certain cases by affidavit, *ib.*
cross-examination and re-examination of witnesses giving evidence by affidavit, *ib.*
rule of, in the superior courts to be observed, s. 48, vol. i. 1290.
persons giving false, guilty of perjury, s. 50, vol. i. 1290.
on which divorce obtained prior to 20 & 21 Vict. c. 85, may be used in support of petition in divorce court, s. 5, vol. i. 1294.
false, given before surrogate, perjury, s. 23, vol. i. 1297.
parties competent witnesses to prove cruelty or desertion on wife's petition for dissolution of marriage, s. 6, vol. i. 1298.

Examination
of petitioner on hearing of petition, s. 43, vol. i. 1289.

Expenses
of court, how to be defrayed, s. 62, vol. i. 1292.
yearly account of, to be laid before parliament, s. 68, vol. i. 1293.

Fact, questions of.
how to be tried, s. 36, vol. i. 1287.
court may order them to be tried before a jury, *ib.*
but is not bound to do so, *ib.*
to be reduced into writing, s. 38, vol. i. 1288.

Fees.
court to have power to fix, s. 54, vol. i. 1291.
to be collected by stamps, s. 60, vol. i. 1291.
exceptions, *ib.*
to be "stamp duties," *ib.*
management of, *ib.*
certain provisions of 20 & 21 Vict. c. 77, applied to fees and stamps in divorce court, s. 61, vol. i. 1291.
regulations respecting, to be laid before parliament, s. 67, vol. i. 1293.
yearly account of, to be laid before parliament, s. 68, vol. i. 1293.

Foreign Parts.
before whom affidavits to be sworn in, s. 20, vol. i. 1296.

Forgery
of seal or signature to affidavits, s. 22, vol. i. 1296.
uttering, *ib.*
venue in indictments, *ib.*

House of Lords.
appeal to, in case of petition for dissolution of marriage, s. 56, vol. i. 1291.
its powers on such appeal, *ib.*
appeal to, in cases of nullity of marriage, s. 17, vol. i. 1296.
on proceedings under Legitimacy Declaration Act, 1858, s. 7, vol. i. 1298.
from decision of judge ordinary, s. 3, vol. i. 1298.

Incestuous Adultery.
ground for dissolution of marriage at suit of the wife, s. 27, vol. i. 1279.

Intervention.
by queen's proctor in suit for dissolution of marriage, s. 7, vol. i. 1299.

COURTS (DIVORCE)—*continued.*
on what grounds, s. 7, vol. i. 1299.
what authority required for, *ib*
costs of, *ib.*
Ireland.
before whom affidavits to be sworn in, s. 21, vol. i. 1296.
Isle of Man.
commissioners may be appointed to administer oaths in, s. 16, vol. i. 1296.
fees of, *ib.*
before whom affidavits to be sworn in, s. 21, vol. i. 1296.
Issue.
court may direct trial of, in a court of common law, s. 40, vol. i. 1288.
Judge Ordinary.
salary of, s. 65, vol. i. 1292.
may transact business in chambers, s. 1, vol. i. 1294.
powers of, when sitting in chambers, s. 3, vol. i. 1294.
his power over proctors, solicitors, and attorneys, s. 15, vol. i. 1296.
may appoint commissioners to administer oaths in Isle of Man and in Channel Islands, s. 16, vol. i. 1296.
may grant rule *nisi* for new trial, s. 18, vol. i. 1296.
See *Judges.*
Judges
of the divorce court, who are, s. 8, vol. i. 1275; s. 1, vol. i. 1297.
judge of court of probate to be judge ordinary, s. 9, vol. i. 1276.
powers of judge ordinary, *ib.*, ss. 1, 2, vol. i. 1298; s. 6, vol. i. 1276.
may exercise powers vested in full court, s. 1, vol. i. 1298.
may call in the assistance of one of the other judges, *ib.*
may direct matter to be heard by the full court, s. 2, vol. i. 1298.
who to act during absence of judge ordinary, s. 11, vol. i. 1276.
precedence of judge ordinary, s. 3, vol. i. 1297.
See *Judge Ordinary.*
Judicial separation.
decree for, to have same effect as divorce *a mensâ et thoro*, s. 7, vol. i. 1275; s. 16, vol. i. 1276.
decree for, may be pronounced in cases where a divorce *a mensâ et thoro* might formerly have been decreed, *ib.*
on what grounds it may be obtained, s. 16, vol. i. 1276.
for adultery, *ib.*
for cruelty, *ib.*
for desertion without cause for two years, *ib.*
application for, how to be made, s. 17, vol. i. 1277.
order for alimony on, where application is made by the wife, *ib.*
decree for, *ib.*
claim for damages in petition for, s. 33, vol. i. 1284.
obtained in absence of respondent may be reversed, s. 23, vol. i. 1279.
effect of such reversal, *ib.*, ss. 8, 10, vol. i. 1295.
effect of, upon property acquired by wife, s. 25, vol. i. 1279.
COURTS (DIVORCE)—*continued.*
wife to be considered a *feme sole* with respect to such property, s. 25, vol. i. 1279.
on her death intestate such property to go as if her husband were dead, *ib.*
effect of future cohabitation with her husband on such property, *ib.*
wife to be considered as a *feme sole* after, for purposes of contracts, torts, and suing and being sued, s. 26, vol. i. 1279.
liability of husband for contracts, &c. of wife after, *ib.*
execution by husband and wife of joint powers after, *ib.*
settlement of wife's property upon, s. 45, vol. i. 1289.
Jurisdiction
of "court for divorce and matrimonial causes," s. 6, vol. i. 1275.
over causes matrimonial vested in the queen, *ib.*
Jury.
trial by, of petition for dissolution of marriage, s. 28, vol. i. 1280.
court may order trial of questions of fact before, s. 36, vol. i. 1287.
but is not bound to do so, *ib.*
how attendance of, secured, s. 37, vol. i. 1287.
qualification of, *ib.*
duties and liabilities of, *ib.*
challenges of, *ib.*
oath of, s. 38, vol. i. 1288.
powers of judge upon trial by, *ib.*
Legitimacy.
petition for declaration of, s. 1, vol. i, 1293.
by whom such petition may be filed, *ib.*
decree on such petition, how far binding, *ib.*; s. 8, vol. i. 1294.
Legitimacy Declaration Act, 1858.
20 & 21 Vict. c. 85, to apply to proceedings under, s. 4, vol. i. 1293.
proceedings under, not to affect final judgments already pronounced, s. 10, vol. i. 1294.
Marriage Settlements.
power of court over, after decree of nullity or dissolution of marriage, s. 5, vol. i. 1297.
Marriage, validity of.
petition for declaration of, s. 1, vol. i. 1293.
by whom such petition may be filed, *ib.*
decree on such petition, how far binding, *ib.*; s. 8, vol. i. 1294.
Natural-Born Subject.
petition for declaration of right to be deemed, s. 2, vol. i. 1293.
by whom such petition may be filed, *ib.*
decree on such petition, how far binding, *ib.*; s. 8, vol. i. 1294.
Neglect.
conducing to adultery, court not bound to pronounce decree for dissolution of marriage where petitioner has been guilty of, s. 31, vol. i. 1282.
New Trial.
application for, by whom to be heard, s. 10, vol. i. 1276; s. 18, vol. i. 1296; s. 2, vol. i. 1298.
appeal to the full court, s. 2, vol. i. 1298.
judge ordinary may grant rule *nisi* for, s. 18, vol. i. 1296.
Nullity of Marriage.
petitions for sentence of, by whom to be heard, s. 10, vol. i. 1276; s. 1, vol. i. 1298.

COURTS (DIVORCE)—*continued.*
appeal to House of Lords in cases of, s. 17, vol. i. 1296.
power of court over marriage settlements after sentence of, s. 5, vol. i. 1297.
Oaths,
who may administer, s. 12, vol. i. 1295.
Officers
of the court, who to be, s. 14, vol. i. 1276.
Order
for examination of witness unable to attend the court, s. 47, vol. i. 1290.
of court, how enforced, s. 52, vol. i. 1291.
Pauper Suits, s. 54, vol. i. 1291.
Pensions,
yearly account of, to be laid before parliament, s. 68, vol. i. 1293.
Perjury.
witnesses giving false evidence guilty of, s. 50, vol. i. 1290.
persons giving false evidence before surrogate guilty of, s. 23, vol. i. 1297.
Petition.
to be supported by affidavit, s. 41, vol. i. 1288.
service of, s. 42, vol. i. 1288.
power to dispense with service of, *ib.*
adjournment of hearing of, s. 44, vol. i. 1289.
court may require further evidence on, *ib.*
may order attendance of petitioner on hearing of, s. 43, vol. i. 1289.
may examine petitioner on hearing of, or may permit him to be examined, *ib.*
limits of such examination, *ib.*
Petition under Legitimacy Declaration Act, 1858.
to be accompanied by affidavit, s. 3, vol. i. 1293.
to be served on attorney-general, s. 6, vol. i. 1293.
when such service is to be effected, *ib.*
attorney-general to be respondent on hearing of, *ib.*
court may require persons to be cited on, s. 7, vol. i. 1294.
decree on, how far binding, ss. 1, 2, vol. i. 1293; s. 8, vol. i. 1294.
Petitioner.
examination of, on hearing of petition, s. 43, vol. i. 1289.
court may order attendance of, on hearing of petition, s. 43, vol. i. 1289.
Practice.
court to have power to make rules of, s. 53, vol. i. 1291.
rules of, to be laid before parliament, s. 67, vol. i. 1293.
Proceedings
under Legitimacy Declaration Act, 1858,—20 & 21 Vict. c. 85 to apply to, s. 4, vol. i. 1293.
Proctors.
may practise in Divorce Court, s. 15, vol. i. 1276.
stamp duty on admission of, s. 63, vol. i. 1292.
must take out annual certificates, *ib.*
what, entitled to compensation, s. 64, vol. i. 1292.
how such compensation is to be ascertained, *ib.*
authority of judge ordinary over, s. 15, vol. i. 1296.

COURTS (DIVORCE)—*continued.*
Property,
wife's, court may order settlement of, in certain cases, s. 45, vol. i. 1289.
for whose benefit it is to be made, *ib.*
Queen's Proctor,
court may direct papers to be sent to, on petition for dissolution of marriage, s. 5, vol. i. 1298.
to instruct counsel to argue any question which court may wish to have argued, *ib.*
costs of, in such cases, *ib.*
intervention by, in suit for dissolution of marriage, s. 7, vol. i. 1299.
on what grounds, *ib.*
must first obtain leave of court, *ib.*
costs of, *ib.*
Rape,
ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
Records, &c.,
relating to matters matrimonial, power of secretary of state to order transmission of, s. 66, vol. i. 1292.
penalty on neglect of order, *ib.*
Registrars,
to do all acts heretofore done by surrogates, s. 4, vol. i. 1294.
Restitution of Conjugal Rights,
application for, how to be made, s. 17, vol. i. 1277.
decree for, *ib.*
Retiring Allowances,
yearly account of, to be laid before parliament, s. 68, vol, i. 1293.
Reversal
of judicial separation obtained in respondent's absence, s. 23, vol. i. 1279.
effect of, *ib.*; ss. 8, 10, vol. i. 1295.
Rules of Practice.
court to have power to make and alter, s. 53, vol. i. 1291.
to be laid before parliament, s. 67, vol. i. 1293.
Salaries,
yearly account of, to be laid before parliament, s. 68, vol. i. 1293.
salary of judge ordinary, s. 65, vol. i. 1292.
Scotland.
before whom affidavits to be sworn in, s. 21, vol. i. 1296.
Seal
to be provided for the court, s. 13, vol. i. 1276.
decrees, &c., sealed with it, to be evidence, *ib.*
Settlement
of wife's property, court may order in certain cases, s. 45, vol. i. 1289.
for whose benefit it is to be made, *ib.*
ordered by court to be valid, notwithstanding coverture, s. 6, vol. i. 1299.
See *Marriage Settlements.*
Sittings
of the court, where to be held, s. 12, vol. i. 1276.
of the full court, how regulated, s. 4, vol. i. 1298.
Sodomy,
ground for dissolution of marriage at suit of wife, s. 27, vol. i. 1279.
Solicitors
may practise in divorce court, s. 15, vol. i. 1276.

COURTS (DIVORCE)—*continued.*
must take out annual certificates, s. 63, vol. i. 1292.
authority of judge ordinary over, s. 15, vol. i. 1296.
Special Case, s. 39, vol. i. 1288.
Special Verdict, ib.
Stamps.
fees to be collected by, s. 60, vol. i. 1291.
exceptions, *ib.*
management of, *ib.*
certain provisions of 20 & 21 Vict. c. 77, applied to stamps in divorce courts, s. 61, vol. i. 1291.
on admission of proctors, s. 63, vol. i. 1292.
Subpœna.
to witness, power to court to issue, s. 49, vol. i. 1290.
where it may be served, *ib.*
effect of, *ib.*
Superannuations.
yearly account of, to be laid before parliament, s. 68, vol. i. 1293.
Surrogate.
false evidence before, perjury, s. 23, vol. i. 1297.
Witnesses.
to be examined orally in open court, s. 46, vol. i. 1289.
exceptions, *ib.*
cross-examination and re-examination of witnesses giving evidence by affidavit, *ib.*
examination of, where out of the jurisdiction, s. 47, vol. i. 1290.
or not able to attend the court, *ib.*
commission for examination of, *ib.*
order for examination of, *ib.*
attendance of, how enforced, s. 49, vol. i. 1290.
may in certain cases give evidence by affirmation or declaration, *ib.*
giving false evidence guilty of perjury, s. 50, vol. i. 1290.

COURTS (ECCLESIASTICAL).
Diocesan Courts.
bishop to exercise jurisdiction throughout his diocese save in causes testamentary, s. 1, vol. i. 1264.
officers of, to account for all fees, &c., received by them, s. 2, *ib.*
jurisdiction in causes testamentary to continue unaltered by change of province, &c. s. 3, *ib.*
law of *bonâ notabilia* to continue unaltered by change of province, s. 4, *ib.*
grant of marriage licenses, s. 5, *ib.*
Evidence,
may be taken *vivâ voce*, vol. i. 1266.
Matrimonial Jurisdiction of, abolished, vol. i. 1266, n. (*b*).
Process.
excommunication discontinued, except in certain cases, s. 1, vol. i. 1255.
writ *de contumace capiendo* to issue instead, *ib.*
such writ to have the same effect as the writ *de excommunicato capiendo, ib.*
provisions of 5 Eliz. c. 23 to apply to such writ, *ib.*
in what cases excommunication shall continue, s. 2, vol. i. 1256.
civil penalty incurred by, s. 3, *ib.*

COURTS (ECCLESIASTICAL)—*continued.*
writ of *de contumace capiendo* against persons residing out of the jurisdiction, s. 1, vol. i. 1260.
upon appearance or submission of party, judge may order him to be absolved or discharged, *ib.*
privy council may order discharge of persons in custody under writ of *de contumace capiendo*, s. 1, vol. i. 1263.
form of such order, s. 2, *ib.*
award and return of writ *de excommunicato capiendo*, s. 2, vol. i. 1251.
sheriff to be amerced for not returning the writ, *ib.*
what shall be done with the person excommunicated, s. 3, vol. i. 1252.
if sheriff return *non est inventus* first *capias* to issue, s. 4, *ib.*
forfeiture for not appearing upon first *capias*, s. 5, *ib.*
second *capias* to issue when, s. 6, *ib.*
forfeiture for not appearing upon second *capias, ib.*
third *capias* to issue when, s. 7, vol. i. 1253.
forfeiture for not appearing upon third *capias, ib.*
award of *capias* infinitely, *ib.*
offender yielding his body to be committed to prison, s. 8, *ib.*
penalty on sheriff for false return, s. 9, *ib.*
bishop's authority to receive submission and deliver excommunicated person, s. 10, *ib.*
process out of liberties, s. 11, vol. i. 1254.
persons under disabilities, s. 12, *ib.*
causes of excommunication must be stated in writ, s. 13, *ib.*, and n. (*c*), *ib.*
so also addition of the offender, s. 13, *ib.*
addition with a *nuper*, s. 14, vol. i. 1255.
sequestration against estate in England of party neglecting order of court for payment of money, s. 2, vol. i. 1262.
sequestration against estate in Ireland of party so neglecting, s. 3, vol. i. 1263.
Proctors.
allowing their names to be used by unqualified persons, s. 8, vol. i. 1259.
unqualified persons acting as, s. 9, *ib.*
Sequestrators of Ecclesiastical Benefices.
enabled to sue in their own names for tithes, rent, &c. due to incumbent, s. 1, vol. 1265.
may require indemnity from the creditor at whose suit the sequestration issued, *ib.*
payments to the sequestrator to discharge party making them, s. 2, *ib.*
Suits in.
for defamation, within what time they must be commenced, s. 1, vol. i. 1255.
for defamation, abolished, s. 1, vol. i. 1266.
for fornication and incontinence, within what time to be commenced, s. 2, vol. i. 1255.
for striking or brawling, within what time to be commenced, s. 2, *ib.*
for brawling abolished, s. 1, vol. i. 1266.
except as against persons in holy orders, *ib.*
for tithes, within what time to be commenced, s. 5, vol. i. 1257.
for church rate, how affected by, 53 Geo. 3, c. 127, s. 7, vol. 1, 1257, n. (*b*); vol. i. 1258, n. (*c*).
Testamentary Jurisdiction of, Abolished, vol. i. 1266, n. (*a*).

COURTS (EQUITY). See *Counties Palatine; Pleading, Practice, &c. (in Equity).*

Accountant-General.
property vested in accountant-general of court of chancery by 5 Vict. c. 5, to go to his successors in office, vol. iii. 854.
duties of accountant-general and masters of court of exchequer in revenue business to be performed by queen's remembrancer, *ib.*
duties and salaries of clerks in accountant-general's office, vol. iii. 902.
stamp duty on powers of attorney to be used in office of, vol. iii. 907.
may be empowered to act on powers of attorney in receipt of future moneys, *ib.*

Admissions.
where all parties are competent to make, any party may call on another to admit documents, vol. iii. 917.
party so applied to refusing or neglecting to admit, liable to pay costs of proof, *ib.*
whatever the result of suit, *ib.*
costs of proving documents where no notice given to admit, *ib.*

Appeal. See *Court of Appeal in Chancery.*
deposits on, to be paid to the senior registrar, vol. iii. 903.
to be paid by him into the bank of England, and to be placed to "The Appeal Deposit Account," *ib.*

Auction.
persons may sell by, under order of court of chancery, without being liable to duty imposed by 8 & 9 Vict. c. 15, *ib.*
indemnity in respect of former sales by, *ib.*

Chambers.
master of the rolls and vice-chancellors to sit at, for despatch of certain business, vol. iii. 876.
chamber business to be carried on in conjunction with court business, *ib.*
jurisdiction of judges sitting at, *ib.*
orders made at, to be ordinarily drawn-up by judges' clerk, *ib.*
judge may direct orders to be drawn up by registrar, *ib.*
registrars, when required, to attend judges sitting at, *ib.*
orders made at, to have the effect of orders of court, *ib.*
such orders may be signed and enrolled like orders of court, *ib.*
what business is to be disposed of at, vol. iii. 877.
judges may adjourn matters from open court to chambers, and *vice versâ, ib.*
mode of proceeding at, to be by summons as at common law, vol. iii. 878.
lord chancellor and any two judges may make rules for regulating proceedings at, vol. iii. 879.
judge at, may take opinion of conveyancing counsel in certain cases, *ib.* See *Conveyancing Counsel.*

Chief Clerks. See *Junior Clerks.*
each judge may appoint two, to assist in the general business of the court, vol. iii. 876.
how vacancies to be supplied, *ib.*
qualification of, *ib.*

COURTS (EQUITY)—*continued.*
lord chancellor may remove chief clerk if he engages in any other employment, or accepts any fee or emolument whatever other than his salary, vol. iii. 877.
to hold office during good behaviour, *ib.*
subject to power of removal by lord chancellor and judges, *ib.*
to be under control of judge to whose court they are attached, *ib.*
to be subject to same penalties, &c. as imposed, &c. by 3 & 4 Will. 4, c. 94, as respects court of chancery officers, *ib.*
lord chancellor, with concurrence of any two judges, may remove, *ib.*
without stating cause of removal, *ib.*
judges to direct what matters shall be investigated by, and what by themselves, vol. iii. 878.
suitor may bring any point before the judge, *ib.*
empowered to issue advertisements and summonses, to administer oaths, &c. *ib.*
penalty on persons not obeying summons, *ib.*
swearing falsely before, *ib.*
directions by judges touching proceedings before, require no particular form, *ib.*
result of proceedings before, to be stated in form of short certificate, *ib.*
formal report to be made when required by judge, *ib.*
how judge to signify his adoption of certificate or report, *ib.*
no exceptions to lie to such certificate or report, *ib.*
parties may take opinion of judge on any particular point, *ib.*
or upon the result of the whole proceeding, *ib.*
time within which such opinion must be taken, *ib.*
certificate or report, when adopted by judge, to be filed, *ib.*
and to be binding on the parties unless discharged or varied, *ib.*
how and within what time application to discharge or vary to be made, *ib.*
power of court to open certificate or report, *ib.*
salaries of, vol. iii. 880, 921.
pensions to, in case of permanent infirmity, *ib.*
retiring pensions of, on retirement of masters, *ib.*
appointment of additional chief clerk to the master of the rolls, vol. iii. 920, 921.

Clerk of Petty Bag. See *Petty Bag.*

Clerks in Accountant-General's Office.
duties and salaries of, vol. iii. 902.

Clerks, Junior. See *Junior Clerks.*

Clerks of Accounts.
offices of abolished, vol. iii. 902.

Clerks of Taxing Masters.
amount of salaries to, *ib.*

Commissioners to administer Oaths in Chancery. See *Masters Extraordinary.*

Compensations.
to be paid quarterly out of parliamentary securities, vol. iii. 881.

COURTS (EQUITY)—*continued.*
on appointment of masters or clerks to office or employment under the crown, the retiring pension or compensation under 15 & 16 Vict. c. 80, to be regulated by the salary, &c. of such office or employment, vol. iii. 881.
officers whose emoluments are diminished in consequence of 15 & 16 Vict. c. 87, may make claim for compensation to treasury, vol. iii. 903.
payments to be made to persons whose offices are abolished, vol. iii. 904.
compensation to chaff wax, &c. to be paid out of consolidated fund, *ib.*
all other compensations and superannuation or retiring allowances to be payable quarterly out of suitors' fund, vol. iii. 905.
compensation allowances may be applied to making good moneys improperly withheld or abstracted by parties entitled to such allowances, vol. iii. 908.
Conveyancing Counsel.
judge at chambers may take opinion of, in certain cases, vol. iii. 879.
parties may object to such opinion, *ib.*
how objection to be disposed of, *ib.*
nomination of, by lord chancellor, *ib.*
their number, *ib.*
their qualification, *ib.*
distribution of business among, *ib.*
supply of vacancies in their number, *ib.*
fees to, how regulated, vol. iii. 880.
Copying.
allowances for, to cease, vol. iii. 899.
lord chancellor to make regulations as to copies, *ib.*
Court of Appeal in Chancery.
power to her majesty to appoint two persons to be judges of, vol. iii. 873.
such judges to hold office during good behaviour, *ib.*
to be removable on address of both houses, *ib.*
to be formed by the lord chancellor and the two judges so appointed, *ib.*
officers of such judges, *ib.*
such judges to be styled lords justices of the court of appeal in chancery, *ib.*
rank and precedence of lords justices, *ib.*
oath to be taken by them, *ib.*
jurisdiction of, vol. iii. 874.
to have the jurisdiction exercised at the time of its establishment by the lord chancellor in the court of chancery, *ib.*
and the statutory jurisdiction exercised by him in that court, *ib.*
jurisdiction of vice-chancellor in bankruptcy transferred to, *ib.*
no appeal from decision of, in bankruptcy, to lord chancellor, *ib.*
common law judges may, on the request of the lord chancellor, sit with the court of appeal, the master of the rolls and the vice-chancellors, vol. iii, 874, 922.
decision of the majority of the judges of, to be the decision of the court, vol. iii. 874.
if judges equally divided, decree, &c. appealed from to be affirmed, *ib.*
appeal from decisions of, in certain cases, to House of Lords, *ib.*
COURTS (EQUITY)—*continued.*
limiting the right of appeal to the House of Lords in cases of bankruptcy, vol. iii. 874.
such appeal to be on a special case, *ib.*
jurisdiction of, may be exercised by one of the lords justices and the lord chancellor, *ib.*
or by both the lords justices sitting apart from the lord chancellor, *ib.*
powers of lord chancellor sitting alone, *ib.*
lord chancellor to regulate sittings and business of, *ib.*
saving of the ministerial and certain other powers of the lord chancellor, *ib.*
one of the lords justices may sit for master of the rolls or vice-chancellor during his temporary absence, vol. iii. 875.
powers of lord justice so sitting, *ib.*
lord justice, if a privy councillor, to be a member of the judicial committee, *ib.*
Damages.
court of chancery may award, where it can entertain applications for injunction or specific performance, vol. iii. 916.
damages may be assessed, or questions of fact arising in any suit may be tried, by a jury before the court itself, *ib.*
the court may make rules and orders upon sheriff, &c. for procuring juries, *ib.*
jurors to be summoned, &c. and called as in trials in superior courts of common law, *ib.*
challenge of jurors, *ib.*
court to have same powers as a superior court or judge, *ib.*
application for new trial, *ib.*
appeal from order on such application, *ib.*
question tried to be reduced into writing, *ib.*
jury to be sworn to try such question, *ib.*
court at trial to have all the powers, &c. of a judge at *nisi prius*, *ib.*
damages may be assessed, or questions of fact arising in any suit may be tried, before the court itself without a jury, vol. iii. 917.
evidence to be given in open court, *ib.*
witnesses to be examined orally, *ib.*
question tried to be reduced into writing, *ib.*
verdict of judge to have same effect as verdict of jury, *ib.*
proceedings and powers of the court to be the same as in trials by jury before the court, *ib.*
but applications for new trial may be made to the court of appeal in the first instance, *ib.*
damages may be assessed by a jury before judge of a superior court at *nisi prius*, &c. *ib.*
or before sheriff of any county or city, *ib.*
court of chancery may issue precept to sheriff to return jury, *ib.*
verdict or inquisition may be set aside by court, *ib.*
and new inquiry directed, *ib.*
Deposits on Appeal. See *Appeal.*

COURTS (EQUITY)—*continued.*
Distringas.
court of chancery may summarily restrain bank of England or any other public company from permitting transfer of stock or shares, vol. iii. 853, 854.
or from paying dividends thereon, *ib.*
such power to be exercised upon application of any person interested, vol. iii. 853.
such application may be by motion or petition, *ib.*
without bill filed, *ib.*
what shall be stated in the order made upon such motion or petition, vol. iii. 854.
power of court to discharge or vary order, and award costs, *ib.*
court empowered to issue writ of *distringas*, in place of *distringas* heretofore issued from court of exchequer, *ib.*
form of such writ, *ib.*
practice relating to such writ, *ib.*
Evidence. See *Admissions.*
Exchequer.
jurisdiction of court of, as a court of equity, &c. abolished, and transferred to court of chancery, vol. iii. 853.
officers of court of chancery, who were formerly officers of the court of exchequer, entitled to compute the period during which they were such officers for the purposes of retiring pensions, vol. iii. 908.
duties of accountant-general and masters of, in revenue business, to be performed by queen's remembrancer, vol. iii. 854.
Expenses.
provision for expenses of the officers of the court of chancery, vol. iii. 905.
Experts.
power to court of chancery to obtain assistance of, vol. iii. 879, 880.
and to act on their certificate, *ib.*
fees to, how regulated, vol. iii. 880.
Fact, question of. See *Question of Fact.*
Fees. See *Stamps.*
no officer of the court of chancery to receive, for his own use, vol. iii. 899.
officers of the court to be paid by salary, *ib.*
officers to continue to receive fees until lord chancellor shall otherwise direct, *ib.*
fees so received to be paid into the suitors' fund, *ib.*
lord chancellor may vary, reduce, or abolish fees in court of chancery, vol. iii. 900.
may direct fees to be collected by stamps, *ib.*
after such order fees not to be received in money but by stamps, *ib.*
Gratuities,
officers of court of chancery not to take, vol. iii. 899.
penalty on offenders, *ib.*
prosecution of offenders, *ib.*
Junior Clerks.
each judge may appoint a junior clerk to each chief clerk, vol. iii. 877.
lord chancellor may remove junior clerk engaging in any other employment or accepting any fee or emolument whatever other than his salary, *ib.*
to hold office during pleasure of judge, *ib.*
to be under control of judge to whose court they are attached, *ib.*

COURTS (EQUITY)—*continued.*
to be subject to same penalties, &c. as imposed, &c. by 3 & 4 Will. 4, c. 94, as respects court of chancery officers, vol. iii. 877.
salaries of, vol. iii. 880.
pensions to, in case of permanent infirmity, *ib.*
compensation to, on retirement of masters, *ib.*
junior clerk to the late master Blunt empowered to seek compensation, vol. iii. 921.
increased salary may be paid to two junior clerks to each chief clerk, *ib.*
Jury. See *Damages.*
Law, Question of. See *Question of Law.*
Lords Justices. See *Court of Appeal in Chancery.*
Lunatics.
statutory jurisdiction given to lord chancellor entrusted with care of lunatics, to be exercised by the persons for the time being so entrusted, vol. iii. 901.
Masters in Ordinary.
abolition of office of master in ordinary in chancery, vol. iii. 875.
no fresh references to, except in cases already before them, and in matters under Winding-up Acts, 1848, 1849, vol. iii. 875, 876.
until all the masters are released from their duties those remaining shall prosecute pending business, vol. iii. 876.
power now vested in masters reserved to them for such purposes, *ib.*
powers possessed by, to be exercised by judges, vol. iii. 879.
rights and establishments of, to continue until they are released, vol. iii. 882.
saving of the rights of the accountant-general of the court of chancery, *ib.*
discharged from certain duties, vol. iii. 919.
custody of deeds under the care of, vol. iii. 920.
Masters Extraordinary.
to cease to be so styled, vol. iii. 459.
persons appointed to execute like duties to be styled "Commissioners to Administer Oaths in Chancery in England," *ib.*
power to appoint solicitors practising within ten miles of Lincoln's Inn Hall as "London Commissioners to Administer Oaths in Chancery," *ib.*
powers and fees of such London commissioners, *ib.*
power to appoint solicitors practising in the Isle of Man or in the Channel Islands as "Commissioners to Administer Oaths in Chancery for the Channel Islands," *ib.*
powers and fees of such commissioners, *ib.*
commissioner's appointment to bear a chancery stamp of 1*l.* in lieu of other charges, *ib.*
such appointment need not be published in the London Gazette, *ib.*
statutes referring to masters extraordinary to be held to apply to commissioners to administer oaths in chancery, *ib.*
persons authorised to administer oaths in chancery may administer oaths in chancery of county palatine of Lancaster, vol. iii. 460.
Oaths. See *Masters Extraordinary.*
Paupers. See *Queen's Prison.*
Pensions
to chief and junior clerks in case of permanent infirmity, vol. iii. 880.

COURTS (EQUITY)—*continued.*
retiring, of chief clerks, on retirement of masters, vol. iii. 880.
on appointment of masters or clerks to office or employment under the crown, retiring pension or compensation under 15 & 16 Vict. c. 80, to be regulated by the salary, &c. of such office or employment, vol. iii. 881.
lord chancellor may order, for retiring officers, vol. iii. 904.
may remove and give pensions to disabled officers, *ib.*
Petty Bag,
clerk of, to execute his duties in person, vol. iii. 858.
except in case of unavoidable absence, *ib.*
to hold office during good behaviour, *ib.*
how vacancy in office to be supplied, *ib.*
duties of clerk of, *ib.*
not to act as attorney or solicitor, *ib.*
his salary, vol. iii. 859.
appointment of clerks to assist him, *ib.*
penalty on taking gratuities, *ib.*
transfer of business to and from the office of clerk of, vol. iii. 860.
Powers of Attorney,
stamp duty on, to be used in accountant-general's office, vol. iii. 907.
accountant-general may be empowered to act on, in receipt of future moneys, *ib.*
Prisoners. See *Queen's Prison.*
Queen's Prison.
to be visited quarterly, vol. iii. 919.
prisoners and other persons may be examined on oath, vol. iii. 919, 920.
court may direct reference as to poverty of prisoners, vol. iii. 920.
gaolers to make reports to lord chancellor of all chancery prisoners, *ib.*
expenses incurred for prisoners and pauper defendants to be paid out of suitors' fund, *ib.*
additional salary to solicitor to suitors' fund, *ib.*
Question of Fact. See *Damages.*
court shall determine every question of fact incident to the relief sought, vol. iii. 921.
trial of. See *Damages.*
where question of fact may be more conveniently tried at assizes, issues may be directed, vol. iii. 922.
where object of suit is to recover or defend possession of land under a legal title, *ib.*
Question of Law.
court shall determine every question of law incident to the relief sought, vol. iii. 921.
where object of suit is to recover or defend possession of land under a legal title, vol. iii. 922.
Repeal.
ss. 13, 14 & 15 of 3 & 4 Will. 4, c. 94, repealed, vol. iii. 879.
Report Office.
account of suitors' moneys kept at, to be discontinued, vol. iii. 902.
Retiring Lord Chancellor
may deliver written judgments within six weeks after his resignation, vol. iii. 882.
decree, &c. to be drawn up in pursuance thereof, *ib.*

COURTS (EQUITY)—*continued.*
Salaries
of chief clerks and junior clerks, vol. iii. 880.
under 15 & 16 Vict. c. 80, to be paid quarterly out of the suitors' fee fund account, vol. iii. 881.
officers of the court of chancery to be paid by salary, vol. iii. 899.
of clerks in accountant-general's office, vol. iii. 902.
amount of, to clerks of taxing masters, *ib.*
under 15 & 16 Vict. c. 87, to be paid quarterly, vol. iii. 904.
alteration of quarterly days of payment of certain salaries out of suitors' fee fund, vol. iii. 905.
of chief clerks appointed since 2nd November, 1855, vol. iii. 921.
increased, may be paid to two junior clerks to each chief clerk, *ib.*
salary of clerk of petty bag, vol. iii. 859.
additional salary to solicitor to suitors' fund, vol. iii. 920.
Solicitors.
clerk of petty bag not to act as attorney or solicitor, vol. iii. 858.
appointed to any office under 15 & 16 Vict. c. 80, to be struck off the rolls, vol. iii. 877.
addditional salary to solicitor to suitors' fund, vol. iii. 920.
Stamps.
lord chancellor may direct fees to be collected by, vol. iii. 900.
after such order fees not to be received in money but by stamps, *ib.*
commissioners of inland revenue to give necessary directions as to, to keep separate accounts, and pay money into suitors' fee fund, *ib.*
provision for sale of, *ib.*
commissioners of inland revenue may make regulations as to allowance for spoiled, *ib.*
provisions of stamp acts to be applicable to stamps under 15 & 16 Vict. c. 87, *ib.*
documents required to be stamped not to be received or used unless stamped, *ib.*
unstamped documents received or used by mistake may be ordered to be stamped, vol. iii. 900, 901.
officers guilty of fraud or wilful neglect in relation to stamps liable to be dismissed, vol. iii. 901.
on powers of attorney to be used in the accountant-general's office, vol. iii. 907.
on appointment of commissioner to administer oaths in chancery, vol. iii. 459.
Suitors' Fee Fund.
salaries under 15 & 16 Vict. c. 80, to be paid quarterly out of, vol. iii. 881.
alteration of quarterly days of payment of certain salaries out of, vol. iii. 905.
surplus of suitors' fund to be from time to time carried over to and to become part of, *ib.*
provision in case of surplus or deficiency of, vol. iii. 906.
funds, the dividends of which have not been received for fifteen years, may be transferred to, vol. iii. 906, 907.
rights of suitors to stock or dividends transferred not to be affected, but to be satisfied out of, *ib.*
dividends, &c. issued for moneys placed out to provide for chancery officers to be transferred to, vol. iii. 907.

COURTS (EQUITY)—*continued.*
Suitors' Fund. See *Suitors' Fee Fund.*
Vice-Chancellors.
vice-chancellor of England, appointment of, vol. iii. 833.
powers of, *ib.*
sittings of, vol. iii. 834.
officers of, *ib.*
precedence of, *ib.*
her majesty empowered to appoint two additional judges to be called, vol. iii. 854.
such judges to be assistant to lord chancellor in his judicial functions, *ib.*
power to supply vacancy in office of vice-chancellor first appointed, *ib.*
powers of, vol. iii. 855.
decrees, &c. of, to be deemed decrees, &c. of court of chancery, *ib.*
no decree, &c. of, to be enrolled unless signed by lord chancellor, *ib.*
vice-chancellor not to discharge orders, &c. of any other vice-chancellor not being his predecessor in office, *ib.*
nor orders of the lord chancellor unless authorized by him, *ib.*
nor orders made by the master of the rolls or the vice-chancellor of England, *ib.*
vice-chancellor to sit for lord chancellor whenever he shall require him so to do, *ib.*
or shall by direction of the lord chancellor sit in a separate court, *ib.*
whether lord chancellor, master of the rolls, or vice-chancellor of England be sitting or not, *ib.*
power to lord chancellor to make orders regulating sittings of, *ib.*
vice-chancellor, if a privy councillor, to be a member of the judicial committee, *ib.*
rank and precedence of, *ib.*
officers of, *ib.*
to hold office during good behaviour, *ib.*
removable upon address of both houses, *ib.*
oath to be taken by, *ib.*
lord chancellor, with concurrence of master of the rolls and vice-chancellors, or any two of them, empowered to make rules, &c. vol. iii. 856.
lord chancellor and master of the rolls may direct causes, &c. pending before master of the rolls, to be heard by the lord chancellor or by one of the vice-chancellors, *ib.*
and causes, &c. pending before the lord chancellor to be heard by master of the rolls, *ib.*
decrees and orders made by the master of the rolls or by a vice-chancellor in pursuance of such direction, subject to reversal, &c. by lord chancellor, *ib.*
her majesty may appoint a vice-chancellor as successor to Sir G. J. Turner, vol. iii. 881.
such vice-chancellor to have same power, &c. as Sir G. J. Turner has, vol. iii. 881, 882.
officers of such vice-chancellor, vol. iii. 882.
salaries of such vice-chancellor and his officers, *ib.*
retiring pension to such vice-chancellor, *ib.*
court keepers of such vice-chancellor, *ib.*

COURTS (INFERIOR). See *Courts (County).*
Bailiffs.
to be appointed by judge, s. 1, vol. i. 1272.
to give security, s. 2, *ib.*

COURTS (INFERIOR)—*continued.*
taking fees other than those allowed, to be discharged, s. 3, vol. i. 1272.
extortion or misconduct of, s. 4, *ib.*
penalty for assaulting, &c. s. 7, *ib.*
limitation of actions against, s. 8, *ib.*
County Court as existing before 9 & 10 Vict. c. 95.
how affected by that statute, vol. i. 1268, n. (*a*).
not a court of record, *ib.*
its jurisdiction, *ib.*
writ of *justicies*, *ib.*
capias cannot issue out of, *ib.*
how execution against the person obtained on judgment of, *ib.*
Execution.
from superior court on judgment of inferior court, how obtained, s. 4, vol. i. 1271.
sale of goods under, when to be made, s. 6, vol. i. 1272.
rescuing person or goods taken in, s. 7, *ib.*
Fees.
table of, to be framed by judge, s. 14, vol. i. 1274.
table of, to be posted up in court house and clerk's office, *ib.*
by whom payable in first instance, *ib.*
Judge.
removal of, for misbehaviour or incapacity, s. 10, vol. i. 1273.
who competent to hold the court, s. 11, *ib.*
deputy may be appointed to act during absence or illness of, s. 12, *ib.*
to frame table of fees, s. 14, vol. i. 1274.
Judgments.
removable into superior court for the purpose of obtaining execution, s. 4, vol. i. 1271.
Jurisdiction.
may be enlarged in certain cases, s. 9, vol. i. 1272.
of old county courts, vol. i. 1268, n. (*a*).
Procurement of Suits, vol. i. 1269.
Removal of Suits.
when writ for, to be delivered, s. 2, vol. i. 1269; s. 2, vol. i. 1270.
suit once remanded never afterwards removable, s. 3, vol. i. 1271.
suit, when thing in demand does not exceed 5*l.*, not removable, s. 4, *ib.*
nor when it does not amount to 10*l.* except on certain conditions, vol. i. 1363.
judge of inferior court may disallow writ for, where issued contrary to 21 Jac. 1, c. 23, s. 5, vol. i. 1271.
that statute to extend only to courts where judge is a barrister, s. 6, *ib.*
not to extend to any foreign plea, s. 7, *ib.*
Southwark.
execution of process in, s. 13, vol. i. 1273.
Stewards.
overcharges by, vol. i. 1269, 1270.
Westminster.
execution of process in, s. 13, vol. i. 1273.

COURTS (PROBATE).
Accounts.
publication of, s. 114, vol. i. 1320.
Administration.
meaning of the word in 20 & 21 Vict. c. 77, s. 2, vol. i. 1301.
grant of. See *Grant.*
official certificate of grant of, may be obtained from registrar, s. 69, vol. i. 1311.

COURTS (PROBATE)—*continued.*
pendente lite, when court may grant, s. 70, vol. i. 1312; s. 22, vol. i. 1325.
remuneration to administrator *pendente lite*, s. 72, vol. i. 1312.
powers of such administrator, s. 70, vol. i. 1312.
grant of, under special circumstances, to person not otherwise entitled thereto, s. 73, vol. i. 1312.
extension of 38 Geo. 3, c. 87, to administrators, s. 74, vol. i. 1313.
and to other cases, s. 18, vol. i. 1325.
after grant of, no person to have power to act as executor of deceased, s. 75, vol. i. 1314.
revocation of temporary grants of, not to prejudice actions or suits, s. 76, vol. i. 1314.
personal estate of intestate, in whom vested previous to grant of, s. 19, vol. i. 1325.
effect of payments made before revocation of, s. 77, vol. i. 1314.
invalid, effect of payments made under, s. 78, vol. i. 1314.
granted before 20 & 21 Vict. c. 77, and void or voidable for want of jurisdiction of court granting it made good, s. 86, vol. i. 1316.
granted before 20 & 21 Vict. c. 77, effect of, s. 87, vol. i. 1316.
stamp duties thereon, *ib.*
may be granted of personal estate not affected by former grant, s. 88, vol. i. 1316.
stamp duty on, not affected by 20 & 21 Vict. c. 77, s. 92, vol. i. 1317.
letters of, granted in Ireland, not to be resealed in England until sufficient bond is given, s. 29, vol. i. 1326.
Administration Bonds.
repeal of 21 Hen. 8, c. 5, 22 & 23 Car. 2, c. 10, & 1 Jac. 2, c. 17, as to, s. 80, vol. i. 1314.
to be given by persons to whom administration granted, s. 81, vol. i. 1314.
sureties may be required, *ib.*
condition of, *ib.*
form of, *ib.*
not required from the solicitor to the treasury or the solicitor of the duchy of Lancaster, *ib.*
penalty of, s. 82, vol. i. 1315.
assignment of, on condition broken, s. 83, vol. i. 1315.
given before January 11, 1858, to remain in force, s. 15, vol. i. 1324.
See *Ireland.*
Administrator
pendente lite. See *Administration.*
Advocates
may practise in probate court, s. 40, vol. i. 1307.
and in courts of law or equity, s. 41, vol. i. 1307.
precedence of, ss. 40, 41, vol. i. 1307.
eligible to same appointments as barristers, s. 41, vol. i. 1307.
Affidavits.
before whom to be sworn, ss. 31, 32, vol. i. 1326.
forgery of seal or signature to, s. 33, vol. i. 1326.
Amendment
of grants made before January 11, 1858, s. 17, vol. i. 1325.

COURTS (PROBATE)—*continued.*
Appeal
from refusal of court to order trial by jury, s. 85, vol. i. 1305.
to House of Lords from final or interlocutory decree or order, s. 39, vol. i. 1306.
none, from interlocutory order without leave of court, *ib.*
from county court to probate court, s. 58, vol. i. 1309.
Articled Clerks
of proctors entitled to be admitted as attorneys and solicitors, s. 44, vol. i. 1307.
and as proctors, s. 9, vol. i. 1323.
Assignment
of administration bond, s. 83, vol. i. 1315.
of bond given by receiver of real estate, s. 21, vol. i. 1325.
Attorneys
may practise in probate court, s. 45, vol. i. 1307.
proctors may be admitted as, s. 43, vol. i. 1307.
articled clerks of proctors may be admitted as, s. 44, vol. i. 1307.
power of judge over, s. 36, vol. i. 1327.
Barristers
may practise in probate court, s. 40, vol. i. 1307; s. 2, vol. i. 1323.
precedence of, s. 40, vol. i. 1307.
advocates admitted to practise as, s. 41, vol. i. 1307.
Calendars
of grants of probate and administration to be made, s. 67, vol. i. 1311.
copies of, to be sent to certain offices, s. 68, vol. i. 1311.
Caveat
against grant of probate or administration, where to be lodged, s. 53, vol. i. 1308.
duties of registrars and district registrars with regard to, *ib.*
Chancery.
commissioners for taking oaths in, to be commissioners for taking oaths in probate court, s. 45, vol. i. 1307.
Channel Islands.
power to appoint commissioners to administer oaths in, s. 30, vol. i. 1326.
Commission,
court may issue, for examination of witnesses out of the jurisdiction, s. 32, vol. i. 1305.
Commissioners
of her majesty's court of probate, who to be, and powers of, s. 27, vol. i. 1304; s. 30, vol. i. 1326.
forgery of signature of, s. 28, vol. i. 1304.
for taking oaths in chancery to be commissioners for taking oaths in probate court, s. 45, vol. i. 1307.
to administer oaths, may be appointed in Isle of Man and in Channel Islands, s. 30, vol. i. 1326.
Common Form
business, meaning of, in 20 & 21 Vict. c. 77, s. 2, vol. i. 1301.
grant of probate or administration in, by district registrar. See *Grant.*
Compensation,
payable under 20 & 21 Vict. c. 77, to be charged on consolidated fund, s. 101, vol. i. 1318.
to registrars, &c. of existing courts, s. 103, vol. i. 1318.

COURTS (PROBATE)—*continued.*
persons receiving, to continue to discharge the remaining duties of their offices, s. 104, vol. i. 1319.
to proctors, s. 105, *ib.*
to proctors in partnership, s. 106, *ib.*
to Viscount Canterbury, s. 107, *ib.*
to Sir John Dodson, s. 109, *ib.*
to clerical surrogates, &c., s. 112, vol. i. 1320.
persons receiving, to be liable to be called upon to fill offices, &c. s. 113, vol. i. 1320.
Contempt,
powers of court to punish for, s. 25, vol. i. 1303.
Contentious Business,
rules to determine what shall be deemed, s. 30, vol. i. 1304.
mode of taking evidence in, s. 31, vol. i. 1305.
Costs,
to be subject to taxation, s. 96, vol. i. 1317.
registrar to tax, *ib.*
appeal from his taxation, *ib.*
power to enforce decree of ecclesiastical court as to, s. 28, vol. i. 1326.
County Court,
jurisdiction of, in contentious business, s. 10, vol. i. 1323; s. 59, vol. i. 1309; s. 12, vol. i. 1324.
powers of judge of, s. 56, vol. i. 1309.
registrar of, to transmit certificate of decree of county court judge to district registrar, s. 55, vol. i. 1309.
district registrar to act on such certificate, *ib.*
affidavit of facts giving jurisdiction to, to be conclusive, s. 57, vol. i. 1309.
unless disproved while matter pending, *ib.*
appeal from decision of, s. 58, vol. i. 1309.
rules to be made for regulating procedure of, s. 60, vol. i. 1310; s. 13, vol. i. 1324.
Decrees,
powers of court to enforce, s. 25, vol. i. 1303.
Deeds, &c.
production of, how enforced, ss. 24, 25, *ib.*
Deposit,
place of, of original wills, s. 52, vol. i. 1308; s. 66, vol. i. 1311.
Deputy Registrars
of ecclesiastical courts may be admitted as attorneys and solicitors, s. 43, vol. i. 1307.
Distribution of residues,
suits for, not to be entertained by probate court, s. 23, vol. i. 1303.
District Registrars, s. 14, vol. i. 1302.
who to be the first, s. 17, *ib.*
qualification of, s. 20, vol. i. 1303.
may administer oaths, s. 27, vol. i. 1304.
forgery of signature of, s. 28, *ib.*
grant of probate or administration in common form by. See *Grant.*
fees payable to, s. 111, vol. i. 1320.
may be paid by salaries instead of fees, *ib.*
if paid by salaries, their fees to be collected by means of stamps, s. 23, vol. i. 1329.
District Registries,
establishment of, s. 13, vol. i. 1302.
establishments in, s. 110, vol. i. 1320.
Doctors of Law,
college of, may dispose of their property, s. 116, vol. i. 1320.

COURTS (PROBATE)—*continued.*
may surrender their charter, s. 117, vol. i. 1321.
dissolution of, *ib.*
Duties
of court of probate, s. 23, vol. i. 1303.
Ecclesiastical Courts,
testamentary jurisdiction of, abolished, s. 3, vol. i. 1301.
transmission of records from, s. 89, vol. i. 1316; s. 27, vol. i. 1326.
penalty on default, s. 90, vol. i. 1317.
power to enforce decrees of, as to costs, s. 28, vol. i. 1326.
transfer of pending suits from. See *Pending Suits.*
transfer of non-contentious business from. See *Non-contentious business.*
Evidence,
instruments and copies under seal to be, s. 22, vol. i. 1303.
how given, s. 24, *ib.*
in contentious matters, s. 31, vol. i. 1305.
by affidavit, *ib.*
witnesses giving false, guilty of perjury, s. 27, vol. i. 1304.
of witnesses out of the jurisdiction, how obtained, s. 32, vol. i. 1305.
of witnesses unable to attend the court, how obtained, *ib.*
rules of, in the superior courts to be observed, s. 33, *ib.*
devise of real estate may, under certain circumstances, be proved by production of probate, s. 64, vol. i. 1311.
or of office copy probate, *ib.*
notice to be given by party intending to rely upon such proof, *ib.*
the opposite party may by notice require production of the original will, *ib.*
costs of proof where original will produced, s. 65, *ib.*
Executor,
renunciation by, effect of, s. 79, vol. i. 1314.
dying without taking probate, or not appearing to a citation to take probate, to be treated as if he had renounced, s. 16, vol. i. 1324.
Fact, question of,
how to be tried, s. 35, vol. i. 1305.
may be tried by jury before the court, s. 35, vol. i. 1305.
after being reduced into writing, s. 37, vol. i. 1306.
or by an issue to one of the superior courts, s. 35, vol. i. 1305.
court to direct where issue to be tried, s. 38, vol. i. 1306.
where it is obligatory upon the court to order trial of, by jury, s. 35, vol. i. 1305.
where discretionary, *ib.*
appeal from exercise of such discretion, *ib.*
Fees,
table of, to be taken by officers of court and by proctors, solicitors, and attorneys, to be fixed by lord chancellor, s. 95, vol. i. 1317.
table of, to be laid before parliament, s. 119, vol. i. 1321.
to be payable by stamps, s. 97, vol. i. 1318.
exceptions, *ib.*
payable to district registrars, s. 111, vol. i. 1320.

COURTS (PROBATE)—*continued.*
district registrars may be paid by salaries instead of fees, *ib.*
Forgery
of seals of court, or of signature of officers, s. 28, vol. i. 1304.
of seal or signature to affidavits, s. 33, vol. i. 1327.
Grant
of probate or administration in common form by district registrar, s. 46, vol. i. 1307.
in what cases, *ib.*
effect of, *ib.*; s. 47, vol. i. 1308.
affidavit of residence of deceased to be conclusive for the purpose of authorising, s. 47, vol. i. 1308.
not to be made where there is contention as to the grant, s. 48, vol. i. 1308.
nor in certain other cases, *ib.*
notice of application for, to be transmitted by district registrar to principal registry, s. 49, vol. i. 1308.
contents of such notice, *ib.*
not to be made till district registrar has received certificate from principal registry that no other application has been made, *ib.*
how such certificate is to be verified, s. 26, vol. i. 1326.
in case of doubt as to, district registrar to take the direction of the judge, s. 50, vol. i. 1308.
how such direction is to be obtained, *ib.*
lists of grants to be transmitted periodically by district registrar to principal registry, s. 51, vol. i. 1308.
together with copies of wills to which grants relate, *ib.*
such copies may be certified by stamp, s. 25, vol. i. 1326.
original wills to be kept by district registrar, s. 52, vol. i. 1308.
caveat against, s. 53, vol. i. 1308.
of probate or administration, not obligatory to apply to district registry for, s. 59, vol. i. 1309.
nor to county court, *ib.*
application for, may in every case be made to principal registry, *ib.*
Grants
by court of probate, effect of, s. 28, vol. i. 1303.
made before January 11, 1858, power of amending, s. 17, vol. i. 1325.
second and subsequent, where to be made, s. 20, vol. i. 1325.
Heir-at-Law,
when to be cited to see proceedings, s. 6, vol. i. 1310.
when such citation not necessary, *ib.*, s. 63, vol. i. 1311.
effect of probate after citation of, s. 62, vol. i. 1310.
refusal or revocation of probate after citation of, s. 62, vol. i. 1310.
where not cited not to be affected by probate, s. 63, vol. i. 1311.
House of Lords,
appeal to, from court of probate, s. 39, vol. i. 1306.
Intestate,
personal estate of, in whom vested previous to grant of administration, s. 19, vol. i. 1325.

COURTS (PROBATE)—*continued.*
Ireland,
letters of administration granted in, not to be resealed in England until sufficient bond is given, s. 29, vol. i. 1326.
Isle of Man,
power to appoint commissioners to administer oaths in, s. 30, vol. i. 1326.
Issue,
power of court to direct, s. 35, vol. i. 1305.
court to direct where issue is to be tried, s. 38, vol. i. 1306.
Judge,
qualification of, s. 5, vol. i. 1301.
how appointed, *ib.*
to hold office during good behaviour, s. 6, vol. i. 1301.
removable on address of both houses of parliament, *ib.*
oath of, s. 7, vol. i. 1301.
precedence of, s. 8, vol. i. 1301.
to appoint secretary and usher, *ib.*
salary of, s. 9, vol. i. 1301.
office of, may be united with that of judge of admiralty court, s. 10, vol. i. 1301.
salary of, after such union, s. 11, *ib.*
retiring pension of, s. 12, *ib.*
may request judges of the superior courts to sit with him, s. 34, vol. i. 1305.
salary and retiring annuity of, payable out of consolidated fund, s. 101, vol i. 1318.
if a privy councillor, to be a member of judicial committee, s. 115, vol. i. 1320.
may sit for judge of high court of admiralty and *vice versâ*, s. 1, vol. i. 1323.
personal estate of intestate vested in, previous to grant of administration, s. 19, vol. i. 1325.
may sit in chambers, s. 3, vol. i. 1323.
powers of, where sitting in chambers, s. 5, *ib.*
Judgments,
powers of court to enforce, s. 24, vol. i. 1303.
Jurisdiction,
testamentary, of ecclesiastical courts, &c. abolished, s. 3, vol. i. 1301.
transfer of, to the queen, s. 4, vol. i. 1301.
to be exercised by court of probate, *ib.*
of court of probate, s. 23, vol. i. 1303.
Jury,
court may direct trial of question of fact by, before itself, s. 35, vol. i. 1305.
such question to be reduced into writing, s. 37, vol. i. 1306.
and jury sworn to try it, *ib.*
where it is obligatory upon the court to order trial by, s. 35, vol. i. 1305.
where discretionary, *ib.*
appeal from the exercise of such discretion, *ib.*
how attendance of, secured, s. 36, vol. i. 1306.
qualification of, *ib.*
rights and duties of, *ib.*
challenge of, *ib.*
powers of court upon trial by, ss. 36, 37, vol. i. 1306.
Legacies,
suits for, not to be entertained by court of probate, s. 28, vol. i. 1303.
Manorial Courts,
testamentary jurisdiction of, abolished, s. 3, vol. i. 1301.

COURTS (PROBATE)—*continued.*
Matters and Causes Testamentary,
meaning of, in 20 & 21 Vict. c. 77, s. 2, vol. i. 1301.
Non-contentious business,
rules to determine what shall be deemed, s. 30, vol. i. 1304.
pending in any ecclesiastical courts to be transferred, s. 14, vol. i. 1324.
Oath
to be taken by judge, s. 7, vol. i. 1301.
Oaths,
who may administer, s. 27, vol. i. 1304; s. 45, vol. i. 1307.
power to appoint commissioners to administer, s. 27, vol. i. 1304, s. 30, vol. i. 1326.
Officers of the Court, s. 14, vol. i. 1302.
by whom to be appointed, s. 18, vol. i. 1302.
salaries of, *ib.*
tenure of office by, s. 19, *ib.*
to execute their offices in person, s. 21, vol. i. 1303.
certain, not to practise, *ib.*
duties of, to be regulated by rules, s. 30, vol. i. 1304.
may be dismissed for fraud or wilful neglect in relation to stamps, s. 100, vol. i. 1318.
provision for necessary absence of, s. 35, vol. i. 1327.
Official certificate
of grant of administration may be obtained from registry, s. 69, vol. i. 1311.
Official copy
of will may be obtained from registry, s. 69, vol. i. 1311.
Orders
of court of probate, effect of, s. 23, vol. i. 1303.
powers of court to enforce, s. 25, vol. i. 1303.
court may make, for examination of witnesses unable to attend the court, s. 32, vol. i. 1305.
Original Wills,
place of deposit of, s. 52, vol. i. 1308; s. 66, vol. i. 1311.
Peculiar Courts,
testamentary jurisdiction of, abolished, s. 3, vol. i. 1301.
Pending Suits,
transfer of, to court of probate, s. 84, vol. i. 1315.
not to apply to appeals pending before her majesty in council, *ib.*
Perjury,
witnesses giving false evidence, guilty of, s. 27, vol. i. 1304.
persons taking false oaths, guilty of, s. 34, vol. i. 1327.
Powers
of court of probate, s. 23, vol. i. 1303.
Practice,
to resemble that of the prerogative court except where otherwise provided, s. 29, vol. i. 1304.
rules of, to be made, s. 30, *ib.*
by whom, *ib.*
to regulate the duties of officers of the court, *ib.*
to determine what shall be deemed contentious and what non-contentious business, *ib.*
to regulate time and manner of appeals, *ib.*

COURTS (PROBATE)—*continued.*
alteration of, *ib.*
rules of, to be made for regulating procedure of county courts in testamentary matters, s. 60, vol. i. 1310.
Prerogative Court,
officers of, to be transferred to like offices in court of probate, s. 16, vol. i. 1302.
practice of, to be followed by probate court, s. 29, vol. i. 1304.
of Canterbury, registry of, to vest in registrars of court of probate, s. 108. vol. i. 1319.
Principal Registry,
where to be situate, s. 4, vol. i. 1301.
Probate,
grant of. See *Grant.*
proof of devise of real estate by production of. See *Evidence.*
effect of payments made before revocation of, s. 77, vol. i. 1314.
invalid, effect of payments made under, s. 78, vol. i. 1314.
granted before 20 & 21 Vict. c. 77 and void or voidable for want of jurisdiction of court granting it made good, s. 86, vol. i 1316.
granted before 20 & 21 Vict. c. 77, effect of, s. 87, *ib.*
stamp duties thereon, *ib.*
may be granted of personal estate not affected by former grants, s. 88, vol. i. 1316.
stamp duty on, not affected by 20 & 21 Vict. c. 77, s. 92, vol. i. 1317.
Proctors
may practise in probate court, s. 42, vol. i. 1307.
may be admitted as attorneys and solicitors, s. 43, *ib.*
articled clerks of, s. 44, *ib.*
may act as agents for solicitors in matters testamentary, s. 94, vol. i. 1317.
power of judge over, s. 36, vol. i. 1327.
Productim
of testamentary papers, how enforced, s. 26, vol. i. 1304; s. 23, vol. i. 1325.
of deeds, how enforced, ss. 24, 25, vol. i. 1303.
Real estate,
Proof in solemn form of will affecting.
heir and persons interested in real estate to be cited to see proceedings, s. 61, vol. i. 1310.
effect of probate after such proof, s. 62, *ib.*
to enure for the benefit of persons interested in the real estate, *ib.*
to be received as evidence of the validity and contents of such will, *ib.*
when not necessary to cite heir and persons interested in real estate, s. 63, vol. i. 1311.
where not cited probate not to affect them, *ib.*
devise of,
may under certain circumstances be proved by production of probate, s. 64, *ib.*
or of office copy, *ib.*
Receiver,
of real estate *pendente lite,* court may appoint, s. 71, vol. i. 1312.
his powers, *ib.*
his remuneration, s. 72, *ib.*
court may require security from, s. 21, vol. i. 1325.

COURTS (PROBATE)—*continued.*
Record,
court of probate to be a court of, s. 23, vol. i. 1303.
Records, &c.
transmission of, from ecclesiastical courts, s. 89, vol. i. 1316; s. 27, vol. i. 1326.
penalty on default, s. 90, vol. i. 1317.
expenses of transmission, &c., s. 37, vol. i. 1327.
university of Oxford to retain the custody of certain testamentary documents, and transmit index thereof to court of probate, s. 2, vol. i. 1328.
Record Keepers, s. 14, vol. i. 1302.
who to be the first, s. 15, vol. i. 1302.
Registrars, s. 14, *ib.*
reduction of number of, *ib.*
who to be the first, s. 15, *ib.*
qualification of, s. 20, vol. i. 1303.
not to practise, s. 21, *ib.*
may administer oaths, s. 27, vol. i. 1304.
forgery of signature of, s. 28, *ib.*
of ecclesiastical courts may be admitted as attorneys and solicitors, s. 43, vol. i. 1307.
power to appoint an additional registrar, s. 6, vol. i. 1323.
vacancy in office of registrar, how to be filled up, s. 7, *ib.*
clerks in principal registry eligible to be, s. 8, *ib.*
to do all acts heretofore done by surrogates, s. 24, vol. i. 1326.
See *District Registrars.*
Registries,
treasury to provide buildings for, s. 118, vol. i. 1321.
Renunciation
by executors, effect of, s. 79, vol. i. 1314.
when implied, s. 16, vol. i. 1324.
Revocation
of temporary grants of administration not to prejudice actions or suits, s. 76, vol. i. 1314.
of probates or administrations, effect of payments made before, s. 77, *ib.*
Rules of Practice. See *Practice.*
to be laid before parliament, s. 119, vol. i. 1321.
Salaries,
out of what funds payable, s. 102, vol. i. 1318.
Salary
of judge, s. 9, vol. i. 1301.
of secretary, *ib.*
of usher, *ib.*
of officers of court, s. 18, vol. i. 1302.
of judge payable out of consolidated fund, s. 101, vol. i. 1318.
Seal
of principal registry, s. 22, vol. i. 1303.
of district registries, *ib.*
instruments sealed with, evidence, *ib.*
forgery of, s. 28, vol. i. 1304.
Sealer, s. 14, vol. i. 1302.
who to be the first, s. 15, *ib.*
Secretary,
to be appointed by judge, s. 8, vol. i. 1301.
salary of, s. 9, *ib.*
Sittings
of probate court, where to be held, s. 4, *ib.*
Solemn Form,
where heir and persons interested in real estate to be cited on proof of will in, s. 61, vol. i. 1310.

COURTS (PROBATE)—*continued.*
effect of proof on persons interested in the real estate, s. 62, *ib.*
where not necessary to cite persons interested in real estate on proof of will in, s. 63, vol. i. 1311.
persons not cited not affected by the probate, *ib.*
Solicitors
may practise in probate court, s. 45, vol. i. 1307.
proctors may be admitted as, s. 43, *ib.*
articled clerks of proctors may be admitted as, s. 44, *ib.*
proctors may act as agents for, in matters testamentary, s. 94, vol. i. 1317.
power of judge over, s. 36, vol. i. 1327.
Stamps
on probates and administrations not affected by 20 & 21 Vict. c. 77, s. 92, vol. i. 1317.
registrars to deliver copies of wills, &c. to commissioners of inland revenue, s. 93, *ib.*
fees to be payable by, s. 97, vol. i. 1318.
exceptions, *ib.*
provisions of acts relating to stamps to be applicable to stamps for collecting fees, s. 98, *ib.*
no document to be received or used unless stamped, s. 99, *ib.*
officers of the court may be dismissed for fraud or wilful neglect in relation to, s. 100, *ib.*
Surrogates
may administer oaths, s. 27, vol. i. 1304.
Testamentary Papers,
production of, how enforced, s. 26, vol. i. 1304; s. 23, vol. i. 1325.
Transfer
of pending suits. See *Pending Suits.*
of non-contentious business, s. 14, vol. i. 1324.
Usher
to be appointed by judge, s. 8, vol. i. 1301.
salary of, s. 9, *ib.*
Will,
meaning of, in 20 & 21 Vict. c. 77, s. 2, *ib.*
Wills,
original, of which probate granted by district registrar to be kept by him, s. 52, vol. i. 1308.
copies thereof to be transmitted by him to principal registry, s. 51, *ib.*
official copy of, may be obtained from registry, s. 69, vol. i. 1311.
of living persons, depositories for safe custody of, s. 91, vol. i. 1317.
Witnesses,
court may require attendance of, s. 24, vol. i. 1303.
evidence of, how given, *ib.*
in contentious matters, s. 31, vol. i. 1305.
attendance of, how enforced, ss. 24, 25, vol. i. 1303.
parties may be compelled to attend to be examined as, s. 24, *ib.*
production of deeds, &c. by, how enforced, ss. 24, 25, *ib.*
may under certain circumstances give evidence by affirmation or declaration, s. 27, vol. i. 1304.
giving false evidence guilty of perjury, *ib.*
out of the jurisdiction, examination of, s. 32, vol. i. 1305.
within the jurisdiction, but unable to attend the court, examination of, *ib.*

COURTS (SUPERIOR COURTS OF COMMON LAW). See *Pleading, Practice, &c. (at Law).*
no action to be brought in, for less than 40*s.*, vol. i. 1268, 1269.
powers of, in proceedings by mortgagees, vol. iii. 440, 441, 755.
judges to make rules for regulating proceedings of, vol. iii. 694.
jurisdiction of, extended to county palatine of Chester and Wales, vol. i. 1121.
enabled to order examination of witnesses upon interrogatories, vol. i. 1399.
powers of, in case of interpleader, vol. ii. 879—887.
so much of the act for uniformity of process in, as remains unrepealed, vol. iii. 696.
may direct certain actions where sums ought to be recovered does not exceed 20*l.*, to be tried before sheriff, &c., vol. iii. 697, 698.
may direct certain actions where sum sought to be recovered does not exceed 50*l.*, to be tried before judge of county court, vol. i. 1236.
rules of new trials of actions in common pleas at Lancaster, may be moved before any of the courts at Westminster, vol. i. 1126.
enforcing in, judgments, &c. of common pleas at Lancaster, vol. i. 1127.
abolishing certain offices in, vol. ii. 120.
and making provision for a more uniform and effective establishment of officers in, vol. iii. 703.
appointment of masters in, *ib.*
may hold sittings *in banco* in vacation, vol. iii. 708, 789.
rules of, to have effect of judgments, vol. iii. 712.
empowered to compel attendance of witnesses under commissions executed in different parts of the realm from that where issued, vol. i. 1403.
giving concurrent jurisdiction to, in trial of issues in *scire facias* for repealing letters patent or charters, &c., vol. iii. 863.
may hear and determine matters arising in, or incident to, suits on the common law side of the court of chancery, vol. iii. 864.
may compel inspection of documents whenever equity would grant a discovery, vol. i. 1384.
injunctions, rules or orders of a superior court of law or equity, to operate in any other court as a stay of proceedings contrary thereto, vol. iii. 757.
may grant an injunction, inspection, or account in actions for infringement of patents, vol. iii. 643.
case for opinion of, not to be directed by court of chancery, vol. iii. 897.
regulation of office of Queen's Remembrancer, vol. iii. 790. See *Queen's Remembrancer.*

CRIMINAL CONVERSATION,
action for, abolished, s. 59, vol. i. 1291.
substituted proceedings, s. 38, vol. i. 1284.

CRIMINAL LAW.
Abatement,
indictment not to abate by dilatory plea of misnomer or want of addition, &c. vol. ii. (12).

CRIMINAL LAW—*continued.*
Abettors,
in misdemeanors, punishable as principals, vol. ii. (92), (216), (293).
Abominable Crime,
punishment for, vol. ii. (292).
attempt to commit, *ib.*
sending letter threatening to accuse of, vol. ii. (202).
accusing of, with intent to extort, *ib.*
inducing persons to execute deeds, &c. by threats of, *ib.*
Abduction
of a woman on account of her fortune, vol. ii. (289).
of a girl under sixteen years of age, vol. ii. (290).
expenses of prosecution, vol. ii. (55).
of children, vol. ii. (289).
Abortion, vol. ii. (290).
Abroad,
murder or manslaughter committed, vol. ii. (280).
Acceptance of Bill of Exchange. See *Bills of Exchange.*
Accessories in General,
may be proceeded against where principal convicted, although not attainted, vol. ii. (91).
any number of, may be included in same indictment, *ib.*
where trial of, may take place, *ib.*
trial of, within jurisdiction of the Admiralty, vol. ii. (92).
punishment of, in certain treasonable felonies, vol. ii. (111).
Accessories before the fact
may be tried and punished as principals, vol. ii. (91), (216).
may be indicted as such, or as substantive felons, vol. ii. (91).
Accessories after the fact
indictable as, or as substantive felons, vol. ii. (91).
punishment, vol. ii. (91), (216).
under Malicious Injuries Act, vol. ii. (256).
under Forgery Act, vol. ii. (275).
under Coinage Act, vol. ii. (124).
under Offences against the Person Act, vol. ii. (293).
Accountable Receipt. See *Receipt.*
Accusing, or threatening to accuse,
of unnatural crimes, vol. ii. (202).
Acknowledging
recognizance, or bail, cognovit, or judgment, or enrolment of a deed falsely, vol. ii. (271).
Acquittance,
forging, &c., vol. ii. (268).
Actions,
against persons acting under Larceny Act, vol. ii. (219).
venue, pleadings and costs in, *ib.*
under Malicious Injuries Act, vol. ii. (258).
venue, pleadings and costs in, *ib.*
under Coinage Act, vol. ii. (124).
Additions,
statute of, vol. ii. (1).
want of, or wrong addition, not to abate indictment or information, vol. ii. (12).
Adjoining County, Trial in. See *Venue.*

CRIMINAL LAW—*continued.*
Administering
unlawful oaths, vol. ii. (111).
voluntary oaths, vol. ii. (149).
poison. See *Poison.*
Admiralty,
venue for trial of accessories, within jurisdiction of the, vol. ii. (91, 92).
trial of offences under Larceny Act committed within jurisdiction of the, vol. ii. (219).
under Malicious Injuries Act, vol. ii. (259).
under Forgery Act, vol. ii. (275).
under Coinage Act, vol. ii. (124).
under Offences against the Person Act, vol. ii. (293).
punishment of offences in the high court of, vol. ii. (17).
Advertising
a reward for the return of stolen property, vol. ii. (359).
Agents,
frauds by, vol. ii. (210).
embezzling money intrusted to them for special purpose, *ib.*
goods or valuable securities intrusted to them for safe custody or special purpose, *ib.*
pledging goods entrusted to them for sale, &c. *ib.*
consignment of goods or documents of title intrusted to them contrary to instruction, vol. ii. (210, 211).
Aggravated Assaults, vol. ii. (287).
Aliens. See *Jury de Medietate Linguæ.*
Allegiance,
seducing soldier or sailor from, vol. ii. (114).
venue, *ib.*
trial for treason, *ib.*
Alpaca,
stealing, vol. ii. (205).
Amendment,
after plea of misnomer, vol. ii. (12).
of variance where matter in writing or in print, vol. ii. (52), (55).
enlarged powers of, vol. ii. (60).
of formal defects, vol. ii. (62).
Ammunition. See *Stores.*
Anglers,
provision respecting, in the day time, vol. ii. (195).
Angling,
taking fish by, *ib.*
seizure of tackle, *ib.*
Animals,
larceny of, vol. ii. (193).
killing with intent to steal the carcase, &c. *ib.*
maliciously killing or wounding, vol. ii. (254).
stealing, ordinarily kept in confinement, and not subjects of larceny, vol. ii. (195).
guilty possession of, *ib.*
Appeal,
against summary convictions under Larceny Act, vol. ii. (218).
under Malicious Injuries Act, vol. ii. (258).
Appearance,
mode of compelling, in summary cases against the Larceny Act, vol. ii. (217).
under Malicious Injuries Act, vol. ii. (257).

CRIMINAL LAW—*continued.*
Apprehension,
of persons charged with indictable offences, vol. ii. (30).
of persons against whom indictments have been found, *ib.*
of persons found committing larceny, or similar offences, vol. ii. (217).
of persons offering to sell or pawn, &c. property suspected to have been stolen, &c. *ib.*
of persons found committing arson, or malicious injuries to property, vol. ii. (257).
under Coinage Act, vol. ii. (123).
under Offences against the Person Act, vol. ii. (292).
of night poachers, vol. ii. (172).
of suspected persons in the night, vol. ii. (245), (257).
wounding or shooting with intent to prevent, vol. ii. (284).
court may order compensation to persons active in apprehension of certain offenders, vol. ii. (14), (55).
Apprentices,
neglecting to supply necessary food to, or assaulting, vol. ii. (285).
costs of prosecution, vol. ii. (293).
guardians and overseers to prosecute in certain cases, *ib.*
Aqueduct,
injuring, vol. ii. (252).
Arms,
loaded, what constitutes, vol. ii. (284).
Arrest of Judgment,
what shall not be sufficient to stay or reverse judgment after verdict, vol. ii. (12).
Arrest of Offenders,
under Larceny Act, vol. ii. (217).
under Malicious Injuries Act, vol. ii. (257).
under Coinage Act, vol. ii. (123).
Arson,
setting fire to dwelling-house, any person being therein, vol. ii. (246).
to churches, houses, &c. and buildings, *ib.*
to ships or vessels, vol. ii. (254).
with intent to murder, vol. ii. (282).
to coal mines, vol. ii. (251).
to stacks of agricultural produce, vol. ii. (249).
of turf, peat, coals, charcoal, or wood, *ib.*
punishment of accessories, vol. ii. (256).
hard labour, and solitary confinement, *ib.*
to crops, plantations, and heath, vol. ii. (249).
to farm buildings, vol. ii. (247).
to farm produce, vol. ii. (249).
to railway stations, vol. ii. (247).
to goods or chattels in a building, *ib.*
attempting to set fire, vol. ii. (248, 249).
Art, Works of, &c.
destroying or damaging, vol. ii. (253).
right to recover damages not affected, vol. ii. (254).
Assaults
on magistrates, officers, &c. for their endeavours to save wreck, vol. ii. (286).
with intent to commit felony, vol. ii. (287).
with intent to rob, vol. ii. (200). See *Robbery.*
on peace officer, &c. vol. ii. (287).

CRIMINAL LAW—*continued*
on officers of customs or excise, vol. ii. (295).
to prevent apprehension, vol. ii. (287).
in pursuance of a conspiracy to raise wages, *ib.*
on seamen, to prevent them from working, *ib.*
to obstruct the sale or free passage of grain, *ib.*
on deer-keepers, &c. vol. ii. (294).
on apprentices or servants, vol. ii. (285).
aggravated, vol. ii. (287).
on women and children, *ib.*
common, vol. ii. (287), (288).
summary jurisdiction of justices in common assaults, vol. ii. (287).
justices may order offender to pay a fine and costs, not exceeding 5*l.*; *ib.*
justices dismissing a complaint shall make out a certificate of such dismissal, vol. ii. (288).
certificate or conviction a bar to any other proceedings for the same cause, *ib.*
on conviction for, the court may order payment of prosecutor's costs by the defendant, vol. ii. (294).

Assemblies,
unlawful, to the number of twelve or more, vol. ii. (152).

Attainder,
no plea unless for the same offence, vol. ii. (16).
of principal not necessary before proceeding against accessories, vol. ii. (91).

Attempt,
to commit felony or misdemeanor may be be found on indictment for the actual offence, vol. ii. (61).
no person to be prosecuted for the attempt after trial for the actual offence, *ib.*
to murder, vol. ii. (281).
to do grievous bodily harm, vol. ii. (283, 284).
to administer poison, vol. ii. (282).

Attorney,
defence by, vol. ii. (24).
embezzling money intrusted to him for special purpose, vol. ii. (210).
goods or valuable securities intrusted to him for safe custody or special purpose, *ib.*
power of, frauds by persons entrusted with, vol. ii. (210).

Autrefois Acquit. See *Attempt; Felony; Misdemeanor.*
how pleaded, vol. ii. (62).
dismissal of complaint by justices in cases of assault, vol. ii. (288).
of charge against juvenile offenders, vol. ii. (241).

Autrefois Attaint,
no plea unless for the same offence, vol. ii. (16).

Autrefois Convict,
how pleaded, vol. ii. (62).
conviction by justices in cases of assault, vol. ii. (288).
of juvenile offenders, vol. ii. (242).

Bail,
in felonies and misdemeanors by justices, vol. ii. (38), (39).
in treason, vol. ii. (39).
in error, vol. ii. (27). See *Error.*

Banks of England and Ireland. See *Forgery.*
embezzlement by officers of, vol. ii. (209).

CRIMINAL LAW—*continued.*
making false entries in books of, vol. ii. (261).
clerks making false dividend warrants, *ib.*

Bank Notes,
may be described as money, vol. ii. (245).
stealing, vol. ii. (200).
forging, vol. ii. (263).
uttering forged, *ib.*
having in possession forged, *ib.*
imitating, vol. ii. (262).
uttering imitations of, vol. ii. (263).
having in possession imitations of, vol. ii. (262).

Bank Note Paper,
making, &c. or having, without authority, vol. ii. (263).

Bank Note Plate, &c.
engraving, &c. or having without authority, *ib.*

Bank of Sea, &c. See *Malicious Mischief.*

Banker,
embezzling money entrusted to him for special purpose, vol. ii. (210).
goods or valuable securities entrusted to him for safe custody or special purpose, *ib.*

Bankrupt,
not surrendering or not discovering, vol. ii. (188), (189).
not delivering up estate or books, &c., vol. ii. (189).
removing, concealing, or embezzling estate or books, &c., *ib.*
destroying or falsifying books, &c., vol. ii. (190).
obtaining goods on credit under false pretences, *ib.*
disclosure by, on compulsory examination, when a bar to indictment, vol. ii. (198).

Baptism,
forging or altering entry of, vol. ii. (271).
See *Registers.*

Barge. See *Ship.*

Barking Trees. See *Trees.*

Barn,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
injuring, vol. ii. (154).

Beasts,
(ordinarily kept in confinement, and not the subject of larceny at common law,) stealing, vol. ii. (195).
having possession of, or of the skin thereof, *ib.*

Benefit of Clergy,
abolished, vol. ii. (16).

Bestiality, vol. ii. (291).

Bigamy, vol. ii. (169).

Bills of Exchange,
stealing, vol. ii. (191, 196).
forging, vol. ii. (265, 272).
indorsement or assignment, vol. ii. (268).

Bills of Lading,
stealing, vol. ii. (191, 196).

Birds,
(ordinarily kept in confinement, and not the subject of larceny at common law), stealing, vol. ii. (195).
having possession of, or of the plumage thereof, *ib.*

Birth,
forging registers of, vol. ii. (271).
See *Concealing.*

Blasphemous Libels, vol. ii. (157).

CRIMINAL LAW—*continued.*
Blasphemy,
not triable at quarter sessions, vol. ii. (158).
Boat. See *Ship.*
Bodily Fear,
stealing in dwelling-house and putting any person therein in, vol. ii. (205).
Bodily Harm,
assault occasioning, vol. ii. (288).
See *Grievous Bodily Harm.*
Bonds,
stealing, vol. ii. (191, 196).
forging, &c., vol. ii. (264, 272).
Books,
fraudulent destruction of, by directors, &c. vol. ii. (212).
Boundaries of Counties,
offences committed on, may be tried in either, vol. ii. (10).
Bow Street,
chief magistrate of, a justice for Berks, vol. ii. (40).
Breach of Prison, vol. ii. (139). See *Escape.*
Breach of Trust. See *Agent; Attorney; Banker; Broker; Factor; Merchant.*
Breaking and Entering. See *Housebreaking.*
what is burglary, &c., vol. ii. (203).
church or chapel, *ib.*
building within curtilage, vol. ii. (204).
shop, warehouse or counting-house, *ib.*
Bridge, Public,
pulling down, destroying, or injuring, vol. ii. (252).
Broker,
embezzling money intrusted to him for special purpose, vol. ii. (210).
goods or valuable securities entrusted to him for safe custody or special purpose, *ib.*
Building,
larceny of things attached to, vol. ii. (198).
within curtilage of dwelling-house, breaking and entering, vol. ii. (204).
being armed with intent to break into any, *ib.*
used in carrying on trade or manufacture, setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
setting fire to farm buildings, vol. ii. (247).
to railways, *ib.*
to public buildings, *ib.*
to other buildings, *ib.*
to goods in, *ib.*
attempting to set fire to, vol. ii. (248).
setting fire to goods or chattels in, vol. ii. (247).
blowing up, vol. ii. (248).
injuries to, by rioters, vol. ii. (154).
by tenants, vol. ii. (248).
sending letters threatening to burn or destroy, vol. ii. (255).
being found by night in any, with intent to commit a felony, vol. ii. (204).
stealing goods in process of manufacture in any, vol. ii. (205).
Bulk,
breaking, not now necessary to constitute larceny, vol. ii. (191).
Buoys,
removing, destroying, or concealing, vol. ii. (255).
Bull. See *Cattle.*
Burglary. See *Housebreaking.*
definition of, vol. ii. (203).
in what buildings, *ib.*
CRIMINAL LAW—*continued.*
punishment of, *ib.*
punishment of accessories, vol. ii. (91).
night defined, vol. ii. (191).
Burial. See *Registers.*
Burial Ground,
stealing fixtures in, vol. ii. (198).
Burning. See *Arson.*
Calf. See *Cattle.*
Canal,
stealing from barge on, or from dock, &c. adjacent, vol. ii. (206).
injuries to works on, vol. ii. (252).
See *River.*
Capital Felonies, vol. ii. (16).
in all cases, except murder, judgment of death may be recorded, vol. ii. (8).
Captain of a Merchant Vessel. See *Seamen.*
Carcase,
killing animals with intent to steal the, vol. ii. (193).
Cards,
cheating in playing with, vol. ii. (171).
punishment for, *ib.*
Carnally Abusing Girls,
under ten years of age, vol. ii. (289).
above ten, and under twelve, *ib.*
expenses of prosecution, vol. ii. (55).
carnal knowledge defined, vol. ii. (292).
Carriage,
venue, where journey is through several counties, vol. ii. (10).
injuring by furiously driving, vol. ii. (286).
injuries to railway carriages. vol. ii. (253).
Cat,
maliciously killing or wounding, vol. ii. (254).
stealing, vol. ii. (195).
Cattle,
stealing, or killing with intent to steal carcase, vol. ii. (193).
punishment, *ib.*
maliciously killing, maiming or wounding, vol. ii. (254).
punishment, *ib.*
Central Criminal Court,
judges of, vol. ii. (19).
jurisdiction, *ib.*
venue in indictments and presentments, *ib.*
sessions to be held at least twelve times every year, vol. ii. (21).
jurors, vol. ii. (20).
places of confinement for prisoners, *ib.*
persons convicted may be committed to county gaol, or to Newgate, *ib.*
sheriffs of London may execute judgments, vol. ii. (20).
committal of persons for trial at, vol. ii. (21).
expenses of prosecutions, *ib.*
indictments for misdemeanors preferred before the grand jury, vol. ii. (29).
removal into, of indictments found at quarter sessions, vol. ii. (22).
recognizances to appear, &c. *ib.*
transmission by justices of the peace of indictments found at quarter sessions, *ib.*
fees or salaries of officers, *ib.*
sessions not to affect the holding of quarter sessions, &c. vol. ii. (23).
may try offences committed within the jurisdiction of the Admiralty, vol. ii. (23), (92).
certiorari removing indictment from, to specify where it shall be tried, vol. ii. (29).
Certificate,
on commitment, of magistrate's consent to bail, vol. ii. (39).

CRIMINAL LAW—*continued.*
of conviction, on trial for escape or breach of prison, &c. &c. vol. ii. (142).
of conviction and sentence on trial for returning from transportation, vol. ii. (143).
of previous conviction, vol. ii. (17),(125),(220).
of prosecution for perjury being directed by judge or justice, &c. vol. ii. (150).
of dismissal of charge by justices under 10 & 11 Vict. c. 82, vol. ii. (241).
of dismissal of assault, vol. ii. (287).
of decision of the court for crown cases reserved, vol. ii. (54).
of baptism, burial, and marriage. See *Registers.*
Certiorari,
to remove indictment into Central Criminal Court, vol. ii. (22).
to remove indictment into the Queen's Bench, from Central Criminal Court, must specify place of trial, vol. ii. (29).
indictments, when and how removable by, vol. ii. (63).
costs on removal by, vol. ii. (64).
convictions not removable by, vol. ii. (132), (219), (258), (293).
Challenges,
by the king, must be for cause, vol. ii. (9).
peremptory, in murder or felony, not to exceed twenty, *ib.*
peremptory, in treason, vol. ii. (104), (107).
Chapel,
breaking, &c. and stealing in, vol. ii. (203).
breaking, &c. with intent to commit felony, vol. ii. (204).
setting fire to, vol. ii. (246).
riotously demolishing, vol. ii. (153).
Cheating. See *False Pretences.*
at play, vol. ii. (171).
Cheque,
forging, altering, &c. crossing on, vol. ii. (269).
Children,
abandoning or exposing, vol. ii. (285).
assaults upon, vol. ii. (287).
concealing the birth of, vol. ii. (291).
Child-Murder. See *Murder.*
mother indicted for, may be convicted of concealing birth, *ib.*
Child Stealing, vol. ii. (290).
father of illegitimate child not to be prosecuted for taking, *ib.*
Chloroform,
administering, or attempting to administer, in order to commit a felony, vol. ii. (284).
Church,
breaking, &c. and stealing in, vol. ii. (203).
punishment, *ib.*
breaking, &c. with intent to commit felony, vol. ii. (204).
setting fire to, vol. ii. (246).
riotously demolishing, vol. ii. (153).
Churchyard,
stealing fixtures in, vol. ii. (198).
injuring statues, monuments, &c. in, vol. ii. (253).
Clergy. See *Benefit of Clergy.*
Clergyman,
arresting upon civil process during divine service, &c. vol. ii. (286).
assaults on, *ib.*
Clerks,
embezzlement by. See *Embezzlement.*
larceny by, vol. ii. (206).

CRIMINAL LAW—*continued.*
no acquittal, if the offence turn out to be embezzlement, and *vice versâ,* vol. ii. (209).
fraudulently assisting agents, &c. in appropriating property, vol. ii. (211).
Clerks of the Bank of England,
making out false dividend warrants, vol. ii. (261).
Clerks of the Peace and Sessions, &c.
may be paid by salaries instead of fees, vol. ii. (57).
Coach,
venue, where journey is through several counties, vol. ii. (10).
Coach-House,
setting fire to, vol. ii. (246).
riotously demolishing, vol. ii. (153).
Coal,
stealing, from mines, vol. ii. (200).
Codicil. See *Will.*
Cognovit,
fraudulent acknowledgment of, vol. ii. (271).
Coin,
offences relating to, vol. ii. (116).
counterfeit, definition of, vol. ii. (118).
counterfeiting gold or silver coin, vol. ii. (117).
colouring counterfeit coin, or pieces of metal, *ib.*
colouring or altering coin, *ib.*
impairing gold or silver coin, vol. ii. (118).
buying or selling, &c. counterfeit gold or silver coin, vol. ii. (118).
importing or exporting counterfeit gold or silver coin, *ib.*
uttering counterfeit gold or silver coin, vol. ii. (119).
accompanied by the possession of other counterfeit coin, *ib.*
twice within ten days, *ib.*
after a previous conviction, vol. ii. (120).
having in possession three or more pieces of counterfeit gold or silver coin, vol. ii. (119).
after a previous conviction, vol. ii. (120).
making, mending, or having possession of coining tools, vol. ii. (121).
conveying coining tools or coin, &c. out of the Mint, vol. ii. (122).
offences relating to the copper coin, vol. ii. (120).
gold or silver may be cut, &c. when tendered, if suspected to be counterfeit, vol. ii. (122).
discovery and seizure of counterfeit coin and coining tools, vol. ii. (123).
venue, where two or more persons have acted in different counties, *ib.*
proof of coin being counterfeit, *ib.*
punishment of accessories, vol. ii. (124).
sentence may include hard labour and solitary confinement, vol. ii. (125).
foreign coin, counterfeiting, importing, uttering, and possessing gold or silver, vol. ii. (121).
search for counterfeit gold or silver, or for coining tools, vol. ii. (123).
counterfeiting, uttering, and possessing copper, vol. ii. (120).
search for counterfeit copper, or for coining tools, vol. ii. (123).
punishment of offences in the colonies in relation to, vol. ii. (116).
punishment for defacing the current coin, vol. ii. (120).

CRIMINAL LAW—*continued.*
Colt. See *Cattle.*
Combination,
assaults arising from, vol. ii. (287).
Commissioners of Sewers,
property under, how described in an indictment, vol. ii. (12).
Commitment
of persons summarily convicted under Larceny Act, vol. ii. (218).
under Malicious Injuries Act, vol. ii. (257).
Common Assault, vol. ii. (288).
Companies,
property of joint stock, how described in an indictment, vol. ii. (11).
frauds by directors, &c. of public, vol. ii. (212).
Compassing the Queen's Death. See *Treason.*
Compensation,
to persons active in the apprehension of certain offenders, vol. ii. (14), (55).
power of quarter sessions to order, vol. ii. (56).
Compounding Felony,
taking a reward for the recovery of stolen property, vol. ii. (217).
advertising a reward for the return of stolen property, &c. *ib.*
Concealing,
endeavouring to conceal the birth of a child, vol. ii. (291).
conviction for, on trial for child-murder, *ib.*
Conservatory,
stealing plants or vegetables growing in, vol. ii. (199).
destroying or damaging plants or vegetables growing in, *ib.*
Conspiracy,
to murder, vol. ii. (280).
assaults in pursuance of, to raise wages, vol. ii. (287).
Constable,
larceny or embezzlement by police, vol. ii. (208).
may apprehend persons loitering at night, and suspected of felony, vol. ii. (217).
Conviction,
subsequent felony after a previous conviction. See *Subsequent Felony.*
forging or uttering a false certificate of a previous conviction, vol. ii. (17).
evidence of, on trial for breach of prison or escape, &c. vol. ii. (141), (142).
on trial for returning from transportation, vol. ii. (143).
summary conviction, in all cases parties accused may be defended by counsel or attorney, vol. ii. (24).
of juvenile offenders under 10 & 11 Vict. c. 82, a bar to further proceedings, vol. ii. (241).
larceny, after two previous summary convictions, vol. ii. (192).
for stealing or destroying deeds, wills, &c. not admissible in evidence in civil remedies, vol. ii. (197), (198).
the like provision as to convictions for frauds, by agents, bankers, &c. vol. ii. (212).
summary, to be returned to the quarter sessions, vol. ii. (219), (258).
Copper Coin,
offences relating to, vol. ii. (116).
CRIMINAL LAW—*continued.*
Coppice,
setting fire to, vol. ii. (249).
Cordage. See *Stores.*
Corn. See *Crops; Stacks.*
Coroners,
duty of, upon inquisition, to take evidence, &c. vol. ii. (9), (10).
to certify, and deliver evidence, &c. to officer of the court, vol. ii. (10).
Corporate Body,
frauds by director, &c. of, vol. ii. (212).
Corrosive Fluid,
throwing, with intent to injure, vol. ii. (285).
Costs,
for prosecutions in misdemeanors, under Larceny Act, may be allowed, vol. ii. (220).
under Malicious Injuries Act, vol. ii. (259).
under Forgery Act, vol. ii. (275).
under Offences against the Person Act, vol. ii. (294).
of prosecutions by treasury under Coin Act, to be allowed, vol. ii. (125).
of prosecutions by guardians, &c. vol. ii. (293).
in actions for anything done under Larceny Act, vol. ii. (219).
on conviction for assault, court may order payment of prosecutor's costs by defendant, vol. ii. (293), (294).
may be levied by distress, vol. ii. (294).
Cotton Goods,
in any stage of manufacture, stealing to the value of 10s., vol. ii. (205).
punishment, vol. ii. (206).
destroying, vol. ii. (248).
Counsel,
defence by, vol. ii. (24).
to counsel commission of a felony itself a felony, vol. ii. (91).
Counterfeiting. See *Coin; Forgery.*
Counting-House,
breaking into any, vol. ii. (204).
punishment, *ib.*
Counts,
for stealing and receiving may be joined, vol. ii. (215).
several, for distinct acts of stealing from the same person, vol. ii. (192).
Counties,
offences committed on the boundaries of two or more, may be tried in either, vol. ii. (10).
offences begun in one and completed in another, *ib.*
offences committed on a journey or voyage through several, *ib.*
property belonging to, may be laid on the inhabitants, vol. ii. (11).
Counties of Cities and Towns,
offences arising in, may be tried in the next adjoining county, vol. ii. (3), (5).
place of punishment, vol. ii. (7).
expenses of proceedings, *ib.*
removal of indictments and inquisitions, vol. ii. (3), (8).
removal of prisoners, vol. ii. (3).
recognizances to prosecute, vol. ii. (4).
in certain cases, prisoners to be committed to assizes for adjoining county, vol. ii. (59).
what counties to be considered adjoining, vol. ii. (60).
Court Rolls,
forging, &c. vol. ii. (270).

CRIMINAL LAW—*continued.*
or copies of, *ib.*
punishment, *ib.*
Courts of Equity,
stealing, &c. or destroying, &c. documents of, vol. ii. (198).
Courts of Record,
stealing, &c. or destroying, &c. documents of, vol. ii. (198).
Cow. See *Cattle.*
Criminal Possession.
what constitutes, under Forgery Act, vol. ii. (274).
Criminal Statutes,
general rule for the interpretation of, vol. ii. (18).
Crops of Corn, Grain, or Pulse,
assault with intent to obstruct sale of, vol. ii. (287).
setting fire to, whether standing or cut down, vol. ii. (249).
attempting to set fire to, vol. ii. (249).
Crown Cases Reserved,
composition of court, vol. ii. (53).
questions of law may be reserved by judge at trial, *ib.*
questions reserved to be certified to and decided by court, *ib.*
certificate may be sent back for amendment, vol. ii. (54).
judge may postpone judgment, or respite execution, vol. ii. (52), (53).
decision of court, vol. ii. (53).
how carried into effect, *ib.*
judgment to be delivered in open court, *ib.*
rules made by the court, *ib.* n. (*d*).
Cultivated Root,
stealing or destroying, vol. ii. (199).
damaging with intent to steal, *ib.*
Current Coin,
interpretation of, vol. ii. (116).
Curtilage,
what building within, to be deemed part of dwelling house, vol. ii. (203).
breaking and entering a building within, and stealing therefrom, vol. ii. (204).
punishment, *ib.*
Customs. See *Smuggling.*
Custom-House Officers,
assaulting or forcibly obstructing, vol. ii. (287).
punishment, *ib.*
Cutting. See *Wounding.*
Dam,
of canal, river, reservoir, &c. damaging or destroying, vol. ii. (252).
of fish-pond or mill-pond, breaking down or destroying, vol. ii. (252).
Death,
forging registers of, vol. ii. (271).
judgment of, may be recorded in all capital felonies except murder, vol. ii. (8).
Debenture,
stealing, &c. vol. ii. (191), (196).
forging, vol. ii. (269).
Deeds,
forging, vol. ii. (264).
forging registers of, vol. ii. (270).
falsely acknowledging enrolment of, vol. ii. (271).
stealing deeds relating to real estate, vol. ii. (197).
falsely obtaining execution of, vol. ii. (214).

CRIMINAL LAW—*continued.*
Deer,
stealing in unenclosed parts of forest, vol. ii. (193).
in enclosed ground, *ib.*
suspicious possession of venison, &c. or of snare or engine for taking deer, *ib.*
setting or using snare or engine for the purpose of taking, vol. ii. (194).
destroying park fences, where kept, vol. ii. (194).
keepers, &c. may demand and seize the guns, &c. of offenders, *ib.*
resistance to keepers, *ib.*
Defects,
certain, not to vitiate an indictment, vol. ii. (61), (62).
formal, may be amended, vol. ii. (60).
how to be objected to, vol. ii. (62).
Defilement,
procuring the defilement of girls under the age of twenty-one years, vol. ii. (289).
Defraud,
intent to, how alleged in indictment for false pretences, vol. ii. (214).
in indictment under Malicious Injuries Act, vol. ii. (257).
in Forgery Act, vol. ii. (274).
Demanding
property with menaces or by force, with intent to steal, vol. ii. (202).
by threatening letter, *ib.*
on forged instruments, vol. ii. (272).
Demurrer
to formal defects, vol. ii. (62).
Denizens. See *Jury de Mediatate Linguæ.*
Depositions,
taken by coroners, vol. ii. (9), (10).
taken by justices, vol. ii. (36).
when read where witness dead or absent, *ib.*
inspection of, by persons under trial, vol. ii. (24).
copies of, to be allowed to prisoners, vol. ii. (24), (40).
Desertion,
of children, whereby life is endangered, vol. ii. (285).
Destroying. See *Malicious Mischief.*
Destructive Substance,
administering, with intent to murder, vol. ii. (281), (282).
attempts, vol. ii. (282).
administering, so as to endanger life, vol. ii. (285).
Destructive Thing. See *Poison.*
Detainer,
shooting, &c. with intent to prevent lawful, vol. ii. (284).
Dice,
cheating in play with, vol. ii. (171).
punishment, *ib.*
Directors,
frauds by, of body corporate or public company, vol. ii. (212).
Discharge of Prisoners,
to be without payment of fees, vol. ii. (28), (29).
Disclosure,
under compulsory examination, a bar to indictment, vol. ii. (198), (212).
Dissenters,
disturbing public worship of, vol. ii. (177).
setting fire to place of worship of, vol. ii. (246).
rioters demolishing, vol. ii. (153).

CRIMINAL LAW—*continued.*
Dividend Warrants,
stealing, vol. ii. (191), (196).
forging, vol. ii. (260).
clerks, &c. of bank of England or Ireland making out false, vol. ii. (261).
Dock,
stealing from, vol. ii. (206).
punishment, *ib.*
Dock Warrant, vol. ii. (191).
stealing, vol. ii. (196).
Documents of Courts of Equity or Record,
stealing, &c. or destroying, &c. vol. ii. (198).
Documents of Title to Goods,
interpretation of, vol. ii. (191).
of title of lands, interpretation of, *ib.*
larceny of, vol. ii. (196), (197).
Dog-stealing,
punishment for, vol. ii. (194).
having possession of stolen dogs or skins of stolen dogs, *ib.*
second offence, *ib.*
taking money or reward to restore stolen dogs, vol. ii. (195).
Domestic Animals,
stealing, vol. ii. (195).
maliciously killing or wounding, vol. ii. (254).
Dredging for Oysters,
within an oyster fishery belonging to another, vol. ii. (196).
punishment, *ib.*
Drilling, Illegal. See *Training.*
Driving,
injuries by furious, vol. ii. (286).
punishment of, *ib.*
Drowning,
attempting to murder by, vol. ii. (283).
Drug,
stupefying, using with intent to commit an offence, vol. ii. (284).
to procure abortion, vol. ii. (290).
obtaining, with intent to, vol. ii. (291).
Dwelling House,
stealing fence to, vol. ii. (198).
what buildings to be part of, in burglary, housebreaking, and larceny, vol. ii. (203).
breaking, entering, and stealing in, *ib.*
punishment, *ib.*
breaking and entering with intent to, vol. ii. (204).
entering in the night with intent to commit felony, *ib.*
stealing in to the value of 5*l.* or more, vol. ii. (205).
punishment, *ib.*
stealing in, and putting some one therein in bodily fear by menaces or threats, *ib.*
being found by night in, vol. ii. (204).
breaking, &c. and stealing in building within the curtilage, *ib.*
punishment, *ib.*
setting fire to, any person being therein, vol. ii. (246).
blowing up, vol. ii. (248).
East India Bonds,
a valuable security, stealing, vol. ii. (191), (196).
forgery of, vol. ii. (261).
punishment, *ib.*
Election,
upon trial of indictment for larceny, vol. ii. (192).

CRIMINAL LAW—*continued.*
Electric Telegraph,
injuring, vol. ii. (253).
attempting to, *ib.*
Embezzlement,
by clerks or servants, vol. ii. (206), *et seq.*
indictment may charge three distinct acts, committed within six months, vol. ii. (208).
allegation and proof of the property embezzled, vol. ii. (208), (209).
no acquittal if the offence turn out to be larceny, and *vice versâ*, vol. ii. (209).
by persons in the Queen's service or by the police, vol. ii. (208).
by officers of the Bank of England or Ireland, vol. ii. (209).
by bankers, merchants, brokers, attorneys, or agents, vol. ii. (210).
of money, or securities for the payment of money, *ib.*
of chattels, valuable securities, &c. *ib.*
Enemy. See *Treason.*
Engine. See *Machinery.*
Engine-House.
setting fire to, vol. ii. (247).
England,
trial of accessories where offence committed, wholly within, vol. ii. (91).
bank of, embezzlement by officers of, vol. ii. (209).
forging, &c. in England, documents purporting to be made out of, vol. ii. (272).
Enlisting,
in service of foreign states. See *Foreign States.*
Entries,
falsifying of public stock, vol. ii. (261). See *Stock.*
fraudulent, in registers of births, &c. vol. ii. (271). See *Register.*
Entry. See *Forcible Entry.*
Equity,
stealing, &c. or destroying documents of courts of equity, vol. ii. (198).
forging, vol. ii. (269).
Error,
court of, may pronounce proper judgment, vol. ii. (53).
or remit the record to court below, vol. ii. (54).
in misdemeanors,
execution to be stayed, vol. ii. (27).
recognisance to prosecute writ of error, vol. ii. (28).
certificate of recognisance being duly filed, *ib.*
a sufficient warrant for discharge of defendant and repayment of fine, *ib.*
writ of error may be quashed for neglect of defendant to prosecute it, *ib.*
execution where judgment is affirmed or writ of error quashed, *ib.*
time of imprisonment how reckoned, *ib.*
further provisions as to bail in error, vol. ii. (64).
Escape,
breach of prison when felony, vol. ii. (139).
assisting prisoners to escape, or attempt to escape, *ib.*
conveying disguises or instruments of escape to prisoners, vol. ii. (140), (141).

CRIMINAL LAW—*continued.*
assisting persons to escape from constables, &c. *ib.*
rescuing, or assisting to rescue, persons charged with felony, &c. *ib.*
venue, vol. ii. (141), (142).
evidence of conviction and sentence, *ib.*
Evidence,
conviction for stealing, destroying, &c. wills or deeds, not admissible in evidence in civil actions, vol. ii. (197), (198).
the like provision as to convictions for frauds by bankers, &c. vol. ii. (212).
forging instruments of, vol. ii. (270).
Ewe. See *Cattle.*
Examination
of witnesses before justices, vol. ii. (35).
Exchequer,
forging bills, bonds, or debentures, vol. ii. (261).
Excusable Homicide, vol. ii. (280).
Execution
stayed in misdemeanors upon writ of error, vol. ii. (27). See *Error.*
Ex Officio Information. See *Information.*
Expenses. See *Counties of Cities; Central Criminal Court.*
of prosecutions for felony, vol. ii. (12), (13).
of prosecutions for certain misdemeanors, vol. ii. (13), (55).
of prosecutions for misdemeanors under the Larceny Act, vol. ii. (220).
under the Malicious Injuries Act, vol. ii. (259).
under the Forgery Act, vol. ii. (275).
under the Offences against the Person Act, vol. ii. (294).
of prosecutions for coinage offences, vol. ii. (125).
of attendance before magistrate, in prosecutions for misdemeanors, vol. ii. (55).
order for payment to be made by clerk of assize, vol. ii. (13), (14).
how paid in places not contributing to county rate, vol. ii. (14).
of prosecutions in the court of admiralty, vol. ii. (14).
where offence committed on the high seas, vol. ii. (14), (23), (26).
of conveying prisoners to gaol, vol. ii. (40).
of prosecutors and witnesses in certain common assaults, vol. ii. (55).
secretary of state may make regulations, vol. ii. (56).
of prosecutions for certain treasonable felonies, not to be allowed, vol. ii. (111).
of prosecutions for perjury directed by judge or justice, &c. vol. ii. (150).
of prosecutions, against juvenile offenders, under 10 & 11 Vict. c. 82, vol. ii. (242).
of prosecutions, for offences at night, under 14 & 15 Vict. c. 19, vol. ii. (245).
of prosecutions, conducted by poor-law guardians or overseers, vol. ii. (293).
Explosive Substances,
injuries by, to buildings, any person being therein, vol. ii. (248).
attempts to destroy buildings by, *ib.*
injuring persons by, vol. ii. (285).
Exposing Children, vol. ii. (285).
Extorting,
money, &c. by threatening letters, vol. ii. (201).
by accusing or threatening to accuse of unnatural crimes, vol. ii. (202).
CRIMINAL LAW—*continued.*
by menaces, *ib.*
by accusing or threatening to accuse of certain crimes, *ib.*
Fac-Simile,
of instrument forged, need not be set out in indictment, vol. ii. (273).
Factor,
frauds by, vol. ii. (216).
pledging for his own use the goods of his principal, *ib.*
False Lights,
exhibiting, with intent to bring ships into danger, vol. ii. (255).
False Personation. See *Personation.*
False Pretences,
obtaining money, &c. by, vol. i. (213).
no acquittal if the offence proved is larceny, vol. ii. (214).
no person after trial for, to be prosecuted for larceny, *ib.*
intent to defraud, how alleged and proved, *ib.*
ownership of property need not be stated, *ib.*
inducing persons by, to execute or destroy deeds, &c. *ib.*
description of instruments, in writing, &c. vol. ii. (245).
description of money and bank notes, *ib.*
what proof of sufficient, *ib.*
obtaining military pensions or pay by. See *Soldier.*
naval or marine pensions or pay by. See *Seamen, Marines.*
False Signals,
exhibiting, with intent to bring ships into danger, vol. ii. (255).
Farm Buildings,
setting fire to, vol. ii. (247).
to farm produce or implements in, vol. ii. (249).
rioters destroying, vol. ii. (153).
injuring, *ib.*
Fees,
prisoners to be discharged without payment of any, vol. ii. (29).
justices may remit, if clerk is paid by salary, vol. ii. (57).
Felony,
accessories to, punishment of, vol. ii. (91).
made punishable like simple larceny, vol. ii. (192).
larceny, after previous conviction for, *ib.*
punishment where no special provision, vol. ii. (16).
hard labour or solitary confinement may be part of punishment in certain cases, *ib.*
commencement of, after expiration of previous sentence, vol. ii. (17).
subsequent felony. See *Subsequent Felony.*
conviction for attempt to commit, on trial for actual offence, vol. ii. (61).
previous trial for misdemeanor on the same facts, *ib.*
Females,
assaults upon, vol. ii. (287).
Fences, &c.,
stealing, vol. ii. (199).
cutting, breaking, or throwing down, with intent to steal, *ib.*
possession of, not satisfactorily accounted for, *ib.*
destroying, where deer are kept, vol. ii. (194).
destroying any description of, vol. ii. (251).

CRIMINAL LAW—*continued.*
Fern,
setting fire to growing, vol. ii. (249).
stack of, *ib.*
Filly. See *Cattle.*
Fire,
injuries to buildings by, vol. ii. (246).
setting fire to a church or chapel, *ib.*
to a dwelling-house any person being therein, *ib.*
to a house, outhouse, manufactory, &c. vol. ii. (246), (247).
to railway stations, vol. ii. (249).
to public buildings, *ib.*
to other buildings, *ib.*
to goods in any building, the setting fire to which is felony, *ib.*
attempting to set fire to buildings, vol. ii. (248).
setting fire to a ship, with intent to murder, vol. ii. (282).
Fish,
taking, &c. in water situate in land adjoining or belonging to dwelling-house, vol. ii. (195).
taking, &c. in a private fishery, *ib.*
taking, &c. by angling in the daytime, *ib.*
seizure of the tackle of persons fishing, *ib.*
anglers, whose tackle has been seized, not to be further punished, vol. ii. (196).
Fish-Pond,
breaking down or destroying dam of, vol. ii. (252).
putting lime or other noxious material in, *ib.*
Fixtures,
stealing, from buildings, vol. ii. (198).
stealing metal fixtures from private or public grounds, *ib.*
from mines, vol. ii. (200).
tenants or lodgers stealing fixtures let to be used with house or lodging, vol. ii. (209).
Flood-Gates, vol. ii. (252). See *Malicious Mischief.*
Fold,
setting fire to, vol. ii. (247).
Forcible Abduction. See *Abduction.*
Forcible Entry,
into lands or tenements, vol. ii. (154).
the duties and office of justices upon any forcible entry or detainer, vol. ii. (155).
restitution of possession, vol. ii. (157).
Foreign Coin. See *Coin.*
Foreign States,
enlisting or engaging to enlist in military or naval service of, vol. ii. (130).
accepting, or agreeing to accept, commission, vol. ii. (131).
engaging to go or going to foreign countries, with intent to enlist, &c. *ib.*
retaining or procuring others to enlist, vol. ii. (131).
apprehension of offenders, vol. ii. (132).
vessels, with persons on board enlisted or engaged in military or naval service of, may be detained, *ib.*
masters, &c. of vessels taking, or engaging to take, on board such persons, vol. ii. (133).
fitting out armed vessels to aid in military operations, *ib.*
issuing commissions for vessels, *ib.*
seizure and forfeiture of vessels, *ib.*
aiding the warlike equipment of vessels of foreign states, *ib.*

CRIMINAL LAW—*continued.*
venue, where offence is committed in the united kingdom, *ib.*
where offence is committed out of the united kingdom, vol. ii. (134).
Forests,
stealing deer in, vol. ii. (193).
Forfeitures,
application of, on summary convictions under Larceny Act, vol. ii. (218).
under Malicious Injuries Act, vol. ii. (257).
Forgery,
forging or uttering a false certificate of conviction for felony, vol. ii. (17).
forging or uttering documents to obtain military pensions or pay, &c. vol. ii. (276).
military prize money, vol. ii. (278).
certificates directed to, or bills of exchange on the paymaster-general, vol. ii. (279).
forging or uttering certificates of vouchers, &c. to sustain claims to naval or marine pensions, &c. vol. ii. (277).
obtaining naval or marine pay by means of forged certificates of service, &c. vol. ii. (278).
forging the great seal, privy seal, privy signet, or sign manual, vol. ii. (260).
the seals of Scotland or Ireland, *ib.*
forging or altering, or offering, uttering, disposing or putting off, knowing, &c. exchequer bills or debentures, vol. ii. (261).
any indorsement or assignment on, *ib.*
East India bonds, *ib.*
any indorsement or assignment on, *ib.*
bank notes, bank bills, or bank post bills, vol. ii. (262).
any indorsement or assignment on, *ib.*
bills of exchange or promissory notes, indorsements or assignments on, vol. ii. (262), (272).
making false entries, or altering entries of public stocks, vol. ii. (261).
transferring public stock in the name of another not the owner, vol. ii. (260).
forging or altering, or uttering, knowing, &c. transfers of shares or interest of or in public stock, *ib.*
of or in the capital stock of companies, &c. established by charter or act of parliament, *ib.*
powers of attorney, &c. to transfer such shares or interest, *ib.*
to receive dividends on such shares or interest, vol. ii. (261).
endeavouring to effect transfers, &c. or to receive dividends, &c. by virtue of forged powers of attorney, &c. vol. ii. (260), (261).
forging or altering, or offering, uttering, disposing, or putting off, knowing, &c.
deeds, bonds, or writings obligatory, vol. ii. (264).
court rolls, or copies of court rolls, vol. ii. (270).
acquittances, or receipts for money or goods, vol. ii. (268).
accountable receipts, for money, goods, notes, bills, or securities, *ib.*
warrants, orders, or requests, for the delivery or transfer of goods, *ib.*
for the delivery of notes, bills, or securities, *ib.*
purchasing, receiving, or possessing forged bank notes, &c. vol. ii. (262).

CRIMINAL LAW—*continued.*
proof of lawful excuse to be made by accused, *ib.*
making, using, or having without authority, &c. bank note paper, &c., *ib.*
engraving, using, or having without authority, &c. bank note plates, vol. ii. (262), (263).
plates for foreign bills or notes, vol. ii. (264).
imitating or uttering imitated bank notes, *ib.*
forging, &c. or uttering in England, documents made or purporting to be made out of England, vol. ii. (272).
bills of exchange, &c. payable out of England, *ib.*
forging entries or copies of entries in registers, vol. ii. (271). See *Registers.*
forging licences of marriage, *ib.*
forging any instrument made evidence by act of parliament, vol. ii. (270).
punishments for forgery, vol. ii. (260), (271).
of accessories, vol. ii. (275).
of abettors in misdemeanors, *ib.*
hard labour and solitary confinement in case of imprisonment, *ib.*
venue, vol. ii. (273).
where offence is committed within the jurisdiction of the admiralty, vol. ii. (275).
criminal possession explained, vol. ii. (274).
form of indictment, vol. ii. (245), (273).
intent to defraud, how alleged and proved, vol. ii. (274).
Form,
want of, not to affect certain proceedings under 6 & 7 Vict. c. 40, vol. ii. (239).
under 10 & 11 Vict. c. 82, vol. ii. (242).
Formal Defects,
in indictment, must be objected to before the jury is sworn, vol. ii. (62).
Frame. See *Machinery.*
Fraudulent Bankruptcy. See *Bankrupt.*
Frauds,
by agents, bankers, or factors, vol. ii. (210).
Fruit,
stealing growing fruit or vegetables, &c. &c. vol. ii. (199).
destroying or damaging, with intent to steal, *ib.*
destroying or damaging, with intent to destroy, vol. ii. (250).
Furious Driving, vol. ii. (286).
Furze,
setting fire to, vol. ii. (249).
Gallery,
injuring works of art in, vol. ii. (253).
Game,
unlawfully taking or destroying by night, vol. ii. (172), (194).
the like in day-time, vol. ii. (194).
unlawfully entering or being in land by night, with intent to take or destroy, vol. ii. (172).
apprehension of offenders, *ib.*
summary conviction by justices, *ib.*
form of conviction, vol. ii. (173).
appeal, *ib.*
no *certiorari, ib.*
clerk of the peace to register convictions, *ib.*
evidence of prior conviction, *ib.*
three or more persons armed unlawfully, entering or being in land by night for the purpose of, &c. vol. ii. (173), (174).

CRIMINAL LAW—*continued.*
what time to be considered night, vol. ii. (174).
definition of game, vol. ii. (174, 175).
unlawfully taking or destroying on any public road, &c., vol. ii. (175).
period within which prosecutions must be commenced, vol. ii. (173).
power of constables to search suspected persons without warrant, vol. ii. (175).
Gaming, vol. ii. (171).
Garden,
stealing plants, fruits, or vegetables growing in, vol. ii. (199).
destroying or damaging plants, fruits, or vegetables growing in, vol. ii. (250).
Gate. See *Fences.*
Gelding. See *Cattle.*
Girl. See *Abduction; Carnally Abusing Girls.*
Glass,
stealing, or severing with intent to steal, from buildings, vol. ii. (198).
Gorse,
setting fire to, vol. ii. (249).
Grain. See *Crops; Stacks.*
Granary,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
rioters injuring, vol. ii. (154).
Grand Larceny, vol. ii. (191).
all larcenies to be of the same nature, *ib.*
Great Seal,
forgery of, vol. ii. (260).
Greenhouse,
stealing plants or vegetables growing in, vol. ii. (199).
destroying or damaging plants or vegetables growing in, vol. ii. (250).
Grievous Bodily Harm,
causing, with intent to murder, vol. ii. (281), (282).
with intent to maim, vol. ii. (283).
inflicting, with or without a weapon or instrument, vol. ii. (284).
attempting to shoot or wounding with intent to do, vol. ii. (283).
administering poison with like intent, vol. ii. (285).
causing, by gunpowder, *ib.*
setting spring guns with intent to do, *ib.*
hard labour and solitary confinement, vol. ii. (293).
punishment of accessories, *ib.*
Guardians,
and overseers may be required to conduct certain prosecutions, *ib.*
Gunpowder,
destroying or damaging dwelling-houses, any one being therein, vol. ii. (248).
destroying or damaging buildings with intent to murder, vol. ii. (282).
whereby the life of any one is endangered, vol. ii. (248).
causing bodily injury by, vol. ii. (285).
injuring persons by explosive substances, *ib.*
attempting to do bodily injury by sending, &c. explosive substances, *ib.*
by placing destructive or explosive substances near a building with intent, &c., *ib.*
throwing gunpowder, &c. into buildings, vol. ii. (248).
possessing, making, or manufacturing for the purpose of committing offences, vol. ii. (256).

CRIMINAL LAW—*continued.*
explosive substances, or dangerous or noxious things, *ib.*
machines, engines, or instrument, *ib.*
male offenders under sixteen may be privately whipped, vol. ii. (259).
punishment of accessories, vol. ii. (256).
hard labour and solitary confinement may be awarded in addition to imprisonment, vol. ii. (259).
justices may issue warrants for searching suspected places, vol. ii. (256).
constables may apprehend persons loitering at night, and suspected, &c. vol. ii. (257).
offences not triable at quarter sessions, *ib.*
trial of offences committed within the jurisdiction of the admiralty, vol. ii. (26), (259).
Hard Labour,
may be imposed for all indictable offences under Larceny Act, vol. ii. (220).
under Malicious Injuries Act, vol. ii. (259).
under Forgery Act, vol. ii. (275).
under Coinage Act, vol. ii. (117) *et seq.*
under Offences against the Person Act, vol. ii. (293).
Hares. See *Game.*
taking or killing in the night time in warren, vol. ii. (194).
in the day time, *ib.*
Hay,
setting fire to crop of, vol. ii. (249).
stack of, *ib.*
Heath,
setting fire to, whilst growing, *ib.*
stack of, *ib.*
Hedges. See *Fences.*
Heifer. See *Cattle.*
High Seas,
offences committed on, may be tried at Central Criminal Court, vol. ii. (23).
by justices of oyer and terminer, vol. ii. (26).
venue in indictments, vol. ii. (27), (92).
averment of offences committed on the, vol. ii. (92).
High Treason. See *Treason.*
Homicide,
justifiable, vol. ii. (280).
Hop-binds,
cutting or destroying, in hop plantations, vol. ii. (249).
punishment, *ib.*
Hop-oast,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
injuries to, vol. ii. (154).
Horse. See *Cattle.*
Horse-Stealing, vol. ii. (193).
Hose. See *Manufactures.*
Hothouse,
stealing plants or vegetables growing in, vol. ii. (199).
destroying or damaging plants or vegetables growing in, vol. ii. (250).
House. See *Dwelling-house.*
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
House-Breaking.
persons found by night
armed, with intent to break into dwelling-house or building and commit felony, vol. ii. (204).

CRIMINAL LAW—*continued.*
having in their possession implements of housebreaking without lawful excuse, *ib.*
proof of lawful excuse, *ib.*
an intent to commit felony need not be alleged in indictment (*Reg.* v. *Bailey*, Dears. C. C. 244), *ib.*
all implements available for housebreaking are within the act (*Reg.* v. *Oldham*, 2 Den. C. C., 472), *ib.*
having their faces blackened or disguised with intent to commit felony, vol. ii. (204).
in any dwelling-house or building, with intent to commit felony therein, *ib.*
committing above offences after a previous conviction for similar offence, or for felony, vol. ii. (205).
any one may apprehend persons committing indictable offences in the night, vol. ii. (245).
persons liable to apprehension, assaulting or offering violence, *ib.*
definition of night, same as in burglary, *ib.*
costs of prosecutions to be allowed as in felony, *ib.*
Illegal Oaths. See *Oath.*
Illegal Training. See *Training.*
Implements. See *Machinery.*
Implements of Housebreaking. See *Housebreaking.*
Inciting
to commit murder, vol. ii. (280).
to mutiny, vol. ii. (114).
Indecent Assault,
on male, vol. ii. (291).
India Bonds,
forgery of, vol. ii. (261).
Indictment,
what defects shall not vitiate, vol. ii. (12), (61).
description of offence in the words of the statute, vol. ii. (12).
description of instruments in writing, &c. vol. ii. (245).
venue in the margin sufficient, vol. ii. (61).
venue where local description is necessary, *ib.*
formal defects to be objected to before jury are sworn, vol. ii. (62).
court may amend formal defects if objected to, *ib.*
apprehension of person against whom indictment has been found, vol. ii. (30).
detainer of, when in confinement for another offence, vol. ii. (31).
traversing in misdemeanors abolished, vol. ii. (62).
removal of, by *certiorari.* See *Certiorari.*
removal from the county of a city into adjoining county, vol. ii. (3).
Indorsement of a Bill of Exchange, &c.,
forging, vol. ii. (262).
Infamous Crime, vol. ii. (291).
Information,
filed by the clerk of the crown in queen's bench, vol. ii. (2).
not without express order of court, *ib.*
recognizance to prosecute, *ib.*
on charge or complaint before justices of the peace, vol. ii. (32).
Inquisition. See *Coroner.*

CRIMINAL LAW—*continued.*
Insanity,
persons acquitted on account of, to be kept in custody, vol. ii. (6), (25).
persons indicted and found insane by jury to be kept in custody, vol. ii. (6).
persons dangerous and insane, committal and bail of, *ib.*
Inns of Court,
setting fire to buildings of, vol. ii. (247).
Instruments in Writing, &c,
how described in indictments, vol. ii. (245), (273).
larceny of, vol. ii. (196).
wills or codicils, &c. vol. ii. (197).
forgery of, however designated, vol. ii. (272).
of evidence, forgery of, vol. ii. (269).
demanding property upon forged, vol. ii. (272).
Intent to Defraud,
how stated and proved in cases of forgery or false pretences, vol. ii. (274), (214).
under "Malicious Injuries Act," vol. ii. (257).
Interpretation,
of terms in "Larceny Consolidation Act," vol. ii. (191).
in "Coinage Offences Act," vol. ii. (116).
Interpretation of Criminal Statutes,
general rule for, vol. ii. (18).
Ireland,
trial of accessories where offence committed wholly within, vol. ii. (91).
admiralty of. See *Admiralty.*
bank of, embezzlement by officers of, vol. ii. (209).
forgery of documents in, purporting to be made out of, vol. ii. (272).
Iron. See *Fixtures.*
Joinder,
of several accessories in one indictment, vol. ii. (91).
of several receivers in one indictment, vol. ii. (215).
of counts for receiving and stealing, vol. ii. *ib.*
Joint Stock Company,
property of, how described, vol. ii. (11).
Joint Tenant,
property of, how described, *ib.*
Judgment. See *Record.*
what shall not be sufficient to stay or reverse after verdict, vol. ii. (12).
valid after amendment of indictment, vol. ii. (61).
Court of Error may pronounce proper judgment, vol. ii. (54).
fraudulent acknowledgment of judgment or cognovit, vol. ii. (271).
of death, cannot be recorded in murder, vol. ii. (280).
Jurors. See *Challenges.*
Jury.
de medietate linguæ, vol. ii. (1), (9).
not to be charged to inquire concerning prisoner's lands or goods, vol. ii. (16).
in central criminal court, vol. ii. (19), (20).
in legal proceedings, not necessary to state that jurors made affirmation, vol. ii. (26).
Justices of Peace,
not to administer oaths, &c. touching matters whereof they have no jurisdiction, vol. ii. (149), (150).
warrants to apprehend persons charged with indictable offences, vol. ii. (30).

CRIMINAL LAW—*continued.*
information where warrant is intended to be issued in the first instance, vol. ii. (32).
summons to appear may be issued instead of warrant, vol. ii. (30), (32).
if summons not obeyed, a warrant may be issued, *ib.*
to apprehend for offences committed on the high seas or abroad, vol. ii. (30).
to apprehend persons against whom an indictment is found, *ib.*
how, if already in custody for some other offence, vol. ii. (31).
may be issued on Sunday, *ib.*
how directed, vol. ii. (32).
how and where executed, vol. ii. (33).
backing warrants, vol. ii. (33), (34).
backing warrants in the Channel Islands, vol. ii. (58).
search warrants. See *Coin; Larceny; Manufactures; Stores.*
justices for adjoining counties may act in the one for the other, vol. ii. (31).
justices for counties may act for them in adjoining cities, &c. *ib.*
their authority in detached parts of counties, *ib.*
information on charge or complaint before justices, vol. ii. (32).
summons on charge or complaint instead of warrant, vol. ii. (30), (32).
if summons not obeyed, a warrant may be issued, *ib.*
attendance of witnesses, vol. ii. (35).
proceedings at hearing, vol. ii. (35), (36).
examination of witnesses, vol. ii. (35).
statement of accused, vol. ii. (36).
place of examination not an open court, *ib.*
binding over the prosecutor and witnesses by recognizances, *ib.*
remanding the accused, vol. ii. (37).
discharge or commitment of the accused, vol. ii. (39).
proceedings where offence is alleged to have been committed in another county, vol. ii. (37).
power to take bail, vol. ii. (38), (39).
metropolitan police and stipendiary magistrates may act alone, vol. ii. (40).
in proceedings against juvenile offenders, vol. ii. (240).
lord mayor or aldermen of London may act alone, vol. ii. (40).
clerks of, may be paid by salaries, vol. ii. (57).
may remit fees, if clerk is paid by salary, *ib.*
may declare that gaols or houses of correction are fit prisons, vol. ii. (59).
what justices have jurisdiction in proceedings under 6 & 7 Vict. c. 40, vol. ii. (238).
certain persons engaged in manufacture, &c. disqualified, *ib.*
Juvenile Offenders,
trial and punishment of, in certain cases, 10 & 11 Vict. c. 82, and 13 & 14 Vict. c. 37.
summary conviction by two justices, vol. ii. (240).
age of offender must appear not to exceed sixteen years, vol. ii. (244).
punishments to be inflicted, vol. ii. (240), (241).
boys more than fourteen years old not to be whipped, vol. ii. (244).

CRIMINAL LAW—*continued.*
justices may dismiss party charged, vol. ii. (241).
certificate of dismissal, *ib.*
justices not to adjudicate summarily if charge is fit subject for indictment, vol. ii. (241), (244).
or if party charged objects, *ib.*
justice to ask whether the accused wishes the charge to be tried by a jury, vol. ii. (244).
power of justices to hear and determine, vol. ii. (241).
certain justices may act alone, *ib.*
no further proceedings after a certificate of dismissal, *ib.*
after a summary conviction, *ib.*
mode of compelling appearance of persons charged, *ib.*
remand, *ib.*
bail, *ib.*
application of fines, *ib.*
summoning of witnesses, *ib.*
witnesses may be bound over by recognizances, *ib.*
warrant to compel appearance of witnesses, *ib.*
service of summonses, *ib.*
form of conviction, vol. ii. (242).
defects of form not to vitiate proceedings, *ib.*
no *certiorari*, *ib.*
convictions to be transmitted to the clerk of the peace, &c. *ib.*
clerk of the peace to make a monthly return to secretary of state, *ib.*
no forfeiture upon conviction, *ib.*
justices may order restitution, *ib.*
or payment in money if property is not forthcoming, *ib.*
recovery of penalties, *ib.*
expenses of prosecutions,
justices may order payment of, *ib.*
orders for payment, how to be made, vol. ii. (243).
how to be defrayed in boroughs, &c. *ib.*
protection of persons acting in execution of acts, *ib.*

Killing Cattle. See *Cattle.*

Killing Deer. See *Deer.*

Killing Fish. See *Fish.*

Lace in the Loom, &c.,
destroying or damaging, vol. ii. (248).

Lamb. See *Cattle.*

Larceny,
consolidation and amendment of the statute law relating to, vol. ii. (191).
all larcenies to be of the same nature, *ib.*
by bailees, *ib.*
punishment for simple larceny, vol. ii. (192).
place and mode of imprisonment, vol. ii. (220).
stealing valuable securities, vol. ii. (196).
stealing from the person, vol. ii. (200). See *Robbery.*
stealing in a dwelling-house, vol. ii. (205). See *Dwelling-House.*
breaking, &c. and stealing in a building within the curtilage, vol. ii. (204).
punishment, *ib.*
breaking, &c. and stealing in a church or chapel, vol. ii. (203).
punishment, *ib.*

CRIMINAL LAW—*continued.*
breaking, &c. and stealing in a shop, warehouse, or counting-house, vol. ii. (204).
punishment, *ib.*
stealing certain goods in the process of manufacture, to the value of 10*s.* vol. ii. (205).
punishment, *ib.*
stealing goods from ships, &c. or docks, &c. wharfs and quays, vol. ii. (206).
punishment, *ib.*
stealing part of tackle or cargo, &c. of shipwrecked vessels, *ib.*
stealing documents belonging to courts of record or equity, vol. ii. (198).
stealing wills, codicils, or testamentary instruments, vol. ii. (197).
stealing written or printed papers or parchments relating to real estate, *ib.*
stealing horses, cows, and sheep, vol. ii. (193).
stealing deer, *ib.*
stealing dogs, vol. ii. (194).
stealing beasts or birds ordinarily kept in confinement, vol. ii. (195).
stealing oysters or oyster brood from oyster beds, vol. ii. (197).
stealing from mines, vol. ii. (200).
stealing trees, saplings, shrubs, or underwood, vol. ii. (198), (199).
stealing fences, stiles, or gates, vol. ii. (199).
stealing plants, roots, fruits, or vegetables growing in gardens, &c. *ib.*
stealing cultivated roots or plants growing in other places, *ib.*
stealing glass, woodwork, or fixtures from buildings, vol. ii. (198).
stealing metal fixtures from private or public grounds, *ib.*
tenants or lodgers stealing fixtures or chattels used by them, vol. ii. (209).
punishment where the value of the stolen articles exceeds 5*l.* vol. ii. (210).
clerks and servants stealing property of their masters, vol. ii. (206).
by persons in the public service, vol. ii. (208).
punishment of accessories, vol. ii. (216).
of abettors in misdemeanors, *ib.*
of abettors in offences punishable on summary conviction, *ib.*
apprehension of persons found committing offences, vol. ii. (217).
of persons offering stolen goods, *ib.*
search warrant where grounds of suspicion, *ib.*
limitation of proceedings, *ib.*
application of forfeitures and penalties on summary convictions, vol. ii. (218).
imprisonment in default of payment, *ib.*
discharge of offenders (in case of a first conviction) on making satisfaction, *ib.*
summary conviction a bar to any other proceedings, *ib.*
appeal, *ib.*
in what cases allowed, *ib.*
notice of, *ib.*
costs, *ib.*
no conviction or adjudication to be quashed for want of form, vol. ii. (219).
certiorari taken away, *ib.*
warrant of commitment, when not void, *ib.*
convictions to be returned to the quarter sessions, *ib.*

CRIMINAL LAW—*continued.*
certified copies to be evidence, vol. ii. (219).
protection of persons acting in execution of the act, *ib.*
stealing post letters and letter bags, vol. ii. (225). See *Letters.*
larceny committed by children. See *Juvenile Offenders.*
larceny after a previous conviction for felony, vol. ii. (192). See *Previous Conviction.*
larceny after two previous summary convictions, *ib.*
indictment may state the convictions generally, vol. ii. (219).
certified copies of the convictions sufficient evidence, vol. ii. (219), (220).
convictions presumed to be unappealed against, vol. ii. (219).
indictment,
instruments in writing, &c. how described, vol. ii. (245).
may include three larcenies from the same person within six months, vol. ii. (192).
in several counts, *ib.*
where a single taking is charged, prosecutor not required to elect, *ib.*
unless more than three takings, *ib.*
or more than six months between the first and last, *ib.*
no acquittal if offence turn out to be embezzlement, vol. ii. (209).
Laudanum,
administering or attempting to administer, in order to commit a felony, vol. ii. (284).
Lead. See *Fixtures.*
lessee, larceny of fixtures, &c. by, vol. ii. (209).
injuries to buildings by, vol. ii. (248).
Letter-bags. See *Letters; Post Office.*
Letters. See *Threatening Letters.*
post letters. See *Post Office.*
opening or delaying of by persons in employ of post office, vol. ii. (224).
stealing or embezzlement of by persons in employ of post office, *ib.*
as to who are persons in employ of post office, see *Reg.* v. *Reason*, Dears. C. C. *ib.*
stealing money, &c. out of, vol. ii. (225).
stealing bags or letters, *ib.*
receiving stolen bags or letters, *ib.*
retaining bags or letters delivered by mistake, vol. ii. (226).
Level. See *Mines.*
Levying War. See *Treason.*
Libel,
a general verdict upon the whole matter put in issue may be given by the jury, vol. ii. (158).
duty of court or judge the same as in other criminal cases, vol. ii. (159).
a special verdict may be given, *ib.*
blasphemous libels, *ib.*
seizure of copies of blasphemous and seditious libels, *ib.*
published in newspaper. See *Newspapers.*
publishing or threatening to publish with intent to extort money, &c. vol. ii. (168).
proposing to abstain from, or to prevent publishing, *ib.*
false defamatory libels, *ib.*
malicious defamatory libels, *ib.*
CRIMINAL LAW—*continued.*
justification of defamatory libel may be pleaded, vol. ii. (168).
proceedings upon the trial, *ib.*
where part only of the justification is proved, *ib.*
under a plea of not guilty, publication by agent may be shown not to have been authorized, vol. ii. (169).
defendant prosecuted for private libel, to have costs upon acquittal, *ib.*
recognizance for good behaviour in case of bail, vol. ii. (162).
Linen,
goods in any stage of manufacture, stealing to the value of 10*s.*, vol. ii. (205).
punishment, *ib.*
destroying or damaging, vol. ii. (248).
Loaded Arms,
definition of, vol. ii. (284).
Locks. See *Malicious Mischief.*
Lodgers,
stealing fixtures or chattels let to be used with lodging, vol. ii. (209).
punishment where the value of the stolen article exceeds 5*l.*, vol. ii. (210).
Loiterers by night,
apprehension of, vol. ii. (292).
Loom. See *Machinery; Manufacture.*
London,
lord mayor or alderman of, may act alone as justice of the peace, vol. ii. (40).
Lunatic. See *Insanity.*
Machinery,
riotously demolishing, in manufactory or mine, vol. ii. (154).
cutting, breaking, destroying, or damaging, with intent to destroy,
in silk, woollen, linen, or cotton manufactures, vol. ii. (248), (249).
in other manufactures, *ib.*
threshing machines, vol. ii. (249).
Magistrate,
assault on, while preserving wreck, vol. ii. (286). See *Justices of Peace.*
Mail,
stealing letters sent by, vol. ii. (225).
stopping, with intent to rob, *ib.*
Maiming. See *Wounding.*
Malicious Injuries,
to property, vol. ii. (246).
injuries by fire to buildings, and goods therein, *ib.* See *Arson.*
destroying or damaging works of art, monuments, &c. vol. ii. (253). See *Art.*
blowing up houses or buildings, *ib.* See *Gunpowder.*
damaging or obstructing railways, *ib.* See *Railways.*
injuries to buildings by rioters, vol. ii. (153), (154).
by tenants, vol. ii. (248).
cutting, breaking, destroying, or damaging with intent to destroy, &c.
silk, woollen, linen, or cotton goods in the loom, *ib.*
machinery belonging to those manufactures, *ib.*
threshing machines, vol. ii. (249).
machinery employed in other manufactures, *ib.*
causing water to be conveyed into mines, vol. ii. (251).

CRIMINAL LAW—*continued.*
pulling down, filling up, or obstructing airways, waterways, drains, pits, levels, or shafts of mines, vol. ii. (251).
pulling down, destroying, or damaging with intent to destroy, &c.
steam-engines, or other engines used in working mines, *ib.*
staiths, buildings, or erections, used in working mines, *ib.*
bridges, waggonways, or trunks for conveying minerals from mines, *ib.*
damaging ships otherwise than by fire, vol. ii. (255).
cutting away, &c. or destroying buoys, buoy ropes, &c. *ib.*
venue, vol. ii. (259).
breaking down or cutting down sea bank, or sea wall, vol. ii. (252).
bank or wall of river, canal, or marsh, *ib.*
throwing down or destroying locks, sluices, floodgates, or other works of navigable river or canal, *ib.*
removing piles, &c. of sea or river bank, *ib.*
opening floodgates, &c. to obstruct the navigation of rivers or canals, *ib.*
pulling down, destroying, or injuring, bridges viaducts and toll bars, *ib.*
breaking down or destroying dams of fish-ponds or mill-ponds, *ib.*
putting lime, &c. in fish-ponds, *ib.*
injuries to railway carriages and telegraphs, vol. ii. (253).
killing or maiming cattle, vol. ii. (254).
sending letters threatening to burn or destroy, vol. ii. (255).
injuries not included in the above, *ib.*
making gunpowder to commit offences and searching for same, vol. ii. (256).
other matters, *ib.*
cutting or destroying hop-binds, vol. ii. (249).
destroying or damaging trees, saplings, shrubs, or underwood, *ib.*
destroying or damaging plants, roots, fruits, or vegetables growing in gardens, vol. ii. (250).
cultivated roots or plants growing in other places, *ib.*
cutting, breaking, or destroying fences, walls, stiles, or gates, vol. ii. (251).
persons committing damage to property where no remedy or punishment is provided, vol. ii. (255), (256).
on conviction before justice to pay compensation, vol. i. (256).
not exceeding 5*l.* *ib.*
in default of payment, justice may commit offender, *ib.*
for any term not exceeding two months, *ib.*
with or without hard labour, *ib.*
application of money paid as compensation, *ib.*
provision not to apply to trespassers under a supposition of right, *ib.*
or in hunting, fishing, or pursuit of game, *ib.*
malice against the owner not essential to constitute offence, vol. ii. (257).
punishment of accessories, vol. ii. (256).
of abettors in misdemeanors, *ib.*
of abettors in offences punishable on summary conviction, vol. ii. (257).

CRIMINAL LAW—*continued.*
hard labour and solitary confinement may be inflicted in indictable offences, vol. ii. (256).
apprehension of persons found committing offences, vol. ii. (257).
act to extend to offences committed at sea, vol. ii. (259).
mode of compelling the appearance of offender, vol. ii. (257).
application of forfeitures and penalties, *ib.*
imprisonment in default of payment, *ib.*
scale of imprisonment, *ib.*
justice may discharge offender in case of a first conviction, *ib.*
upon his making satisfaction to party aggrieved, *ib.*
summary conviction and punishment, &c. a bar to any other proceedings, vol. ii. (258).
appeal, *ib.*
in what cases allowed, *ib.*
notice in writing to be given to complainant, *ib.*
costs, *ib.*
no conviction or adjudication to be quashed for want of form, *ib.*
certiorari taken away, *ib.*
warrant of commitment, when not void, *ib.*
convictions to be returned to the quarter sessions, *ib.*
certified copies to be evidence, *ib.*
protection of persons acting in the execution of the act, *ib.*
Malt-House,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
rioters injuring, vol. ii. (154).
Manager,
of company, fraudulently converting property, vol. ii. (212).
keeping fraudulent accounts, *ib.*
destroying books, *ib.*
publishing fraudulent statements, *ib.*
Manganese,
stealing from mine, vol. ii. (200).
Manslaughter,
indictment need not set forth the means by which death was caused, vol. ii. (280).
venue where offence is committed abroad by British subject, *ib.*
where death or cause of death only happens in England, vol. ii. (281).
punishment for, vol. ii. (286).
Man-Traps,
setting, vol. ii. (285).
permitting to remain set, vol. ii. (286).
may be set for the protection of dwelling-houses, *ib.*
Manufactories,
larceny in, vol. ii. (205).
Manufacture, Silk, Woollen, Linen, or Cotton Goods, in the Process of,
stealing, vol. ii. (205).
punishment, *ib.*
destroying or damaging, vol. ii. (248, 249).
Manufactures,
frauds and abuses by persons employed in certain manufactures, 6 & 7 Vict. c. 40.
fraudulent disposal of materials or tools, vol. ii. (234).
forfeiture and penalty, *ib.*

CRIMINAL LAW—*continued.*
distress warrant in default of payment, vol. ii. (234).
commitment in default of sufficient distress, *ib.*
neglect to return materials or tools for fourteen days after a written notice, vol. ii. (234, 235).
purchasing or receiving materials or tools fraudulently disposed of, vol. ii. (235).
selling, pawning, &c. materials or tools fraudulently disposed of, *ib.*
justices to issue warrants for apprehension of offenders, *ib.*
workmen neglecting to fulfil their engagements, &c. *ib.*
penalty, vol. ii. (236).
in default of payment, imprisonment with or without hard labour, *ib.*
receiving materials in a fictitious name, vol. ii. (237).
justices to grant search warrants, vol. ii. (236).
peace officers to apprehend suspected persons, *ib.*
persons apprehended must prove that property is honestly come by, *ib.*
adjournment of time fixed for trial, *ib.*
punishment in cases of misdemeanor, *ib.*
disposal of unclaimed property which has been seized, vol. ii. (237).
owner of materials may inspect shops, &c. of persons employed, *ib.*
penalty for refusing him permission to do so, *ib.*
warrant may be granted on oath made that person intrusted with materials, &c. has absconded, *ib.*
or is expected to be about to do so, *ib.*
restoration of materials, &c. upon a conviction, *ib.*
obliterating, &c. or altering name or mark on machine, &c. vol. ii. (238).
power to award costs to defendant, *ib.*
proceedings to enforce appearance, *ib.*
service of summons, *ib.*
limitation of proceedings, *ib.*
what justices to have jurisdiction, *ib.*
certain persons disqualified from acting, *ib.*
application of penalties, *ib.*
scale of imprisonment on summary convictions, vol. ii. (239).
form of conviction, *ib.*
appeal, *ib.*
in what cases allowed, *ib.*
notice of, *ib.*
costs, *ib.*
proceedings not to be quashed for want of form, *ib.*
no *certiorari*, *ib.*
protection of persons acting in execution of act, vol. ii. (240).
trades to which act extends, *ib.*

Map,
relating to lands, stealing, &c. vol. ii. (191), (197).

Mare. See *Cattle.*

Marines,
personation of, to obtain pensions, pay, or prize money, &c. vol. ii. (276), (277).

CRIMINAL LAW—*continued.*
of their wives, widows, relations, executors, or creditors, vol. ii. (276), (277).
subscribing false petition or application to procure a certificate from paymaster, vol. ii. (277).
uttering such petition or application, *ib.*
forging or uttering extracts from registers of marriage, &c. to obtain pensions, &c. *ib.*
certificates of marriage, &c. *ib.*
making or uttering false affidavits or vouchers to obtain pensions, &c. *ib.*
punishment of accessories, *ib.*
obtaining or attempting to obtain pay by forged or false certificates of service or discharge, vol. ii. (278).

Market,
obstructing corn, &c. going to or from, vol. ii. (267).

Marriage,
forging registers of, vol. ii. (271). See *Registers of Baptism, Marriages, and Burials.*

Marsh,
breaking down or cutting down banks or walls of, vol. ii. (252).
removing piles, securing same, *ib.*

Master. See *Servant.*

Master of Ship. See *Seamen.*

Menaces,
demanding property with, and with intent to steal, vol. ii. (202).
sending a letter demanding property with, vol. ii. (201).
sending letter threatening to accuse of crime, vol. ii. (202).
accusing or threatening to accuse of crime, *ib.*
inducing persons by violence or threats to execute deeds, &c. *ib.*
immaterial from whom menaces proceed, vol. ii. (203).
stealing in dwelling-house with menaces, vol. ii. (205).

Merchandise,
stealing, from ships, &c. vol. ii. (206).

Merchant,
embezzling money intrusted to him for special purpose, vol. ii. (210).
goods or valuable security intrusted to him for safe custody or special purpose, *ib.*

Metal. See *Fixtures.*

Mill,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
injuring, vol. ii. (154).

Mill-Pond,
breaking down or destroying dam of, vol. ii. (252).
putting noxious materials into, *ib.*

Mines,
stealing from, or severing, with intent to steal from, vol. ii. (200).
the ore of any metal, *ib.*
lapis calaminaris, manganese, or mundick, *ib.*
wad, black cawke, or black lead, *ib.*
coal, or cannel coal, *ib.*
removing ore, &c. with intent to defraud, *ib.*
riotously destroying machinery in, vol. ii. (120).
setting fire to coal mines, vol. ii. (251).
attempting to, *ib.*
drowning, *ib.*

CRIMINAL LAW—*continued.*
pulling down, filling up, or obstructing airways, waterways, drains, pits, levels, or shafts, vol. ii. (251).
destroying or damaging steam engines, or other engines, *ib.*
staiths, buildings, or erections, *ib.*
bridges, waggonways, or trunks for conveying minerals, *ib.*
Minister,
dissenting, assaulting, obstructing, &c. vol. ii. (286).
Miscarriage,
attempting to procure, vol. ii. (290).
procuring drugs, &c. to procure, vol. ii. (291).
Mischief. See *Malicious Mischief.*
Misdemeanor,
abettors in, punishable as principals, vol. ii. (92), (216).
punishment for larceny after previous conviction for misdemeanor under "Larceny Act," vol. ii. (192).
fine may be imposed, or sureties for peace required, on indictable misdemeanor, vol. ii. (220).
costs of prosecutions for, under "Larceny Act," *ib.*
under "Malicious Injuries Act," vol. ii. (259).
under "Forgery Act," vol. ii. (275).
under "Offences against the Person Act," vol. ii. (294).
persons prosecuted for misdemeanor in king's bench not permitted to imparle, vol. ii. (7).
judgment for want of plea, *ib.*
further time to plead may be allowed, vol. ii. (8).
indictments not to be traversed, but may be adjourned by court, vol. ii. (62).
prosecutions instituted by attorney-general, copy of information to be given gratis, vol. ii. (8).
not brought to trial within twelve months, court may make order, *ib.*
conviction for attempt to commit, on trial for actual offence, vol. ii. (61).
persons tried for, not to be acquitted, if the facts amount to a felony, *ib.*
not to be prosecuted for felony on the same facts, *ib.*
bail in, vol. ii. (38), (39).
error. See *Error.*
expenses. See *Expenses.*
Misnomer. See *Abatement.*
Misprision of Treason. See *Treason.*
Mohair,
stealing in process of manufacture, vol. ii. (205).
Money,
how described in an indictment, vol. ii. (245).
proof of any amount of coin or any bank note sufficient, *ib.*
counterfeiting, &c. See *Coin.*
Monuments,
destroying, injuring, &c. vol. ii. (253).
Murder,
sentence for, vol. ii. (279).
conspiring or soliciting to commit, vol. ii. (280).
indictment for, *ib.*
letters threatening to, vol. ii. (283).
burial within precincts of prison, vol. ii. (280).
CRIMINAL LAW—*continued.*
venue, where offence is committed abroad by British subject, vol. ii. (280).
where death, or cause of death, only happens in England, vol. ii. (281).
woman tried for murder of her child may be convicted of concealing the birth, vol. ii. (291).
attempts to commit, vol. ii. (281), (283).
indictment need not set forth the means by which death was caused, vol. ii. (280).
Museums,
destroying or damaging works of art in, vol. ii. (253). See *Art.*
Mute,
if prisoner stands mute of malice, a plea of not guilty may be entered, vol. ii. (16).
Mutiny,
inciting to mutiny, vol. ii. (114).
venue, *ib.*
trial for treason, *ib.*
Name. See *Abatement.*
amendment of variance in, vol. ii. (60).
designation by a name of office or descriptive appellation, vol. ii. (62).
Naval Stores. See *Stores.*
Navigable River. See *River.*
Negligence,
wilful, endangering railway passengers, vol. ii. (286).
wilful of drivers of carriages, &c., *ib.*
Newspapers,
recognizance or bond for securing fine upon conviction for libel, vol. ii. (161).
amount increased, vol. ii. (163).
damages in action for libel against editor, &c. may be recovered upon recognizance, vol. ii. (164).
declaration to be made and delivered at the stamp-office, *ib.*
penalty if the declaration is false or defective, vol. ii. (165).
certified copy of declaration, to be evidence against persons making it, *ib.*
process may be served at the place of publication mentioned in declaration, vol. ii. (166).
copies of, signed by printer or publisher, to be delivered to the commissioners of stamps, vol. ii. (167).
copies delivered to commissioners to be evidence, *ib.*
commissioners, on being required in writing, are to produce copies delivered to them, *ib.*
stealing, &c. or detaining in course of conveyance by the post, vol. ii. (226).
New Trial,
in queen's bench, where judgment is pronounced during the sittings or assizes, vol. ii. (18).
Night,
definition of, in "Larceny Act," vol. ii. (191).
in offences relating to game, vol. ii. (174).
offences in the night. See *Housebreaking.*
any one may apprehend persons committing indictable offences in the night, vol. ii. (245).
assault or violence by persons liable to be apprehended, *ib.*
Non Compos Mentis. See *Insanity.*
Notice,
notice of action against persons acting under "Larceny Act," vol. ii. (219).

CRIMINAL LAW—*continued.*
under "Malicious Injuries Act," vol. ii. (258).
under "Coinage Act," vol. ii. (124).
Nursery Ground,
stealing plants, &c. &c. growing in, vol. ii. (199).
destroying or damaging plants, &c. &c. growing in, vol. ii. (250).
Oath,
unlawful, administering or taking, vol. ii. (111).
aiders and abettors, though not present, to be deemed principals, vol. ii. (112), (113).
persons who confess taking, before they are charged, to be indemnified, vol. ii. (113).
form of indictment, *ib.*
engagements in the nature of oaths, *ib.*
venue, *ib.*
trial for treason, *ib.*
voluntary, not to be administered or received by justices, vol. ii. (149), (150).
Obliterating,
or injuring records, vol. ii. (198).
crossings on cheques, vol. ii. (269).
Obstructing,
officers of the army and navy, or revenue in their duty, vol. ii. (185). See *Smuggling.*
railway engines or carriages, vol. ii. (253).
Obtaining,
money, &c. by false pretences, vol. ii. (213). See *False Pretences.*
Office,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
injuring or damaging, vol. ii. (154).
Officers. See *Assaults; Smuggling.*
Orchard,
stealing fruit, &c. growing in, vol. ii. (199).
destroying fruit, &c. growing in, vol. ii. (250).
Order,
for the payment of money, or delivery, &c. of goods, &c. See *Forgery.*
stealing, vol. ii. (196).
Ore,
stealing from mines, vol. ii. (200).
removing or concealing, with intent to defraud, *ib.*
Outhouse,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
rioters injuring, vol. ii. (154).
Overpowering Drug,
administering, or attempting to administer, in order to commit a felony, vol. ii. (284).
Overseers,
may be required to conduct certain prosecutions, vol. ii. (293).
Ox. See *Cattle.*
Oysters,
stealing from any oyster-bed, laying, or fishery, vol. ii. (196).
dredging for, within the limits of any oyster fishery, *ib.*
Pale. See *Fences.*
Pardon,
effect of a free or conditional pardon to a convict, vol. ii. (17).
Parish,
goods provided for poor of, how described in an indictment, vol. ii. (11).
register, forging, altering, &c. vol. ii. (271).
Partners,
description of, in an indictment or information, vol. ii. (11).

CRIMINAL LAW—*continued.*
Peerage,
privilege of, abolished, vol. ii. (25), (26).
Penal Servitude,
substituted for transportation, vol. ii. (86).
Penalties,
application of, on summary conviction, vol. ii. (218).
Perjury, vol. ii. (144), (149).
penalty for perjury, vol. ii. (144), (147).
for subornation of perjury, *ib.*
prosecution by direction of judge, justice, &c. vol. ii. (149).
evidence of the trial of indictment on which the perjury was committed, vol. ii. (151).
Person,
consolidation of the statute law of England and Ireland relating to offences against the, vol. ii. (279).
homicide, *ib.*
attempt to murder, vol. ii. (281).
letters threatening to murder, vol. ii. (283).
acts causing or tending to cause danger to life or bodily harm, *ib.*
assaults, vol. ii. (286).
rape, abduction, and defilement of women, vol. ii. (288).
child-stealing, vol. ii. (290).
bigamy, vol. ii. (169).
attempts to procure abortion, vol. ii. (290).
concealing the birth of a child, vol. ii. (291).
unnatural offences, *ib.*
making gunpowder to commit offences, and searching for the same, vol. ii. (292).
other matters, *ib.*
larceny from the, vol. ii. (200).
Personal Violence,
robbery, accompanied by, vol. ii. (201).
Personation,
of soldiers, &c. entitled to pensions, pay, or prize money, &c. vol. ii. (276, 278).
of their executors, wives, relations, or creditors, *ib.*
of seamen or marines, &c. entitled to pensions, pay, or prize money, &c. vol. ii. (276), (277).
of their wives, widows, relations, executors, or creditors, *ib.*
of owners of public stock, or of stock belonging to companies, vol. ii. (280).
Petit Treason,
to be deemed murder, vol. ii. (280).
Picklock,
having in possession by night, for purposes of housebreaking, vol. ii. (204).
Pig. See *Cattle.*
Pigeons,
killing, wounding, or taking, where offence does not amount to larceny, vol. ii. (195).
Piles. See *Malicious Mischief.*
Piracy,
punishment of, vol. ii. (233).
of accessories, *ib.*
by slave trading, vol. ii. (136).
Pit. See *Mine.*
Place,
how stated in an indictment, vol. ii. (61).
amendment of variance, vol. ii. (60).
Plant. See *Roots.*
Plantation,
setting fire to, vol. ii. (249).
Plea,
of sanctuary abolished, vol. ii. (1).

CRIMINAL LAW—*continued.*
dilatory plea of misnomer or want of addition, &c. not to abate indictment, vol. ii. (12).
of not guilty shall put the prisoner on his trial, vol. ii. (16).
to be entered for prisoner standing mute, &c. *ib.*
Pleasure-Ground,
stealing fruit, &c. from, vol. ii. (199).
Pledging,
goods entrusted by principal to factor or agent, vol. ii. (210).
Plumage,
of birds, possession of stolen, vol. ii. (195).
Plundering,
ships in distress or wrecked, vol. ii. (206).
Poaching by Night. See *Game.*
Poison,
administering, or causing to be taken, with intent to murder, vol. ii. (281).
attempting to administer, with intent to murder, vol. ii. (282).
punishment of accessories, vol. ii. (293).
administering choloroform, &c. with intent to commit a felony, vol. ii. (284).
Police,
larceny and embezzlement by the, vol. ii. (208).
Police Magistrates. See *Justices of Peace.*
Polygamy. See *Bigamy.*
Ponds,
injuries to, vol. ii. (252).
Poor,
goods provided for, or to be used in poor-house, how described in an indictment. vol. ii. (11).
Port,
stealing from ships in, vol. ii. (206).
Possession,
of stolen property in any part of United Kingdom, gives jurisdiction for trial of offenders, vol. ii. (219).
of forged instruments, vol. ii. (274).
of counterfeit coin, vol. ii, (117).
offence of having, vol. ii. (119), (120), (121).
of coining tools, vol. ii. (121).
Post. See *Fences.*
Post Office,
contravening the privilege of, vol. ii. (221).
not delivering to post office letters brought by ships, *ib.*
masters of ships not taking out, or opening letter bags, *ib.*
carelessness, negligence, or misconduct of persons employed to carry, &c. bags or letters, vol. ii. (222).
recovery of pecuniary penalties, *ib.*
to be sued for within a year, vol. ii. (224).
proceedings in offences punishable on summary conviction, vol. ii. (222), (224).
aiders and abettors, vol. ii. (222).
mitigation of penalties, vol. ii. (223).
application of penalties, *ib.*.
postmaster-general may compound actions, &c. vol. ii. (224).
opening, &c. and stealing letters. See *Letters.*
forging the hand-writing of the receiver-general, or any one employed by him, vol. ii. (226).
endeavouring to procure the commission of felony or misdemeanor against, *ib.*
CRIMINAL LAW—*continued.*
venue in offences against, vol. ii. (226).
accessories in felony, and aiders or abettors in misdemeanors, vol. ii. (227).
admiralty jurisdiction, *ib.*
property sent by the post may be laid in the postmaster-general, *ib.*
value need not be proved, *ib.*
hard labour and solitary confinement, *ib.*
sums due for postage not exceeding 20*l.* may be distrained for, *ib.*
Powder. See *Gunpowder.*
Power of Attorney,
fraud by broker or other person intrusted with, vol. ii. (210).
Peremptory Challenge. See *Challenge.*
Pretences. See *False Pretences.*
Previous Conviction,
punishment for simple larceny after previous conviction for felony, vol. ii. (192).
after previous conviction for misdemeanor, *ib.*
after two summary convictions, *ib.*
form of indictment and proceedings on trial for, vol. ii. (219).
Principal and Accessory. See *Accessories.*
Prison. See *Escape.*
Privy Seal,
forgery of, vol. ii. (260).
Prize Money. See *Forgery; Personation.*
Promissory Note,
stealing, vol. ii. (196).
forging, vol. ii. (266).
indorsement on, vol. ii. (269).
causing to be made by violence or threats, vol. ii. (202).
by false pretences, vol. ii. (214).
Property,
interpretation of, vol. ii. (191).
allegation of ownership of, unnecessary in indictments for stealing, &c. wills, &c., vol. ii. (197).
demanding upon forged instruments, vol. ii. (272).
how laid, of partners, joint tenants, &c. vol. ii. (11).
of counties, ridings, and divisions, *ib.*
of parishes, townships, and hamlets, *ib.*
held under turnpike trusts, *ib.*
held under commissioners of sewers, vol. ii. (12).
Prosecution,
for anything done under "Larceny Act," proceedings in, vol. ii. (219).
"Malicious Injuries Act," vol. ii. (258).
"Coin Act," vol. ii. (124).
Public Service,
larceny by persons in the, vol. ii. (206).
embezzlement by, vol. ii. (207).
Public Bridge,
injury to, vol. ii. (252).
Public Buildings,
setting fire to, vol. ii. (247).
Public Company,
forgeries on, vol. ii. (260).
directors of, fraudulently appropriating property, vol. ii. (212).
keeping fraudulent accounts, *ib.*
wilfully destroying books, *ib.*
publishing fraudulent statements, *ib.*
Public Stock,
forgery relating to, vol. ii. (260).
stealing securities relating to, vol. ii. (191), (196).

CRIMINAL LAW—*continued.*
Public Worship,
disturbing, vol. ii. (176).
Pulse. See *Crops, Stacks.*
Punishment,
where the defendant is already under sentence for another crime, vol. ii. (17).
effect of enduring, *ib.*
power of court as to terms of transportation and imprisonment, vol. ii. (29).
Quarter Sessions,
offences not liable at, vol. iv. 157.
frauds by agents, bankers, factors, trustees, directors, or others not triable at, vol. ii. (212).
power to order payments for the apprehension of offenders, vol. ii. (56).
Quay,
stealing from, vol. ii. (206).
punishment, *ib.*
Queen's Bench,
judgment and execution upon trial of record of Q. B., vol. ii. (18).
Queen's Service,
larceny by persons in, vol. ii. (206).
embezzlement by, vol. ii. (207).
Queen's Stores. See *Stores.*
Rabbits. See *Game.*
Rail. See *Fences.*
Railways,
placing wood, stones, &c. upon, vol. ii. (253).
taking up rails, &c. *ib.*
turning points or other machinery, *ib.*
showing, hiding, or removing signals or lights, *ib.*
obstructing engines or carriages on, *ib.*
setting fire to stations or buildings, vol. ii. (247).
Ram. See *Cattle.*
Rape, vol. ii. (288).
procuring defilement of girl under twenty-one, vol. ii. (289).
carnal knowledge of girl under ten, *ib.*
between ten and twelve, *ib.*
attempts, *ib.*
carnal knowledge defined, vol. ii. (292).
Real Estate,
larceny of deeds relating to, vol. ii. (197).
Receivers. See *Receiving Stolen Goods.*
Receipt,
forging receipt for money, or goods, vol. ii. (267).
accountable receipt for money, goods, notes, bills, or securities, vol. ii. (268).
Receiving Stolen Goods,
a count for, may be added to an indictment for larceny, vol. ii. (215).
punishment of receivers where the stealing amounts to a felony, vol. ii. (214), (215).
where the stealing, &c. amounts to an indictable misdemeanor, vol. ii. (216).
where the stealing, &c. is punishable on summary conviction, *ib.*
trial of receivers may be either as accessories, or for a substantive felony, vol. ii. (214), (215).
venue, vol. ii. (216).
on an indictment for jointly receiving, separate receivers may be convicted, vol. ii. (215), (216).
several separate receivers may be tried together in the absence of the principal felon, vol. ii. (215).

CRIMINAL LAW—*continued.*
Recognizances. See *Information, Counties of Cities, Central Criminal Court.*
in error. See *Error.*
in certain cases not to be estreated without a written order, vol. ii. (15).
to prosecute and give evidence, entered into on charge before justices, vol. ii. (36).
respited, where trial is postponed upon amending the indictment, vol. ii. (61).
fraudulent acknowledgment of, vol. ii. (271).
Records,
to be drawn up in amended form, without noticing amendments, vol. ii. (61).
stealing, &c. or destroying, &c. records, &c. vol. ii. (198).
forgery of, vol. ii. (269).
Registers of Baptisms, Marriages, Deaths, or Burials,
inserting false entries in, vol. ii. (271).
forging or altering, *ib.*
uttering false, forged, or altered entries, *ib.*
false, forged, or altered copies of entries, *ib.*
copies of false, forged, or altered entries, *ib.*
accidental errors may be corrected by rector, &c. in a mode prescribed, *ib.*
copies of, directed to be transmitted to registrar,
verifying, knowing to be false in any part, *ib.*
inserting false entries in, *ib.*
forging, altering, or uttering, *ib.*
Request,
for the transfer of goods, or delivery of goods or securities. See *Forgery.*
Rescue,
of persons charged with felony, vol. ii. (141).
Reservoir,
destroying dam, &c. of, vol. ii. (252).
removing materials to secure dam, &c. *ib.*
Restitution,
of stolen property, vol. ii. (216).
Return from Transportation, vol. ii. (107). See *Transportation.*
Reward. See *Compensation.*
taking a reward for the recovery of stolen property, vol. ii. (217).
advertising a reward for the return of stolen property, &c. *ib.*
Riot Act, vol. ii. (151).
Riotous,
demolition of churches, chapels, houses, &c. buildings or machinery, &c. vol. ii. (153).
River,
breaking down, or cutting down, bank or wall of, vol. ii. (252).
removing piles or materials for securing bank or wall of, *ib.*
throwing down or destroying locks, sluices, floodgates, or other works on navigable river, *ib.*
opening floodgates, &c. to obstruct the navigation of, *ib.*
stealing from vessels on, vol. ii. (206).
River Banks,
injuries to, vol. ii. (252).
Robbery, vol. ii. (188), (190).
attended with wounding, vol. ii. (201).
or assault with intent to rob, by a person armed, *ib.*
or assault with intent to rob, by two or more, *ib.*

CRIMINAL LAW—*continued.*
attended with violence, vol. ii. (201).
accusing of unnatural crime with intent to extort, vol. ii. (202).
stealing from the person, vol. ii. (200).
assaulting with intent to rob, *ib.*
sending letter demanding property with menaces, vol. ii. (201).
definition of "property," vol. ii. (191).
plundering wrecks, vol. ii. (206).
punishment of accessories, vol. ii. (216).
upon trial for robbery there may be a conviction for an assault with intent to rob, vol. ii. (200).
after trial for robbery no prosecution for assault with intent to rob, *ib.*
Rolls. See *Court Rolls.*
Roots,
stealing growing roots or plants, vol. ii. (199).
destroying or damaging with intent to steal, *ib.*
destroying or damaging, with intent to destroy, vol. ii. (250).
Running Goods. See *Smuggling.*
Sacrilege,
punishment for, vol. ii. (203).
Sailor. See *Allegiance; Mutiny; Seamen.*
Sanctuary,
privilege of, abolished, vol. ii. (1).
Sapling. See *Trees.*
School-house,
breaking into any, vol. ii. (204).
Scotland,
Coin Act extends to, vol. ii. (117).
Sea. See *High Seas.*
banks or walls, breaking down or cutting down, vol. ii. (252).
Sea Marks,
removing or concealing, vol. ii. (255).
Seal. See *Forgery.*
Seamen,
assaults on, vol. ii. (287).
personation of, to obtain pensions, pay, or prize money, &c., vol. ii. (277).
of their wives, widows, relations, executors, or creditors, *ib.*
subscribing false petition or application to procure a certificate from inspector of wills, *ib.*
uttering such petition or application, *ib.*
forging or uttering extracts from registers of marriage, &c. to obtain pensions, &c. *ib.*
certificates of marriage, &c. *ib.*
making or uttering false affidavits or vouchers, to obtain pensions, &c. *ib.*
punishment of accessories, *ib.*
obtaining or attempting to obtain pay, by forged or false certificates, vol. ii. (278).
not to be discharged abroad or left behind without the sanction of certain functionaries, vol. ii. (295).
master of merchant ship wrongfully forcing on shore or leaving behind, *ib.*
misdemeanor, *ib.*
any court having criminal jurisdiction may try offenders, vol. ii. (296).
Search Warrant. See *Coin; Larceny; Manufactures; Stores, &c.*
Second Felony. See *Subsequent Felony.*
Security,
valuable, defined in larceny, vol. ii. (191).
Sending,
letters threatening to murder, vol. ii. (283).
to accuse of crimes, vol. ii. (202).
to burn houses, &c. vol. ii. (255).

CRIMINAL LAW—*continued.*
demanding money with menaces, vol. ii. (201).
explosive substances, vol. ii. (285).
threatening letters, vol. ii. (201), (202).
Servants,
embezzlement by, vol. ii. (206).
larceny by, *ib.*
no acquittal if offence turn out to be embezzlement, vol. ii. (209).
masters, &c. not providing servants with sufficient food, vol. ii. (285).
Serving Foreign States. See *Foreign States.*
Sessions. See *Quarter Sessions.*
Several Counts,
in indictments for stealing and receiving, vol. ii. (215).
Sewers,
property held under commissioners, how described, vol. ii. (12).
Sheep. See *Cattle.*
Sheepstealing, vol. ii. (193).
Ship,
stealing in any vessel, barge, or boat, in a port, river, or canal, vol. ii. (206).
punishment, *ib.*
stealing from ship or vessel in distress, wrecked or stranded, *ib.*
setting fire to, or destroying, with intent to murder, vol. ii. (282).
with intent to prejudice owner or underwriters, vol. ii. (254).
damaging otherwise than by fire, vol. ii. (255).
whether finished or unfinished, *ib.*
exhibiting false lights or signals to, *ib.*
impeding persons attempting to escape from ship in distress or wrecked, vol. ii. (283).
Shipwrecked Goods,
stealing, &c., vol. ii. (206).
possessing, *ib.*
destroying, vol. ii. (255).
Shooting,
or attempting to shoot, with intent to murder, vol. ii. (282).
with intent to maim, disfigure, or disable, vol. ii. (283).
with intent to do grievous bodily harm, vol. ii. (284).
with intent to resist or prevent lawful apprehension or detainer, *ib.*
punishment of accessories, vol. ii. (293).
at vessels, &c. belonging to navy, or in service of the revenue, vol. ii. (294). See *Smuggling.*
at officers of army, navy, or revenue, in the exercise of their duty, *ib.* See *Smuggling.*
Shop,
stealing in, vol. ii. (204).
punishment, *ib.*
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
Shrubs,
stealing or damaging, with intent to steal, vol. ii. (199).
Signal. See *Ship; Smuggling.*
Sign Manual,
forgery of, vol. ii. (260).
Silk,
goods in any stage of manufacture, stealing to the value of 10*s.*, vol. ii. (205).
punishment, vol. ii. (206).
after previous conviction, vol. ii. (192).
destroying, vol. ii. (248).

CRIMINAL LAW—*continued.*
Slave Trading, vol. ii. (134).
dealing in slaves on the high seas, &c. made piracy, vol. ii. (136).
dealing in slaves elsewhere, *ib.*
serving on board slave ships, vol. ii. (137).
venue, vol. ii. (138).
Sluices, vol. ii. (252). See *Malicious Mischief.*
Smuggling, vol. ii. (185).
assembling to run spirits, tea, tobacco, or silk, *ib.*
procuring others to assemble to run goods, *ib.*
making signals to smuggling vessels at sea, *ib.*
assembling armed, to run or rescue goods, or to rescue offenders, *ib.*
being found armed or disguised, with goods, vol. ii. (186).
obstructing officers in the exercise of their duty, vol. ii. (185).
shooting at vessels, &c. belonging to the navy, or in the service of the revenue, vol. ii. (294).
shooting at or wounding officers in the exercise of their duty, vol. ii. (294), (295).
assaulting officers in the exercise of their duty, vol. ii. (295).
jurisdiction where offence is committed on the high seas, vol. ii. (187).
informations, convictions, and warrants of commitment, vol. ii. (186).
indictments to be preferred by the direction of the commissioners of customs or inland revenue, vol. ii. (187).
limitation of time within which offences are to be prosecuted, *ib.*
venue, *ib.*
Sodomy, vol. ii. (291).
Soldier. See *Allegiance; Mutiny.*
personation of, to obtain pension, pay, or allowances, &c. vol. ii. (276).
to obtain prize money, vol. ii. (276), (278).
forging and uttering documents to obtain pension, pay, or allowance, &c. vol. ii. (276).
to obtain prize money, vol. ii. (276), (278).
Solitary Confinement,
general clauses as to, vol. ii. (125), (220), (259), (275), (293).
Spring Guns,
setting, with intent, &c. vol. ii. (285).
permitting to continue set, vol. ii. (286).
may be set for the protection of dwelling-houses, *ib.*
Stabbing. See *Wounding.*
Stable,
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
Stacks,
setting fire to, vol. ii. (249).
attempting to set fire to, *ib.*
Standing Mute, vol. ii. (16).
Statutes,
general rule for the interpretation of criminal statutes, vol. ii. (18).
Stealing. See *Larceny.*
Steam Engine. See *Machinery; Mine.*
Stile. See *Fences.*
Stock,
fraudulent sale or appropriation of, by brokers and others, vol. ii. (210).

CRIMINAL LAW—*continued.*
fraudulent entries or transfers of public stock, vol. ii. (260). See *Forgery.*
Stolen Property,
restitution of, vol. ii. (216).
corruptly taking reward for helping to restore, vol. ii. (217).
Stones,
casting on railways, vol. ii. (286).
Stores,
embezzlement, &c. of naval, vol. ii. (125), *et seq.*
Stranded Vessels,
stealing, &c. from, vol. ii. (206).
Strangle,
attempting to, vol. ii. (284).
Street,
larceny of fixtures in, vol. ii. (198).
Stupefying Drug,
administering or attempting to administer, in order to commit a felony, vol. ii. (284).
Subornation of Perjury. See *Perjury.*
Subsequent Offence,
punishment for, vol. ii. (17).
proof of the first conviction, *ib.*
course of proceeding at the trial, vol. ii. (124), (219).
Substantive Felony,
accessories may be indicted for, vol. ii. (91).
Suffocate,
attempting to, vol. ii. (284).
Summary Conviction,
punishment for larceny after two summary convictions, vol. ii. (192).
receivers of property where original offence punishable on, vol. ii. (216).
abettors, in offences punishable on, vol. ii. (257).
mode of compelling appearance of persons punishable on, vol. ii. (257), (217).
application of forfeitures and penalties on, vol. ii. (257), (217), (360).
committal for non-payment, vol. ii. (218).
power to discharge offender on first conviction, vol. ii. (257), (218).
a bar to other proceedings, vol. ii. (218), (258).
appeal against, *ib.*
no *certiorari*, vol. ii. (219), (258).
return of, to quarter sessions, *ib.*
proceedings on, may be under Jervis's Acts, vol. ii. (125), (220), (259), (294).
Summons. See *Justices of Peace.*
Surety,
of the peace and good behaviour.
in "Offences against the Person Act," vol. ii. (293).
"Larceny Act," vol. ii. (220).
"Malicious Injuries Act," vol. ii. (259).
"Forgery Act," vol. ii. (275).
"Coin Act," vol. ii. (125).
Tackle,
of fishers, power to seize, vol. ii. (195).
Telegraphs,
injuries to, vol. ii. (253).
Tenants,
stealing chattels or fixtures let to be used with house or lodgings, vol. ii. (209).
form of indictment, *ib.*
statement of ownership, *ib.*
punishment where the value of the stolen articles exceeds 5*l.* vol. ii. (210).
injuries to buildings by, vol. ii. (248).
Testament. See *Will.*

CRIMINAL LAW—*continued.*
Threatening Letters,
sending, to extort money, property, &c. vol. ii. (201), (202).
sending or uttering, accusing of unnatural offence, vol. ii. (202).
sending, threatening to burn or destroy, vol. ii. (255).
sending, threatening to murder, vol. ii. (283).
Threshing Machines,
cutting, breaking, destroying, or damaging, vol. ii. (249).
Time,
statement of, unimportant, unless it is of the essence of the offence, vol. ii. (62).
Title,
to goods, document of, vol. ii. (191).
to lands, document of, *ib.*
stealing, vol. ii. (197).
Toll House,
throwing down, levelling, or destroying, vol. ii. (252).
Tools,
coining, making, mending, or possession of, vol. ii. (121).
Training,
illegal training and drilling, vol. ii. (114).
prosecutions must be commenced within six months, vol. ii. (115).
Transfers of Stock,
forging, vol. ii. (269).
Transportation. See *Penal Servitude.*
Traverse,
of indictment for misdemeanor, not to be allowed, vol. ii. (62).
Treason, High,
bail, vol. ii. (39).
statute of treasons, vol. ii. (102).
persons indicted to have a copy of the indictment, vol. ii. (103), (105).
peremptory challenges not to exceed thirty-five, vol. ii. (104).
defence by counsel, vol. ii. (103), (107).
number of witnesses, vol. ii. (104).
time within which indictment must be found, *ib.*
persons tried to have copies of the panel of the jurors, *ib.*
process to compel witnesses to appear, *ib.*
evidence confined to overt acts expressly laid, *ib.*
jury must all agree in one opinion to bring in a verdict, vol. ii. (105).
upon the trials of peers or peeresses a major vote sufficient, *ib.*
every peer to be summoned twenty days before trials of peers or peeresses, *ib.*
compassing, &c. the death, restraint, &c. or deposition of sovereign, vol. ii. (106), (108).
levying war against sovereign, vol. ii. (106), (108), (110).
causing invasion of dominions, *ib.*
trial, where the overt act is the assassination or a direct attempt against the person of the sovereign, vol. ii. (107).
form of sentence in case of treason, *ib.*
punishment may be altered, *ib.*
attempts against the person of the sovereign, vol. ii. (108).
discharging or aiming fire-arms, &c. to injure or alarm the queen, vol. ii. (109).
certain offences, previously amounting to treason, declared to be felonies, vol. ii. (110).

CRIMINAL LAW—*continued.*
time within which prosecutions are to be commenced, vol. ii. (110).
indictments may charge several overt acts, vol. ii. (111).
indictments valid, though facts amount to treason, *ib.*
punishment of accessories, *ib.*
no costs allowed in prosecutions, *ib.*
petit treason to be deemed murder, vol. ii. (280).
Treasury,
costs of prosecutions by, vol. ii. (125).
Trees,
stealing trees, saplings, shrubs, or underwood, vol. ii. (198).
cutting, breaking, &c. with intent to steal, vol. ii. (199).
possession of, not satisfactorily accounted for, *ib.*
destroying or damaging trees, saplings, shrubs, or underwood, to the value of more than 1*l.*, vol. ii. (249).
above 5*l.*, vol. ii. (250).
Trustee,
interpretation of term, vol. ii. (191).
frauds by, vol. ii. (211).
Turnpike,
property under turnpike trust may be laid in the trustees, vol. ii. (11).
throwing down, levelling, or destroying turnpike gates, &c. (252).
Undertaking
for the payment of money. See *Forgery.*
Underwood. See *Trees.*
Underwriter,
setting fire to ship, to prejudice, vol. ii. (254).
Unlawful Oaths, See *Oath.*
Unnatural Offences, vol. ii. (291).
accusing or threatening to accuse of, in order to extort property, vol. ii. (202).
Uttering. See *Coin; Forgery.*
Vagrancy,
idle and disorderly persons, vol. ii. (178).
rogues and vagabonds, vol. ii. (178), (183).
incorrigible rogues, vol. ii. (179).
apprehension of offenders, vol. ii. (180).
constables refusing to take offenders into custody, *ib.*
offenders may be searched on apprehension, *ib.*
money and effects found upon offenders, *ib.*
officers neglecting their duty, vol. ii. (181).
persons obstructing officers, *ib.*
lodging houses may be searched for suspected persons, *ib.*
appeal to sessions from decision of justices, *ib.*
in default of personal appearance the appellants may be recommitted, vol. ii. (183).
incorrigible rogues may be further punished by the justices at sessions, vol. ii. (181).
binding over witnesses and prosecutors to appear at sessions, vol. ii. (180).
expenses of witnesses and prosecutors, *ib.*
certificates to receive alms, vol. ii. (182).
form of conviction by justices, *ib.*
convictions to be transmitted to sessions, *ib.*
certified copies of convictions to be evidence, *ib.*
protection of persons acting under Vagrant Act, *ib.*
Vagrant Act, 5 Geo. 4, c. 83, vol. ii. (177). See *Vagrancy.*

CRIMINAL LAW—*continued.*
Valuable Security,
what, in larceny, vol. ii. (191).
Value,
statement of, unimportant, unless it is of the essence of offence, vol. ii. (62).
Variance. See *Amendment.*
Vegetables,
stealing growing vegetables, vol. ii. (199).
destroying or damaging, with intent to steal, *ib.*
destroying or damaging, with intent to destroy, vol. ii. (250).
Venue. See the different titles.
where offence arises in counties of cities, vol. ii. (3). See *Counties of Cities.*
in different counties or on boundaries, vol. ii. (10). See *Counties.*
within the jurisdiction of central criminal court, vol. ii. (19).
on the high seas, vol. ii. (27).
how stated in indictment, vol. ii. (61).
in trial of accessories, vol. ii. (91).
when offence within jurisdiction of the admiralty, vol. ii. (92).
in actions and prosecutions against persons acting under Larceny Act, vol. ii. (219).
in actions and prosecutions against persons acting under "Malicious Injuries Act," vol. ii. (258).
under "Coinage Act," vol. ii. (124).
Verdict,
valid after amendment of indictment, vol. ii. (61).
Vessel. See *Ship.*
Viaducts,
injuries to, vol. ii. (252).
Voluntary Oaths, Affidavits, &c.
not to be administered or received, vol. ii. (149), (150).
Walls,
throwing down or destroying,
of sea, river, canal, or marsh, vol. ii. (252).
War,
levying, against sovereign, vol. ii. (106), (108), (110).
Warlike Stores. See *Stores.*
Warehouse,
breaking into and stealing in, vol. ii. (204).
punishment, *ib.*
setting fire to, vol. ii. (247).
riotously demolishing, vol. ii. (153).
Warrant. See *Justices of Peace.*
for the payment of money or delivery of goods: a valuable security, vol. ii. (191).
stealing, vol. ii. (196).
forging, vol. ii. (267).
Warrant of Attorney. See *Forgery.*
Warren,
taking rabbits, &c. in, vol. ii. (194).
Wharf,
stealing from, vol. ii. (206).
punishment, *ib.*
Whipping,
limitation of sentence of, vol. ii. (220), (259), (293).
number of strokes to be specified, *ib.*
Will,
stealing, or fraudulently destroying or concealing, vol. ii. (197).

CRIMINAL LAW—*continued.*
conviction not to be evidence in any action or suit, vol. ii. (197), (198).
no person to be prosecuted who has disclosed his act on oath, &c. vol. ii. (198).
forging, altering, &c. or uttering, vol. ii. (264), (272).
Witnesses,
number required in treason, vol. ii. (104).
recognizances to appear, &c. taken by coroners, vol. ii. (10).
by justices, vol. ii. (36).
expenses of. See *Expenses.*
prisoner in custody, how brought up as witness, vol. ii. (64).
Woods,
setting fire to woods or plantations, vol. ii. (249).
setting fire to stack of, *ib.*
Woodwork. See *Fixtures.*
Woollen,
goods, in any stage of manufacture,
stealing to the value of 10*s.* vol. ii. (205).
punishment, *ib.*
destroying, vol. ii. (248).
Women,
procuring the defilement of women under the age of twenty-one years, vol. ii. (289).
abduction of, *ib.*
Works of Art,
destroying or damaging, vol. ii. (253).
right to recover damages not affected, vol. ii. (254).
Worship,
disturbing public, vol. ii. (177).
Wounding,
deer, vol. ii. (193).
with intent to murder, vol. ii. (281), (282).
with intent to maim, disfigure, or disable, vol. ii. (283).
with intent to do some grievous bodily harm, vol. ii. (284).
robbery, accompanied by, vol. ii. (201).
with intent to resist or prevent lawful apprehension or detainer, vol. ii. (284).
conviction for misdemeanor, where felony is charged, vol. ii. (284) n. (*b*).
officers of the army, navy, or revenue. See *Smuggling.*
cattle. See *Cattle.*
Wreck,
plundering or stealing from, vol. ii. (206).
persons in possession of goods from, *ib.*
offering goods for sale, *ib.*
destroying, or any articles belonging to, vol. ii. (255).
assaulting magistrate, while preserving, vol. ii. (286).
Written Instruments. See *Instruments.*
Writings,
stealing or destroying writings relating to real property, vol. ii. (197).
conviction not to be evidence in any action or suit, vol. ii. (197), (198).
no person to be prosecuted who has disclosed his act on oath, &c. vol. ii. (198).
Yarn,
stealing, in process of manufacture, vol. ii. (205).

CROWN SUITS,
general issue may be pleaded to informations of intrusion, where crown has been out of possession twenty years, vol. i. 1329.
defendant in such case may retain possession until trial, *ib.*
crown not to sue after sixty years by reason of lands having been in charge, &c. vol. i. 1338.
provisions of 24 & 25 Vict. c. 62, to apply to actions by duke of Cornwall, and to provisions of 7 & 8 Vict. c. 103, and 23 & 24 Vict. c. 53, *ib.*
provision as to the answering of rent, &c. to the crown, *ib.*
preserving right to reversionary interests, *ib.*
existing suits not affected by 24 & 25 Vict. c. 62, *ib.*
in all crown suits, &c. where crown successful, costs to be recovered as between subject and subject, vol. i. 1330.
defendant entitled to costs if successful against the crown, *ib.*
two last-mentioned provisions extended to Isle of Man, vol. iv. 955.
power to judges to make rules and orders for regulation of pleading and practice in crown suits, vol. i. 1331.

Proceedings on revenue side of Exchequer,
22 & 23 Vict. c. 21.
s. 222 of 15 & 16 Vict. c. 76, extended to revenue suits, &c. in exchequer, vol. i. 1331.
a special case may be stated by consent of parties and order of a judge, *ib.*
error may be brought unless agreement to the contrary, *ib.*
costs to follow the event unless agreement to the contrary, *ib.*
appeals from assessments of succession duty may be carried from court of exchequer to a higher court, *ib.*
to exchequer chamber and House of Lords, *ib.*
notice of appeal to be given, *ib.*
within what time, *ib.*
in summary proceedings for succession or legacy duty the court may order a report and special case, *ib.*
the court may direct production of documents, vol. i. 1332.
issues may be tried by a jury, *ib.*
judgment may be, with costs, *ib.*
error may be brought, *ib.*
1 Will. 4, c. 22, and 15 & 16 Vict. c. 76 (ss. 46, 47, 48, 49), as to examination of witnesses, and production of documents, &c. extended to revenue proceedings, *ib.*
persons giving false evidence guilty of perjury, *ib.*
revenue suits may be tried at assizes without a commission from the revenue side of the exchequer, *ib.*
error to be brought within six years, *ib.*
proviso as to disabilities, *ib.*
writ of error abolished, *ib.*
proceeding to error to be a step in the cause, *ib.*
a bill of exceptions may be tendered in revenue suits, *ib.*
costs to be allowed in revenue proceedings, *ib.*

CROWN SUITS—*continued.*
defect in form not to invalidate pleadings, vol. i. 1332.
process on estreats may issue without reference to any seal day, *ib.*
recovery of debts of record due to her Majesty where the debtor's person or estate is within the jurisdiction of the court of exchequer in Scotland or Ireland, *ib.*
right of re-entry may be enforced by crown without inquisition taken or actual re-entry, vol. i. 1333.
rules may be made by the barons of the exchequer as to the process, practice, pleading, and costs, in revenue cases, *ib.*
and to extend the common law practice to the revenue side of the court, *ib.*
rules made in pursuance of above power, vol. i. 1339 *et seq.*
new forms of writs and proceedings, and scales of costs may be made and altered, vol. i. 1333.
saving of rights named, *ib.*

Petitions of Right,
23 & 24 Vict. c. 34 (*The Petitions of Right Act,* 1860).
petitions of right may be intituled in any of the superior courts of common law or equity at Westminster, vol. i. 1333.
form, nature and contents of the petition, *ib.*
petition to be left with home secretary for her Majesty's fiat, *ib.*
no fee to be payable by suppliant on so leaving petition or receiving back same, *ib.*
upon fiat being obtained, copy of petition, &c. to be left at office of solicitor of the treasury indorsed as in schedule No. 2, vol. i. 1334.
duty of solicitor to the treasury thereon, *ib.*
in what court petition shall be prosecuted, *ib.*
time for answering, &c. by the crown, *ib.*
power to change the court or venue, *ib.*
time for, and manner of answering by other persons parties to the petition, appearance, &c. *ib.*
how such petition may be answered, *ib.*
the practice and course of procedure in action and suit between subject and subject shall extend to petitions of right, so far as applicable, *ib.*
decrees or judgments by default, how obtained, *ib.*
may be set aside on terms, *ib.*
form of judgment or decree, *ib.*
judgment that suppliant is entitled to relief to be of same effect as judgment of *amoveas manus,* vol. i. 1335.
costs recoverable by the crown and any other person party to the petition, *ib.*
suppliant to be entitled to costs against the crown and other parties to the proceedings, *ib.*
how such costs may be recovered, *ib.*
decree or judgment in favour of suppliant to be certified to treasury or treasurer of the household in form in schedule, No. 5, *ib.*
satisfaction of judgment and costs, where judgment is against the crown, *ib.*
power to judges to make rules and regulations, *ib.*

CROWN SUITS—*continued.*
interpretation of terms, vol. i. 1336.
short title, *ib.*
nothing contained in act to prevent suppliant proceeding as before act passed, *ib.*
Crown Debts,
provisions of ss. 195, 196, and 197, of 16 & 17 Vict. c. 107, extended to all bonds, &c. to the crown, vol. i. 1337.
as to entry of satisfaction on judgments, *ib.*
persons in prison against whom informations are exhibited for offences against the inland revenue to be brought up by *habeas corpus* at the hearing of such informations, vol. i. 1338.

DEATH. See *Abatement; Error; Evidence.*

DEATH BY ACCIDENT.
9 & 10 Vict. c. 93.
action to be maintainable against any person causing death through neglect, &c. vol. i. 1349.
notwithstanding death of person injured, *ib.*
and notwithstanding death caused under such circumstances as amount to felony, *ib.*
in what cases such action can be maintained, *ib.* n. (*b*).
damages in such action how estimated, *ib.* n. (*b*).
action to be for the benefit of certain relations of person whose death is caused, vol. i. 1350.
to be brought by and in name of executor or administrator, &c. *ib.*
how amount recovered is to be divided, *ib.*
only one action to lie and to be commenced within twelve months of death, *ib.*
plaintiff to deliver with declaration full particulars of the persons on whose behalf action brought, and of the claim, *ib.*
act not to apply to Scotland, *ib.*
27 & 28 Vict. c. 95.
where no action brought within six months by executor of person killed, then action may be brought by persons beneficially interested in result of action, vol. iv. 964.
money paid in court may be paid in one sum, without regard to its division into shares. If not accepted defendant entitled to verdict on the issue, *ib.*
this and recited act to be read as one, *ib.*

DECLARATION. See *Oaths.*

DEED. See *Bond; Conveyance; Assignment; Mortgage; Bargain and Sale; Indenture; Lease; Stamp.*

DEFAMATION. See *Libel.*
jurisdiction of ecclesiastical courts in suits for, abolished, vol. i. 1266.

DEODANDS.
abolished, 9 & 10 Vict. c. 62, vol. i. 1350.

DESCENT. See *Inheritance.*

DISSOLUTION OF MARRIAGE. See *Courts (Divorce).*

DISTRESS. See *Landlord and Tenant.*

DISTRIBUTIONS (STATUTE OF). See *Executors.*

DIVORCE. See *Courts (Divorce).*

DOCKS. See *Harbours, Docks, and Piers.*

DOCUMENTARY EVIDENCE. See *Evidence and Witnesses.*

DOGS.
stealing, vol. ii. (194).
possession of stolen dog, *ib.*
taking money to restore stolen dog, vol. ii. (195).
stolen dog may be restored to owner, *ib.*
not to be used for draught, vol. i. 1350.

DOWER.
to be assigned to widow within forty days after the death of her husband, vol. i. 1351.
nothing to be taken for assignment of, *ib.*
widow to remain in husband's mansion-house for forty days after his death, *ib.*
of what lands widow dowable by *Magna Charta, ib.*
treason of husband forfeits, *ib.* n. (*a*).
but not his felony, *ib.* n. (*a*).
on what estates it attaches, *ib.*, n. (*a*).
writ of, damages on, vol. i. 1351.
abolished, *ib.*, n. (*d*).
equity grants relief in case of fraudulent assignment of, *ib.* n (*d*).
widows may bequeath crops of land held by them in, vol. i. 1352.
admeasurement of, for guardian and heir, and process therein, *ib.*
forfeited by wife's elopement with adulterer, *ib.*
unless husband voluntarily reconciled to her, *ib.*
how adultery of wife affects her right to dower, *ib.* n. (*a*), (*b*).
barred by jointure made before marriage, *ib.*
but jointress entitled to dower where she is evicted from her jointure, vol. i. 1353.
where jointure made after marriage, widow may elect between it and her dower, *ib.*
requisites of valid jointures, *ib.* n. (*a*).
act for the amendment of the law relating to, 3 & 4 Will. 4, c. 105, vol. i. 1353.
not to extend to dower of widow married on or before January 1st, 1834, vol. i. 1355, s. 14.
not to give to deeds, &c. executed before that day the effect of prejudicing right to dower, *ib.*
widow's right to, extended to equitable estates, vol. i. 1354.
husband's seisin not necessary to give title to, *ib.*
widow not entitled to, out of estates disposed of by husband in his lifetime, or by his will, *ib.*
partial estates, charges, &c. to be valid against widow's right to, vol. i. 1355.
may be barred by husband's declaration in deed or will, *ib.*
is subject to restrictions contained in husband's will, *ib.*
barred by husband's devise of real estate to widow, *ib.*

DOWER—*continued.*
unless a contrary intention be declared by the will, vol. i. 1355.
not barred by husband's bequest of personal estate to widow, *ib.*
unless a contrary intention appear by will, *ib.*
agreement not to bar, may be enforced in equity, *ib.*
legacies to widows in bar of, still entitled to preference, *ib.*
ad ostium ecclesiæ and *ex assensu patris*, abolished, *ib.*
Mr. Hayes' comments on the 3 & 4 Will. 4, c. 105, vol. i. 1354, n. (*a*).
propriety and effect of ordinary uses to bar dower since that act, *ib.*
widow's right to, has preference over claims of mere creditors, vol. i. 1355, n. (*b*).
no arrears of dower to be recoverable for more than six years, vol. i. 1353, n. (*c*).
writ of right of dower, writ of dower *unde nihil habet*, and plaint for free bench or dower abolished, vol. i. 1356.
actions for, to be commenced by writ of summons, issuing out of the common pleas, *ib.*
indorsement on such writ, *ib.*
such writ, and proceedings thereupon, to be the same as in ordinary actions, *ib.*

DRAFTS. See *Bankers' Drafts.*

DRAINAGE. See *Lands' Improvement.*

DRAMA. See *Copyright.*

DWELLING-HOUSES (LABOURERS'). See *Labourers' Dwelling-houses.*

ECCLESIASTICAL COURTS. See *Courts* (*Ecclesiastical*).

ENDOWED SCHOOLS,
23 Vict. c. 11 (*The Endowed Schools Act*, 1860).
powers to trustees to make orders for the admission of children of different denominations, vol. ii. 325.
such orders not to interfere with the religious teaching of other scholars as now fixed, *ib.*
limitation of this power, *ib.*
act not to apply to certain institutions, or to Scotland or Ireland, *ib.*
short title of act, *ib.*

ERROR. See *False Judgment.*
writ of, lies on the judgment of a court of record, vol. i. 1356, n. (*a*).
judgments to stand good till reversed by, vol. i. 1358.
reversioner may have writ of, on judgment against the particular tenant, vol. i. 1357.
plaintiff entitled to costs where defendant sues out writ of error before execution and the judgment of the court below is affirmed, vol. i. 1358.
or where the writ of error is discontinued, *ib.*
or the defendant suing out the same is nonsuited, *ib.*
secus where error is brought after execution, *ib.* n. (*b*).
or where error is brought after the judgment is satisfied, *ib.* n. (*c*).

ERROR—*continued.*
death of either party between verdict and judgment not error, vol. i. 1361.
provided judgment be entered within two terms after verdict, *ib.*
defendant entitled to costs where plaintiff sues out writ of error and the judgment below is affirmed, *ib.*
or where the writ of error is discontinued, *ib.*
or the plaintiff suing out the same is nonsuited, *ib.*
costs in, where the judgment below is reversed, *ib.* n. (*d*).
must be brought within twenty years after judgment signed, vol. i. 1362, but see *infra.*
further time given to persons under disabilities, *ib.*
defendant in, entitled to costs where writ of error quashed, vol. i. 1362.
secus where writ quashed by reason of his fault, *ib.* n. (*d*).
writ of, from judgment of an inferior court, where damages under 10*l.*, not to operate as a stay of execution, vol. i. 1363.
except upon certain conditions, *ib.*
see 7 & 8 Geo. 4, c. 71, s. 6, vol. i. 105.
writs of, made returnable to the court of exchequer chamber, vol. i. 1363.
before what judges, vol. i. 1364.
lies from the exchequer chamber to parliament only, vol. i. 1363, 1364.
interest to be allowed on judgment for the defendant in error in actions personal, vol. i. 1364.

provisions of the Common Law Procedure Act, 1852, *as to*,
to be brought within six years after judgment signed, vol. i. 1364.
further time given to persons under disabilities, vol. i. 1365.
writ of, abolished, *ib.*
to be a step in the cause, *ib.*
in law, how to be brought, *ib.*
copy of note and grounds of error to be served, *ib.*
shall be *supersedeas* of execution from time of such service, *ib.*
if grounds frivolous, execution may be ordered, *ib.*
execution not stayed by, unless bail put in, *ib.*
without order of court or judge, *ib.*
time at which bail must be put in, *ib.*
notice of bail, vol. i. 1366.
amount of recognisance, vol. i. 1365.
number of sureties, *ib.*
assignment of, and joinder in,
not necessary, except when defendant relies on lapse of time, release, or matter of fact, vol. i. 1366.
suggestion of,
to be entered on judgment roll, *ib.*
form of, *ib.*
when only some parties bring error, *ib.*
when to be entered and roll made up, *ib.*
judgment of *non pros.* in default, *ib.*
summons and severance not necessary, *ib.*
suggestion to state names of parties proceeding, *ib.*

ERROR—*continued.*
trial of,
how cause to be set down for argument, *ib.*
judgment roll to be brought into court, *ib.*
judgment to be entered on original record, *ib.*
proceedings on, by court below, *ib.*
jurisdiction of courts of error over the proceedings, vol. i. 1367.
court of error to have like powers with courts below, *ib.*
in fact, how brought, *ib.*
memorandum to be given to master, *ib.*
form of such memorandum, *ib.*
affidavit to accompany it, *ib.*
master to file memorandum and give note of receipt, *ib.*
copy of note and affidavit to be served, *ib.*
effect of service, *ib.*
proceedings thereon, *ib.*
discontinuance of proceedings in, *ib.*
notice to be given to defendant, *ib.*
judgment and proceedings thereon, *ib.*
confession of, by defendant in error, *ib.*
notice to be given to plaintiff, *ib.*
judgment may be signed thereon, *ib.*
not to abate by death, *ib.*
proceedings in case of death, *ib.*
of one of several plaintiffs in error, *ib.*
suggestion of death, *ib.*
of sole plaintiff, or of all plaintiffs, in error, *ib.*
suggestion of death by legal representative, vol. i. 1368.
if no suggestion made, judgment affirmed, *ib.*
of one of several defendants in error, *ib.*
suggestion of death, *ib.*
of sole defendant, or of all defendants, in error, *ib.*
notice of proceedings to representatives, *ib.*
to parties interested, *ib.*
not to abate by marriage, *ib.*
in ejectment,
when it may be brought, *ib.*
bail in, *ib.*
effect of, on execution, *ib.*
remedy for mesne profits and damages pending error, *ib.*

EVIDENCE AND WITNESSES.
Acquittal,
proof of, under Lord Brougham's Act, vol. i. 1387.
Admission of Documents. See *Documentary Evidence.*
Affirmation,
when allowed instead of oath, vol. i. 1397; vol. iii. 452, 453, 457, 460.
Apothecary,
certificate granted to, how provable, vol. i. 1386.
Appointment,
certain defects in attestation of deeds of, cured, vol. i. 1376, 1377.
Attendance of Witnesses,
how enforced by *subpœna ad testificandum,* vol. i. 1368.

EVIDENCE AND WITNESSES—*continued.*
subpœna must state place of trial, vol. i. 1368, n. (*c*).
must not contain names of more than four witnesses, *ib.*
must state names of parties to the cause, *ib.*
must be tested in term time, *ib.*
copy of, must be personally served, vol. i. 1368, n. (*d*).
and original must be produced, *ib.*
proceedings against person disobeying subpœna,
by action at common law, vol. i. 1369, n. (*d*).
by action under 5 Eliz. c. 9, *ib.*
by attachment, *ib.*
what a sufficient excuse for non-attendance, *ib.*
within what time subpœna must be served, *ib.*
tender of expenses required in civil cases, *ib.*
courts of law in England, Ireland, and Scotland may issue process to compel the attendance of witnesses, although not within their jurisdiction, vol. i. 1390.
statement to be made at foot of subpœna that it is issued by special order, *ib.*
witness making default to be punished by the courts of the country in which the process was served, *ib.*
persons not to be punished if it shall appear that sufficient money has not been tendered to pay expenses, *ib.*
commission may still issue for examination of witnesses out of the jurisdiction, vol. i. 1391.
admissibility of evidence now receivable not affected by 17 & 18 Vict. c. 34, *ib.*
Bargain and Sale,
may be proved by copy of enrolment, vol. i. 1373.
British Vessels. See *Registers.*
Cestui que vie,
death of, when presumed, vol. i. 1370.
proviso for persons evicted by this presumption where the *cestui que vie* is not dead, vol. i. 1371.
Colonies. See *East Indies; Foreign and Colonial Law, Evidence of; New South Wales.*
proof of debts in colonial courts by persons residing in Great Britain, vol. i. 1373, 1374, 1376.
judgments, &c. of colonial courts, how provable, vol. i. 1385.
acts of state of, how provable, *ib.*
documents admissible without proof of seal, &c. in England, equally admissible in the colonies, vol. i. 1387.
Competency of Witnesses,
parishioners, except almsmen, may be evidence against churchwardens, &c. of their mis-spending the poor's money, vol. i. 1371.
evidence of inhabitants to be taken in prosecutions for not repairing bridges, *ib.*
inhabitants made competent witnesses in certain cases, on behalf of or against parishes, vol. i. 1377, 1378.
witness not disabled from giving evidence by reason of his being assessed to the relief of the poor, &c. vol. i. 1378.

EVIDENCE AND WITNESSES—*continued.*
parish officers and rated inhabitants competent witnesses, although nominal parties, *ib.*
Lord Denman's Act, 6 & 7 Vict. c. 85, vol. i. 1381,
abolishes incompetency from crime or interest, *ib.*
parties not rendered competent witnesses by that act, *ib.*
that act does not repeal any provision in 7 Will 4 & 1 Vict. c. 26, *ib.*
in courts of equity defendant may be examined on behalf of plaintiff or any co-defendant, vol. i. 1382.
Lord Brougham's Act, 14 & 15 Vict. c. 99, vol. i. 1383,
renders parties competent and compellable witnesses in civil cases, *ib.*
secus as to criminal cases, vol. i. 1383, 1384.
does not apply to proceedings in consequence of adultery, vol. i. 1384.
nor to actions for breach of promise of marriage, *ib.*
does not repeal any provision in 7 Will. 4 & 1 Vict. c. 26, *ib.*
The Evidence Amendment Act, 1853, 16 & 17 Vict. c. 83, vol. i. 1389.
husband and wife in civil proceedings admissible witnesses for or against each other, *ib.*
secus in criminal proceedings, vol. i. 1390.
and in cases of adultery, *ib.*
parties competent witnesses to prove cruelty or desertion on wife's petition for dissolution of marriage, vol. i. 1298.
husband and wife not compellable to disclose communications made to each other during marriage, vol. i. 1390.
repeal of so much of 6 & 7 Vict. c. 85, s. 1, as relates to husband and wives, *ib.*
Conviction,
proof of, under Lord Brougham's Act, vol. i. 1387.
of witness, when and how it may be proved, vol. i. 1391.
Crime,
witness no longer incompetent from, vol. i. 1381.
Death,
when presumed,
at common law, vol. i. 1370, n. (*a*).
in the case of absence of persons on whose lives estates for life depend, vol. i. 1370, 1371.
an act for the more effectual discovery of the death of persons pretended to be alive, to the prejudice of those who claim estates after their death, vol. i. 1371.
Documentary Evidence. See *Non-Parochial Registers; Inspection of Documents.*
statutes of England and of Great Britain, printed and published by the king's printer, shall be evidence in Ireland, and the statutes of Ireland prior to the Union, shall be evidence in Great Britain, vol. i. 1375.
acts of parliament to be deemed public acts, vol. i. 1383.
certain copies of private acts, journals of parliament, and proclamations, admissible as evidence, vol. i. 1382.
records in record office, how proved, vol. i. 1378.
EVIDENCE AND WITNESSES—*continued.*
bargain and sale may be proved by copy of enrolment, vol. i. 1373.
certain defects in attestation of deeds of appointment cured, vol. i. 1376, 1377.
certain documents to be received in evidence without proof of seal or signature, &c. of person signing the same, vol. i. 1382.
judicial notice to be taken of signatures of judges, *ib.*
foreign and colonial acts of state, judgments, &c., proveable by certified copies, without proof of seal or signature, or judicial character of person signing the same, vol. i. 1385, 1386.
apothecaries' certificates admissible without proof of seal, vol. i. 1386.
documents admissible without proof of seal, &c. in England, equally admissible in Ireland, *ib.*
documents admissible without proof of seal, &c. in Ireland equally admissible in England, vol. i. 1386, 1387.
documents thus admissible, equally admissible in the colonies, vol. i. 1387.
registers of British vessels and certificates of registry admissible as *primâ facie* evidence of their contents without proof of signature, *ib.*
conviction or acquittal of person charged may be certified under hand of clerk of court where proof necessary, *ib.*
examined or certified copies of public documents admissible in evidence, *ib.*
certifying a false document a misdemeanor, *ib.*
persons forging seal, stamp, or signature of certain documents, or wilfully uttering same, guilty of felony, vol. i. 1388.
admission of documents, *ib.*
notice to obtain, *ib.*
costs of proof on refusal to admit, *ib.*
when no notice given, *ib.*
evidence of admission, *ib.*
evidence of notice to produce, *ib.*
attesting witness need not be called, except in certain cases, vol. i. 1391.
comparison of disputed writing, *ib.*
power to direct production of documents on hearing of summons or motion, vol. i. 1403, 1404.
power to enforce discovery of documents, vol. i. 1404.
how documents executed in East Indies proved in English courts, vol. i. 1374.
how documents executed in Great Britain proved in courts in the East Indies, vol. i. 1375.
forgery of seal, stamp, or signature to any official or public document, felony, vol. i. 1382.
East Indies,
how documents executed there, or attested by any person resident there, proved in English courts, vol. i. 1374.
how documents executed in Great Britain proved in courts in the East Indies, vol. i. 1375.
mode of examining witnesses in, vol. i. 1398.
writs of *mandamus* awardable, *ib.*
Examination of Witnesses,
witness cannot refuse to answer on the ground of subjecting himself to suit for debt or damages, vol. i. 1375.

EVIDENCE AND WITNESSES—*continued.*
how far a party may discredit his own witness, vol. i. 1391.
proof of contradictory statements of adverse witness, *ib.*
cross-examination as to previous statements in writing, *ib.*
proof of previous conviction of witness, *ib.*
attesting witness need not be called, except in certain cases, *ib.*
comparison of disputed writing by witness, *ib.*
order for examination of witnesses in this country in relation to any civil or commercial matter pending before a foreign tribunal, vol. i. 1392.
certificate of ambassador, &c. sufficient evidence in support of application, *ib.*
examination to be upon oath, *ib.*
persons giving false evidence guilty of perjury, *ib.*
payment of expenses of witnesses, *ib.*
right of refusal to answer questions and to produce documents, *ib.*
what courts and judges to have authority under 19 & 20 Vict. c. 113, *ib.*
lord chancellor, &c. to frame rules, *ib.*
court or judge may order the examination of witnesses, where there is a commission, &c. to obtain testimony in relation to any suit pending in another of the queen's courts, vol. i. 1394.
order for examination, how to be made and enforced, *ib.*
attendance of witnesses, and production of documents, *ib.*
persons giving false evidence under any such commission, &c. guilty of perjury, *ib.*
persons ordered to attend entitled to conduct money and expenses of attendance, vol. i. 1395.
persons examined may refuse to answer questions tending to criminate themselves, *ib.*
and to produce documents which they would not be compelled to produce at trial, *ib.*
what courts and judges authorised by this act, *ib.*
power to judges to frame rules, &c., *ib.*
persons refusing, from conscientious motives, to be sworn in criminal proceedings, to be permitted to make a solemn affirmation or declaration, vol. i. 1397.
punishment for declaring or affirming falsely, *ib.*
mode of examining witnesses in India, vol. i. 1398.
writs of *mandamus* awardable, *ib.*
power to direct oral examination of witnesses upon hearing of summons or motion, vol i. 1403.
proceedings before and upon such examination, vol. i. 1404.
power to order oral examination of person who refuses to make an affidavit, *ib.*
proceedings upon order for such examination, *ib.*
Foreign and Colonial Law, Evidence of, 22 & 23 Vict. c. 63.
courts in one part of the queen's dominions may remit a case for the opinion in law of a court in another part where the law is different, vol. i. 1395.

EVIDENCE AND WITNESSES—*continued.*
case, how to be prepared and remitted, *ib.*
courts to which case is remitted may, after hearing the parties or their counsel, pronounce opinion on questions asked, *ib.*
or may take further procedure for that purpose, *ib.*
opinion, when pronounced, to be authenticated by certified copies, *ib.*
a copy to be given to each party, and to be deemed a correct record of the opinion, *ib.*
opinion so authenticated to be applied by the court by which the case was remitted, *ib.*
where opinion is obtained before trial, the court may order it to be submitted to the jury, vol. i. 1395, 1396.
as evidence, or as conclusive evidence, of the foreign law, vol. i. 1396.
on appeal, the judicial committee of the privy council or the house of lords may adopt or reject opinions of courts whose judgment they review, *ib.*
24 Vict. c. 11.
superior courts within the queen's dominions may remit a case, with queries, to a court of any foreign state with which her majesty may have made a convention for that purpose, for ascertainment of law of such state, *ib.*
court in which action depends to apply such opinion to the facts set forth in cases, &c. vol. i. 1397.
courts in queen's dominions may pronounce opinion on case remitted by a foreign court, *ib.*
Foreign Tribunals,
judgments, &c. of, how provable, vol. i. 1385.
examination of witnesses here in aid of. See *Examination of Witnesses.*
Forgery,
of seal, stamp, or signature, to any official or public document, felony, vol. i. 1382, 1388.
Husband. See *Competency of Witnesses.*
Inhabitants,
competent witnesses in prosecutions for not repairing bridges, vol. i. 1371.
rated, rendered competent witnesses in certain cases on behalf of or against parishes, vol. i. 1377.
rated, not disqualified as such, from giving evidence, vol. i. 1378.
rated, not disqualified from giving evidence by reason of being parties to trial, &c., *ib.*
Inspection,
of documents, common law courts authorised to compel, wherever equity would grant discovery, vol. i. 1384.
common law powers of courts to order, vol. i. 1384, n. (*c*).
by witnesses of real or personal property, vol. i. 1407.
Interested Witness. See *Competency of Witnesses.*
Interrogatories.
powers of 13 Geo. 3, c. 63, as to examination of witnesses in India, extended to colonies, &c. vol. i. 1399.
and to all actions in courts at Westminster, wheresoever the cause may have arisen, *ib.*
the crown not bound by 1 Will. 4, c. 22, vol. i. 1399, n. (*b*).

EVIDENCE AND WITNESSES—*continued.*
power of judges to whom writ or commission directed to enforce attendance, &c. of witnesses, vol. i. 1399.
costs to be in the discretion of the court, *ib.*
how this discretion regulated, *ib.*, n. (*d*).
power to order examination of witnesses within the jurisdiction, vol. i. 1400.
to order commission to issue for examination of witnesses out of the jurisdiction, *ib.*
witnesses to be examined by officer of court if within the jurisdiction, otherwise by commission, *ib.*
attendance of witnesses, &c. at examination within jurisdiction of court, how enforced, vol. i. 1401.
payment of expenses, vol. i. 1402.
proviso as to production of documents, *ib.*
examination of prisoners, *ib.*
witnesses to be examined on oath, *ib.*
false evidence deemed perjury, *ib.*
persons appointed for taking examinations may report on absence, &c. of witnesses, *ib.*
costs of order of examination to be costs in the cause, *ib.*
restriction as to reading examination, &c. without consent, *ib.*
compelling the attendance of witnesses where the commission is executed in a different part of the realm from that in which it is issued, vol. i. 1403.
punishment of persons disobeying rule or order to appear or to produce writings or documents required, *ib.*
payment of witnesses, &c. *ib.*
power to deliver written interrogatories to opposite party, vol. i. 1405.
affidavits by party proposing to interrogate and his attorney, vol. i. 1406.
oral examination of parties, when to be allowed, *ib.*
proceedings upon such rule or order, *ib.*
depositions to be returned to masters, *ib.*
examiner may make special report to the court, vol. i. 1407.
costs of rule and examination in discretion of the court, *ib.*

Judges,
judicial notice to be taken of signatures of, vol. i. 1382.

fe,
if party has not been heard of for seven years he is presumed to be dead, vol. i. 1370, n. (*a*).
no presumption raised as to the time of his death, *ib.*

New South Wales,
proof of debts in courts of, by persons residing in Great Britain, vol. i. 1375, 1376.

Non-parochial Registers,
terms on which such registers deposited with the registrar-general may be admitted in evidence, vol. i. 1378, 1381, 1392—1394.
inspection of, how obtained, vol. i. 1379.
certain notices to be given before adducing them, or extracts from them, in civil cases, vol. i. 1380.
in criminal cases the originals only admissible, vol. i. 1381.

Oaths,
power to administer, extended to all courts and persons having authority to receive evidence, vol. i. 1388.

EVIDENCE AND WITNESSES—*continued.*
persons refusing from conscientious motives to be sworn, to be permitted to make affirmation or declaration, vol. i. 1397, vol. iii. 452, 453, 457, 460.

Parishioners,
competent witnesses in actions against churchwardens and overseers for mis-spending poor's money, vol. i. 1371.

Proclamations,
how proved, vol. i. 1382, 1385.

Record Office,
records in, how proved, vol. i. 1378.

Registers. See *Non-parochial Registers.*

Registers,
of British vessels, and certificates of registry, admissible as *primâ facie* evidence of their contents, without proof of signature, &c. vol. i. 1387.

Statutes,
of England and Great Britain, printed and published by the king's printer, shall be evidence in Ireland, and the statutes of Ireland prior to the Union shall be evidence in Great Britain, vol. i. 1375.
certain copies of private acts admissible in evidence, vol. i. 1382.
printing private act, felony, vol. i. 1383.
acts of parliament to be deemed public acts, *ib.*

Subpœna ad testificandum. See *Attendance of Witnesses.*

Wife. See *Competency of Witnesses.*

Witness. See *Attendance of Witnesses.*
must answer questions subjecting him to civil suit, vol. i. 1375.
refusing from conscientious motives to be sworn, may be affirmed, vol. i. 1397; vol. iii. 452, 453, 457, 460.

EXCHANGE.
summary of statutes relating to, vol. i. 1407.
of hereditaments not being copyhold to be by deed, vol. i. 824, s. 3.
made by deed not to imply a condition in law, vol. i. 825, s. 4.
by inclosure commissioners.
exchanges may be made by inclosure commissioners, vol. ii. 781, 802, 803, 810, 811, 819.
although no inclosure pending, vol. ii. 794.
such exchanges may be made, reserving mines and minerals, vol. ii. 804.
parties taking copyhold lands in exchange may, with consent of lord of manor, &c. take it as freehold, vol. ii. 804, 805.
lands held under separate titles by the same person may be exchanged, vol. ii. 811.
deposit of orders of exchange in certain cases, vol. ii. 815.
power to effect partitions and exchanges where parties interested in land, subject matter of partition, and also in the entirety of any land, vol. ii. 817.
lands may be exchanged pending inclosure proceedings, vol. ii. 819.
orders of exchange may be made upon application of parties in possession under agreements, *ib.*
tenure of exchanged lands, vol. ii. 820.

EXCHANGE—*continued.*
ecclesiastical corporations, with approval of church estate commissioners, may make exchanges with their lessees, vol. i. 581, 589.
powers of trustees to exchange, vol. iv. 811.
stamp duty on, vol. iv. 513.
by ecclesiastical corporations. See *Clergy.*

EXCHEQUER. See *Courts.*
proceedings on revenue side of. See *Crown Suits.*
jurisdiction of, as a court of equity, abolished, and transferred to court of chancery, vol. iii. 853.

EXCOMMUNICATION. See *Courts* (*Ecclesiastical*).
discontinued, except in certain cases, vol. i. 1255, s. 1.
writ *de contumace capiendo* to issue instead, *ib.*
such writ to have the same effect as the writ *de excommunicato capiendo, ib.*
in what cases excommunication shall continue, vol. i. 1256, s. 2.
civil penalty incurred by, *ib.* s. 3.

EXECUTOR. See *Administrator and Administration; Assets; Wills; Courts* (*Probate*).
who may be executor.
infant disqualified from acting till twenty-one, vol. i. 1427.
where infant is sole executor administration to be granted during minority, *ib.*
to whom such administration shall be granted, vol. i. 1427.
powers of such administrator, *ib.*
administration of assets where the executor is out of the realm, vol. i. 1425.
executor of executor to have executorship of effects of first testator, vol. i. 1409.
provided first executor has proved, vol. i. 1409, n. (*a*).
representation of testator where his executor dies intestate, *ib.*
executor *de son tort*, who is chargeable as, vol. i. 1416, s. 2; vol. i. 1417, n. (*a*).
renunciation or acceptance of executorship,
executor may decline to act altogether, vol. i. 1416, n. (*a*).
but not in part, *ib.*
executor cannot assign his office, *ib.*
what amounts to a renunciation, *ib.*
consequence of not appearing to citation to take probate, *ib.*
consequence of renunciation by executor, *ib.*
executor administering and omitting to take out probate in six months, penalty, vol. iv. 472.
bona notabilia,
salary, &c. of persons in queen's dockyards, where *bona notabilia*, vol. i. 1424, 1425.
Probate. See *Courts* (*Probate*).
party to be cited, &c. vol. i. 1413, 1415.
to be granted without delay, vol. i. 1413.
of nuncupative wills (29 Car. 2, c. 3, s. 29), vol. ii. 176.
an ordinary may convent executors to prove the testator's will, and to bring in their inventory, vol. i. 1415.

EXECUTOR—*continued.*
extortion in taking fees for probate, redressed, vol. i. 1412, 1413.
stamps, regulations as to probate, &c.
courts not to grant probate without affidavit of value of effects, vol. iv. 472.
such affidavit to be free of duty, and transmitted to the commissioners, vol. iv. 473.
penalty for neglect, *ib.*
provision for case where too high stamp duty paid, *ib.*
so where too little paid, *ib.*
penalty on not paying full duty where too little paid at first, *ib.*
courts not to take surrender of probate on ground of wrong duty paid, vol. iv. 474.
commissioners may in certain cases give credit for duty, *ib.*
may extend credit, when, *ib.*
when probate stamped on credit to be deposited with the commissioners, *ib.*
duty for which credit given to be a debt to the crown, *ib.*
directions concerning affidavit by executors, &c. residing out of England relating to trust property, vol. iv. 475.
return of duty in respect of debts, *ib.*
within what time such return must be claimed, *ib.*
amount of duty, vol. iv. 543.
executor's interest in chattels, choses in action, &c.
estate *pur autre vie*, where no special occupant, to go to executors (29 Car. 2, c. 3, s. 12).
estate *pur autre vie* in the hands of executors to be assets, and to be distributed as personal estate, *ib.*
entitled to damages for trespass done to testator, vol. i. 1408.
executors may bring actions for injuries to the real estate of the deceased, and actions may be brought against executors for injuries to property, real or personal, by their testator, vol. i. 1430.
executors of lessor may distrain for arrears due in his lifetime, *ib.*
such arrears may be distrained for within six months after determination of term, *ib.*
entitled to rateable proportion of rent due at death of tenant for life, vol. ii. 1122.
inventory, &c. to be made,
by and before whom to be made, vol. i. 1414.
who may call for, *ib.*, n. (*b*).
what it should contain, *ib.*, n. (*c*).
is *primâ facie* evidence of assets, *ib.*
payment of debts,
debts due to the crown to be first paid, vol. i. 1408.
moneys due from overseers of the poor (17 Geo. 2, c. 38, s. 3), vol. iii. 1075.
payment of moneys due from savings banks, how to be applied, vol. iv. 125, 130.
payments by savings' banks under probate of wills afterwards repealed, made good, vol. iv. 126.
debts due to friendly societies to be paid first, vol. ii. 222, s. 23.

EXECUTOR—*continued.*
the like as to savings' banks, vol. iv. 128, s. 28.
executor of surveyor of highways to account, &c. See *Highways.*
bills of costs due from, may be referred for taxation on application of party interested, vol. i. 159.
court of chancery, on application of executors or administrators, upon motion or petition of course, to order reference to master to take account of debts and liabilities of deceased, vol. iii. 869.
proceedings on order, *ib.*
money may be appropriated to answer contingent liabilities, vol. iii. 869, 870.
protection afforded by such proceedings to executors, vol. iii. 870.
executors or administrators paying money under power of attorney, not to be liable by reason of death of party giving such power, vol. iv. 808.
liability of executor or administrator in respect of rents, covenants, or agreements, vol. iv. 809.
distribution of assets of testator after notice by executor, vol. iv. 809.
executors may compound debts and submit disputes to arbitration, vol. iv. 814.
payments of legacies. See *Legacy.*
retainer by executor *de son tort* under a fraudulent administration, vol. i. 1416.
distribution of effects by administrator. See *Administrator.*
sale of lands by part of executors made lawful, vol i. 1411, 1412.
assets legal and equitable,
devises of lands fraudulent against creditors (1 Will. 4, c. 47, s. 2), vol. iv. 922.
produce of sale of lands devised to be sold, not to be deemed personal estate, vol. i. 1415.
real estate, &c. to be administered in equity for payment of debts (3 & 4 Will. 4, c. 104), vol. 4, 927.
lands, &c. in British plantations, vol. i. 1425.
lands in India, assets for payment of all debts, vol. i. 1428.
lands in New South Wales, vol. i. 1427.
distribution of assets of testator after notice by executor, vol. iv. 809.
devastavit, executor liable for, when committed by his testator, vol. i. 1422, 1424.
remedies for and against,
may sue and be sued in county courts, vol. i. 1197.
may have writ of account, vol. i. 1408, *identitate nominis* maintainable where testator wrongfully molested by outlawry, vol. i. 1411.
may sue for trespass done in testator's lifetime, vol. i. 1408.
remedy against servants, &c. embezzling testator's goods, vol. i. 1411.
executor of tenant for life may sue for rent due at death, vol. ii. 1122.
of tenant in fee, &c. may distrain for rent, vol. ii. 1098, 1099.
death of testator not to abate suit, vol. ii. (15 & 16 Vict. c. 76, s. 135).
executor of executor put on same footing, as to bringing actions, as an immediate executor, vol. i. 1409.
administrator de bonis non may have *scire facias* on judgment obtained by executor, &c. vol. i. 1417.
executor's right to sue for damages, where death of testator has been caused by wrongful act, &c. vol. i. 1349. See *Death by Accident.*
creditors, legatees, or next of kin, may proceed, on summons against executor, to obtain order for administration of personal estate, vol. iii. 893.
promise by, to render him personally liable, must be in writing, vol. ii. 149.
what a sufficient promise for that purpose, *ib.* n. (*c*).
it must be founded upon a consideration, *ib.*
what consideration sufficient, *ib.*
interest of, in undisposed of residues,
when and for whom executors to be deemed trustees of such residues, vol. i. 1428, 1429.
executors still to take such residues where there are no parties entitled to them under statute of distributions, vol. i. 1429.
shares of public stocks standing in the Bank of England in the name of deceased person, may be transferred by his executors, notwithstanding specific bequests, vol. i. 1431.
bank may require all the executors to join in the transfer, *ib.*
bank not to register specific bequests of stock, *ib.*
executor may apply by petition to court of Chancery for opinion, advice, &c. in management of property, s. 4, 809.

EXEMPLIFICATION.
stamp duty on, vol. iv. 514.

EXIGENT, WRIT OF. See *Outlawry.*

EXTENT, WRIT OF.
penalty for confessing debt due to king, to delay execution, vol. iv. 209.
in chief,
king restrained from issuing, against lands, &c. while party has chattels, 9 Hen. 3, c. 8.
king's remedy for debts by specialty, 33 Hen. 8, c. 39, ss. 50, 51, 53.
lands liable, by simple contract debts recorded on, 13 Eliz. c. 4.
king's precedency of execution, 33 Hen. 8, c. 39, s. 74.
remedy for parties prosecuting extent in aid, when extent in chief is satisfied, vol. iii. 690.
in aid,
amount of debt due to crown, to be specified in fiat, vol. iii. 691.
or be indorsed upon writ as the sum to be levied, *ib.*
regulation, when debt of less amount than specified in fiat, *ib.*
if any overplus produced by sale of land, &c. court to dispose of it on application, *ib.*
not to prejudice the debtor to crown, in recovering remainder of any debt, *ib.*

EXTENT—*continued.*
not to be sued out by simple contract debtors to crown, *ib.*
or by bond, except in certain cases, vol. iii. 692.
not to issue on bonds as surety for insurance companies, &c. *ib.*
persons imprisoned under, may apply to court of exchequer for discharge, *ib.*
court may order writ of *supersedeas quoad corpus, ib.*
order for sale of lands on, 25 Geo. 3, c. 35.
poundage on, vol. iv. 216.
pleas to extents, 33 Hen. 8, c. 39.
upon judgment or statute not to be avoided or delayed for omission of part of the land extendible, saving the right of contribution (except as against infants) 16 & 17 Car. 11, c. 5, made perpetual, 22 & 23 Car. 11, c. 2.
may be tested, and be made returnable in term or vacation, vol. iii. 712.
sale of bankrupt's estate, when to be valid against, vol. i. 305.
bankrupt's property, when bound by, *ib.*

EXTORTION. See *Sheriff.*
punishment of sheriff or king's officers committing, vol. iv. 207, 208.
by bishops' officers in proving wills, vol. i. 1409.
prevention of, by sheriffs, undersheriffs, and bailiffs of franchises or liberties in cases of execution, vol. iv. 209, 210, 219.
punishment of, when committed upon prisoners, vol. iv. 220.
by sheriff or his officers, in execution of civil process, a contempt of court, vol. iv. 232.
by registrar of designs, or persons employed under him, vol. i. 918.
by bailiffs of inferior courts, vol. i. 1272.
by officers of county courts, vol. i. 1209.

FACTORIES.
Abstract,
of factory acts, to be hung up in certain places, vol. ii. 15, s. 28; vol. ii. 35, s. 29.
Accidents,
notice of, to be sent to certifying surgeon, vol. ii. 14, s. 22.
where person injured is employed in the factory, *ib.*
certifying surgeon to examine into nature and cause of, vol. ii. 14, s. 23.
Action for Injury,
may be directed by secretary of state, vol. ii. 14, s. 24.
application of damages, vol. ii. 14, s. 25.
costs, how paid, *ib.*
Age. See *Certificate of Age; Evidence.*
Agent,
definition of, vol. ii. 23, s. 73; vol. ii. 54, s. 4; vol. ii. 31, s. 2.
his liability for offences, vol. ii. 18, s. 41; vol. ii. 53, s. 3; vol. ii. 35, s. 30.
may be charged in the first instance, vol. ii. 18, s. 41; vol. ii. 35, s. 30.
Agreements,
between occupier and certifying surgeon, vol. ii. 12, s. 12; vol. ii. 32, s. 11.

FACTORIES—*continued.*
Alphabetical Index,
of children and young persons, vol. ii. 27.
Alternate Days,
how children employed on, vol. ii. 15, s. 31.
Appeal,
who may, vol. ii. 22, s. 70; vol. ii. 38, s. 52.
in what cases, *ib.*
to what sessions, *ib.*
notice and recognizances, *ib.*
on refusal of justice to countersign certificate of age, vol. ii. 4, s. 16.
against annulment of school certificate, vol. ii. 17, s. 39; vol. ii. 34, 35, s. 26.
Apprentices,
clothing of, vol. ii. 1, s. 3.
instruction of, vol. ii. 1, ss. 6, 8.
sleeping apartments of, vol. ii. 1, s. 7.
Arbitrators,
when they may be appointed, vol. ii. 18, s. 43.
costs of, how borne, *ib.*
Bleaching and Dyeing Works,
definition of, vol. ii. 52, s. 7.
employment of females, young persons, and children therein, vol. ii. 51.
extreme limits of labour therein, vol. ii. 52, s. 11.
employment of young persons and females in recovering lost time, vol. ii. 51, s. 4.
employment of young persons and females not previously employed, vol. ii. 51, s. 6.
registers of time in, vol. ii. 51, s. 5.
fencing machinery not required, vol. ii. 52, s. 10.
nor whitewashing of ceilings, *ib.*
exceptions from operation of act relating to, vol. ii. 52, s. 9.
Bleaching by Open Air Process,
definition of, vol. ii. 52, s. 7.
excepted from operation of Factory Acts, vol. ii. 51, s. 1.
Certificate of Age,
who require, vol. ii. 4, s. 11; vol. ii. 34, ss. 20, 21.
not required for young persons above sixteen, vol. ii. 11, s. 9.
nor for females above eighteen, vol. ii. 16, s. 32.
of being eleven years old in silk mills, vol. ii. 48, s. 7.
occupier to obtain, before employment, vol. ii. 13, s. 16; vol. ii. 34, s. 15.
must be produced when demanded, *ib.*
may be dispensed with for seven or thirteen days, vol. ii. 13, s. 17; vol. ii. 34, s. 16.
where to be given, vol. ii. 12, s. 11; vol. ii. 32, s. 10.
where valid for, vol. ii. 13, s. 16; vol. ii. 34, s. 15.
directions respecting making, &c. vol. ii. 23, 24.
may be annulled, vol. ii. 12, s. 14; vol. ii. 33, s. 13.
on what grounds, *ib.*
not to protect one who knows person under age, vol. ii. 20, s. 53; vol. ii. 34, s. 17.
when given by certifying surgeon,
forms, vol. ii. 23, 39.
need not be countersigned, vol. ii. 11, s. 9.
must be on personal inspection, vol. ii. 12, s. 11; vol. ii. 32, s. 10.
where to be signed and issued, *ib.*

FACTORIES—*continued.*
certificate of refusal of, vol. ii. 25; vol. ii. 40.
when given by any other surgeon,
who may give, vol. ii. 4, s. 12; vol. ii. 12, s. 10; vol. ii. 32, s. 9.
examination must be personal, vol. ii. 4, s. 12; vol. ii. 12, s. 11; vol. ii. 32, s. 10.
and be so certified, vol. ii. 4, s. 12.
forms of, vol. ii. 24; vol. ii. 39.
must be countersigned, vol. ii. 4, s. 12; vol. ii. 12, s. 10; vol. ii. 32, s. 9.
within three months, vol. ii. 4, s. 12.
form of countersigning, vol. ii. 24; vol. ii. 39.
provision in case of refusal to countersign, vol. ii. 4, s. 16.
Certificate of Real Age. See *Real Age.*
Certificate of School Attendance. See *School Certificate.*
Certificates,
forgery of. See *Forgery.*
false testimony respecting, vol. ii. 7, s. 28.
to be produced to inspector when demanded, vol. ii. 13, s. 16; vol. ii. 34, s. 15.
Certifying Surgeons,
appointment of, vol. ii. 11, s. 8.
persons beneficially interested in factories, not to be, *ib.*
appointment of, may be annulled, *ib.*
certificates of, need not be countersigned, vol. ii. 11, s. 9.
when must visit factory, vol. ii. 12, s. 13; vol. ii. 32, s. 12.
must register visits, vol. ii. 13, s. 16; vol. ii. 34, s. 15.
form of register, vol. ii. 26, 41.
to examine into nature and cause of accidents, vol. ii. 14, s. 23.
how protected in so doing, *ib.*
to report thereon to inspector, *ib.*
name and address of, to be hung up in factory, vol. ii. 15, s. 28; vol. ii. 41.
Certiorari,
conviction not removeable by, in certain cases, vol. ii. 2, s. 15; vol. ii. 22, s. 69; vol. ii. 38, s. 51.
Child,
definition of, vol. ii. 23, s. 73; vol. ii. 31, s. 2.
to attend school, vol. ii. 6, s. 20; vol. ii. 17, s. 38; vol. ii. 46, s. 3.
at what age child may be employed, vol. ii. 15, s. 29; vol. ii. 34, s. 19.
how long each day, vol. ii. 15, s. 30; vol. ii. 16, s. 33; vol. ii. 15, s. 31.
between what hours, vol. ii. 49, ss. 1, 2, 3, 4; vol. ii. 16, s. 33; vol. ii. 34, s. 22.
not both morning and afternoon, vol. ii. 15, s. 30.
exceptions, *ib.*
for ten hours on alternate days, vol. ii. 15, s. 31.
not to be employed without certificate of age, vol. ii. 4, s. 11; vol. ii. 34, s. 20.
nor during meal time, vol. ii. 16, s. 36.
when above eleven years old in silk mills, vol. ii. 48, s. 7.
Cleaning Machinery,
mill gearing not to be cleaned while in motion, vol. ii. 14, s. 20.

FACTORIES—*continued.*
Clerk of the Peace,
to furnish copies of convictions, vol. ii. 22, s. 67; vol. ii. 38, s. 49.
Clock,
for regulating hours of labour, vol. ii. 15, s. 26; vol. ii. 35, s. 28.
Committal,
justices' power of, vol. ii. 19, s. 49; vol. ii. 36, s. 36.
Complaint,
who may make, vol. ii. 19, s. 46; vol. ii. 36, s. 38.
how to be made, *ib.*
notice of intention to prefer, when required, vol. ii. 18, s. 42.
time within which it must be preferred, vol. ii. 18, s. 44; vol. ii. 35, s. 31.
who to hear and determine, vol. ii. 19, s. 45; vol. ii. 36, s. 32.
Constable,
may be called in by inspector, vol. ii. 10, s. 3; vol. ii. 31, s. 4.
to serve inspector's summonses, &c. vol. ii. 19, s. 50; vol. ii. 36, s. 37.
Construction,
statutes to be construed as one act with Factory Act, 3 & 4 Will. 4, c. 103:—4 & 5 Will. 4, c 1, vol. ii. 10, s. 2; 7 Vict. c. 15, vol. ii. 23, s. 73; 10 Vict. c. 29, vol. ii. 45, s. 4; 13 & 14 Vict. c. 54, vol. ii. 49, s. 9; 16 & 17 Vict. c. 104, vol. ii. 49, s. 5; 19 & 20 Vict. c. 38, vol. ii. 50, s. 3.
of the Printworks' Acts, vol. ii. 46, s. 5.
Conviction,
form of, under 42 Geo. 3, c. 73, vol. ii. 2, s. 16.
under Factory Acts, vol. ii. 31.
appeal against, vol. ii. 22, s. 69; vol. ii. 38, s. 51.
not to be quashed for matter of form, *ib.*
to be filed among records of the county, vol. ii. 22, s. 68; vol. ii. 38, s. 50.
how proved, vol. ii. 22, s. 67; vol. ii. 38, s. 49.
Day,
definition of, in printworks, vol. ii. 31, s. 2.
Declaration,
person examined by inspector to sign, vol. ii. 10, s. 3.
by surgeon, as to age of workers, vol. ii. 20, s. 53.
Distress,
power of, under 42 Geo. 3, c. 73, vol. ii. 2, s. 15.
penalties, &c. may be levied by, vol. ii. 19, s. 45; vol. ii. 36, s. 32.
what goods liable to, *ib.*
Dyeing Works,
employment of males above thirteen in, vol. ii. 52, s. 8.
Employment,
definition of, vol. ii. 23, s. 73; vol. ii. 31, s. 2.
of children and young persons in wet spinning flax mills, vol. ii. 14, s. 19.
of females above eighteen, vol. ii. 16, s. 32.
of young persons and females during meal-times, vol. ii. 48, s. 8.
of children during meal-times, vol. ii. 16, s. 36; vol. ii. 52, s. 8.
of children, young persons, and females during half-holidays, vol. ii. 17, s. 37.
of young persons and females between 7 a.m. and 7 p.m., vol. ii. 48, s. 6.

FACTORIES—*continued.*
of children, vol. ii. 49, s. 2.
what shall be evidence of, vol. ii. 20, s. 52.
of person under sixteen without certificate, vol. ii. 20, s. 54; vol. ii. 34, s. 18.
under eighteen, contrary to law, vol. ii. 26, s. 55.
Evidence,
of employment, what shall be, vol. ii. 20, s. 52.
of employment without certificate, what shall be, vol. ii. 20, s. 54; vol. ii. 34, s. 18.
contrary to law, of person under eighteen, vol. ii. 20, s. 55.
of time of labour in bleach and dye works, vol. ii. 51, s. 5.
of age, surgical certificate to be, vol. ii. 20 s. 53; vol. ii. 34, s. 17.
surgeon's declaration to be, *ib.*
certificate of real age, when to be, vol. ii. 13, s. 15; vol. ii. 33, s. 14.
of annulment of certificate of age, vol. ii. 12, s. 14; vol. ii. 33, s. 13.
information sent to inspector, when to be, vol. ii. 15, s. 27; vol. ii. 35, s. 27.
refusal to give, consequences of, vol. ii. 19, s. 49; vol. ii. 36, s. 36.
copy of conviction to be, vol. ii. 22, s. 67; vol. ii. 38, s. 49.
Exemption,
of certain persons on repairs, &c. vol. ii. 9, s. 47; vol. ii. 23, s. 73; vol. ii. 31, s. 2.
of certain persons packing goods, vol. ii. 23, s. 73.
of certain ropeworks, vol. ii. 44.
Factory,
definition of, vol. ii. 23, s. 73.
what not to be deemed part of, vol. ii. 20, s. 52; vol. ii. 23, s. 73.
part of a factory is a factory, vol. ii. 23, s. 73.
exceptions to the term, *ib.*
name, &c. of, to be entered in register, vol. ii. 26.
Fees,
to certifying surgeon, may be fixed by agreement, vol. ii. 12, s. 12; vol. ii. 32, s. 11.
may be fixed by inspector, vol. ii. 12, s. 13; vol. ii. 32, s. 12.
when to be paid, *ib.*
for investigation of accident, vol. ii. 14, s. 23.
for schooling, when to be paid by employer, vol. ii. 17, s. 39.
Females,
above eighteen do not need certificate of age, vol. ii. 16, s. 32.
not to be employed at night in print works, vol. ii. 34, s. 22.
time and manner of employment of, vol. ii. 16, s. 32; vol. ii. 47, ss. 1—9.
Fencing,
what machinery to be fenced without notice, vol. ii. 14, s. 21.
what *after* notice, vol. ii. 18, s. 43.
not to be removed while machinery in motion, vol. ii. 14, s. 21.
not required in bleach and dye works, vol. ii. 52, s. 10.
notice to be given before complaint, vol. ii. 18, s. 42.
when occupier not liable for not fencing, vol. ii. 21, s. 60.
Finishing,
within the meaning of bleaching, vol. ii. 52, s. 7.

FACTORIES—*continued.*
Fly-wheel,
must be fenced, vol. ii. 14, s. 21.
Hoist,
must be fenced, *ib.*
Holidays,
what, to be allowed, vol. ii. 17, s. 37.
half-holidays, length of, *ib.*
notice of, to be hung up, *ib.*
to be recorded in register, vol. ii. 26.
Hosiery,
manufacturer of, to deliver with materials a ticket of work, vol. ii. 42, s. 1.
ticket to be evidence, vol. ii. 43, s. 2.
when dispute arises as to imperfect execution, the work to be produced, vol. ii. 43, s. 3.
penalty on manufacturer for non-delivery of ticket, vol. ii. 43, s. 4.
power of summoning witnesses, vol. ii. 43, s. 5.
service of summons, vol. ii. 43, s. 6.
levying and application of penalty, vol. ii. 43, s. 7.
no certiorari allowed, nor distress unlawful for want of form, vol. ii. 43, s. 8.
Hours of Labour,
how to be regulated, vol. ii. 15, s. 26; vol. ii. 35, s. 27.
of apprentices, under 42 Geo. 3, c. 73; vol. ii. 1, s. 4.
of females and children in print works, vol. ii. 34, s. 22.
limits of, in bleach and dye works, vol. ii. 51, ss. 3, 4; vol. ii. 52, s. 11.
of children, vol. ii. 15, ss. 30, 31; vol. ii. 16, s. 33; vol. ii. 49, ss. 1, 2, 3, 4; vol. ii. 34, s. 22.
on alternate days, vol. ii. 15, s. 31.
when in more than one factory, vol. ii. 4, s. 10.
of youths in lace factories, vol. ii. 53, s. 2.
of young persons and females above eighteen, vol. ii. 47, s. 1; vol. ii. 4, s. 14; vol. ii. 16, s. 33; vol. ii. 48, s. 4; vol. ii. 53, s. 2; vol. ii. 48, s. 6; vol. ii. 16, s. 34.
exceptions in bleach and dye works, vol. ii. 51, ss. 2, 3, 4.
Husband,
of woman employed in night, penalty on, vol. ii. 37, s. 40.
Imprisonment,
in default of payment, under 42 Geo. 3, c. 73, vol. ii. 2, s. 15.
of witness refusing to give evidence, vol. ii. 19, s. 49; vol. ii. 36, s. 36.
for certain offences in discretion of justices, vol. ii. 21, s. 63; vol. ii. 37, s. 43.
Inspectors,
definition of, vol. ii. 23, s. 73; vol. ii. 31, s. 2.
to act for print-works, vol. ii. 31, s. 3.
their powers, vol. ii. 10, s. 3; vol. ii. 5, s. 17.
restriction on powers of, vol. ii. 10, s. 2.
to keep minutes of their visits, vol. ii. 8, s. 45; vol. ii. 32, s. 5.
to signify to occupier appointment of surgeon, vol. ii. 11, s. 8.
may choose school in default of parent, vol. ii. 6, s. 20.
may provide additional schools, vol. ii. 6, s. 22.
may summon offenders and witnesses, vol. ii. 19, s. 50; vol. ii. 36, s. 37.

FACTORIES—*continued.*
protection of, vol. ii. 11, s. 4.
name and address of, to be hung up, vol. ii. 15, s. 28; vol. ii. 35, s. 29.
are competent witnesses, vol. ii. 19, s. 48; vol. ii. 36, s. 35.
cannot act as magistrates, vol. ii. 10, s. 2.
exempt from serving on juries, *ib.*
Jervis's Act,
11 & 12 Vict. c. 43, does not extend to proceedings under "Factory Acts," vol. ii. 973, s. 35.
Justice,
may summon offenders, vol. ii. 19, s. 46; vol. ii. 36, s. 33.
and witnesses, vol. ii. 19, s. 49: vol. ii. 36, s. 36.
may issue warrant if offender does not appear, vol. ii. 19, s. 47; vol. ii. 36, s. 34.
may commit for refusal to give evidence, vol. ii. 19, s. 49; vol. ii. 36, s. 36.
may issue warrant of distress, vol. ii. 19, s. 45; vol. ii. 36, s. 32.
may countersign certificates, vol. ii. 4, s. 12: vol. ii. 32, s. 9.
Justices,
powers of, under 42 Geo. 3, c. 73, vol. ii. 2, s. 15.
to decide validity of refusal to countersign, vol. ii. 4, s. 16.
proceedings upon complaints before, vol. ii. 19, s. 45; vol. ii. 36, s. 32.
what order they may make as to penalty, *ib.*
may issue process to enforce judgment, vol. ii. 22, s. 70; vol. ii. 38, s. 52.
may hear and determine in absence of party, vol. ii. 19, s. 47; vol. ii. 36, s. 34.
may issue warrant if offender does not appear, *ib.*
so also if witness does not appear, *ib.*
what justices may not act, vol. ii. 22, s. 71; vol. ii. 38, s. 53.
Lace Factories,
definition of, vol. ii. 54, s. 4.
employment of youths in, vol. ii. 53, s. 2.
what acts apply to, vol. ii. 53, s. 1.
recovery of lost time in, vol. ii. 54, s. 5.
fencing machinery not required in, vol. ii. 54, s. 6.
Lace Machine,
definition of, vol. ii. 54, s. 4.
owner, &c. of, to register time of youths, vol. ii. 53, s. 2.
Limewashing,
under 42 Geo. 3, c. 73, vol. ii. 1, s. 2.
under 7 & 8 Vict. c. 15, vol. ii. 13, s. 18.
exception in bleach and dye works, vol. ii. 52, s. 10.
dates of, to be entered in register, vol. ii. 26.
Lost Time,
notice of, to be hung up, vol. ii. 15, s. 28; vol. ii. 16, ss. 33, 34.
not required in certain cases in bleach and dye works, vol. ii. 52, s. 8.
recovery of,
not recoverable on Saturday, vol. ii. 16, ss. 33, 34.
except in bleach and dye works, vol. ii. 51, s. 2.
Machinery,
dangerous, notice to fence may be given, vol. ii. 18, s. 43.
consequences of neglecting to fence, vol. ii. 21, s. 60.

FACTORIES—*continued.*
Meals,
one and a-half hour to be allowed for, vol. ii. 3, s. 6.
between what hours to be taken, vol. ii. 48, s. 3.
additional regulations as to meal times, vol. ii. 16, s. 36.
notice of meal times to be hung up, vol. ii. 15, s. 28.
remaining on premises during, vol. ii. 16, s. 36.
provisions fixing time for, not to apply to bleach and dye works, vol. ii. 52, s. 12.
Mill-gearing,
definition of, vol. ii. 23, s. 73.
to be fenced, vol. ii. 14, s. 21.
children, &c. not to clean, while in motion, vol. ii. 14, s. 20.
Moving Power,
nature and amount of, to be entered in register, vol. ii. 26.
Names,
of young persons, when to be registered, vol. ii. 26.
of children, when, vol. ii. 27.
above eleven, in silk mills, to be registered, vol. ii. 27.
alphabetical index of, vol. ii. 27.
Night,
meaning of, in 7 & 8 Vict. c. 15, s. 34; vol. ii. 48, s. 5.
in print works, vol. ii. 31, s. 2.
Notices,
on beginning to occupy factory, &c. vol. ii. 11, s. 7; vol. ii. 32, s. 6.
what, to be hung up in factories, vol. ii. 15, s. 28; vol. ii. 35, s. 29.
what, not necessary in bleach and dye works, vol. ii. 52, s. 8.
where to be hung, vol. ii. 15, s. 28; vol. ii. 35, s. 29.
not to be removed while at work, *ib.*
of recovering lost time, under 7 Vict. c. 15, s. 33, vol. ii. 16, s. 33.
when not required in bleach and dye works, vol. ii. 52, s. 8.
under s. 34, vol. ii. 16, s. 34.
when not required in bleach and dye works, vol. ii. 52, s. 8.
of employing from 7 to 7, to inspector, vol. ii. 48, s. 6; vol. ii. 49, s. 2.
to be hung up, *ib.*
of employing children on alternate days, vol. ii. 15, s. 31.
of half-holidays, vol. ii. 17, s. 37.
of disallowing school certificates, vol. ii. 17, s. 39; vol. ii. 34, s. 26.
of dangerous machinery, vol. ii. 18, s. 43.
of appointment of arbitrator, *ib.*
of accident, to surgeon, vol. ii. 14, s. 22.
of producing millwright as witness, vol. ii. 18, s. 42.
of intention to prefer complaint, *ib.*
to inspector of intention to appeal, vol. ii. 22, s. 70.
publication of inspectors' notices, vol. ii. 6, s. 25.
Obstruction,
of visitors, vol. ii. 2, s. 11.
of inspectors and sub-inspectors,
what shall be deemed, vol. ii. 10, s. 3
vol. ii. 31, s. 4.
Occupier,
to send notice of occupying factory, vol. ii. 11, s. 7; vol. ii. 32, s. 6.

FACTORIES—*continued.*
name of, to be entered in register, vol. ii. 26.
duty of, as to limewashing, &c. vol. ii. 13, s. 18.
to obtain surgeon's certificate, vol. ii. 13, s. 16; vol. ii. 34, s. 15.
also school certificate, vol. ii. 15, s. 31; vol. ii. 17, s. 39; vol. ii. 46, s. 3.
to pay school fees when required, vol. ii. 17, s. 39.
may appeal against annulment of school certificate, vol. ii. 17, s. 39; vol. ii. 34, s. 26.
liable for offences in first instance, vol. ii. 18, s. 41; vol. ii. 35, s. 30.
may obtain summons against his agent, &c. *ib.*
Offences,
occupier liable for, *ib.*
agent, servant, &c. may be charged with, *ib.*
second or subsequent, vol. ii. 21, s. 65; vol. ii. 37, s. 46.
penalty for repetition of, vol. ii. 18, s. 44; vol. ii. 35, s. 31; vol. ii. 38, s. 47.
Offenders,
may be summoned by justice, vol. ii. 19, s. 46; vol. ii. 36, s. 33.
or by inspector or sub-inspector, vol. ii. 19, s. 50; vol. ii. 36, s. 37.
Office of Factory Inspectors, vol. ii. 11, s. 5.
Omissions, &c.
when not to render proceedings illegal, vol. ii. 22, s. 69.
Parent,
definition of, vol. ii. 23, s. 73; vol. ii. 31, s. 2.
to choose school for child, vol. ii. 6, s. 20.
to cause child to attend school, vol. ii. 15, s. 31; vol. ii. 17, s. 38.
penalty upon, for allowing illegal employment, vol. ii. 20, s. 57; vol. ii. 37, s. 40.
penalty upon, for neglect of school attendance, *ib.*
Penalties,
on employers, for having employed any person contrary to the provisions of the Factory Acts, vol. ii. 20, s. 56; vol. ii. 37, s. 39.
for employing a child without a schoolmaster's certificate, vol. ii. 20, s. 56; vol. ii. 37, s. 39.
on parents, for wrongful employment of children, vol. ii. 20, s. 57; vol. ii. 37, s. 40.
neglecting to cause child to attend school, vol. ii. 20, s. 57; vol. ii. 37, s. 40.
for not limewashing factory, vol. ii. 21, s. 58.
for not washing factory, vol. ii. 21, s. 58.
for not fencing machinery, vol. ii. 21, s. 59.
for not fencing dangerous machinery after notice, vol. ii. 21, s. 60; vol. ii. 50, s. 6.
for obstructing inspectors or sub-inspectors, vol. ii. 21, s. 61; vol. ii. 37, s. 41.
for obstructing inspectors or sub-inspectors in the night, vol. ii. 21, s. 62; vol. ii. 37, s. 42.
for counterfeiting, &c. certificate, &c. vol. ii. 21, s. 63; vol. ii. 37, s. 43.
for making false entry in register, *ib.*
for making false declaration, *ib.*
for offences not otherwise specified, vol. ii. 21, s. 64; vol. ii. 37, s. 44.
in case of second and subsequent convictions, vol. ii. 21, s. 65; vol. ii. 37, s. 46.
FACTORIES—*continued.*
in case of repetition of offences, vol. ii. 38, s. 47.
application of, vol. ii. 21, s. 66; vol. ii. 38, s. 48.
mitigation of, *ib.*
for obstructing visitors, vol. ii. 2, s. 11.
for offences under 42 Geo. 3. c. 73, vol. ii. 2, s. 13.
how recoverable, vol. ii. 2, s. 15.
Printing,
what, falls under Print Works Act, vol. ii. 31, s. 2.
Print Work,
definition of, *ib.*
exceptions, *ib.*
Real Age,
certificate of, may be obtained, vol. ii. 13, s. 15; vol. ii. 33, s. 14.
Recognizance,
to be entered into on appeal, vol. ii. 22, s. 70; vol. ii. 38, s. 52.
Registers,
what to be kept, vol. ii. 15, s. 27; vol. ii. 35, s. 27.
Rope Works Exemption Act, vol. ii. 44.
School,
children to attend, vol. ii. 6, s. 20; vol. ii. 46, s. 3.
may be entered by inspector in day time, vol. ii. 10, s. 3; vol. ii. 31, s. 4.
School Attendance,
how long for children in factories, &c. vol. ii. 17, s. 38.
in print works, vol. ii. 46, s. 3.
when children work on alternate days, vol. ii. 15, s. 31.
at what hours, vol. ii. 17, s. 38; vol. ii. 46, s. 3.
not required on Saturday, vol. ii. 15, s. 31.
School Certificate,
child employed on alternate days to have, *ib.*
to be obtained by occupier, vol. ii. 15, s. 31; vol. ii. 17, s. 39; vol. ii. 46, s. 3.
how often, *ib.*
how long to be kept, *ib.*
annulment of, vol. ii. 17, s. 39; vol. ii. 34, s. 26.
directions respecting, vol. ii. 25.
form of, *ib.*
penalty for employing child without, vol. ii. 20, s. 56; vol. ii. 37, s. 39.
Schoolmaster,
payment to, may be disallowed, vol. ii. 6, s. 23.
certificates of, may be annulled, vol. ii. 17, s. 39; vol. ii. 34, s. 26.
on what grounds, *ib.*
appeal against annulment, *ib.*
to keep register of children's attendance, vol. ii. 46, s. 2.
Schools,
means of providing additional, vol. ii. 6, s. 22.
Secretary of State,
to appoint sub-inspectors, vol. ii. 5, s. 19.
to fix their salary, *ib.*
to regulate office of factory inspectors, vol. ii. 11, s. 6.
and inspector's duties, *ib.*
to direct what abstract shall be hung up, vol. ii. 15, s. 28; vol. ii. 35, s. 29.
may disallow recompense to constable, vol. ii. 5, s. 19.

FACTORIES—*continued.*
may revoke appointment of certifying surgeon, vol. ii. 11, s. 8.
or annulment thereof, *ib.*
may authorise actions for compensation, vol. ii. 14, s. 24.
to approve of disposal of damages, vol. ii. 14, s. 25.
of penalties for bodily injury, vol. ii. 21, s. 60.
to direct application of penalties, vol. ii. 21, s. 66; vol. ii. 38, s. 48.
may remit penalties, *ib.*
appeal to, against annulment of school certificate, vol. ii. 17, s. 39; vol. ii. 34, s. 26.
Servant,
of occupier, liable for offences, vol. ii. 18, s. 41; vol. ii. 35, s. 30.
may be charged in first instance, *ib.*
of owner, &c. of lace machine liable, vol. ii. 53, s. 3.
definition of, in Lace Factories' Act, vol. ii. 54, s. 4.
Sessions,
general or quarter, to hear appeals, vol. ii. 22, s. 70; vol. ii. 38, s. 52.
to make orders and issue process, *ib.*
Silk Mills,
how children above eleven may be employed in, vol. ii. 48, s. 7.
Steam Engine,
must be fenced, vol. ii. 14, s. 21.
Sub-Inspector,
definition of, vol. ii. 23, s. 73; vol. ii. 31, s. 2.
Sub-Inspectors,
appointment of, vol. ii. 5, s. 19.
to act also for print works, vol. ii. 31, s. 3.
powers of. See *Inspectors.*
may summon offenders, &c. vol. ii. 19, s. 50; vol. ii. 36, s. 37.
name and address of, to be hung up, vol. ii. 15, s. 28; vol. ii. 35, s. 29.
are competent witnesses, vol. ii. 19, s. 48; vol. ii. 36, s. 35.
Summons,
may be issued by any justice, vol. ii. 19, s. 46; vol. ii. 36, s. 33.
or by inspector or sub-inspector, *ib.*
what due service of, vol. ii. 20, s. 51; vol. ii. 37, s. 38.
personal service of, in what cases, vol. ii. 19, s. 49; vol. ii. 36, s. 36.
Teagle,
must be fenced, vol. ii. 14, s. 21.
Time,
of employment. See *Hours of Labour.*
recovery of. See *Lost Time.*
for meals. See *Meals.*
Turkey-red Dyeing,
exception of, vol. ii. 52, s. 9.
Ventilation,
of cotton and woollen mills, vol. ii. 1, s. 2.
Visitors,
of cotton and woollen mills, vol. ii. 2, s. 9.
Warrant of Distress,
by whom issued, vol. ii. 19, s. 45; vol. ii. 36, s. 32.
what may be seized under, *ib.*
Washing,
interior of factory, vol. ii. 13, s. 18.
penalty for neglect of, vol. ii. 21, s. 58.
Waterwheel,
must be fenced, vol. ii. 14, s. 21.
Wheelrace,
must be fenced, *ib.*

FACTORIES—*continued.*
Whitewashing. See *Limewashing.*
Witness,
may be summoned by justice, vol. ii. 19, s. 49; vol. ii. 36, s. 36.
or by inspector or sub-inspector, *ib.*
compellable to appear, *ib.*
may be committed for refusing to give evidence, *ib.*
Women. See *Females.*
Young Person,
definition of, vol. ii. 23, s. 73; vol. ii. 31, s. 2; vol. ii. 54, s. 4.
children above eleven in silk mills may work as, vol. ii. 48, s. 7.
employment of, from 7 a.m. to 7 p.m., vol. ii. 48, s. 6.
not to be employed during meal times, vol. ii. 16, s. 36; vol. ii. 48, s. 8.
nor during half-holidays, vol. ii. 17, s. 37.
Youth,
definition of, vol. ii. 54, s. 4.
how employed in lace factories, vol. ii. 53, s. 2.
time of, to be registered, *ib.*

FACTORS.
persons in whose names goods shipped to be deemed owners, so as to entitle consignees to lien thereon, vol. ii. 54.
unless consignee has notice that shipper is not owner, vol. ii. 55.
persons may take goods, bills of lading, &c. in deposit from consignee, and be vested with his rights, vol. ii. 55.
right of owner to follow his goods while in hands of his agent, *ib.*
or of his assignees in case of bankruptcy, *ib.*
or to recover them from assignees, &c. upon paying advances secured upon them, *ib.*
proviso as to bankruptcy of factor, *ib.*
factors, &c. having goods, &c. in possession, deemed owners, so as to give validity to *bonâ fide* contracts with them, vol. ii. 56.
proviso as to notice, *ib.*
and as to bill of discovery, *ib.*
person in possession of bills of lading, &c. deemed owner, so far as to make valid contracts, vol. ii. 56, 57.
proviso as to notice, vol. ii. 57.
none to acquire security upon goods in hands of agent for an antecedent debt, beyond amount of agent's interest in the goods, *ib.*
persons may contract with known agents in ordinary course of business, notwithstanding notice, *ib.*
so also with known agents out of the ordinary course of business, if within the agent's authority, *ib.*
what interest persons taking goods, &c. in pledge from known agents may acquire, vol. ii. 58.
right of true owner to follow his goods while in hands of agent, *ib.*
or of his assignees in case of bankruptcy, *ib.*
or to recover them from assignees, &c. upon paying advances secured upon them, *ib.*
proviso in case of bankruptcy of factor, for owner of goods so pledged and redeemed, *ib.*

FACTORS—*continued.*
agents fraudulently pledging goods of principals, a misdemeanor, *ib.*
punishment, *ib.*
proviso for cases in which agent has not made good a security beyond the extent of his own lien, *ib.*
how far acceptances of bills by agent create a lien, vol. ii. 58, 59.
proviso for partners not privy to offence, vol. ii. 59.
and for remedies at law or equity, *ib.*
bonâ fide advances to persons intrusted with the possession of goods or documents of title, protected, vol. ii. 59, 60.
so also *bonâ fide* deposits in exchange, vol. ii. 60.
but no lien beyond value of goods given up, *ib.*
those transactions only protected which are entered into *bonâ fide* without notice that the agent pledging is acting *malâ fide* against the owner, *ib.*
possession *primâ facie* evidence of intrusting, *ib.*
agent's civil responsibility not to be diminished, *ib.*
right of owner to redeem, vol. ii. 61.
or to recover balance of proceeds, *ib.*
owner's rights in case of bankruptcy of agent, *ib.*
criminal liability of factors wrongfully obtaining advances on the property of their principals, vol. ii. 62.
provisions as to proof or set-off by owner, where factor having pledged goods becomes bankrupt, vol. i. 335.

FAIRS. See *Markets.*

FALSE IMPRISONMENT. See *Habeas Corpus.*

FALSE JUDGMENT. See *Error.*
writ of, lies on judgment of a court not of record, vol. i. 1356, n. (*a*).
none but the king shall hold plea of, vol. i. 1356.
trial of averment in writ of, *ib.*

FALSE PRETENCES.
obtaining property by, vol. ii. (213).
form of indictment and evidence, vol. ii. (214).
no acquittal, if offence turn out to be larceny, *ib.*
when the property is caused to be delivered to a person other than the person making the pretence, *ib.*
inducing person to execute deed, note, &c. by, *ib.*

FALSE RETURN. See *Sheriff.*

FEASTS.
moveable. See *Time.*

FEES. See *Costs; Sheriff; Pleading and Practice.*

FEIGNED ISSUES.
proceedings in lieu of, vol. ii. 277.
may still be used, *ib.* n. (*c*).

FELO DE SE.
not to be interred in highway, vol. ii. 78.
where to be interred, *ib.*

FELO DE SE—*continued.*
within what time, *ib.*
between what hours, *ib.*
stake not to be driven through body of, *ib.*
rites of christian burial not to be performed, *ib.*

FEME COVERT. See *Fines and Recoveries.*
consolidation and amendment of laws relating to property belonging to, vol. i. 839.
with husband's concurrence, may dispose of lands, and money subject to be invested in lands, and release and extinguish powers, &c. as a feme sole, vol. ii. 114, s. 77.
deeds executed by (except as protector of a settlement), to be acknowledged, vol. ii. 115, ss. 79, 80.
as to appointment of perpetual and other commissioners, and the taking of acknowledgments, certificates, &c. vol. ii. 115—118.
if husband lunatic, or otherwise incapable of consenting, court of common pleas may dispense with his concurrence, vol. ii. 118, s. 91.
may disclaim estates by deed acknowledged, vol. i. 825, s. 7.
owner of land being, may be represented by her husband under acts authorising advances of public money for drainage, 13 & 14 Vict. c. 31, s. 6.
how she may concur in special case for opinion of court of chancery, vol. iii. 866, s. 3.
enabled to dispose of reversionary interests in personal estate, vol. ii. 128.
what leases may be made by husband of wife's estate, vol. ii. 1243, s. 32; 1248, s. 8.
how she may make or consent to application under the act to facilitate leases and sales of settled estates, vol. ii. 1243, 1244.
repeal of 32 Hen. 8, c. 28, so far as relates to leases by husband of wife's lands, vol. ii. 1243.
husband, after death of wife, may sue and distrain for rent of wife's estate due in her lifetime, vol. ii. 1099.
deeds, &c. enrolled and acknowledged by married women in corporate towns, according to custom, to be valid, vol. ii. 84, 85.
deposit in savings bank by, may be paid out to her, unless the husband or his representatives require payment, vol. iv. 122, 130.

FEOFFMENT. See *Conveyance.*
must be evidenced by deed, vol. i. 824.
unless made under a custom by an infant, *ib.*
not to have any tortious operation, vol. i. 825.
words "give and grant" in, bind feoffor to warranty, vol. i. 822.
but not in feoffments made since 1st Oct. 1845, vol. i. 825.
stamp duty on, vol. iv. 514.

FIERI FACIAS, WRIT OF. See *Pleading, Practice, &c.*

FINES AND RECOVERIES.
manner of levying a fine, vol. ii. 78.

FINES AND RECOVERIES—*continued.*
what requisites of, and who concluded by, vol. ii. 78, 79.
there must be a suit and original writ, *ib.*
caption of, *ib.*
day and year of acknowledgment of fine to be certified, vol. ii. 88.
but judge, &c. not bound to certify after a year after caption, *ib.*
proceedings, &c. on fines to be enrolled, vol. ii. 80, 87.
records not to be taken out of office, vol. ii. 91.
exemplification to be of same force as original, *ib.*
when conusor need not personally appear, vol. ii. 79.
proclamations of,
made necessary, *ib.*
must be made in court in four terms, vol. ii. 81, 82.
only one day in each term necessary, vol. ii. 91, 92.
proviso in case of term being adjourned, vol. ii. 86.
must be enrolled, &c. vol. ii. 87.
office for enrolment, &c. vol. ii. 88.
enrolment of, in Wales and counties palatine, vol. ii. 89, 90.
chirographer every term to make out list of fines and fix them up in court, vol. ii. 89.
also to deliver list to sheriffs, who are to fix them up at assizes, *ib.*
in what courts, and before whom acknowledged, &c.
used to be before four justices in the bench or in Eyre, vol. ii. 79.
afterwards before justices of C. P. vol. ii. 80.
in counties palatine, Wales, &c. vol ii. 85, 86, 89, 90.
in courts of cities and towns corporate, vol. ii. 84, 85.
persons decrepit by age, &c. need not personally appear in court, vol. ii. 79.
when fine may be taken out of court by *dedimus potestatem, ib.*
how acknowledgment is to be certified, vol. ii. 88.
parties to,
infant trustees may levy, 7 Anne, c. 19.
infants levying in counties palatine, &c. 4 Geo. 3, c. 16.
of what things it may be levied.
of rectories, &c. and ecclesiastical inheritances made temporal, vol. ii. 82, 83.
force and effect of fines,
under statute *de modo levandi fines,* vol. ii. 78, 79.
non-claim of fines levied without proclamations no bar, vol. ii. 80, 81.
but non-claim of other fines a bar to all privies and strangers, if claim not pursued in five years, vol. ii. 81.
party claiming in five years after new right accrued, not barred, *ib.*
infants, &c. not barred, *ib.*
but they must pursue claim in five years after age, *ib.*
claim to avoid must be by lawful action or entry, *ib.*
levied by tenant in tail, 32 Hen. 8, c. 36, vol. ii. 82.

FINES AND RECOVERIES—*continued.*
not to extend to a fine of lands, whereof king is in reversion, vol. ii. 83.
fine levied by wife of inheritance of late husband void, *ib.*
fine levied by party barred by act of parliament void, *ib.*
ecclesiastical persons cannot bar successors by non-claim, 13 Eliz. c. 10.
how reversed and avoided,
fine not to be reversed for bad Latin, error in form, &c. vol. ii. 87, 90.
error to be brought within twenty years after fine levied, vol. i. 1362.
claim to avoid fine with proclamations, must be by lawful action or entry, vol. ii. 81.
who may have writ of error to reverse and in what case, vol. ii. 88, 90.
remedy for heir, where ancestor dies, pending suit, vol. ii. 88.
amendment of, not allowed after exemplification, vol. ii. 89.
Abolition of, and substituting more simple modes of assurance, 3 & 4 Will. 4, c. 74.
meaning of *words and expressions* used in the act, vol. ii. 96.
no fine or recovery shall be levied or suffered after 31st December, 1833, vol. ii. 96, 97.
except where writ of *dedimus* or other writ shall have been previously sued out, vol. ii. 97.
persons liable, after 31st December, 1833, to levy fines or suffer recoveries under covenants, to effect the purposes intended by means of this act, *ib.*
but in any case where the purposes of a fine or recovery cannot be so effected, the persons liable to levy fines or suffer recoveries shall execute a deed which shall have the same operation as the fine or recovery, *ib.*
tenure of ancient demesne, &c.
fines and recoveries of lands in ancient demesne, when levied or suffered in a superior court, may be reversed as to the lord by writs of deceit, but shall be as valid against the parties and persons claiming under them, as if not reversed as to the lord, *ib.*
fines and recoveries of lands in ancient demesne, when levied or suffered in a manor court, after other fines and recoveries have been previously levied or suffered in a superior court, shall be as valid as they would have been if the tenure had not been changed, vol. ii. 97, 98.
and fines and recoveries shall not be invalid in other cases, though levied or suffered in courts whose jurisdiction may not extend to the lands therein comprised, or which may be unlawful, or held without due authority, *ib.*
tenure of ancient demesne, where suspended or destroyed by fine or recovery in a superior court, restored in those cases in which the rights of the lord of the manor shall have been recognised within the last twenty years preceding the 1st January, 1834, vol. ii. 98.
amendment of fines and recoveries, and rendering them valid in certain cases,
fines having errors or mistakes in the parcels or parties, apparent from the deeds, de-

FINES AND RECOVERIES—*continued.*
claring the uses, shall not require amendment, *ib.*
recoveries having errors or mistakes in the parcels or parties, apparent from the deeds making the tenants to the writs of entry, shall not require amendment, *ib.*
jurisdiction of courts to amend fines and recoveries in cases not provided for by this act, not taken away, *ib.*
no recovery to be invalid in consequence of neglect to enrol the bargain and sale, purporting to make the tenant to the writ of entry, vol. ii. 99.
provided same would have been valid if the bargain and sale had been enrolled, *ib.*
recoveries invalid in consequence of there not being proper tenants to the writs of entry, made valid in case the persons having the beneficial estates shall have made the tenants to the writs in due time, *ib.*
certain cases in which fines and recoveries shall not be made valid by this act, *ib.*
custody of records of fines and recoveries,
records of fines and recoveries in the courts of common pleas at Westminster and Lancaster, and in the court of pleas at Durham, shall be kept as the respective courts and justices shall direct, *ib.*
provision for searches and copies, *ib.*
warranty,
estates tail and estates expectant thereon no longer barrable by warranty, vol. ii. 100.
alienation of estates tail,
after 31st December, 1833, every actual tenant in tail in possession, remainder, contingency, or otherwise, shall have full power to dispose of the lands entailed, in fee simple absolute, or for any less estate, *ib.*
saving rights of certain persons, *ib.*
power of disposition shall not be exercised by women tenants in tail *ex provisione viri*, under 11 Hen. 7, c. 20, except with such assent as required by that act, *ib.*
repeal of 11 Hen. 7, c. 20, except as to lands in settlements made before the passing of this act, vol. ii. 101.
power of disposition not to extend to tenants in tail restrained by 34 & 35 Hen. 8, c. 20, or by any other act, *ib.*
nor to tenants in tail after possibility of issue extinct, *ib.*
after 31st December, 1833, every person who would have been actual tenant in tail of lands if his estate tail had not been converted into a base fee, shall have full power to dispose of the lands so as to enlarge the base fee into a fee simple absolute, *ib.*
saving the rights of certain persons, *ib.*
act not to extend to enable issue inheritable to estates tail to bar their expectancies, *ib.*
disposition by tenant in tail for any limited purpose, shall, to the extent of the estate thereby created, be a bar in equity as well as at law, vol. ii. 102.
but if for an estate *pur autre vie*, or for years, the disposition shall in equity be a bar only so far as to give effect to the limited purpose, *ib.*
definition of protector of settlement.
who shall be protector in ordinary cases, *ib.*
each of two or more owners of a prior estate shall be sole protector to the extent of his undivided share, *ib.*
where prior estate of a married woman shall not be settled to her separate use, she and her husband together shall be the protector, vol. ii. 102, 103.
where prior estate settled to her separate use, she alone shall be protector, *ib.*
estate limited by settlement by way of confirmation or restoration of a previous estate shall, so far as regards the protector, be an estate under such settlement, vol. ii. 103.
owner of lease at a rent, created or confirmed by settlement, not to be protector, *ib.*
no woman in respect of her dower, and (except in the case of a bare trustee under a settlement made before 31st December, 1833) no bare trustee, heir, executor, administrator, or assign, as such, shall be protector, *ib.*
where the owner of the prior estate shall by the two last clauses not be the protector, the person who, if such estate did not exist, would be protector, shall be protector, *ib.*
where in the case of the disposition of a life estate, on or before the 31st December, 1833, the person to make the tenant to the writ of entry in a recovery shall be protector, *ib.*
where in the case of a disposition of a reversion in fee, or any estate thereout, on or before the 31st December, 1833, the person to make the tenant to the writ of entry in a recovery shall be protector, *ib.*
a bare trustee shall be protector where, under a settlement made before the passing of this act, he shall be the person to make the tenant to the writ of entry in a recovery, *ib.*
power to settlor to appoint protector, vol. ii. 103, 104.
provision for the case of protector being lunatic, traitor, felon, or infant, vol. ii. 104.
and for the case of there being no protector, *ib.*
powers of protector.
where there is a protector, his consent requisite to enable an actual tenant in tail, who is not entitled to the immediate reversion in fee, to make an absolute disposition under this act, vol. ii. 105.
without such consent he can only create a base fee, *ib.*
where there is a base fee and a protector, his consent requisite to enable the person who would have been tenant of the estate tail, if not barred, to exercise his power of disposition, *ib.*
protector not subject to control in the exercise of his power of consenting, *ib.*
rules of equity as to dealings between donee of a power and any object of the power, not to apply to dealings between protector and tenant in tail, *ib.*
confirmation of voidable estates created by tenant in tail, vol. ii. 105, 106.
enlargement of base fees,
whenever a person entitled to a base fee shall become entitled to the immediate reversion in fee, the base fee shall not merge, but shall be enlarged, vol. ii. 106.

FINES AND RECOVERIES—*continued.*
modes by which estates tail, and estates expectant thereon, are to be barred.
any disposition by a tenant in tail under this Act shall be effected by any assurance, being a deed or deeds, but not an agreement or will, by which he could have conveyed if seised in fee, *ib.*
if a married woman, her husband's concurrence necessary, and the deed effecting the disposition must be acknowledged, *ib.*
no assurance by which a tenant in tail shall make a disposition under the act shall have any operation, unless enrolled in Chancery within six calendar months, *ib.*
except a lease not exceeding 21 years from the date, or not more than 12 months afterwards, where the rent shall be the rack rent, or not less than five sixth parts thereof, *ib.*
consent of the protector to be given by the assurance by which the disposition of a tenant in tail shall be effected, *ib.*
or by a distinct deed, before or at the time of the assurance, *ib.*
if the protector consent by a deed distinct from the assurance, it shall be considered unqualified, *ib.*
unless he refer to the assurance, and confine his consent to the disposition thereby made, *ib.*
protector having given his consent, shall not revoke the same, *ib.*
feme covert protector may consent as if she were feme sole, *ib.*
consent of protector, if by distinct deed, void, unless such deed enrolled with or before the assurance, vol. ii. 107.
courts of equity excluded from giving any effect to dispositions by tenants in tail, or consents of protectors, which in courts of law would not be effectual, *ib.*
lord chancellor, &c. or court of chancery, when protector, to have power to consent to the disposition by a tenant in tail; and if any other person shall be joint protector, the disposition shall not be valid without his consent, *ib.*
order of lord chancellor, or other person intrusted with lunatics, or of the court of chancery, when protector, shall be evidence of consent, *ib.*
estates tail in copyholds,
previous clauses to apply to copyholds, *ib.*
except that disposition of legal estates therein shall be by surrender, and if equitable estates, either by surrender or by deed, *ib.*
if protector of a settlement of copyhold shall by deed consent to the disposition of a tenant in tail, such deed shall, at or before the surrender by the tenant in tail, be produced to the lord of the manor, or his steward or deputy, otherwise the consent shall be void, vol. ii. 107, 108.
lord, or steward, or deputy, shall by indorsement on deed acknowledge such production, and enter such deed and indorsement on the rolls, and the indorsement shall be evidence of such production, and he shall indorse on the deed a memorandum of the entry, *ib.*

FINES AND RECOVERIES—*continued.*
if consent of a protector of settlement of copyholds shall not be by deed, it shall be given to the person taking the surrender of the tenant in tail, vol. ii. 108.
if the surrender be out of court, the consent shall be stated in the memorandum of surrender, and the memorandum signed by the protector shall be entered on the rolls, and shall be evidence the consent and surrender, *ib.*
if the surrender be in court, the lord, or steward, or deputy, shall enter the surrender on the rolls, with a statement that such consent had been given; and the entries or copies thereof shall be evidence, as other entries or copies, *ib.*
equitable tenant in tail of copyholds to have power by deed to dispose of the same under this act, as if freehold, and such deed shall be entered on the rolls, *ib.*
if a protector, and his consent be given by a distinct deed, the consent shall be void, unless the deed be executed on or before the day on which the deed of disposition shall be executed, and such deed shall be entered on the rolls, *ib.*
such entries imperative on the lord, or steward, or deputy, and he shall indorse on such deed a memorandum of the entry, *ib.*
the deed of disposition, unless entered on the rolls, void against purchasers, *ib.*
where a disposition of copyholds by a tenant in tail shall be by surrender or deed, such surrender, or the memorandum, or a copy thereof, or the deed of disposition, or the deed (if any) by which the protector shall consent, shall not require inrolment, *ib.*
Bankrupts' Estates Tail. See 12 & 13 Vict. c. 106, s. 208.
repeal of the bankrupt act, 6 Geo. 4, c. 16, s. 65, so far as relates to estates tail in England and Ireland, vol. ii. 108, 109.
such repeal not to extend to lands of a bankrupt under a commission or fiat issued on or before 31st December, 1833, *ib.*
nor to revive former acts, *ib.*
commissioner, in the case of an actual tenant in tail becoming bankrupt after 31st December, 1833, shall by deed dispose of the lands entailed to a purchaser, and thereby create as large an estate as the actual tenant in tail could have done under this act, if not bankrupt, vol. ii. 109.
if there be a protector whose consent would have been requisite to a disposition to the fullest extent, and he shall not consent, then the estate shall be an estate as large as such tenant in tail, if not bankrupt, could have created without such consent, *ib.*
commissioner in the case of a tenant in tail entitled to a base fee becoming bankrupt, and of there being no protector, shall by deed dispose of the lands to a purchaser, and thereby enlarge such base fee to the same extent as the bankrupt might have done, *ib.*

FINES AND RECOVERIES—*continued.*
where there is a protector, the disposition, with his consent, by the commissioner, in case of an actual tenant in tail becoming bankrupt, or of a tenant in tail entitled to a base fee becoming bankrupt, shall have the same effect as if made with the consent of the protector by the actual tenant in tail, or the tenant in tail so entitled, vol. ii. 109.
previous clauses as to consent, in regard to lands not held by copy of court roll, shall, except as varied by the next clause, apply to every consent under this clause, *ib.*
every deed of disposition by the commissioner, as to lands not copyhold, shall be enrolled in Chancery within six calendar months, and as to copyhold lands, shall be entered on the court rolls, vol. ii. 109, 110.
such entries imperative on the lord, or steward, or deputy, and he shall indorse on each deed a memorandum of the entry, *ib.*
if the commissioners shall under this act dispose of the lands of an actual tenant in tail becoming bankrupt, and in consequence of there being a protector who shall not consent, a base fee shall be created, such base fee, if during its continuance there shall cease to be a protector, shall be enlarged, vol. ii. 110.
if tenant in tail entitled to a base fee become bankrupt, such base fee, if sold or conveyed under the bankrupt acts, and if during its continuance there shall cease to be a protector, shall be enlarged, *ib.*
a voidable estate in favor of a purchaser by an actual tenant in tail becoming bankrupt, or by a tenant in tail entitled to a base fee becoming bankrupt, shall, by a disposition of the commissioner under this act, if no protector, or, being such, with his consent, be confirmed, *ib.*
where there is a protector and he does not consent, *ib.*
estate not to be confirmed against purchaser without notice, *ib.*
all acts of tenant in tail becoming bankrupt, and which, if he had been seized in fee, would have been void against the assignees, shall be void against any disposition under this act by the commissioner, vol. ii. 110, 111.
subject to the powers given to the commissioners and to the estate in the assignees, a bankrupt actual tenant in tail, or a bankrupt tenant in tail entitled to a base fee, shall retain his powers of disposition under the act, vol. ii. 111.
the disposition by the commissioner of the lands of a bankrupt actual tenant in tail, or of a bankrupt tenant in tail entitled to a base fee, shall, if the bankrupt be dead, have, in certain cases specified, the same operation as if he were alive, *ib.*
every disposition by the commissioner of copyhold lands, where the estate shall not be equitable, shall have the same operation as a surrender, *ib.*
the person to whom such lands shall have been disposed of by the commissioner may claim to be admitted to hold by the ancient rents, &c. on paying the fines, &c. *ib.*

FINES AND RECOVERIES—*continued.*
rights of the assignees until disposition by the commissioner, vol. ii. 111.
all the provisions of the act for the benefit of the creditors of bankrupts, and for the confirmation of their voidable estates, shall apply to their lands in Ireland, vol. ii. 112.
deeds relating to the lands of bankrupts in Ireland shall be inrolled in chancery there within six calendar months, *ib.*
money to be laid out in lands to be entailed,
repeal of 7 Geo. 4, c. 45, respecting entailed estates to be purchased with trust moneys, *ib.*
except as to proceedings commenced before 1st January, 1834, *ib.*
39 & 40 Geo. 3, c. 56, not to be revived, *ib.*
lands of any tenure to be sold where the purchase money is subject to be invested in the purchase of lands to be entailed; and also money subject to be invested in like manner to be subject to the same estates as the lands, if purchased, and the previous clauses shall apply, so far as circumstances will admit, vol. ii. 112, 113.
lands of any tenure in Ireland to be sold where the purchase money is subject to be invested in the purchase of lands to be entailed; and money under the control of a court of equity in Ireland, subject to be invested in like manner, shall be subject to this act in cases of bankruptcy, vol. ii. 113.
inrolment of deeds, &c.
practice of requiring deeds to be acknowledged before inrolment shall not apply to deeds to be inrolled under this act, *ib.*
every deed required to be inrolled, by which lands, or money subject to be invested in the purchase of lands, shall be disposed of under this act, shall take effect as if inrolment had not been required, and shall have preference, except against a purchaser for valuable consideration claiming under a subsequent deed previously inrolled, *ib.*
court of chancery to regulate fees to be paid for inrolment of deeds, and for searches and office copies, *ib.*
court of chancery to regulate the fees to be paid for entries on court rolls, and for indorsements on deeds, and for taking consents and surrenders in cases of dispositions by tenants in tail of copyholds, *ib.*
alienation by married women,
after 31st December, 1833, a married woman, in every case except that of being tenant in tail, may by deed dispose of lands of any tenure, and money subject to be invested in the purchase of lands, and dispose of, release, surrender, or extinguish any estate therein, and may release or extinguish powers as if she were a feme sole, vol. ii. 114.
but, to render the same valid, her husband must concur, *ib.*
and the deed must be acknowledged by her, *ib.*
not to extend to copyholds, where, before this act, she and her husband could have effected the same object by surrender, *ib.*
powers of disposition given to a married woman by this act not to interfere with any other powers she may have, *ib.*

FINES AND RECOVERIES—*continued.*
every deed by a married woman for any of the purposes of this act, except such as may be executed by her as protector, to be produced and acknowledged by her before a judge or master in chancery, or two of the perpetual commissioners, or two special commissioners, vol. ii. 115.
acknowledgment of deed not impeachable by reason only of party before whom same was taken being interested, vol. ii. 127, 128.
provision as to staying proceedings for quashing certificate of acknowledgment, vol. ii. 128.
common pleas may make rules for preventing commissioners who are interested from taking acknowledgments, *ib.*
judge, master in chancery, or commissioners, before receiving acknowledgment of deed by married woman, to examine her apart from her husband, and unless she freely consent, shall not permit her to acknowledge deed, vol. ii. 115.
perpetual commissioners to be appointed by lord chief justice of common pleas, *ib.*
lists of such commissioners for each county to be made out and kept by the officer of the common pleas, who is to have the custody of the certificate after mentioned, *ib.*
such officer to transmit to the clerk of the peace for each county, or his deputy, a copy of the list for that county, *ib.*
and to deliver a copy of the list for any county to any person applying, and the clerk of the peace, or his deputy, to deliver a copy of the list last transmitted to him to any person applying, *ib.*
power to perpetual commissioners to take acknowledgments not to be confined to any particular place, *ib.*
if from being beyond seas, &c. a married woman be prevented from making the acknowledgment before a judge, or a master in chancery, or any of the perpetual commissioners, the common pleas or any judge thereof may appoint special commissioners for the purpose, vol. ii. 115, 116.
when a married woman shall acknowledge a deed, the judge, master in chancery, or commissioners taking the acknowledgment, shall sign a memorandum, to be indorsed or written at the foot or in the margin of the deed, to the effect mentioned in the act, and shall also sign a certificate of the taking of such acknowledgment, to be engrossed on a separate piece of parchment, which certificate shall be to the effect mentioned in the act, vol. ii. 116.
every certificate, with an affidavit verifying the same, shall be lodged with some officer of the common pleas, who shall examine the certificate and see that it is signed and verified, and contains the requisite statement; and, if so, shall cause the same and the affidavit to be filed of record, vol. ii. 116, 117.
on the filing of the certificate the deed shall by relation take effect from the time of its having been acknowledged, vol. ii. 118.

FINES AND RECOVERIES—*continued.*
the officer with whom the certificates are lodged shall make and keep an index of the same, vol. ii. 118.
after the filing of a certificate, the officer shall, on application, deliver a copy thereof, signed by him, and such copy shall be evidence of the acknowledgment, *ib.*
lord chief justice of the common pleas to appoint the officer with whom the certificates shall be lodged, *ib.*
common pleas to make orders touching the examination, memorandums, certificates, and affidavits, and the time when the proceedings shall take place, and the amount of fees, *ib.*
a married woman shall be separately examined on the surrender of copyholds, to which she alone, or she and her husband in her right, may be entitled for an equitable estate, as if such estate were legal, *ib.*
power to common pleas in certain cases to dispense with concurrence of husband, vol. ii. 118, 119.
act not to extend to Ireland, except where expressly mentioned, vol. ii. 119.
orders of the common pleas made in pursuance of act, *ib. in notis.*

Abolition of Offices, 5 & 6 Will. 4, c. 82.
transfer of records, &c. vol. ii. 123.
business of abolished offices, to whom transferred, *ib.*
searches to be made and copies taken, &c. as before, vol. ii. 124.
to whom alienation fines to be paid, &c. *ib.*
provision as to fees, &c. *ib.*
compensation to lords of liberties, &c. for loss of fines, *ib.*
how sum heretofore paid by receiver-general of alienation fines to be paid, vol. ii. 124, 125.
compensation to acting cursitors in court of chancery, vol. ii. 125.
duties of cursitors abolished, transferred to petty bag office, *ib.*
records, &c. transferred to clerks of petty bag office, *ib.*
clerks of petty bag office to receive same fees as cursitors, *ib.*

5 Vict. sess. 2, c. 32.
fines levied in Wales and in Cheshire, good, notwithstanding neglect in keeping the record, vol. ii. 125, 126.
certain fines taken to be levied with proclamations, vol. ii. 126.
certain recoveries declared good in law, *ib.*
fines and recoveries may be enrolled in the office of registrar of court of common pleas, *ib.*
saving of power of common pleas to amend, vol. ii. 127.

11 & 12 Vict. c. 70.
fines levied in the court of common pleas to be deemed fines with proclamations, *ib.*
pending proceedings not to be affected, *ib.*
not to extend to fines concerning lands, &c. possessed under adverse titles, &c. *ib.*

FIRE.
money insured on houses or buildings burnt, may be applied in rebuilding the same, vol. ii. 132.

FIRE—*continued.*
servants by carelessness firing a house, &c. to forfeit £100, and in default to be imprisoned 18 months, vol. ii. 132.
no action to be against person in whose house any fire accidentally begins, *ib.*
construction of this enactment, *ib.* n. (*a*).
contracts between landlord and tenant not affected by it, vol. ii. 133.
liabilities of tenant in case of fire, *ib.* n. (*c*).
provisions against, in the Metropolis,
fire engines and ladders to be kept, vol. ii. 129.
firecocks to be fixed on the mains, *ib.*
marks near the place where fire-cocks lie, *ib.*
instrument or key to be kept there, *ib.*
engines and ladders to be kept by every parish, vol. ii. 130.
penalty on churchwardens for default, *ib.*
how such penalty recoverable, *ib.*
fees by churchwardens, &c. to the turncock whose water first comes into a main or pipe at a fire, *ib.*
to the engine-keepers who bring engines to help to extinguish a fire, *ib.*
no reward payable without consent of justice, *ib.*
churchwardens, &c. to be reimbursed by occupier, in cases of chimneys on fire, *ib.*
large parishes to have more than one large engine, vol. ii. 131.
fire engines to be paid for out of poors' rates, *ib.*
constables to repair to fire, vol. ii. 132.
insurance against. See *Insurance against Fire.*
remedies against hundred in cases of. See *Hundred.*
malicious injuries to property by, vol. ii. 133.
See *Criminal Law; Burning.*

FIREWORKS.
regulations as to the making of, vol. ii. 333, 334.
no person to sell without a licence, vol. ii. 334, 335.
penalty for letting off, near highways, vol. ii. 625.
penalty for throwing, in thoroughfares, vol. ii. 334.
justices to license places for the making and keeping of, vol. ii. 334, 335.
See *Gunpowder.*

FISH.
general regulations as to,
weirs to be put down excepting by the sea coast, vol. ii. 133.
king's prerogative with regard to whales and sturgeons, *ib.*
what sized fish may be taken, and what sized nets used in rivers and creeks, vol. ii. 133, 134.
exception as to certain waters, vol. ii. 135.
what sized nets to be used on the sea coast, vol. ii. 135.
penalties, vol. ii. 136.
illegal nets to be burnt, *ib.*
selling unsizeable fish, *ib.*
unlawful taking (of fish) in water in land belonging to a dwelling-house, vol. ii. (195).
in which there is a right of fishery, *ib.*

FISH—*continued.*
tackle of fishers may be seized, vol. ii. (195).
anglers in day time exempt from penalty if their tackle be seized, vol. ii. (195), (196).
stealing oysters from fishery, vol. ii. (196).
using a dredge in fishery of oysters, *ib.*
dragging with net on ground of oyster fishery, *ib.*
officers of army taking fish without leave, vol. ii. 250.
Salmon. 24 & 25 Vict. c. 109.
Preliminary,
short title, vol. ii. 136.
application of act, *ib.*
commencement of act, vol. ii. 137.
definition of terms, *ib.*
LAW OF FISHING.
Prohibition of certain Modes of destroying Fish,
penalty on mixing poisonous substances in rivers, *ib.*
saving rights, *ib.*
power to have question under preceding section decided by jury, *ib.*
effect of issue, vol. ii. 138.
penalty on fishing with lights, spears, &c. or having same in possession, &c. *ib.*
penalty on using roe as a bait, or having in possession, *ib.*
penalty on using certain nets, *ib.*
penalty on placing or fixing fixed engines, *ib.*
proviso as to ancient rights, *ib.*
penalty on using certain dams for catching salmon, *ib.*
no lawful weir to be used; no fishing weir, unless it have free gap, &c. *ib.*
as to fishing at the head race or tail race of any mill, &c. *ib.*
penalty for not erecting gratings to prevent the descent of salmon into artificial streams, vol. ii. 139.
Prohibition of the Destruction of unseasonable Fish,
penalty on wilfully taking or having in possession unclean fish, *ib.*
proviso, *ib.*
penalty on wilfully taking, or having in possession, or injuring, &c. the young of salmon, *ib.*
proviso, *ib.*
penalty on disturbing fish when spawning, *ib.*
Restrictions as to Times of Fishing,
close time, *ib.*
power of home office to extend or vary close season upon the application of the justices in quarter sessions, vol. ii. 139, 140.
penalty on selling fish during close time, vol. ii. 140.
proviso, *ib.*
removal of fixed engines during close time, *ib.*
penalty for neglect, *ib.*
weekly close time between twelve of the clock at noon on Saturday and six of the clock on Monday morning, *ib.*
penalty, *ib.*
a free passage to be left through cribs or traps during weekly close time, *ib.*
penalty for neglect, *ib.*
Fish Passes,
proprietor, with consent of home office, may attach fish passes to existing dams, *ib.*

FISH—*continued.*
notice required before home office gives consent, vol. ii. 141.
fish passes to be attached to future dams, *ib.*
supply of water to fish passes, *ib.*
Restrictions as to Fishing Weirs,
construction of free gaps, *ib.*
enforcing free gaps in fishing weirs, *ib.*
construction of boxes and cribs in fishing weirs and fishing mill dams, vol. ii. 142.
construction of spur walls in fishing weirs or fishing mill dams, *ib.*
CENTRAL AUTHORITY.
general superintendence of fisheries by home office, *ib.*
annual reports of inspectors to be laid before parliament, *ib.*
justices at sessions to appoint conservators of rivers, *ib.*
justice may grant a warrant to enter suspected places, *ib.*
LEGAL PROCEEDINGS.
recovery of penalties, *ib.*
offences on rivers may be tried in county on either side, vol. ii. 143.
offences committed on sea coast where to be tried, *ib.*
saving clause for dredging, *ib.*
repeal of acts, *ib.*
26 Vict. c. 10.
"The Salmon Acts Amendment Act, 1863," vol. iv. 964.
"Parts beyond seas" defined, *ib.*
export of unclean or unseasonable salmon, or salmon caught at certain times, prohibited, *ib.*
forfeiture, *ib.*
burden of proving that any salmon not entered in contravention of act, on the person entering, *ib.*
recovery of penalties, *ib.*

FIXTURES.
erected by tenant on farm or lands, with written consent of his landlord, may be removed by tenant, unless landlord elect to take them at a valuation, s. 3, vol. ii. 1145.
stealing, vol. ii. (198).

FLEET AND KING'S BENCH PRISONS.
registers, vol. i. 1381.
consolidating the Queen's Bench, Fleet, and Marshalsea Prisons, vol. iii. 1357.

FLIGHT.
jury not to inquire concerning prisoner's, in trials for treason or felony, vol. ii. (16), s. 5.

FORCIBLE ENTRY AND DETAINER.
punishment of, vol. ii. (154).
duty of justices in case of, vol. ii. (155).
no restitution to be had on indictment for, where party indicted has been three years in quiet possession, vol. ii. (156).
justices may give restitution of possession to tenants for years, copyholders, tenants by *elegit*, &c. as well as to tenants of the freehold, vol. ii. (157).

FORECLOSURE. See *Mortgage.*

FOREIGN AND COLONIAL LAW.
evidence of. See *Evidence* and *Witnesses.*

FOREIGNERS. See *Aliens.*

FOREIGN ENLISTMENT ACT, vol. ii. (130).

FORFEITURE.
on trials for treason or felony, jury not to inquire concerning prisoner's lands, vol. ii. (16), s. 5.
no forfeiture under "Juvenile Offenders Acts," s. 12, vol. ii. (242).
application of forfeiture on summary convictions, s. 31, vol. ii. 1972.
deeds to defeat forfeiture void, &c. vol. ii. 183.
property held upon trust or by way of mortgage not liable to, vol. iv. 805.
beneficial interest of trustee or mortgagee is liable to, *ib.*
relief against for non-payment of rent, vol. iii. 791.
for not insuring, *ib.*

FORGERY.
great seal, privy seal, &c. vol. ii. (260).
transfer of stock in banks of England and Ireland, *ib.*
of any body corporate, &c. *ib.*
power of attorney to transfer such stock, *ib.*
attestation to power of attorney to transfer stock, &c. vol. ii. (260), (261).
entry in the books of the public funds, vol. ii. (261).
East India bond, debenture, or security, *ib.*
exchequer bills, bonds and debentures, *ib.*
bank notes, vol. ii. (262).
deed, bond, or assignment thereof, vol. ii. (264).
will or testamentary instrument, vol. ii. (264), (265).
bill of exchequer, promissory note, acceptance, indorsement, or assignment thereof, vol. ii. (265), (267).
undertaking, &c. for payment of money, delivery or transfer of goods, note, bill or security, or for procuring or giving credit, or indorsement or assignment thereof, vol. ii. (267), (269).
receipts, *ib.*
cheque, crossing of, vol. ii. (269).
bill of exchange, &c. by unauthorised procuration, *ib.*
debenture issued under any lawful authority, *ib.*
proceedings in courts of record, *ib.*
of equity, *ib.*
of admiralty, *ib.*
other courts, *ib.*
copy or certificate of records and proceedings in courts, vol. ii. (269).
seal of court, vol. ii. (270).
instruments made evidence by statute, *ib.*
court roll, *ib.*
memorial, affidavit, &c. under any act for registry of deeds, *ib.*
order of justices, recognizances, &c. *ib.*
name of accountant-general, judge of landed estates court, officer of any court, and certificate, report, &c. made by any of them, vol. ii. (270), (271).
marriage licence or certificate, vol. ii. (271).
register of birth, baptisms, marriages, deaths, or burials, *ib.*
certificate, or copy, or extract thereof, *ib.*
instrument, howsoever designated, which is in law a will, bill, note, &c. vol. ii. (272).

FORGERY—*continued.*
document made, or purporting to be made, abroad, vol. ii. (272), (273).
forgers may be tried where apprehended or in custody, vol. ii. (273).
description of forged instrument in indictment for forgery, *ib.*
in indictment for engraving, vol. ii. (274).
intent to defraud any person need not be stated or proved, *ib.*
what is possession of forged instrument, &c. *ib.*
search for forged documents and instruments used in forging, *ib.*
punishment of, vol. ii. (274), (275).
principals in second degree and accessories, vol. ii. (275).
abettors in misdemeanors, *ib.*
offences at sea, *ib.*
attorney convicted of, incapable of practising, vol. i. (120).

FORMA PAUPERIS.
suits in. See *Paupers.*

FRANCHISES.
for facilitating the union of liberties with the counties in which they are situate, vol. ii. 993.

FRAUD.
all statutes against to be liberally construed, vol. ii. 179, n. (*b*).

FRAUDS (STATUTE OF), 29 Car. II. c. 3.
by whom the statute was framed, vol. ii. 145, n. (*a*).
Lord Northington's eulogium upon it, *ib.*
how it may be used as a defence in equity, *ib.*
how at law, *ib.*
ought not to be specially pleaded at law, *ib.*
but may be raised under the general issue, *ib.*
Sections 1 & 2. Parol leases and interest of freeholds, &c. to have force of estates at will only, vol. ii. 145, 146.
except certain leases not exceeding 3 years, vol. ii. 147.
what leases for three years are good without writing, *ib.* n. (*d*).
effect of lease by parol for more than three years, *ib.* n. (*b*) and (*c*).
need a lease under seal be signed? *ib.* n. (*a*).
lease required by law to be in writing must, since 8 & 9 Vict. c. 106, be by deed, vol. ii. 147, n. (*c*).
Section 3. Assignment, grant, or surrender of leases or estates of freehold, not to be by parol, vol. ii. 147.
what an assessment, &c. within the act, *ib.* n. (*f*).
when assessment or surrender must be by deed, vol. ii. 147, n. (*c*), 149, n. (*a*).
parol assessment of a lease from year to year void under s. 3, vol. ii. 147, n. (*f*).
cancelling a lease merely is not a surrender, vol. ii. 148.
what is a surrender by operation of law, vol. ii. 148.
Section 4. Contracts, &c. to charge executor, &c. personally, to charge defendant on a guarantee, or on agreement in considera-

FRAUDS (STATUTE OF)—*continued.*
tion of marriage, or on contract relative to lands, &c., or on agreement not to be performed in a year, not binding, unless in writing, signed by party or agent, vol. ii. 149.
what agreement sufficient, vol. ii. 159, n. (*b*).
agreement must exist before action, *ib.*
both the promise and the consideration must be in writing, vol. ii. 150, 153, n. (*a*), 159, n. (*b*).
but in the case of a guarantee, consideration need not be in writing, *ib.* vol. ii. 178.
there must be a good consideration for the promise, vol. ii. 150, n. (*a*), 159, n. (*b*).
memorandum must specify names of parties and terms, vol. ii. 159, n. (*b*).
may be collected out of different papers, vol. ii. 160.
what signature sufficient, vol. ii. 161, n. (*b*).
memorandum need only be signed by the party to be charged, vol. 162, n. (*a*).
who a sufficient agent within s. 4, vol. ii. 162, n. (*b*).
non-compliance with s. 4 does not avoid the contract, but prohibits an action upon it, vol. ii. 149, n. (*b*).
oral contract made abroad, and enforceable there, cannot be enforced here, *ib.*
as to charging executor upon special promise, vol. ii. 149, n. (*c*).
as to charging defendant on special promise to answer for another person (guarantee), vol. ii. 150, n. (*a*).
what consideration sufficient, *ib.*
consideration need not appear in writing, vol. ii. 178.
replies to collateral, not to original promises, vol. ii. 150, n. (*a*).
distinction between collateral and original promises, *ib.*
the person for whose debt the collateral promise is made must still remain liable, vol. ii. 150, 152, n. (*a*).
case of broker acting on *del credere* commission, vol. ii. 150, n. (*a*).
promise made to the debtor himself not within the section, *ib.*
declaration must be special, vol. ii. 150, 154, n. (*a*).
as to charging any person upon agreement made in consideration of marriage, vol. ii. 155, n. (*a*).
this section does not extend to mutual promises to marry, *ib.*
specific performance of a parol antenuptial contract will be decreed after part performance, *ib.*
marriage alone not part performance, *ib.*
upon contracts or sale of land, vol. ii. 155, n. (*b*).
meaning of the word land, &c. *ib.*
agreement to occupy lodgings, when within this sec., *ib.*
to sell business and give up premises, *ib.*
for sale of growing crops, &c., vol. ii. 156.
for sale of timber, *ib.*
for sale of railway shares, vol. ii. 157.
contract not in writing may operate as a license, *ib.*

FRAUDS (STATUTE OF)—*continued.*
sales by auction are within this clause, vol. ii. 158.
effect of the clause upon executed parol contracts, *ib.*
when the contract cannot be considered as executed, *ib.*
upon agreement not to be performed within the year, vol. ii. 158, n. (*a*).
writing not necessary where the thing *may* be performed within a year, *ib.*
meaning of the word "performed," *ib.*
Section 5. Devises of lands to be in writing, and attested by three or four witnesses, vol. ii. 162.
repealed by 1 Vict. c. 26, s. 2, *ib.* n. (*c*).
Section 6. How such devises revocable, vol. ii. 162, 163, repealed by 1 Vict. c. 26, s. 2, vol. ii. 163, n. (*a*).
Section 7. Declaration of trusts of hereditaments to be by writing signed, vol. ii. 163.
trusts of chattels personal not within this provision, *ib.* n. (*b*).
secus as to trusts of chattels real, *ib.*
trusts need not be created by writing, vol. ii. 163, n. (*c*).
but must be evidenced by writing, *ib.*
trusts of personalty not within this provision, vol. ii. 163, n. (*e*).
what a sufficient declaration in writing to satisfy the statute, vol. ii. 163, n. (*g*).
Section 8. Exception from the operation of the statute, of trusts arising, transferred, or extinguished by complication of law, vol. ii. 163.
Section 9. Assignments of trusts to be in writing, *ib.*
Section 10. Equitable estates in hereditaments made subject to judgment debts, vol. ii. 163, 164.
and assets in the hands of the heir, vol. ii. 164.
equitable interest in term of years cannot be taken in execution, *ib.* n. (*b*).
Section 11. Heir not chargeable on his own estate with ancestor's debts, vol. ii. 164.
Section 12. Estates *pur autre vie* to be devisable, *ib.*
and shall be assets in the heir's hands, *ib.*
and where there is no special occupant, to go to executors, *ib.*
repealed by 1 Vict. c. 26, *ib.* n. (*c*).
Section 14. Day of signing judgment to be entered on margin of roll, vol. ii. 164.
Section 15. Judgment as against *bonâ fide* purchasers to relate to such time only, *ib.*
Section 16. Writ of execution to bind property in goods only from time of delivery to sheriff, *ib.*
day of receipt to be indorsed on writ, vol. ii. 164, 165.
bonâ fide purchaser of goods for value, without notice, before actual seizure, protected against writ of execution, vol. ii. 164, n. (*f*), 178.
Section 17. Contracts for sale of goods, wares, or merchandise for £10 or more, vol. ii. 165.
buyer must accept part of the goods sold, and actually receive the same, vol. ii. 166.

FRAUDS (STATUTE OF)—*continued.*
or give something in earnest to bind the bargain, vol. ii. 166.
or make part payment, *ib.*
or there must be a note or memorandum in writing of the bargain, vol. ii. 171.
signed by the party to be charged, vol. ii. 172.
or by his agent, *ib.*
provisions of s. 17 extended to goods intended to be delivered and not actually made, vol. ii. 177, 178.
what a sale within s. 17, vol. ii. 165, n. (*b*) and (*c*).
shares are not goods, wares, or merchandise within this sec., vol. ii. 165, n. (*c*).
a purchase of various articles each under £10 is within the sec., vol. ii. 165, n. (*d*).
what shall be considered an acceptance and receipt, vol. ii. 166, n. (*a*).
acceptance by carrier not sufficient, *ib.*
acceptance may be before receipt, *ib.*
acceptance after action brought sufficient, *ib.*
momentary acceptance sufficient, vol. ii. 167.
acceptance must be unequivocal, *ib.*
when acceptance of sample sufficient, *ib.*
acceptance where the goods are in the hands of the vendee at time of sale, vol. ii. 168.
acceptance where the goods remain in vendor's possession after sale, vol. ii. 167, 169.
acceptance where goods in hands of bailee at time of sale, vol. ii. 169.
actual acceptance, vol. ii. 167.
virtual acceptance, *ib.*
what a sufficient earnest, vol. ii. 171, n. (*a*).
does giving earnest alter the property in the goods, *ib.*
what sufficient part payment, *ib.*
what a sufficient note or memorandum, vol. ii. 172, n. (*b*).
difference between *agreement* in 4th section and *note* or memorandum in 17th section, *ib.*
no particular form necessary, *ib.*
names of both parties should appear, *ib.*
not necessary to state consideration, *ib.*
but if price agreed upon it must be stated, *ib.*
alteration of price not agreed upon, vol. ii. 173.
contract may be collected from several writings, *ib.*
letter repudiating contract may be sufficient note or memorandum if it states terms of contract, *ib.*
what a sufficient signature, vol. ii. 175, n. (*c*).
the plaintiff need not sign, *ib.*
who is a sufficient agent, *ib.*
must be a third party, *ib.*
he need not be authorised in writing, *ib.*
may sign in his own name, *ib.*
Section 18. Day of enrolment of recognizances to be entered, and lands in the hands of purchasers bound from that time only, vol. ii. 176.
Sections 19, 20, and 21. Nuncupative wills, requisite and probate of, *ib.*
repealed by 1 Vict. c. 26, *ib.* n. (*a*).
Section 22. Written wills not to be altered by parol, vol. ii. 176.

FRAUDS (STATUTE OF)—*continued.*
repealed by 1 Vict. c. 26, vol. ii. 176, n. (*a*).
Section 23. Wills of soldiers and mariners vol. ii. 176.
Section 25. Husbands not compellable to make distribution of personal estates of wives, vol. ii. 177.
9 Geo. 4, c. 14 (Lord Tenterden's Act).
Section 5. Ratification of promise by infant must be by writing, signed, *ib.*
what a sufficient writing, *ib.* n. (*b*).
semble that signature by agent not sufficient, *ib.*
Section 6. Extending sect. 4 of statute of frauds as to guarantees, vol. ii. 177.
representations as to credit of another must be by writing signed, *ib.*
Section 7. Extending sect. 17 of statute of frauds to contract for goods not made, &c., *ib.*
memorandums under Lord Tenterden's Act not liable to stamp duty, vol. ii. 178.
19 & 20 Vict. c. 97 (Mercantile Law Amendment Act).
persons acquiring title to goods before they have been seized or attached under a writ against the seller, protected, *ib.*
consideration for guarantee need not appear by writing, *ib.*
guarantee to or for a firm to cease upon a change in the firm, unless contrary intention appears, *ib.*

FRAUDULENT CONVEYANCES. See *Bills of Sale.*
fraudulent against creditors,
by bankrupt, vol. i. 305.
when an act of bankruptcy, vol. i. 274.
fraudulent assurances of lands or goods to deceive creditors shall be void, vol. ii. 179.
statute of 13 Eliz. c. 5, vol. ii. 179.
declaratory of the common law, *ib.* n. (*b*).
construed liberally, *ib.*
fraudulent conveyances made to defeat claims of creditors void, vol. ii. 179—182.
forfeiture, &c. incurred by parties to such conveyances, vol. ii. 182.
what are fraudulent conveyances within the act, vol. ii. 179, n. (*b*).
question of fraud or no fraud is for the jury, vol. ii. 180, n.
presumption of fraud may arise from want of possession, vol. ii. 180, n.
or where grantor and grantee continue jointly possessed, *ib.*
presumption may be rebutted, *ib.*
as where the transfer is accomplished by circumstances of notoriety, *ib.*
or the want of possession is consistent with the deed, *ib.*
provided there be no other mark of fraud, *ib.*
or possession cannot be given, *ib.*
what extent of indebtedness necessary to make conveyance fraudulent, vol. ii. 181, n.
fraudulent conveyance good excepting against party injured, *ib.*
is bad as against creditors before as well as after the transaction, *ib.*
and as against representatives of creditors, *ib.*

FRAUDULENT CONVEYANCES—*continued.*
fraudulent conveyance by felon bad against the crown, vol. ii. 181.
debtor may prefer one creditor to another, *ib.*
unless in contemplation of bankruptcy, *ib.*
choses in action are within the 13 Eliz. c. 5, vol. ii. 182, n. (*b*).
so also are copyholds, *ib.*
who to have forfeitures given by 13 Eliz. c. 5, and by what means, vol. ii. 182.
that statute not to restrain common recoveries against tenants of freehold, &c. *ib.*
nor to prevent the making an estate whereby voucher may be used in a formedon, vol. ii. 183.
estates made upon good consideration, and *bonâ fide*, valid, *ib.*
fraudulent against *purchasers*,
statute 27 Eliz. c. 4, *ib.*
construction of act, *ib.* n. (*b*).
fraudulent conveyances made to deceive purchasers void as against them, vol. ii. 185.
but valid against grantor and those claiming under him, vol. ii. 184, n.
voluntary settlements are within the 27 Eliz. c. 4, *ib.*
and conveyances for the payment of debts, to which no creditor is a party, *ib.*
and conveyances with power of revocation, vol. ii. 187, n. (*a*).
powers to manage to any extent are powers of revocation, *ib.*
but not powers to charge with a particular sum, *ib.*
powers to lease for any number of years, *ib.*
powers to be exercised with consent of third parties, *ib.*
who are *purchasers* within 27 Eliz. c. 4, vol. ii. 184, n.
personal property not within 27 Eliz. c. 4, vol. ii. 185, n. (*a*).
nor endowment of a charity, vol. ii. 184, n.
but copyholds are, vol. ii. 185, n. (*a*).
penalties on parties to conveyances fraudulent under 27 Eliz. c. 4, vol. ii. 185, 186.
conveyances made upon good consideration, and *bonâ fide*, valid, vol. ii. 186.
what transactions fall within this provision, vol. ii. 186, n. (*b*).
sale of lands after conveyance with power of revocation good as against such conveyance, vol. ii. 187.
mortgages *bonâ fide* made, not impeachable, *ib.*
statute merchant, &c. to be entered with clerk of recognizances, *ib.*
if not entered, void against purchaser, vol. ii. 187, 188.
forfeiture of clerk not entering or not indorsing a statute, vol. ii. 188.
clerk of recognizances, fee to search, *ib.*
fraudulent against *mortgagees*, 4 & 5 Will. & Mary, c. 16, *ib.*

FRAUDULENT CONVEYANCES—*continued.*
judgment debtor, &c. taking up money upon mortgage, without notice of judgment to mortgagee, to lose equity of redemption, vol. ii. 188.
person mortgaging twice without notice of first mortgage, loses equity of redemption, vol. ii. 189.
under-mortgagees may redeem, *ib.*
fraudulent against *spiritual persons*, to defeat successors of remedy for dilapidations, void, vol. ii. 183.
fraudulent against *forfeitures*, vol. ii. 183.

FRAUDULENT DEVISES. See *Wills.*

FRAUDULENT REMOVAL.
of goods to avoid distress for rent, vol. ii. 1108, 1115.
removal must be after rent due, vol. ii. 1115, n. (*c*).
and of goods of a tenant, not of a stranger, *ib.* n. (*b*).
what are cases of, *ib.* n. (*a*).
penalty on, vol. ii. 1116.
procedure by landlord, *ib.* 1117.

FREEHOLD.
corporeal hereditaments as regards conveyance of immediate freehold thereof, to be in grant as well as in livery, vol. i. 824.

FRIENDLY SOCIETIES. See *Building Societies; Industrial and Provident Societies; Loan Societies.*
10 Geo. 4, c. 56, vol. ii. 190—200.
4 & 5 Will. 4, c. 40, vol. ii. 200—203.
both the above statutes repealed, so far as they affect friendly societies, vol. ii. 190, n. (*a*).
some of their provisions still applicable to building societies, *ib.*
17 & 18 Vict. c. 56 (*the Friendly Societies Discharge Act*, 1854), vol. ii. 216—218.
only affects societies granting policies on lives for sums exceeding 1000*l.*, vol. ii. 216, n. (*a*).
18 & 19 Vict. c. 63 (*Friendly Societies Act*, 1855).
repeal of acts or parts of acts set forth in first schedule, vol. ii. 218.
societies under former acts to continue, *ib.*
their rules to continue in force, and enrolments to be sent to registrar, *ib.*
all their contracts, and all bonds, &c. to them to continue in force, *ib.*
their exemptions, powers, and privileges under this act, *ib.*
registrars, how and by whom appointed, *ib.*
their salaries, *ib.*
their expenses of office, &c. *ib.*
societies, how and for what purposes formed, *ib.*
for payments on birth or on death, *ib.*
for relief in sickness, &c. or endowment, *ib.*
for other purposes authorised by secretary of state, &c. vol. ii. 219.
extent of benefit on obtaining certificate, *ib.*
society to be formed from its date, *ib.*
no money to be paid on the death of a child under ten without a certificate signed by a medical practitioner, vol. ii. 231.
in certain cases amount paid to be indorsed on certificate, *ib.*
penalty for neglect to do so, *ib.*

FRIENDLY SOCIETIES—*continued.*
same certificate to be presented to second society, vol. ii. 231.
penalty for producing a different one, *ib.*
medical officer of union attending child to give certificate without fee, *ib.*
if child not attended, medical officer to give certificate on payment of 1*s.*, *ib.*
benevolent societies, in what case entitled to the benefits of this act, vol. ii. 219, 231.
procedure to obtain benefit of act, vol. ii. 219.
statutes as to unlawful oaths not to extend to societies under this act or any repealed acts, *ib.*
societies, how dissolved, vol. ii. 219, 220, 232, 233.
societies may unite with others, or one society may transfer its engagements to another, vol. ii. 220.
minors may be elected as members, *ib.*
but not competent to hold office, *ib.*
buildings for the purpose of society may be purchased or leased, *ib.*
powers to mortgage, &c. *ib.*
provisions as to buildings already purchased, *ib.*
application of act to 15 & 16 Vict., c. 31, *ib.*
trustees, how appointed, vol. ii. 221.
appointments of trustees to be sent to registrar, *ib.*
proviso as to societies formed under repealed acts, *ib.*
property of the society vested in the trustees, *ib.*
legal proceedings, *ib.*
actions, &c. by or against trustees, *ib.*
limitation of trustees' responsibility, *ib.*
treasurer to give security, *ib.*
treasurer to account, vol. ii. 222.
audit of his accounts, *ib.*
treasurer to hand over balance, receipts, books, &c. *ib.*
remedy on default, *ib.*
property, how recovered, if the officer die, or become bankrupt or insolvent, or have execution against him, or make assignment for the benefit of creditors, vol. ii. 212, 222.
priority of claims of society, *ib.*
punishment of fraud on officers, &c. withholding or misapplying money, vol. ii. 222, 231, 234.
rules to be made for the management of society, vol. ii. 223.
what such rules to contain, *ib.*
copies of rules to be sent to registrar, and his certificate obtained, *ib.*
registrar not to grant certificate to society assuring annuities, unless table of contributions be certified, &c. by actuary, *ib.*
actuary's certificate to be sent with the copies of rules in case of tables of annuities, *ib.*
rules may be altered, amended, rescinded, or new rules made, vol. ii. 224.
when place of business is altered, notice to be sent to registrar, *ib.*
within what time, *ib.*
circulating false copies of rules, &c. a misdemeanor, *ib.*
rules and tables, how proved, *ib.*
on death of member, sum under 50*l.* may be paid without administration, *ib.*
to whom such payment is to be made, *ib.*

FRIENDLY SOCIETIES—*continued.*
indemnity to trustees so paying, vol. ii. 224.
funds of society, how invested, vol. ii. 224, 225.
funds of certain societies may be invested with commissioners of national debt, vol. ii. 225.
what interest societies established under former acts shall have, *ib.*
re-depositing of money withdrawn, *ib.*
transfer of stock, vol. ii. 225, 226.
power of attorney, &c. not liable to stamp duty, vol. ii. 226.
limitation of exemptions for stamp duties to societies not assuring above 200*l.*, *ib.*
no member to receive more than 200*l.* or 30*l.* per annum from any number of societies, *ib.*
declaration of members to that effect, *ib.*
trustees may subscribe to a hospital or provident institution in certain cases, *ib.*
as to the determination of disputes according to the rules, vol. ii. 226, 227, 231, 232.
in what cases by the county court, vol. ii. 227.
order of county court how enforced, *ib.*
lord chancellor may make orders for regulating the proceedings in the county court, *ib.*
disputes in the case of societies where rules are not certified, vol. ii. 232.
returns to registrar, when and how to be made, vol. ii. 228, 233.
certain societies established for granting annual payments to nominees before the year 1850 to have privileges of this act, vol. ii. 228.
extra contribution may be demanded of a member serving abroad in the militia, *ib.*
act to apply to societies constituted under the Industrial and Provident Societies Act, 1852, *ib.*
interpretation of "society," *ib.*
extension of act, *ib.*
21 & 22 Vict. c. 101 (*Friendly Societies Act*, 1858).
jurisdiction given to county court by 18 & 19 Vict. c. 63, given also to judges of sheriffs' court in London, vol. ii. 231.
sect. 24 of 18 & 19 Vict. c. 63, extended to Ireland, *ib.*
sect. 10 of 18 & 19 Vict. c. 63, repealed, *ib.*
no money to be paid on the death of child under ten, without a certificate signed by a medical practitioner, *ib.*
in certain cases amount paid to be indorsed on certificate, *ib.*
penalty for neglect to do so, *ib.*
same certificate to be produced to second society, *ib.*
penalty for producing a different one, *ib.*
medical officer of union attending child to give certificate without fee, *ib.*
if child not attended, medical officer to give certificate on payment of 1*s.*, *ib.*
sects. 16 and 24 of 18 & 19 Vict. c. 63, extended to societies specified in sect. 11 of that act, *ib.*
societies may change their names, *ib.*
effect of change, *ib.*
proviso in sect. 40 of 18 & 19 Vict. c. 63, as to settlement of disputes by justices, repealed, *ib.*

FRIENDLY SOCIETIES—*continued.*
where rules to direct disputes to be settled by justices, vol. ii. 231, 232.
justices may make orders, vol. ii. 232.
costs not to exceed 10*s.*, *ib.*
sheriff in Scotland to have same jurisdiction as justices, *ib.*
sects. 40 and 44 of 18 & 19 Vict. c. 63, extended to disputes between executors, &c. of members and society, *ib.*
secretary or other officer may be proceeded against on behalf of society, *ib.*
proceedings not to abate on death or resignation of such officer, *ib.*
summons may be served at place of business of society, *ib.*
this act and 18 & 19 Vict. c. 63, to be read together, *ib.*
short title of act, *ib.*
23 & 24 Vict. c. 58.
in case of dissolution of society under sect. 13 of 18 & 19 Vict. c. 63, not necessary to state in agreement intended division of funds but may refer the same to the award of the registrar, vol. ii. 232, 233.
on application of five-eighths of members registrar may investigate condition of society, and, if insolvent, may order winding-up notices, *ib.*
registrar's award to be conclusive without appeal, vol. ii. 233.
expenses, *ib.*
evidence of dissolution, *ib.*
notice of award to be advertised, and unless proceedings be taken to set aside dissolution, society to be dissolved, *ib.*
registrar's annual report to contain particulars of awards, *ib.*
provisions as to societies dissolved before passing of this act, *ib.*
sect. 8 of 21 & 22 Vict. c. 101, repealed, *ib.*
saving proceedings before act, *ib.*
penalty for not making annual return to registrar in compliance with 18 & 19 Vict. c. 63, s. 45, *ib.*
if returns not made to commissioners, pursuant to sect. 34 of 18 & 19 Vict. c. 63, interest thereon to cease until returns made, vol. ii. 233, 234.
application, under 18 & 19 Vict. c. 63, s. 34, on behalf of society may be made by registrar, vol. ii. 234.
this and friendly societies acts to be construed as one, *ib.*

GAME. See *Criminal Law; Hares.*
amendment of laws relating to, 1 & 2 Will. 4, c. 32.
repeal of former acts, *ib.*
what to be deemed game, *ib.*
days and seasons during which game not to be killed, *ib.*
penalty for laying poison to kill game, vol. ii. 234, 235.
possession of game out of season, when illegal, vol. ii. 235.
penalty for illegal possession of game, *ib.*
act not to affect existing laws as to certificates, *ib.*
certificated person may kill game subject to law of trespass, *ib.*
provision as to gamekeepers killing game beyond limit of their appointment, *ib.*

GAME—*continued.*
landlord's right to game under existing leases, vol. ii. 236.
act not to affect agreements respecting game, nor rights of manor, &c., *ib.*
nor forest rights, &c. of crown, vol. ii. 237.
nor cattle-gates or rights of common, *ib.*
lord of manor to have game on wastes, *ib.*
landlord having game may authorise others to kill it, vol. ii. 238.
penalty on occupier killing game, the right being in landlord, *ib.*
gamekeepers, lords of manors may appoint, vol. ii. 238, 239.
powers of gamekeepers in manors, vol. ii. 239.
evidence of manors, vol. ii. 238, n. (*e*).
title not to be tried in proceedings for penalties, *ib.*
lords not entitled to sport over others' land within the manor, *ib.*
right of sporting must be granted under seal, *ib.*
lords of manors may grant deputations, vol. ii. 239.
regulations as to appointment of gamekeepers in Wales, vol. ii. 240.
appointments of gamekeepers to be registered with clerk of peace, *ib.*
void unless registered, *ib.* n. (*b*).
certificated persons may sell game to licensed dealers, vol. ii. 240.
proviso as to gamekeepers, *ib.*
justices to hold special sessions for granting licences to deal in game, vol. ii. 251.
dealers in game to put up a board, vol. ii. 241.
in case of partnership one licence to be sufficient for one shop, *ib.*
licences void, on conviction of offence against act, *ib.*
penalty for killing game without certificate, vol. ii. 241, 242.
game killed by accident, vol. ii. 241, n. (*b*).
"take," meaning of, *ib.* n. (*c*).
evidence of, *ib.* n. (*b*).
penalty cumulative, vol. ii. 242.
several unqualified persons assisting, vol. ii. 241, n. (*b*).
penalty for destroying or taking eggs of game, vol. ii. 242.
or for having in possession, *ib.*
penalty for selling without certificate, or to unlicensed persons, *ib.*
indemnity of informer, vol. ii. 249.
exception as to innkeepers, vol. ii. 242.
penalty on persons buying game except from licensed dealers, *ib.*
penalty on licensed dealers buying game from uncertificated person, *ib.*
penalty for not affixing board, &c., *ib.*
buying and selling by servants of licensed dealer lawful, *ib.*
one licensed dealer may sell game on account of another, *ib.*
persons trespassing in day-time in search of game, &c. vol. ii. 242, 243.
who are trespassers, vol. ii. 242, n. (*f*), 243, n. (*d*).
when justifiable, vol. ii. 243, n. (*d*).
occupier not being entitled to game, allowing others to kill it, vol. ii. 244.
trespassers in search of game, on refusing to quit the land, &c. may be arrested, *ib.*

GAME—*continued.*
what necessary to justify apprehension of trespasser, vol. ii. 244, n. (*b*).
party arrested to be discharged unless taken before a justice within twelve hours, *ib.*
penalty on persons found armed, using violence, &c. vol. ii. 244, 245.
penalty for trespass in day-time in forest, &c. of crown, vol. ii. 245.
entering and being, one offence, vol. ii. 243, n. (*a*).
who may make complaint, vol. ii. 243, n. (*c*).
what to be deemed day-time, vol. ii. 245.
provisions as to trespassers not to apply to persons hunting, *ib.*
game may be taken from trespassers not delivering up same when demanded, *ib.*
requisites of demand, *ib.* n. (*b*).
application of penalties, vol. ii. 245.
one moiety to the informer, vol. ii. 250.
competency of witnesses, vol. ii. 245.
when penalties to be paid, and imprisonment for non-payment, *ib.*
form of conviction, *ib.*
attendance of witnesses, how enforced, vol. ii. 246.
limitation of proceedings, and mode of enforcing appearance of offenders, vol. ii. 246, 247.
not necessary that information should be upon oath in first instance, vol. ii. 246, n. (*c*).
prosecutor not required to prove a negative, vol. ii. 247.
convictions to be returned to sessions, *ib.*
appeal, when and how made, *ib.*
consequence of not appealing, in action for maliciously informing against plaintiff, *ib.* n. (*b*).
court of quarter sessions can adjudicate only on matters stated in notice, *ib.* n. (*c*).
no *certiorari*, &c. vol. ii. 247, 248.
when act not to preclude actions for trespass, vol. ii. 248.
limitation of actions, &c. against persons acting under act, *ib.*
tender of amends, *ib.*
schedule of forms, vol. ii. 249.
officers killing game without leave, vol. ii. 250, 251.
25 & 26 Vict. c. 114.
interpretation of terms "game" and "justice," vol. iv. 965.
power to constables to search persons without warrant, suspected of coming from any land in search of game, *ib.*
summons before justices, *ib.*
recovery of penalties, *ib.*
provisions of 11 & 12 Vict. c. 43, extended to this act, vol. iv. 966.
no conviction shall be quashed for want of form or removed by *certiorari*, *ib.*
power of appeal, *ib.*
Game Certificates,
justices may hold special sessions as often as they think fit, for granting licences to dealers in game, vol. ii. 251.
23 & 24 Vict. c. 90.
after passing of this act the duties in respect of certificates to kill and deal in game as contained in 52 Geo. 3, c. 39, sched. (L.), 56 Geo. 3, c. 56, and 1 & 2 Will. 4, c. 32, repealed, vol. ii. 253.

GAME—*continued.*
duties on licences to kill and deal in game, vol. ii. 253.
duties granted to be excise duties under the commissioners of inland revenue, *ib.*
licence to be taken out for taking or killing game in Great Britain, *ib.*
penalty for neglect, *ib.*
exceptions and exemptions, *ib.*
nothing herein to alter 11 & 12 Vict. cc. 29 and 30, except that "game certificate" in said act, and also in 1 & 2 Will. 4, c. 32, shall be read as "Licence to kill game," vol. ii. 254.
licences may be taken out on behalf of assessed servants acting as gamekeepers for persons having right to kill game, or under deputation from lords of manors, *ib.*
on change of gamekeeper, or revocation of deputation, licence may be continued to successor, *ib.*
such licences not available for acts done out of limits of the manor or lands for which the parties are appointed gamekeepers, vol. ii. 255.
persons doing any act requiring a licence to kill game, to produce the same on demand, or declare their names, places of residence, &c. *ib.*
penalty for refusal, *ib.*
licence to be void if party be convicted of any offence under 1 & 2 Will. 4, c. 32, or 2 & 3 Will. 4, c. 68, *ib.*
commissioners to publish lists of persons licensed to kill game, *ib.*
provisions of 1 & 2 Will. 4, c. 32, and 2 & 3 Vict. c. 35, relating to licences to deal in game to be in force throughout the United Kingdom, *ib.*
persons licensed by the justices to deal in game, to obtain for and obtain a licence under this act, vol. ii. 256.
licences to deal in game under this act to be granted only to those who have obtained licences from the justices, *ib.*
persons dealing in game without excise licence, to be liable to penalty whether licensed by justices or not, *ib.*
list of persons licensed to be kept for inspection, *ib.*
by whom licences shall be granted, and form thereof, *ib.*
duration and expiration of licences, *ib.*
5 & 6 Vict. c. 81, relating to game certificates in Ireland, to continue in force, *ib.*
licences and certificates to be available throughout the United Kingdom, *ib.*
7 & 8 Geo. 4, c. 49, repealed, *ib.*
killing hares without certificate. See *Hares.*

GAMING. See *Betting Houses; Lotteries.*
contracts by way of, null and void, vol. ii. 276.
this enactment not retrospective, vol. ii. 277, n. (*b*).
recovery of deposit on wager from stakeholder, *ib.*
defence of gaming must be specially pleaded, *ib.*
particularly required in plea, *ib.*
subscription to prize for winner of lawful game, valid, vol. ii. 277.
what is a lawful game, *ib.*, n. (*d*).
what wagers and games valid at common law, vol. ii. 276, n. (*b*).

GAMING—*continued.*
so much of 33 Hen. 8, c. 9, as declares games of skill unlawful, repealed, vol. ii. 272.
securities for gaming transactions not void, but deemed to have been given for illegal conversion, vol. ii. 270, 271.
money paid to the holder of such securities to be deemed to have been paid for the original party, *ib.*
keeping gaming-house prohibited, &c. and penalty for, vol. ii. 257, 258.
penalty for using, *ib.*
any person using any unlawful games may be committed, vol. ii. 260.
on information by two inhabitants that house is used for gaming, party to be apprehended and taken before justices, vol. ii. 266.
justices to bind him over to appear and answer indictment, vol. ii. 266, 267.
who to be deemed keeper of house, vol. ii. 267.
no *certiorari*, &c. *ib.*
setting up, &c. offices, &c. for lotteries, hazard, &c. and advertising, &c. for, prohibited, vol. ii. 261.
200*l.* penalty for offences against act, *ib.*
how to be levied and applied, *ib.*
games prohibited, *ib.*
game of passage, and other games with dice, except backgammon, vol. ii. 263.
roly-poly, or other games with cards or dice, vol. ii. 264.
50*l.* penalty on adventurers, vol. ii. 262.
penalty for persons neglecting to appear and give evidence, vol. ii. 264.
no person incapable of being a witness by reason of having played, *ib.*
sales by lotteries void, vol. ii. 262.
and land, &c. forfeited, *ib.*
convictions under act and appeal, *ib.*
record removable upon 100*l.* security, *ib.*
offenders not able to pay penalties, to be imprisoned, *ib.*
penalty on neglect of justices or mayors, *ib.*
not to affect right to any lands, &c. held by lot, vol. ii. 263.
limitation of actions, *ib.*
general issue, costs, *ib.*
gaming in places not within enactment, vol. ii. 263, 264.
evidence of house being common gaming house, vol. ii. 273, 282.
power of constables to enter suspected places, *ib.*
penalty on keeper of gaming house and assistants, vol. ii. 273.
proof of gaming for money, vol. ii. 274.
entry at suspected places within the metropolis, apprehension, &c. *ib.*
search and seizure, *ib.*
what deemed evidence of gaming, *ib.*
destruction of gaming implements, *ib.*
indemnity of witnesses, *ib.*
billiard licences, vol. ii. 274, 276.
cheating at play punishable as for obtaining money by false pretences, vol. ii. 276.
appeal, vol. ii. 277.
distress not unlawful for want of power, vol. ii. 278.
tender of amends, *ib.*
limitation of actions, *ib.*
conviction, want of form, no *certiorari*, *ib.*

GAMING—*continued.*
17 & 18 Vict. c. 38.
suppression of gaming houses, vol. ii. 282.
penalty on persons obstructing the entry of constables authorised to enter suspected houses, *ib.*
obstructing entry of constables, to be evidence of house being a gaming house, *ib.*
penalty on persons apprehended for giving false names or addresses, vol. ii. 283.
penalties on persons keeping gaming houses, *ib.*
justices may require any of the persons apprehended to be sworn and give evidence, *ib.*
penalty on refusing to be sworn, *ib.*
persons required to be witnesses, and making a full discovery, freed from all penalties, &c. *ib.*
penalties and costs may be levied by distress, *ib.*
application of penalties, *ib.*
on neglect to prosecute summons, justices may authorise some other person to proceed, vol. ii. 284.
appeal to quarter sessions, *ib.*
no objection allowed to information whereon conviction has taken place, &c. in matter of form, *ib.*
judgment not removable by *certiorari*, *ib.*
distress not unlawful for want of form, *ib.*
tender of amends, *ib.*
limitation of actions, *ib.*
gaming house, indictment for keeping, authority to prefer, vol. ii. 285.

GAOL. See *Prison.*

GAOL DELIVERY.
gaols to be delivered three times a year, and justices to deliver gaols of those who be indicted before justices of the peace, vol. ii. 938.
court of, on conviction of treason, felony or misdemeanor, may reserve question of law for the judges, vol. ii. (52).

GARDENS.
not to be taken for improving turnpike roads without consent, vol. ii. 651.
materials not to be taken out of, for repairs of turnpike roads, vol. ii. 619.

GARNISHEE.
proceedings against, for recovery of debts due to judgment debtor, vol. iii. 781, 793.

GAS. See *Lighting and Watching.*
10 Vict. c. 15 (*Gas-Works Clauses Act*, 1847).
extent of act, vol. ii. 301.
interpretation clause, *ib.*
Citing the Act,
short title, vol. ii. 302.
form in which portion of act may be incorporated in other acts, *ib.*
Laying of pipes,
power to break up streets and open drains, *ib.*
private land not to be entered without consent, *ib.*
notice before breaking up streets or opening drains, *ib.*
streets or drains not to be broken up except under superintendence of persons having control, *ib.*

GAS—*continued.*
except on their failure to superintend, vol. ii. 302.
streets broken up to be reinstated, *ib.*
penalty for delay in reinstating streets, *ib.*
other persons may reinstate in case of delay, vol. ii. 303.
Supply of gas,
company may contract for lighting, *ib.*
undertakers may let meters, *ib.*
meters not distrainable, *ib.*
power to enter buildings to ascertain gas consumed, *ib.*
recovery of gas rents, *ib.*
power to take away pipes, &c. *ib.*
Undue use of gas,
penalty for fraudulently using gas, *ib.*
or wilfully damaging pipes, vol. ii. 304.
satisfaction for accidental damage, *ib.*
Nuisance from gas.
penalty for corrupting water, *ib.*
how to be recovered, *ib.*
daily penalty during continuance of offence, *ib.*
for escape of gas, *ib.*
if water contaminated by gas, *ib.*
power to examine gas pipes, *ib.*
expenses to abide the result, *ib.*
how ascertained, *ib.*
undertakers liable to indictment or other legal proceeding, *ib.*
Profits of the Company,
what amount of profits to be divided yearly, vol. ii. 304, 305.
excess to be invested, vol. ii. 305.
to form reserve fund, *ib.*
amount of such reserve fund, *ib.*
its application, *ib.*
reduction in price of gas where profits exceed the prescribed rate, *ib.*
how such reduction enforced, *ib.*
petitioner to pay costs of groundless petition, *ib.*
penalty on refusal to produce books, *ib.*
annual accounts to be made up, and to be open to inspection, *ib.*
tender of amends, vol. ii. 306.
Recovery of damages and penalties,
"Railway Clauses Consolidation Act, 1845," as to damages, to be incorporated, *ib.*
application of penalties in Ireland, *ib.*
one justice may act, *ib.*
penalties in metropolitan police district, how applied, *ib.*
persons giving false evidence guilty of perjury, *ib.*
Access to Special Act,
copies, where to be kept, *ib.*
penalty for neglect, vol. ii. 307.
undertakers not exempt from the 57 Geo. 3, c. 29, or from the laws regulating sewers, *ib.*
rights of the crown reserved, *ib.*
undertakers not exempted from any general act, *ib.*
22 & 23 Vict. c. 66 (regulating measures used in sale of gas).
interpretation of words "meter" and "person," *ib.*
fixing unit of measure, *ib.*
models of measures to be made and verified under the direction of the Treasury, *ib.*
models to be deposited, *ib.*

GAS—*continued.*
copies of the models of gasholders to be provided by order of quarter sessions or town council in England, vol. ii. 307, 308. and by meetings of justices in Scotland, *ib.*
appointment of inspectors, vol. ii. 308.
copies of models of gasholders, to be provided by town councils, town commissioners, &c. in Ireland, and inspectors appointed, *ib.*
officers of the exchequer at Westminster to stamp copies of models, *ib.*
expense of providing copies of models and remuneration of inspectors defrayed out of county rates, &c., *ib.*
no maker or seller of, or person employed in making or selling meters or gas, to be an inspector, vol. ii. 309.
inspector to enter into recognizances, *ib.*
inspector to attend at towns where gas is consumed, when required by justices, *ib.*
inspector to examine meters, *ib.*
inspector to pay fees to treasurer of county, &c. *ib.*
meters, when stamped, need not be restamped *ib.*
penalty on inspector for misconduct, *ib.*
meters not to be stamped if more than two per cent. incorrect in favour of the seller, or three per cent. in favour of the buyer, and to be stamped if erroneous to no greater extent, *ib.*
certain meters incorrect against the seller of gas may be used by agreement, vol. ii. 309. 310.
rules for testing meters, vol. ii. 310.
penalty for counterfeiting stamps, *ib.*
penalty for obstructing inspector, *ib.*
consumers may use any stamped meter, *ib.*
after ten years, all meters to be stamped, *ib.*
after twelve months, no meter to be sold, &c. unless stamped, *ib.*
unstamped meters may be stamped if required, or stamped meters substituted, at the expense of the person requiring it, *ib.*
fees for testing and stamping meters, vol. ii. 311.
power to justices and inspectors to enter houses, &c. and inspect gas measures and meters, *ib.*
disputed decision of inspector to be referred to two inspectors of adjoining districts, &c. *ib.*
persons aggrieved may appeal to quarter sessions, *ib.*
this act and existing powers not to be cumulative, *ib.*
proceedings not to be quashed for want of form or removed by *certiorari*, vol. ii. 312.
recovery and application of penalties, *ib.*
appeal in Scotland to commissioners of justiciary at circuit court, *ib.*
actions for acts done in pursuance of act to be brought in same county, *ib.*
general issue may be pleaded, and this act given in evidence, *ib.*
plaintiff not to recover for irregularity, &c. in proceedings under act, after tender of amends, *ib.*
defendant may pay money into court by leave of court, *ib.*
23 & 24 Vict. c. 146.
when 22 & 23 Vict. c. 66, is to be deemed to have been passed, vol. ii. 320, 321.

GAS—*continued.*
not to come into operation until so resolved by quarter sessions, vol. ii. 320.
23 & 24 Vict. c. 125.
short title, "Metropolis Gas Act, 1860," vol. ii. 313.
10 & 11 Vict. c. 15, incorporated with this act, *ib.*
companies and persons to whom act applies, *ib.*
interpretation of terms, *ib.*
limits of act, *ib.*
sanctioning assignment of districts to gas companies, to be subject to triennial revision, vol. ii. 314.
on complaint as to quantity and quality, secretary of state may appoint a person as inspector to inquire and report, *ib.*
power of inspector so appointed, *ib.*
penalty on obstructing inspector, *ib.*
notice if complaint well-founded, *ib.*
company to remove ground of complaint, *ib.*
gas companies to obey orders of secretary of state, *ib.*
cost of altering district, *ib.*
gas companies to provide pipes and supply gas and meters at prescribed rents, *ib.*
security to be given to gas company if required, vol. ii. 315.
differences as to security to be determined by a magistrate, *ib.*
penalty on gas company failing to provide pipes or supply of gas or meters, *ib.*
gas to be consumed by meter, if required by companies, *ib.*
gas companies may contract for supply, *ib.*
contracts valid, though not under seal, *ib.*
restrictions on contracts with gas companies, *ib.*
gas companies to light streets when required by local authority, *ib.*
local authorities may provide lamp posts and lamps, *ib.*
service pipes to be fully charged with gas, *ib.*
illuminating power and purity of gas, vol. ii. 316.
penalty for deficient illuminating power or impurity, *ib.*
appointment by local authority of examiner of gas, *ib.*
examination of gas and report thereon, *ib.*
two or more local authorities may join in the appointment, *ib.*
complaint to a magistrate as to supply of gas, *ib.*
hearing on report, *ib.*
order on hearing, *ib.*
gas company to obey order, *ib.*
gas companies to afford facilities for examination under this act, *ib.*
limit of charge for gas and meters, vol. ii. 317.
determination of existing contracts, *ib.*
limit of charge for gas supplied to public lamps, *ib.*
difference to be settled by arbitration, *ib.*
incoming tenant not to pay arrears of outgoing tenant, unless by express agreement, *ib.*
appeal by consumers to home secretary on rise of price of gas, *ib.*
home secretary may issue form of accounts to be filled up by gas companies, *ib.*

GAS—*continued.*
gas companies to cause maps of their districts to be made, vol. ii. 317.
as to deposit and inspection of the maps, *ib.*
charge for inspection of map, vol. ii. 318.
secretary of state may direct proceedings by the attorney-general against gas companies, *ib.*
recovery and application of penalties, *ib.*
jurisdiction of magistrates for purposes of act, *ib.*
for the protection of water companies, *ib.*
for laying pipes to convey gas, *ib.*
mode of laying pipes, *ib.*
to prevent further contamination of water by gas, vol. ii. 319.
for ascertaining if the water is contaminated, *ib.*
appropriation of penalties in the city of London, *ib.*
saving rights of metropolitan board of works, vestries, and others, *ib.*
saving general jurisdiction of courts of law and equity, vol. ii. 320.
expenses of act, *ib.*
expenditure of local authorities under this act, *ib.*
24 & 25 Vict. c. 79.
powers conferred on justices by 22 & 23 Vict. c. 66, and so far as relates to metropolis, transferred to metropolitan board of works, vol. ii. 321.

GIFTS, CHARITABLE. See *Charitable Gifts.*
stamp duty on gifts. See *Stamps.*

GIPSIES. See *Hawkers.*
penalty, &c. for encamping on sides of turnpike roads, vol. ii. 625.

GOOD FRIDAY. See *Time.*
provisions as to bills, &c. falling due on, vol. i. 407.

GOODS.
contract for sale of, must be by signed writing, when. See *Frauds (Statute of).*
though not actually made. See *Frauds (Statute of).*

GRAMMAR SCHOOLS. See *Endowed Schools.*
3 & 4 Vict. c. 77.
courts of equity empowered, whenever a question comes before them, to make decrees extending the system of education and the right of admission, and to establish schemes for application of revenues, vol. ii. 321.
considering intentions of the founders, the state of school, &c., vol. ii. 322.
court not to dispense with the principal objects required, unless insufficient revenues, *ib.*
standard of admission not to be lowered where Greek and Latin is retained, *ib.*
where the teaching of Greek and Latin is dispensed with, analogous instruction to be substituted, &c. *ib.*
qualifications of new schoolmasters, and right of appointment regulated, *ib.*
schools to be grammar schools, though Greek and Latin are dispensed with, and masters subject to the ordinary, *ib.*
extension of right of admission not to prejudice existing rights, *ib.*

GRAMMAR SCHOOLS—*continued.*
several schools in one place, and revenues insufficient may be united, vol. ii. 322, 323.
consents necessary to union, vol. ii. 323.
present schoolmasters not to be affected, but to be at liberty to resign on receiving pensions, *ib.*
how new appointment of master to be made, *ib.*
lapse of right of examination shall take place from time of settling the new statutes, *ib.*
where sufficient powers of discipline exist, the person possessing to be at liberty to exercise them, *ib.*
where such powers not sufficient, court may enlarge them, *ib.*
where no such powers, court may create them, *ib.*
court of chancery may substitute a person to act *pro hac vice*, in certain cases, *ib.*
proviso, *ib.*
court of chancery to have power to appoint mode of removing masters, *ib.*
power in certain cases to assign retiring pensions, vol. ii. 323, 324.
premises held over by masters dismissed, or ceasing to hold office, to be recovered in a summary way, vol. ii. 324.
master shall not set up title, *ib.*
applications to court to be made by petition, *ib.*
if crown is patron, who to act, *ib.*
powers of lord chancellor, *ib.*
saving of rights of ordinary, *ib.*
certain foundations exempted from this act, *ib.*
construction of terms, vol. ii. 325.

GRANTS. See *Conveyances; Lease.*
stamp duty on, vol. iv. 514.

GUARANTEE. See *Frauds (Statute of).*
to answer for debt, &c. of another, must be in writing, vol. ii. 149, 150.
must be founded on good consideration, vol. ii. 150, n. (*a*).
what consideration sufficient, *ib.*
consideration need not appear in writing, if guarantee given since 29th July, 1856, vol. ii. 178.
but if given before that date it must, vol. ii. 153.
what a sufficient agreement in writing, vol. ii. 159, n. (*b*).
to constitute a guarantee, the promise must be collateral, vol. ii. 150, n. (*a*).
distinction between collateral and original promises, *ib.*
the person for whose debt the collateral promise is made must still remain liable, vol. ii. 150, 152, n. (*a*).
case of broker acting on *del credere* commission, vol. ii. 150, n. (*a*).
promise made to the debtor himself not a guarantee within 4th section of Statute of Frauds, *ib.*
what a sufficient signature of, vol. ii. 161, n. (*b*).
who a sufficient agent to sign, vol. ii. 162, n. (*b*).
declaration on, must be special, vol. ii. 150, 154, n. (*a*).

GUARDIAN.
penalty, &c. for holding over after death, &c. of infant tenant for life, vol. i. 1373; vol. ii. 830, 831.
proof of such death, &c., vol. i. 1371, 1372; vol. ii. 829, 830.
empowered to sell, &c. lands for use of roads, vol. ii. 615.
the duty of guardians in socage, vol. ii. 827.
rights of, vol. ii. 827, n. (*a*).
when guardianship in socage arises, *ib.*
father may dispose of custody of children during their minority, vol. ii. 827, 828.
how such disposition may be exercised, *ib.*
no other relation can appoint a guardian, vol. ii. 828, n. (*a*).
powers of testamentary guardian, vol. ii. 827, n. (*b*).
court of chancery cannot remove a testamentary guardian, vol. ii. 828, n. (*a*).
but will exercise control over him, *ib.*
testamentary guardianship ceases on ward attaining twenty-one, *ib.*
or on marriage of female ward, *ib.*
appointment of testamentary guardian of natural child, how far effectual, vol. ii. 828, n. (*b*).
persons labouring under religious disabilities to be guardians, vol. ii. 829, and n. (*d*).
action of ravishment of wards, vol. ii. 829.
lands of children and management of personal estate by guardians, *ib.*

GUNPOWDER.
12 Geo. 3, c. 61.
regulating the making, keeping, and carriage of gunpowder, vol. ii. 326—331.
repealed, vol. ii. 326, n. (*b*).
23 & 24 Vict. c. 139 (*The Gunpowder Act*, 1860).
commencement of act, and repeal of 9 & 10 Will. 3, c. 7, 5 Geo. 2, c. 12 (I.), and 12 Geo. 3, c. 61, vol. ii. 331.
regulations as to making and keeping of gunpowder, vol. ii. 332.
power to secretary of state, on application and sufficient cause shown to sanction the continuance or construction of any magazine within the prescribed distance, vol. ii. 332, 333.
penalties for making and keeping gunpowder contrary to this act, vol. ii. 333.
no charcoal to be kept within twenty yards of any mill, &c. *ib.*
regulations as to the making of loaded percussion caps and the making and keeping of ammunition, fireworks, fulminating mercury, &c. *ib.*
penalties for making loaded percussion caps, or making or keeping ammunition, &c. contrary to this act, vol. ii. 334.
no person to sell fireworks without a licence, *ib.*
penalty for throwing fireworks in thoroughfares, *ib.*
justices to license places for making and keeping gunpowder, vol. ii. 334, 340.
justices to license places for making loaded percussion caps, and making and keeping ammunition, &c. *ib.*
notice of intention to apply for licence, vol. ii. 334.
fees for licences, vol. ii. 340.

GUNPOWDER—*continued.*
justices may make licences conditional on precautions prescribed by them for preventing danger being observed, vol. ii. 334, 335.
in case of refusal of licence, the applicant may memorialise secretary of state, who shall have power, notwithstanding such refusal, to grant the licence, vol. ii. 335.
owners of mills may make rules for their servants and workmen for preventing accidents, *ib.*
penalty for doing any act in any mill, &c. tending to cause explosion, *ib.*
secretary of state may authorise persons to inspect mills, &c. *ib.*
limitation of quantities of gunpowder to be kept by persons other than manufacturers, vol. ii. 336.
gunpowder may be kept for mines, under certain conditions, *ib.*
not more than thirty barrels by land and five hundred by water, to be conveyed at one time, *ib.*
no gunpowder to be loaded until that condemned be unloaded, vol. ii. 337.
penalty for smoking, &c. on board vessels loaded with gunpowder, *ib.*
penalty for undue delay in loading or unloading gunpowder, *ib.*
foregoing provisions to extend only to carriage of more than 100 lb. of gunpowder, *ib.*
power to justices to issue warrants to search, *ib.*
regulations for the security of the vessels in the river Thames, vol. ii. 338.
conservators of the river Thames to appoint searchers, *ib.*
forfeitures and penalties recoverable summarily, *ib.*
the lord lieutenant or chief secretary in Ireland to have the like authorities as are before given to the secretary of state, *ib.*
act not to extend to mills erected on crown lands, &c. *ib.*
act not to affect 54 Geo. 3, c. 159, or gunpowder, &c. on board her majesty's ships, &c. vol. ii. 338, 339.
saving for proof houses under 18 & 19 Vict. c. cxlviii. (local), vol. ii. 339.
not to extend to hinder unlimited quantities of gunpowder being conveyed from ships below Blackwall, *ib.*
saving of enactment for protection of London docks, *ib.*
saving for provisions of police acts, *ib.*
powers of 2 & 3 Vict. c. 47, and 9 & 10 Vict. c. 25, to be construed as referring to this act, *ib.*
as to searching boats by police, *ib.*
meaning of the word "borough," *ib.*
25 & 26 Vict. c. 98 (*The Gunpowder Act Amendment Act*, 1862).
extension of sects. 25 & 27 of 23 & 24 Vict. c. 139, to other explosive compositions, vol. iv. 966.
short title of principal act and this act, vol. iv. 967.

HABEAS CORPUS.
none to be condemned without trial, vol. ii. 68.
the petition of right, 3 Car. 1, c. 1, *ib.*
star chamber, abolition of, vol. ii. 65.

HABEAS CORPUS—*continued.*
and of similar jurisdiction in other courts, vol. ii. 65.
privy council, limitation of jurisdiction of, vol. ii. 66.
prisoner committed by star chamber or privy council to have habeas corpus, *ib.*
habeas corpus act, vol. ii. 67.
suspension of, vol. ii. 67, n. (*a*).
habeas corpus, where it runs, *ib.*
habeas corpus ad subjiciendum, *ib.*
lies at common law, *ib.*
by whose order issued, *ib.*
before whom returnable, *ib.*
not grantable as of course, *ib.*
when it must be granted, *ib.*
when not, *ib.*
affidavits to obtain, *ib.*
by whom the return is to be made, *ib.*
what the return should state, *ib.*
degree of certainty required in return, *ib.*
amendment of return, *ib.*
how return impeached, *ib.*
proceedings upon return, *ib.*
writs of, within three days after service, to be returned, and the body brought, if within twenty miles, &c. vol. ii. 69.
such writs, how to be marked, vol. ii. 69, 70.
proceedings thereon in vacation time, vol. ii. 70.
persons neglecting two terms to pray a habeas corpus, to have none in vacation, vol. ii. 71.
but by 56 Geo. 3, c. 100, may be issued in vacation, returnable immediately, except for criminal matters, or for debt, vol. ii. 74.
non obedience to such writ to be a contempt of court, &c. *ib.*
judges to make writs of, issued in vacation, returnable to court in next term, *ib.*
courts to make writs issued in term returnable in vacation, *ib.*
judges to inquire into truth of facts contained in return, *ib.*
judges to bail on recognizance to appear in term, &c. *ib.*
court may examine into truth of return, vol. ii. 75.
writ may run into counties palatine, privileged places, &c. vol. ii. 72, 75.
process of contempt awardable in vacation against persons disobeying writs of, in cases within 31 Car. 2, c. 2, vol. ii. 75.
officers, how to be proceeded against for not obeying writs, vol. ii. 71.
persons set at large upon habeas corpus not to be recommitted, but by order of court, *ib.*
persons committed for treason or felony, to be indicted at next term, or let to bail, *ib.*
and tried the term, &c. after or discharged, *ib.*
penalty for denying a habeas corpus, vol. ii. 72.
habeas corpus to run in counties palatine and privileged places, *ib.*
no subject to be sent to foreign prisons, *ib.*
persons receiving earnest upon contracts to be transported, excepted, *ib.*
persons convicted of felony, and praying transportation, excepted, *ib.*
offenders may be sent to be tried where offences were committed, vol. ii. 73.

HABEAS CORPUS—*continued.*
prosecutions for offences, within what time to be made, vol. ii. 73.
after assizes proclaimed, no prisoners to be removed, but before the judge of assize, *ib.*
in suits for offence against this law, defendants may plead general issue, &c. *ib.*
persons committed as accessories before, to petty treason or felony, not to be removed or bailed otherwise than before act made, *ib.*
writs for the removal of prisoners, &c. to be signed by the justices, vol. ii. 73.
writs of habeas corpus not to be issued under certain acts except on an affidavit, and justices may amend information, &c. vol. ii. 75.
see a similar provision, 16 & 17 Vict. c. 107, s. 290.
every judge of the superior courts to have equal jurisdiction in granting habeas corpus, &c. vol. ii. 75, 76.
indictments found by grand jury of the county of any city or town corporate, &c. may be ordered by the court, &c. there to be filed with the proper officer of the next adjoining county, and the defendants removed to the gaols thereof, &c. vol. ii. 76.
judges may, on application of the prosecutor, cause persons in custody for offences committed within the county of any city or town corporate, to be removed into the custody of the sheriff of the next adjoining county for trial, *ib.*
for bringing up prisoners for trial or examination before courts martial, commissioners of bankruptcy, &c. vol. ii. 77.
before other courts, vol. ii. 78.
power to issue warrant instead of *habeas corpus* to bring up prisoner to give evidence, vol. ii. (64).
25 Vict. c. 20.
habeas corpus not to issue out of England into any colony, &c. having a court with authority to grant such writ, vol. iv. 967.
not to affect right of appeal to her majesty in council, *ib.*

HACKNEY CARRIAGES (METROPOLITAN).
1 & 2 Will. 4, c. 22.
definition of a hackney carriage, vol. ii. 341.
exemption of horses used in hackney carriages from duties on horses let to hire, *ib.*
hackney carriages not to be kept without licences and plates, *ib.*
licences to be granted by commissioners of stamps, &c. *ib.*
licences, to whom not to be granted, vol. ii. 341, 342.
number of, unlimited, vol. ii. 342.
applicants for, to sign requisition, *ib.*
contents of requisition, &c. *ib.*
licences, what to be specified in, *ib.*
change of abode, notice to be given by proprietors of, *ib.*
penalty for not giving notice, &c. *ib.*
abode of proprietor, and number of plate, to be registered, vol. ii. 343.
duties, in what manner to be paid, *ib.*
licences, mode of discontinuing, *ib.*
plates to be delivered up on discontinuance or revocation of licence, *ib.*

HACKNEY CARRIAGES (METROPOLITAN) —*continued.*
penalty for neglect, vol. ii. 343.
carriages and horses, &c. liable to duties and penalties, *ib.*
duties recoverable by distress, vol. ii. 344.
numbered plates to be placed upon hackney carriages, *ib.*
directions as to number and mode of fixing plates, *ib.*
concealing plates, penalty for, or preventing persons taking number, *ib.*
plates, commissioners may change, vol. ii. 345.
where plate wilfully obliterated, new licence to be taken out, *ib.*
penalty for using, &c. hackney carriage without licence or plates, *ib.*
penalty for not delivering up recalled plates, *ib.*
penalty on plying for hire without plates, *ib.*
power of constables, &c. to apprehend driver, *ib.*
mode of enforcing penalties, *ib.*
carriages having prescribed plates to be deemed hackney carriages, vol. ii. 346.
forgery, &c. of stamp office plate, a misdemeanor, *ib.*
proprietors of hackney carriages to be summoned to appear and produce drivers, *ib.*
penalty for neglecting to appear, *ib.*
when justice may proceed *ex parte*, *ib.*
penalties, if not paid by drivers, to be levied on proprietors, *ib.*
proprietors entitled to recover back same from drivers, *ib.*
proviso as to previous conviction of driver, vol. ii. 346, 347.
disputes between proprietors and drivers, justices to determine, vol. ii. 347.
watermen to be licensed, *ib.*
penalty for acting without licence, *ib.*
badges to be worn by watermen, *ib.*
penalty for acting without, or allowing same to be worn by another person, *ib.*
particulars of licences to be entered at stamp office, *ib.*
entries so made to be evidence, *ib.*
procuring licence in fictitious name, a misdemeanour, *ib.*
distance, what, drivers compellable to drive, vol. ii. 347, 370.
penalty for refusal, *ib.*
plying for hire, what to be deemed, vol. ii. 348.
penalty on driver refusing to go with any person, *ib.*
compensation to driver improperly summoned for not carrying, *ib.*
drivers may ply and are compellable to drive on Sundays, *ib.*
rates and fares to be taken for hackney carriages, vol. ii. 348, 370.
regulations as to back fare, *ib.*
metropolis, limits of, defined, vol. ii. 348.
proceedings against persons refusing to pay fare or doing damage, vol. ii. 349.
penalty for exacting or demanding more than legal fare, *ib.*
agreement to pay more than legal fare not binding, *ib.*
sum paid beyond legal fare recoverable back, driver liable to penalty, *ib.*
driver bound by agreement, *ib.*

HACKNEY CARRIAGES (METROPOLITAN —*continued.*
penalty for exacting or demanding more than sum agreed for, though less than legal fare, vol. ii. 349.
number of persons to be carried in hackney carriage to be painted thereon, vol. ii. 349, 370.
penalty for neglect, *ib.*
penalty for refusal to carry the number of persons painted on coach, *ib.*
deposit to be made for carriages *waiting*, vol ii. 349.
penalty on driver refusing to wait, or to account for deposit, vol. ii. 349, 350.
regulations as to *check-strings*, vol. ii. 350.
property left in carriages to be left at stamp office, penalty, vol. ii. 350, 370, 371.
not applied for to be sold, vol. ii. 371.
penalty for permitting persons to ride without consent of hirer, vol. ii. 350.
for improperly standing with carriage, &c., *ib.*
refusing to give way, &c. *ib.*
regulations as to carriage stands, vol. ii. 350, 351, 363, 364.
penalty for leaving carriages unattended at places of public resort, vol. ii. 351.
for misbehaviour,—revocation of licence, *ib.*
compensation to drivers, &c. for loss of time in attending summons, vol. ii. 351, 352.
notice of revocation of licences, vol. ii. 352.
waggons, carts, &c. used in metropolis to have names, &c. of owners painted, vol. ii. 352, 358.
penalty for omission, &c. vol. ii. 352.
duties and penalties, how recoverable, vol. ii. 352, 353.
before whom offences to be heard and determined, vol. ii. 353.
mode of proceeding for penalties before a justice, vol. ii. 353, 365, 366.
in what manner goods distrained to be sold, vol. ii. 353.
form of summons, conviction, and warrant, *ib.*
power to issue warrant in first instance, *ib.*
penalty on witnesses not attending, &c. vol. ii. 354, 366.
service of summons, *ib.*
penalty on constable refusing to serve summons, &c. vol. ii. 354.
mitigation and distribution of penalties, *ib.*
competency of witnesses, *ib.*
limitation of actions, tender of amends, &c. costs, vol. ii. 354, 366.
construction of terms used in act, vol. ii. 354, 355.
schedules of forms, vol. ii. 355.
6 & 7 Vict. c. 86.
repeal of 1 & 2 Vict. c. 79, vol. ii. 357.
licences to continue in force until others are granted, *ib.*
meaning of certain words used in this act, *ib.*
certain provisions of 1 & 2 Will. 4, c. 22, extended to this act, vol. ii. 358.
proviso, *ib.*
title and abode of peer painted on any carriage, &c. *ib.*
appointment of registrar, deputy registrar, and officers' salaries, vol. ii. 358, 368, 374.
particulars to be painted on metropolitan stage carriages, vol. ii. 358, 359.

HACKNEY CARRIAGES (METROPOLITAN) —*continued.*
registrar to grant licences, vol. ii. 359, 368.
at the time of granting any licence, an abstract of the laws and a ticket to be given, vol. ii. 359.
a stamp duty of 5*s.* on every licence, *ib.*
penalty on acting as drivers, &c. without licences and tickets, 5*l.* *ib.*
on proprietors, *ib.*
watermen may be removed to other standings, vol. ii. 360.
appointment of temporary watermen, *ib.*
for obtaining water at hackney stands, *ib.*
persons applying for licences to sign a requisition, *ib.*
notice to be given by drivers, conductors, and watermen of change of abode, *ib.*
particulars of licences to be entered in a book at the registrar's office, *ib.*
tickets to be worn by drivers, *ib.*
licences and tickets to be delivered up on the discontinuance of licences, vol. ii. 360, 361.
new tickets to be delivered instead of defaced or lost tickets, vol. ii. 361.
forgery of licences or tickets, *ib.*
proprietor to retain licence of drivers or conductors, and produce them on complaint, *ib.*
indorsements on of offences by justices, *ib.*
by masters, *ib.*
magistrates to hear and determine disputes, vol. ii. 362.
agreements between drivers, &c. and proprietors to be in writing, *ib.*
proceedings as to licences on quitting service, *ib.*
licences may be revoked or suspended, *ib.*
hackney carriage plates may be seized where licence discontinued or revoked, or where the same are used without licence, vol. ii. 362, 363.
penalty for obstructing officer, 5*l.* vol. ii. 363.
licences may be revoked in certain cases, *ib.*
no person to act as driver of any carriage without consent of proprietor, *ib.*
punishment for furious driving and wilful misbehaviour, *ib.*
standings for hackney carriages to be appointed, *ib.*
standings to be in the centre of streets, vol. ii. 364.
carriages not to ply opposite general post office, *ib.*
lord mayor and aldermen to make regulations in the city and borough, *ib.*
penalty for loitering or causing any obstruction, or plying for hire by making any noise, &c. *ib.*
property left in stage carriages, vol. ii. 364, 370, 371.
proprietors may be summoned to appear, and produce driver, vol. ii. 364.
in case of proprietors failing so to do, *ib.*
magistrates empowered to hear and determine complaints, vol. ii. 365.
evidence of complainant to be taken, *ib.*
complaints to be made within seven days, *ib.*
penalties may be awarded to be paid by instalments, *ib.*
imprisonment in case of non-payment, *ib.*
in what manner goods distrained to be sold, *ib.*
service of summonses and other notices, vol. ii. 366.

HACKNEY CARRIAGES (METROPOLITAN) —*continued.*
witnesses refusing to attend or to give evidence, vol. ii. 366.
proceedings to be drawn up according to the forms in the schedule, *ib.*
providing for cases where there are more proprietors than one, *ib.*
power to mitigate penalties, *ib.*
appropriation of penalties, *ib.*
limitation of actions, *ib.*
venue, *ib.*
notice of action, *ib.*

13 Vict. c. 7.
to be construed with 6 & 7 Vict. c. 86, vol. ii. 369.
office of registrar abolished, vol. ii. 368.
duties of abolished office transferred to commissioners of police, vol. ii. 368, 374.
retiring allowances, vol. ii. 368.
standings for hackney carriages to be appointed, *ib.*
regulations to be advertised in Gazette, *ib.*
evidence of, *ib.*
repeal of local acts, *ib.*
saving of Bloomsbury Square Act, vol. ii. 369.
one police commissioner may act, *ib.*

16 & 17 Vict. c. 33.
to be construed with 6 & 7 Vict. c. 86, and 13 & 14 Vict. c. 7, vol. ii. 372.
inspection, licence, vol. ii. 369.
suspending licence, *ib.*
using carriages not licensed, penalty, *ib.*
fares, vol. ii. 370.
table of fares inside, &c. of carriage, *ib.*
book of fares, production by driver, *ib.*
disputes, settlement, book of distances, evidence, *ib.*
table of distances, *ib.*
distance, &c. what driver bound to drive, *ib.*
ticket, driver to deliver, *ib.*
number of persons to be carried, &c. *ib.*
luggage, *ib.*
property left in carriage to be taken to police station, *ib.*
disposal of, if not claimed within a year, vol. ii. 371.
property left in stage carriage, *ib.*
persons to be appointed to enforce order at standings, *ib.*
regulations as to, to be made, *ib.*
wages, *ib.*
water rates, *ib.*
lamps, metropolitan stage carriages, *ib.*
advertisements on outside or inside of carriages, *ib.*
advertising vehicles, *ib.*
overcharge, number to be carried, luggage, distance, speed, unfitness, non-delivery of ticket, penalty, *ib.*
offences and disputes, determination, vol. ii. 372.
offences not provided for, penalty, *ib.*

16 & 17 Vict. c. 127.
grant of new duties, vol. ii. 374.
commencement of repeal and grant of duties, *ib.*
duties to be duties of excise under the care of the commissioners of inland revenue, *ib.*
licences granted under 1 & 2 Will. 4, c. 22, to cease, and hackney carriages to be licensed under this act, *ib.*

HACKNEY CARRIAGES (METROPOLITAN) —*continued.*
persons possessed of licences to have new ones in exchange, vol. ii. 374.
commencement and termination of licences, *ib.*
renewal of licences, *ib.*
numbered plate to be delivered up on expiration of licences, or, in default, duty to continue payable, vol. ii. 375.
numbered plates on hackney carriages not licensed to be used on Sundays to be distinguished from those on carriages licensed to be used on every day of the week, *ib.*
where licences for hackney carriages and metropolitan stage carriages are to be granted and the duties paid, *ib.*
1*s.* a mile to be paid for every mile beyond the circumference of a circle of four miles from Charing Cross, if carriage be discharged beyond such circumferance, *ib.*
where more than two persons are conveyed in a hackney carriage drawn by one horse, 6*d.* in addition to the fare to be paid for each person above two for the whole hiring, *ib.*
when carriage hired by time 6*d.* to be paid for every fifteen minutes, or portion thereof, over the hour, *ib.*
proprietors of hackney carriages withdrawing carriages from hire beyond a certain time, penalty, *ib.*
"the limits of this Act" defined, *ib.*
none but officers of inland revenue or of the metropolitan police to prosecute for penalties, vol. ii. 376.
22 & 23 Vict. c. 113.
on the death of person licensed to keep hackney carriage, licence may be transferred to widow or child, and also to husband of woman licensed before marriage, *ib.*

HARBOURS, DOCKS, AND PIERS.
10 Vict. c. 27 (*The Harbours, Docks, and Piers Clauses Act*, 1847).
extent of act, vol. ii. 376.
interpretation, vol. ii. 376, 377.
Citing the Act,
short title, vol. ii. 377, 378.
form in which portions of this act may be incorporated with other acts, vol. ii. 378.
Construction of Harbour, Dock, or Pier,
to be subject to the provisions of this Act and Lands Clauses Consolidation Acts, *ib.*
errors and omissions in plans, &c. correction of, *ib.*
certificate thereof to be deposited, *ib.*
works not to be proceeded with until plans of all alterations deposited, *ib.*
clerks of the peace, &c. to receive plans and allow inspection, *ib.*
copies of plans, &c. evidence, vol. ii. 378, 379.
no deviation beyond the limits defined upon plans, vol. ii. 379.
works on sea-shore not to be constructed without authority of commissioners of woods, &c. and of the admiralty, *ib.*
before alterations executed, approval by admiralty and commissioners of woods, &c. *ib.*
Accommodation for Custom House Officers,
undertakers to erect watch-house and boat house for custom house officers, *ib.*

HARBOURS, DOCKS, AND PIERS—*continued.*
penalty on undertakers neglecting to repair watch house, &c. vol. ii. 379.
Life Boats,
to be provided, *ib.*
penalty for not providing, vol. ii. 380.
Tide Gauge, &c.,
self-registering tide gauge and barometer to be provided, *ib.*
penalty for not providing, *ib.*
Warehouse and Cranes,
power to purchase additional land for extraordinary purposes, *ib.*
power to construct warehouses and works, *ib.*
undertakers to hire persons to work cranes, *ib.*
power to lease wharfs, warehouses, &c. *ib.*
legal quays to be approved by the treasury, *ib.*
Rates,
not to be taken until works completed, *ib.*
certificate of magistrate, evidence of completion, *ib.*
tonnage of British registered vessels, how ascertained, *ib.*
of other vessels, *ib.*
exemption of vessels in her majesty's service, &c. from rates, vol. ii. 381.
vessels returning from stress of weather not to pay again, *ib.*
power to vary rates, *ib.*
rates on foreign vessels where treaties of reciprocity exist, *ib.*
power to compound for tolls in respect of passenger or pleasure vessels, *ib.*
harbour, dock, and pier free to the public on payment of rate, *ib.*
Collection of Rates,
collector may enter vessels to ascertain rates payable, *ib.*
master to report arrival of vessel, *ib.*
penalty for neglect, *ib.*
master of vessel to produce certificate of registry, *ib.*
masters of vessels to give accounts of goods intended to be unshipped, *ib.*
penalty on giving no account or false account, vol. ii. 382.
shippers to give account of goods to be shipped, *ib.*
in case of dispute between collector and master, &c. goods to be weighed, *ib.*
expenses of weighing, *ib.*
rates on goods when payable, *ib.*
penalty on evading payment of rates, *ib.*
recovery of tonnage rates by distraint of ship and tackle, *ib.*
recovery of rates on goods, *ib.*
disputes concerning rates or charges occasioned by distress, how settled, vol. ii. 382, 383.
list of rates to be set up in legible characters, vol. ii. 383.
collector of customs may withhold clearance until rates paid, *ib.*
Account of Rates,
undertakers to keep account of rates and vessels, &c. *ib.*
annual account to be transmitted to clerk of peace, &c. *ib.*
Harbour, Dock, and Pier Master,
appointment of, *ib.*
powers of, *ib.*

HARBOURS, DOCKS, AND PIERS—*continued.*
penalty on non-compliance with directions of, vol. ii. 384.
penalty on master for misbehaviour, *ib.*
penalty on offering bribes to officers, *ib.*
on officers accepting bribes, *ib.*
harbour-master may remove wrecks, &c. *ib.*
unserviceable vessels to be removed from harbour, *ib.*
harbour-master may remove vessels within docks, &c. *ib.*
vessels entering harbour or dock to be dismantled, &c. *ib.*
vessels to have their sails lowered when navigating dock, &c. *ib.*
vessels to have hawsers, &c. fixed to moorings, *ib.*
penalty for cutting moorings, *ib.*
penalty on vessels lying near the entrance of harbour, vol. ii. 384, 385.
vessels may be removed for the purpose of repairing harbour, &c. vol. ii. 385.
harbour-master may remove such vessel if master neglect, *ib.*
Discharge of Cargoes and Removal of Goods,
delivery of cargoes and placing of discharged vessels, *ib.*
penalty on wharfingers giving undue preference, *ib.*
goods may be removed from the quays, &c. after lying there longer than allowed by bye-laws, *ib.*
Protection of the Habour, Dock, and Pier,
combustibles, &c. to be removed, *ib.*
to be guarded during the night, *ib.*
penalties against offences herein named, *ib.*
boiling or heating pitch, &c. *ib.*
fires in vessels, vol. ii. 386.
fires within docks, *ib.*
loaded guns, *ib.*
gunpowder, *ib.*
power to enter ship and search for and extinguish fires or lights, *ib.*
penalty for throwing ballast, &c. into harbour or dock, *ib.*
owner of vessel answerable for damage to works, *ib.*
as to the recovery of amount of damage to quays, &c. *ib.*
owner may recover damage from his servants, *ib.*
Lighthouses, Beacons, and Buoys,
power to erect lighthouses, and lay down buoys, &c. with consent of Trinity House, *ib.*
lights, beacons, &c. not to be exhibited or altered without sanction of Trinity House, vol. ii. 386, 387.
Harbour and Dock Police. See *Canals.*
justices to appoint special constables named by the undertakers, vol. ii. 387.
dismissal of constables, *ib.*
Meters and Weighers,
power to appoint meters and weighers, *ib.*
licensed meters and weighers only to be employed, *ib.*
penalty on other than licensed meters, &c. weighing goods, *ib.*
Bye-Laws,
bye-laws may be made for all or any of the purposes herein named, *ib.*
bye-laws may be repealed or altered, *ib.*
bye-laws may be enforced by penalties, vol. ii. 387, 388.

HARBOURS, DOCKS, AND PIERS—*continued.*
no bye-laws to come into operation until allowed and approved by judge, vol. ii. 388.
notice of allowance, *ib.*
a copy of proposed bye-laws to be open to inspection, *ib.*
publication of bye-laws, *ib.*
bye-laws to be binding on all parties, *ib.*
proof of publication of bye-laws, *ib.*
tender of amends, *ib.*
Recovery of Damages and Penalties,
Railways Clauses Consolidation Acts, 1845, as to damages, &c. to be incorporated, *ib.*
in Ireland, part of penalties to be paid to guardians of unions, vol. ii. 389.
all things required to be done by two justices in England and Ireland may, in certain cases, be done by one, &c. *ib.*
penalties, &c. imposed for offence committed within the metropolis, application, *ib.*
persons giving false evidence, *ib.*
Access to Special Act,
copies of, to be kept by undertakers at their office, and deposited with clerks of the peace, &c. for inspection, *ib.*
penalty on undertakers failing so to do, *ib.*
Saving of Rights,
of the crown, city of London, Trinity House, &c. *ib.*
act not to exempt the undertakers from provisions of any general act; vol. ii. 390.
24 & 25 Vict. c. 45 (*The General Pier and Harbour Act*, 1861).
interpretation of terms, *ib.*
persons may apply to board of trade to grant provisional order, *ib.*
subscribers to memorial to be promoters, *ib.*
promoters to deposit copies of memorial and plans at the office of the clerk of the peace, *ib.*
notice of deposit to be given by advertisement, *ib.*
promoters to deposit plans with the admiralty, *ib.*
application of 14 & 15 Vict. c. 49, to this act, vol. ii. 391.
power to admiralty to remove works not approved by them, *ib.*
Levying of Rates,
regulations as to levying of rates upon application to board of trade, *ib.*
publication of schedule, *ib.*
deposit of schedule with clerks of the peace, *ib.*
deposit of schedule with board of trade, *ib.*
shipowners, traders, &c. &c. may forward objections to board of trade, *ib.*
board of trade to adjust schedule, and may empower promoters to levy rates, *ib.*
consent of commissioners of woods, &c. to be obtained, *ib.*
saving rights of the crown *ib.*
saving rights of the duchy of Cornwall, *ib.*
saving rights of conservators of the rivers Thames and Mersey, &c. vol. ii. 391, 392.
promoters not to do any act which shall prejudice any right acquired by royal charter, &c. vol. ii. 392.
board of trade may grant provisional orders subject to provisions herein named, *ib.*
order to be deposited with clerk of the peace, *ib.*
notice of deposit by advertisement, *ib.*
board of trade to obtain confirmation of provisional order by parliament, *ib.*

HARBOURS, DOCKS, AND PIERS—*continued.*
where petition presented against an order, bill confirming same may be referred to select committee, vol. ii. 392.
orders, &c. to be signed by one of the secretaries, &c. of board of trade, or by secretary of the admiralty, vol. ii. 392, 393.
board of trade to report to parliament, vol. ii. 393.
power to secretary of state for war to take and hold land, &c. for batteries, &c. *ib.*

24 & 25 Vict. c. 47 (*The Harbours and Passing Tolls, &c. Act*, 1861).

Preliminary,
short title, *ib.*
interpretation of terms, *ib.*
"board of trade," *ib.*
"harbour," *ib.*
"harbour authority," *ib.*
"limited estate," *ib.*
"settlement," *ib.*
"pilotage authority," *ib.*
"shipping purposes," *ib.*
"differential dues," vol. ii. 394.

PART I.

LOANS TO HARBOURS.

advances of money to harbour authorities, *ib.*
regulations, *ib.*

PART II.

ABOLITION OF PASSING TOLLS.

abolition of passing tolls, vol. ii. 395.
indemnity to creditors on passing tolls, *ib.*

PART III.

ABOLITION OF DUES LEVIED BY CHARITABLE CORPORATIONS.

abolition of dues leviable by charitable authorities, *ib.*
dues levied for shipping purposes on ships or goods which derive no benefit, *ib.*
provision for payment of pensions granted before 15th March, 1861, and for application of surplus, *ib.*
list of pensions to be made out and sent to board of trade, vol. ii. 395, 396.

PART IV.

ABOLITION OF DIFFERENTIAL DUES, AND COMPENSATION THEREFOR.

abolition of differential dues, vol. ii. 396.
compensation for differential dues, when to cease, *ib.*
compensation, whilst continued, to be limited, *ib.*
commutation of compensation, *ib.*
indemnity to public authorities, *ib.*
power to recover increased dues, *ib.*
saving of rights of creditors, *ib.*

PART V.

POWER TO TOWN CORPORATIONS, &C. TO TRANSFER SHIPPING DUES TO HARBOUR AUTHORITIES.

power to transfer dues, *ib.*
notice of intended transfer to be given, *ib.*
evidence of transfer, vol. ii. 397.
power to borrow money in order to effect such transfer, *ib.*

HARBOURS, DOCKS, AND PIERS—*continued*

PART VI.

ABOLITION OF SPECIAL TAXES AT DUBLIN.

abolition of special taxes at Dublin, vol. ii. 397.

PART VII.

MAINTENANCE OF RAMSGATE, DOVER, WHITBY, AND BRIDLINGTON HARBOURS.

Ramsgate Harbour,
transfer of Ramsgate harbour to board of trade, *ib.*
transfer of powers to board of trade, *ib.*
debts, &c. of trustees enforceable against board of trade, *ib.*
accounts of trustees of Ramsgate harbour to be made up, *ib.*
indemnification of trustees of Ramsgate harbour, *ib.*
rates to be taken in Ramsgate harbour, *ib.*
board of trade to receive per-centage on salvage, vol. ii. 398.
gross sum of 2000*l.* to be paid to mayor, &c. of Sandwich in lieu of annual payment of 200*l.*, *ib.*
application of the said sum of 2000*l.*, *ib.*
income of Ramsgate harbour to be carried to Ramsgate harbour account, *ib.*
Ramsgate harbour accounts to be rendered to the treasury, and signed by accountant of board of trade, *ib.*
such accounts to be laid before parliament, *ib.*
board of trade may continue Ramsgate harbour superannuation fund or wind up the same, *ib.*
board of trade may allow compensation to persons deprived of offices, *ib.*
deficiency of income to be supplied by monies voted by parliament, vol. ii. 398, 399.
harbour to be free from rates, vol. ii. 399.
town dues on coal not to be levied in certain cases, *ib.*
provisions of 10 & 11 Vict. c. 17, incorporated with this act, *ib.*
certain parts of property of trust to be within Ramsgate police jurisdiction, *ib.*

Dover Harbour,
harbour of Dover to be vested in a board of trustees to be called "The Dover Harbour Board," *ib.*
rights of imposing rates transferred to Dover harbour board, *ib.*
existing debts, &c. enforceable by or against board, *ib.*
after 1st January, 1862, board may impose rates for harbour purposes, vol. ii. 400.
debts incurred prior to 15th March, 1861, and secured on passing tolls, shall be paid by board out of rates, *ib.*
compensation to officers not re-appointed by board to offices of equal value, *ib.*
constitution of Dover harbour board, *ib.*
members of board not to hold places of profit or be concerned in contracts, *ib.*
penalty for so offending, *ib.*
contracts and bargains made contrary hereto to be void, *ib.*
if the debts are paid out of public monies, they may be recovered as debts due to crown, *ib.*
no new debts to be incurred till existing debts are discharged, without treasury consent, vol. ii. 400, 401.

HARBOURS, DOCKS, AND PIERS—*continued.*
power to corporation of Dover to transfer dues to harbour, vol. ii. 401.
corporation and harbour board may apportion debts as between themselves, *ib.*
reservation of rights of creditors, *ib.*
Whitby and Bridlington Harbours,
debts on harbours to be paid out of consolidated fund, *ib.*
compensation to servants of Whitby trustees, *ib.*
trustees and commissioners not to charge passing tolls with further debts, *ib.*
power to trustees of Whitby harbour to levy rates, *ib.*
power to town commissioners of Whitby to transfer dues to harbour, *ib.*
reservation of rights of creditors, *ib.*
trustees and commissioners may apportion debt as between themselves, *ib.*
vessels using Whitby harbour to pay toll for support of tide lights, vol. ii. 402.
power to commissioners of Bridlington harbour to levy rates, *ib.*
incorporation of harbours, docks, and piers clauses act, *ib.*

PART VIII.
MISCELLANEOUS.
nothing in 22 & 23 Vict. c. 29, deemed to revive taxes, &c. which, but for 9 & 10 Vict. c. cccxlvi. would have been payable to marine society, *ib.*
title of board of trade, *ib.*
vesting of property in board of trade, *ib.*
execution of instruments, *ib.*
disposition of monies arising from sale, *ib.*
power of board of trade to purchase lands, *ib.*

24 & 25 Vict. c. 80.

PUBLIC WORKS.
Reciting the passing of 57 Geo. 3, c. 34; 57 Geo. 3, c. 124; 1 Geo. 4, c. 60; 1 & 2 Geo. 4, c. 111; 3 Geo. 4, c. 86; 4 Geo. 4, c. 63; 5 Geo. 4, c. 36; 5 Geo. 4, c. 77; 6 Geo. 4, c. 35; 7 Geo. 4, c. 30; 7 & 8 Geo. 4, c. 12; 7 & 8 Geo. 4, c. 47; 1 & 2 Will. 4, c. 24; 3 & 4 Will. 4, c. 32; 4 & 5 Will. 4, c. 72; 1 Vict. c. 51; 1 & 2 Vict. c. 88; 3 Vict. c. 10; 5 Vict. sess. 2, c. 9; 9 & 10 Vict. c. 80; 14 & 15 Vict. c. 23; 16 & 17 Vict. c. 40; 19 Vict. c. 17, vol. ii. 403, 404.
power to charge 360,000*l.* per annum upon the consolidated fund by issues not exceeding 90,000*l.* per quarter, vol. ii. 404.
power to charge 350,000*l.* per annum upon the consolidated fund by issues not exceeding 87,500*l.* per quarter for harbours, &c. *ib.*
commissioners for reduction of national debt to be trustees of public works loan fund, and to cause a separate account to be continued at the bank of England for the purpose, *ib.*
bank to continue the account already opened with the commissioners for executing this act, *ib.*
money paid into the bank to the account of commissioners for executing this act to be carried to and be made part of the consolidated fund, vol. ii. 404, 405.
commissioners for executing recited acts to be commissioners together with others for executing this act, vol. ii. 405.

HARBOURS, DOCKS, AND PIERS—*continued.*
commissioners to sign declaration before acting, vol. ii. 405.
amount of monies to be advanced under this act to be certified to the commissioners for the reduction of the national debt, *ib.*
commissioners for executing recited acts and this act to lay annual accounts before parliament, *ib.*
commissioners for reduction of the national debt to furnish annual account of the fund for audit, *ib.*
powers, &c. of recited acts to have the same force as if re-enacted in this act, vol. ii. 405, 406.

25 Vict. c. 19.

PIER AND HARBOUR ACT AMENDMENT.
"The General Pier and Harbour Act, 1861, Amendment Act."
Preliminary,
construction of act, vol. ii. 406.
short title, *ib.*

I.—FUTURE APPLICATIONS FOR PROVISIONAL ORDERS.
repeal of parts of principal act described in Schedule (A.) *ib.*
notice by advertisement as in Schedule (B.), Part I., *ib.*
deposit of documents in Schedule (B.), Part II., *ib.*
subsequent deposit of documents, in Schedule (B.), Part. III., *ib.*

II.—FUTURE OR PENDING APPLICATIONS FOR PROVISIONAL ORDERS.
extent of Part II. of act, *ib.*
Works,
approval of works by admiralty before commencing works, *ib.*
on abandonment, disuse, &c. of works [board of trade, 25 & 26 Vict. c. 69, s. 14], may repair, *ib.*
power to admiralty [board of trade, 25 & 26 Vict. c. 69, s. 14] to cause local survey to be made of the works, *ib.*
recovery of expenses from undertakers [25 & 26 Vict. c. 69, s. 14], *ib.*
lights to be exhibited at night during construction of works as the lords of the admiralty shall require [board of trade, 25 & 26 Vict. c. 69, s. 14], vol. ii. 406, 406*a*.
limitation of time for completion of works, vol. ii. 406*a*.
Rates,
pier, &c. open to public on payment of rates, *ib.*
power to board of trade to revise rates if profits amount to ten per centum, *ib.*
company to send copy of annual account in abstract as to rates, vessels, &c. to board of trade, *ib.*
as to audit of accounts on complaint that rates unfairly levied to board of trade, *ib.*
rates to be equally levied, *ib.*
mode of recovery of rates, *ib.*
General Provisions,
10 & 11 Vict. c. 27, incorporated, *ib.*
water pipes, laying down within the harbour, *ib.*
application of Merchant Shipping Act and of General Act, *ib.*
costs of the order, vol. ii. 406*b*.

HARBOURS, DOCKS, AND PIERS—*continued.*
III.—PENDING APPLICATIONS FOR PROVISIONAL ORDERS.
proceedings under sect. 9 of principal act for fixing schedule of rates, vol. ii. 406*b*.
power to board of trade to authorise schedule as published, though differing from schedule referred to in principal act, *ib.*
provisions of principal act as in Schedule (C.) to this act repealed, *ib.*
IV.—GENERAL PROVISIONS.
order not to be made affecting powers under local acts without consent, *ib.*
provisional order, when confirmed, to be of full force, *ib.*
power to board of trade to impose terms, &c. *ib.*
application of 7 Will. 4 & 1 Vict. c. 83, to act, *ib.*
Schedules.
SCHEDULE (A.)—*Parts of General Pier and Harbour Act*, 1861, *repealed, &c.*, *ib.*
SCHEDULE (B.)—Part I.—*Advertisement*, vol. ii. 406*c*.
Part. II.—*Deposit, ib.*
Part III.—*Deposit, ib.*
SCHEDULE (C.)—*Parts of "General Pier and Harbour Act*, 1861," *repealed*, vol. ii. 406*d*.
HARBOURS TRANSFER.
25 & 26 Vict. c. 69.
"The Harbours Transfer Act, 1862," *ib.*
interpretation of terms, *ib.*
Preliminary Inquiries Act, 1851,
board of trade may exercise powers under Preliminary Inquiries Act, 14 & 15 Vict. c. 49, *ib.*
board of trade to inform admiralty of pending schemes, *ib.*
admiralty may intervene where necessary for protection of interests of naval service, *ib.*
Harbours, Docks, and Piers Clauses Act, 1847,
consent, &c. of board of trade as to harbour works on tidal lands, lifeboats, &c. *ib.*
Railway Clauses Consolidation Acts, 1845,
consent and approval of board of trade to railway works on tidal lands, vol. ii. 406*e*.
Tramways (Ireland) Act, 1860,
plans, &c. to be deposited with board of trade under 23 & 24 Vict. c. 152, s. 41, *ib.*
Special Acts for Railways, Harbours, &c.
powers for protection of navigation, &c. under local acts for harbours, railways, and other works on tidal lands, &c. to be exercised by board of trade, *ib.*
power to admiralty to retain authority over ports, &c. where dockyards, &c. are situate, *ib.*
exception as to Mersey and Thames, 5 & 6 Vict. c. cx. vol. ii. 406*f*.
20 & 21 Vict. c. cxlvii. s. 3, *ib.*
General Pier and Harbour Act, 1861, *and Amendment Act*,
parts of 24 & 25 Vict. c. 45, relative to admiralty, repealed, *ib.*
Pier and Harbour Act Amendment Act repealed as to deposit at admiralty office, *ib.*
board of trade to furnish to admiralty information as to applications for provisional orders, *ib.*
HARBOURS, DOCKS, AND PIERS—*continued.*
sections seven, eight, nine, ten, and eleven of "The General Pier and Harbour Act, 1861, Amendment Act," made applicable to board of trade, vol. ii. 406*f*.
Public Harbours; 46 Geo. 3, c. 153:
notice of piers, &c. to be given to board of trade, 46 Geo. 3, c. 153, *ib.*
Ballast; 54 Geo. 3, c. 159:
provisions as to ballast to be administered by board of trade, 54 Geo. 3, c. 159, ss. 14, 16, *ib.*
Holyhead and Portpatrick,
transfer of harbour in schedule, *ib.*
powers, &c. under acts in schedule and other acts to be exercised by board of trade, *ib.*
Savings,
prerogative of crown and general conservancy powers of admiralty, *ib.*
acts done, contracts and appointments made, proceedings pending, &c. under provisions of former acts not to be prejudicially affected, vol. ii. 406*g*.
Borrowing Powers of Harbour Authorities.
power to borrow, whether authorised by special act or not, *ib.*
borrowing power not restrained by limitation of amount in special act, *ib.*
maximum limit of rates mentioned in 24 & 25 Vict. c. 47, s. 3, par. 7, repealed, *ib.*
SCHEDULE, *ib.*
HARES. See *Game.*
included under the word "game" in 1 & 2 Will. 4, c. 32, vol. ii. 234.
may be killed without game certificate in inclosed lands
by occupier, vol. ii. 252.
unless bound by agreement not to kill the game, *ib.*
by owners having the right to kill the game, *ib.*
by persons authorised by occupiers or owners, *ib.*
authority must be in writing, *ib.*
limited to one person, *ib.*
registered, *ib.*
notice of revocation, *ib.*
HAWKERS AND PEDLARS.
who are, vol. ii. 406, 414.
wholesale traders not to be deemed, vol. ii. 412.
nor persons carrying about and selling coals in carts, &c. *ib.*
single act of selling does not make person a hawker, vol. ii. 406, n. (*d*).
Duties, Licences, &c.
9 & 10 Will. 3, c. 27, and all acts relating to duties thereby imposed, &c. repealed, vol. ii. 406.
powers of 9 & 10 Will. 3, c. 27, extended to 50 Geo. 3, c. 41, vol. ii. 412.
who to grant licences and to whom duty is to be paid, vol. ii. 407, 414.
licences annual, *ib.*
certificate for, *ib.*
duty payable at time of granting, vol. ii. 407.
application of duties, vol. ii. 412.
who liable to duties and amount of, vol. ii. 406, 414.
exemptions, vol. ii. 406, 410, 412.
who are hawkers, &c. within the stat. vol. ii. 406, 414.

HAWKERS AND PEDLARS—*continued.*
Certificate to obtain licence,
hawkers, before licensed, to produce certificate of character, vol. ii. 407, 414.
form of certificate, vol. ii. 407, 408.
Packages, &c. to be marked,
packages of hawkers to have the words "licensed hawker," &c. vol. ii. 408.
persons not licensed using such words, *ib.*
Exemptions from taking out licence,
goods may be exposed to sale in public markets, vol. ii. 406.
makers of goods may sell same by retail, vol. ii. 410.
agents or secretaries residing with maker, *ib.*
sellers of victuals, *ib.*
tinkers, coopers, glaziers, *ib.*
no wholesale trader deemed hawker, nor liable to penalties for going from house to house, selling goods by wholesale only, vol. ii. 412.
carrying about coals in carts, &c. *ib.*
Licensed hawkers may set up any trade,
hawkers duly licensed may set up trade in place of residence, vol. ii. 409.
What goods hawker, &c. prohibited hawking,
smuggled goods, vol. ii. 408.
hawking tea without excise licence, vol. ii. 408, n. (*b*).
may hawk tea under excise licence, vol. ii. 414.
hawking spirits, vol. ii. 413.
Selling by Auction,
hawkers (not being residents) selling by auction, vol. ii. 406.
penalty, vol. ii. 406, 407.
Hawking contrary to, or without licence, or refusing to produce, ib.
trading contrary to licence, vol. ii. 408.
refusing to produce licence, *ib.*
persons trading without licence or refusing to produce it, how dealt with, vol. ii. 409.
trading without licence, vol. ii. 408.
Hiring or lending licence, vol. ii. 409.
Forging or using forged licence, ib.
Constables refusing to assist, ib.
Penalties, recovery and application of. Non-attendance of witnesses.
penalties above 20*l.*, where to be recovered, vol. ii. 410.
penalties under 20*l.*, how to be recovered, *ib.*
distress, *ib.*
overplus, *ib.*
imprisonment, *ib.*
recognizance, *ib.*
time of commitment, *ib.*
witnesses refusing to attend or give evidence, vol. ii. 412.
Conviction,
form of conviction, vol. ii. 411.
not be set aside for inaccuracy, vol. ii. 410, n. (*f*).
certiorari taken away, vol. ii. 411.
justices to transmit accounts of convictions and penalties, *ib.*
to pay over money to clerk of the peace, who is to remit same, *ib.*
general issue, vol. ii. 412.
Appeal, vol. ii. 411.

HAY.
19 & 20 Vict. c. 114.
no sand, &c. to be in any truss of hay or straw to increase its weight, vol. ii. 415.

HAY—*continued.*
salesmen to declare names of owners of the hay or straw they sell, vol. ii. 415.
clerk of market, upon complaint, to weigh and examine the hay or straw, *ib.*
if weight deficient, &c. clerk to summon offenders before justices, *ib.*
penalties, *ib.*
36 Geo. 3, c. 88, and this act to be construed together, *ib.*

HEALTH (PUBLIC).
to encourage the establishment of public baths and wash-houses, vol. ii. 415.
Public Health Act, 1848, for promoting the public health, establishing general board of health; provisions for applying the act to certain districts; constitution of local boards of health; meetings of such boards; their officers; their powers, vol. ii. 421.
to prevent spreading of contagious and infectious disorders amongst sheep, cattle, and other animals, vol. ii. 472.
local boards of health may contract for lighting their districts (Public Health Supplemental Act, 1849), vol. ii. 473.
to confirm certain provisional orders of general board of health, and amending Public Health Act, 1848 (First Public Health Supplemental Act, 1852), *ib.*
for altering the mode of repayment of advances by the public works loan commissioners under the Public Health Act, 1848, *ib.*
to abate the nuisances arising from the smoke of furnaces in the metropolis, and from steam vessels above London Bridge, *ib.*
to indemnify local boards of health as regards rating for the repair of highways under the Public Health Act, 1848, vol. ii. 475.
Diseases Prevention Act, 1855: giving certain powers to the privy council and the general board of health for the purpose of checking epidemic, endemic, and contagious diseases, *ib.*
Nuisances Removal Act for England, 1855: constitution of local authority; its powers in dealing with nuisances, vol. ii. 476.
to amend Smoke Nuisance Abatement (Metropolis) Act, 1853, vol. ii. 490.
continuing general board of health to 1st September, 1858, *ib.*
Public Health Act, 1858: powers of general board of health vested in privy council, vol. ii. 491.
Local Government Act, 1858: amending Public Health Act, 1848, and making further provision for the local government of towns and populous districts, vol. ii. 492.
to amend and make perpetual Public Health Act, 1858, vol. ii. 513.
to facilitate grants of land to be made near populous places for recreation of adults, and as playgrounds for children, vol. ii. 514.
to amend Nuisances Removal Act for England, 1855, and Diseases Prevention Act, 1855, vol. ii. 515.
to prevent adulteration of articles of food or drink, vol. ii. 517.
Local Government Act (1858) Amendment Act, 1861, vol. ii. 520.

HEALTH (PUBLIC)—*continued.*
Local Government Act Amendment Act, 1863, vol. ii. 524 (*a*).
Public Works (Manufacturing Districts) Act, 1863, vol. ii. 524 (*b*).
Nuisances Removal Act for England (Amendment) Act, 1863, vol. ii. 524 (*h*).
to amend Local Government Act of 1858, so far as it applies to Oxford, vol. iv. 967.
for prevention of contagious diseases at certain naval and military stations, *ib.*

HEDGES. See *Highways; Turnpikes.*

HEIR. See *Inheritance.*
of subjects, &c. born abroad, vol. i. 37.
trust estate to be assets in hands of, vol. ii. 164.
no heir shall by reason thereof become chargeable of his own estate, *ib.*
estates *pur autre vie* shall be assets in hands of, *ib.*
tenants in fee simple or fee tail liable to pay specialty debts of ancestor to crown, 33 Hen. 8, c. 39, s. 75.
liable, and may be sued for specialty debts of ancestor, vol. iv. 922.
for simple contract debts, vol. iv. 927.
posthumous, when entitled to inherit, 10 & 11 Will. 3, c. 16.

HIGHWAYS. See *Bridges; Turnpikes.*
Accounts,
of moneys received, &c. to be made by collector, vol. ii. 535.
surveyor to keep separate accounts of moneys levied for highway rate, *ib.*
of moneys received and paid by surveyor, vol. ii. 535, 536.
of tools, materials, &c. *ib.*
inspection by ratepayers, vol. ii. 536.
property in, to be vested in surveyor, *ib.*
to be delivered to succeeding surveyor, *ib.*
penalty for neglect, *ib.*
to be presented to vestry by board, vol. ii. 530.
yearly, laid before vestry and before justices at a special sessions, vol. ii. 536, 537.
to be verified at special sessions, vol. ii. 537.
of highway board to be made up to 31st December in each year, vol. ii. 590*r*.
inspection of, *ib.*
audit of, *ib.*
statement of, to be sent to certain persons, *ib.*
copy to be furnished to ratepayer on application, *ib.*
appeal to quarter sessions in respect of, *ib.*
within what time to be made, *ib.*
conditions of appeal, *ib.*
power of sessions on appeal, vol. ii. 590*s*.
costs of appeal, *ib.*
statements of accounts to be transmitted to secretary of state, vol. ii. 590*f*.
abstracts thereof to be laid before parliament, *ib.*
form of statement, *ib.*
accounts to be sent to overseers, vol. ii. 590*r*.
officers appointed by highway board to account to them when required, vol. ii. 590*f*.
Action. See *Tender.*
by surveyor against representatives of his deceased predecessor for non-payment of moneys and non-delivery of books, vol. ii. 536.

HIGHWAYS—*continued.*
on the case for special damage to party by irregular distress, vol. ii. 559.
tender of sufficient amends will bar, *ib.*
payment of money into court, *ib.*
against person for things done under 5 & 6 Will. 4, c. 50, vol. ii. 560, 561.
what notice required, *ib.*, 561, n. (*a*).
within what time it must be brought, vol. ii. 561.
effect of tender of amends, *ib.*
venue, *ib.*
general issue may be pleaded, *ib.*
costs, vol. ii. 562.
costs and expenses being paid on proceedings taken for non-payment of rate, no action, vol. ii. 576.
Agreements,
entered into under statutes repealed may be enforced, vol. ii. 526.
may be made for land taken for widening highways, vol. ii. 547, 548.
Appeal,
against appointment of surveyor, vol. ii. 559, n. (*b*).
against accounts of surveyors, vol. ii. 537.
against diversion or stopping up of highway, vol. ii. 551.
jury at sessions to determine whether new highway is nearer, vol. ii. 552.
against highway rate or any order, vol. ii. 559.
when notice of, to be given, vol. ii. 560.
recognizance to be entered into, *ib.*
costs of, in the discretion of justices, *ib.*
not to be heard unless notice, &c. given, *ib.*
provisions of 41 G. 3, c. 23, to apply in appeal against rate, *ib.*
special case may be granted, *ib.*
under Small Tenements Act, vol. ii. 582.
apportionment of fine between inhabitants and trustees of turnpike road.
against account of highway board, vol. ii. 590*r*.
to what sessions, *ib.*
notice of appeal, *ib.*
power of court on appeal, vol. ii. 590*s*.
costs, *ib.*
Assessment,
poor's rate, inspection of by surveyor, vol. ii. 533.
Assistant Surveyor,
may be appointed, vol. ii. 529, 590*a*
penalty for neglect of duty, vol. ii. 530.
to keep accounts of money, tools, &c. vol. ii. 535, 536.
may secure offenders where names are unknown, vol. ii. 547.
may be appointed by highway board, vol. ii. 590*c*.
Banks and Raised Causeways,
to be repaired by county, vol. ii. 530.
Board for Repair of Highways. See *Highway Board.*
may be appointed, powers, &c. vol. ii. 529.
draw cheques for money, vol. ii. 530.
may hire or purchase premises for keeping implements and materials, *ib.*
places under superintendence of such board not to be included in highway district formed under 25 & 26 Vict. c. 61, vol. ii. 590*b*.
except with consent of such board, *ib.*

HIGHWAYS—*continued.*
Borough,
meaning of, in 25 & 26 Vict. c. 61, vol. ii. 590.
place within, not to be included in highway district formed under 25 & 26 Vict. c. 61, without certain consents, vol. ii. 590*b*.
councils of certain boroughs may adopt parish roads and highways, and apply rates for their repair, vol. ii. 590*i*.
Boundary,
of highway lying in two parishes, fixing, vol. ii. 540, 541.
of counties, &c. not to be changed, except for determining, where highway lies in two parishes, what parts shall be repaired by each, vol. ii. 541.
Bridges (County). See ante, title "BRIDGES."
highways to and over bridges hereafter to be built to be repaired by persons liable to repair highways, vol. ii. 530.
county not to be exonerated from repairs of walls, &c. *ib.*
powers of getting materials for and preventing nuisances to, *ib.*
bridges not belonging to county within Highway Act, vol. ii. 526.
damaging of, vol. ii. 544, 545.
penalty on surveyor for damaging, vol. ii. 540.
Bridle Way,
within Highway Act, vol. ii. 526.
may be reserved over highway directed to be stopped up, vol. ii. 549.
Bull-baiting,
upon or near a highway, vol. ii. 545.
Cattle,
straying on highways may be impounded, *ib.*
may be sold by order of justices, if penalty and expenses be not paid, *ib.*
Causeways,
to be secured from damage by carriages, vol. ii. 532.
penalty for damaging, vol. ii. 544, 545.
Centre of Highways,
what is, vol. ii. 542.
Certificate,
of sufficiency of roads to be dedicated to public, vol. ii. 530—532.
inrolment of, *ib.*
of justices on stopping up, &c. highways, vol. ii. 549, 550.
to be lodged with clerk of the peace, &c. vol. ii. 550.
may be inspected by any person, vol. ii. 551,
of completion of new road, vol. ii. 553.
Certiorari,
indictment at sessions may be removed by, vol. ii. 556.
no rate, &c. to be removed by, vol. ii. 560.
unless upon a case reserved, *ib.*
Church,
includes chapel, vol. ii. 526.
Churchways,
included in Highway Act, *ib.*
Clerk,
to board of highways may be appointed, vol. ii. 529.
highway board may appoint, vol. ii. 590*c*.
removal of, *ib.*
salary of, *ib.*
not to hold another office under highway board, *ib.*
penalty on so doing, *ib.*
duties of, vol. ii. 590*c*, 590*d*, 590*f*.

HIGHWAYS—*continued.*
Clerk of the Peace,
application for forming districts to be sent to, vol. ii. 528.
to lay before quarter sessions names of parishes united and appointment of district surveyor, *ib.*
to send copy of record of union to churchwarden or surveyor of each parish, *ib.*
order and plan as to highway in two parishes to be filed with, vol. ii. 541.
when money awarded on widening roads is to be left in hands of, vol. ii. 547, 548.
to file and read certificate for stopping up and turning highways, vol. ii. 550.
to enrol certificate of justices that new road is completed, vol. ii. 553, 554.
fees of, vol. ii. 562.
Collector,
of highway rates may be appointed, vol. ii. 534, 535.
by board for repair of highways, vol. ii. 529.
security to be taken from, vol. ii. 535.
not to be affected by conviction of, *ib.*
to make out accounts of all moneys received, &c. *ib.*
to deliver books, &c. to surveyor, *ib.*
not rendering account, &c. may be summoned before two justices, *ib.*
money due from, may be levied by distress, *ib.*
penalty on, for not rendering accounts, &c. *ib.*
Commitment,
of collector for not accounting, &c. *ib.*
of persons guilty of pound-breach, vol. ii. 546.
of drivers of waggons and carts not discovering their names, vol. ii. 547.
for non-payment of costs of information, &c, vol. ii. 557.
Common,
holes in, to be filled up by surveyor, vol. ii. 540.
Compensation. See *Guardians.*
for damages in getting materials may be renounced by tenant for life, &c. vol. ii. 538.
for damages in carrying away stones, vol. ii. 538, 539.
for taking materials from private property, vol. ii. 539.
for damage in opening ditches, &c. vol. ii. 543.
for land taken for widening highways, vol. ii. 548.
rate may be made for paying, *ib.*
costs of proceedings for ascertaining, how to be settled, vol. ii. 549.
Composition,
for rates may be enforced by surveyor of highways, when, vol. ii. 533.
Contracts,
act to prevent waywardens contracting for works within their own district, vol. ii. 590*k*.
Corporations,
powers and liabilities, vol. ii. 526.
may renounce compensation for damages to ground, vol. ii. 538.
Costs,
in action by surveyor against representatives of his predecessor, vol. ii. 536.
of proceedings incurred in determining, where highway lies in two parishes, what part shall be repaired by each, vol. ii. 541.

HIGHWAYS—*continued.*
of proceedings for determining the recompense to be made to owners of land taken for widening highways, vol. ii. 549.
of appeal against stopping up, &c. highway, vol. ii. 553.
of indictment for non-repair of roads may be directed by court, when liability denied, &c. vol. ii. 556.
of complaint, withdrawn or dismissed, vol. ii. 557.
court may award costs to prosecutor where defence to indictment for not repairing highways is frivolous, vol. ii. 557, 558.
of recovery of penalty, distress, vol. ii. 558.
of appeal against highway rate or any conviction or determination under the act, vol. ii. 559, 560.
of actions for things done under act, vol. ii. 562.
County,
meaning of, in 25 & 26 Vict. c. 61, vol. ii. 590.
Court of Quarter Sessions,
may award recompense for lands taken to widen highways, vol. ii. 547, 548.
confirming order for stopping and diverting, vol. ii. 551.
appeal, merits of order, vol. ii. 552.
costs on, vol. ii. 553.
on indictment, under order of petty sessions, vol. ii. 555, 556.
appeal against rate, order, &c. or things done under act, vol. ii. 559.
may issue provisional orders for forming highway districts, vol. ii. 590*a*.
how such orders are to be made and confirmed, *ib.*
Dedication,
what, vol. ii. 530, n. (*g*).
notice of intention to dedicate highway to public, vol. ii. 530—532.
Deputy. See *Surveyor.*
Direction Posts, vol. ii. 532.
damaging, penalty, vol. ii. 544, 545.
Distress. See *Forms.*
costs of, &c. vol. ii. 574, 575.
one warrant against several defaultors, vol. ii. 575.
to whom directed, *ib.*
for moneys due from collector, vol. ii. 535.
for costs of proceedings in division of highways between two parishes, vol. ii. 541.
for costs of cutting hedges and trees, vol. ii. 543.
for costs of taking down encroachments on highways, vol. ii. 544.
for costs awarded by justices to defendant, vol. ii. 557.
for penalties and forfeitures, and balances due from surveyors, vol. ii. 558.
not unlawful for want of form, vol. ii. 559.
satisfaction recoverable for special damage, *ib.*
under Small Tenements Act, vol. ii. 582.
form of warrant to distrain for a forfeiture, vol. ii. 570.
Districts. See *Highway Districts.*
application to justices at sessions for forming parishes into, vol. ii. 528.
names of parishes united and of district surveyor to be recorded at sessions, &c. vol. ii. 528.
when united, to form district for three years, and until twelve months after notice, &c. vol. ii. 528, 529.

HIGHWAYS—*continued.*
District Surveyor,
under 5 & 6 Will. 4, c. 56.
person nominated, to be returned to justices at sessions, vol. ii. 528.
to be appointed in writing by justices, *ib.*
to have same powers, &c. as surveyor, vol. ii. 529.
except the power of levying rates, *ib.*
parochial surveyors to be appointed for levying rates, *ib.*
not to expend moneys levied in one parish in another without consent, *ib.*
salary of, how and by whom to be paid, *ib.*
to keep account of money, tools, &c. vol. ii. 535, 536.
penalty on, for neglect, vol. ii. 536.
property of books, papers, accounts, and materials, &c. vested in, *ib.*
to deliver books, &c. to his successor, *ib.*
penalty, *ib.*
penalty for neglect of duty, in cases not provided for, vol. ii. 530.
penalty on, for allowing stones to remain on road at night, vol. ii. 540.
to remove stones, &c. from highway by order of justice, vol. ii. 545.
may secure unknown offenders, vol. ii. 547.
District Surveyor,
under 25 & 26 Vict. c. 61.
to be appointed by highway board, vol. ii. 590*c*.
appointment to be under seal, *ib.*
removal of, *ib.*
salary of, *ib.*
not to hold other office under the board, *ib.*
penalty on so doing, *ib.*
duties of, vol. ii. 590*d*.
assistant-surveyor to act under direction of, *ib.*
to account to highway board when required, vol. ii. 590*f*.
exempted from turnpike tolls, vol. ii. 590*h*.
Ditches, &c.
surveyor may make and keep open, vol. ii. 543.
owner or occupier not to alter without consent, *ib.*
Diversion of Highways,
proceedings by vestry desirous of diverting or stopping up highway, vol. ii. 549.
by other parties, *ib.*
notices by direction of justices to be affixed by side of each end of highway, vol. ii. 549, 550.
inserted in newspaper, vol. ii. 550.
affixed on church door, *ib.*
plan of old and new highway to be delivered to justices, who are to certify their view, and that new road is more commodious, *ib.*
certificate, plan, &c. to be lodged with the clerk of the peace, and to be read at quarter sessions, *ib.*
to be enrolled, &c. *ib.*
several highways connected may be included in one order, vol. ii. 551.
in such case, on appeal, order may be confirmed wholly or in part, *ib.*
persons aggrieved may appeal, *ib.*
on appeal, jury to determine whether new highway is nearer, &c. vol. ii. 552.
costs of appeal, vol. ii. 553.
Division. See *Highway.*
meaning of word in Highway Act, vol. ii. 526.

HIGHWAYS—*continued.*
Drains. See *Ditches.*
Driver,
may take charge of two carts if drawn by one horse each, vol. ii. 546.
of carts, &c. except those driven with reins, not to ride thereon, unless guided by another person, *ib.*
causing hurt to others, or quitting the road, or driving carriage without owner's name, or not keeping the left side, or interrupting free passage, or driving furiously, vol. ii. 546, 547.
to forfeit any sum not exceeding 5*l.*, or if he be the owner, 10*l.*, vol. ii. 547.
such driver, not discovering his name, may be committed to gaol, *ib.*
unknown offenders may be seized by surveyor, &c. *ib.*
Encroachment,
on highways, penalty, &c. vol. ii. 543.
may be removed by surveyor, vol. ii. 543, 544.
expenses of such removal, vol. ii. 544.
Errors. See *Highway Rate.*
Exemptions from Highway Act, vol. ii. 562, 563.
Fees,
to be paid to clerk of peace, clerk of justices, and others, in execution of act, vol. ii. 562.
Fences,
highway board may permit landowners to erect, without incurring liability to repair highways, vol. ii. 590*i.*
Feoffees in Trust,
for the maintenance of highways, may lease lands at improved value, with consent of justices, vol. ii. 538.
Fines. See *Penalties.*
for non-repair of highways, levying and application, vol. ii. 556.
Fire,
kilns not to be used within fifteen yards of carriage way, unless within a building or behind a wall, vol. ii. 544.
erected before 31st August, 1835, may be used and enlarged, *ib.*
Fireworks,
penalty for letting off within fifty feet of centre of highway, vol. ii. 545.
Flood Posts,
to be erected by surveyor, vol. ii. 532.
penalty for damaging, vol. ii. 544, 545.
Football,
playing at, to the annoyance of travellers, vol. ii. 545.
Footways,
within highway act, vol. ii. 526.
to be three feet wide, vol. ii. 547.
to be secured from damage by carriages, vol. ii. 532.
riding on, penalty, vol. ii. 544.
obstructing passage of, *ib.*
driving cattle on, *ib.*
reservation of, over highways ordered to be stopped up, vol. ii. 549.
Forfeitures. See *Penalties.*
Forms,
notice to person of his having been elected surveyor, vol. ii. 563.
appointment of surveyor with salary, *ib.*
by justices, *ib.*
of highway rate, vol. ii. 564.
weekly account of money expended on highways, *ib.*

HIGHWAYS—*continued.*
notice of intention to make highway, vol. ii. 565.
certificate of justices of highway having been made in a substantial manner, &c. *ib.*
notice to remove snow, &c. *ib.*
schedule to be filled up annually by surveyors, *ib.*
licence from justices for a surveyor to dig, &c. materials upon enclosed lands for the repair of highways, vol. ii. 566.
to get materials in another parish besides that wherein they are to be employed, *ib.*
information to enable justices to fix boundaries of highways lying in two parishes, *ib.*
summons to be subjoined to a copy of the above information, vol. ii. 567.
final order and adjudication to be filed with the clerk of the peace, *ib.*
notice from surveyor to remove nuisances, *ib.*
order of justices for widening a highway, vol. ii. 568.
certificate from justices to court of quarter sessions, *ib.*
consent from owner of land through which a new highway is proposed to be made, *ib.*
notice of diverting, &c. highway, *ib.*
summons to attend a justice or justices, vol. ii. 569.
information, *ib.*
conviction, *ib.*
warrant to distrain for forfeiture, vol. ii. 570
constable's return where there are no effects, *ib.*
commitment for want of distress, *ib.*
complaint for non-payment of highway rate, vol. ii. 576.
summons upon complaint, vol. ii. 577.
warrant of distress for non-payment, vol. ii. 577, 578.
warrant of commitment in default of distress, vol. ii. 579.
returns of receipts and expenditure on account of highway rates, vol. ii. 581.
notice of proposal of formation of highway district, vol. ii. 590*k.*
notice of consideration of confirmation of provisional order of formation of highway district, *ib.*
of mortgage of rates by highway board, vol. ii. 590*x.*
Gates. See *Railways.*
width of, across public cartways and horseways, vol. ii. 547.
penalty for not removing or enlarging where not of sufficient width, *ib.*
Gipsy,
penalty for pitching tents, &c. on highways, vol. ii. 545.
Guardians,
of persons under disabilities, may renounce compensation for damages, &c. vol. ii. 538.
Guide Posts,
to be erected, vol. ii. 532.
damaging, penalty, vol. ii. 545.
Gutters. See *Ditches.*
Hawker and Higgler. See *Gipsy.*
Hedges,
owner of land may be summoned before justices for not cutting hedges prejudicial to carriage-way, vol. ii. 542.
time of cutting, vol. ii. 543.

HIGHWAYS—*continued.*
Highway,
what is, vol. ii. 526.
centre of, what is, vol. ii. 542.
division of highway lying in two parishes, vol. ii. 540, 541.
widening, vol. ii. 547.
party liable to repair old highways to repair new, vol. ii. 554.
provisions as to widening, &c. to extend to all highways repairable by tenure, *ib.*
Highway Acts,
meaning of term in 25 & 26 Vict. c. 61, vol. ii. 590*a*.
Highway Board,
meaning of term in 25 & 26 Vict. c. 61, vol. ii. 590.
constitution of, vol. ii. 590*b*.
to consist of waywardens and justices, *ib.*
to be a body corporate, *ib.*
name of, *ib.*
to have a common seal, *ib.*
power to hold lands, *ib.*
vacancies in, not to vitiate proceedings, *ib.*
nor defect in qualification of members, *ib.*
if majority entitled to act, *ib.*
minutes of proceedings duly signed to be evidence, *ib.*
meetings of, to be deemed to have been duly held, *ib.*
provisions in case of failure to hold first meeting, vol. ii. 590*h*.
indemnity of members of board, vol. ii. 590*b*, 590*c*.
rules as to proceedings of, vol. ii. 590*c*, 590*k*, 590*p*, 590*u*.
consequences of establishment of, vol. ii. 590*c*.
property and liabilities of, *ib.*
to appoint treasurer, clerk, and district surveyor, *ib.*
when such appointments are to be made, *ib.*
may appoint assistant surveyor, *ib.*
works and duties of, vol. ii. 590*d*.
to maintain highways within the district, *ib.*
proceedings against where highway is out of repair, *ib.*
power to overseers, &c. to levy rates for meeting payments to, vol. ii. 590*e*.
expenses incurred by, how raised and paid, vol. ii. 590*d*, 590*e*, 590*p*.
mode of enforcing payments to, 590*e*, 590*q*.
accounts of, *ib.*
officers appointed by, to account when required, vol. ii. 590*f*.
proceedings of, vol. ii. 590*u*.
Highway District,
meaning of term in 25 & 26 Vict. c. 61, vol. ii. 590.
formation of, vol. ii. 590*a*, 590*l*.
mode of proceeding to obtain formation of, vol. ii. 590*a*.
provisional order for forming, *ib.*
final order, *ib.*
what places shall not be included in, vol. ii. 590*a*, 590*b*.
legal objections to formation of, *ib.*
evidence of formation of, *ib.*
consequences of formation of, 590*c*.
power to alter, vol. ii. 590*h*.
where several districts comprised in one order each to be deemed independent of the other, vol. ii. 590*l*.
HIGHWAYS—*continued.*
Highway Rate. See *Distress.*
to be made by surveyor, vol. ii. 532, 533.
on all property liable to poor rate, *ib.*
and on such woods, &c. and other hereditaments as usually rated, *ib.*
to be signed by surveyor and allowed by justices, *ib.*
particulars to be contained in, and amount of, vol. ii. 533.
not to exceed certain amount without consent of four-fifths of inhabitants, &c. *ib.*
meeting of rate-payers for increase of highway rate, *ib.*
composition of, *ib.*
errors in rates rectified, vol. ii. 534.
justices may excuse persons from payment, *ib.*
vestries to determine whether owners of small tenements shall be rated, vol. ii. 581.
persons exempt from statute duty not liable, vol. ii. 534.
how to be recovered, *ib.*
action will not lie for recovery of, vol. ii. 534, n. (*b*).
collectors of, appointment, vol. ii. 534, 535.
for making compensation for land added to narrow highways, vol. ii. 548.
summons for service, &c. vol. ii. 575.
tender of amount, *ib.*
appeal against, vol. ii. 559, 560.
not to be quashed for want of form, vol. ii. 560.
additional rate for legal expenses, vol. ii. 562.
application in aid of turnpike trust, vol. ii. 571—573.
recovery of, under Small Tenements Act, vol. ii. 582.
Horseway,
to be at least eight feet wide, vol. ii. 547.
gates across, *ib.*
Impounding Cattle. See *Cattle.*
Inclosure Acts,
roads set out under, when repaired by parish, vol. ii. 530.
Indictment,
may be ordered by justices to be preferred, if obligation to repair disputed, vol. ii. 555, 556, 590*d*.
the section is imperative, vol. ii. 555, n. (*d*).
at quarter sessions may be removed by *certiorari*, vol. ii. 556.
costs of, *ib.* 590*d*.
Informer,
not being the surveyor, to be entitled to one half of penalties, vol. ii. 559.
Inhabitant,
includes any person rated to highway rate, vol. ii. 526.
Inrolment at Quarter Sessions,
of names of parishes formed into districts, vol. ii. 528, 529.
of renunciation of compensation for damages by tenant for life, vol. ii. 538.
of consent of owner of land to new highway, vol. ii. 550.
Inspection,
of poor rates by surveyor, vol. ii. 533.
of surveyor's accounts, vol. ii. 536.
of certificate and plan on stopping up or turning highways, vol. ii. 551.
of accounts of highway board, vol. ii. 590*c*.
Interpretation Clauses, vol. ii. 526, 590, 590*a*.

HIGHWAYS—*continued.*
Isle of Wight,
not to be included in highway district formed under 25 & 26 Vict. c. 61, vol. ii. 590*a*.
Jury,
to assess compensation to owners of land taken for widening narrow highway, vol. ii. 548.
on appeal against stopping up or diverting highways, to determine merits, vol. ii. 552.
Kilns. See *Fire.*
Land,
adjoining ruinous or narrow part of highway, use of, for temporary road, vol. ii. 532.
what is enclosed land within Highway Act, vol. ii. 539, n. (*b*).
Lease,
of lands given for maintenance only of highways, vol. ii. 538.
consent of justices, &c. *ib.*
of premises for keeping implements and materials, vol. ii. 530.
Legal Expenses,
rate for payment of, vol. ii. 562.
Limitation,
of actions for things done under Highway Act, vol. ii. 560.
Local and Personal Acts,
roads repaired, &c. by, not to be affected, vol. ii. 562.
Local Government Act, 1858,
no district constituted under, to be included in highway district formed under 25 & 26 Vict. c. 61, vol. ii. 590*a*.
London,
rights and liberties of, not affected, *ib.*
Materials,
carriage of, may be divided amongst ratepayers, vol. ii. 534.
surveyor may contract for, vol. ii. 537, 538.
land allotted to parish for, when exhausted, may be sold, vol. ii. 538.
where and how taken from any waste land, &c. *ib.*
notice to be given before taking, from any private lands, vol. ii. 539.
may be taken from several or enclosed lands, when sufficient cannot be found in waste lands, satisfaction, &c. *ib.*
getting, by surveyor of county bridges, vol. ii. 530.
property in, vested in surveyor, vol. ii. 536.
penalty for taking materials belonging to surveyor, vol. ii. 538.
power to gather stones without making satisfaction, except, &c. *ib.*
not to extend to sea-beach in certain cases, vol. ii. 539.
penalty for damaging bridge, mills, &c. in getting, vol. ii. 540.
places for preparing, vol. ii. 530.
Metropolis,
places within, not to be included in highway district formed under 25 & 26 Vict. c. 61, vol. ii. 590*b*.
Milestones,
damaging, vol. ii. 544, 545.
Mines and Minerals,
right to, under land taken for widening roads reserved, vol. ii. 548.
Money,
investment of, paid in discharge of repair of highways, vol. ii. 542.

HIGHWAYS—*continued.*
Names,
of owners of waggons, carts, &c. how to be painted, penalty, vol. ii. 546.
drivers not discovering their, may be committed, vol. ii. 547.
Notices,
to be given preliminary to formation of highway district, vol. ii. 590*a*.
issued by highway board, how served, vol. ii. 590*p*.
Nuisances,
to county bridges, vol. ii. 530.
to highways, vol. ii. 542—547.
hedges and trees, vol. ii. 542.
encroachments, vol. ii. 543.
pits or shafts, vol. ii. 544.
steam-engines, gins, windmills, kilns, *ib.*
railways, *ib.*
riding on footpaths, driving cattle or truck, &c. on footpaths, *ib.*
injuring the road or fences, *ib.*
damaging banks, causeways, direction posts, milestones, &c. vol. ii. 544, 545.
making fires, firing guns, or letting off fireworks, vol. ii. 545.
baiting bulls, *ib.*
laying timber, or other matter, upon highways, injurious thereto, or dangerous to travellers, *ib.*
allowing filth, &c. to run, *ib.*
Obstructions,
on highways, removal of, vol. ii. 532.
on footpath, vol. ii. 544.
Officers,
of highway board, how appointed, vol. ii. 590*p*.
Overseers,
empowered to levy rates for making payments to highway board, vol. ii. 590*c*.
annual statement of receipts and expenditure to be sent to, by highway board, *ib.*
quarterly account to be sent to, by highway board, vol. ii. 590*f*.
Parish,
meaning of, in 5 & 6 Will. 4, c. 50, vol. ii. 526.
meaning of, in 25 & 26 Vict. c. 61, vol. ii. 590.
repair by, of part of highways allotted by justices, where highway in two parishes, vol. ii. 541.
Pasturage,
right of, by side of highway, vol. ii. 545, 546.
Payment,
of money into court by defendant in action for wrongful distress, vol. ii. 435.
Penalties,
On Surveyor,
person appointed surveyor refusing to serve, &c. vol. ii. 527.
surveyor, &c. neglecting his duty, vol. ii. 530.
not keeping book of payments, &c. or allowing inhabitant to inspect or take copies, &c. of same, vol. ii. 535, 536.
not delivering up books, &c. on leaving office, vol. ii. 536.
not paying money in hand on leaving office, or not accounting, &c. *ib.*
taking part in contract for repairing highway without licence, vol. ii. 537, 538.
not fencing holes, &c. vol. ii. 540.

HIGHWAYS—*continued.*
not filling up within three days holes where no materials found, vol. ii. 540.
not filling up within fourteen days holes when sufficient materials taken, *ib.*
within twenty-one days after his appointment not filling-up holes, &c. *ib.*
neglecting for six days to fill up hole, &c. after notice, *ib.*
allowing heap of stones to remain at night on highway, without guard, *ib.*
damaging bridges, &c. in digging for materials, &c. *ib.*
surveyor, &c. of highway, out of repair, vol. ii. 554, 555.
not obeying order to repair, *ib.*
district surveyor, his clerk or partner, holding another office under same board, vol. ii. 590c.
assistant surveyor, his clerk or partner, holding another office under same board, *ib.*
On Collector,
not rendering accounts, &c. or delivering up books, &c. vol. ii. 535.
not making payment of moneys due from him, *ib.*
On Owners and Drivers of Carts, &c.
using waggon, &c. without name, vol. ii. 546.
suffering name to become illegible, *ib.*
painting fictitious name, &c. *ib.*
acting as driver of two carts, &c. without horse being properly attached, *ib.*
driver riding on waggon, &c. without a guide, *ib.*
negligently causing hurt or damage, *ib.*
quitting the road, *ib.*
not having the management of horses, &c. drawing, *ib.*
leaving cart, &c. on highway so as to obstruct same, *ib.*
driving waggon, &c. without owner's name, and refusing to tell same, *ib.*
not keeping waggon, &c. on near side of road, vol. ii. 546, 547.
wilfully preventing persons or waggons, &c. from passing, vol. ii. 547.
negligently preventing, &c. free passage to persons, &c. *ib.*
not allowing free passage by not keeping waggon, &c. on left side of road, *ib.*
driving to endanger life, &c. of passengers, *ib.*
On Nuisances,
encroaching on carriage way, &c. vol. ii. 543.
sinking pit, &c. or erecting steam-engines, &c. within certain distances of carriage way, &c. not properly concealed, vol. ii. 544.
making fire for calcining or burning ironstone, &c. within fifteen yards of carriage way, not screened, *ib.*
riding on footpath or causeway, *ib.*
wilfully leading or driving on footpath, &c. *ib.*
tethering animals on highway, *ib.*
damaging highway or hedges, &c. thereof, *ib.*
obstructing footway, *ib.*
destroying, &c. surface of highway, *ib.*
wilfully pulling up, &c. post, &c., *ib.*
digging or cutting down banks, &c. vol. ii. 544, 545.
damaging stones, &c. on bridges, vol. ii. 545.
pulling down, &c. milestones, &c. *ib.*
playing football, &c. on highway, *ib.*

HIGHWAYS—*continued.*
hawker, &c. pitching tent, &c. or encamping on highway, vol. ii. 545.
making fires, firing guns, or setting fire to fireworks within fifty feet of centre of highway, *ib.*
baiting, &c. bulls on or near highway, *ib.*
laying timber, &c. on highway, *ib.*
suffering filth to flow on highway, *ib.*
obstructing highway, *ib.*
On other offences,
person having custody of poor-rate refusing to produce it to surveyor, &c. or allow extracts to be made, vol. ii. 533.
clerk to justices not transmitting statement of surveyor's accounts to secretary of state within fourteen days, vol. ii. 580.
town clerk, clerk to trustees, &c. not transmitting statement of accounts of highways to secretary of state, within thirty days, *ib.*
clerk to highway board not transmitting statement of accounts to secretary of state within thirty days, vol. ii. 590f.
owner not removing trees from carriage way &c. after notice, vol. ii. 542.
owner not cutting, pruning, &c. trees and hedges, or removing obstructions within ten days after order of justices, *ib.*
owner, &c. altering, &c. ditches, made by surveyor, without consent, vol. ii. 543.
gates crossing public cartways and horseways not of proper width, vol. ii. 547.
taking away materials purchased, &c. for repair of highway, without consent of surveyor, vol. ii. 538.
releasing cattle impounded, &c. or damaging pound, or rescuing any distress from pound, vol. ii. 546.
treasurer, his clerk or partner, holding another office under same board, vol. ii. 590c.
clerk, his partner a clerk, holding another office under same board, *ib.*
recovery of, vol. ii. 558, 590i.
application of, vol. ii. 559.
Pits,
not to be sunk within twenty-five yards of carriage-way, &c. vol. ii. 544.
Plea,
general issue by defendants, vol. ii. 561.
Posts,
penalty for damaging, vol. ii. 544.
Pound-breach,
punishment for, vol. ii. 546.
Presentment,
proceedings by, not to be taken for non-repair, vol. ii. 558.
Principal Act,
meaning of term in 25 & 26 Vict. c. 61, vol. ii. 590a.
Property,
in all books, &c. materials, implements, &c. vested in surveyor, vol. ii. 536.
vested in highway board, vol. ii. 590c.
Provisional order,
for forming highway district under 25 & 26 Vict. c. 61, vol. ii. 590a.
preliminaries to obtaining, *ib.*
how quashed or confirmed, *ib.*
Public Health Act, 1848,
no district constituted under, to be included in highway district formed under 25 & 26 Vict. c. 61, vol. ii. 590a.

HIGHWAYS—*continued.*
Railways,
proprietors of, to erect gates where they cross highways, vol. ii. 544, 571.
gates to be kept closed across the road, vol. ii. 574.
Receipts and Expenditure,
returns, vol. ii. 580.
Renunciation,
of compensation for damage to property of tenant for life, &c. vol. ii. 538.
to be enrolled at quarter sessions, *ib.*
Repair of Highways,
by local board of health. See *Health* (*Public*).
parish generally liable, vol. ii. 525, n. (*a*).
though there is a local, turnpike, or other act, *ib.*
extra parochial place, *ib.*
when parish not liable to, with respect to new highways, vol. ii. 530.
of highway lying in two parishes, vol. ii. 540, 541.
parish to repair part allotted, vol. ii. 541.
highway repairable by tenure may be made a parish highway, *ib.*, 590*g*.
a sum of money may be ordered to be paid in discharge, vol. ii. 542, 590*g*.
investment of money, *ib.*
when highway diverted, party liable to repair old highway to repair new, vol. ii. 554.
compelling repair, *ib.*, 590*d*.
indictment to be preferred where obligation to repair disputed, vol. ii. 555, 556, 590 (*d*).
fines, penalties, &c. for non-repair, how levied and applied, vol. ii. 556.
Road,
out of repair, lands adjoining may be used, vol. ii. 532.
Sale,
of land allotted for materials when exhausted, vol. ii. 538, 574.
of cattle impounded, vol. ii. 545.
Sea Beach,
materials not to be taken from, so as to cause damage, vol. ii. 539,
Sessions, Special, for Highways,
to be held by justices for purposes of highway act, vol. ii. 537.
surveyors to verify their accounts at, *ib.*
and to make returns of state of roads, *ib.*
Sewers,
powers of commissioners of, under any act of parliament, not abridged, vol. ii. 563.
Short Titles,
of highway acts, vol. ii. 590*l*.
Small tenements,
rating, vol. ii. 581.
South Wales,
act for better management and control of highways in, vol. ii. 583.
no part of, to be included in highway district formed under 25 & 26 Vict. c. 61, vol. ii. 590*a*.
Special Case,
statement of, by quarter sessions, on appeal, vol. ii. 560.
Stamp,
none required on appointment of surveyor, vol. ii. 527.
nor on bond given by collector of highway rates, vol. ii. 535.

HIGHWAYS—*continued.*
Statute Duty,
repealed, vol. ii. 525.
persons formerly exempted from, not liable to rate, vol. ii. 534.
Steam Engine,
not to be erected within twenty-five yards of carriage way, &c. vol. ii. 544.
Stones. See *Materials; Sea Beach.*
may be gathered from lands, satisfaction being made for damage, vol. ii. 538.
Stopping up Highway. See *Diversion.*
Summons,
for non-payment of rates, service, &c. vol. ii. 575.
Surveyor, under 5 & 6 Will. 4, c. 50, vol. ii. 526.
interpretation, *ib.*
appointment of, annually, by vestry, *ib.*
or by inhabitants contributing to highway rate, vol. ii. 527.
qualification, *ib.*
exemption from serving, *ib.*
may provide a deputy, *ib.*
when chosen, liable to penalty for not acting, *ib.*
inhabitants may elect surveyor with a salary, *ib.*
on verifying accounts, to state name, &c. of successor, vol. ii. 528.
appointment by justices in certain cases, *ib.*
when parish is situated in more than one county, *ib.*
dismissal by justices, when, *ib.*
to keep parish roads in repair, vol. ii. 527.
to secure causeways from damage by carriages, vol. ii. 532.
expenses of, to be paid to surveyor out of moneys received by him under the act, *ib.*
to remove snow, obstructions, &c. *ib.*
to make highway rate, *ib.*
to recover highway rates, vol. ii. 534.
to pay for carriage of materials, &c. *ib.*
to keep separate account of moneys levied for rate in every parish, vol. ii. 535.
to keep books and account of moneys, &c. *ib.*
on quitting office, to deliver books, &c. vol. ii. 536.
to lay yearly accounts before justices, vol. ii. 536, 537.
to verify accounts, and to make returns of state of roads at sessions, vol. ii. 537.
not to share in any contract, nor dispose of any timber, &c. without licence, vol. ii. 538.
to make and maintain ways of a certain width, vol. ii. 547.
to pay to turnpike trustees portion of highway rates, under 4 & 5 Vict. c. 59, vol. ii. 571—573.
may use land adjoining road in bad repair. vol. ii. 532.
may inspect poor-rate book, and take copies or extracts, vol. ii. 533.
may enforce composition for rates, when, *ib.*
may appoint collector, vol. ii. 534, 535.
may contract for getting materials, vol. ii. 537, 538.
may remove matters causing nuisance laid in or near highway, vol. ii. 545.
may impound cattle straying on highways, *ib.*
may seize unknown offenders, vol. ii. 547.
may agree with owner as to compensation for land taken for widening highways, vol. ii. 547, 548.

HIGHWAYS—*continued.*
may charge in his account expenses of legal proceedings, vol. ii. 562.
property vested in,
books, papers, accounts, materials, tools, implements, and scrapings, vol. ii. 536.
to be delivered, on quitting office, to his successor, *ib.*
balances due from deceased surveyor, how to be recovered, *ib.*
executors of, to deliver up papers, *ib.*
balances due from, how to be recovered by distress, vol. ii. 558.
relative duties of outgoing surveyor and highway board, vol. ii. 590*i*.
District,
under 25 & 26 Vict. c. 61.
appointment of, by highway board, vol. ii. 590*c*.
removal of, *ib.*
not to hold another office under same board, *ib.*
duties of, vol. ii. 590*d*.
to account to highway board when required, vol. ii. 590*f*.
exempt from turnpike tolls, vol. ii. 590*h*.
Surveyor of County Bridges,
getting materials and preventing nuisances, vol. ii. 530.
Temporary Roads,
on land adjoining highway, vol. ii. 532.
Tenant for Life,
may renounce compensation for damage, vol. ii. 538.
Tender,
of amends for irregularity in distress, vol. ii. 559.
of rate and costs, vol. ii. 575.
Tents,
not to be pitched on highway, vol. ii. 545.
Treasurer,
for deposit of moneys, may be appointed by board, vol. ii. 530.
of turnpike roads, when liable to be summoned, vol. ii. 555.
to be applied by highway board, vol. ii. 590*c*.
removal of, *ib.*
to give security, *ib.*
not to hold another office under same board, *ib.*
duties of, *ib.*
Trees,
not to be planted within fifteen feet of centre of carriage way, &c. vol. ii. 542.
proceeding if highway is prejudiced by, *ib.*
time for cutting, &c. vol. ii. 543.
Trustees,
of persons under disabilities may renounce compensation, vol. ii. 538.
enfeoffed with lands for maintenance of highways may grant leases, *ib.*
Turnpike Road,
treasurer or surveyor, to be summoned, where highway part of, out of repair, vol. ii. 555.
Highway Act not to apply to, except where named, vol. ii. 562.
funds of trust being insufficient, justices may order portion of highway rate to be paid to commissioners, vol. ii. 571—573.
Universities,
exempted from highway act, vol. ii. 562.
View,
of roads to be diverted, &c. vol. ii. 549, 550.
Walls. See *Bridges.*

HIGHWAYS—*continued.*
Watercourses,
to be kept open, vol. ii. 543.
not to be altered without consent of surveyor, *ib.*
Waywardens,
election of, vol. ii. 590*c*.
appointment and vote of, vol. ii. 590*o*.
contracts by, vol. ii. 590*k*, 590*o*.
qualification of *ex officio*, vol. ii. 590*p*.
empowered to appoint rate collectors, *ib.*
Windmill,
not to be erected within fifty yards of carriage way, &c. vol. ii. 544.
Witnesses,
inhabitants and officers competent, vol. ii. 558.
compelling attendance of, *ib.*

HOLIDAYS,
in the common law courts, vol. iii. 702.
in the court of bankruptcy, vol. i. 368.

HORSES,
as to what horses may be put on commons, 32 Hen. 8, c. 13, vol. ii. 701.
stolen, regulations against buying, &c. of, vol. ii. 702.
how horses shall be sold in fairs or markets, *ib.*
market keeper to appoint yearly a place for sale of horses, *ib.*
and to appoint toll-taker, *ib.*
hours of toll-taker's attendance, *ib.*
within what hours and where toll is to be taken, *ib.*
parties to the sale, and horse sold, to be before toll-taker at taking of toll, *ib.*
seller must be known to the toll-taker, vol. ii. 703.
or must be avouched to him, *ib.*
toll-taker to enter names, &c. of parties to sale, and description of horse in a book, vol. ii. 702.
and the price of the horse, vol. ii. 703.
a note in writing to be given to the buyer, vol. ii. 704.
toll-taker to deliver book to market-keeper, and where, vol. ii. 702.
market-keeper to make a note of number of horses sold, *ib.*
sale of stolen horse in market not to alte property, *ib.*
unless horse openly exposed in market for one hour between 10 a.m. and sunset, vol. ii. 702, 703.
and unless the parties and the horse appear before toll-taker, *ib.*
and unless names of parties and description of horse be entered in toll-taker's book, *ib.*
and unless a note be given to the buyer, vol. ii. 704.
if these formalities not observed, owner may retake the horse, or sue the purchaser, vol. ii. 703.
if adopted, owner may redeem horse within six months after it was stolen, paying the price, &c. vol. ii. 704.
bringing glandered horse to market, &c. vol. ii. 705.
or depasturing it on common, &c. *ib.*
licensed horse slaughterer not to be licensed as horse-dealer, vol. i. 65.

HORSE RACING. See *Gaming.*
no restrictions now with regard to, vol. ii. 275, n. (*a*).
semble that betting on, is not illegal, vol. ii. 276, n. (*b*).
repeal of certain statutes relating to, vol. ii. 271, 272, 276.

HOUSE AGENTS.
required to take out licences, vol. ii. 1147.

HOUSE-BREAKING. See *Criminal Law.*

HOUSE OF COMMONS. See *Parliament.*
taxation of costs of private bills in, vol. i. 1107.
repeal of so much of certain acts as required certain oaths to be taken by members before the lord steward or his deputies, vol. iii. 593.
amendment of the representation of the people in (Reform Act), vol. iii. 493.
committees on private bills may examine witnesses on oath, vol. iii. 463.

HOUSE OF LORDS. See *Parliament.*
committees of, may administer oaths to witnesses, vol. iii. 463.

HUE AND CRY. See *Coroners.*
statute of Winchester, 13 Ed. 1, stat. 2, cc. 1 and 4.

HUNDRED.
remedies against, 7 & 8 Geo. 4, c. 31, vol. ii. 705.
shall make full compensation for damage done by rioters in certain cases, vol. ii. 705, 706, 712, 713.
party damnified to comply with certain conditions, vol. ii. 707.
limitation of time for actions against, vol. ii. 708.
process in action against, to be served on high constable, vol. ii. 708, 709.
who may defend, or let judgment go by default, *ib.*
inhabitants of, competent witnesses in actions against, vol. ii. 709.
if plaintiff recovers in action against, sheriff, on receipt of writ of execution, shall make out warrant, directing treasurer of county to pay account, *ib.*
mode of reimbursing high constable for his expenses in defending action against, *ib.*
reimbursement of county treasurer, *ib.*
mode of proceeding against, where damage caused by rioters does not exceed 30*l.*, vol. ii. 710.
such cases to be settled by justices at special petty sessions, *ib.*
penalty on high constable for neglect, *ib.*
proceedings, in case of damage to a church or chapel, *ib.*
to property belonging to corporation, *ib.*
where the damage is committed in any county of a city, &c. or in any liberty, &c. which is not within any hundred, or does not contribute to the county rate, such county, &c. shall be liable like the hundred, vol. ii. 711.
provision for executing writs in certain places, *ib.*

HUNDRED—*continued.*
mode of reimbursement in liberties, cities, and towns, not within any hundred, but contributing to the county rate, vol. ii. 711.
mode of reimbursement in counties of cities, and in liberties, cities, and towns, not contributing to any county rate, vol. ii. 712.

HUSBAND AND WIFE.
leases by husband of wife's estate, vol. ii. 1208, 1243.
husband's remedy for rent due in the right and in the life of his wife, vol. ii. 1099.
deeds, &c. enrolled and acknowledged by married women in corporate towns, according to custom, to be valid, vol. ii. 85.
husband's liability to maintenance of wife's children, vol. iii. 1170.
in actions by, for injury done to the wife, husband may add claims in his own right, vol. iii. 729.

IDIOT. See *Lunatics.*

ILLEGITIMATE CHILDREN. See *Poor; Bastards.*

IMPRISONMENT. See *Habeas Corpus; Prisoner; Escape.*

INCLOSURE.
20 Hen. 3, c. 4.
approvement of commons by lords, vol. ii. 713.
13 Edw. 1, st. 1, c. 46.
lords may approve, leaving sufficient common, vol. ii. 714.
for what cause approvement may be made, vol. ii. 714, 715.
remedy where ditch, &c. of ground approved, is cast down, vol. ii. 715.
remedy for usurpation of common during estate of particular tenant, *ib.*
3 & 4 Edw. 6, c. 3.
statutes of approvement not to apply to houses built upon wastes, with three acres of ground, vol. i. 715.
overplus above three acres to be laid open, *ib.*
proprietors of wastes, &c. with consent of commoners, may inclose for planting timber, &c. vol. ii. 716.
tenants for life or years, commoners, may consent, vol. ii. 718.
but not to prejudice reversioner, *ib.*
if any recompense to be given for it, how to be made and applied, vol. ii. 716.
recompense to be made to persons interested in common, *ib.*
if lords and tenants join, &c. how recompense to be made to lord, &c. *ib.*
on purchase for employment of poor, recompense, &c. to be paid out of poor's rate, &c. vol. ii. 717.
appeal against agreement for inclosure, *ib.*
where no appeal, agreement to stand good, *ib.*
bodies politic, guardians, and trustees, empowered to agree, *ib.*
general issue, and treble costs, on 29 Geo. 2, c. 36, *ib.*
arable lands to be fenced, with consent of three-fourths of commoners, &c. vol. ii. 718.

INCLOSURE—*continued.*
rules made by, not longer binding than six years, vol. ii. 718.
field master for, to be appointed, and how, *ib.*
expenses of fencing how to be defrayed, *ib.*
occupiers of common field lands, how to assemble and elect field reeves, vol. ii. 719.
occupiers at meetings to settle the time of opening common field lands, *ib.*
cottagers not to be excluded right of common, *ib.*
how common field lands may be enjoyed by occupiers, *ib.*
saving of right to separate sheep walks, &c. vol. ii. 720.
balks, &c. with consent of lords of manors, &c. may be ploughed, *ib.*
rules to be observed by persons having licence to plough balks, &c. *ib.*
boundary stones may be erected, *ib.*
lords of manors, &c. with consent of commoners, &c. may lease a twelfth part, &c. *ib.*
assessments to be levied for improving of wastes, where there are stinted commons, *ib.*
stinted commons, with consent of commoners, to be opened at a certain time, &c. vol. ii. 721.
two-thirds of commoners, with consent, &c. may direct the opening and shutting of commons, &c. *ib.*
commoners may depasture sheep instead of other cattle, *ib.*
commoning of rams, *ib.*
persons formerly under disability, under 13 Geo. 3, c. 81, may sign agreements, *ib.*
rectors or tithe-owners not to receive gratuity for letting tithes, &c. *ib.*
all agreements made to be valid, *ib.*
consent to occupiers to agreement for fencing, &c. not valid without written authority, *ib.*
actions for breach of rules, &c. may be brought at Westminster, vol. ii. 722.
saving all rights, &c. *ib.*
penalties, &c. for depasturing with mangy sheep, &c. *ib.*
general inclosure act, 41 Geo. 3, c. 109, *ib.*
commissioners' oath, appointments, &c. vol. ii. 723.
commissioners to inquire and fix the boundaries of parishes, *ib.*
description to be given to churchwarden and lord of manor, &c. vol. ii. 724.
persons dissatisfied may appeal to quarter sessions, *ib.*
waiver by taking possession, vol. ii. 757.
survey, &c. to be made and kept by commissioners and verified, vol. ii. 724.
proprietors may inspect admeasurements and plans, and take copies, *ib.*
until division completed, lands may be entered by commissioners, &c. to make surveys, &c. vol. ii. 725.
maps, made at time of passing acts, may be used, *ib.*
claimants on, &c. to deliver to commissioners particulars, &c. *ib.*
objections to claims of, when to be delivered, *ib.*
commissioners not authorised to determine disputes touching title, *ib.*
but to assign the allotments to persons in seisin or possession, *ib.*

INCLOSURE—*continued.*
disputes as to title not to delay inclosures vol. ii. 725.
commissioners to apportion public carriage roads, vol. ii. 725, 726.
and prepare map thereof, to be deposited with their clerk, and give notice, vol. ii. 726.
objections at meetings, how to be determined, *ib.*
old road not to be stopped without order of two justices, subject to appeal, *ib.*
carriage roads to be fenced, *ib.*
no gate across road or trees planted within fifty yards, vol. ii. 727.
appointment of surveyors, *ib.*
salary of surveyors and expense of making road, how to be raised and paid, *ib.*
surveyors subject to control of justices and to account to them, *ib.*
justices may levy rates, *ib.*
surveyors neglecting to complete roads to forfeit 20*l.* *ib.*
when inhabitants to become chargeable with roads, *ib.*
private roads, &c. to be appointed, *ib.*
grass, &c. on roads to belong to proprietors of lands adjoining, vol. ii. 728.
all roads not set out shall be allotted and inclosed, *ib.*
no turnpike road to be altered without consent of trustees, *ib.*
in making allotments due regard to be had to situation of houses, land, &c. *ib.*
small allotments to be laid together, and deposited, &c. in common by proprietors, *ib.*
allotments to be in full compensation for all rights in the lands, *ib.*
such rights to cease on notice from commissioners on church door, *ib.*
exchange of allotments, consent of proprietors, &c. vol. ii. 729.
allotments may be made in severalty to joint tenants, &c. *ib.*
persons to accept their allotments in time, or forfeit, *ib.*
guardians, &c. may accept for incapacitated persons, *ib.*
tenants for life shall accept of allotments, *ib.*
non-acceptance of guardians, &c. not to prejudice other rights, *ib.*
before execution of award, allotments may be inclosed, vol. ii. 730.
trees, &c. to be allotted, with land whereon they stand, on payment, *ib.*
on non-payment, &c. owners may take them away, *ib.*
money to be paid for lands, &c. which ought to be laid out in other purchases to be settled to the same uses, how it may be applied, *ib.*
commissioners may out of it defray a proportion of expenses of act, &c. *ib.*
if the surplus amount to 200*l.* to be laid out in other purchases, *ib.*
in the meantime to be paid into bank, and applied under direction of court of chancery, *ib.*
if less than 200*l.* and upwards of 20*l.*, at option of person entitled to rents, to be paid into bank, *ib.*
or to two trustees to be approved of by commissioners for same purposes, vol. ii. 730, 731.

INCLOSURE—*continued.*
if less than 20*l.* to be applied to use of person entitled to rents of lands, &c. vol. ii. 731.
person not duly accepting, enclosing, &c. commissioners may, &c. *ib.*
or they may charge them upon the proprietor, *ib.*
during seven years after fencing allotments, fences may be erected on outside of ditches, and materials carried away by proprietors, *ib.*
no standing fences or hedges to be destroyed till execution of award, *ib.*
if fences assigned as a boundary fence, they shall be left uncut, *ib.*
the persons entitled to allotments making compensation therefore, *ib.*
where boundary of common fields, &c. fenced by any mound, &c. how to be maintained, *ib.*
penalty for persons destroying, &c. fences, &c. vol. ii. 732.
proprietor of the land, &c. may give evidence thereof, *ib.*
where expenses of obtaining, &c. any act, are to be paid by proprietors, how commissioners may compel payment, *ib.*
guardians, tenants for life, &c. may charge allotments, *ib.*
if persons in possession advance the money, commissioners may mortgage the lands to them for reimbursement, vol. ii. 732, 733.
deduction from allotments for charity or school lands, vol. ii. 733.
where expenses of obtaining, &c. any act, to be paid by sale of part of the lands, how commissioners effect payment, *ib.*
purchasers, under sale by commissioners, to pay deposit, &c. *ib.*
summoning of witnesses, and penalty for non-attendance, &c. *ib.*
witness not to be obliged to travel above eight miles, vol. ii. 734.
award to be made after allotment, *ib.*
award to be read and executed at a meeting of proprietors, and proclaimed next Sunday in church, *ib.*
award to be inrolled in one of the courts at Westminster, *ib.*
or with clerk of peace, and may be inspected and copies obtained, *ib.*
award and copies to be legal evidence, *ib.*
award to be binding on all parties interested, *ib.*
maps may be annexed to award, and be deemed part thereof, *ib.*
account of all moneys, &c. to be kept by commissioners, vol. ii. 735.
which may be inspected at their clerk's office gratis, *ib.*
penalty on neglect, *ib.*
moneys to be deposited as directed by majority in value of proprietors, and not issued without order from commissioners, *ib.*
rector or vicar, without consent of bishop and patron, may make certain leases of allotments, *ib.*
penalties to be recoverable before one justice, *ib.*
how to be applied according to direction of commissioners, *ib.*
saving of rights of lords of manors, vol. ii. 736.

INCLOSURE—*continued.*
general saving, vol. ii. 736.
two justices may take affidavits of notices required having been given, &c. in forms in schedule without stamps, *ib.*
landlords may enter upon land allotted, &c. and distrain for rent, though commissioners' award not executed, vol. ii. 737, 738.
actions at law may also be brought, vol. ii. 738.
this not to affect right to appeal against award, *ib.*
leases granted under 41 G. 3, c. 109, becoming void before expiration of term, incumbents may grant new leases, *ib.*

Recovery of Rates under Inclosure and Drainage Acts, 3 & 4 Will. 4, c. 35.
mode of proceeding for rates, &c. where no remedy, vol. ii. 739.
tenants authorised to pay and deduct from rent, *ib.*
limitation as to recovery of rates, &c. *ib.*
form of warrant of distress, vol. ii. 740.
appeal, *ib.*
notice of appeal, *ib.*
warrant not to be quashed for want of form, *ib.*

Award, Inrolment of, &c. 3 & 4 Will. 4, c. 87.
defect in title, for want of inrolment, cured, vol. ii. 741.
proprietors of lands may cause awards to be inrolled, *ib.*
delivery of copies of inrolled awards, *ib.*
acknowledgement of award, when dispensed with, *ib.*
who to be deemed in possession of awards deposited, *ib.*
where and with whom proprietors may require awards to be deposited, *ib.*
provision for the appointment of commissioners after time limited, &c. vol. ii. 742.
nature and extent of validity given to awards, *ib.*
award conclusive of provisions of act complied with, &c. vol. ii. 757.

For facilitating the Inclosure of open and arable fields, 6 & 7 Will. 4, c. 115.
when inclosures may be made, &c. vol. ii. 742, 743, 757, 758.
by whom consent to be given, *ib.*
consent of tenant in remainder necessary, vol. ii. 743.
by whom commissioners to be appointed, vol. ii. 744.
commissioners to appoint clerk, umpire, &c. *ib.*
commissioners and umpire to take oath, *ib.*
commissioners to give notice of meetings, &c. vol. ii. 745.
adjournment of meeting in case of non-attendance of commissioners, *ib.*
place of meeting, *ib.*
mode in which other notices to be given, *ib.*
allowance to commissioners, umpires, and surveyors, *ib.*
major part of proprietors may agree for payment the gross sum to commissioners, &c. *ib.*
who may agree to adopt previous plan, &c. *ib.*
who may agree upon rules for guidance of commissioners, *ib.*
of appeal against agreements, *ib.*

INCLOSURE—*continued.*
mode of objecting to claims, vol. ii. 746.
how disputes between parties to be settled, *ib.*
commissioners may award costs, *ib.*
appeal against decision of commissioners, *ib.*
death of parties not to abate actions, vol. ii. 747.
nature of rights to be determined by commissioners, *ib.*
encroachments made within twenty years to be allotment, *ib.*
lands used for charitable purposes not to be deemed an encroachment, *ib.*
what to be deemed ancient inclosures, *ib.*
cultivated ground to be allotted to proprietors only, *ib.*
compensation to be made for growing crops, *ib.*
how compensation to be recovered, vol. ii. 747, 748.
commissioners to direct course of husbandry, &c. vol. ii. 748.
allotment of lands to be enclosed, *ib.*
when and how several allotments may be set out together, *ib.*
mode of ascertaining boundaries, *ib.* 757.
right of herbage in private roads to be set out, vol. ii. 749.
power of rectors to erect buildings on lands allotted in right of glebe, &c. *ib.*
rectors, with consent of bishop, may demise allotments, vol. ii. 750.
apportionment of expenses of erecting boundary fences, *ib.*
act not to extend to settlements, &c. *ib.*
proviso as to leases at rack rent, vol. ii. 750, 751.
power to exchange lands, vol. ii. 751.
allotments to be under same tenure as lands in respect of which allotted, vol. ii. 752.
how expense of changes to be defrayed, *ib.*
power to scour and alter ditches, &c. *ib.*
power to make drains through lands not proposed to be inclosed, *ib.*
when inclosures may take place without intervention of commissioners, *ib.*
schedule of land proposed to be inclosed, with whom to be deposited, &c. vol. ii. 752, 753.
incapacitated persons enabled to enter into agreement for compensation, vol. ii. 753.
objections to inclosures, when and how to be made, &c. *ib.*
how objections to be determined, *ib.*
sale of allotments before award, &c. *ib.*
tenants for life, &c. empowered to sell allotments to pay expenses, vol. ii. 753, 754.
power of sale where allotments in different parishes, vol. ii. 754.
when lands not to be charged with expenses, *ib.*
by whom expenses of inclosure to be paid, *ib.*
commissioners to account, &c. vol. ii. 755.
awards, how to be made, &c. *ib.*
boundaries of parish to be declared by commissioners, vol. ii. 757, 766, 767.
provisions of recited acts extended to present act, vol. ii. 755.
appeal, costs, *certiorari*, *ib.*
act not to affect rights of lords of manor, vol. ii. 756.
fields within certain distances of large towns not to be inclosed, *ib.* 759, 760.

INCLOSURE—*continued.*
meaning of certain words in act, vol. ii. 756.
saving rights, *ib.*
8 & 9 Vict. c. 118.
commissioners' appointment, &c. vol. ii. 758.
annual report of, *ib.*
assistant commissioners, *ib.*
salaries, *ib.*
documents of tithe commissioners may be used, *ib.*
power to summon witnesses, *ib.*
assistant commissioners, powers of, vol. ii. 759.
lands subject to inclosure, *ib.*
as to wastes and manors subject to indefinite rights, *ib.*
New Forest and Forest of Dean excepted, *ib.*
lands within certain distances of large towns not to be inclosed without direction of parliament, vol. ii. 756, 759, 760.
village greens not to be inclosed, but provision may be made for preserving the surface and fixing boundaries, vol. ii. 760, 814.
persons interested in lands for purposes of applications, vol. ii. 760.
where crown or duke of Cornwall is interested, who shall be substituted, vol. ii. 761.
provision for persons jointly interested, *ib.*
in case of disability, commissioners to name substitutes, *ib.*
attorneys may be appointed by persons interested, *ib.*
form of power of attorney, *ib.*
proportional interests, how estimated, *ib.*
proportional interests of lords of manors, vol. ii. 762.
commissioners to frame forms of applications, &c. *ib.*
upon application to commissioners, assistant commissioner to inquire into the expediency of inclosure, *ib.*
assistant commissioner to report, *ib.*
commissioners to embody the conditions of proposed inclosure in a provisional order, and to take consent of parties, vol. ii. 762, 763.
separate applications for separate tracts, vol. ii. 763.
consent of lord of manor, vol. ii. 764.
allotments for exercise and recreation may be required, as conditions of inclosure, vol. ii. 760, 764.
allotments for labouring poor, vol. ii. 764.
acts for the inclosure of lands in pursuance of reports of commissioners to be deemed general acts, *ib.*
public meeting for appointing valuer, *ib.*
instructions to valuer, vol. ii. 765.
valuer may be assisted by assistant commissioner, vol. ii. 765, 766.
alterations in the instructions to valuer by commissioners not to be acted upon, unless sanctioned by a majority of the persons interested, vol. ii. 766.
surveyor may be appointed where the persons interested think fit, *ib.*
form of declaration by valuer, *ib.*
power to set out boundaries of parishes, *ib.*
appeal on questions of boundary, vol. ii. 767.
non-attendance of jurymen, *ib.*
juries subject to same regulations as if returned for any court at Westminster, vol. ii. 768.

INCLOSURE—*continued.*
costs of appeal, vol. ii. 768.
security for costs to be taken by the commissioners, *ib.*
persons dissatisfied with determination of commissioners may appeal to court of queen's bench, *ib.*
power to straighten boundaries, *ib.*
valuer to hold meetings, vol. ii. 769.
claims to be delivered in writing, *ib.*
statements of claims to be deposited for examination, *ib.*
claims to be heard and determined by valuer, subject to appeal to commissioners, vol. ii. 769, 770.
titles not to be determined by valuer, &c. vol. ii. 770.
encroachments within twenty years, *ib.*
schoolhouses, &c. not to be deemed encroachments, vol. ii. 771.
encroachments of twenty years' standing to be deemed ancient inclosures, *ib.*
rights in respect of tofts to be allowed, *ib.*
rights not sustainable in law to be allowed on proof of sixty years' usage, *ib.*
schedule of claims, deposit, *ib.*
claims may be re-heard, *ib.*
appeal against determination of the commissioners, vol. ii. 772.
determination of commissioners unappointed against, conclusive, *ib.*
actions not to abate, *ib.*
commissioners may award costs, vol. ii. 773.
differences may be submitted to arbitration, *ib.*
power to valuer to make watercourses, &c. *ib.*
power to alter roads and ways, *ib.*
appeal to quarter sessions, vol. ii. 774.
trial of appeal, *ib.*
roads to be fenced, *ib.*
expense of making and altering roads, *ib.*
roads to be repaired by the parish after certificate by two justices, vol. ii. 774, 775.
private roads, vol. ii. 775.
rights of common may be suspended, *ib.*
course of husbandry may be directed, *ib.*
compensation for growing crops, vol. ii. 776.
allotments for repair of roads, *ib.*
for public purposes, *ib.*
for exercise to individuals subject to user, vol. ii. 777.
to labouring poor subject to corn rent-charge, *ib.*
to the lord of the manor, vol. ii. 778.
of residue, *ib.*
the rent-charges payable out of allotment for the labouring poor to be allotted to persons entitled under the inclosure, vol. ii. 778, 779.
separate allotments in respect of separate titles, vol. ii. 779.
several allotments, by consent, may be laid together, *ib.*
cultivated land and buildings to be allotted to the proprietor, *ib.*
regard to be had to the situation of homesteads, *ib.*
allotments to be fenced, *ib.*
if interest in land is sold before allotment, allotment to the purchaser, *ib.*
allotments to representatives of persons dying, vol. ii. 780.
old inclosures may be allotted with consent, *ib.*

INCLOSURE—*continued.*
allotments to freemen and other classes of persons entitled to common rights, vol. ii. 780.
power to sell such allotments, *ib.*
application of purchase money, *ib.*
meeting of persons so entitled for giving instructions to valuer, *ib.*
partitions may be made, vol. ii. 781.
costs of partition, *ib.*
exchanges, *ib.*
wills and settlements not to be affected, vol. ii. 781, 782.
tenure of the allotments, vol. ii. 782.
leases at sack-rent may be avoided, *ib.*
seigniories not affected, except with consent, vol. ii. 783.
minerals under regulated pastures may be preserved, while minerals under lands to be held in severalty are relinquished, *ib.*
right to minerals under land inclosed, &c. not to be affected, *ib.*
trees to be allotted with the land, *ib.*
cattle not to be depastured on roads, *ib.*
alteration may be made in allotments, vol. ii. 784.
valuer to draw up a report, and annex thereto a map of the claims, *ib.*
report to be deposited for inspection, *ib.*
award to be drawn up by the valuer, *ib.*
and confirmed by the commissioners, *ib.*
confirmation of award conclusive that directions of act obeyed, vol. ii. 785.
allotments to be in compensation of previous rights, *ib.*
allotments may be subdivided by supplemental order, *ib.*
allotment for the labouring poor shall be managed by the allotment wardens, *ib.*
such allotments, how to be let, *ib.*
recovery of gardens on non-payment of rent, &c. vol. ii. 786.
possession, how to be recovered from tenant holding over, *ib.*
rents of allotment, how to be applied, *ib.*
regulated pastures may be set out, *ib.*
conversion into regulated pasture to be deemed an inclosure, vol. ii. 787.
rule of rating to be established, *ib.*
property of soil of regulated pastures, *ib.*
election of field reeves, *ib.*
duties of field reeves, vol. ii. 788.
provision for rateable increase or diminution of rights, *ib.*
expenses to be raised by rate, *ib.*
power to apply the act to pastures already stinted, vol. ii. 789.
expenses of application of act to pastures already stinted, *ib.*
power to enter land for surveys, *ib.*
expenses of inclosures, *ib.*
estimates of expenses to be approved of at public meeting, vol. ii. 790.
remedies in case of non-payment of expenses, *ib.*
power to make additional rate, *ib.*
commissioners may remove valuers, *ib.*
valuer not to purchase lands in the parish for seven years after the award, *ib.*
repayment to consolidated fund, *ib.*
persons attending meetings to pay their own expenses, vol. ii. 791.
expenses of witnesses, *ib.*
power to mortgage allotments, *ib.*

INCLOSURE—*continued.*
power to sell parts of allotments, vol. ii. 791, 792.
sales of parts of allotments, how to be made, vol. ii. 792.
commissioners to receive and apply purchase money, *ib.*
application of compensation money of parties under disabilities, *ib.*
investment of surplus when 200*l.* or upwards, *ib.*
payment of dividends in the meantime, vol. ii. 793.
application of money under 200*l.*, *ib.*
under 20*l.*, *ib.*
sale of land by valuer for expenses, *ib.*
conveyances to be made by commissioners, *ib.*
application of purchase moneys, *ib.*
notice may be given to reversioners, vol. ii. 793, 794.
copies of award to be made and deposited, vol. ii. 794.
exchanges may be made of land not subject to be inclosed, *ib.*
division of intermixed lands, vol. ii. 795.
inconvenient allotments for the poor and public purposes may be exchanged for land more convenient, *ib.*
notices of such exchanges and divisions to be given, *ib.*
expenses of exchanges and divisions, *ib.*
commissioners may remedy defects and omissions of awards under local acts of inclosure, or under 6 & 7 Will. 4, c. 115, vol. ii. 796.
commissioners may revive powers under local inclosure acts lost by lapse of time or otherwise, *ib.*
commissioners may appoint persons to complete proceedings in an imperfect inclosure, *ib.*
commissioners to give notice before proceeding to amend awards under local act, vol. ii. 797.
repealed, vol. ii. 804.
proviso for cases where dealings have been had with land on faith of inaccuracies, &c. proposed to be rectified, vol. ii. 797.
commissioners may confirm awards or agreements made under supposed authority of 6 & 7 Will. 4, c. 115, *ib.*
power to reduce the number of trustees under local act where a sufficient number of persons qualified cannot be found, vol. ii. 798.
penalties and forfeitures, how recoverable, *ib.*
distress, how to be made, *ib.*
distress not unlawful for informality, *ib.*
notices, how to be given, *ib.*
advertisements, awards, &c. free of duty, vol. ii. 799.
persons giving false evidence, &c. to be guilty of a misdemeanor, *ib.*
limitation of actions, *ib.*
proceedings not to be removed by *certiorari*, *ib.*
interpretation clause, *ib.*
act to extend only to England and Wales, vol. ii. 800.
9 & 10 Vict. c. 70.
provisional orders of commissioners may be varied or amended, *ib.*
copy of supplementary orders to be deposited for inspection, vol. ii. 801.

INCLOSURE—*continued.*
supplemental order not to take effect unless consent of certain parties be obtained, vol. ii. 801.
if orders do not take effect commissioners may suspend proceedings, *ib.*
as to allotments for exercise and recreation, &c. *ib.*
allotments to lord of manor for right of soil, &c. *ib.*
award may be made by assistant commissioner subject to approval, &c. of intermixed lands, &c. vol. ii. 801, 802.
as to notices and dissents, vol. ii. 802.
boundaries of leaseholds may be declared in award setting out boundaries of copyhold or customary lands, *ib.*
proviso, *ib.*
copyhold and customary lands may be exchanged, *ib.*
consent of lord of manor required, vol. ii. 803.
steward or deputy may consent in writing on behalf of the lord, *ib.*
shares of land, and cattle gates and stints, may be exchanged, *ib.*
accuracy of maps to be certified, *ib.*
an assistant commissioner may be appointed assessor, *ib.*
act deemed part of 8 & 9 Vict. c. 118, *ib.*
10 & 11 Vict. c. 111.
where the title to a manor, &c. is litigated, the consent of both claimants to be equivalent to consent of an actual owner, vol. ii. 803, 804.
provision for the case of more than one person claiming to be interested, vol. ii. 804.
saving the rights of the crown and others to the soil of encroachments, *ib.*
exchanges may be made of land, excepting or reserving minerals and easements, *ib.*
recital of provisions as to commissioners not proceeding to amend any award under any local act, &c. until notice of application shall have been given by advertisement, &c. *ib.*
recited provisions repealed, and if commissioners think fit to proceed on any application, they may refer the same to an assistant commissioner, &c. *ib.*
lands taken in exchange, &c. in respect of copyhold or customary lands, shall be held to be copyhold, and shall be held of the same lord, &c. vol. ii. 804, 805.
meetings may be adjourned without the attendance of commissioner or assistant commissioner, vol. ii. 805.
notices may be given by the secretary of the commissioners, or other person appointed for that purpose, *ib.*
act deemed part of 8 & 9 Vict. c. 118, *ib.*
11 & 12 Vict. c. 99.
persons not interested in lands to be inclosed may apply to submit land to operation of inclosure, *ib.*
maps of old inclosed lands may be dispensed with, vol ii. 806.
allotments of less than 5*l.* value may be compensated in money, *ib.*
valuer may set out private and occupation roads, in certain cases, for use of lands other than lands to be inclosed, *ib.*
expenses of maintaining private roads, &c. may be raised by a rate on owners, *ib.*
rating officer may be appointed for repairing

INCLOSURE—*continued.*
private and common ponds, ditches, &c., vol. ii. 806.
how rates to be raised, vol. ii. 807.
money raised for expenses to be paid to commissioners, *ib.*
how claims may be made, *ib.*
how persons trespassing where rights suspended or extinguished, or allotments entered upon, may be proceeded against, *ib.*
person having taken possession of allotment may maintain action for damage, vol. ii. 808.
on neglect of owner of an allotment to fence, owner of any other allotment prejudiced by his neglect may obtain possession and do the necessary work, *ib.*
provisions of inclosure acts concerning exchanges of land not subject to be inclosed, &c. extended to partition, *ib.*
provision of inclosure acts applicable to exchange, to apply to partition under this act, vol. ii. 809.
act deemed part of 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; and 10 & 11 Vict. c. 111, *ib.*
12 & 13 Vict. c. 83.
new boundaries of parishes may be set out, *ib.*
persons having rights of common may be dealt with as a class, vol. ii. 810.
class, *ib.*
meetings for instructions, *ib.*
commissioners may complete proceedings under 6 & 7 Will. 4, c. 115, *ib.*
quit rents, chief rents, and heriots, *ib.*
balance of money raised by sale of land, *ib.*
exchange and partition of rights, &c. *ib.*
separate tracts, vol. ii. 811.
extending provisions of recited acts to the fixing boundaries under this act, *ib.*
how persons exercising acts of ownership where rights suspended or extinguished, or allotments directed to be entered upon, may be proceeded against, *ib.*
remedies independent of this provision to be unprejudiced, *ib.*
lands held under separate titles by the same person may be exchanged, *ib.*
act deemed part of 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; 10 & 11 Vict. c. 111; and 11 & 12 Vict. c. 99, *ib.*
15 & 16 Vict. c. 79.
no lands to be inclosed without the authority of parliament, vol. ii. 812.
drains may be made in and out of the parish in which the lands to be inclosed are, *ib.*
remedy in case of non-payment of expenses, *ib.*
sale of land directed to be inclosed, *ib.*
meeting to consent to sale, vol. ii. 813.
meeting of persons interested to determine appropriation of surplus, *ib.*
resolutions at such meeting to be confirmed by commissioners, *ib.*
second meeting may be held, *ib.*
appropriation of surplus, if resolutions disallowed, *ib.*
award to be made, *ib.*
award not to be impeached, *ib.*
sales, how to be made, *ib.*
application of purchase money, vol. ii. 814.
obtaining possession of encroachments, *ib.*
expenses, *ib.*

INCLOSURE—*continued.*
village greens and allotments for exercise and recreation shall not be fenced in certain cases, vol. ii. 814.
report to be sent to commissioners in one month from staking out allotments, *ib.*
possession not to be given but by order of commissioners, *ib.*
as to the allotment of fruit trees, *ib.*
deposit of orders of exchange and partition in certain cases, vol. ii. 815.
commencement of rent-charge out of labouring poor allotments, *ib.*
rent-charge may be sold towards expenses, *ib.*
8 & 9 Vict. c. 118, s. 54, need not be specially referred to in claims, *ib.*
allotments set out under local acts, may be exchanged, *ib.*
application of compensation for common rights paid under the Lands Clauses Consolidation Act, 1845, *ib.*
in cases of boundary appeal, commissioners may order production of maps, &c. vol. ii. 816.
costs of appeal, *ib.*
extending provisions of firstly recited act as to bond in cases of boundary appeal, *ib.*
power to recover costs in cases of feigned issue, *ib.*
costs incurred by commissioners to be deemed part of inclosure expenses in certain cases, *ib.*
the word "parish" to include district having separate surveyor of highways, *ib.*
confirmed awards and orders may be corrected, *ib.*
copy of map may be annexed to the award, vol. ii. 817.
land held under separate titles, &c. by the same person may be partitioned, *ib.*
power to affect partitions and exchanges where parties interested in land, subject-matter of partition, and also in the entirety of any land, *ib.*
penalty where stock found on regulated pasture, *ib.*
short title of inclosure acts, *ib.*
act to be deemed part of 8 & 9 Vict. c. 118; 9 & 10 Vict. c. 70; 10 & 11 Vict. c. 111; 11 & 12 Vict. c. 99; 12 & 13 Vict. c. 83; and 14 & 15 Vict. c. 53, *ib.*
17 & 18 Vict. c. 97.
lands subject to be inclosed may be exchanged pending inclosure proceedings, vol. ii. 819.
undivided shares may be exchanged, *ib.*
land to include corporeal hereditaments, *ib.*
lessee the "person interested" in certain cases, *ib.*
orders of exchange, partitions, and division, may be made, upon application of parties in possession under an agreement, *ib.*
extending time for application for conversion of land to be inclosed into a regulated pasture, *ib.*
extending time for enrolment of awards under common fields act, or local act, *ib.*
tenure of allotments in respect of rights, vol. ii. 820.
fencing and making roads dispensed with in certain cases, *ib.*
apportionment of fee-farm rents, &c. *ib.*
order of apportionment, *ib.*

INCLOSURE—*continued.*
order to determine boundaries, vol. ii. 820.
confirmation of order, *ib.*
recovery of apportioned amounts, *ib.*
expenses attending apportionment, *ib.*
application of compensation for common rights paid under 8 & 9 Vict. c. 18, vol. ii. 820, 821.
money to be paid into Bank of England, vol. ii. 821.
interests to be ascertained by commissioners, *ib.*
as to the payment of costs of inclosure commissioners, and as to the residue of moneys, *ib.*
compensation for limited interests to be paid to trustees, *ib.*
as to sums payable in respect of lands not exceeding 20*l.*, *ib.*
act deemed part of "The Acts for the Inclosure, &c. of Land," vol. ii. 822.
20 & 21 Vict. c. 31.
in any case of inclosure, fences may be dispensed with, *ib.*
allotments, until fenced, to be deemed a regulated pasture, *ib.*
notices, &c. to individuals, required by the inclosure acts, may be sent by post, or left at usual place of abode, *ib.*
exchanges of land by railway and other companies, *ib.*
of lands in which crown is interested in reversion, &c. *ib.*
on an exchange or partition, inequality in value may be compensated by a rent-charge, vol. ii. 822, 823.
such inequality not to exceed one-eighth of the actual value, vol. ii. 823.
the inclosure award, or order of exchange or partition, to determine the amount of the rent-charge, and the land on which it is charged, *ib.*
title and priority, &c. of rent-charge, *ib.*
rent-charge to go with the land, the deficiency of which it compensates, *ib.*
town and village greens and allotments for exercise and recreation protected from nuisances, *ib.*
punishment of offenders, *ib.*
application of penalties, *ib.*
allotments for schools, *ib.*
instructions to commissioners may be reviewed, *ib.*
act deemed part of "The Acts for the Inclosure, &c. of Land," vol. ii. 824.
22 & 23 Vict. c. 43.
upon inclosures, where mines, &c. are reserved, the provisional order to specify any rights of working, &c. *ib.*
provision may be made as to compensation for surface damage, *ib.*
powers to work mines, &c. where right of working is reserved by the provisional order, *ib.*
damages for working, how to be assessed, vol. ii. 825.
payment of damages, *ib.*
may be enforced by distress, *ib.*
if tenant pay, to be deducted from rent, *ib.*
in cases under this act the annual value of allotments and proportionate share of rate to be stated in award, *ib.*
herbage of land inclosed may be let by valuer, if instructed, *ib.*

INCLOSURE—*continued.*
apportionment of surplus of purchase-money where land authorised to be sold does not exceed fifty acres, vol. ii. 825.
partitions may be made without the lessee jointly interested joining in the application, *ib.*
rents to be apportioned, &c. *ib.*
in partitions certain provisions as to notice of dissent not to apply, *ib.*
where patronage of any benefice is vested in the crown, who to be deemed the patron, vol. ii. 826.
leases, agreements, and tenancies at rack-rent, of lands inclosed or exchanged, to cease as regards such lands when valuer directs, *ib.*
provision in favour of lessees and tenants, &c. *ib.*
annexation of map to award may be dispensed with by commissioners, *ib.*
act to be part of the inclosure acts, *ib.*

INCOME TAX. See *Property Tax.*

INDENTURE. See *Conveyances.*
executed after 1st October, 1845,
strangers may take immediately under, vol. i. 825.
need not be actually indented, *ib.*

INDIA, vol. ii. 826.

INDIAN GOVERNMENT SECURITIES.
certain, made *bona notabilia* in England, vol. i. 1328.

INDICTMENT. See *Criminal Law.*

INDUSTRIAL AND PROVIDENT SOCIETIES.
15 & 16 Vict. c. 31 (*Industrial and Provident Societies Act*, 1852).
societies of working men may be established for attaining the objects of friendly societies acts by means of joint trade, vol. ii. 212.
rules of the society, vol. ii. 213.
interest of members not transferable, *ib.*
as to members becoming bankrupt or insolvent, vol. ii. 213, 214.
awards of arbitrators may be enforced by county courts where sum, &c. in dispute is within its jurisdiction, vol. ii. 214.
where it exceeds such jurisdiction, then to be submitted to superior courts, *ib.*
sheriff's jurisdiction in Scotland, *ib.*
investment of funds, *ib.*
laws relating to friendly societies to be applicable, except as varied by this act or certified to be inapplicable, *ib.*
7 & 8 Vict. c. 110, not to extend to societies constituted under this act, *ib.*
limitation of interest of members in funds of society, *ib.*
annual returns to be prepared as registrar may direct, *ib.*
liability of the members not to be restricted, *ib.*
provisions of friendly societies acts giving such societies priority over other creditors as to estate of officers, and exemption from stamp duties in certain cases, not to apply to societies constituted under this act, vol. ii. 214, 215.

INDUSTRIAL AND PROVIDENT SOCIETIES—*continued.*
meaning of words "county court," in this act, vol. ii. 215.
17 & 18 Vict. c. 25.
suits by industrial and provident societies, to be carried on in the name of one of the officers, to be appointed, *ib.*
officers to be appointed to sue and be sued on behalf of the society, and their names, &c. to be returned to registrar of friendly societies, *ib.*
form of return, *ib.*
in default of appointment as aforesaid, trustees of society may appoint such officers, and make returns, *ib.*
returns to be certified, and certificates to be evidence, *ib.*
proceedings commenced in name of officer not to be abated by his death, &c. or by change of members of society, vol. ii. 215, 216.
effect of judgments, &c. against society, vol. ii. 216.
bankruptcy, &c. of officers not to affect liability of society, *ib.*
service of process on society, *ib.*
dissolution of society not to prevent winding up of its affairs, *ib.*
suits pending against trustees to be carried on against officers appointed as aforesaid, *ib.*
provisions of friendly societies act incapacitating trustees from suing till they shall have made to registrar a financial statement of society's affairs, not to apply, *ib.*
provisions of 18 & 19 Vict. c. 63, made applicable to industrial and provident societies, vol. ii. 212, n. (*a*).
19 & 20 Vict. c. 40.
17 & 18 Vict. c. 25, to apply to all societies at any time constituted under 17 & 18 Vict. c. 25, vol. ii. 230.
time fixed by 17 & 18 Vict. c. 25, for appointment of officers to sue and be sued, extended, *ib.*
certain appointments made by trustees confirmed, *ib.*
as to power of removing officers, *ib.*

INDUSTRIAL SCHOOLS. See *Schools, Industrial.*

INFANTS.
protection of, as to annuities, vol. i. 77.
as to his suing and defending by attorney, vol. i. 117, n. (*a*).
may sue for wages, &c. in county court, as if of full age, vol. i. 1196.
infant eloigned, may sue by prochein amy, vol. i. 119.
cannot be common informer, vol.
how may be admitted to copyholds, vol. i. 840.
fines on admittance of, to copyhold, how recoverable, *ib.*
reimbursement of guardian of, paying such fines, vol. i. 841.
not to incur forfeiture of copyhold for not appearing at court to be admitted, *ib.*
nor for non-payment of fine on admission, *ib.*
guardians may accept allotments for, under inclosure acts, vol. ii. 729.

INFANTS—*continued.*
non-acceptance of, not to prejudice infant, vol. ii. 729.
guardians may charge allotments with expenses, &c. vol. ii. 732.
conveyances, &c. by. See *Trustees.*
confirmation of promise by, after coming of age, to be in writing, vol. ii. 177.
proviso as to limitations for reversing fine or bringing writ of error, vol. i. 1362.
as to other limitations. See *Limitation of Actions.*
where death of infant tenant for life may be presumed, vol. i. 1371—1373.
proceedings by reversioner to compel production of infant tenant for life, *ib.*
where sole executor, to whom administration is to be granted, vol. i. 1427.
payment of legacies during minority of infant legatee, 36 Geo. 3, c. 52, s. 32.
wills of, void, vol. iv. 930.
marriages of. See *Marriage.*
guardians of. See *Guardians.*
father may dispose of custody of, vol. ii. 827, 828.
ravishment of ward, vol. ii. 829.
management of estate of, by guardian, *ib.*
production of, on application of persons in remainder, vol. ii. 829, 830.
minor concealed, taken to be dead, vol. ii. 830.
beyond sea, view, *ib.*
remedy of guardian where infant is alive, &c. *ib.*
provisions for securing access of mother to, vol. ii. 831.
for allowing mother to have custody of, when infant under seven years of age, *ib.*
mother guilty of adultery not entitled to benefit of these provisions, vol. ii. 832.
convicted of felony, care and education of, *ib.*
court of chancery may assign care of infant felons to other than natural or testamentary guardians, *ib.*
such assignment may be rescinded, *ib.*
infant not to be sent beyond seas, *ib.*
may, with the approbation of court of chancery, make valid settlements or contracts for settlement of real or personal estate upon marriage, vol. ii. 833.
in case infant die under age, appointment or disentailing assurance to be void, *ib.*
the sanction of the court of chancery to be given on petition, without suit, *ib.*
not to apply to males under twenty, or females under seventeen years of age, *ib.*

INFERIOR COURTS. See *Courts (Inferior).*

INFORMATIONS.
clerk of crown to exhibit no information except by order of court, vol. ii. (2).
nor to issue process till prosecutor has given recognizance, &c. *ib.*
defendant to have costs on, when, *ib.*
remedy for costs, *ib.*
penal. See *Penal Actions, &c.*

INFORMER. See *Penal Actions, &c.*

INHERITANCE.
descent to be traced from the purchaser, vol. ii. 834.
last owner to be considered purchaser, *ib.*
unless the contrary is proved, *ib.*
how descent traced where there is a failure of heirs of the purchaser, vol. ii. 837.
or of heirs of ancestor, where land descendible as if ancestor had been the purchaser thereof, *ib.*
heir entitled under a will to take as devisee, vol. ii. 835.
limitation to grantor or his heirs to create an estate by purchase, *ib.*
where heirs take by purchase under limitations to the heirs of their ancestor, the lands shall descend as if the ancestor had been purchaser, *ib.*
brothers, &c. to trace descent through parents, vol. ii. 836.
lineal ancestor may be heir in preference to collateral persons claiming through him, *ib.*
male line to be preferred, *ib.*
mother of more remote male ancestor preferred to the mother of the less remote male ancestor, *ib.*
half-blood to inherit, *ib.*
attainted ancestor, tracing through, *ib.*
limitation of act, vol. ii. 836, 837.
descent of copyholds after commutation or enfranchisement, vol. i. 860, 875.

INJUNCTION,
of a superior court, to operate in any other court as a stay of proceedings contrary thereto, vol. iii. 757.
in action for the infringement of patent, 15 & 16 Vict. c. 83, s. 42.
practice of the court of chancery with respect to, for stay of proceedings at law, vol. iii. 897.
court of chancery may award damages on application for, vol. iii. 916.
powers of courts of law to award, vol. iii. 784, 794.

INLAND REVENUE. See *Beer; Crown Suits; Game; Land Tax; Property Tax; Succession Duty; Trustees.*

INNKEEPERS, &c. LICENCES. See *Alehouses.*

INQUIRY. See *Pleading, Practice, &c.*

INQUISITION.
of coroner. See *Coroner.*

INROLMENT.
of annuities, vol. i. 70.
attorneys, vol. i. 131, 143.
deeds for charitable uses, vol. i. 489.
fines and recoveries, vol. ii. 80, 87—89.
recognizances, vol. ii. 176.
bargain and sale of lands, vol. iv. 824.
rules of friendly societies. See *Friendly Societies.*
rules of savings banks. See *Savings Banks.*

INSANITY. See *Lunatics.*

INSOLVENCY.
declaration of, when an act of bankruptcy. See *Bankruptcy.*

INSOLVENT DEBTORS. See *Bankruptcy and Insolvency.*

INSPECTION.
of documents, &c. See *Evidence and Witnesses.*

INSURANCE. See *Stamps.*
Against Fire,
application of money insured on buildings burnt, vol. ii. 132.
relief against forfeitures for not insuring, vol. ii. 843, 844.
person entitled to benefit of covenant to insure, to have same advantage from an informal insurance, vol. ii. 843.
purchaser protected against forfeiture by non-insurance on production of receipt for rent signed by the person entitled to it, *ib.*
duties to be chargeable on all insurances of property within the united kingdom wherever made, vol. ii. 842.
persons insured chargeable with duties where insurances made by unlicensed foreign companies, *ib.*
all persons who shall as agents receive proposals, &c. for insurances by companies out of the united kingdom, to be deemed persons keeping an office for insuring property from loss by fire, *ib.*
such persons required to take out licence and give security for payment of the duties, *ib.*
penalty for neglect, *ib.*
persons keeping offices for insurances on behalf of foreign companies, to be chargeable with the duties on such insurances, vol. ii. 842, 846.
re-insurances from loss by fire not to be chargeable with the per centage duty, but with the policy stamp only, vol. ii. 843.
On Lives,
insurer must have an interest in life insured, vol. ii. 844.
otherwise policy void, *ib.*
what is an insurable interest, *ib.* n. (*d*).
names of persons interested to be inserted in policy, vol. ii. 845.
no greater amount to be recovered on the policy than the amount of the insured's interest, *ib.* and 844, n. (*b*).
Marine. See *Ships.*
property insured,
smuggled goods, &c. penalty,
slave adventures, vol. ii. (136), (137).
no assurance to be made, interest or no interest, vol. ii. 838, 839.
except on private ships of war, vol. ii. 839.
effects from Spain or Portugal, &c. *ib.*
foreign ships, vol. ii. 838, n. (*a*).
re-assurances prohibited, unless assurer be insolvent, or die, &c. vol. ii. 839.
in which case executors, &c. to insure, and how, *ib.*
as to bottomree and respondentia, *ib.*
form, &c. of policy,
stamp on, vol. ii. 841.
alteration in policy legalised, when, vol. iii. 1293, 1294, n. (*a*).
name, &c. of person interested, or of consignor or consignee, or agents of insured, &c. to be inserted in, vol. ii. 841.

INSURANCE—*continued.*
omission in this respect, policy void, vol. ii. 841.
premium or consideration must be stated in, *ib.*
date of, to be inserted by commissioners of stamps (35 Geo. 3, c. 63, s. 5).
what particulars it must contain, vol. ii. 841.
proceedings on policies,
in all actions, plaintiff to declare in fifteen days what sums he has insured, vol. ii. 840.
defendant may bring money into court, *ib.*
plaintiff not accepting it, and jury finding no greater damages, he to pay costs, &c. *ib.*

INTEREST.
jury empowered to allow, upon certain debts, vol. ii. 845, 846.
may give damages in nature of, in actions of trover or trespass *de bonis asportatis*, vol. ii. 846.
allowance of, on writs of error for delay in execution, vol. i. 1364.
on judgment debts, vol. ii. 895.
on debts from public accountants to the crown, vol. ii. 845, n. (*b*).
on notes, &c. provable in bankruptcy, vol. i. 335.
rebate of, in bankruptcy, vol. i. 330.
what arrears of, recoverable on mortgages or legacies, vol. iii. 58.

INTERMENT.
Cemeteries Clauses Act, 1847 (10 & 11 Vict. c. 65).
extent of act, vol. ii. 846, 847.
interpretation clause, vol. ii. 847.
title of act, *ib.*
form in which portions of the act may be incorporated in other acts, *ib.*
Making of Cemetery,
construction of cemetery to be subject to the provisions of this and the Land Clauses Consolidation Act, 1845, vol. ii. 847, 848.
errors and omissions in act or schedule to be corrected by justices, vol. ii. 848.
certificate to be deposited, *ib.*
copies of plans, &c. to be evidence, *ib.*
company not to dispose of any land consecrated or used for burials, *ib.*
cemetery not to be within a certain distance of houses, *ib.*
company may build chapels, &c. *ib.*
company may make or widen roads to cemetery, *ib.*
no road to be widened without consent, *ib.*
owners, &c. may enter into agreements for improving roads, *ib.*
cemetery to be kept in repair, *ib.*
cemetery, &c. to be inclosed and fenced, *ib.*
company to make compensation for damages done, *ib.*
Prevention of Nuisances,
power to make sewers, drains, &c. *ib.*
certain provisions of Water Works Clauses Act, 1847, incorporated with this act, *ib.*
penalty for allowing water to be fouled, *ib.*
penalty to be sued for within six months, vol. ii. 849.
in addition to penalty of 50*l.*, a daily penalty during the continuance, *ib.*

INTERMENT—*continued.*
Burials,
a part of cemetery to be set apart and consecrated for members of established church, vol. ii. 849.
consecrated ground to be defined, *ib.*
a chapel in connection with the established church to be constructed, *ib.*
bodies when interred not to be removed without lawful authority, *ib.*
chaplain to be appointed with consent of the bishop, *ib.*
chaplain to perform burial service when required, *ib.*
other clergymen of the established church may be allowed to officiate, *ib.*
company to pay the chaplain a stipend approved by the bishop, *ib.*
stipend to be recovered by action at law, *ib.*
burials in the consecrated portion to be registered by the chaplain, *ib.*
registers to be subject to the regulations of 6 & 7 Will. 4, c. 68, as to searches, &c. vol. ii. 849, 850.
clerk appointed for the consecrated part of the cemetery, vol. ii. 850.
as to burials of persons not members of the church of England, *ib.*
company may allow any burial service to be performed in dissenting chapels, *ib.*
power to appoint gravediggers, &c. *ib.*
regulations for ensuring decency and solemnity, *ib.*
no burials under or close to chapels, *ib.*
Exclusive Rights of Burial,
parts of the cemetery may be set apart for exclusive burial, *ib.*
monumental inscriptions, *ib.*
plan and book of reference to be kept for inspection, *ib.*
form of grant of burial in vaults, &c. to be according to schedule, *ib.*
register of grants to be kept, *ib.*
rights of burial, &c. to be assignable, or may be bequeathed by will, *ib.*
form of assignment, *ib.*
assignments to be registered, *ib.*
probates of wills to be registered, vol. ii. 851.
vaults to be kept exclusively for purchasers of exclusive right, *ib.*
no such grant to give the right of burial in consecrated ground to certain persons, *ib.*
power to remove monuments improperly erected, *ib.*
bishop to have power to object to monumental inscriptions in consecrated part of cemetery, *ib.*
Payments to Incumbents of Parishes,
payments to incumbents of parishes from which bodies are brought, *ib.*
company to keep account of interments, *ib.*
account of payments due to incumbents of parishes to be rendered half-yearly, *ib.*
fees to be paid to incumbents of parishes half-yearly, *ib.*
payment to be made to the incumbent for the time being, who is to account with his predecessor, vol. ii. 851, 852.
company to pay compensation to parish clerks, vol. ii. 852.
Protection of Cemetery,
penalty for damaging cemetery, *ib.*
on persons committing nuisances in cemetery, *ib.*

INTERMENT—*continued.*
annual account to be made up, and a copy transmitted to the clerk of the peace, &c. and be open to inspection, vol. ii. 852.
tender of amends, *ib.*

Recovery of Damages and Penalties,
8 & 9 Vict. c. 20, incorporated as to damages, *ib.*
in Ireland, part of penalty to be paid to guardians of unions, *ib.*
all things required to be done by two justices may in certain cases be done by one, *ib.*
persons giving false evidence liable to penalties of perjury, *ib.*

Access to Special Act,
copies of special act to be kept by company at their office, and deposited with the clerk of the peace, and be open to inspection, vol. ii. 852, 853.
penalty on company failing to keep or deposit such copies, vol. ii. 853.
company not exempt from provisions of any future general act, *ib.*
15 & 16 Vict. c. 85, burials in the metropolis.
13 & 14 Vict. c. 52, repealed, *ib.*
but her majesty may continue additional member of board therein authorised, *ib.*
on representation of secretary of state, her majesty in council may order discontinuance of burials in metropolis, *ib.*
order not to extend to burial grounds of quakers or jews, unless expressly included, vol. ii. 854.
burial not to take place after order in council for discontinuance, *ib.*
restriction as to place of burial of inhabitants of parishes the burial grounds whereof are closed, *ib.*
saving of certain rights to bury in vaults, &c. *ib.*
saving as to cemeteries in schedule (B) and new burial grounds hereafter approved of by secretary of state, *ib.*
saving as to St. Paul's cathedral and Westminster abbey, *ib.*
new burial grounds in the metropolis to be approved by secretary of state, *ib.*
churchwardens, after order, or at any time, upon requisition of ten ratepayers, to convene vestry to determine whether a burial ground shall be provided, vol. ii. 855.
in case vestry agree to provide a burial ground, board to be appointed, *ib.*
resignation of members, *ib.*
vacancies to be filled up by vestry, *ib.*
meetings of the board, *ib.* 869.
quorum of meetings of the board, vol. ii. 855.
board may appoint and remove officers, &c. *ib.*
minutes of proceedings of board to be entered in a book, *ib.*
board to keep accounts, which shall be open to inspection, *ib.*
penalty for refusing to allow inspection, *ib.*
auditors to be appointed yearly, who shall examine the accounts, and report to vestries, *ib.*
expenses to be paid out of the poor's rate, *ib.*
power to borrow money, with sanction of vestry, and approval of the treasury, vol. ii. 856.

INTERMENT—*continued.*
the public works loan commissioners may advance money for the purposes of act, vol. ii. 856.
moneys raised, and the income arising from burial ground, to be applied towards defraying expenses, *ib.*
vestries may concur in providing a burial ground, *ib.*
incorporation of burial boards, *ib.*
board to provide a burial ground which may be within or without the parish, *ib.*
board may, with approval of vestry, purchase land of cemeteries, vol. ii. 857.
provisions of 8 & 9 Vict. c. 18, incorporated, *ib.*
power to sell lands not wanted, *ib.*
burial board may, with approval of vestry, &c. appropriate land belonging to parish, *ib.*
board may lay out burial ground and build chapel, *ib.*
ground may be set apart for building a chapel, &c. *ib.*
burial board may contract for works to be done, vol. ii. 858.
no contract above 100*l.* to be entered into without notice, *ib.*
burial ground to be the burial ground of the parish or parishes for which it is provided, *ib.*
board may sell exclusive rights of burial vaults, and right to erect monuments, *ib.*
board to fix payments for interments, and for exclusive right of burial, &c. *ib.*
division of fees between incumbents of parishes and ecclesiastical districts, vol. ii. 858, 859.
fees payable to churchwardens and others for parochial purposes, vol. ii. 859.
power to vestry, with consent of bishop, to revise the fees to incumbent, &c. or to substitute a fixed payment, *ib.*
management to be vested in burial boards, *ib.*
certain provisions of 10 & 11 Vict. c. 65, incorporated, *ib.*
arrangements between incumbents of parishes, *ib.*
boards may make arrangements for facilitating the conveyance of bodies to burial grounds, *ib.*
places may be provided for reception of bodies until interment, *ib.*
commissioners of sewers of the city of London to be a burial board for the parishes in the city and its liberties, vol. ii. 859, 860.
secretary of state may make regulations as to burial grounds, &c. vol. ii. 860.
Brompton cemetery vested in commissioners of works, *ib.*
money authorised to be advanced under 14 & 15 Vict. c. 89, may be applied in completing purchase of Brompton cemetery, *ib.*
provision for winding up West of London and Westminster Cemetery Company, vol. ii. 861.
Brompton cemetery may be sold by direction of treasury, and in the meantime used for interments, *ib.*
limiting the compensation fee to be payable on pauper burials in cemeteries, *ib.*

INTERMENT—*continued.*
incumbents' compensations to be payable to the churchwardens where the fees on burials are now paid to them, and the incumbents are not entitled, vol. ii. 861.
power for incumbent or churchwardens to convey chapel, *ib.*
interpretation of terms, vol. ii. 862.
definition of "the metropolis," *ib.*
saving rights of cemetery companies, *ib.*
16 & 17 Vict. c. 134 (burials out of the metropolis).
on representation of secretary of state, her majesty in council may restrain the opening of new burial grounds, and order discontinuance of burials in specified places, vol. ii. 864.
order not to extend to burial grounds of quakers or jews, unless expressly included, *ib.*
burial not to take place after order in council for discontinuance, *ib.*
saving of certain rights to bury in vaults, &c. *ib.*
not to extend to cemeteries established by act of parliament, or new burial grounds, &c. vol. ii. 865.
new burial grounds not to be opened contrary to order in council, *ib.*
certain provisions of 15 & 16 Vict. c. 85, extended to parishes, &c. not in the metropolis, *ib.*
board building a chapel for burials according to the rites of church of England, also to build a chapel for persons not members of the church of England, *ib.*
register of burials to be kept in every ground provided under 15 & 16 Vict. c. 85, or under this act, *ib.*
entries to be evidence, vol. ii. 866.
act, except ss. 7 and 8, not to extend to metropolis, *ib.*
act not to extend to Scotland or Ireland, *ib.*
17 & 18 Vict. c. 87 (burials out of the metropolis).
her majesty may, by order in council, invest town councils with the power of providing burial grounds, *ib.*
upon the making of such order, town council to have all the powers vested in burial boards under 16 & 17 Vict. c. 134, *ib.*
expenses to be paid out of borough fund or borough rates, *ib.*
money may be borrowed at lower rates of interest to pay off securities bearing a higher rate, vol. ii. 867.
power to borrow money to pay off former mortgages, *ib.*
council, how to act under this act, *ib.*
conveyances and sales of land, how to be made, *ib.*
burial ground to be deemed to be for the parishes in the borough, *ib.*
council may fix a higher rate for interment, &c. in respect of outlying part of parish, *ib.*
order in council may except parishes already having burial grounds, *ib.*
and in such case, if a rate be necessary, a separate rate to be made on the rest of the borough, *ib.*
powers of vestry, of fixing and revising fees payable to incumbent, &c. transferred to the town council, *ib.*

INTERMENT—*continued.*
council may appropriate land belonging to the borough, vol. ii. 868.
burial ground not to be within one hundred yards of a dwelling-house, *ib.*
meaning of "borough" and "town council" in this act, vol. ii. 877.
18 & 19 Vict. c. 128 (amendment of laws concerning burial in England).
orders in council under recited acts may be varied by like orders, vol. ii. 868.
penalty on persons burying contrary to the provisions of orders in council, *ib.*
power to churchwardens to call vestry meetings for providing burial grounds, *ib.*
where order in council has been made, or notice given to apply to the privy council for closing burial grounds, churchwardens to call a meeting of vestry, *ib.*
vacancies in burial board to be filled up by vestry within a month, vol. ii. 869.
monthly meetings of boards not required, *ib.*
sanction of vestry not required for expenditure and other acts of burial board in certain cases, *ib.*
fees, &c. to be subject to approval of secretary of state, *ib.*
secretary of state may direct inspection of burial grounds, *ib.*
penalty for obstructing inspector or violating regulations, *ib.*
part of sect. 24 of 15 & 16 Vict. c. 85, repealed, *ib.*
burial ground not to be within one hundred yards of a dwelling-house, *ib.*
if ratepayers resolve, land for new burial ground may be conveyed and settled as old burial ground, *ib.*
burial grounds for united parishes, vol. ii. 869, 870.
consent of secretary of state in certain cases necessary, vol. ii. 874.
burial boards may be appointed for townships, &c. (not separately maintaining their own poor) which have had separate burial grounds, vol. ii. 870.
or which have not had separate burial grounds, vol. ii. 873.
provision for expenses of burial boards of places not separately maintaining their own poor, vol. ii. 870.
no obligation to build a chapel for persons not members of the Church of England, when secretary of state, upon representation of three-fourths of vestry, declares it unnecessary, *ib.*
assessment to local rates not to be increased after purchases, for the purpose of this or any former act, vol. ii. 871.
separate burial boards, whose burial grounds adjoin, may contract with each other for specific purposes, *ib.*
burial board may let land not required for burials, *ib.*
burial board to keep in order closed burial grounds, &c. *ib.*
act not to abridge powers of local boards of health, &c. *ib.*
local boards of health to exercise powers of this act, *ib.*
acts to be construed together, *ib.*
20 & 21 Vict. c. 81 (amendment of burial acts).
approval of a majority of vestries of parishes sufficient for acts done by burial boards, vol. ii. 872.

INTERMENT—*continued.*
joint burial boards may be dissolved, vol. ii. 872.
burial boards may provide more than one burial ground, *ib.*
local board of health may, by order in council, be constituted a burial board, *ib.*
burial board may be established for a district not maintaining its own poor, and which has had no separate burial ground vol. ii. 873.
ordinary of diocese may consecrate the whole or part of land belonging to any parish for the burial of poor persons, *ib.*
no poor person to be buried there if husband or wife, or next of kin shall object, *ib.*
transfer to burial boards of burial grounds, provided under church building acts, *ib.*
vestry of parish in which burial ground is closed may purchase such burial ground, if not belonging to parish, vol. ii. 874.
burial boards for united parishes, &c. where one of the places separately maintains its own poor, or has a burial ground, *ib.*
orders in council may be made for regulating burial grounds, *ib.*
no wall or fence required between the consecrated and unconsecrated portions of burial ground, *ib.*
boundary marks to be provided, *ib.*
appeal from decision of bishop, refusing to consecrate, *ib.*
power to incumbent or curate to bury in burial ground certified by secretary of state, prior to decision of bishop, vol. ii. 875.
exemption of funerals from tolls, extended to funerals in burial grounds provided for the parish, although not within its limits, *ib.*
persons wilfully destroying, &c. register book of burials, guilty of felony, *ib.*
certificates of burials in grounds provided under the burial acts, need not be transmitted to minister of parish, *ib.*
fees for service done in unconsecrated portion of burial ground to be identical as for consecrated portion, *ib.*
so much of s. 20 of 15 & 16 Vict. c. 85, as fixes rate of repayment of money borrowed, repealed, *ib.*
clauses of 10 & 11 Vict. c. 16, with respect to mortgages incorporated, vol. ii. 876.
sinking fund to be provided for paying off mortgages, *ib.*
power to burial boards to borrow money on terminable annuities, *ib.*
power to council of boroughs to make a separate rate for a burial and expenses, *ib.*
orders in council may be issued, on representation of secretary of state, so as to prevent vaults, &c. being dangerous to health, *ib.* 878.
trustees of closed cemeteries, with sanction of secretary of state, may let, lease, or sell portions thereof which have not received interments, vol. ii. 876.
bodies not to be removed from burial ground, save under a faculty, or licence of secretary of state, vol. ii. 876, 877.
burial boards may in certain cases purchase cemeteries which have been closed, vol. ii. 877.
but orders in council closing such cemetery shall remain in force, *ib.*

INTERMENT—*continued.*
resolutions, &c. of vestries not to be void by reason of irregularity of notices, &c. vol. ii. 877.
meaning of "burial board," *ib.*
construction of certain expressions used in 17 & 18 Vict. c. 87, *ib.*
recited acts and this act to be read as one, *ib.*
21 & 22 Vict. c. 98, s. 49.
local board of health of district may be burial board of a parish or place in district, *ib.*
22 Vict. c. 1.
where persons having the care of a place of burial neglect to comply with order of privy council, secretary of state may direct churchwardens to act, vol. ii. 878.
23 & 24 Vict. c. 64.
expenses of local board constituted a burial board may be paid out of general district rate, or by a separate rate, vol. ii. 879.
expenses of improvement commissioners, when acting as a burial board, may be paid out of improvement rate, or by a separate rate, *ib.*
separate accounts to be kept, *ib.*
as to appointment of burial boards without consent of secretary of state, *ib.*
25 & 26 Vict. c. 100.
improvement commissioners who have been constituted a burial board may, with consent of treasury, mortgage improvement rate and burial rate, or either, vol. iv. 968.
certain clauses of The Commissioners Clauses Act, 1847, to apply to this act, *ib.*
27 & 28 Vict. c. 97.
all burials to be registered, vol. iv. 968.
by whom books to be kept, *ib.*
copies of registers to be sent to registrar of diocese, *ib.*
penalty for failure to comply with act, *ib.*
registers to be evidence, *ib.*
registers to be subject to regulations of 6 & 7 Will. 4, c. 86, as to searches, &c. *ib.*
as to "burial ground," *ib.*
short title, *ib.*

INTERPLEADER.
Adverse Claims.
power to courts of law to grant relief to defendants having no interest in subject matter of the suit against adverse claims of third parties, vol. ii. 879.
to what actions this power confined, *ib.* and n. (c).
does not extend to the colonies, vol. ii. 879, n. (b).
nor *semble* to a mere equitable claim, vol. ii. 879, n. (a).
does extend to the stannaries, vol. ii. 879, n. (b).
cannot be exercised before action brought, vol. ii. 879, n. (c).
nor where an injunction has been granted, *ib.*
when and how application for relief to be made, vol. ii. 879, 880, 881, n. (b).
nature of claim set up, vol. ii. 880, n. (b).
must be such as is capable of being followed up by action, *ib.*
must relate to the subject matter of the suit, *ib.*

INTERPLEADER—*continued.*
claims made on behalf of the crown not within the Interpleader Act, vol. ii. 880, n. (*a*).
nor claims to stakes on an illegal horse-race, *ib.*
nor claims for rewards for the apprehension of a felon, *ib.*
conflicting claims made by bankrupt and his assignees are within Interpleader Act, *ib.*
title of claimants need not have a common origin, vol. ii. 886.
defendant claiming lien not to be entitled to relief, vol. ii. 880, n. (*a*).
nor where he has placed himself under liability, *ib.*
nor where he colludes with either of the parties, vol. ii. 880, n. (*c*).
nor where he is indemnified by either party, *ib.*
defendant must have possession of property claimed, vol. ii. 881, n. (*a*).
power of court or judge to call on claimant to appear and maintain or relinquish claim, vol. ii. 881.
proceedings where claimant appears, *ib.*
statement of nature and particulars of his claim must be on affidavit, vol. ii. 881, n. (*d*).
contents and requisites of such affidavit, *ib.*
staying proceedings, vol. ii. 881.
desirous for trial of issue, *ib.*
court or judge with consent of parties may dispose summarily of matter in dispute, vol. ii. 881, 882, 887.
judge may decide bare question of law, vol. ii. 887.
may order special case to be stated, *ib.*
judgment and decision to be final, vol. ii. 882, 887.
costs, vol. ii. 881, n. (*g*), 882, n. (*b*).
proceedings where claimant does not appear, vol. ii. 882.
court or judge may declare his claim barred as against defendant, *ib.*
saving his right against plaintiff, *ib.*
costs, vol. ii. 882, n. (*e*).
proviso as to orders made by a single judge, vol. ii. 883.
judge may refer matter for decision of court, *ib.*
Relief of Sheriffs, &c.
application for, must be made promptly, vol. ii. 884, n. (*b*).
application must formerly, in first instance, have been made to the court, vol. ii. 883, n. (*e*).
but not now, vol. ii. 886.
court will relieve sheriff against claim of lien, vol. ii. 883, n. (*b*).
as to relief where sheriff receives notice of other writs after levy, *ib.*
insufficiency of notice of claim, *ib.*
sheriff not bound to apply for indemnity, *ib.*
not bound to accept indemnity if offered, *ib.*
if he takes indemnity court will not relieve him, *ib.*
sheriff not bound to wait till proceedings actually taken before making application, *ib.*
denial of collusion by sheriff, *ib.*

INTERPLEADER—*continued.*
not entitled to relief if he has paid over proceeds of execution to creditor, vol. ii. 884, n. (*b*).
nor if he has delivered up goods, or part thereof, to claimant, *ib.*
when execution creditor served with sheriff's rule not bound to appear, &c. *ib.* n. (*c*).
court will order sheriff to withdraw from possession if execution creditor does not appear, *ib.* n. (*f*).
parties not called before the court cannot be heard, *ib.* n. (*c*).
summary adjustment of claim, vol. ii. 884.
costs, *ib.* n. (*g*).
right to poundage, &c. *ib.* n. (*g*).
rules, orders, &c. may be entered of record and made evidence, vol. ii. 885.
must be entered according to the true date, *ib.* n. (*a*).
single judge may exercise the same power as the court in relieving sheriffs, vol. ii. 886.
power of court or judge to direct sale of goods taken in execution, vol. ii. 886.

INTERNATIONAL COPYRIGHT. See *Copyright.*

INTERROGATORIES. See *Evidence and Witnesses.*

INTESTATES.
act for the uniform administration of estates of, vol. i. 1432.

INVENTIONS. See *Copyright. Patents.*

ISSUES. See *Sheriffs. Pleading, Practice, &c.*

JEWS.
relief of, when elected to municipal offices, vol. i. 1079, vol. iii. 461.
places of worship of, vol. iv. 117.

JOINT CONTRACTORS.
effect of acknowledgment or promise in writing by some only, on the operation of the Statute of Limitations, vol. iii. a. 18.
one of several, may be sued in county court, vol. i. 1197.

JOINT STOCK BANKS. See *Bankers.*

JOINT STOCK COMPANIES. See *Companies.*

JOINT TENANTS. See *Limitations.*
possession of one joint tenant not to be the possession of the others, vol. iii. 36.
remedy by account, against one another, vol. i. 11.
partition of advowsons, vol. i. 14.
presentation to be by turns, *ib.*

JOINTURE. See *Dower.*

JUDGE'S ORDER.
consent to, when void in case of bankruptcy, vol. i. 310.
when and how to be filed, vol. i. 311.

JUDGMENTS. See *Bond. Pleading, Practice, &c. Warrant of Attorney.*
costs in actions on, not allowed unless by rule of court, vol. ii. 888.
when to be signed,
after return of writ of inquiry, vol. ii. 889 and n. (*b*).
after certificate for speedy execution by judge, vol. ii. 890.
when to be entered of record, *ib.*
relation of judgments, vol. ii. 888.
when a charge on real estate, vol. ii. 891—893.
charge not to be enforced till after the expiration of a year, vol. ii. 892, 893.
judgment must be registered, vol. ii. 897, 904, 905.
notice of judgment, to be ineffective, vol. ii. 902.
release of part of land charged not to affect judgment, vol. ii. 907.
no judgments to be hereafter docketed under 4 & 5 W. & M. c. 20, vol. ii. 899.
udgments already docketed must be also registered, *ib.*
master must insert in book the date when the memorandum of judgment is left, *ib.*
void after five years from entry, unless registered afresh, *ib.*
how far judgments duly registered to affect purchasers or mortgagees, vol. ii. 900.
not to affect purchasers or mortgagees until execution issued and registered, vol. ii. 908.
when a charge on government or other stocks, &c. by order of a judge, vol. ii. 893, 901, 902.
order to be made in the first instance *ex parte*, vol. ii. 894.
on notice to the bank or company to operate as a *distringas*, *ib.*
may be discharged or varied, vol. ii. 895.
what stock may be charged, vol. ii. 901, 902.
ca. sa. a waiver of the charge of judgment creditor, vol. ii. 895.
judgment debts to carry interest, *ib.*
decrees and orders of courts of equity, &c. &c. to have the effect of judgments, *ib.*
removal of from inferior courts, vol. ii. 898.
satisfaction on judgment, how entered, vol. ii. 909.
judgment for felonies or misdemeanors when to be pronounced, vol. ii. 889.
27 & 28 Vict. c. 112.
future judgments, &c. not to affect land until land delivered in execution, vol. iv. 970.
interpretation of terms, *ib.*
"judgment," *ib.*
"land," *ib.*
"debtor," *ib.*
writs of execution to be registered in manner prescribed by 23 & 24 Vict. c. 38, in the name of the debtor, and not the creditor, and no other registration necessary, *ib.*
creditor to whom land delivered in execution duly registered entitled to obtain summary order from court of chancery for sale, *ib.*
practice, &c. *ib.*
where there are other creditors, notice of sale to be served upon them, *ib.*

JUDGMENTS—*continued.*
proceeds of sale to be distributed among the persons entitled, vol. iv. 970.
parties claiming interest through debtor bound by order for sale, *ib.*
extent of act, *ib.*
revival of,
when unnecessary within six years after recovery, vol. ii. 902.
party may sue out writ of revivor, *ib.*
proceedings thereon, vol. ii. 903.
when allowed without rule or order, *ib.*
when rule or order necessary, *ib*
or may apply for suggestion to revive, vol. ii. 902.
rule or summonses for, *ib.*
proceedings upon application, *ib.*
proceedings if rule is discharged, vol. ii. 903.
mode of obtaining satisfaction of judgment debts by proceedings against debtors of judgment debtor, vol. ii. 903. See *Attachment.*
when surety entitled to benefit of judgment against principal, vol. ii. 907.

JUDICIAL SEPARATION. See *Courts (Divorce).*

JURIES. See *Pleading, Practice, &c.*
qualifications, vol. ii. 910.
in liberties, cities, and boroughs, vol. ii. 910, n. (*b*), 924.
in London, vol. ii. 924.
on inquests, &c. to remain as before, vol. ii. 925.
persons unqualified for civil causes not to serve on trials for capital offences, vol. ii. 924, 925.
of special jurors, vol. ii. 919.
aliens disqualified except in certain cases, vol. ii. 911.
also certain convicts and outlaws, *ib.*
exemptions from serving on, in general, *ib.*
sheriff to register names of jurors who have served, and give certificate, &c. vol. ii. 921, 922.
jurors not to be summoned again within certain periods, vol. ii. 922.
sheriff, &c. finable for wilfully transgressing, *ib.*
justice of peace exempt from serving at session, vol. ii. 924.
inhabitants of Westminster exempt from serving at sessions for county, *ib.*
members of council, &c. &c. exempt from serving in borough, or county wherein borough is situate, vol. i. 1018.
members of council in certain cases to serve on grand jury at borough session, *ib.* n. (*c*).
burgesses of boroughs having quarter sessions exempt from serving at quarter sessions for county, vol. i. 1018.
no money to be taken to excuse serving, vol. ii. 922.
registered pharmaceutical chemists, managing clerks to attorneys, and subordinate officers in gaols exempt from serving on juries, vol. ii. 935.
lists of, vol. ii. 912.

JURIES—*continued.*
clerk of peace to issue precepts to parish officers in July, vol. ii. 935.
forms of precepts, &c. to be printed, vol. ii. 911, 912, 936.
parishes to be deemed within that hundred where church is situate, vol. ii. 912.
extra-parochial place may be annexed to a parish, *ib.*
churchwardens and overseers to make out lists, vol. ii. 936.
lists to be fixed to church doors, &c. vol. ii. 912.
petty sessions to be held within seven last days of September, vol. ii. 913.
lists to be there produced, *ib.*
justices not to reform such lists without notice to parties, *ib.*
lists when allowed at petty sessions to be sent by justices' clerk to clerk of peace, vol. ii. 936.
assessments to be inspected, vol. ii. 913.
lists to be kept by clerk of peace, *ib.*
book to be kept to be called "the jurors' book," *ib.*
to be used for one year, *ib.*
clerk of peace, &c. to make out a list of all who serve at sessions on grand or petty juries, vol. ii. 922.
and transmit the same to sheriff to be registered in jurors' book, *ib.*
penalty on clerk of peace, sheriff, &c. for neglect of duty, vol. ii. 923.
book to be kept by sheriff for use of parties in actions, vol. ii. 915.
to be delivered to parties on trials for high treason, &c. *ib.*
regulations for returning lists, &c. not to extend to liberties, cities, &c. vol. ii. 924.
functions of high constable with respect to jury lists abolished, vol. ii. 935.
process. See *Pleading, Practice, &c.*
writ of venire, vol. ii. 913, 914.
abolished, vol. ii. 930.
precept for return of jurors, vol. ii. 930, 931.
to direct jurors to be summoned for civil as well as criminal trials, *ib.*
jury to come from body of county, and not from any hundred, &c. vol. ii. 914.
sheriff to prepare a printed panel of jurors summoned, vol. ii. 931.
printed copy of panel to be annexed to record, *ib.*
when two sets may be summoned, vol. ii. 916.
if plaintiff sue forth a venire, and shall not proceed, he may sue forth another and try at any subsequent assizes, vol. ii. 914.
defendant may do the same, *ib.*
sheriff indemnified in returning any unqualified person not liable, vol. ii. 921.
if sheriff return one not in jurors' book, or if clerk of assize records appearance when party did not appear, they may be fined, *ib.*
common jury,
court or judge empowered to make rule or order for summoning, vol. ii. 933.

JURIES—*continued.*
mode of returning and empanelling, vol. ii. 914, 930, 931.
to be returned from jurors' book by sheriff, &c. vol. ii. 914.
sheriff to prepare a printed panel of jurors summoned, vol. ii. 931.
copy of panel to be annexed to record, *ib.*
panel to be kept in sheriff's office for inspection, *ib.*
fee for copy of panel, *ib.*
returns of jurors in counties palatine, Wales, &c. vol. ii. 915.
to be summoned to try all issues, civil or criminal, vol. ii. 930, 931.
two sets of jurors may be summoned, one for the beginning and the other for residue of assizes, vol. ii. 916.
summons to be made out either for the first or second set, *ib.*
time and mode of summoning, vol. ii. 916, 936.
to be summoned ten days before day of attendance, vol. ii. 916.
for London and Middlesex to be summoned as heretofore, *ib.*
names of jurors summoned in courts of assize or *nisi prius* to be put in a box, and twelve to be drawn out in open court and balloted for juries in civil court, vol. ii. 917.
where jury have not brought in their verdict, twelve others to be drawn, *ib.*
same jury, if not objected to, may try several issues in succession without being redrawn, *ib.*
no money to be taken to excuse persons from serving, vol. ii. 922.
none to be summoned but those named in warrant, *ib.*
none to be summoned twice within certain periods, *ib.*
may be summoned at adjourned sessions, vol. ii. 930.
special jury,
court or judge empowered to make rule or order for summoning, vol. ii. 933.
qualifications of special jurors, vol. ii. 919.
special jurors, not exceeding forty-eight, to be summoned, vol. ii. 931.
to try all special jury causes at assizes, *ib.*
right of challenging,
challenges must be for cause, *ib.*
printed panel of, *ib.*
need not be summoned if no notice of trial by, is given, vol. ii. 931, 932.
to be balloted for in the same manner as common jury, vol. ii. 931.
mode of obtaining, in country causes, *ib.*
how struck in London and Middlesex, *ib.*
notice to sheriff of trial by, *ib.*
trial by common jury in default of notice, *ib.*
if notice given to delay, *ib.*
rule for, on behalf of defendant, vol. ii. 932.
marking cause as, in London and Middlesex, *ib.*

JURIES—*continued.*
same special jury may, by consent, try any number of causes, vol. ii. 920.
three days' summons necessary, vol. ii. 916.
summons may be sent by post, vol. ii. 936.
provisions as to summoning jurors again in certain cases, not to extend to grand or special juries, vol. ii. 921, 922.
court may discharge any man on his application, who has served on one or more juries, vol. ii. 920.
costs of special jury, *ib.*
fees to, vol. ii. 921.
jury *de meditetate linguæ*,
how to be composed, vol. ii. (9), 924.
how many aliens to be on, *ib.*
on views,
where jurors are to view, court may order a sum to be deposited by parties to cover expences, vol. ii. 916.
amount to be deposited, vol. ii. 932.
viewers to be sworn upon jury first, vol. ii. 916.
judge to appoint trial during attendance of viewers, *ib.*
view to be obtained by rule of court or judge's order, vol. ii. 932.
writ of view abolished, *ib.*
inspection by, of real or personal property, vol. ii. 933.
talesmen,
where a full jury does not appear, court, on request, may fill it up from persons present, vol. ii. 921.
qualification of, *ib.*
fines, &c. for non-attendance, *ib.*
courts of nisi prius in London may fine jurors, vol. ii. 925.
no money to be taken to excuse attendance, vol. i. 922.
fines for non-attendance on inquests, vol. ii. 925.
juries summoned to try causes in London, &c. may be fined for non-attendance, *ib.*
penalty for non-attendance in courts of towns corporate, *ib.*
fine may be levied by distress and sale, *ib.*
fine to be paid to the proper officer of the court, *ib.*
how fines to be recovered and applied, *ib.*
form of conviction, vol. ii. 926.
conviction not to be quashed for want of form, *ib.*
remedy for irregularity causing damage, *ib.*
persons sued may plead the general issue, *ib.*
actions to be commenced within six months, with one month's notice, *ib.*
challenges to,
want of qualification to be cause of challenge, vol. ii. 917.
but not want of freehold, *ib.*
nor to extend to special jurors, *ib.*
nor to want of a knight on a jury, *ib.*
want of hundredors, no cause of, vol. ii. 914.
inquests not to remain untaken, although jurors challenged for the king, vol. ii. 918.

JURIES—*continued.*
but the cause may be assigned, and truth inquired into, vol. ii. 918.
in murder and felony twenty peremptory challenges allowed, *ib.*
in treason thirty-five, vol. ii. (104).
mode of balloting for, and swearing of,
names of jurors to be delivered to associate, and balloted for juries, vol. ii. 917, 931.
where jury have not brought in their verdict, twelve others to be drawn, vol. ii. 917.
same jury, if not objected to, may try several issues, *ib.*
viewers in case of appearance to be sworn on jury first, vol. ii. 916.
punishment of,
attaint abolished, vol. ii. 926.
corrupt jurors may be indicted, *ib.*
affirmation by jurors instead of oath need not be stated in legal proceedings, vol. i. 1382.
25 & 26 Vict. c. 107,
The Juries Act, 1862, 572.
exemptions from serving on juries: chemists, managing clerks to attorneys, officers in gaols, vol. ii. 935.
provisions as to high constables repealed, *ib.*
clerk of the peace to issue precepts to parish officers by post, *ib.*
to make out list of all men liable to serve, *ib.*
precepts, &c. to be printed at the expense of the county, &c. vol. ii. 936.
duties and liabilities of parish officers to continue, *ib.*
no notice of special petty sessions, *ib.*
justices may adjourn petty sessions for the production of list, *ib.*
justices' clerk to take charge of and send jury lists to the clerk of the peace, *ib.*
clerk of the peace to deal with the jury lists as before, *ib.*
liability for default, *ib.*
all jurors may be summoned by post, *ib.*
evidence of the summons having been delivered, *ib.*
days allowed for the transmission by post, *ib.*
fines for not attending may be remitted upon cause shown, vol. ii. 937.
fines not to be estreated until after fourteen days, *ib.*
notice of, *ib.*
sheriffs to be allowed costs of summonses, *ib.*
extent of act, *ib.*
jury lists to be made, &c. in the city of London as before, *ib.*
commencement of act, *ib.*

SCHEDULE,
Precept for returning Lists of Jurors, ib.

JURY (ANNOYANCE), WESTMINSTER,
24 & 25 Vict. c. 78,
repeal of part of 27 Eliz. c. 17; 29 Geo. 2, c. 25; and 31 Geo. 2, c. 17, vol. ii. 933.
not to extend to offences committed before the passing of this act, vol. ii. 934.
dean and court of burgesses to appoint, remunerate, suspend, or discharge inspectors, *ib.*
oath to be taken by inspector, *ib.*

JURY (ANNOYANCE), WESTMINSTER—*continued.*
inspectors to visit shops and warehouses; power to seize weights and summon offenders; maximum of fines fixed, vol. ii. 934.
inspector to inspect weights and measures of persons in the streets; power to break unjust weights and summon offenders; maximum of fines fixed, *ib.*
power to court to summon and examine witnesses, *ib.*
summons to be under the seal of this court, *ib.*
service of summonses, *ib.*
penalty on witnesses for not attending and giving evidence, vol. ii. 934, 935.
forms of summons and conviction, vol. ii. 935.
penalties for obstructing inspector, *ib.*
penalties for misconduct of inspector, *ib.*
fines to be paid to high bailiff and court of burgesses, *ib.*
penalties for obstructing and for misconduct of inspector recoverable under the Metropolitan Police Act, *ib.*
office of sizer and sealer to be held during the pleasure of the court of burgesses, *ib.*
reserving rights of the court of burgesses, *ib.*

JUSTICES OF THE PEACE. See *Corporations. Criminal Law.*
Abettor,
in offences punishable on summary conviction, vol. ii. 964.
Abroad,
warrant to apprehend for offence committed, vol. ii. (30).
form of it, vol. ii. (43).
Account,
to be kept by the clerk of the petty sessions, and by the keepers of prisons, of the money received from prisoners imprisoned under convictions or orders, vol. ii. 972, 973.
form of it, vol. ii. 988.
Accused,
statement of, vol. ii. (36).
caution given to him previously, *ib.*
form of it, vol. ii. (46).
Action.
against justices of the peace, in what cases, vol. ii. 989, 990.
in what not, *ib.*
in what cases the action must be an action on the case, and the declaration allege the act to be done maliciously, vol. ii. 988, 989.
if an action be brought where prohibited, a judge may set aside the proceedings, vol. ii. 991.
proceedings in the action:
it must be brought within six months, *ib.*
notice of action, *ib.*
venue, vol. ii. 992.
plea and evidence under it, *ib.*
tender and payment of money into court, *ib.*
in what cases nonsuit, or verdict for defendant, *ib.*
damages, *ib.*
costs, *ib.*

JUSTICES OF THE PEACE—*continued.*
Addition of Trade, &c.
and place of residence, of witnesses, &c. to be inserted in recognizance, vol. ii. (36), (37).
Adjournment of Examination,
in indictable cases, at the request of the accused, for variance between the evidence and the summons, vol. ii. (33).
or warrant, *ib.*
form of the warrant remanding the accused in the meantime, vol. ii. (48).
recognizance on admitting him to bail, *ib.*
Adjournment of Hearing,
in the case of summary convictions and orders, vol. ii. 967.
commitment of the party, or admittance to bail, *ib.*
form of the commitment, vol. ii. 975.
recognizance on admitting him to bail vol. ii. 976.
certificate to be indorsed in case of his non-appearance, *ib.*
for variance between the evidence and the information, vol. ii. 962, 965.
complaint or summons, vol. ii. 962.
warrant, vol. ii. 963.
in case of the non-appearance of the defendant, vol. ii. 967, 968.
of the prosecutor or complainant, vol. ii. 968.
when the defendant is apprehended and brought before a justice, vol. ii. 966.
Admission,
of guilt, before or at the time of examination, in indictable cases, vol. ii. (36).
caution given to the prisoner in respect of, *ib.*
by defendant, of truth of information or complaint, at hearing, vol. ii. 967.
Affirmation,
instead of oath. See *Oath.*
Agent,
information or complaint may be by, vol. ii. 965.
Aiders
in offences punishable upon summary conviction, how prosecuted and punished, vol. ii. 964.
Alderman of London
may sit alone, as justice of the peace, vol. ii. (40), 973.
Alderney,
island of, backing of warrants in and from, vol. ii. (34).
11 & 12 Vict. c. 43 not to extend to it, except as to the backing of warrants, vol. ii. 974.
Answer
of defendant to information or complaint, may be by counsel or attorney, vol. ii. 966.
to questions, witness refusing to make, in indictable cases, vol. ii. (35).
in cases of summary conviction, &c. vol. ii. 965.
Appeal
against a commission or order, costs of, how recovered, vol. ii. 971.
certificate of the clerk of the peace of their being unpaid, vol. ii. 987.
warrant of distress for them, *ib.*
warrant of commitment for want of distress, vol. ii. 988.

JUSTICES OF THE PEACE—*continued.*
if commission or order confirmed, no action against justice convicting, vol. ii. 991.
justices, on application of a party dissatisfied as to the determination of point of law, to state a case for the opinion of superior court, vol. ii. 995.
security and notice to be given by the appellant, vol. ii. 996.
justices may refuse a case where they think the application frivolous, *ib.*
where the justices refuse, the court of queen's bench may by rule order a case to be stated, *ib.*
superior court to determine the questions on the case, vol. ii. 996, 997.
its decision to be final, vol. ii. 997.
case may be sent back for amendment, *ib.*
powers of superior court may be exercised by judge at chambers, *ib.*
after the decision of superior court, justices may issue warrants, *ib.*
no certiorari required, *ib.*
superior courts may make rules, &c. to regulate proceedings, vol. ii. 997, 998.
recognizances, how to be enforced, vol. ii. 998.
appellants under 20 & 21 Vict. c. 43, not allowed to appeal to quarter sessions, *ib.*

Appearance,
in obedience to a summons in indictable cases, vol. ii. (35).
if the party fail to appear, a warrant may issue, vol. ii. (30).
in obedience to a summons, in summary cases, vol. ii. 966.
if the party fail to appear, a warrant may issue, vol. ii. 962.
or justices may proceed *ex parte, ib.*
failure of, in pursuance of a recognizance, upon the case being adjourned, in indictable cases, vol. ii. (37).
in summary cases, vol. ii. 963, 966, 967, 968.
of defendant, at the return of a warrant of distress, how procured, vol. ii. 969, 970.

Application,
to the court of queen's bench for a rule, requiring a justice to do a particular act, vol. ii. 990.
if made absolute, and the justice to do the act, he is not liable to an action for doing it, *ib.*

Applications
for orders *ex parte* not within statute 11 & 12 Vict. c. 43, vol. ii. 962.

Apprehension,
warrant for. See *Warrant to Apprehend.*
for an indictable offence, under a warrant, vol. ii. (30), (32).
where, vol. ii. (33).
by whom, *ib.*
where and by whom, in the case of a backed warrant, vol. ii. (33), (34).
before whom party to be brought, *ib.*
under a warrant in summary cases, vol. ii. 962, 963.
where, vol. ii. 963.
by whom, *ib.*
where and by whom the warrant is backed, *ib.*

Assizes,
binding prosecutor and witnesses over to, vol. ii. (36).

JUSTICES OF THE PEACE—*continued.*

Attendance,
of constable, to prove the service of a summons, vol. ii. 962.
of defendant upon summons. See *Appearance.*

Attorney,
may act in summary cases, for informant or claimant, vol. ii. 966.
for defendant, *ib.*

Authority,
of constable under a backed warrant, vol. ii. (33), (34).

Backing Warrants, ib. 954, 963.
in what cases, vol. ii. (33), (34).
by whom, *ib.*
how, *ib.*
form of the indorsement, vol. ii. (44).
what it authorizes, vol. ii. (33), (34).
by whom and where warrant may afterwards be executed, *ib.*
English warrants backed in Ireland, or Irish warrants backed in England, vol. ii. (33).
English warrants backed in the Isles of Man, Guernsey, Jersey, Alderney, or Sark, vol. ii. (34).
warrants from any of these islands backed in England, *ib.*
English or Irish warrants backed in Scotland, *ib.*
Scotch warrants backed in England or Ireland, *ib.*
against witnesses, vol. ii. (35).
in summary cases, vol. ii. 964.
in summary cases, same as in cases of indictable offences, vol. ii. 963.
of distress, vol. ii. 969.
in what cases, *ib.*
by whom, *ib.*
form of the indorsement, vol. ii. 982.
what it authorizes, vol. ii. 969.

Bail,
in what cases, vol. ii. (30), (31), (38).
in felony and certain misdemeanors, discretionary with justices to admit to, vol. ii. (38), (39).
in other misdemeanors, party entitled to be bailed, *ib.*
in treason, justices cannot bail, vol. ii. (39).
how taken, vol. ii. (38), (39).
form of the certificate of the consent to bail, by the committing justice, indorsed on the commitment, vol. ii. (50).
on a separate paper, vol. ii. (51).
recognizance and condition, vol. ii. (50).
condition where the defendant is entitled to a traverse, *ib.*
notice of the recognizance, *ib.*
warrant of deliverance, where a prisoner is bailed, vol. ii. (39).
form of it, vol. ii. (51).
recognizance, when and to whom to be transmitted, vol. ii. (37).
where the offence has been committed out of the justice's jurisdiction, vol. ii. (38).
instead of remand or commitment, where the examination is adjourned, vol. ii. (37).
form of the recognizance and condition, vol. ii. (48).
notice of the recognizance, *ib.*
indorsement on it, in case the party does not appear, vol. ii. (49).

JUSTICES OF THE PEACE—*continued.*
in summary cases, where the hearing is adjourned, vol. ii. 967, 968.
form of the recognizance, vol. ii. 976.
certificate of non-appearance, where necessary, *ib.*
Bastardy,
complaints, orders, and warrants in, not within 11 & 12 Vict. c. 43, except as to the backing of warrants, vol. ii. 973, 974.
Berks,
the chief magistrate of Bow Street may be a justice of, vol. ii. (40), (41).
Berwick-upon-Tweed,
provisions respecting, vol. ii. (41), 974, 992.
Binding
the prosecutor and witnesses by recognizance, vol. ii. (36).
the like, where the offence was committed out of the justice's jurisdiction, vol. ii. (37), (38).
commitment of witness refusing to enter into recognizance, vol. ii. (37).
form of the warrant, vol. ii. (47).
form of the recognizance and conditions, vol. ii. (46), (47).
notice of it, vol. ii. (47).
recognizance, when and to whom to be transmitted, vol. ii. (37).
Borsholder,
when bound to execute warrant out of his district, vol. ii. (33), 963.
Bow Street,
chief magistrate of, may be a justice of the peace for Berks, vol. ii. (40), (41).
Breach of Duty
as a peace officer, discretionary with justice to take bail for, vol. ii. (38).
Building
erected at the expence of a county, property in, how described in a conviction, vol. ii. 964.
belonging to commissioners of a turnpike, how described in a conviction, *ib.*
wherein justices sit to hear cases, a public court in cases of summary convictions or orders, vol. ii. 966.
but not in cases of examinations for indictable offences, vol. ii. (36).
Case,
action on, in what cases the only action against a justice of the peace, vol. ii. 988, 989.
declaration must allege the act to have been done maliciously and without probable cause, and it must be proved, vol. ii. 989.
costs for plaintiff, vol. ii. 992.
for defendant, *ib.*
Cause
shown against a rule requiring justices to do an act, vol. ii. 990.
Caution,
given to accused persons, previously to their making any statement to the examining justice, vol. ii. (36).
form of it, *ib.*
Certificate
of consent to bail, to be indorsed on warrant, vol. ii. (39).
form of it, vol. ii. (50).
the like on a separate paper, vol. ii. (39).
form of it, vol. ii. 51.
JUSTICES OF THE PEACE—*continued.*
of clerk of the peace, that costs of an appeal have not been paid, in what cases, vol. ii. 971.
form of it, vol. ii. 987.
of dismissal of information or complaint, in what cases, vol. ii. 967.
form of it, vol. ii. 981.
effect of it, vol. ii. 967.
of gaoler, of his having received a prisoner from a constable, vol. ii. (39), (40).
and form of it, vol. ii. (51).
of indictment being found, to authorize a justice to grant a warrant against the offender, vol. ii. (30).
form of it, vol. ii. 43.
of non-appearance, where the examination is adjourned, vol. ii. (37).
form of it, vol. ii. (49).
effect of it, vol. ii. (37).
of non-appearance in summary cases, where the hearing is adjourned, vol. ii. 963, 965.
form of it, vol. ii. 976.
of non-appearance at the return of a distress warrant, vol. ii. 969.
of secretary of state to tables of clerks' fees, vol. ii. 972.
Charge
of an indictable offence, for which warrant may issue, vol. ii. (30),
Charges of Distress,
to be ascertained and stated in commitment for want of distress, vol. ii. 970.
Clerks' Fees,
tables of, to be framed, vol. ii. 955, 972.
of clerks of the peace, clerks of the special sessions, clerks of petty sessions, and clerks to any justice out of sessions, vol. ii. 972.
clerks taking more, penalty, *ib.*
Clerk of the Peace,
his certificate that the costs of an appeal have not been paid, vol. ii. 971.
form of it, vol. ii. 987.
proceedings thereon for recovery of the costs, vol. ii. 971, 972.
Clerk of the Petty Sessions,
penalties, &c. to be paid to, by constables or gaolers who receive them, vol. ii. 972, 973.
how to be paid or appropriated by him, *ib.*
account to be submitted monthly to petty sessions, vol. ii. 973.
form of it, vol. ii. 988.
Commencement,
of imprisonment for a subsequent offence, vol. ii. 971.
Commissioners of Sewers,
property of, how described in convictions and orders, vol. ii. 964.
Commitment,
for indictable offences, vol. ii. (39).
form of the warrant, vol. ii. (51).
upon an indictment found, vol. ii. (30), (31).
form of the warrant, vol. ii. (43).
in summary cases,
where the punishment is by imprisonment, vol. ii. 970.
form of the warrant, vol. ii. 984.
by whom issued, vol. ii. 972.

JUSTICES OF THE PEACE—*continued.*
in case of adjournment of hearing, vol. ii. 963, 966, 967, 968.
form of the warrant, vol. ii. 975.
instead of issuing warrant of distress, vol. ii. 969.
until return made to warrant of distress, *ib.*
in default of distress, vol. ii. 969, 970.
form of constable's return to warrant of distress, vol. ii. 982.
of the warrant of commitment, *ib.*
where the statute gives no remedy in default of distress, vol. ii. 970.
in default of distress, for costs, vol. ii. 971.
form of the warrant, vol. ii. 986.
for want of distress upon dismissal of complaint, vol. ii. 971.
form of the warrant, vol. ii. 986.
in default of distress, for costs of an appeal, vol. ii. 971.
form of the warrant, vol. ii. 988.
in the first instance, for non-payment of a penalty, &c. vol. ii. 970.
form of the warrant, vol. ii. 983.
of a prisoner for a subsequent offence, vol. ii. 971.
for penalty, &c. after appeal against the conviction or order, *ib.*
of witnesses
for refusing to be examined, &c. in indictable offences, vol. ii. (35).
form of the warrant, vol. ii. (45).
to enter into recognizance, vol. ii. (37).
form of the warrant, vol. ii. (47).
in summary cases, vol. ii. 965.
form of the warrant, vol. ii. 977.

Committing Justice
bail by, or upon his certificate, vol. ii. (38), (39).

Competent Witness
who, upon the hearing of a complaint or information, vol. ii. 967.

Complaint
for an indictable offence, on which to issue a warrant or summons, vol. ii. (29), (30).
form of it, vol. ii. (42).
must be in writing, and on oath, if a warrant is to issue in the first instance, vol. ii. (32).
no objection for defect, or for variance between it and the evidence, *ib.*
n summary cases, to obtain an order, vol. ii. 962.
need not be in writing, vol. ii. 965.
if in writing no objection to be made to it for any defect in it, or for variance between it and the evidence, vol. ii. 962.
not necessary it should be upon oath, vol. ii. 965.
ownership of property of partners, &c. how stated in it, vol. ii. 963, 964.
must be for one matter of complaint only, vol. ii. 965.
may be made either by complainant in person or by his counsel or attorney, *ib.*
dismissal of, in what cases, vol. ii. 966, 967, 968.
order of dismissal, *ib.*
form of it, vol. ii. 980.

JUSTICES OF THE PEACE—*continued.*
certificate of dismissal, vol. ii. 981.

Complainant
to have notice of the apprehension of the defendant, and of the time appointed for the hearing, vol. ii. 966.
if he do not attend, complaint dismissed, or hearing adjourned, *ib.*
a competent witness in all cases, vol. ii. 967.

Conditions of Recognizance
forms of, to prosecute, vol. ii. (46).
prosecute and give evidence, vol. ii. (47).
give evidence, *ib.*
appear at the time to which an examination is adjourned, vol. ii. (48).
to which the hearing of a complaint or information is adjourned, vol. ii. 976.

Conditions of Recognizance of Bail, vol. ii. (38), (39).
form of, in ordinary cases, vol. ii. (50).
where defendant is entitled to a traverse, *ib.*

Conditions in a Statute
where set out in information or complaint, how and by whom the evidence in respect of it to be given, vol. ii. 967.

Confession
of information or complaint at the hearing, *ib.*

Consent
of committing justice to take bail, how certified, vol. ii. (38), (39).
form of the certificate, vol. ii. (50), (51).

Constable,
action against, demand of warrant, vol. ii. 951, 952.
duty of, with respect to justices acting in one county for another, vol. ii. (31).
in detached parts of counties, vol. ii. (31), (32).
in serving summonses in indictable cases, vol. ii. (32).
in proving the service, *ib.*
in executing a warrant, vol. ii. (32), (33).
a backed warrant, vol. ii. (33), (34), (35).
duty of, in summary cases,
in serving summons, vol. ii. 962.
in proving the service, vol. ii. 962, 966.
in executing a warrant, vol. ii. 962, 963.
in executing distress warrant, vol. ii. 969, 972.
and making return thereto, vol. ii. 969.
form of return, vol. ii. 982.
in paying to the clerk of the petty sessions the sums levied by him or received for prisoners, vol. ii. 972.
expences of, in conveying a prisoner to gaol, &c. how paid, vol. ii. (38), (39), (40).
order for payment, vol. ii. (49), (51), (52).

Conveying Prisoner
to gaol, vol. ii. (39).
costs of doing so, how paid, vol. ii. (40).
order for payment, vol. ii. (51), (52).
before a magistrate in another county, vol. ii. (37), (38).
costs of doing so, how paid, *ib.*
order for payment, vol. ii. (49).

JUSTICES OF THE PEACE—*continued.*
Conviction
on an information in summary cases, vol. ii. 967, 968.
forms of it, vol. ii. 978, 979.
costs, vol. ii. 969.
to be drawn up and lodged with the clerk of the peace, vol. ii. 967.
how enforced, vol. ii. 969, 970.
form of the warrant of distress, vol. ii. 981.
of the warrant of commitment in default of distress, vol. ii. 982.
in other cases, vol. ii. 983, 984.
of warrant of distress for costs, vol. ii. 984.
of the warrant of commitment in default of distress, vol. ii. 986.
to be quashed, before action brought against the justice for any thing done under it, vol. ii. 990.
action for defect in, to be brought against the justice who made it, not against a justice who merely grants a warrant upon it, *ib.*
Copy
of depositions, in what cases and when to be given to the accused, vol. ii. (40).
Costs
of conveying a prisoner to gaol, how paid, *ib.*
order for them, vol. ii. (51), (52).
before a justice of another county, vol. ii. (37), (38).
order for them, vol. ii. (49).
upon an information or complaint in summary cases, vol. ii. 969.
upon a dismissal of it, *ib.*
what costs to be stated in a commitment, vol. ii. 970.
remedy for costs, where the conviction is not for a penalty or the order for the payment of the money, vol. ii. 971.
warrant of distress, vol. ii. 984, 985.
commitment for want of distress, vol. ii. 986.
remedy for the costs of a dismissal, vol. ii. 971.
warrant of distress, vol. ii. 986.
commitment for want of distress, *ib.*
of an appeal against a conviction or order, how recovered, vol. ii. 971.
order for them, *ib.*
certificate of clerk of the peace that the costs are unpaid, *ib.*
form of it, vol. ii. 987.
warrant of distress thereupon, *ib.*
of commitment for want of distress, vol. ii. 988.
of action against a justice of the peace, vol. ii. 992.
for plaintiff, *ib.*
for defendant, *ib.*
of rule against a justice, requiring him to do a particular act, vol. ii. 990.
Counsel
may act for prosecutor or claimant, in summary cases, vol. ii. 966.
or for defendant, *ib.*
Counselling
the commission of an offence punishable on summary conviction, offender, how prosecuted and punished, vol. ii. 964.

JUSTICES OF THE PEACE—*continued.*
County,
detached part of, jurisdiction of justices in, vol. ii. (31).
property of, how described in convictions, orders, &c. vol. ii. 964.
County Court,
action against a justice of the peace in, vol. ii. 992.
not if he object to it, *ib.*
Court,
where examinations taken in indictable cases, not an open or public court, vol. ii. (36).
where the hearing upon informations or complaints in summary cases is had, an open and public court, vol. ii. 966.
money paid into, in an action against a justice of the peace, vol. ii. 992.
of Queen's Bench,
application to, for a rule requiring a justice to do a particular act, vol. ii. 990.
if rule absolute, no action will lie against the justice for obeying it, *ib.*
Customs,
offences against, not within statute 11 & 12 Vict. c. 43, vol. ii. 973.
Damages
in action against a justice of the peace, vol. ii. 992.
Death
of witness before trial, his examination may be read, vol. ii. (36).
Declaration
in an action on the case against a justice of the peace, what it must allege, vol. ii. 989.
costs for plaintiff in such a case, if he recover, vol. ii. 992.
Defects
in information or complaint, in indictable cases, not to be objected to, vol. ii. (32).
summons or warrant, not to be objected to, vol. ii. (32), (33).
in information, complaint, or summons, in summary cases, not to be objected to, vol. ii. 962.
warrant, not to be objected to, vol. ii. 963.
Defence,
to an information or complaint, in summary cases, may be by counsel or attorney, vol. ii. 966.
Deliverance,
warrant of, where a prisoner is bailed, vol. ii. (39).
form of it, vol. ii. (51).
Depositions of Witnesses
in indictable cases, taking, vol. ii. (35), (37), (38).
form of them, vol. ii. (48).
when and to whom to be transmitted, vol. ii. (37).
when transmitted to a justice of the county where the offence was committed, vol. ii. (37), (38).
when defendant entitled to copies, vol. ii. (40).
when they may be read in evidence on the trial, vol. ii. (36).
Deposition of Constable,
as to the service of a summons in summary cases, vol. ii. 962.

JUSTICES OF THE PEACE—*continued.*
Detached parts of Counties,
jurisdiction of justices in, vol. ii. (31), (32).
Detention,
warrant of, where an indictment is found against a person already in custody, vol. ii. (31).
form of certificate of indictment being found, vol. ii. (43).
of the warrant, vol. ii. (44).
of defendant, order for, until return be made to a distress warrant, vol. ii. 969.
Direction,
of a summons, in indictable cases, vol. ii. (30), (32).
warrant to apprehend, vol. ii. (32).
of a summons in summary cases, vol. ii. 962.
warrant to apprehend in summary cases, vol. ii. 963.
warrant of distress, vol. ii. 969.
warrant of commitment for want of distress, vol. ii. 969, 970.
warrant of commitment for a penalty, &c. in the first instance, vol. ii. 970.
where there is no penalty, *ib.*
Discharge,
of witness after trial, &c. where he has been imprisoned for refusing to enter into recognizance, vol. ii. (37).
order for, vol. ii. (47).
of defendant on recognizance in indictable cases, vol. ii. (37).
form of the recognizance, vol. ii. (48).
of the certificate of non-appearance to be indorsed, if necessary, vol. ii. (49).
of defendant on recognizance in summary cases, vol. ii. 963, 965, 967, 968.
until return be made to a distress warrant, vol. ii. 969.
of the accused from prison on being bailed, vol. ii. (39).
form of warrant of deliverance, vol. ii. (51).
of party charged with indictable offence, after examination, vol. ii. (39).
of defendant, in summary cases, on payment of penalty, vol. ii. 972.
Discretionary power of Justices,
no action against them for the manner in which they exercise it, vol. ii. 990.
to admit to bail, vol. ii. (38), (39).
Dismissal,
of complaint or information, vol. ii. 967, 968.
costs, vol. ii. 969.
order of dismissal, vol. ii. 967.
form of it, vol. ii. 980.
certificate of dismissal, vol. ii. 967.
form of it, vol. ii. 981.
remedy for costs by distress, vol. ii. 971.
form of the warrant of distress, vol. ii. 986.
of the warrant of commitment for want of distress, *ib.*
Distress,
warrant of, in what cases, vol. ii. 969.
in what not, *ib.*
by whom granted, vol. ii. 969, 972.
form of it upon a conviction, vol. ii. 981.
upon an order, *ib.*
how backed, vol. ii. 969.
form of indorsement, vol. ii. 982.

JUSTICES OF THE PEACE—*continued.*
commitment or security, until return made to it, vol. ii. 969.
commitment in default of distress, vol. ii. 969, 970.
form of the constable's return to the warrant, vol. ii. 982.
warrant of commitment for want of, *ib.*
warrant of, upon a conviction or order, after appeal, vol. ii. 971.
on payment of the penalty, &c. warrant not to be executed, vol. ii. 972.
party, if imprisoned, to be discharged, *ib.*
amount to be paid over to the clerk of the petty sessions, *ib.*
warrant of, for costs, in what cases, vol. ii. 969, 970, 971.
form of it, vol. ii. 984 985.
commitment for want of distress, vol. ii. 971, 986.
warrant of, for the costs of a dismissal, vol. ii. 971.
form of it, vol. ii. 986.
commitment for want of distress, vol. ii. 971, 978.
warrant of, for costs of an appeal against a conviction or order, vol. ii. 971.
form of certificate of the clerk of the peace that the costs are unpaid, vol. ii. 987.
of warrant of distress, *ib.*
commitment in default of distress, vol. ii. 971, 988.
warrant of, in what cases no action against the justice granting it, vol. ii. 990, 991.
Duplicity,
in an information or complaint not allowed, vol. ii. 965.
England and Wales.
Irish warrants, how backed in, vol. ii. (33).
warrants of the Isles of Man, Guernsey, Jersey, Alderney, or Sark, how backed in, vol. ii. (34).
Scotch warrants, how backed in, *ib.*
form of the indorsement, vol. ii. (44).
English Warrants,
how backed in England, vol. ii. (33).
in Ireland, *ib.*
in the Isles of Man, Guernsey, Jersey, Alderney, or Sark, vol. ii. (34).
in Scotland, *ib.*
form of the indorsement, vol. ii. (44).
Evidence,
variance between, and the information or complaint, in indictable cases, not to be objected to, vol. ii. (32).
between it and the summons not to be objected to, *ib.*
between it and the warrant not to be objected to, vol. ii. (32), (33).
in summary cases, vol. ii. 967.
variance between, and the information, in summary cases, in the time, the parish, or other matter, not to be material, vol. ii. 965.
when the hearing may be adjourned for such variance, *ib.*
variance between, and the complaint, or summons, or warrant, not to be objected to, vol. ii. 962, 963.

JUSTICES OF THE PEACE—*continued.*
under the general issue in actions against justices of the peace, vol. ii. 992.
tender or payment of money into court may be given in evidence, *ib.*
Examination,
of witnesses in indictable cases, vol. ii. (35).
form of the depositions, vol. ii. (46).
depositions when to be read at the trial, vol. ii. (36).
place where examination taken, not an open or public court, *ib.*
adjournment of the examination, the defendant remanded or bailed, vol. ii. (37).
where offence committed in another county, vol. ii. (37), (38).
to be taken before the defendant is bailed, vol. ii. (38), (39).
must be completed before the accused is entitled to a copy of the depositions, vol. ii. (40).
witness refusing to be examined, punishment, vol. ii. (35).
when taken by the justice who backs the warrant, vol. ii. (33).
of witnesses in summary cases, vol. ii. 967.
upon oath or affirmation, *ib.*
refusing to be examined, punishment, vol. ii. 965.
Exception,
negatived in information or complaint, the affirmative to be proved by defendant, vol. ii. 967.
Excise,
11 & 12 Vict. c. 43, not to extend to informations or complaints under the statutes of, vol. ii. 973.
Execution
of a warrant, in indictable cases, vol. ii. (33), (39), (40).
of a backed warrant, vol. ii. (33), (34), (35).
Exemption
negatived in information or complaint, the affirmative to be proved by defendant, vol. ii. 967.
Ex parte,
hearing of information or complaint, vol. ii. 962, 966.
orders may be made without summons, vol. ii. 962.
Expences,
of conveying prisoners to gaol, vol. ii. (40).
when defrayed out of money found on prisoners, *ib.*
order for, vol. ii. (51), (52).
of conveying prisoners before justice of another county, vol. ii. (37), (38).
order for, vol. ii. (49).
Factories,
proceedings under the laws relating to, not affected by stat. 11 & 12 Vict. c. 43, vol. ii. 973.
Fees,
table of, to be paid to clerks of the peace and sessions, &c. to be made, and submitted to the secretary of state, vol. ii. 972.
when established, no other fees to be taken under a penalty, *ib.*
Felony,
persons charged with, before what justices to be brought, vol. ii. (29), (30).
Filing
conviction or order, vol. ii. 967.

JUSTICES OF THE PEACE—*continued.*
Forms
of proceedings on charges of indictable offences, vol. ii. (42)—(52).
in cases of summary convictions and orders, vol. ii. 974—988.
Fresh Pursuit,
in what place constable may arrest under a warrant on, vol. ii. (32), (33), 963.
Gaoler,
to whom prisoner is delivered under a warrant, to give the constable a receipt for him, vol. ii. (39), (40).
form of the receipt, vol. ii. (51).
constable, producing receipt, to have an order for his expences, vol. ii. (39), (40)
money paid to, by prisoner, to be paid over to clerk of the petty sessions, vol. ii. 972, 973.
account of it to be rendered monthly to the petty sessions, *ib.*
form of the account, vol. ii. 988.
Gates, &c.
on turnpike roads, property in, how described in an information or complaint, vol. ii. 964.
General Issue,
in actions against justices, vol. ii. 992.
evidence under it, *ib.*
Goods
provided by a parish or union for the poor, property in, how described in an information or complaint, in summary cases, vol. ii. 964.
Guernsey,
English warrants backed in, vol. ii. (34).
warrants backed in England, *ib.*
in other respects not within 11 & 12 Vict. cc. 42, 43, vol. ii. (41), 974.
Headborough.
within what district he may execute a warrant, vol. ii. (32), (33), 963.
Hearing,
in summary cases, before whom and where, vol. ii. 966.
place of hearing a public court, *ib.*
defendant may make his defence, &c. by counsel or attorney, *ib.*
informant or claimant may appear by counsel or attorney, *ib.*
if the defendant do not appear, the justices may proceed *ex parte*, vol. ii. 962, 963, 966.
or grant a warrant against him, *ib.*
if the informant or complainant do not appear, the justices may dismiss the information or complaint, vol. ii. 966.
or adjourn the hearing, *ib.*
if neither appear at adjourned hearing, the justices may proceed and decide, vol. ii. 967, 968.
if both parties appear, the justices hear and determine the case, vol. ii. 967.
manner of proceeding at, *ib.*
adjournment of, in summary cases, for variance, vol. ii. 962.
for any other reason, vol. ii. 967.
form of warrant of committal for safe custody during, vol. ii. 975.
recognizance for appearance, vol. ii. 976.

JUSTICES OF THE PEACE—*continued.*
notice of it, vol. ii. 976.
certificate of non-appearance to be indorsed on recognizance, *ib.*
High Seas,
offences committed on, vol. ii. (30).
warrant to apprehend the offender, *ib.*
form of it, vol. ii. (43).
to what gaol commitment, vol. ii. (30).
Highways,
materials and tools for, property in, how described in an information or complaint, vol. ii. 964.
Identity
of the party apprehended or to be detained on an indictment to be proved before the warrant to commit or detain him is issued, vol. ii. (30), (31).
Illness
of witness, so as not to be able to travel, a ground for reading his deposition at the trial, vol. ii. (35). (36).
Imprisonment
for a subsequent offence, when to commence, where the party is already imprisoned for another offence, vol. ii. 971.
in default of distress for costs, when to commence, where defendant is in custody for punishment, under a conviction, vol. ii. 970, 971.
form of the warrant of commitment in such a case, vol. ii. 986.
for a penalty, &c. to cease on payment of it and costs, vol. ii. 972.
Indictable Offences,
warrant granted for, in what cases, vol. ii. (29), (30).
form of information for an indictable offence, vol. ii. (42).
warrant to apprehend the offender, *ib.*
where offence committed on the high seas or abroad, vol. ii. (43).
Indictment,
warrant upon, in what cases and how, vol. ii. (30),
certificate of indictment being found, vol. ii. (43).
warrant to apprehend the party, *ib.*
to commit him, *ib.*
to detain him, if already in prison for another offence, vol. ii. (44).
Indorsement,
in backing a warrant, in indictable cases, vol. ii. (33), (34).
form of it, vol. ii. (44).
in backing a warrant in summary cases, vol. ii. 963.
in backing warrant of distress, vol. ii. 969.
form of it, vol. ii. 982.
of certificate of non-appearance of defendant on his recognizance, &c. in indictable cases, vol. ii. (37).
form of it, vol. ii. (49).
in summary cases, vol. ii. 966, 967, 968.
form of it, vol. ii. 976.
in cases of distress warrants, vol. ii. 969.
form of it, vol. ii. 982.
on notice of action given to a justice of the peace, vol. ii. 991.
Inducement,
to confess by threat or promise, vol. ii. (36).
how obviated, by caution from magistrate, *ib.*
Information,
for an indictable offence, vol. ii. (32).
form of it, vol. ii. (42).
JUSTICES OF THE PEACE—*continued.*
where required to be in writing, &c. vol. ii. (32).
no objection to it for defect, or for variance between it and the evidence, *ib.*
when and to whom to be transmitted, vol. ii. (57).
in summary cases, vol. ii. 965.
before whom, vol. ii. 972.
in what cases without oath, vol. ii. 965.
by counsel, attorney, or agent, *ib.*
no objection to be made to it for any defect, or for variance between it and the evidence, vol. ii. 962.
how the ownership of property of partners, &c. is to be described in, vol. ii. 963, 964.
must be for one offence only, vol. ii. 965.
time limited for bringing, *ib.*
Informant,
to have notice when defendant is to be brought up, vol. ii. 966.
if he do not appear, information dismissed, or hearing adjourned, *ib.*
in what cases a competent witness, vol. ii. 967.
Informer. See *Common Informers.*
Inhabitants of County,
their property in any building or materials, how described in an information, vol. ii. 964.
Ireland,
English warrants backed in, vol. ii. (33).
Scotch warrants backed in, vol. ii. (34).
Irish Warrants,
backed in England, vol. ii. (33).
in Scotland, vol. ii. (34).
Jersey,
English warrants backed in, vol. ii. (34).
warrants backed in England, *ib.*
in other respects not within 11 & 12 Vict. cc. 42, 43, vol. ii. (41), 974.
Joint Tenants,
property of, how described in an information or complaint, vol. ii. 963, 964.
Jurisdiction
with respect to indictable offences committed anywhere in England, vol. ii. (29), (30).
on the high seas or abroad, vol. ii. (36).
with respect to convictions and orders, vol. ii. 961.
in what cases justices may act in adjoining county, &c. vol. ii. (31), 964.
for detached parts of counties, vol. ii. 960.
Justices of the Peace,
who to be, vol. i. 938, 939.
to deliver gaols, vol. ii. 938.
hear and determine felonies, vol. ii. 939.
hold sessions four times a year, *ib.*
made by letters patent, vol. ii. 940.
no sheriff to act as, *ib.*
justices of a county, dwelling in a city or county of itself, may there act, &c. for the county, vol. ii. 942.
their power to issue summonses and warrants for indictable offences, vol. ii. (29), (30).
in summary cases, vol. ii. 961.
their power to hear and determine charges of indictable offences, vol. ii. (35), (40).
in summary cases, vol. ii. 966, 967.

JUSTICES OF THE PEACE—*continued.*
their power to enforce commissions and orders, vol. ii. 968, 971.
in what cases they may act in an adjoining county, &c. vol. ii. (31), 964.
how, for detached parts of counties, vol. ii. (31), (32).
when a judicial act is to be done by two, they must be acting together, vol. ii. 972.
how protected in the execution of their duties, vol. ii. 988.
in what cases no action will lie against, vol. ii. 989, 991.
no action until the proceeding objected to has been quashed, vol. ii. 990.
the action must be an action on the case, vol. ii. 988, 989.
if an action be brought where no action lies, the court may stay the proceedings, vol. ii. 991,
limitation of action, *ib.*
notice of action, *ib.*
venue, vol. ii. 992.
general issue and evidence, *ib.*
tender and payment of money into court, *ib.*
nonsuit or verdict for defendant, *ib.*
damages, *ib.*
costs, *ib.*
Justices' Clerks,
tables of their fees to be made and submitted to the secretary of state, vol. ii. 972.
Keeper of House of Correction or Prison. See *Gaoler.*
Limitation of Action,
against justices of the peace, vol. ii. 991.
if action not brought within the time, nonsuit or verdict for defendant, vol. ii. 992.
Limitation,
of time for laying an information or making a complaint in summary cases, vol. ii. 965.
Lock-up House,
committal to, in what cases, vol. ii. (37), 963, 965, 966, 967.
London,
lord mayor or alderman of, may act alone as magistrate, vol. ii. (40), 973.
Lunatics,
orders as to, not within stat. 11 & 12 Vict. c. 43, vol. ii. 973.
Magistrates,
metropolitan police or stipendiary, may act alone, vol. ii. (40), 973.
Malice,
when it must be alleged and proved in an action on the case against a justice of the peace, vol. ii. 989.
when not, *ib.*
Man, Isle of,
English warrants backed in, vol. ii. (34).
warrants backed in England, *ib.*
in other respects not within 11 & 12 Vict. cc. 42, 43, vol. ii. (41), 974.
Mayor of London,
may act alone as a magistrate, vol. ii. (40), 973.
Metropolitan Magistrates,
may act alone, vol. ii. (40), 973.
Middlesex,
overseers of the poor in, to pay expence of conveying a prisoner to gaol, vol. ii. (40).
Minute of Justice's Order,
copy of, to be given to defendant before any warrant issues thereon, vol. ii. 968.

JUSTICES OF THE PEACE—*continued*
Misdemeanors,
indictable, justices may issue warrants or summonses for, vol. ii. (29), (30).
bail in, vol. ii. (38), (39).
when discretionary or not, *ib.*
Money,
paid into court, in actions against justices, vol. ii. 992.
no plea necessary, *ib.*
costs, *ib.*
found on a prisoner, may be applied in payment of the expences of conveying him to gaol, vol. ii. (40).
Negativing Exemption, Exception, &c.
in an information or complaint, vol. ii. 967.
Neglect,
of witness, to obey summons, warrant may issue, vol. ii. 964.
Non-appearance,
certificate of, indorsed on recognizance, in what cases, vol. ii. (37), 963, 965, 966, 968, 969.
form of it, vol. ii. (49), 976.
of defendant at the day of hearing, the justices may hear *ex parte*, or may issue a warrant against him, vol. ii. 966.
of informant or complainant at the day of hearing, the justices may dismiss the information or complaint, or adjourn the hearing, *ib.*
of both or either of the parties at adjournment, the justices may hear the case as if they were present, vol. ii. 967, 968.
Notice,
of action, against a justice of peace, vol. ii. 991.
otherwise nonsuit or verdict for defendant, vol. ii. 992.
by justice, if sued in the county court, that he objects to be sued there, *ib.*
to informant or complainant, where defendant is apprehended, of the day of hearing, vol. ii. 966.
of recognizance to be given to those bound by it, vol. ii. (36), (37).
form of it, vol. ii. (47).
Oath. See *Qualification.*
before warrant is issued in the first instance, in indictable cases, vol. ii. (32).
in summary cases, vol. ii. 962, 965.
as to service of summons before a warrant issues in indictable cases, vol. ii. (32).
in summary cases, vol. ii. 962.
to obtain summons for a witness in indictable cases, vol. ii. (35).
in summary cases, vol. ii. 964.
as to the service of the summons for a witness before warrant in indictable cases, vol. ii. (35).
in summary cases, vol. ii. 964.
to obtain warrant in the first instance in indictable cases, vol. ii. (35).
witnesses to be examined upon oath, vol. ii. (35), 967.
refusing to be examined upon oath, or to answer, in indictable cases, punishment, vol. ii. (35).
form of warrant of commitment, vol. ii. (45).
in summary cases, vol. ii. 965.
form of warrant, vol. ii. 977.
power to administer, vol. ii. 958.

JUSTICES OF THE PEACE—*continued.*
Objections,
none, to information or complaint in indictable offences, vol. ii. (32).
in summary cases, vol. ii. 962.
to the summons in indictable cases, vol. ii. (32).
in summary cases, vol. ii. 962.
to the warrant in indictable cases, vol. ii. (33).
in summary cases, vol. ii. 963.
Officer,
peace, his duties in the service of summonses, vol. ii. (32), 962.
in proving the service, *ib.*
in the execution of warrants to apprehend, vol. ii. (30), (32), (33), 963.
in the examination of backed warrants, vol. ii. (33), (34), (35), 963.
Open Court,
place of hearing in summary cases is an, vol. ii. 966.
place of examination in indictable cases is not, vol. ii. (36).
der,
upon a complaint, vol. ii. 968.
made on the hearing of both parties, vol. ii. 967.
ex parte in defendant's absence, vol. ii. 962, 966.
of the complainant, vol. ii. 966.
of both, where the hearing is after adjournment, vol. ii. 967, 968.
made on evidence given, or on the admission of the defendant, vol. ii. 967.
may be made in the forms given by 11 & 12 Vict. c. 43, vol. ii. 968.
for payment of money to be levied by distress, vol. ii. 979.
payment of money, and in default thereof, imprisonment, vol. ii. 980.
any other matter, where the disobeying is punishable with imprisonment, *ib.*
the justices may in all cases give costs to the party succeeding, vol. ii. 969.
before enforcing, a copy of the minute of it must be served on the defendant, vol. ii. 968.
enforcing by warrant of distress, commitment, &c. vol. ii. 969, 972.
of dismissal, where the complaint is not sustained, vol. ii. 967.
form of it, vol. ii. 980.
of bastardy, not within stat. 11 & 12 Vict. c. 43, vol. ii. 973, 974.
for payment of constable's expenses in conveying prisoner to gaol, vol. ii. (39), (40).
form of it, vol. ii. (51), (52).
before a justice of the county in which the offence was committed, vol. ii. (37), (38).
form of it, vol. ii. (49).
of justice to bring up a prisoner remanded, vol. ii. (37).
of sessions for costs of appeal, vol. ii. 971.
to discharge a witness committed for refusing to enter into recognizance, vol. ii. (37).
form of it, vol. ii. (47).
to be quashed before any action brought on account of it against justice, vol. ii. 989, 990.
to be made *ex parte*, not within stat. 11 & 12 Vict. c. 43, vol. ii. 962.
Overseers,
goods provided by, how described in an information or complaint, vol. ii. 964.

JUSTICES OF THE PEACE—*continued.*
of parishes in Middlesex to pay constable's expences of conveying prisoner to gaol, vol. ii. (39), (40).
Ownership,
of property, how described in an information or complaint, vol. ii. 963, 964.
Parceners,
property of, how described in information or complaint, vol. ii. 963.
Parish Officers,
goods provided by, how described in information or complaint, vol. ii. 564.
Parish,
variance as to, between information and evidence, not material, vol. ii. 965.
Partners,
property of, how described in an information or complaint, vol. ii. 963.
Payment,
to constable of his expenses in conveying prisoners to gaol, vol. ii. (39), (40).
form of the order, vol. ii. (51), (52).
in conveying him before a justice of the county in which the offence was committed, vol. ii. (38).
form of the order, vol. ii. (49).
to witness of his expenses, proof of, before warrant issued, vol. ii. 964.
of penalty, &c. to constable, warrant not to be executed, vol. ii. 972.
of penalty, &c. to gaoler, party to be discharged, *ib.*
to clerk of the petty sessions of all sums received by constables or gaolers from prisoners, *ib.*
of money into court, in action against justice, vol. ii. 992.
of penalties in certain cases by clerk of the petty sessions to the treasurer of the county, vol. ii. 972, 973.
Peace Officers,
their duties in serving summons, vol. ii. (32), 962.
in proving service, *ib.*
in the execution of warrants to apprehend, vol. ii. (30)—(33), 962, 963.
in the execution of backed warrants, vol. ii. (33)—(35), 963.
Penalties, &c.,
enforcement of, vol. ii. 969—972.
payment of, &c. vol. ii. 972.
Petty Sessions,
when a justice at, may act for an adjoining county, vol. ii. (31), 964.
clerk of,
moneys received under warrants of distress or commitment, or from prisoners, to be paid to, vol. ii. 972, 973.
how and to whom paid over, *ib.*
account to be rendered to petty and quarter sessions, *ib.*
form of it, vol. ii. 988.
tables of fees of, to be settled, &c. vol. ii. 972.
Police Magistrates,
of the metropolis, may act alone, vol. ii. (40), 973.
chief magistrate of Bow Street may be a justice for Berkshire without qualification by estate, vol. ii. (40), (41).
Poor,
property in goods provided for, how described in an information or complaint, vol. ii. 964.

JUSTICES OF THE PEACE—*continued.*
Poor Rate,
no action against a justice for granting a distress warrant for, vol. ii. 990.
Post Office,
informations or complaints in matters relating to, not under 11 & 12 Vict. c. 43, vol. ii. 973.
Prisoner,
warrant of detention against, upon an indictment for another offence, vol. ii. (31).
form of certificate of indictment, vol. ii. (43).
warrant of detention, vol. ii. (44).
remanding,
in indictable cases, vol. ii. (37).
form of warrant, vol. ii. (48).
in summary cases, vol. ii. 967, 968.
form of warrant, vol. ii. 975.
may be bailed, in what cases and by whom, vol. ii. (38), (39).
warrant of deliverance, to discharge him, *ib.*
form of it, vol. ii. (51).
how and by whom conveyed to prison, vol. ii. (39), (40).
expenses of conveying to prison, how paid, *ib.*
form of order for payment, vol. ii. (51), (52).
when paid out of money prisoner has about him, vol. ii. (40).
when imprisonment for a subsequent offence to commence, vol. ii. 971.
on payment of penalty, &c. to be discharged, vol. ii. 972.
Procuring,
persons to commit offences punishable on summary conviction, how punished and prosecuted, vol. ii. 964.
Promise,
to induce confession, how obviated, vol. ii. (36).
Prosecutor
bound over to prosecute, in indictable cases, *ib.*
form of recognizance, vol. ii. (46).
of information in summary cases, in what cases a competent witness, vol. ii. 967.
not appearing at hearing, information may be dismissed, or hearing adjourned, vol. ii. 966.
Protection,
of justices, act for, vol. ii. 988.
Proviso,
negatived in information or complaint, the affirmative to be proved by the defendant, vol. ii. 967.
Public and Open Court,
the place where justices try informations and complaints, in summary cases, is a, vol. ii. 966.
where they take the examinations in indictable cases, is not, vol. ii. (36).
Pursuit,
fresh, how far the constable may follow in, out of the jurisdiction, vol. ii. (32), (33), 963.
Qualification,
of 100*l.* a year, vol. ii. 943, 944.
penalty, vol. ii. 943, 945.
oath, vol. ii. 944, 957.
on demise of the sovereign, vol. ii. 956.
proof of, vol. ii. 945.
Quarter Sessions,
binding over prosecutor and witnesses to, vol. ii. (36).

JUSTICES OF THE PEACE—*continued.*
convictions and orders to be filed at, vol. ii. 967.
justices at, to make lists of fees, and submit them to the secretary of state, vol. ii. 972.
Quashed,
convictions or orders must be, before an action can be brought for anything done under them, vol. ii. 989, 990.
or under any warrant to procure appearance, vol. ii. 990.
Queen's Bench,
court of, may order justice to do a particular act, *ib.*
no action against justice for obeying, *ib.*
court of, or a judge of, in vacation, may admit to bail for treason, vol. ii. (39).
Quorum,
warrant, &c. need not allege justices to be of the, vol. ii. 956.
acts in certain jurisdictions valid though justices not of the, vol. ii. 958, 959.
Rate for the Poor,
in what cases no action lies against a justice for granting a distress warrant to levy it, vol. ii. 990.
Receipt,
of gaoler for a prisoner, vol. ii. (39), (40).
form of it, vol. ii. (51).
Recognizance,
of bail, vol. ii. (38), (39).
how conditioned, *ib.*
how taken, *ib.*
to be sent with the depositions to the proper officer, *ib.*
form of it, vol. ii. (50).
of notice to be given to the party, *ib.*
of prosecutor and witnesses, vol. ii. (36).
when to be taken, *ib.*
how, *ib.*
form of it, vol. ii. (46).
of notice to be given of it, vol. ii. (47).
commitment for refusing to enter into it, vol. ii. (37).
form of warrant, vol. ii. (47).
to be sent with the depositions to the proper officer, vol. ii. (37).
on remanding the accused, in indictable cases, *ib.*
form of it, vol. ii. (48).
of notice to be given of it, *ib.*
of the certificate of non-appearance to be indorsed if necessary, vol. ii. (49).
on adjourning the hearing, in summary cases, vol. ii. 963, 965, 966, 967, 968.
form of it, vol. ii. 976.
of notice to be given of it, *ib.*
if the defendant do not appear in pursuance of it, to be transmitted to the clerk of the peace and estreated, vol. ii. 963, 965, 966, 967, 968.
form of the certificate of non-appearance indorsed, vol. ii. 976.
for appearance of defendant at return of distress warrant, vol. ii. 969.
in default of appearance to be transmitted to the clerk of the peace to be estreated, *ib.*
form of the certificate of non-appearance indorsed, vol. ii. 976.
Re-examination,
prisoner remanded for, vol. ii. (37).

JUSTICES OF THE PEACE—*continued.*
Refusal,
of witness to be sworn or examined in indictable cases, commitment, vol. ii. (35).
form of warrant, vol. ii. (45).
to enter into recognizance, commitment, vol. ii. (37).
form of warrant, vol. ii. (47).
of witness to appear upon summons, in summary cases, warrant, vol. ii. 964.
form of warrant, vol. ii. 976, 977.
to be sworn or examined, commitment, vol. ii. 965.
form of warrant, vol. ii. 977.
of justice to do an act, how ruled to do it by the court of queen's bench, vol. ii. 990.
no action against him afterwards for doing it, *ib.*
Remanding
accused, in indictable cases, vol. ii. (37).
into what custody, *ib.*
form of warrant, vol. ii. (48).
for what time, vol. ii. (37).
instead of remand, defendant may be set at large upon recognizance, *ib.*
form of recognizance, vol. ii. (48).
of notice to be given of it, *ib.*
of certificate of non-appearance to be indorsed, if necessary, vol. ii. (49).
in case of objection for variance between the summons or warrant and evidence, vol. ii. (32), (33).
defendant, in summary cases, when apprehended, vol. ii. 966.
form of warrant, vol. ii. 977.
Removal,
order of, not within 11 & 12 Vict. c. 43, vol. ii. 973.
Recovery of Costs. See *Costs.*
Reply,
not allowed, at hearing in summary cases, vol. ii. 967.
evidence in, *ib.*
Return,
of a warrant, no time appointed for, vol. ii. (33), 963.
to a distress warrant, vol. ii. 969.
form of it, vol. ii. 982.
commitment or detention, until return made, vol. ii. 969.
or party set at large on recognizance, *ib.*
Revenue,
proceedings for offences against, not within 11 & 12 Vict. c. 43, vol. ii. 973.
Room,
where informations and complaints heard in summary cases, an open and public court, vol. ii. 966.
where examinations are taken in indictable cases not, vol. ii. (36).
Rule,
served upon a justice of the peace to do an act, vol. ii. 990.
no action against him for afterwards doing it, *ib.*
Sark, Island of,
English warrants backed in,
warrants backed in England,
in other respects not within 11 & 12 Vict. cc. 42, 43, vol. ii. 974.
Scotland,
English or Irish warrants backed in, vol. ii. (34).

JUSTICES OF THE PEACE—*continued.*
warrants backed in England or Ireland, *ib.*
in other respects not within 11 & 12 Vict. cc. 42, 43, vol. ii. (41), 974.
Sea,
power of justices to grant warrants for offences committed at, vol. ii. (30).
form of warrant, vol. ii. (43).
to what gaol commitment, vol. ii. (39).
Search Warrant,
may be issued on a Sunday, vol. ii. (31).
Secretary of State,
may order bail to be taken for treason, vol. ii. (39).
his power to regulate fees to be paid to clerks of the peace and sessions, and clerks to justices, vol. ii. 972.
Service of Summons,
in indictable cases, vol. ii. (32).
by whom and how, *ib.*
in summary cases, vol. ii. 962.
by whom and how, *ib.*
proof thereof, before issuing warrant, vol. ii. 962, 966.
before proceeding *ex parte, ib.*
if duly served, no action against a justice for issuing a warrant upon default of appearance, vol. ii. 989, 990.
upon witnesses in indictable cases, vol. ii. (35).
in summary cases, vol. ii. 964.
proof of it, before a warrant can issue, *ib.*
Sessions. See *Petty Sessions. Quarter Sessions.*
special and petty in detached parts of counties, vol. ii. 961.
Setting Aside Proceedings,
in actions against justices, vol. ii. 991.
Sewers,
property of commissioners of, how described in an information or complaint, vol. ii. 964.
Stamps,
proceedings for offences relating to, not within 11 & 12 Vict. c. 43, vol. ii. 973.
Statement,
of accused, on the examination before the justice, vol. ii. (36).
previous caution given him, *ib.*
form of it, vol. ii. (46).
to be sent with the depositions to the proper officer, vol. ii. (37).
of witnesses, on their examination before the justice, to be taken down in writing, vol. ii. (35).
Stipendiary Magistrate,
may act alone, vol. ii. (40), 973.
may do alone all acts authorised to be done by two justices, vol. ii 998.
this provision to extend to acts required to be done at petty sessions, vol. ii. 998, 999.
saving of jurisdiction of quarter and special sessions, and as to licences, vol. ii. 999.
may appoint a deputy, *ib.*
may be appointed a magistrate of the metropolitan police courts, *ib.*
act to enable cities, towns, and boroughs of 25,000 inhabitants and upwards, to appoint stipendiary magistrates, vol. ii. 1000*a*.
Summons,
in indictable cases, vol. ii. (30).
form of it, vol. ii. (42).
how directed, vol. ii. (32).

JUSTICES OF THE PEACE—*continued.*
by whom and how served, vol. ii. (32)
warrant upon non-appearance, *ib.*
no objection for defect or variance, *ib.*
in what cases of variance justice may adjourn the examination and remand the party, *ib.*
upon an information or complaint, in summary cases, vol. ii. 961, 962.
form of it, vol. ii. 974.
how directed, vol. ii. 962.
by whom issued, vol. ii. 972.
by whom and how served, vol. ii. 962.
proof of service before warrant issues, vol. ii. 962, 966.
before the justices proceed *ex parte*, *ib.*
no objection for defect or variance, vol. ii. 962.
in what cases of variance the justice may adjourn the hearing, &c. *ib.*
for a witness,
in indictable cases, vol. ii. (35).
form of it, vol. ii. (44).
how served, vol. ii. (35).
if he do not obey it, then warrant, *ib.*
form of warrant, vol. ii. (45).
in summary cases, vol. ii. 964.
form of it, vol. ii. 976.
how served, vol. ii. 964.
if he do not obey it, then warrant, *ib.*
form of warrant, vol. ii. 976.

Sunday,
warrant, or search warrant, may be issued on, vol. ii. (31).

Surety,
recognizance of, how taken, when he cannot attend at the prison, vol. ii. (39).

Surveyors of Highways,
materials and tools for repairing highways, to be described as their property, in informations or complaints, vol. ii. 964.

Taxes,
proceedings for offences relating to, not within 11 & 12 Vict. c. 43, vol. ii. 973.

Tenants in Common,
property of, how described in an information or complaint, vol. ii. 963.

Tender,
of expenses to witnesses, in summary cases, vol. ii. 964.
of penalty, &c. to constable levying distress, vol. ii. 972.
of amends in actions against justices, vol. ii. 992.

Threat,
to induce a prisoner to confess, how obviated, vol. ii. (36).

Time,
allegation of, not material in an information, vol. ii. 965.
limited for laying information, or making complaint, *ib.*

Tithing Man,
his duty in the execution of warrants, vol. ii. (33), 963.

Tools,
for the repair of highways or turnpike roads, property in, how described in an information or complaint, vol. ii. 964.

Township,
in an information, variance as to it, between the information and evidence, immaterial, vol. ii. 695.

JUSTICES OF THE PEACE—*continued.*

Transmission,
by the examining justice, to the proper officer, &c. of recognizances of bail, vol. ii. (39).
of the depositions and recognizances of prosecutor and witnesses, vol. ii. (37).
of recognizance on a remand or adjournment of the hearing, where the party does not appear at the day, vol. ii. 963, 965, 966, 968.
of recognizance for appearance at the return to a distress warrant, vol. ii. 969.

Traverse,
defendant entitled to, how his recognizance of bail to be conditioned, vol. ii. (39).

Treason,
justices out of sessions may issue warrant, &c. vol. ii. (30).
but cannot admit to bail for, vol. ii. (39).

Treasurer,
of the county, &c. order upon, for constable's expenses of conveying prisoner to gaol, &c. vol. ii. (38), (39), (40).
form of order, vol. ii. (49), (51), (52).
payment of fees and penalties to, vol. ii. 972, 973.

Trial,
of an information or complaint, in summary cases, vol. ii. 966, 967.

Turnpike Roads,
property of trustees of, how described in an information or complaint, vol. ii. 964.

Union,
poor law, property of, how described in an information or complaint, *ib.*

Variance,
in indictable cases,
between the evidence and the information, vol. ii. (32).
or summons, *ib.*
or warrant, vol. ii. (33).
in summary cases,
between the evidence and the information or complaint, vol. ii. 962, 965.
or warrant, vol. ii. 963.

Venue,
in actions against justices of the peace, vol. ii. 992.
if the plaintiff fail in proving the act to have been done within the county, nonsuit or verdict for defendant, *ib.*

Verification,
of an information, in summary cases, where the justice issues his warrant in the first instance, vol. ii. 965.

Warrant. See *Backing Warrants.*
in indictable cases,
to apprehend person charged, vol. ii. (32).
by whom and in what cases issued, vol. ii. (30).
form of it, vol. ii. (42).
after summons is disobeyed, vol. ii. (30), (32).
form of it, vol. ii. (42).
may be issued on Sunday, vol. ii. (31).
and executed on that day,
where it is issued in the first instance, the information must first be verified by oath, vol. ii. (32).
how directed, *ib.*
how, where, and by whom executed, vol. ii. (32), (33).
no objection to be taken to it for defect or variance between it and the evidence, *ib.*

JUSTICES OF THE PEACE—*continued.*
to apprehend for offences committed on the high seas or abroad, vol. ii. (30).
in what cases, *ib.*
form of it, vol. ii. (43).
where an indictment has been found,
to apprehend party, vol. ii. (30).
form of it, vol. ii. (43).
to commit party apprehended, vol. ii. (31).
form of, vol. ii. (43).
to detain party if in custody, vol. ii. (31).
form of, vol. ii. (44).
to remand the accused, vol. ii. (37).
form of it, vol. ii. (48).
to take the accused before a justice of the county where the offence was committed, vol. ii. (38).
form of it, vol. ii. (49).
of deliverance, where a prisoner is bailed, vol. ii. (39).
form of it, vol. ii. (51).
of commitment, vol. ii. (39).
form of it, vol. ii. (51).
for a witness after a summons disobeyed, vol. ii. (35).
form of it, vol. ii. (45).
in what cases in the first instance, vol. ii. (35).
form of it, vol. ii. (45).
for refusing to be sworn and examined, vol. ii. (35).
form of it, vol. ii. (45).
for refusing to be bound over to give evidence at the trial, vol. ii. (37).
form of it, vol. ii. (47).
in summary cases,
if summous be not obeyed, vol. ii. 962, 966.
form of it, vol. ii. 975.
in the first instance, vol. ii. 962.
form of it, vol. ii. 975.
the information must be substantiated by oath, vol. ii. 965.
how directed, vol. ii. 963.
not returnable at any particular time, *ib.*
where and how executed, *ib.*
no objection to it for defect, or for variance between it and the evidence, *ib.*
to remand a defendant, vol. ii. 966, 967.
form of it, vol. ii. 977.
of committal during an adjournment of the hearing, vol. ii. 963, 966, 967.
form of it, vol. ii. 975.
for a witness, if he do not obey a summons, vol. ii. 964.
form of it, vol. ii. 976.
in the first instance, vol. ii. 964, 965.
form of it, vol. ii. 977.
for refusing to be sworn and examined, vol. ii. 965.
form of it, vol. ii. 977.
of distress, in what cases, vol. ii. 969.
form of it, on a conviction, vol. ii. 981.
on an order, *ib.*
of commitment in default of distress, vol. ii. 969, 970.
form of constable's return, vol. ii. 982.
of warrant of commitment, *ib.*
of commitment, where the conviction or order merely directs imprisonment, vol. ii. 970.
form of warrant on a conviction, vol. ii. 984.
on an order, *ib.*

JUSTICES OF THE PEACE—*continued.*
of distress for costs, where the conviction or order merely directs imprisonment, vol. ii. 971.
form of, on a conviction, vol. ii. 984.
on an order, vol. ii. 985.
of commitment in default of such last distress, vol. ii. 971.
form of it, vol. ii. 986.
of distress, upon dismissal of an information or complaint, vol. ii. 971.
form of it, vol. ii. 986.
of commitment in default of such last distress, vol. ii. 971.
form of it, vol. ii. 986.
of distress for the costs of an appeal against a conviction or order, vol. ii. 971.
form of it, vol. ii. 987.
of commitment in default of such last distress, vol. ii. 971.
form of it, vol. ii. 988.
of commitment for a penalty, &c. in the first instance, vol. ii. 970.
form of it, upon a conviction, vol. ii. 983.
upon an order, *ib.*
issued where a summons has not been obeyed, no action will be against the justice who issued it, vol. ii. 990.
issued by one justice on the conviction or order of another, no action against the justice issuing it for any defect in the conviction or order, *ib.*
of distress for a poor rate, no action against the justice issuing it for any defect in the rate, &c. *ib.*
of distress or commitment on a conviction or order, no action against the justice issuing it for any defect in the conviction or order, after the same shall be confirmed on appeal, vol. ii. 991.
Witness,
in indictable cases,
summons for, vol. ii. (35).
form of it, vol. ii. (44).
service, vol. ii. (35).
warrant if he do not attend, *ib.*
form of it, vol. ii. (45).
in what cases warrant in first instance, vol. ii. (35).
form of it, vol. ii. (45).
if he attend, but refuse to be sworn or examined, commitment, vol. ii. (35).
form of warrant, vol. ii. (45).
witness bound over to give evidence, vol. ii. (36).
form of recognizance, vol. ii. (46).
refusing to enter into recognizance, commitment, vol. ii. (37).
form of warrant, vol. ii. (47).
of subsequent order to discharge him, *ib.*
examination of, vol. ii. (35).
where the offence was committed in another county, vol. ii. (37), (38).
by the justice backing the warrant, vol. ii. (33).
depositions, how taken, vol. ii. (35).
form of, vol. ii. (46).
when to be sent to the proper officer, vol. ii. (37).
read at the trial, if the witness be dead, or so ill as to be unable to travel, vol. ii. (36).

JUSTICES OF THE PEACE—*continued*
in summary cases,
summons for, vol. ii. 964.
form of it, vol. ii. 976.
how served, vol. ii. 964.
warrant if he do not attend, *ib.*
form of it, vol. ii. 976.
in what cases warrant in the first instance, vol. ii. 964, 965.
form of it, vol. ii. 977.
if he attend, but refuse to be sworn or examined, commitment, vol. ii. 965.
form of warrant, vol. ii. 977.
at the hearing, examined, cross-examined, and re-examined, vol. ii. 967.
witnesses in reply, in what cases, *ib.*
competency of, *ib.*
how sworn, *ib.*

JUVENILE OFFENDERS. See *Criminal Law.*

LABOURERS' DWELLING-HOUSES.
18 & 19 Vict. c. 132.
short title, vol. ii. 1000.
power to form company, vol. ii. 1001.
registration of articles, *ib.*
certificate of incorporation, *ib.*
"The Companies' Clauses Consolidation Act" incorporated with this act, *ib.*
purpose of company, *ib.*
regulations as to dwellings, *ib.*
permissive rights of the company, *ib.*
power to mortgage in certain cases, *ib.*
rules as to demises by the company, vol. ii. 1001, 1002.
power to company to purchase interests of lessees, vol. ii. 1002.
penalty on misappropriation of funds, *ib.*
penalty in case dwellings are not sufficiently drained, &c. *ib.*
penalty on obstructing inspector, *ib.*
certain provisions of "The Lands' Clauses Consolidation Act," incorporated with this act, *ib.*
recovery of penalties, *ib.*
extent of act, *ib.*

LANCASTER. See *Counties Palatine.*

LAND TAX.
aid granted by, for the year 1798, 38 Geo. 3, c. 5, vol. ii. 1003.
made perpetual, subject to redemption and purchase, 38 Geo. 3, c. 60, vol. ii. 1015.
redemption of,
consolidating and amending provisions for redemption and sale of, 42 Geo. 3, c. 116, vol. ii. 1019.
amended, 53 Geo. 3, c. 142, vol. ii. 1063; 53 Geo. 3, c. 173, vol. ii. 1064; 57 Geo. 3, c. 100, vol. ii. 1066.
by commissioners of woods and forests, 10 Geo. 4, c. 50, vol. ii. 1075.
reducing terms on which land tax may be redeemed or purchased, 16 & 17 Vict. c. 74, vol. ii. 1083.
power of redemption restricted to persons having an interest in the property, 16 & 17 Vict. c. 117, vol. ii. 1083.
amending laws relating to, regulating appointment of receivers-general, &c. 3 Geo. 4, c. 88, vol. ii. 1072.
application of excess in assessments, and authorising certain allowances to clerks to

LAND TAX—*continued.*
commissioners, 6 Geo. 4, c. 32, vol. ii. 1073.
amended, 24 & 25 Vict. c. 91, vol. ii. 1084.
transferring duties of receivers-general to inspectors, and making other provisions for receipt and remittance of, 1 & 2 Will. 4, c. 18, vol. ii. 1075.
explaining and amending acts relating to double land tax formerly paid by Roman Catholics, 1 & 2 Will. 4, c. 21, vol. ii. 1075.
amending laws relating to, 4 & 5 Will. 4, c. 60, vol. ii. 1078.
vesting in commissioners of the Treasury the powers heretofore exercised by commissioners appointed for certain purposes relating to redemption, and authorising Court of Exchequer to determine disputes as to divisions in which lands are liable to be rated, 1 & 2 Vict. c. 58, vol. ii. 1079.
certain detached places to be within jurisdiction of commissioners of districts where locally situate, 5 & 6 Vict. c. 37, vol. ii. 1080.
costs awarded against commissioners in action relating to collector's bonds to be raised by assessment on the parish, 6 & 7 Vict. c. 24, vol. ii. 1082.

LANDLORD AND TENANT. See *Leases.*
attornment, vol. ii. 1106, 1119.
tenants to give notice of ejectment to landlord, vol. ii. 1120 [15 & 16 Vict. c. 76, s. 209].
penalty for neglect, *ib.*
landlord empowered to make himself defendant, vol. ii. 1120 (15 & 16 Vict. c. 76, ss. 172, 173).
statement in appearance (15 & 16 Vict. c. 76, s. 173).
forcible entry and detainer. See *Criminal Law.*

Rent, remedy by distress for. See *Post, Rent, Remedy, &c. under an Execution.*
in event of bankruptcy, distress not to be available for more than a year's rent, 12 & 13 Vict. c. 106, s. 129.
by whom distress may be made,
executors, &c. of tenants in fee, &c. may distrain for rent due to testator, vol. ii. 1098, 1099.
so may husband for rent due in right of wife in her lifetime, vol. ii. 1099.
distress in case of death of *cestui que vie, ib.*
recoverer may distrain and have a *quare impedit*, &c. vol. ii. 1093.
method of recovering rents seck, vol. ii. 1114.
what destrainable,
what things are privileged from distress, vol. ii. 1085, n. (*b*).
corn loose, &c. may be distrained and sold, vol. ii. 1105.
stock on commons distrainable, vol. ii. 1118.
growing crops on premises distrainable, *ib.*
but distress of corn, &c. to cease, if rent paid before it is cut, &c. *ib.*
beasts of the plough not to be distrained if sufficient other property, vol. ii. 1087, 1093.

LANDLORD AND TENANT—*continued.*
crops sold, &c. by sheriff, &c. under execution, when not distrainable, vol. ii. 1129, 1130.
frames, looms, &c. intrusted to be used in certain manufactures, vol. ii. 1144.
when, where, and how distress to be made, by sworn bailiffs, vol. ii. 1092, 1093.
may be made, though lease determined, vol. ii. 1109.
provided it be made within six months after end of lease, *ib.*
and during landlord's title and tenant's possession, *ib.*
cattle, &c. may be seized on commons or ways, &c. belonging to premises, vol. ii. 1118.
not to be taken out of fee, or on highway, &c. vol. ii. 1089, 1090.
may be made on land, &c. allotted under inclosure act, though award not executed, vol. ii. 737, 738.
should not be excessive, but in proportion to sum distrained for, vol. ii. 1088.
party may distrain again, if distress be insufficient, vol. ii. 1102, and n. (*b*).
where no rent due, double damages and costs against wrongful distrainer, vol. ii. 1106.
in case of fraudulent removal, goods may be distrained within thirty days, unless sold to *bonâ fide* purchaser, vol. ii. 1115.
penalties, &c. for such fraudulent removal, or assisting, vol. ii. 1116.
notice of distress must be given to owner, with cause of taking, vol. ii. 1102, 1103.
notice in case of distress on crops and cattle, vol. ii. 1118.
how to be used,
to what pound to be taken, vol. ii. 1100.
not to be taken out of county, vol. ii. 1090.
not to be driven above three miles from place of taking, vol. ii. 1100.
nor impounded in several places, *ib.*
distress may be secured and sold on premises, vol. ii. 1118, 1119.
owner may feed cattle impounded, vol. ii. 1085, 1086.
goods may be sold if not replevied in five days, vol. ii. 1103, 1104.
after distress and notice left, *ib.*
goods to be appraised, and how, before sale, vol. ii. 1104.
measure of damages in action for selling goods without appraisement, *ib.* n. (*c*).
sale to be at best price, vol. ii. 1104, 1105.
overplus, if any, to be left with sheriff, &c. vol. ii. 1105.
pound breach, treble damages, &c. for, vol. ii. 1105.
expenses, &c. of distress,
how much poundage to be taken, vol. ii. 1100.
penalty for taking too much, *ib.*
expenses, &c. to be taken for distress, under 20*l.*, vol. ii. 1131.
party grieved therein may apply to justice of peace, *ib.*

LANDLORD AND TENANT—*continued.*
he may give party treble amount of moneys unlawfully taken, and costs, to be levied by distress, vol. ii. 1131.
justices may summon witnesses, &c. *ib.*
signature of justice, proof of judgment, vol. ii. 1132.
on unfounded complaint, defendant may get costs, *ib.*
no judgment against landlord, unless he personally levies the distress, *ib.*
parties not to be barred of other legal remedies, *ib.*
brokers in all distresses to give copies of charges to parties distrained on, *ib.*
printed copy of act to be hung up in sessions house, *ib.*
schedule referred to in act, vol. ii. 1132, 1133.
actions relative to distresses,
action where no rent due, vol. ii. 1106.
for an excessive distress, vol. ii. 1088.
party not a trespasser, *ab initio*, for irregularity in, vol. ii. 1125.
tender of amends may be made after irregularity, and before action brought, vol. ii. 1126.
defendants may plead general issue, *ib.*
in replevin, form of avowry, &c. given, vol. ii. 1126, 1127.
double costs to defendants on succeeding, vol. ii. 1127.
as to replevin, avowries, &c. See infra, *Replevin.*

Replevin,
sheriff's duties with regard to, abolished, vol. i. 1242.
registrar of county court to approve of replevin bonds and grant replevins, *ib.*
process thereon to be executed by the high bailiff, *ib.*
registrar to cause the goods distrained to be replevied to the distrainee, *ib.*
on his giving the security mentioned, *ib.*
action of replevin may be commenced, heard, and determined in superior court, *ib.*
conditions of security to be given in such cases, *ib.*
conditions of security to be given when replevin brought in county court, *ib.*
replevin brought in county court may be removed into superior court, *ib.*
how and upon what terms, *ib.*
appeal from decision of county court where amount of rent exceeds 20*l.*, vol. i. 1242, 1243.
sheriff directed to deliver distress on plaint made, vol. ii. 1090.
bailiffs of liberties, &c. *ib.*
sheriff to appoint four deputies to make replevins, vol. ii. 1100.
bond to be given, &c.
sheriff to take pledges to prosecute, &c. vol. ii. 1091, 1092.
sheriff to take replevin bond, vol. ii. 1127, 1128.
such bond may be assigned, vol. ii. 1128.
remedy against sureties, *ib.*
writs to compel replevin, &c.
writ of, second deliverance, vol. ii. 1092.

LANDLORD AND TENANT—*continued.*
in avowry for rent, such writ taken away, vol. ii. 1101, n. (*c*).
how these writs to be executed in castles, &c. and places of strength, vol. ii. 1091.
writ of *accordire facias* awarded, *ib.*
avowries in,
defendant need not set out his title in avowry for rent, vol. ii. 1126, 1127.
need not name the tenant, vol. ii. 1094.
so in writs of second deliverance, *ib.*
same pleas, &c. as at common law, vol. ii. 1094, 1095.
general form of avowry given, vol. ii. 1126, 1127.
verdict, judgment, and costs in,
defendant entitled to damages and costs on succeeding in avowry for rent, vol. ii. 1094.
judgment for defendant on *non pros* in replevin on distress for rent, how defendant to proceed, vol. ii. 1101.
if plaintiff nonsuited before issue joined, a suggestion in nature of avowry to be entered, *ib.*
writ of inquiry to be executed thereon, *ib.*
judgment to be for arrears of rent, *ib.*
how to proceed if plaintiff nonsuited after issue joined, *ib.*
execution on judgment, vol. ii. 1101, 1102.
like remedies on judgment for avowant on demurrer, vol. ii. 1101.
defendant to have double costs on succeeding, vol. ii. 1127.
Rent,
remedy for, in case of *fraudulent removal* of goods,
landlord may in such case seize, &c. within thirty days after removal, vol. ii. 1108, 1115.
unless goods sold to *bonâ fide* purchaser, *ib.*
to what cases provision extends, *ib.*, *in notis.*
penalty, &c. for fraudulent removal, and assisting therein, vol. ii. 1116.
if goods do not exceed £50, landlord to apply to two justices, *ib.*
appeal from justices to quarter sessions, vol. ii. 1117.
on such appeal justices' order not to be executed, *ib.*
landlords may break open houses, &c. to seize goods fraudulently removed, *ib.*
removal of goods to evade payment of, in the metropolis, vol. ii. 1143.
remedy against sheriff for *rent, &c. under an execution*,
sheriff before removal to pay one year's rent, if in arrear, vol. ii. 1106, 1107.
extended to county palatine of Durham, vol. ii. 1136.
not to extend to executions, &c. at the suit of the crown, vol. ii. 1109.
as to weekly tenants, vol. ii. 1144.
rents, remedies for, by *action, &c.*
rent seck, &c. remedy for, vol. ii. 1114.
debt may be brought against tenant for life, vol. ii. 1108.
executors may sue in debt for rent to testator, vol. ii. 1098, 1099.
LANDLORD AND TENANT—*continued.*
grantees of reversion may sue, &c. lessees of lands, vol. ii. 1095.
lessees may have like remedies against grantees, vol. ii. 1098.
assumpsit may be maintained for use and occupation, vol. ii. 1121.
assumpsit against under-tenant, where tenant for life dies before rent falls due, vol. ii. 1122.
double value recoverable against tenants holding over after execution of lease, &c. vol. ii. 1109, 1110.
double rent recoverable against tenants holding over after they have given notice to quit, vol. ii. 1125.
apportionment of, vol. ii. 1137.
rent, remedy for, by *ejectment.* See *infra.*
Ejectment,
by landlord against tenant,
when half-year's rent in arrear, and right of re-entry, landlord may re-enter, serving ejectment, &c. vol. iii. 752.
and may recover judgment, &c. *ib.*
lessee barred of other relief than writ of error, *ib.*
costs for defendant, *ib.*
proviso as to rights of mortgagees, *ib.*
as to filing bill in equity, vol. iii. 753.
staying proceedings in, on payment of rent and costs, *ib.*
in certain cases notice may be given to tenant to find bail, *ib.*
on production of lease, lessor may obtain rule or summons for tenant to give bail, *ib.*
on rule or summons absolute, if tenant do not conform thereto, then judgment against him, *ib.*
before whom recognizance to be entered into, vol. iii. 754.
actions on recognizance limited, *ib.*
saving of other remedies, vol. iii. 755.
where the right of entry accrues during or immediately after an issuable term, vol. iii. 754.
on proof of notice of trial juries to give documents for mesne profits, *ib.*
staying execution after verdict, on defendant providing security, &c. *ib.*
bail in error in discharge of such security, *ib.*
Recovery of Possession by Landlord,
where *rent does not exceed* 20*l.*, vol. ii. 1140.
application to justices, vol. ii. 1140, 1141.
notice of, vol. ii. 1140.
service of notice, vol. ii. 1141.
justices may issue warrant of possession, *ib.*
person obtaining warrant without lawful right a trespasser, *ib.*
staying execution of warrant, *ib.*
bond entered into by tenant, *ib.*
proceedings upon bond, *ib.*
protection of justices, constables, &c. vol. ii. 1142.
landlord having lawful title not a trespasser by reason of irregularity, *ib.*

LANDLORD AND TENANT—*continued.*
action of case for special damage, vol. ii. 1142.
where neither rent nor value exceeds 50*l.* per annum, and tenant holds over, vol. ii. 1146.
landlord may enter plaint in county court, *ib.*
summons to issue through, *ib.*
how summons to be served, vol. ii. 1147.
judgment, vol. ii. 1146.
warrant of possession, *ib.*
how long warrant to remain in force, vol. ii. 1147.
landlord may claim rent and mesne profits, vol. ii. 1146.
where neither rent nor value exceeds 50*l.* per annum, and half year's rent is in arrear, *ib.*
landlord may enter plaint in county court, *ib.*
summons to issue through, *ib.*
how summons to be served, vol. ii. 1147.
judgment, vol. ii. 1146.
warrant of possession, *ib.*
how long warrant to remain in force, vol. ii. 1147.
where *tenant deserts premises, &c.*
where half a year's rent in arrear, &c. and no sufficient distress, and premises deserted, two justices may after certain proceedings give possession to landlord, vol. ii. 1123, 1130, 1131.
lease to be void, vol. ii. 1124.
no necessity for clause of re-entry, &c. in lease, to enable landlord to take this proceeding, vol. ii. 1130, 1131.
tenants may appeal against proceedings, vol. ii. 1124, 1125.
to whom, *ib.*
remedy by overseer of poor against tenants withholding, &c.
two justices empowered in certain cases to deliver possession of parish houses from persons intruding therein, &c. iii. 1141.
mode of proceeding, *ib.*
same as to lands, &c. *ib.*
Mesne Profits,
remedy for, in certain cases, vol. iii. 754.
Waste,
remedy for, on statute of Gloucester, 6 Edw. 1, c. 5, vol. iv. 863, n. (*d*).
grantees of reversions may take advantage of conditions, vol. ii. 1095.
what covenants run with the land, vol. ii. 1097, n. (*a*).
lessees may have the like remedy against grantees of reversion, vol. ii. 1098.
Execution, &c. against growing crops, &c.
sheriff, &c. not to sell, &c. under execution, any crops, &c. contrary to covenants, vol. ii. 1129.
tenant to give notice of existence of costs, *ib.*
sheriff to give notice to owner or landlord, *ib.*
sheriff may dispose of produce subject to agreement to expend it on lands, &c. *ib.*
sheriff to assign agreement to landlord, *ib.*
sheriff to inquire as to name and residence of landlord, *ib.*
no distress for rent on purchasers of growing crops severed from soil, &c. sold subject to agreement, vol. ii. 1129.
sheriff not to sell any clover, &c. growing with corn, vol. ii. 1130.
act not to affect contracts, *ib.*
sheriff not liable for damages unless for wilful omission, *ib.*
indemnity to sheriff and others acting under act, *ib.*
assignee of bankrupt, &c. not to take any crop in any other way than bankrupt could, *ib.*
growing crops seized and sold to be liable for accruing rent, vol. ii. 1145.
Emblements,
claims to, arising on the death or cesser of the estate of landlord entitled for life, abolished, *ib.*
tenancy to continue until the end of current year, *ib.*
Fixtures and Buildings for Agricultural purposes, &c.
erected by tenant after 24th July, 1851, may be removed by him, *ib.*
must have been erected at cost of tenant, and with written consent of landlord, *ib.*
notice of removal, *ib.*
landlord may elect to purchase, *ib.*
mode of ascertaining value, *ib.*
Tithe Rent Charge. See *Tithes.*
left unpaid by outgoing tenant, may be paid by landlord, *ib.*
amount recoverable as a simple contract debt, *ib.*

LANDS CLAUSES, &c.
8 Vict. c. 18.
act to apply to all undertakings authorised by acts hereafter to be passed, vol. ii. 1148, 1149.
interpretation of act, vol. ii. 1149.
of special act, *ib.*
short title of act, vol. ii. 1150.
form in which portions of this act may be incorporated with other acts, *ib.*
Purchase of Lands by Agreement,
power to purchase lands by agreement, *ib.*
parties under disability enabled to sell and convey, vol. ii. 1150, 1151.
amount of compensation in case of parties under disability to be ascertained by valuation, and paid into the bank, vol. ii. 1151.
where vendor absolutely entitled, lands may be sold on chief rents, *ib.*
part of this section repealed, vol. ii. 1190.
extended to certain other cases, *ib.*
payments of rents to be charged on tolls, vol. ii. 1151.
extended to other cases, vol. ii. 1199.
power to purchase lands required for additional accommodation, vol. ii. 1152.
authority to sell and repurchase such lands, *ib.*
restraint on purchase from incapacitated persons, *ib.*
municipal corporations not to sell without the approbation of the treasury, *ib.*

LANDS CLAUSES, &c.—*continued.*
Purchase of Lands otherwise than by Agreement,
capital to be subscribed before compulsory powers of purchase put in force, vol. ii. 1152.
a certificate of two justices to be evidence that the capital has been subscribed, *ib.*
notice of intention to take lands, vol. ii. 1152, 1153.
service of notices on owners and occupiers of lands, vol. ii. 1153.
service of notice on a corporation aggregate, vol. ii. 1153, 1154.
settlement of question if parties fail to treat, or in case of dispute, vol. ii. 1154.
disputes as to compensation where the amount claimed does not exceed 50*l.* to be settled by two justices, *ib.*
compensation exceeding 50*l.* to be settled by arbitration or jury, at the option of the party claiming compensation, vol. ii. 1154, 1155.
method of proceeding for settling disputes as to compensation by justices, vol. ii. 1155.
appointment of arbitrator when questions are to be determined by arbitration, vol. ii. 1155, 1156.
vacancy of arbitrator to be supplied, vol. ii. 1156.
appointment of umpire, vol. ii. 1157.
board of trade empowered to appoint an umpire on neglect of the arbitrators, in case of railway companies, *ib.*
in case of death of single arbitrator, the matter to begin *de novo*, *ib.*
if either arbitrator refuse to act, the other to proceed *ex parte*, *ib.*
if arbitrators fail to make their award within twenty-one days, the matter to go to the umpire, *ib.*
power of arbitrators, *ib.*
arbitrator or umpire to make a declaration. *ib.*
costs of arbitration, how to be borne, vol. ii. 1157, 1158.
award to be delivered to the promoters of the undertaking, vol. ii. 1158.
submission may be made a rule of court, *ib.*
award not void through error in form, *ib.*
promoters of the undertaking to give notice before summoning a jury, *ib.*
warrant for summoning a jury to be addressed to sheriff, vol. ii. 1158, 1159.
provisions applicable to sheriff to apply to coroner, vol. ii. 1159.
jury to be summoned, *ib.*
jury to be impanelled, *ib.*
sheriff to preside, vol. ii. 1159, 1160.
witnesses to be summoned, *ib.*
penalty on sheriff and jury for default, vol. ii. 1160.
penalty on witness making default, *ib.*
notice of inquiry, *ib.*
f the party make default, inquiry not to proceed, *ib.*
jury to be sworn, *ib.*
sums to be paid for purchase of lands and for damage, to be assessed separately, vol. ii. 1160, 1161.
verdict and judgment to be recorded, vol. ii. 1161, 1162.
costs of inquiry, how to be borne, vol. ii. 1162.

LANDS CLAUSES, &c.—*continued.*
particulars of costs, vol. ii. 1162.
payment of costs, *ib.*
special jury to be summoned at request of either party, vol. ii. 1163.
deficiency of special jurymen, *ib.*
other inquiries before same special jury by consent, *ib.*
jurymen not to be required to attend more than once a year, *ib.*
compensation to absent parties to be determined by a surveyor appointed by two justices, *ib.*
two justices to nominate a surveyor, *ib.*
declaration to be made by surveyor, *ib.*
valuation, &c. to be produced to the owner of lands on demand, *ib.*
expenses to be borne by promoters, *ib.*
purchase money and compensation, how to be estimated, vol. ii. 1164.
where compensation to absent party has been determined by a surveyor, the party may have the same submitted to arbitration, *ib.*
question to be submitted to the arbitrators, *ib.*
if further sum awarded, promoters to pay or deposit same within fourteen days, *ib.*
costs of arbitration, *ib.*
to be settled by arbitration or jury, at the option of the party claiming compensation, vol. ii. 1164, 1165.
Application of Compensation,
purchase money payable to parties under disability amounting to 200*l.* to be deposited in the bank, vol. ii. 1166, 1167.
application of moneys deposited, vol. ii. 1167.
order for application and investment meanwhile, *ib.*
sums from 20*l.* to 200*l.* to be deposited or paid to trustees, vol. ii. 1168.
sums not exceeding 20*l.* to be paid to parties, *ib.*
all sums payable under coalition with persons not absolutely entitled to be paid into bank, *ib.*
court of chancery may direct application of money in respect of leases or reversions, *ib.*
upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed, vol. ii. 1168, 1169.
where parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited, vol. ii. 1169.
upon deposit being made, a receipt to be given, and the lands to vest upon a deed poll being executed, vol. ii. 1169, 1170.
application of moneys so deposited, vol. ii. 1170.
party in possession to be deemed the owner, *ib.*
costs in cases of money deposited, vol. ii. 1170, 1171.
Conveyances,
form of, vol. ii. 1172, 1173.
costs of, vol. ii. 1173.
taxation of costs of, *ib.*
Entry on Lands,
payment of price to be made previous to entry, except to survey, &c. *ib.*

LANDS CLAUSES, &c.—*continued.*
promoters to be allowed to enter on lands before purchase, on making deposit by way of security, and giving bond, vol. ii. 1173, 1174.
upon deposit being made, cashier to give receipt, vol. ii. 1175.
deposit to remain as a security, and to be applied under division of court, *ib.*
company may pay deposit money into bank by way of security during the time that the office of the accountant-general is closed, *ib.*
penalty on the promoters of the undertaking entering upon lands without consent before payment of purchase money, vol. ii. 1175, 1176.
decision of justices not conclusive as to rights of promoters, vol. ii. 1176.
proceedings in case of refusal to deliver possession of lands, *ib.*
parties not to be required to sell part of a house, *ib.*

Intersected Lands,
owners of intersected lands may insist on sale, vol. ii. 1177.
promoters of undertaking may insist on purchase where expense of bridges, &c. exceeds the value, *ib.*

Copyholds,
conveyance of copyhold lands to be inrolled, *ib.*
copyhold lands to be enfranchised, vol. ii. 1178.
lord of manor to be enfranchised, on payment of compensation, *ib.*
apportionment of copyhold rent, *ib.*

Common Lands,
compensation for common lands, where held of a manor, &c. how to be paid, *ib.*
lord of the manor, &c. to convey to the promoters of the undertaking, on receiving compensation for his interest, *ib.*
compensation for common lands where not held of a manor, how to be ascertained, vol. ii. 1178, 1179.
meeting of parties interested to be convened, vol. ii. 1179.
meeting to appoint committee, *ib.*
committee to agree with promoters of undertaking, *ib.*
disputes to be settled as in other cases, *ib.*
if no committee appointed, amount to be determined by a surveyor, *ib.*
upon payment of compensation payable to commoners, lands to vest, *ib.*

Lands in Mortgage,
power to redeem mortgages, vol. ii. 1179, 1180.
deposit of mortgage money on refusal to accept, vol. ii. 1180.
sum to be paid where mortgage exceeds the value of the lands, *ib.*
sum to be paid where part only of mortgaged lands taken, *ib.*
deposit of money when refused on tender, vol. ii. 1180, 1181.
compensation to be made in certain cases, if mortgage paid off before the stipulated time, vol. ii. 1181.

Rent-charges,
release of land from rent-charges, *ib.*

LANDS CLAUSES, &c.—*continued.*
release of part of lands from charge, vol. ii. 1181.
deposit in case of refusal to release, *ib.*
charge to continue on lands not taken, vol. ii. 1182.

Leases,
where part only of lands under lease taken, rent to be apportioned, *ib.*
tenants to be compensated, *ib.*
compensation to be made to tenants from year to year, &c. vol. ii. 1182, 1183.
where greater interest claimed than at will, lease to be produced, vol. ii. 1183.
limit of time for compulsory purchase, vol. ii. 1183, 1184.

Interests omitted to be purchased,
promoters of the undertaking empowered to purchase interests in lands, the purchase whereof may have been omitted by mistake, vol. ii. 1184.
how value of such lands to be estimated, *ib.*
promoters of the undertaking to pay the costs of litigation as to such lands, vol. ii. 1184, 1185.

Sale of Superfluous Land,
lands not wanted, to be sold, or, in default, to vest in owners of adjoining lands, vol. ii. 1185.
lands to be offered to owner of lands from which they were originally taken, or to adjoining owners, *ib.*
right of preemption to be claimed within six weeks, *ib.*
differences as to price to be settled by arbitration, *ib.*
lands to be conveyed to the purchasers, vol. ii. 1185, 1186.
effect of the word "grant" in conveyances, vol. ii. 1186.
land tax and poor's rate to be made good, *ib.*
service of notices upon company, *ib.*
tender of amends, vol. ii. 1186, 1187.

Recovery of Penalties,
penalties to be summarily recovered before two justices, vol. ii. 1187.
penalties to be levied by distress, *ib.*
distress how to be levied, *ib.*
application of penalties, *ib.*
distress against the treasurer, *ib.*
distress not unlawful for want of form, *ib.*
penalties to be sued for within six months, *ib.*
penalty on witnesses making default, vol. ii. 1187, 1188.
form of conviction, vol. ii. 1188.
proceedings not to be quashed for want of form, *ib.*
appeal to quarter sessions on giving security, *ib.*
court to make such order as they think reasonable, *ib.*
receiver of metropolitan police district to receive penalties incurred within his district, *ib.*
persons giving false evidence liable to penalties of perjury, *ib.*

Access to Special Act,
copies of special act to be kept and deposited, and allowed to be inspected, vol. ii. 1188, 1189.

LANDS CLAUSES, &c.—*continued.*
penalty on company failing to keep or deposit, vol. ii. 1189.
act not to extend to Scotland, *ib.*
23 & 24 Vict. c. 106.
part of sect. 10 of recited act repealed, vol. ii. 1190.
sects. 10 and 11 of recited act as to power to sell, &c. lands for an annual rent-charge, and to recover, extended to all sales, &c. where parties are under disability, *ib.*
similar proviso with regard to lands sold under sect. 10 of 8 & 9 Vict. c. 19, *ib.*
amount of rent-charge to be settled in manner directed in the 9th section of recited acts. *ib.*
if lands purchased by way of rent-charge borrowing powers to be reduced proportionally, *ib.*
certain clauses in 8 & 9 Vict. c. 18, extended to purchases of land, &c. for public purposes, vol. ii. 1191.
power to secretary for war to use the powers given to promoters of undertakings by 8 & 9 Vict. c. 18, *ib.*
this act and 8 & 9 Vict. cc. 18 and 19, to be construed together, *ib.*

LANDS IMPROVEMENT, &c.
19 Vict. c. 9.
secs. 8 and 17 of 9 & 10 Vict. c. 101, repealed, vol. ii. 1191.
if commissioners think an advance expedient, they may issue a provisional certificate without the sanction of the treasury, *ib.*
expenses of investigation may be charged upon the land, if commissioners think fit, vol. ii. 1191, 1192.
expenses of assistant commissioners and others may be by way of per-centage, vol. ii. 1192.
sec. 28 of 9 & 10 Vict. c. 101, and sec. 6 of 10 Vict. c. 11, repealed, *ib.*
commissioners, when satisfied of the execution of the works, may issue certificate for an advance, *ib.*
power to treasury to direct advances to be made, *ib.*
commencement of rent-charge, *ib.*
sec. 29 of 9 & 10 Vict. c. 101, repealed, *ib.*
in case of advances in Scotland, commissioners to deliver certificate to owner of land, *ib.*
certificates of advance to be deposited, *ib.*
upon apportionment, part of lands may be freed from rent-charge, *ib.*
part of sec. 2 of 10 Vict. c. 11, repealed, *ib.*
commissioners may issue an advance, notwithstanding deviation, *ib.*
construction of "commissioners," vol. ii. 1192, 1193.
power for commissioners to appoint, in certain cases, a substitute for owner, vol. ii. 1193.
act to apply to all cases, whatever date of provisional certificates, *ib.*
acts to be read together, *ib.*
short titles, *ib.*
24 & 25 Vict. c. 133 (The Land Drainage Act, 1861).
Preliminary,
short title, vol. ii. 1193.
act to apply to England only, *ib.*
definition of terms, *ib.*

LANDS IMPROVEMENT, &c.—*continued.*

PART I.

COMMISSIONS OF SEWERS.

Assignment of New Limits,
commissions of sewers may be issued for new areas on recommendation of inclosure commissioners, vol. ii. 1193, 1194.
recommendation of inclosure commissioners to be obtained on petition of proprietors, after investigation by an inspector, vol. ii. 1194.
definition of proprietors, *ib.*
trustees to be deemed proprietors in certain cases, *ib.*
provision as to proprietorship by corporations and companies, vol. ii. 1194, 1195.
provision as to joint proprietors, vol. ii. 1195.
provision in case of no proprietor, *ib.*
powers of inspector, *ib.*
expenses incurred in obtaining the issue of a commission of sewers under this act, *ib.*
evidence of issue of commission, *ib.*
Duration of Commission,
duration of commissions of sewers, *ib.*
Quorum,
quorum of commissioners, *ib.*
General Powers of Commissioners,
declaration of powers of commissioners, vol. ii. 1195, 1196.
restrictions as to obstructions, vol. ii. 1196.
questions as to right to remove any obstructions, *ib.*
consequences of determination of question, *ib.*
amount of compensation, how ascertained, *ib.*
restrictions as to purchase of land, *ib.*
publication of notices, *ib.*
petition to inclosure commissioners, *ib.*
inquiries by inclosure commissioners, vol. ii. 1196, 1197.
notice of inquiries, vol. ii. 1197.
provisional order by inclosure commissioners to be confirmed by parliament, *ib.*
expenses of obtaining provisional order, *ib.*
provisions of 8 & 9 Vict. c. 18, and 23 & 24 Vict. c. 106, incorporated with this act, *ib.*
notice to be given of certain works, *ib.*
correction of list of proprietors, vol. ii. 1197, 1198.
dissent of proprietors of one-half of area conclusive against new works, vol. ii. 1198.
provisions in case of no proprietor, *ib.*
jury may be dispensed with under certain conditions, *ib.*
Liabilities by reason of Tenure,
power to commute liabilities to repair by reason of tenure, *ib.*
nature of commutation, *ib.*
deposit of record of commutation, *ib.*
saving of existing liabilities to rating, *ib.*
Rating Powers,
regulations as to rating, vol. ii. 1198, 1199.
overseers to allow inspection of poor rates, vol. ii. 1199.
Mortgage of Rates,
mortgage of rates, *ib.*
certain clauses of 10 & 11 Vict. c. 16, incorporated, *ib.*

LANDS IMPROVEMENT, &c.—*continued.*
Legal Proceedings,
notices by commissioners how to be signed, vol. ii. 1199.
notices to be binding on assigns, *ib.*
notices on owners to be served personally, or left at their places of abode, *ib.*
notices to corporations to be left at their principal office, vol. ii. 1199, 1200.
service of notices on occupiers, vol. ii. 1200.
appeal to quarter sessions, *ib.*
power to refer case to arbitration, *ib.*
17 & 18 Vict. c. 125, incorporated, *ib.*
decision of questions by justices or arbitration, *ib.*
recovery of penalties, *ib.*
costs of legal proceedings on part of commissioners, *ib.*
Tender of Amends,
tender of amends, *ib.*
Saving Clauses and Miscellaneous,
saving rights of canal owners and wharfingers, vol. ii. 1200, 1201.
commissioners not to divert rivers so as to injure harbours, vol. ii. 1201.
power for canal commissioners to alter sewers, *ib.*
exemptions under local acts preserved, *ib.*
penalty for draining into sewers, without consent of commssioners, *ib.*
powers of commissioners of sewers and drainage boards to enter into arrangement, *ib.*
powers of act cumulative, *ib.*
not to affect contracts between landlord and tenant, *ib.*
provision in case of alteration of local boundaries, vol. ii. 1202.

PART II.

ELECTIVE DRAINAGE DISTRICT.

constitution of elective drainage districts, *ib.*
mode of constituting elective drainage district, *ib.*
evidence of constitution of district, *ib.*
Drainage Boards,
constitution of drainage boards, vol. ii. 1203.
powers of drainage board, *ib.*
regulations as to drainage boards, *ib.*
rules to be observed with respect to electors of drainage board, *ib.*
mode of election of drainage boards, and proceedings thereof, vol. ii. 1204.
certain provisions of 10 & 11 Vict. c. 16, incorporated, *ib.*

PART III.

POWER OF PRIVATE OWNERS TO PROCURE OUTFALLS.

application for outfall to adjoining owner, *ib.*
mode of making application, *ib.*
assent of adjoining owner, *ib.*
record of assent of adjoining owner, *ib.*
dissent of adjoining owner, *ib.*
result of decision, vol. ii. 1204, 1205.
application of compensation in case of owners under disability, vol. ii. 1205.
duty of arbitrators, *ib.*
power of applicant to clear drains, *ib.*
power of adjoining owner to divert drains, *ib.*
penalty for obstructing or injuring drains, *ib.*

LANDS IMPROVEMENT, &c.—*continued.*
costs of application, vol. ii. 1205.
provision in case of change of natural outfall, *ib.*

SCHEDULE.

PART I.—*Rules as to Election of Members of Drainage Boards,* vol. ii. 1205, 1206.
PART II.—*Rules as to Proceedings of Drainage Boards,* vol. ii. 1206, 1207.
27 & 28 Vict. c. 114 (*The Improvement of Land Act,* 1864).
recited act, 12 & 13 Vict. c. 100, repealed, vol. iv. 970.
Commissioners, Landowners, &c.
interpretation of "the commissioners," vol. iv. 971.
1 & 2 Will. c. 33.
provisions of 9 & 10 Vict. c. 101, &c., to extend and be applicable to proceeding of commissioners, *ib.*
assistant commissioners may take declarations and examine witnesses, *ib.*
punishment of persons giving false evidence, *ib.*
as to service of notices on commissioners, *ib.*
as to the service of notices on other persons, *ib.*
interpretation of "landowner," *ib.*
interpretation of "improvement of land," vol. iv. 972.
interpretation of "person," *ib.*
Proceedings preliminary to Sanction of Improvements,
application to commissioners to sanction improvements, *ib.*
joint application by several landowners, *ib.*
commissioners may issue forms, *ib.*
may require security for expenses, *ib.*
commissioners may cause application to be investigated, *ib.*
and require proposed improvements to be modified, vol. iv. 973.
advertisements and notices preliminary to sanction, *ib.*
power of dissent by persons interested, and protection of landowner's infant children, *ib.*
the same in case of navigable rivers and canals, *ib.*
consents necessary in case of church lands, *ib.*
in case of dissent, or when landowner's infant children are to be protected, court of chancery or session may authorise commissioners to proceed, *ib.*
service of notice under preceding clause, vol. iv. 974.
and costs may be given by court, *ib.*
representation of persons under disability for applications and dissents under preceding clause, *ib.*
Sanction of Improvements, and Rights thereunder,
commissioners' order sanctioning improvements, *ib.*
forms of orders sanctioning improvements to be prepared by commissioners, what they must contain, *ib.*
they may be called provisional orders, and may be assigned to parties agreeing to execute improvements, *ib.*
provision for death of landowner pending completion of improvements, vol. iv. 975.
provisional orders may be modified, *ib.*

LANDS IMPROVEMENT, &c.—*continued.*
Execution of Improvements,
detailed specifications to be delivered in advance, vol. iv. 975.
and approved before execution of works, *ib.*
adjoinging lands or easements over them, may be sold for purpose of improvements, and conveniences over adjoining lands for the execution of improvements contracted for, *ib.*
works necessary to be made on adjoining lands for execution of improvements may be made under certain acts, vol. iv. 976.
provisional order to protect from impeachment of waste, and to authorise getting materials from land, &c. *ib.*
saving rights of the crown, *ib.*
saving rights of the commissioners of her majesty's works, *ib.*
saving rights of duchy of Cornwall, *ib.*
saving rights of duchy of Lancaster, vol. iv. 977.
saving rights of the admiralty and of the board of trade, *ib.*
plans to be deposited with admiralty before commencing works below high-water mark, *ib.*
landowner to pay expenses of survey ordered by admiralty, *ib.*
saving rights of her majesty's principal secretary of state for war, *ib.*
rights of commissioners of sewers saved, *ib.*
works connected with Thames to be executed under direction of conservators of Thames, *ib.*
metropolitan board of works, &c. protected, vol. iv. 978.
water companies and commissioners protected, *ib.*
rivers, &c. protected, *ib.*
commissioners may inspect works, *ib.*

Charges for Improvements,
commissioners to execute charge on completion of works, or of some part thereof, *ib.*
expenses of application and certain contracts may be included in charge, vol. iv. 979.
the charges to be by way of rent-charge created by absolute order, *ib.*
to be made according to form in schedule (B.), *ib.*
expenditure made under this act may be charged under acts of improvement companies, *ib.*
improvement companies may exercise the powers of this act, on conforming to its procedure, *ib.*
as also companies authorised to execute improvements in the united kingdom, *ib.*
absolute order to be conclusive evidence of charge, *ib.*
registry of rent-charges in Ireland, Middlesex, Yorkshire, and Scotland, *ib.*
landowner may borrow the amount of certain public assessments, and charge same on inheritance, vol. iv. 980.
order may be made in form specified, together with costs of application, to be charged on inheritance, *ib.*
grantee to have charge for principal money from time to time unrepaid, with priority over other incumbrances, *ib.*
charges to be personal property, but money

LANDS IMPROVEMENT, &c.—*continued.*
authorised to be invested on real security may be invested therein, or on mortgages thereof, vol. iv. 980.
charges not to preclude trustees from investing in purchase or on mortgage of lands, *ib.*
proprietor of Scotch entailed estate may avail himself of act, and rent-charge to be charge on such estate, *ib.*
rent-charges to be recoverable as tithe rent-charges or feu duties, vol. iv. 981.
interest on arrears of rent-charges, *ib.*
assignment of charges, *ib.*
tenants for life to keep down rent-charges, *ib.*
tenant may deduct rent-charge, unless he has agreed to pay it, *ib.*
rent-charges may be apportioned, or part of the land charged released therefrom, *ib.*
form, registry, and effect of orders of apportionment and release, vol. iv. 982.
charges apportioned, or from which part of the lands have been released, to be deemed original charges, *ib.*
several charges may be dealt with in one order of apportionment or release, *ib.*

Upholding Improvements,
improvements to be upheld, and condition thereof certified if required, *ib.*
power to enter on neighbouring lands for repair of works, making compensation, *ib.*
farmhouses, &c. to be insured; power to insure in case of default, *ib.*
inclosure commissioners may compel maintenance of improvements, vol. iv. 983.
inclosure commissioners may give relief from maintenance of improvements, *ib.*
admiralty may remove works abandoned or fallen into decay, *ib.*

Subscription to Railways,
conditions for application to commissioners, *ib.*
commissioners' proceedings on application, vol. iv. 984.
provisional order sanctioning charge, *ib.*
companies empowered to lend by paying to the railway or canal company, *ib.*
commissioners' absolute order and its conditions, *ib.*
form and effect of absolute order, *ib.*
notice thereof to be entered in register of shareholders, *ib.*
person liable to pay charge to be entitled for the time being to the shares, *ib.*
and to have them stand in his own name, *ib.*
rights and duties of persons registered for the time being in respect of the shares, *ib.*
entire shares to belong to parties in proportion to their payments, and to be released to them from time to time, *ib.*
shares not claimed within two years from expiration of term to belong to person bound to make last payment of charge, vol. iv. 985.
inclosure commissioners to cause a table of fees to be prepared and submitted to treasury for approval, *ib.*
officers to render account of fees received to the treasury, *ib.*
to be paid over to the consolidated fund, *ib.*

SCHEDULE (A.)
Provisional Order, ib.

LANDS IMPROVEMENT, &c.—*continued.*
SCHEDULE (B.)
Absolute Order, vol. iv. 986.

SCHEDULE (C.)
Assignment of a Charge, *ib.*

SCHEDULE (D.)
Form of Order for apportioning Charges, vol. iv. 987.

SCHEDULE (E.)
Form of Order for exempting Lands, vol. iv. 988.

SCHEDULE (F.)
Vesting Order, vol. iv. 989.

LEASES.
General requisites of, and formalities in making,
chief leases may be renewed without surrendering underleases, vol. ii. 1114.
unless in writing, to have effect of estates at will only, except certain leases not exceeding three years, vol. ii. 145—147, and notes.
when must be by deed, vol. i. 824, 825; vol. ii. 1235.
when must be assigned and surrendered by deed, *ib.*
effect of assignment on covenants, vol. ii. 1095, n. (*a*).
relief against defects in leases made under leasing powers, 12 & 13 Vict. c. 26, vol. ii. 1236.
interpretation of terms, *ib.*
where invalid to be deemed contracts in equity, *ib.*
proviso where grantor or reversioner is willing to confirm, *ib.*
confirmation by acceptance of rent, *ib.* repealed, vol. ii. 1237.
how invalid leases may become valid, vol. ii. 1236, 1237.
what shall be deemed intended exercise of a power, vol. ii. 1237.
reservation of rights of lessees under covenants, *ib.*
act not to extend to certain leases, *ib.*
pending suits not to be prejudiced, *ib.*
amendment of 12 & 13 Vict. c. 26 (13 Vict. c. 17), vol. ii. 1237.
when acceptance of rent a confirmation, *ib.*
when lessee to accept confirmation, *ib.*
stamps on and exemptions from, vol. iv. 517, *et seq.*
registering of, in York, 2 & 3 Anne, c. 4; 6 Anne, c. 35.
in Middlesex, 8 Geo. 2, c. 6; 25 Geo. 2, c. 4.

Actions respecting,
against whom action of waste maintainable, vol. ii. 1207.
this action now abolished, *ib.* n. (*b*).
action on the case substituted for it, *ib.*
enjoyment of leases against recoveries by feigned title, vol. ii. 1208.
remedy of recoverors against tenant for years for rent or waste, *ib.*

Leases by Tenants in tail, &c.
leases made by, in right of their wives or churches, which be good or bad, *ib.*
not to extend to estates already leased, unless such old lease be expired, &c. in one year after making of new lease, vol. ii. 1209.
nor to grant of reversion of lands, *ib.*
nor to lease of lands which have not most commonly been let for twenty years before such lease, *ib.*
nor to lease without impeachment of waste, *ib.*
nor to lease above twenty-one years or three lives, *ib.*
lease must reserve rent accustomably paid, &c. or more, vol. ii. 1209, 1210.
lessees, &c. after death of lessors of such leases to have like powers as before such death, vol. ii. 1210.

Leases of Settled Estates,
19 & 20 Vict. c. 120 (amended by 27 & 28 Vict. c. 45), vol. iv. 989.
interpretation of certain terms, vol. ii. 1238.
power to court of chancery to authorise leases of settled estates, *ib.*
subject to certain conditions, *ib.*
leases may contain special covenants, vol. ii. 1239.
parts of estates may be leased, *ib.*
leases may be surrendered and renewed, *ib.*
power to authorise leases to extend to preliminary contracts, *ib.*
mode in which leases may be authorised, *ib.*
what evidence to be produced on application to authorise lease, *ib.*
after approval of lease, court to direct who shall be the lessor, *ib.*
powers of leasing may be vested in trustees, *ib.*
court may authorise sales of settled estates and of timber, *ib.*
consideration for land sold for building may be a fee farm rent, vol. ii. 1240.
minerals, &c. may be excepted from sales, *ib.*
court may authorise dedication of parts of settled estates for roads, gardens, &c *ib.*
how sales and dedications are to be effected under the direction of the court, *ib.*
application by petition to exercise powers conferred by this act, *ib.*
with whose consent such application to be made, *ib.*
petition may be granted without consent, saving rights of non-consenting parties, vol. ii. 1241.
notice of application to be served on all trustees, &c. *ib.*
notice of application to be given in newspapers, *ib.*
no application under this act to be granted where a similar application has been rejected by parliament, *ib.*
notice of the exercise of powers to be given by the court, *ib.*
court may appoint trustees to receive and apply moneys arising from sales, *ib.*
trustees may apply moneys, in certain cases, without application to court, *ib.*
until it can be applied, money to be invested, and dividends paid to parties entitled, *ib.*
court may exercise powers repeatedly, but may not exercise them, if expressly negatived, vol. ii. 1241, 1242.
court not to authorise any act which could not have been authorised by the settlor, vol. ii. 1242.

LEASES—*continued.*
acts of the court in professed pursuance of this act, not to be invalidated for want of authority, vol. ii. 1242.
but no lease or sale to bind any person who ought to have concurred, *ib.*
costs and expenses may be a charge on hereditaments, *ib.*
power to lord chancellor, &c. to make rules and orders, vol. ii. 1242, 1243.
rules and orders to be laid before parliament, vol. ii. 1243.
tenants for life, &c. may grant leases for twenty-one years, *ib.*
against whom such leases shall be valid, *ib.*
evidence of execution of lease by lessee, *ib.*
repeal of 32 Hen. 8, c. 28, and 10 Car. 1, sess. 3, c. 6 (Ireland), except as to ecclesiastical leases, *ib.*
provision as to infants, lunatics, &c. *ib.*
a married woman applying to the court to be examined apart from her husband, vol. ii. 1243, 1244.
no clause, &c. in settlement restraining anticipation to prevent court from exercising powers, vol. ii. 1244.
examination to be either by court or by a solicitor, *ib.*
as to consent of, if under age, *ib.*
no equity to compel any one to apply to the court, *ib.*
tenants for life, &c. may exercise powers notwithstanding incumbrances, *ib.*
exceptions as to entails created by acts of parliament, *ib.*
saving rights of lords of manors, *ib.*
to what settlements this act to extend, *ib.*
extent of act, *ib.*
commencement of act, *ib.*
21 & 22 Vict. c. 77.
definitions of "settlement" and "settled estates," vol. ii. 1247.
"building lease" to include repairing lease, *ib.*
but no repairing lease to be for more than sixty years, *ib.*
powers authorising leases to include licences to copyhold and customary tenants to grant leases, *ib.*
power of court to extend term of building leases may be exercised with respect to other leases, *ib.*
except agricultural leases, *ib.*
power to surrender leases granted under 19 & 20 Vict. c. 120, extended to all leases, *ib.*
examinations of married women resident out of jurisdiction may be taken by persons appointed for that purpose, *ib.*
such persons need not be solicitors, *ib.*
appointment conclusive evidence that residence is out of jurisdiction, *ib.*
general rules and orders as to matters in this act may be made and rescinded, *ib.*
such rules and orders may alter procedure prescribed by this act or 19 & 20 Vict. c. 120, *ib.*
demises of unsettled estates by husband entitled in right of wife to be valid against wife, vol. ii. 1248.
27 & 28 Vict. c. 45.
conditions that leases shall be settled by the court not to be inserted in orders under sect. 10 of recited act, unless desired, &c. vol. iv. 989.

LEASES—*continued.*
conditions already inserted may be struck out by court, vol. iv. 989.
removal of doubts as to construction of sect. 1 of recited act, *ib.*
what are settled estates, *ib.*
be governed by the state of facts at time of the said settlement taking effect, *ib.*
act to be construed with recited act, *ib.*
extent of act, *ib.*

By and relating to Ecclesiastical Persons,
demise by persons having any estate in right of their churches, vol. ii. 1208.
by ecclesiastical persons attainted by treason, vol. ii. 1211.
of bishop's lands, vol. ii. 1213.
right of the crown on avoidance of bishopric, vol. ii. 1212, 1213.
by spiritual persons for more than twenty-one years or three lives, void, vol. ii. 1214.
fraudulent, by spiritual persons to defeat remedy of successors for dilapidations, 13 Eliz. c. 10, vol. ii. 1213, 1214.
duration of, by spiritual persons, vol. ii. 1212—1214.
not to extend to leases by universities, vol. ii. 1214, 1215.
nor to leases made upon surrender of former covenants, vol. ii. 1215.
avoidance of certain ecclesiastical, 13 Eliz. c. 20, vol. i. 520.
omission of certain words in 13 Eliz. c. 20; 14 Eliz. c. 11, vol. ii. 1215.
bonds and covenants for the enjoyment of, void, *ib.*
by curates of benefices with care, *ib.*
by spiritual persons of houses in cities or corporate towns, *ib.*
money recovered for dilapidations to be employed in repairs, *ib.*
reservations in, by spiritual persons, vol. ii. 1215, 1216.
continuance of statutes, vol. ii. 1216.
made for relief of poor in hospitals, *ib.*
by colleges, a third part of the rent to be reserved in corn, 18 Eliz. c. 6, *ib.*
explanation of previous statutes respecting 18 Eliz. c. 11, vol. ii. 1217.
assurances made to the king of bishops' lands, void, 1 Jac. 1, c. 3, vol. ii. 1217, 1218.
no bishop to assure his land to the king, vol. ii. 1218.
confirmation of, by ecclesiastical persons, of titles and incorporeal hereditaments, 5 Geo. 3, c. 17, *ib.*
restriction as to, by colleges, &c. *ib.*
action for rents on leases for lives, vol. ii. 1218, 1219.
several leases or lease of part, vol. ii. 1219.
amount of rent reserved in those cases, vol. ii. 1220.
reservation of specific thing, *ib.*
some annual rent must be reserved, *ib.*
leases by colleges, &c. must be within 18 Eliz. c. 6, vol. ii. 1220, 1221.
payment of rents reserved to vicars, &c. other than the lessors, vol. ii. 1221.
surrender of leases held in trust, *ib.*
restrictions on the renewal of, by ecclesiastical persons, 6 & 7 Will. 4, c. 20, vol. ii. 1221.
recitals of, evidence of facts, vol. ii. 1222.

LEASES—*continued.*
penalty for introduction of false recitals, vol. ii. 1222.
grant of, by ecclesiastical persons, conformable to usual practice, *ib.*
exchanges by ecclesiastical persons, *ib.*
act not to prevent grants by acts of parliament, vol. ii. 1222, 1223.
where illegal, act not to render valid, vol. ii. 1223.
if contrary to act, void, *ib.*
amendment of 6 & 7 Will. 4, c. 20; 6 & 7 Will. 4, c. 64, *ib.*
leases not void for not containing the recitals there mentioned, *ib.*
farming leases by incumbents of benefices, 5 Vict. c. 27, *ib.*
previous provisions, *ib.*, n. (a).
for fourteen years, under certain restrictions, vol. ii. 1224.
costs respecting cultivation, improvements, &c. *ib.*
may be granted for twenty years in certain cases, vol. ii. 1225.
reservation of parsonage house and glebe, *ib.*
surveyor to be appointed, *ib.*
existing maps may be used, vol. ii. 1226.
evidence of execution, *ib.*
surrender of, *ib.*
provision as to peculiars, *ib.*
incapacity of patron or lord of the manor, *ib.*
where patronage in the crown, *ib.*
where attached to the duchy of Cornwall, vol. ii. 1226, 1227.
corporate bodies may act by common seal, vol. ii. 1227.
who to be deemed the patron, *ib.*
where the same person is bishop, or patron, and incumbent, *ib.*
act to extend to lands held in trust, *ib.*
deposit of maps, *ib.*
production of deposited documents, vol. ii. 1227, 1228.
office copies to be evidence, vol. ii. 1228.
registrar's charges, *ib.*
grant of, for long terms by ecclesiastical corporations, 5 & 6 Vict. c. 108, *ib.*
for building, *ib.*
reservation of increased rents, vol. ii. 1229.
appropriation of land for streets, &c. vol. ii. 1229, 1230.
lease of running water, and water leaves and way leaves, vol. ii. 1230.
confirmation of voidable leases, *ib.*
grant of mining leases, vol. ii. 1231.
execution, conclusive evidence of, requisites, *ib.*
existing powers of leasing not restrained, *ib.*
residence not to be leased, *ib.*
payment of improved value to commissioners, vol. ii. 1231, 1232.
powers of 3 & 4 Vict. c. 113, extended to act, vol. ii. 1232, 1233.
leases to be made on surrender of existing leases, vol. ii. 1233.
surrender of underleases unnecessary, *ib.*
surveyor to make maps, &c. when new lease intended, *ib.*
liability for dilapidations, *ib.*
consents requisite to validity of leases, *ib.*
consents how testified, *ib.*

LEASES—*continued.*
where patronage in the crown, vol. ii. 1233, 1234.
where patronage attached to the duchy of Cornwall, vol. ii. 1234.
where patron or lord of manor is an incapacitated person, *ib.*
patron in case of vacancy, *ib.*
consent by same person in more than one character, *ib.*
corporation aggregate to act by common seal, *ib.*
application of act to lands held in trust for corporations, *ib.*
deposit of counterparts of leases and other instruments, vol. ii. 1235.
office copies to be evidence, *ib.*
lease void if any fine or premium paid, *ib.*
interpretation of act, *ib.*
extent of act, *ib.*
21 & 22 Vict. c. 57.
with consent of ecclesiastical commissioners, leases under 5 & 6 Vict. c. 108, may be granted in considerations of premiums, vol. ii. 1244, 1245.
with such consent, sales or exchanges of lands, &c. may be effected, vol. ii. 1245.
moneys payable for premiums, rents, and royalties reserved, and moneys produced by sales, &c. to be paid to commissioners, *ib.*
receipt of treasurer to be sufficient, *ib.*
such moneys may remain on mortgage, *ib.*
after payment of expenses other lands to be purchased with moneys, *ib.*
statute of mortmain not to apply, *ib.*
until such purchase, moneys to be invested in names of commissioners, *ib.*
ecclesiastical corporations may raise money to be paid for equality of exchange or partition, *ib.*
ecclesiastical corporations, with consent of commissioners, may enter into contracts, and grant licences to search for mines, vol. ii. 1246.
and vary same, or accept surrenders of leases, *ib.*
expenses of carrying provisions of this act or of recited act into effect, may be charged on lands of corporation, *ib.*
charge to be lessened annually, *ib.*
this act not to interfere with 14 & 15 Vict. c. 104, *ib.*
not to repeal powers under former acts, *ib.*
on sale or purchase of part of estate held under a lease, the rent to be apportioned, *ib.*
leases of land acquired under this act, not to be granted for more than fourteen years, *ib.*
such leases to be for best annual rent, &c. *ib.*
improved value of dignities, offices, and benefices, to be paid to commissioners, vol. ii. 1246, 1247.
section 18 of 5 & 6 Vict. c. 108, repealed, vol. ii. 1247.
clauses of 5 & 6 Vict. c. 108, not repealed, incorporated, *ib.*
short title of 5 & 6 Vict. c. 108, *ib.*
short title of this act, *ib.*
act to extend only to England and Wales, Isle of Man, &c. *ib.*

LEASES—*continued.*
24 & 25 Vict. c. 105.
leases made by prebendaries, rectors, &c. not to be valid unless made in conformity with the provisions of certain acts, vol. ii. 1251.
saving rights of present incumbents, &c. *ib.*
25 & 26 Vict. c. 52.
how far prohibition in 24 & 25 Vict. c. 105, as to making of grants, &c. is to extend, vol. ii. 1252.
powers of prebendaries, *ib.*
By Corporations, Hospitals, Universities, and Colleges,
leases of hospitals, &c. good with consent of the greater part, vol. ii. 1211.
in corporations none shall have a negative voice, vol. ii. 1212.
an oath shall not be observed which is contrary to the statute, *ib.*
penalty for offending, *ib.*
college not to alien house without present and sufficient satisfaction, vol. ii. 1216.
upon leases by colleges, a third of rent to be reserved in corn, *ib.*
23 & 24 Vict. c. 59. Leases by universities and colleges.
power to raise moneys by mortgage by way of compensation for loss of fines on non-renewal of leases, vol. ii. 1248.
form of order to be issued by copyhold commissioners evidencing their consent, *ib.*
lands once leased at rackrent not thereafter to be leased upon fines, vol. ii. 1249.
amendment of certain provisions of the copyhold acts with respect to universities and colleges, *ib.*
power to transfer lands vested in individual members of universities or colleges to the university or college in its corporate capacity upon like trusts, *ib.*
two copyhold commissioners to form a board for exercise of powers under 21 & 22 Vict. c. 44, *ib.*
extension of certain provisions of the 3 & 4 Vict. c. 113, with respect to universities and colleges, *ib.*
provisions as to right of patronage severed, vol. ii. 1250.
8 & 9 Vict. c. 18, incorporated, *ib.*
the ecclesiastical commissioners constituted "the authority" referred to, *ib.*
power to substitute land or other permanent endowment in lieu of annual rents or other payments, in extension of certain provisions of 17 & 18 Vict. c. 84, vol. ii. 1250, 1251.
By Married Women and Husbands,
of wife's lands, certain requisites necessary, vol. ii. 1208—1210, 1243, 1248.
to whom rent of such lands, &c. to be reserved and descend, *ib.*
husband's only act of wife's land not to prejudice her or her heirs, vol. ii. 1211.
leases of wife's inheritance, proviso as to, *ib.*
By Lunatics, vol. iii. 142.
Of Incorporeal Hereditaments.
tithes and other incorporeal hereditaments by ecclesiastics, &c. for a certain time, &c. good, vol. ii. 1218.

LEASES—*continued.*
mode of recovering arrears of rents, &c. reserved thereby, vol. ii. 1218, 1219.
running water, and water leaves and way leaves, by ecclesiastical corporations, vol. ii. 1230.
In case of Bankruptcy,
how lessor to act, vol. i. 318.
who entitled to, &c. *ib.*
when bankrupt liable for costs, *ib.*
when assignees are, *ib.*
As to Attornment. See *Attornment.*
As to Rent. See *Landlord and Tenant.*

LEASE AND RELEASE. See *Conveyances.*

LECTURES. See *Copyright.*

LEGACY. See *Executors; Stamps; Succession Duty.*

LIBEL AND DEFAMATION. See *Criminal Law.*
amendment of the law respecting defamatory words and libel, 6 & 7 Vict. c. 96, vol. ii. 1253.
when apology admissible in mitigation of damages, *ib.*
plea in action against newspaper, *ib.*
payment into court, *ib.*
must be made when plea is pleaded, vol. ii. 1255.
punishment for libel, &c. with intent to extort money, vol. ii. 1253, 1254.
punishment for knowingly publishing false libel, vol. ii. 1254.
or for malicious libel, *ib.*
plea of truth to indictment for libel, *ib.*
evidence to rebut publication of libel, *ib.*
costs on indictment for libel, vol. ii. 1254, 1255.
interpretation clause, vol. ii. 1255.
previous state of the law, vol. ii. 1254, n. (*b*).
provisions as to pleading and payment extended to Ireland, vol. ii. 1255.
publication of parliamentary papers protected, vol. iii. 614, 615.

LIBERTIES.
act for facilitating the union of liberties with the counties in which they are situate, vol. ii. 993.

LIBRARIES (PUBLIC).
18 & 19 Vict. c. 70.
repeal of 13 & 14 Vict. c. 65, vol. ii. 1256.
short title of act, *ib.*
interpretation of terms, *ib.*
town councils of boroughs, the population of which exceeds 5000 persons, may adopt this act if determined by inhabitants, *ib.*
expenses of carrying act into execution in a borough to be paid out of the borough fund, *ib.*
board of any district having same population within limits of any improvement act may adopt this act if determined by inhabitants, *ib.*
expenses of carrying act into execution by improvement commissioners, to be charged on improvement rate, vol. ii. 1256, 1257.
parishes having same population may adopt this act with the consent of two-thirds of the ratepayers, vol. ii. 1257.

LIBRARIES (PUBLIC)—*continued.*
the vestry to appoint commissioners for carrying the act into execution, who shall be a body corporate, vol. ii. 1257.
one-third of such commissioners to go out of office yearly, and others to be appointed, *ib.*
retiring commissioners may be re-appointed, *ib.*
general and special meetings of commissioners, *ib.*
minutes of proceedings of commissioners to be entered in books, *ib.*
district accounts to be kept by commissioners, and duly audited, *ib.*
expenses of existing act in any parish to be paid out of poor rate, *ib.*
vestries of two or more neighbouring parishes may adopt the act, vol. ii. 1257, 1258.
rates levied not to exceed one penny in the pound, vol. ii. 1258.
accounts of board and commissioners to be open to inspection, *ib.*
power to borrow on mortgage, *ib.*
provisions of "The Companies Clauses Consolidation Act" as to borrowing incorporated, *ib.*
lands, &c. may be appropriated, purchased, or rented, for the purposes of this act, *ib.*
provisions of "The Lands Clauses Consolidation Act," incorporated, *ib.*
lands, &c. may be sold or exchanged, *ib.*
general management to be vested in council, board, or commissioners, *ib.*
property of library, &c. to be vested in council, board, and commissioners respectively, vol. ii. 1259.
if any meeting determine against adoption of act, no other meeting to be called for a year, *ib.*
act may be adopted in the city of London, if two-thirds of persons rated to the consolidated rate, assembled at a public meeting, assent, *ib.*
museums to be free, *ib.*
extent of act, *ib.*

LIGHTING AND WATCHING. See *Gas.*
3 & 4 Will. 4, c. 90.
11 Geo. 4, c. 27, repealed, vol. ii. 285.
previous proceedings under that act not to be affected, *ib.*
inspectors under former act to continue until others appointed, *ib.*
act applicable to all parishes, *ib.*
act superseded in districts where Public Health Acts are adopted, *ib.* n. (*a*).
how meeting for adoption of act to be convened, vol. ii. 286.
chairman to be elected and to determine disputes, *ib.*
chairman to read requisition and require persons to determine whether act shall be adopted, *ib.*
proviso for adjournment of meeting, *ib.*
act, if adopted, to come into immediate operation, *ib.*
inhabitants to fix amount of money to be raised, *ib.*
poll may be demanded as to adoption of act, *ib.*
notice of poll to be given by churchwardens, *ib.*
form of notice, *ib.*

LIGHTING AND WATCHING—*continued.*
form of declaration, vol. ii. 287.
churchwardens to examine votes and declare result, *ib.*
number of votes necessary for adoption of act, *ib.*
how expenses of meeting, &c. to be defrayed, *ib.*
ratepayers may respect votes, *ib.*
no person to vote unless rated for one year, *ib.*
notice of adoption of act to be given, *ib.*
act may be abandoned, *ib.*
if act not adopted, no similar meetings to be had within one year, vol. ii. 288.
inspectors, mode of electing, *ib.*
when inspectors to give notice to churchwardens that their accounts are ready, *ib.*
churchwardens to call meeting to inspect same, *ib.*
provision for future annual meetings, *ib.*
inspectors to produce accounts, &c. *ib.*
one-third of inspectors to go out of office and others to be elected, *ib.*
out-going inspector may be re-elected, *ib.*
chairman to decide questions of eligibility, vol. ii. 289.
vacancies in number of inspectors, how to be filled up, *ib.*
inspectors to meet monthly, *ib.*
special meetings of inspectors, *ib.*
quorum, how constituted, *ib.*
inspectors to appoint officers and rent an office, *ib.*
treasurer, security to be taken from, *ib.*
treasurer and officers to account, *ib.*
proceedings against officers neglecting to account, *ib.*
commitment of offender not to discharge sureties, vol. ii. 290.
penalty for taking improper fees, *ib.*
inspectors may sue and be sued in name of any one of them, *ib.*
proceedings to be entered in books and to be evidence, *ib.*
accounts to be kept, and to be open to inspection, vol. ii. 291.
order to overseers for payment of money for purposes of act, *ib.*
power of overseers to collect rates, *ib.*
land and houses to be rated separately, *ib.*
power of succeeding overseers to collect rates, *ib.*
overseers to pay amount to treasurer, *ib.*
receipt of treasurer to be a discharge to overseers, vol. ii. 292.
who deemed overseers for purposes of act, *ib.*
overseers may be distrained upon for non-payment, *ib.*
appointment of watchman, &c. *ib.*
watchmen on removal, &c. to give up clothing, &c. *ib.*
penalty for neglect, *ib.*
duty of watchman, &c. *ib.*
to be sworn in and have power of constables, vol. ii. 293.
certain fees to be paid over to inspectors, *ib.*
fire-engines to be provided, *ib.*
lamp-irons to be put up, *ib.*
gas-pipes not to be laid on private premises without consent, *ib.*
owners of private grounds may alter position of pipes, *ib.*

LIGHTING AND WATCHING—*continued.*
gas, escape of, how to be stopped, vol. ii. 294.
penalty for neglect, *ib.*
gas-works, power to convey away washings of, *ib.*
penalty for conveying washings into river, &c. *ib.*
gas-pipes, how to be laid, vol. ii. 295.
gas, prevention of escape of, and contamination of water, *ib.*
water, contamination of, how to be ascertained, vol. ii. 296.
gas, persons supplying, liable to be indicted for nuisance, *ib.*
lamps, penalty for wilfully destroying or injuring, *ib.*
lamps, accidental breakage of, *ib.*
inspectors' power to contract for works, vol. ii. 297.
inspectors may sue for breach of contract, *ib.*
may compound with contractor, *ib.*
may purchase or rent ground, &c. for purposes of act, *ib.*
lamps, &c. property of, vested in inspectors, *ib.*
inspectors of adjoining parishes may unite, *ib.*
forms of information and conviction, *ib.*
penalties, recovery and application of, vol. ii. 298.
inspectors exempt from personal liability, *ib.*
witnesses, inhabitants may be, *ib.*
appeal to quarter sessions against order of inspectors, &c. *ib.*
appeals against rate subject to same rules as appeals against poor-rates, vol. ii. 299.
plaintiff not to recover after tender of sufficient amends, *ib.*
limitation of actions, &c. *ib.*
want of form, proceedings not unlawful for, *ib.*
no *certiorari*, *ib.*
parishes may adopt only parts of act, *ib.*
powers of act, how far limited, *ib.*
parts of parishes may adopt act, vol. ii. 300.
not to interfere with local act, *ib.*
gas-works, power of surveyor of sewers to enter, *ib.*
commissioners of sewers, act not to prejudice rights of, *ib.*
universities, act not to affect, *ib.*
construction of act, *ib.*

LIMITATION OF ACTIONS. See *Crown Suits; Death by Accident.*
construction of statutes as to, in general, vol. iii. 1, n. (*c*).
renewal of writs of summons to save statutes of limitation, &c. vol. iii. 67, 68.
production of renewed writ evidence of commencement of first action, vol. iii. 68.

As to Real Property,
crown bound to sue in sixty years, vol. iii. 10, 72.
similar provision as to Duke of Cornwall, vol. iii. 71.
3 & 4 Will. 4, c. 27.
construction of act, &c. vol. iii. 25, n. (*c*).
meaning of words used in act, vol. iii. 25—27, and *notes.*
no land or rent to be recovered after twenty years from right accrued, vol. iii. 27, and n. (*c*).
when right deemed to have accrued, vol. iii. 28—32, and *notes.*
proviso where forfeiture not taken advantage of by remainder-man, vol. iii. 33.
reversioner to have a new right, *ib.*
administrator to claim as from death of deceased, *ib.*
in case of tenant at will, right deemed to have accrued at the end of one year, vol. iii. 33, 34, and *notes.*
when right deemed to have accrued in case of yearly tenancy, vol. iii. 35.
when right to accrue where rent wrongfully received under a lease, vol. iii. 36.
mere entry not to be deemed possession, *ib.*
no right to be preserved by continual claim, *ib.*
possession of one co-parcener, &c. not to be possession of the other, *ib.*
possession of younger brother not to be possion of heir, vol. iii. 37.
acknowledgment in writing equivalent to possession or receipt of rent, *ib.*
where possession not adverse at passing of act, when right to be barred, vol. iii. 38.
time allowed in cases of disability, vol. iii. 39, and *notes.*
no action, &c. to be brought after forty years from accruing of right, vol. iii. 40, and n. (*a*).
no further time to be allowed for succession of disabilities, vol. iii. 41.
Scotland and Ireland not to be deemed beyond seas, *ib.*
when right to estate in possession barred, right of same person to future estates also barred, vol. iii. 41, 42, and n. (*a*).
right of remainder-men, when barred, vol. iii. 42, 43.
no suit in equity allowed after time limited at law, vol. iii. 43, and n. (*b*).
in cases of express trust, when right deemed to have accrued, vol. iii. 44, and n. (*a*).
in cases of concealed fraud, time to run from discovery of fraud, vol. iii. 47, and n. (*a*).
proviso as to purchasers, vol. iii. 47, 48.
saving jurisdiction of equity on ground of acquiescence, vol. iii. 48.
when mortgagors and mortgagees to be barred, vol. iii. 48—50, and *notes.*
limitation in case of ecclesiastical or eleemosynary corporations sole, vol. iii. 50.
advowsons, when to be recovered, *ib.*
what incumbencies after lapse to be reckoned within period, vol. iii. 57.
when claim of advowson in remainder, &c. after estate tail, to be barred, *ib.*
no advowson to be recovered after one hundred years, *ib.*
rights of parties out of possession extinguished at end of limitation, vol. iii. 51, and see n. (*a*).
receipt of rent to be deemed receipt of profits, vol. iii. 52.
abolition of real and mixed actions, *ib.*
exception as to dower, *quare impedit*, and ejectment, *ib.*
saving of certain rights, &c. *ib.*
no descent, &c. to bar right of entry, vol. iii. 53.
money charged upon land, &c. when to be deemed satisfied, vol. iii. 53—58, and *notes.*

LIMITATION OF ACTIONS—*continued.*
extension of same provisions to cases of claims to estates of intestates, vol. iii. 70.
arrears of dower not recoverable for more than six years, vol. iii. 58.
no arrears of rent or interest to be recovered for more than six years, vol. iii. 59—61, and *notes.*
except in actions on specialties, vol. iii. 58, n. (*a*), and vol. iii. 62.
act to extend to spiritual courts, vol. iii. 62.
not to extend to Scotland, nor to advowsons in Ireland, *ib.*
7 Will. 4 & 1 Vict. c. 28.
amendment of 3 & 4 Will. 4, c. 27, vol. iii. 65, 66.
within what time mortgagees may bring actions, *ib.*
5 & 6 Vict. c. 97.
general limitation of actions under local and personal acts, vol. iii. 66.
what are local and personal acts, *ib.* n. (*c*).
6 & 7 Vict. c. 54.
limitation of actions of *quare impedit*, vol. iii. 67.
As to Personal Property.
when limited to six years, 21 Jac. 1, c. 16, vol. iii. 1—4.
actions within the limitation, *ib.* and *notes.*
actions on promissory notes (3 & 4 Ann. c. 9), vol. iii. n. (*e*).
actions for written slander and slander of title, vol. iii. 7, n. (*a*).
actions for merchants' accounts, vol. iii. 68.
suits in admiralty court for seamen's wages, vol. iii. 9.
actions and suits for tithes, &c. vol. iii. 13.
when limited to four years, vol. iii. 5—7.
as actions for assault and imprisonment, &c. *ib.*
when limited to two years, vol. iii. 7.
as actions for words, *ib.*
limitation of actions of debt, &c. on specialties, vol. iii. 62.
limitation for suits for slander, brawling, fornication, &c. in ecclesiastical courts, vol. i. 1025.
of a year, &c. after judgment or outlawry reversed in such actions, vol. iii. 8, 65.
after judgment or nonsuit in trespass *clausum fregit*, plaintiff barred to renew the suit after disclaimer, &c. *ib.*
infants, femes covert, &c. excepted, &c. vol. iii. 8, 9, and vol. iii. 63.
but not plaintiffs beyond seas, or persons imprisoned, vol. iii. 68.
defendants beyond seas, action may be brought in six years after their first return, vol. iii. 9.
but period of limitation to run as to such joint debtors as are in kingdom, though others beyond seas, vol. iii. 69.
judgment against joint debtors in kingdom, no bar to proceedings against others, &c. *ib.*
subsequent acknowledgment, &c. when case taken out of statute by, vol. iii. 13.
observations, &c. on statute, vol. iii. 13, n. (*c*), and 14, n. (*a*).
no acknowledgment in action of debt, or in case, sufficient, unless it be in writing, or there be a part payment, vol. iii. 14—19, and vol. iii. 18, n. (*a*).
one of two or more joint contractors cannot without consent, &c. bind the rest, vol. iii. 18—19.
but plaintiff may recover, &c. with costs, &c. if he proves one of the two joint contractors duly promised, &c. vol. iii. 19—22.
part payment by one co-contractor not to prevent bar by statutes of limitations in favour of others, vol. iii. 69.
provision as to pleas in abatement where only one makes a subsequent promise, vol. iii. 23.
indorsements of payments, &c. not sufficient, &c. to take case out of act, vol. iii. 23—24.
these provisions to extend to pleas, &c. of set-off, vol. iii. 24.
promises of infants after age to be in writing, &c. *ib.* and n. (*b*).
representations of character, &c. to be in writing, vol. iii. 24—25.
no memorandum to take case out of statute need be stamped as an agreement, vol. iii. 25.
act not to extend to Scotland, *ib.*
penal actions,
in what time to be brought, 31 Eliz. c. 5, vol. iii. 1, and see *ib.* n. (*a*).
in general two years' limitation in actions by the crown, and one year's limitation in actions by other persons, vol. iii. 1.
extent of the statute, *ib.* n. (*b*).
actions, &c. limited by statutes to be brought in a shorter time, must be so brought, *ib.*
decisions, &c. on enactments, *ib.* notes.
actions by and against *particular persons.*
the crown disabled to implead for any manors, &c. where the right does not accrue within sixty years, vol. iii. 10, 72.
exception as to grants from crown of any limited estate, &c. vol. iii. 11, 12, 72.
the manors, &c. to be holden of the crown on the usual tenures, vol. iii. 12.
general reservation of rights, &c. *ib.*
act for limitation of actions and suits by Duke of Cornwall, &c. (23 & 24 Vict. c. 53), vol. iii. 70, 71.
provisions of 24 & 25 Vict. c. 62, to apply to actions by Duke of Cornwall, vol. iii. 72.
against justices, vol. iii. 67.
under local and personal acts, 5 & 6 Vict. c. 97, vol. iii. 66, 67, and n. (*c*).
23 & 24 Vict. c. 53.
provisions of 9 Geo. 3, c. 16, as to limitations of actions and suits to extend to the Duke of Cornwall, vol. iii. 71.
nothing to affect provisions of 7 & 8 Vict. c. 105, 2 & 3 Will. 4, c. 71, and 2 & 3 Will. 4, c. 100, *ib.*
power to council to grant leases of property declared to be vested in the Duke of Cornwall by 21 & 22 Vict. c. 109, *ib.*
construction of the expression "Duke of Cornwall," *ib.*
24 & 25 Vict. c. 62.
CROWN SUITS.
the crown not to sue after sixty years by reason of lands having been in charge, &c. vol. iii. 72.

LIMITATION OF ACTIONS—*continued.*
provisions of this act to apply to actions by the Duke of Cornwall, and to provisions of 7 & 8 Vict. c. 105, and 23 & 24 Vict. c. 53, vol. iii. 72.
provision as to the answering of rent, &c. to the crown, *ib.*
preserving right to reversionary interests, *ib.*
acts not to apply to existing suits, *ib.*

LIMITED LIABILITY. See *Companies* (*Joint Stock*).

LIS PENDENS. See *Crown Suits.*

LITERARY SOCIETIES. See *Scientific Societies.*
exemption from local rates of land and buildings occupied by, vol. iii. 1214.

LOAN SOCIETIES.
3 & 4 Vict. c. 110, made perpetual by 26 and 27 Vict. c. 56.
repeal of 5 & 6 Will. 4, c. 23, partially, vol. ii. 205.
society not liable to penalties for loans before passing of act, *ib.*
formation of societies, vol. ii. 205, 206.
rules, three transcripts of, to be submitted to barrister, vol. ii. 206.
barrister to certify, *ib.*
fee payable to, *ib.*
one transcript for barrister, *ib.*
one for society, *ib.*
one for clerk of the peace, *ib.*
to be confirmed by justices of the peace, *ib.*
amendment of, *ib.*
no *certiorari* to remove, *ib.*
no stamp duty on, *ib.*
property of, vested in trustees, vol. ii. 206, 207.
who may sue and defend, &c. vol. ii. 207.
society may issue debentures, *ib.*
trustees signing not personally liable, *ib.*
sums under 50*l.* payable to representatives of deceased without probate, *ib.*
remedy of next of kin, *ib.*
treasurer to give security, *ib.*
amount of loan, *ib.*
stamp, instruments exempt from, *ib.*
securities not transferable, *ib.*
recovery of loans, *ib.*
form of notes, *ib.*
landlords, saving rights of, vol. ii. 208.
recovery of loans in county court, &c. *ib.*
treasurer may sue on security given to his predecessor, *ib.*
sums demandable on loans,
for making inquiries, *ib.*
interest, *ib.*
repayment of principal, vol. ii. 208, 209.
sums payable to be specified in scheme, vol. ii. 209.
penalty, *ib.*
clerks overcharging, liable to penalties of usury, *ib.*
instalments not to be paid in advance, *ib.*
loans not to be balloted for, &c. *ib.*
members competent witnesses, *ib.*

LOAN SOCIETIES—*continued.*
form to be used, vol. ii. 209.
accounts to be made out yearly, and sent to barrister, *ib.*
to be laid before parliament, *ib.*
penalty, vol. ii. 209, 210.
trustees not personally liable, vol. ii. 210.

LOCAL GOVERNMENT. See *Health* (*Public*).

LOCKE KING'S ACT (17 & 18 Vict. c. 113), vol. iv. 947.

LOCOMOTIVES.
Locomotive Act, 1861, for regulating the use of locomotives on turnpike and other roads, and the tolls to be levied on such locomotives and on carriages propelled by same, vol. ii. 682.

LODGING HOUSES.
Common Lodging Houses Acts, 14 & 15 Vict. c. 28, and 16 & 17 Vict. c. 41.
short titles of acts, vol. iii. 73, 83.
acts to be construed together, vol. iii. 83.
interpretation of terms, vol. iii. 73, 74.
by whom acts to be executed, vol. iii. 73, 84.
in Oxford and Cambridge, vol. iii. 83.
expenses of executing acts, how borne, vol. iii. 74, 84.
notice of act to be given to common lodging-house keepers, vol. iii. 74.
form of notice, vol. iii. 75.
local authority to keep register, vol. iii. 74.
houses to be registered before reception of lodgers, vol. iii. 74, 83.
and to be kept only by registered persons, vol. iii. 83.
in what cases local authority may refuse to register, *ib.*
evidence of register, *ib.*
local authorities may make regulations, vol. iii. 74.
and impose penalties for infractions, *ib.*
may require additional supply of water, vol. iii. 83.
and order reports as to beggars and vagrants, *ib.*
notice to be given of fevers and infectious diseases, &c. vol. iii. 74.
provisions for removal of patients, and cleansing, &c. vol. iii. 83.
inspection of common lodging houses, vol. iii. 74.
removal of nuisances, vol. iii. 83.
penalty for offences against acts, vol. iii. 74, 84.
conviction for third offence to disqualify from keeping common lodging house, vol. iii. 84.
recovery of penalties, vol. iii. 75.
general powers of local authorities, *ib.*
acts not to extend to city of London or to Scotland, *ib.*

Labouring Classes Lodging Houses Act, 14 & 15 Vict. c. 34, *ib.*
short title of act, *ib.*
interpretation of terms, vol. iii. 75, 76.
act may be adopted in certain boroughs, districts, and parishes, vol. iii. 75.
power to councils of such boroughs to adopt act, vol. iii. 76.
expenses, how defrayed, *ib.*

LODGING HOUSES—*continued.*
power to local boards of health to adopt act, vol. iii. 76.
proviso postponing proceedings in certain cases, *ib.*
expenses, how defrayed, vol. iii. 77.
power to improvement boards to adopt act, *ib.*
where majority not elected by rate-payers, their consent to be obtained, *ib.*
proceedings to be postponed in certain cases, *ib.*
expenses, how defrayed, *ib.*
provisions for audit of accounts, *ib.*
adoption of act by vestry meeting, and proceedings thereon, vol. iii. 77, 78.
where act adopted, vestry to appoint commissioners, vol. iii. 78.
resignation of commissioners, *ib.*
vacancies to be filled up by vestry, *ib.*
meetings, and special meetings of commissioners, *ib.*
quorum, *ib.*
power to appoint and remove officers, &c., *ib.*
commissioners to keep minutes and accounts, *ib.*
accounts to be open to inspection, *ib.*
penalty for refusing inspection, *ib.*
appointment of auditors, *ib.*
expenses, how defrayed, when act adopted by vestry, vol. iii. 79.
vestries of adjoining parishes may concur in carrying act into execution, *ib.*
incorporation of commissioners, *ib.*
acts of commissioners good notwithstanding informalities, *ib.*
provisions as to borrowing money for purposes of act, *ib.*
power to public works loan commissioners to advance money, vol. iii. 79, 80.
certain provisions of the Companies and Lands Clauses Consolidation Acts, incorporated with this act, vol. iii. 80.
power to councils and boards to appropriate public lands, or to purchase or rent lands, &c. *ib.*
power to erect lodging houses, *ib.*
or to purchase existing houses, vol. iii. 80, 81.
to sell and exchange lands, vol. iii. 81.
supply of houses with gas and water, *ib.*
councillors and commissioners not to be personally liable, *ib.*
appeal against orders of councils and commissioners, *ib.*
sale of lodging houses when too expensive, *ib.*
when office of commissioners to cease, *ib.*
management of lodging houses, in whom vested, *ib.*
bye-laws for regulating lodging houses, how made, &c. vol. iii. 81, 82.
copies of, to be put up in each room of lodging houses, vol. iii. 82.
charges for lodgings, how fixed, *ib.*
parochial relief to disqualify lodgers, *ib.*
inspection of houses, *ib.*
penalties on officers, *ib.*
application of penalties, *ib.*
act not to extend to Scotland, *ib.*
schedule, *ib.*

LONDON SMALL DEBTS ACT.
15 Vict. c. 77.
actions in sheriff's court for sums not above 50*l.* to be determined under this act, vol. iii. 85.
except certain actions, *ib.*
summons may issue if defendant dwells or carries on business in the city, *ib.*
places within or adjoining the city of London, or liberties thereof, to be deemed parts of the same, *ib.*
possession of small tenements may be recovered by plaint in this court, *ib.*
proceedings if tenant neglect to appear or refuse possession, *ib.*
concurrent jurisdiction of superior courts, vol. iii. 85, 86.
as to actions for small debts brought in the superior courts, vol. iii 86, and *ib.* n. (*b*).
plaintiff recovering in superior courts, in certain cases to have no costs, vol. iii. 86.
proviso allowing costs where judge certifies, or makes an order, &c. vol. iii. 87.

Lord Mayor's Court, 20 & 21 Vict. c. 157.
commencement and short title of act, vol. iii. 87.
interpretation of terms, vol. iii. 94.
expenses of passing the act, how paid, vol. iii. 94.
no action or suit to be brought in sheriff's court except in certain cases, vol. iii. 87.
in error from the mayor's court, the exchequer chamber to be the court of error, vol. iii. 87, 88.
special case may be stated for opinion of court, or the court of common law, vol. iii. 88.
special cases to be transmitted to master's office of superior court, *ib.*
registrar to enter judgment on production of office copy rule, *ib.*
appeal to superior courts, *ib.*
security to be given if required, *ib.*
appeal to be in form of a case, *ib.*
when rules to set aside or enter verdict, &c. may be moved in superior courts, *ib.*
plaintiff recovering, to have no costs in certain cases, vol. iii. 88, 89.
objection to jurisdiction to be by plea, vol. iii. 89.
when plea to the jurisdiction not allowed, *ib.*
as to service of plaint out of jurisdiction of court, and further proceedings thereafter, *ib.*
how cases removed into superior court, *ib.*
proceedings on obtaining writ of removal, *ib.*
when foreign attachment may be removed, vol. iii. 89.
removal of suits on equity side of court, *ib.*
power of court to compel parties to allow inspection of documents, &c. vol iii. 89, 90.
power to judge to hear and determine motions, &c. vol. iii. 90.
power to amend errors, *ib.*
depositions of witnesses may be taken, *ib.*
restrictions as to reading depositions, *ib.*
attendance of witnesses, and production of documents, &c. *ib.*
commission to examine witnesses abroad, *ib.*
examination of prisoners, *ib.*
witnesses to be examined on oath, *ib.*

LONDON SMALL DEBTS ACT—*continued.*
person appointed to take examinations may report to court, vol. ii. 90.
costs of order and proceedings, *ib.*
interpleader by defendant in action, and proceedings thereon, vol. iii. 91.
judgment and decision to be final, *ib.*
claim of party not appearing barred, *ib.*
relief and protection of serjeant-at-mace in execution of process, *ib.*
creditor obtaining judgment, &c. in respect of debt not exceeding 20*l.* may summon debtor before court, *ib.*
proceedings thereon, vol. iii. 91, 92.
power to commit, vol. iii. 92.
form of committal, vol. iii. 94.
power to court, in certain cases, upon signing judgment to make order for payment or committal, vol. iii. 92.
power to officer to take person out of jurisdiction, *ib.*
registrar to have power to grant orders for payment or committal, vol. iii. 92.
court to form table of fees and costs, *ib.*
debtors' prison of city of London to be prison of the court, *ib.*
registrar may hold courts, *ib.*
common serjeant to preside in absence of recorder, *ib.*
judge to administer oaths and take declarations for authenticating documents to be used out of the jurisdiction or abroad, *ib.*
judge may make and alter rules, to be confirmed by judges of the superior courts, *ib.*
by order in council, acts for amendment of law and rules made in pursuance thereof may be extended to lord mayor's court, vol. iii. 93.
judge of superior court may order attachment to be tried in mayor's court, *ib.*
removal of judgments into court, *ib.*
fines on jurors for non-attendance, *ib.*
compulsory attendance of witnesses not in the jurisdiction, *ib.*
judge, by consent, may try questions of fact, *ib.*
no cause to be removed except by *certiorari* or judge's order, *ib.*
compensation to officers of abolished courts, vol. iii. 93, 94.
schedules, vol. iii. 94, 95.

LORD BROUGHAM'S ACT (14 & 15 Vict. c. 99), vol. i. 1383.

LORD DENMAN'S ACT (6 & 7 Vict. c. 85), vol. i. 1381.

LORD TENTERDEN'S ACT (9 Geo. 4, c. 14), vol. iii. 13.

LORD'S DAY. See *Sunday.*

LOTTERIES. See *Gaming*, and vol. iii. 95.
declared common nuisances, vol. ii. 258.
penalties for opening and playing at, *ib.*
sale of land or goods by, void, vol. ii. 262.
land or goods forfeited, *ib.*
little goes declared public nuisances, vol. ii. 267.
penalty on lottery-office keepers, *ib.*

LUNATICS.
as to the law of, generally, vol. iii. 96, n. (*a*).

LUNATICS—*continued.*
Commissioners in Lunacy.
repeal of previous acts, vol. iii. 100.
appointment, &c. of commissioners in lunacy, vol. iii. 101, 153.
commissioners to have a common seal, vol. iii. 101.
evidence of, *ib.*, and n. (*b*).
election of permanent chairman, vol. iii. 101.
appointment, &c. of secretary, *ib.*
retiring pension, *ib.*
appointment of clerks, *ib.*
oaths of secretary and clerks, *ib.*
documents to be delivered to the commissioners, *ib.*
immediate jurisdiction of the commissioners, vol. iii. 101, 102.
meetings of, when held and how summoned, &c. vol. iii. 102.
interested persons disqualified, vol. iii. 103.
disqualified persons acting, a misdemeanour, *ib.*
power of commissioners to make rules, vol. iii. 111.

County and Borough Lunatic Asylums.
consolidating and amending laws respecting, 16 & 17 Vict. c. 97 (amended by 18 & 19 Vict. c. 105, 19 & 20 Vict. c. 87, 24 & 25 Vict. c. 55, and 25 & 26 Vict. c. 111).
short titles of acts, vol. iii. 188, 207.
acts to be construed together, vol. iii. 207.
interpretation clauses, vol. iii. 187, 214.
extent of acts, vol. iii. 188.
repeal of former acts, but appointments not to be affected, vol. iii. 156.
justices of county and borough, not having a lunatic asylum, to provide one, and notices to be given for that purpose, vol. iii. 156, 157.
appointment of committee for that purpose, vol. iii. 157, 200.
powers of committee as to mode of providing asylum, vol. iii. 157, 197.
provisions as to proportion of expenses where two or more committees unite, vol. iii. 197.
subscribers to any hospital may appoint committee to treat for uniting with county or borough, vol. iii. 157.
committees of existing asylums may agree to unite with subscribers to hospital, &c. *ib.*
proceedings already taken to be in force, *ib.*
justices of borough may contract for reception of pauper lunatics of borough into existing asylums, vol. iii. 158.
provisions for visiting lunatics so received, *ib.*
boroughs already contributing to county asylum to be deemed to have an asylum, but may separate on notice, *ib.*
provisions to apply to councils of boroughs in certain cases, vol. iii. 197, 198.
certain boroughs to be annexed to county, &c. vol. iii. 158, 198.
recorder to appoint two members of committee of visitors, *ib.*
on neglect of boroughs to provide asylum, secretary of state may annex to the county, vol. iii. 159.
recorder to appoint two members of committee, vol. iii. 200.
enlargement of powers of committee, vol. iii. 159.

LUNATICS—*continued.*
appointment of new committees, vol. iii. 159.
provision where notice of appointment of committee not given at the time required by act, *ib.*
committees uniting to enter into agreement, &c. vol. iii. 160.
form of such agreement, vol. iii. 160, 197.
agreement to contain stipulations for contribution, vol. iii. 197.
what additional stipulations may be inserted, vol. iii. 160.
how far stipulations may be repealed or altered, *ib.*
proportions of expenses and of visitors may be varied on any further union, *ib.*
as to payment of prior expenses, &c. *ib.*
agreement to be reported to quarter sessions, *ib.*
proceedings thereon, vol. iii. 160, 161.
after agreement reported, visitors to be elected to carry into effect, vol. iii. 161.
where a union is dissolved, new asylum to be provided, vol. iii. 197.
visitors to be elected annually, vol. iii. 161.
separate committee to be appointed for every asylum, *ib.*
meeting of visitors and proceedings at, *ib.*
clerk or chairman to convene meetings, vol. iii. 161, 162.
appointment of clerk, &c. vol. iii. 162.
duration of committee, *ib.*
vacancies in committee, how supplied, *ib.*
secretary of state may require asylum to be provided, *ib.*
where accommodation inadequate, additional asylum, &c. to be provided, vol. iii. 162, 163.
in such cases, visitors to procure plans and estimates, &c. and proceedings thereon, vol. iii. 163.
visitors to report to quarter sessions, *ib.*
plans not approved by quarter sessions to be submitted to secretary of state, vol. iii. 207, 208.
power to visitors to purchase in consideration of a yearly rent-charge, vol. iii. 163.
power to take on lease for not less than sixty years, *ib.*
additional lands for use of asylum may be taken on lease for a less period, vol. iii. 208, 209.
situation of asylum, vol. iii. 163, 164.
rating and assessment not to be increased after acquisition, vol. iii. 164.
land clauses act incorporated and extended to authorise exchanges, *ib.*, and vol. iii. 208.
appointment of new trustees of land purchased, &c. for asylum, vol. iii. 164.
provisions as to repairs and payment of expenses, *ib.*
power of visitors, with consent, &c. to dissolve unions, and proceedings thereon, vol. iii. 165.
where union is dissolved, new asylum to be provided, vol. iii. 197.
power to visitors, with consent, &c. to sell and exchange lands and buildings, vol. iii. 165.
application of purchase monies, *ib.*
release of visitors from contracts, vol. iii. 165, 166
visitors empowered to contract for reception

LUNATICS—*continued.*
of pauper lunatics into other asylums, hospitals, &c. vol. iii. 166.
period of such contracts limited, *ib.*
such contracts may be renewed, vol. iii. 198.
provisions as to payments under such contracts, vol. iii. 166, 208.
visitors, subject to certain conditions, may arrange for reception of chronic lunatics in workhouses, vol. iii. 208.
power to admit other lunatics when accommodation sufficient, vol. iii. 166.
visitors not to be interested in any contracts, &c. vol. iii. 166, 167.
agreements, plans, &c. to be submitted to commissioners, and approved by secretary of state, vol. iii. 167.
and to be accompanied with estimates, vol. iii. 208.
provisions for raising monies required, by rates, vol. iii. 167.
and by mortgage of rates, *ib.*
power to public works loan commissioners to lend money, vol. iii. 167, 168.
provisions for payment of interest and part of principal on mortgages annually, vol. iii. 168.
proviso limiting time for full payment, *ib.*
persons lending not bound to see that act is complied with, *ib.*
power to raise money to pay sums already borrowed, *ib.*
visitors to make rules and regulations, and to determine diet, &c. vol. iii. 168, 169.
visitors to fix, with certain limits, rate of maintenance for each lunatic, vol. iii. 169.
power to increase rate, *ib.*
excess of payment, &c. may be made to a building and repair fund, vol. iii. 208.
appointment of chaplain, vol. iii. 169.
dissenters may have their own minister, *ib.*
appointment of medical officers, clerk, treasurer, &c. vol. iii. 169, 170.
clerk of asylum to inform commissioners of dismissal of attendants, vol. iii. 170.
grants to superannuated officers and servants, *ib.*
when may be made, and how to be paid, vol. iii. 209.
provision for superannuation of matron to, *ib.*
clerk of asylum to keep accounts, and furnish abstracts, &c. vol. iii. 170.
treasurer to keep accounts, *ib.*
visitors to audit accounts, *ib.*
two or more visitors to visit every asylum once in every two months, *ib.*
visitors to make annual reports to justices, and copies to be sent to commissioners, *ib.*
penalty for neglect, vol. iii. 170, 171.
list of pauper and private patients in asylums to be made half-yearly, and transmitted, &c. vol. iii. 171.
clerks to guardians, &c. to make annual returns of pauper lunatics, *ib.*
statement of condition of pauper lunatics in asylum to be transmitted half-yearly to guardians, &c. vol. iii. 212.
medical persons, guardians, &c. to visit pauper patients of the union, &c. vol. iii. 171.

LUNATICS—*continued.*
pauper lunatics, not in asylum, hospital, or licensed house, to be visited quarterly, and lists sent to commissioners, vol. iii. 171.
form of such lists, vol. iii. 210.
visiting committee, &c. to make entries, &c. as to paupers in workhouse, &c. vol. iii. 212.
provision for sending pauper lunatics to asylum, vol. iii. 171, 172, and 210.
like powers to remove lunatic from workhouse to asylum, vol. iii. 210, 212.
like powers as to single pauper patient, *ib.*
provision as to lunatics wandering, or lunatics cruelly treated, &c. vol. iii. 172, 173.
payment of medical men called in to examine, &c. vol. iii. 173.
penalty on medical officers and others omitting to give required notices, vol. iii. 173, 174.
penalty on relieving officers, overseers, &c. delaying execution of orders, vol. iii. 174.
extent and effect of orders of justices for reception of lunatics, *ib.*, and vol. iii. 212.
no pauper to be received without order and certificates, vol. iii. 174.
contravening act, a misdemeanour, *ib.*
no person (not a pauper) to be received without order and certificate, *ib.*
contravening act, a misdemeanour, vol. iii. 174, 175.
what medical certificate to specify, vol. iii. 175.
order to be in force one month only, vol. iii. 211.
person signing to have seen patient within a month, *ib.*
who not to sign orders and certificates, vol. iii. 175.
relative of patient to be named in order, vol. iii. 211.
orders and certificates may be amended, vol. iii. 177.
provisions as to defective certificates, vol. iii. 211.
transmission of documents to commissioners, *ib.*
visitors being justices may order removal of lunatics to or from asylum, vol. iii. 175, 198.
pauper lunatics not to be received in other than county or borough asylum, without endorsement of order, vol. iii. 175.
and orders not compulsory on hospitals or licensed houses, *ib.*
discharge of lunatics from asylums, vol. iii. 175, 176.
overseers, &c. to remove pauper lunatics on notice of discharge, vol. iii. 176.
penalty for refusal or neglect, *ib.*
visitors may discharge on undertaking of relatives or friends, &c. *ib.*
commissioners may order removal of lunatics, *ib.*
person signing order for reception of private patient may order discharge, *ib.*
provision where such person incapable of acting, &c. *ib.*
patient not to be discharged without consent of visitors, if dangerous, *ib.*
provisions as to transfer of private and single patients, vol. iii. 176, 177.

LUNATICS—*continued.*
persons received into asylums, &c. may be retained until removed or discharged under act, and may be retaken after escape, vol. iii. 177.
entry to be made on receipt of lunatic, and copy of order and certificate transmitted to commissioners, vol. iii. 177, 211.
weekly journal and case-book to be kept, vol. iii. 177.
copies of entries by visiting commissioners to be sent to their office, &c. *ib.*
proceedings in case of death of lunatic, vol. iii. 177, 178.
notice of death to be sent to coroner, who may hold inquest, vol. iii. 211, 212.
penalty for neglect, vol. iii. 212.
entries of deaths, discharges, and removals, &c. and notices to be given, vol. iii. 178.
proceedings by justices where lunatic has property applicable to his maintenance, *ib.*
pauper lunatics, where chargeable, *ib.*
justices to make order on poor-law officers for maintenance, vol. iii. 178, 179.
justice to inquire into settlement and order maintenance, &c. vol. iii. 179 and *note.*
chargeability, where settlement cannot be ascertained, vol. iii. 180, 214.
counties to be reimbursed by the parish, or out of common fund of union, vol. iii. 180 & 203.
justices may make orders out of their jurisdiction, vol. iii. 180.
to what asylums, &c. order for payment may extend, *ib.*
removal of lunatic to asylum not to be deemed an interruption of residence, &c. vol. iii. 124.
costs of pauper lunatics irremoveable, how borne, vol. iii. 187.
guardians, &c. may pay charges without order, vol. iii. 182.
guardians may obtain orders, and appeal, &c. vol. iii. 203.
lunatics' property to be available for maintenance, vol. iii. 182.
not to affect liability of relations, *ib.*
appeals against refusal of order, &c. *ib.*
persons obtaining order adjudging settlement of any lunatic to send copy, &c. to parish or county affected, *ib.*
appeal against order of adjudication, vol. iii. 183.
proceedings thereupon, vol. iii. 183, 184.
costs of appeal, vol. iii. 184.
decision of court final, *ib.*
abandonment of orders, *ib.*
provisions as to expenses to extend to lunatics sent to asylums under other acts, *ib.*
in case of inquiries and appeals, interested parties to have access to the lunatic, vol. iii. 185.
expenses of burial, removal, or discharge of a pauper, how borne and paid, *ib.*
provisions as to burial of pauper lunatics, vol. iii. 198, 208.
power to visitors to make agreements with cemetery company or burial board, vol. iii. 199.
committee of visitors may convey land for burial-ground for lunatics, &c. *ib.*
recovery of money ordered to be paid, &c. vol. iii. 185.

LUNATICS—*continued.*
punishment for false certificates, &c. vol. iii. 185.
penalties for ill-treating lunatics, *ib.*
for permitting escapes, &c. *ib.*
visitors, how to sue and be sued, *ib.*
who to prosecute for offences, *ib.*
recovery and application of penalties, vol. iii. 185, 186.
appeal to quarter sessions, vol. iii. 186.
councils of boroughs to have same powers of erecting asylum, &c. as justices, *ib.*
committee of council to have same powers as committee of visitors, *ib.*
cities, towns, &c. not boroughs, how to be annexed and rated, vol. iii. 186, 187.
schedules of forms, vol. iii. 188—196, 215.

Inquisitions of Lunacy.
office of clerk of the custodies abolished, vol. iii. 100.
duties to be performed by master and registrar, *ib.*, and vol. iii. 129.
fees formerly payable to lord chancellor to be paid into fee fund, vol. iii. 100.
compensation to officers under former acts, *ib.*
act regulating proceedings under Commissions of Lunacy, &c. 16 & 17 Vict. c. 70 (amended by 18 Vict. c. 13, and 25 & 26 Vict. c. 86).
short titles of acts, vol. iii. 128, 203.
acts to be construed together, vol. iii. 203.
interpretation clauses, vol. iii. 127, 128.
extent of acts, vol. iii. 128.
repeal of former acts, vol. iii. 127.
provisions as to former and existing proceedings, *ib.*
commissions, to whom to be directed, vol. iii. 132.
general commission to masters, *ib.*
nature and limit of inquiry under commissions, vol. iii. 203.
notice to be given to alleged lunatic, who may demand a jury, vol. iii. 132.
how demand to be made, *ib.*, and vol. iii. 204.
lord chancellor may examine as to competency, vol. iii. 132.
demand for jury may be withdrawn, vol. iii. 204.
where jury ordered, lord chancellor may direct issue to be tried in superior court of record, &c. vol. iii. 203, 204.
examination of alleged lunatic on such trial, vol. iii. 204.
cases where jury may be dispensed with, vol. iii. 132.
jury to be had if master certify it is expedient, *ib.*
certificate without jury to be deemed an inquisition, *ib.*
if lunatic out of jurisdiction, jury to be had, *ib.*
number of jury, *ib.*
period over which inquiry may extend, vol. iii. 132, 133, 203.
power of commissioners on inquiry, vol. iii. 133.
above provisions to be prospective only, vol. iii. 133.
chancellor may issue special commission, *ib.*
inquisition or *supersedeas* in England and Ireland mutually available, *ib.*
in case of lunatics in India transcript of proceedings to be transmitted to united kingdom, vol. iii. 125.
and acted upon as if inquisition taken in the united kingdom, *ib.*
evidence, how taken, vol. iii. 133.
power to masters to summon witnesses, vol. iii. 205, 206.
masters may administer oaths and take recognizances, vol. iii. 133, 134.
swearing affidavits in colonies, vol. iii. 134.
forms of affidavits, *ib.*
examination and attendance of witnesses, *ib.*, and vol. iii. 206.
expenses of examination of witnesses, vol. iii. 134.
advertisements of inquiry, *ib.*
security to be given by committee, *ib.*
order of chancellor to have effect of great seal in certain cases, *ib.*
payment or transfer into court of stock as security for committee, *ib.*
power of master to give out deeds, and order payment and transfer of money, vol. iii. 134, 135.
grant of custody may be extended to surviving or continuing committees in certain cases, vol. iii. 135.
allowance of accounts, *ib.*
allowance of certain items by lord chancellor, *ib.*
master to receive proposals and conduct inquiry as to management, &c. of estate, and to report, *ib.*
and other proposals relating to estate or person, *ib.*
person objecting may apply to lord chancellor, *ib.*
masters may certify as to propriety of proposal, *ib.*
how and by whom costs to be paid, *ib.*
person insisting on report liable to costs, *ib.*
as to costs where application made to lord chancellor, *ib.*
masters to inquire for next of kin, and notice to the same, *ib.*
exception where property small, vol. iii. 135, 136.
chancellor may limit or dispense with inquiry, vol. iii. 136.
masters may report where inquiry inexpedient, *ib.*
proof of pedigree to be required, *ib.*
chancellor may dispense with attendance of next of kin, *ib.*
masters to determine which of next of kin to attend, *ib.*
appointment of guardian of next of kin, *ib.*
consolidation of proceedings for members of same family, &c. *ib.*
on death of lunatic, master may open will, &c. *ib.*
master may inquire respecting personal estate of lunatic residing out of the jurisdiction, vol. iii. 136, 137.
masters may regulate proceedings before them, inquire into delays, and regulate costs of attendances, documents, &c. vol. iii. 137.
master may report specially to the lord chancellor pending the inquiry, *ib.*
form of reports, *ib.*
reports to be filed with registrar in lunacy, *ib.*
objections to report, or confirmation, *ib.*
confirmation of reports, *ib.*

LUNATICS—*continued.*
reports to contain directions, and may have effect of order, vol. iii. 137.
cases in which reports must be brought before chancellor by petition, vol. iii. 137, 138.
orders in lunacy, form of, vol. iii. 138.
to be communicated to masters, *ib.*
how entered and copies furnished, *ib.*
order relating to money, *ib.*
office copies to be acted upon by accountant-general, vol. iii. 206, 207.
registrar to certify to accountant-general, vol. iii. 138.
forging signature or seal of registrar, felony, *ib.*
visiting lunatics, vol. iii. 119, 138, 139, 206.
duties of visitors, vol. iii. 206.
visitors to report to lord chancellor, vol. iii. 138, 139.
reports to be kept secret, &c. vol. iii. 139.
lunatics to be visited four times a-year, vol. iii. 206.
alleged lunatics to be visited, &c. *ib.*
pensions to visitors, *ib.*
to hold office during good behaviour, *ib.*
to receive salaries and not to practice, *ib.*
management of estates of lunatics, vol. iii. 139.
powers, &c. of committee in respect of copyholds, *ib.*
as to leaseholds, *ib.*
charges of renewal, *ib.*
new leases to be to same uses, vol. iii. 139, 140.
as to property when of small amount, vol. iii. 133, 141, 205.
former proceedings under 8 & 9 Vict. c. 100, to be discontinued, vol. iii. 133.
inquiry may be ordered on report of commissioners, *ib.*
lord chancellor may apply small property directly for maintenance, without grant, &c. vol. iii. 141.
power to chancellor in certain cases to apply property for lunatic's benefit in summary manner, &c. vol. iii. 205.
power to chancellor in such cases to sell property, &c. *ib.*
and to make general orders as to procedure in such cases, *ib.*
power to apply property of persons acquitted on ground of insanity, *ib.*
property may be sold or mortgaged for debts, maintenance, &c. vol. iii. 140, 205.
charge or mortgage on contingent interest, vol. iii. 140.
expenses of improvements may be charged on estate, *ib.*
interest in surplus moneys on sale or mortgage to be same as in estate, *ib.*
mode of dealing with produce where property small, vol. iii. 141.
temporary maintenance where lunacy temporary, *ib.*
when contracts of lunatic as to sale, &c. of land, to be carried out, *ib.*
provisions as to dissolution of partnership and disposition of partnership property, *ib.*
committee may make sale, partition, or exchange, vol. iii. 141, 142.

LUNATICS—*continued.*
may sell land for building purposes, vol. iii. 142.
and assign business premises, *ib.*
committee may dispose of undesirable lease, *ib.*
and make agreements, under 1 Geo. 4, c. 10, *ib.*
committee may make building and other leases, subject to such covenants as chancellor shall approve, *ib.*
and so as to bind issue and remaindermen, vol. iii. 196.
similar powers as to leases of mines already opened, vol. iii. 142, 143, 196.
and as to leases of unopened mines, vol. iii. 143, 196.
disposition of produce of newly opened mines, vol. iii. 143.
execution of leasing powers, *ib.*
committee may accept surrender, and make new lease, *ib.*
payment of fines to committee, *ib.*
to be considered as real estate on death of lunatic, *ib.*
committee may exercise powers vested in lunatic for his own benefit, *ib.*
or as trustee or guardian, vol. iii. 143, 144.
power of new trustees appointed by committee, vol. iii. 144.
deeds to be as valid as if lunatic of sound mind, vol. iii. 144, 205.
provisions as to transfer of stock, vol. iii. 144.
where lunatic resides out of jurisdiction, *ib.*
who to make transfer, *ib.*
transfers, &c. to be binding, vol. iii. 144, 205.
indemnity to Bank of England, *ib.*
payment of costs out of estate, vol. iii. 144, 204.
act not to subject lunatics' property to debts further, &c. vol. iii. 144.
powers of act to extend to colonies but not to Scotland or Ireland, vol. iii. 145.
petitions for traverse of return of inquisition, *ib.*
when right to petition barred, *ib.*
new trials upon traverse, *ib.*
lord chancellor may make orders notwithstanding traverse, *ib.*
no traverse where issue tried in superior court of record, but new trial may be ordered, vol. iii. 204.
inquisitions when and how superseded, vol. iii. 145, 204.
power of lord chancellor to make general orders, vol. iii. 145, 146, 204.
seals of commissioners, visitors, &c. to orders, &c. dispensed with, vol. iii. 199.
schedules, vol. iii. 146, 147.

Insane Criminals. See *Criminal Law*, vol. ii. 5.
apprehension and custody of, 1 & 2 Vict. c. 14, vol. iii. 96.
may be sent to county lunatic asylums, vol. iii. 96, 97.
justices may inquire into settlement of, and make orders for maintenance, vol. iii. 97.
provision if settlement not found, *ib.*
act not to prevent relations, &c. taking lunatics under care, *ib.*
appeals from orders of justices, *ib.*
how persons proved not insane may be liberated, *ib.*

LUNATICS—*continued.*
these provisions not to alter laws relating to the discharge of recovered lunatics, vol. iii. 96.
act to extend only to England and Wales, *ib.*
confinement and maintenance of insane prisoners, 3 & 4 Vict. c. 54, vol. iii. 98; 27 & 28 Vict. c. 29, vol. iv. 990.
warrant for removal to lunatic asylum, *ib.*, and vol. iv. 990, 991.
how to be dealt with on becoming of sound mind, vol. iii. 98, 153, and vol. iv. 991.
warrant for removal of, back to prison, or for discharge, vol. iii. 98.
settlement to be inquired into, and orders made for maintenance, *ib.*
provision in case settlement not found, *ib.*
charge and maintenance of insane prisoners to be borne by common fund of union, vol. iv. 991.
property of lunatic to be applied towards expenses, vol. iii. 98, 99.
appeals from order of justices, vol. iii. 99.
repeal of former act as to settlement by secretary of state of amount to be paid for maintenance, &c. *ib.*
interpretation of act, *ib.*
to extend only to England and Wales, *ib.*
lunacy commissioners to visit gaols, vol. iii. 118.
lord chancellor may order state lunatic, or lunatic under order of any criminal court of justice, to be visited, vol. iii. 119.
costs of visiting, &c. vol. iii. 119, 152.
act for better custody of criminal lunatics, 23 & 24 Vict. c. 75, vol. iii. 200.
her majesty may appoint asylum for criminal lunatics, *ib.*
secretary of state may direct confinement in such asylum, vol. iii. 201.
saving of the authority of crown to make other provisions, &c. *ib.*
appointment of council of supervision, and of officers, *ib.*
secretary of state to make rules, *ib.*
subject to such rules, council to superintend and report, *ib.*
provisions allowing dissenters to be visited by their own ministers, &c. *ib.*
provisions as to removal and discharge, *ib.*
as to discharge after term of imprisonment has expired, *ib.*
secretary of state may permit lunatic to be absent from asylum, &c. vol. iii. 201, 202.
provisions as to expenses of conveyance and maintenance, vol. iii. 202.
lunatics escaping may be retaken by superintendent, *ib.*
punishment for rescuing or permitting escape, &c. *ib.*
penalty on officers ill-treating lunatics, &c. *ib.*
commissioners to visit asylums, &c. *ib.*
and to report to secretary of state, *ib.*
schedule of forms, vol. iii. 202, 203.
removal from India to the United Kingdom, of criminals of European birth acquitted on the ground of insanity, vol. iii. 124.
orders of the government of any of the presidencies sufficient authority, *ib.*
provision for safe custody on arrival in United Kingdom, *ib.*
expenses of removal, how defrayed, vol. iii. 124, 125.
to be charged on the estate of the lunatic, vol. iii. 125.

LUNATICS—*continued.*
Marriage of,
act to prevent, 15 Geo. 2, c. 30, vol. iii. 96, and *notes* (*b*) and (*c*).
Masters in Lunacy.
appointment of masters in lunacy, vol. iii. 128.
oath to be taken by masters, *ib.*
powers of masters, vol. iii. 128, 129.
all references connected with lunatics to be made to masters, vol. iii. 129.
duties of masters to be performed under regulations of lord chancellor, *ib.*
duties of "registrar in lunacy," *ib.*
duties of clerk of the custodies to be performed by masters and registrar, *ib.*
salaries and retiring annuities of masters, *ib.*
power of lord chancellor to remove master, &c. *ib.*
salary of registrar, *ib.*
registrar to hold office during good behaviour, vol. iii. 206.
clerks of the masters and registrar, vol. iii. 129.
appointment of legal and medical visitors, *ib.*
masters to be visitors *ex officio*, *ib.*
visitors to be disinterested, *ib.*
salaries of visitors, vol. iii. 129, 206.
visitors and masters to form a board, vol. iii. 129.
substitute for medical or legal visitor during illness, *ib.*
secretary to visitors, vol. iii. 129, 130.
his salary and clerks, vol. iii. 130, 206.
travelling expenses of masters, visitors, vol. iii. 130.
payment of salaries, vol. iii, 130, 206.
superannuation allowances, vol. iii. 206.
per centage on incomes of lunatics, to be paid, vol. iii. 130.
masters to certify amount of income and per centage, &c. *ib.*
per centage to be paid, notwithstanding death, *ib.*
substitution of new in lieu of former fees, vol. iii. 130, 131.
power of chancellor to alter per centage and fees, vol. iii. 131.
how per centage and fees to be collected, *ib.*
power to exempt small properties, *ib.*
extent and application of provisions respecting per centage, *ib.*
visitors' per centage under former act to be paid, *ib.*
salaries charged on it to continue for a limited time, *ib.*
account to be closed and audited, and disposal of balance, *ib.*
former commissioners in lunacy under 5 & 6 Vict. c. 84, to be styled masters in lunacy, vol. iii. 101.

Private Lunatic Asylums, 8 & 9 Vict. c. 100, amended by 16 & 17 Vict. c. 96, and 25 & 26 Vict. c. 111.
repeal of previous acts, vol. iii. 100.
commissioners to grant licences within their immediate jurisdiction, vol. iii. 101, 102.
meetings of, when held and how summoned, vol. iii. 102.
justices of peace to grant licences and appoint visitors in other places, *ib.*
who to be appointed visitors, *ib.*

LUNATICS—*continued.*
consent of recorder necessary in boroughs, vol. iii. 104.
appointment of visitor in place of one dying, &c. vol. iii. 102.
list of visitors to be published, and sent to the commissioners, *ib.*
penalty for default, *ib.*
medical visitors to be remunerated, vol. iii. 102, 103.
appointment of clerk to visitors, vol. iii. 103.
consent of recorder necessary in boroughs, vol. iii. 104.
notice of, to be published and sent to commissioners, vol. iii. 103.
penalty for neglect, *ib.*
duties and remuneration of clerk, *ib.*
provision for assistance to clerk, *ib.*
disqualification of interested persons, *ib.*
medical men being commissioners, &c. not to sign certificates or attend patients in licensed houses, *ib.*
disqualified persons acting, a misdemeanour, *ib.*
penalty on medical men, *ib.*
notice of application for licence, how and to whom given, vol. iii. 103, 104.
notices, &c. to be sent to commissioners, vol. iii. 209.
houses, &c. to be inspected by commissioners before licence granted by justices, *ib.*
what may be included in our licence, vol. iii. 147.
grantee to reside on the premises, *ib.*
provision as to non-resident proprietors licensed under former acts, vol. iii. 209, 210.
notice of all alterations, &c. to be given, vol. iii. 104, 209.
consent of commissioners or visitors necessary, *ib.*
untrue statement, &c. a misdemeanor, vol. iii. 104.
copy of licence to be sent to commissioners, *ib.*
penalty for default, *ib.*
particulars required before renewal of licence, and penalty for default, *ib.*
form and duration of licence, *ib.*, and vol. iii. 209.
consent of recorder necessary in boroughs, vol. iii. 104.
charge for licences, vol. iii. 104, 105.
penalty on infringing licence, vol. iii. 210.
application of moneys received by secretary of commissioners, vol. iii. 105.
annual account to be made by secretary of commissioners, *ib.*
to be audited and laid before parliament, &c. *ib.*
disposal of balance, if any, *ib.*
excess of payments how defrayed, *ib.*
application of moneys received by clerks of the peace, *ib.*
clerks of the peace to make out annual account, *ib.*
account to be laid before justices, &c. *ib.*
disposal of balance, if any, *ib.*
excess of payments to be paid out of funds of county or borough, vol. iii. 105, 106.
provision in case of incapacity or death, &c. of licensed person, vol. iii. 106.
transfer to a new house, *ib.*
revocation of licences granted by justices, *ib.*

LUNATICS—*continued.*
revocation and prohibition of renewal of licences, vol. iii. 106.
detention of patients after expiration or revocation of licence, a misdemeanor, vol. iii. 200.
provisions where hospitals receive lunatics, vol. iii. 107, 109.
penalty for neglect, vol. iii. 107.
licence or registration requisite where two or more lunatics are received, *ib.*
contravention of the act, a misdemeanor, *ib.*
provisions for detaining discharged persons, and receiving relations as boarders in licensed houses, vol. iii. 148, 200.
extension of powers to take boarders, vol. iii. 210.
no persons (not paupers) to be received without certain order and medical certificates, vol. iii. 147, 148.
contravention of act a misdemeanor, *ib.*
proviso that one certificate sufficient in certain cases, vol. iii. 148.
special order in case of persons found lunatic by inquisition, vol. iii. 210.
no pauper to be received without certain order and medical certificate, vol. iii. 148.
contravention of act a misdemeanor, *ib.*
names and addresses of relatives to be inserted in order, vol. iii. 211.
same order, &c. to justify detention as pauper or private patient, *ib.*
orders to be in force one month, *ib.*
persons signing orders to have seen patient within one month, &c. *ib.*
who not to sign orders and certificates, vol. iii. 103, 149, 211.
what medical certificate to specify, vol. iii. 149.
orders and certificates may be amended, *ib.*
provision as to defective certificates, vol. iii. 211, and *see* notes, vol. iii. 147, 148.
penalty on medical men contravening act, vol. iii. 149.
false certificates, &c. a misdemeanor, *ib.*
"book of admissions" to be kept, and entry of reception made in certain form, vol. iii. 107.
punishment for neglect or untrue entry, *ib.*
entry by medical attendant, *ib.*
penalty for neglect, *ib.*
notice of reception, &c. to be given to commissioners and clerk to visitors, vol. iii. 107, 211.
neglect a misdemeanor, vol. iii. 107.
form of notice, vol. iii. 157.
time within which to be sent to the commissioners, vol. iii. 211.
notice of escape and being brought back, &c. vol. iii. 107.
penalty for neglect, *ib.*
penalty for conniving at escape, vol. ii. 213.
entry and notice of death, removal, or discharge, vol. iii. 107, 108.
neglect, &c. a misdemeanor, vol. iii. 108.
notice of death to be sent to relatives, vol. iii. 211.

LUNATICS—*continued.*
statement of cause of death to be entered and sent to commissioners, &c. vol. iii. 108.
penalty for neglect, *ib.*
and to coroner, who may hold inquest, vol. iii. 150.
notice of dismissal of attendants for misconduct, vol. iii. 151.
penalty for neglect, *ib.*
punishment for abuse, ill-treatment, or neglect of patients, vol. iii. 108, 149.
for unlawful confinement, &c. vol. iii. 108.
when resident medical attendant required, and when medical visitor sufficient, *ib.*
number of visits may be reduced by commissioners or visitors, *ib.*
"medical visitation book" to be kept, *ib.*
neglect, a misdemeanor, *ib.*
form of book, vol. iii. 151.
"medical case-book" to be kept, vol. iii. 109.
penalty for neglect, *ib.*
form of book, *ib.*, n. (*a*).
entries to be sent to commissioners, if required, vol. iii. 109.
all licensed houses and hospitals to be visited by commissioners, vol. iii. 109, 211, 212.
duties and powers of commissioners on such visitation, *ib.*
visitors appointed by justices to visit all licensed houses in their jurisdiction, vol. iii. 109, 110.
duties and powers of visitors on such visitation, *ib.*
proprietor or superintendent to show every part and every patient, vol. iii. 110.
neglect or concealment, a misdemeanor, *ib.*
inquiries to be made by commissioners and visitors, vol. iii. 110, 212.
untrue answers, a misdemeanor, vol. iii. 110.
books and documents to be produced, *ib.*
"visitors'" and "patients'" book to be kept, *ib.*
entries to be transmitted to clerk of the visitors, and to the commissioners, vol. iii. 110, 212.
penalty for neglect, *ib.*
commissioners to make entry of state of doubtful patients, and proceedings thereon, vol. iii. 110, 111.
visiting commissioners to report on houses and hospitals not within their jurisdiction, vol. iii. 111.
power of commissioners to make rules, *ib.*
visits by night, *ib.*
commissioners in special cases may employ persons to visit and report, &c. vol. iii. 151, 152.
provision for payment of such persons, &c. vol. iii. 152.
persons signing order for reception may order discharge, vol. iii. 111.
provision where such person is incapable, vol. iii. 111, 213.
provisions for transfer of patients, vol. iii. 150, 151.
removal or discharge of pauper patients, vol. iii. 111.
not to be removed if dangerous, unless by consent of commissioners or visitors, or for purpose of transfer, vol. iii. 111, 112.

LUNATICS—*continued.*
power of commissioners to discharge from houses licensed by them, vol. iii. 112.
power to discharge from houses licensed by justices, and from hospitals, *ib.*
similar powers to visitors, *ib.*
signature of order and restrictions of such powers, *ib.*
when powers to be exercised, *ib.*
not to extend to persons found lunatic by inquisition or confined by secretary of state, *ib.*
notice of recovery of patient to whom to be given, vol. iii. 150.
visitors and commissioners may regulate the dietary of pauper patients, vol. iii. 112.
visitor may order clerk of visitors to search and give information, vol. iii. 112, 113.
commissioner may give similar order to secretary of commissioners, vol. iii. 113.
orders for admission of friends, *ib.*
penalty for obstructing or refusing, *ib.*
provisions as to correspondence of private patients, vol. iii. 213.
provisions as to removal of patient to any place for his health, vol. iii. 113, 200.
patients may be permitted to be absent on trial, vol. iii. 213.
provisions in case of non-return, *ib.*
on removal, transfer, or escape and re-capture within fourteen days, original order for reception to remain in force, vol. iii. 113.
commissioners to report periodically to the lord chancellor, vol. iii. 113, 152.
regulations for hospitals to be submitted to secretary of state, vol. iii. 152.
commissioners to make rules for government of licensed houses, *ib.*
lord chancellor to make orders and regulations and fix fees, vol. iii. 115.
powers of commissioners, visitors, &c. to be applicable to licensed houses after expiration of licence while any patients therein, vol. iii. 198.
seals of commissioners, &c. to orders, &c. dispensed with, vol. iii. 199.
powers, &c. of chancellor, commissioners, and masters over property of lunatics in licensed houses (under 8 & 9 Vict. c. 100, ss. 94—98), vol. iii. 115.
proceedings under 8 & 9 Vict. c. 100, to be discontinued, vol. iii. 133.
inquiry may be ordered on report of commissioners, *ib.*
and statement, &c. of property of lunatic required, vol. iii. 157.
order and certificate a bar to all proceedings at law, vol. iii. 116.
power of commissioners and visitors to summon witnesses, *ib.*
penalty for non-compliance, *ib.*
payment of witnesses' expenses, *ib.*
power to administer oaths, vol. iii. 214.
justices to adjudicate upon complaint of offences against act, vol. iii. 116, 117.
recovery and application of penalties, vol. iii. 117.
form of conviction, *ib.*
appeal to quarter sessions, *ib.*
within what time and where actions to be brought, *ib.*
act may be given in evidence, vol. iii. 117, 118.
pleadings and costs, *ib.*

LUNATICS—*continued.*
who may prosecute and sue for penalties, vol. iii. 117, 118.
application of penalties, *ib.*
offenders under former acts may be prosecuted, vol. iii. 118, 200.
no person to be punishable for omitting to send any copy, &c. if shown to have been posted or left at the proper office, vol. iii. 118.
costs incurred by commissioners and visitors how paid, *ib.*
commissioners to visit all asylums and gaols and to make inquiries, vol. iii. 118 and 211, 212.
and workhouses, vol. iii. 151.
provision for visitation of lunatics under care of committees, state and criminal lunatics, vol. iii. 119.
payment of persons so employed, vol. iii. 152.
provisions for special visitation of any place where lunatics represented to be confined, vol. iii. 119.
payment of persons so employed, *ib.*
penalty for obstructing orders, vol. iii. 152.
interpretation clauses, vol. iii. 119, 120, 152, 153, 207, 214.
definition of boroughs and counties, vol. iii. 120.
act to extend to Bethlehem hospital, vol. iii. 152.
act limited to England and Wales, vol. iii. 120.
acts to be construed together, vol. iii. 153, 200, 207.
schedules of forms, vol. iii. 121, 124, 153, 156.

Property of Lunatics.
amendment of law respecting, 15 & 16 Vict. c. 48 (partially repealed except as to Ireland), vol. iii. 126.
power of receiver to receive dividends of stock, vol. iii. 127.
indemnity to Bank of England, *ib.*
power of receiver to repair and improve estate and grant leases, &c. *ib.*
interpretation clause, *ib.*
general provisions as to property of lunatics (under the Lunacy Regulation Acts). See *supra, Inquisitions of Lunacy.*
power of lord chancellor, commissioner, and masters over property of lunatics in licensed asylums, vol. iii. 115, 133, 151.
application of property to maintenance of lunatics in county and borough asylums, vol. iii. 182, 193.

Removal and Settlement of Lunatic Paupers.
removal to asylum not to be an interruption of residence, vol. iii. 124.
costs of lunatic poor, being irremovable, how borne, vol. iii. 180, 181, 203.
justices to inquire into settlement of lunatics and dangerous idiots, vol. iii. 97.
removal of, from India, vol. iii. 125.

Single Lunatic in Unlicensed House.
single patient to be received only under certain obligations, vol. iii. 114.
penalty for offending, *ib.*
order and certificates requisite for admission to be the same as in the case of licensed houses, vol. iii. 114.
as to the various provisions respecting

LUNATICS—*continued.*
such orders and certificates, see *supra, Private Lunatic Asylums.*
copy of order and certificates to be entered in "private register," vol. iii. 114.
single lunatics to be visited by a medical man, &c. *ib.*
entries to be made by visitor, and penalty for untrue entry, *ib.*
number of visits may be lessened by commissioners, vol. iii. 149.
lunatics by inquisition excepted from these provisions, vol. iii. 211.
powers of commissioners to visit unlicensed houses, vol. iii. 114, 151.
lord chancellor on report may order lunatic to be removed, vol. iii. 114, 115.
visitors of licensed houses may visit single patients on request of the commissioners, vol. iii. 149.
commissioners may appoint special visitors, vol. iii. 151, 152.
lord chancellor may order commissioners to visit lunatics under care of committees, single lunatics, and supposed lunatics, vol. iii. 119.
costs of visits, how defrayed, *ib.*, vol. iii. 152.
annual report to be made to commissioners by every medical man visiting or having charge of a single patient, vol. iii. 150.
provisions as to discharge from licensed houses extended to single patients, *ib.*
notice of discharge to be sent to the commissioners, vol. iii. 151.
lord chancellor, on report of commissioners, may order discharge of single patient, vol. iii. 150.
provisions for transfer of single patients, vol. iii. 150, 151, 176, 177.
on recovery, notice to be given to friends, &c. vol. iii. 150.
provisions as to change of residence, or temporary removal for health, vol. iii. 151.
penalty on ill-treating single patient, vol. iii. 149.
statement of condition of, to be sent to commissioners, vol. iii. 213.
penalty for neglect, *ib.*
correspondence of single patient, *ib.*
notice of death of single patient to be given to coroner, vol. iii. 213, 214.
26 & 27 Vict. c. 110.
confirmation of certain agreements between counties for providing a common lunatic asylum, vol. iv. 990.
chronic lunatics in the 8th section of the Lunacy Acts Amendment Act, 1862, to include chronic lunatics chargeable to other parishes or unions, as well as chronic lunatics chargeable to the parish into which they are proposed to be received, *ib.*
27 & 28 Vict. c. 29.
sect. 1 of 3 & 4 Vict. c. 54, repealed, *ib.*
prisoners becoming insane, power to two justices to inquire, with medical aid, respecting such insanity, *ib.*
if certified by justices and such medical aid that prisoner is insane, secretary of state may grant warrant for removal of prisoner to a lunatic asylum, vol. iv. 991.
if secretary of state has reason to believe prisoner sentenced to death to be insane, he may desire medical aid to inquire into the same, *ib.*

LUNATICS—*continued.*
if prisoner afterwards pronounced sane, how to be dealt with, vol. iv. 991.
prisons placed under directors of convict prisons to be deemed prisons to which visiting justices are appointed, and directors to be deemed the visiting justices, *ib.*
provisions of 3 & 4 Vict. c. 54, not hereby repealed, and of 23 & 24 Vict. c. 75, to apply to this act, *ib.*
the charge and maintenance of insane prisoners to be borne by the common fund of the union, *ib.*
power to seize goods, &c. of insane persons transferred to guardians, *ib.*
so much of sect. 5 of 3 & 4 Vict. c. 54, as enables overseers to appeal, repealed, *ib.*
extent of act, *ib.*

MAINTENANCE AND CHAMPERTY. See *Champerty.*

MANDAMUS. See 17 & 18 Vict. c. 125, ss. 68—77, *Pleading, Practice, &c. at Law.*
as to law of, in general, vol. iii. 215, n. (*a*).
act for rendering proceedings on, more effectual, and for determining rights and franchises in corporations, &c. 9 Anne, c. 20, vol. iii. 215, and n. (*b*).
act to improve proceedings on, 1 Will. 4, c. 21, vol iii. 216.
provisions of 9 Anne, c. 20, extended to all other writs of mandamus, *ib.*
provisions for protection of certain officers to whom writs of mandamus are directed, vol. iii. 216, 217.
proceedings not to abate by removal of officer, &c. vol. iii. 217.
costs to be in the discretion of the court, *ib.*, and n. (*a*).
in mandamus to elect corporate officer, cause may be shown, and rule made absolute in the first instance, vol. i. 1077.
rule or order to justices instead of, vol. ii. 990.
action for, to enforce performance of duties, vol. iii. 783.
accelerating prerogative, writ of, *ib.*
costs of writ in action for, vol. iii. 794.
rule or order to judge of county court instead of, vol. i. 1239.
writs of error upon proceedings on mandamus, vol. iii. 217.
prosecutor may demur to the return, vol. iii. 218.
proceedings thereupon, *ib.*
costs, *ib.*
writ of error upon the judgment, *ib.*
bail in error to be put in, *ib.*
actions, &c. prohibited for anything done in obedience to peremptory writ of mandamus, *ib.*
court of error may make rules, *ib.*

MAN TRAPS. See 24 & 25 Vict. c. 100, s. 31, *Criminal Law.*

MANUFACTURES AND MANUFACTURER. See *Master and Servant.*

MARINE STORE DEALER. See *Shipping and Metal Dealers.*

MARKETS, &c. See *Hay.*
Markets, &c. Clauses Act, 10 Vict. c. 14.
extent of act, vol. iii. 219.
interpretation clauses, vol. iii. 219, 220.
Citing the Act.
short title, vol. iii. 220.
mode of incorporating this act in other acts, *ib.*
Construction of Markets or Fairs,
to be subject to this act and one of the Lands Clauses Consolidation Acts, 1845, *ib.*
undertakers to make full compensation, *ib.*
correction of errors in special act by justices, *ib.*
certificate to be deposited, *ib.*
copies of alterations to be evidence, *ib.*
power to take additional land for certain purposes, *ib.*
what works may be executed by undertakers, vol. iii. 221.
to make satisfaction for damages, *ib.*
Holding of Market, &c.
notice before opening, *ib.*
sales elsewhere prohibited, *ib.*
penalty for offences, *ib.*
on what days markets to be held, *ib.*
penalty for selling unwholesome meat, &c. *ib.*
for obstructing inspector, *ib.*
for obstructing market or fair keeper, *ib.*
Slaughter Houses,
power to erect, &c. *ib.*
undertakers liable to indictment for nuisance, vol. iii. 221, 222.
penalty for slaughtering elsewhere than in authorised place, vol. iii. 222.
right of inspection, *ib.*
Weighing of Goods and Carts,
weights and measures to be provided, *ib.*
articles to be weighed on request, *ib.*
penalty on seller for refusing, *ib.*
on persons appointed to weigh, *ib.*
machines for weighing carts, *ib.*
carts to be weighed, *ib.*
penalty on drivers for refusing to weigh, *ib.*
for frauds in weighing, vol. iii. 222, 223.
for frauds of buyers or sellers in weighing, vol. iii. 223.
of machine keeper, *ib.*
of other parties, *ib.*
Tolls,
not to be demanded until fair or market complete, *ib.*
certificate of two justices to be evidence of completion, *ib.*
payment of stallages, *ib.*
when tolls to be paid, *ib.*
tolls for cattle, when due, *ib.*
power to vary stallages and tolls, *ib.*
penalty for excessive tolls, vol. iii. 224.
recovery of tolls, *ib.*
settlement of disputes respecting, *ib.*
penalty for obstructing collector of rents, *ib.*
list of tolls to be exhibited, *ib.*
By-Laws,
for what purposes may be made, *ib.*
may be repealed or altered, *ib.*
how enforced, *ib.*
how allowed and approved, vol. iii. 224, 225.
notice of allowance, vol. iii. 225.

MARKETS, &c.—*continued.*
copy of proposed by-laws to be open for inspection, vol. iii. 225.
publication of, *ib.*
to be binding on all parties, *ib.*
proof of publication, *ib.*
Accounts,
to be made up annually, and audited, and sent to the clerk of the peace, &c. *ib.*
to be open to inspection, *ib.*
penalty on omission to prepare, &c. such account, *ib.*
tender of amends in actions, &c. *ib.*
Recovery of Damages and Penalties,
Railway Clauses Consolidation Act, 1845, as to damages, to be incorporated with this and special act, vol. iii. 225, 226.
in Ireland, part of penalties to be paid to guardians of unions, vol. iii. 226.
rights of the crown reserved, *ib.*
one justice, &c. may act, *ib.*
penalties within metropolitan police district, how paid and applied, *ib.*
penalty for false oaths, *ib.*
Access to Special Act,
copies of, how kept and inspected, *ib.*
penalty for neglect, *ib.*
Act for Preventing Contagious Disorders among Cattle, &c. 11 & 12 Vict. c. 107.
infected sheep exposed for sale may be seized or destroyed, &c. vol. iii. 227.
penalty for exposing infected cattle for sale, *ib.*
for depasturing diseased sheep, &c. *ib.*
for exposing for sale meat unfit for food, &c. *ib.*
privy council may make regulations as to removal of cattle, &c. *ib.*
as to purifying yards, stables, &c. *ib.*
as to disposal of infected animals dying, *ib.*
as to notice of appearance of disease, *ib.*
penalty for offending against orders, &c. *ib.*
how and when orders to be published, *ib.*
copies to be laid before parliament, vol. iii. 227, 228.
penalty for obstructing execution of act, &c. vol. iii. 228.
penalties to be summarily recovered, &c. *ib.*
to be levied by distress, *ib.*
in default of distress, justices may commit, *ib.*
distress, how to be levied, *ib.*
not unlawful for want of form, *ib.*
application of penalties, *ib.*
convictions to be returned to quarter sessions, *ib.*
penalties when to be sued for, *ib.*
penalty on witnesses for default, vol. iii. 229.
proceedings not to be quashed for want of form, and no *certiorari*, *ib.*
right of appeal to persons aggrieved, *ib.*
court to make orders, &c. *ib.*
provisions as to indemnity, costs, &c. where justice or court certify there was probable cause for seizure, *ib.*
duration of act, *ib.*, and n. (*a*).
act not to affect rights of the city of London, vol. iii. 229.

MARRIAGE.
statutes and decisions as to, in general, vol. iii. 230, n. (*a*).
dissolution of. See *Courts* (*Divorce*).

MARRIAGE—*continued.*
Who capable of Marrying.
none to marry within degree of marriage prohibited by God's law, &c. vol. iii. 231.
nothing shall impeach a marriage if it be without the Levitical degrees, vol. iii. 232.
what such degrees are, vol. iii. 231, 232, n. (*a*).
decisions as to, vol. iii. 230, n. (*b*), and 249, n. (*b*).
prohibition extends to bastards, *ib.*
marriages before 31st of August, 1835, of persons within prohibited degrees, not to be annulled, vol. iii. 248, 249.
future marriages of such persons to be absolutely void, vol. iii. 249.
royal family,
excepted out of general provisions as to restraints of marriage, vol. iii. 244, 257, 266.
no descendant of Geo. 2 (other than, &c.) capable of marrying without consent of his majesty, &c. vol. iii. 233.
marriages without such consent to be null and void, *ib.*
where such descendant above 25, marriage may be contracted without consent after twelve months' notice to the privy council, vol. iii. 233, 234.
such marriage good unless parliament disapprove within the twelve months, vol. iii. 234.
penalties of *præmunire*, &c. for assisting in marriage without such consent (except as aforesaid), *ib.*
infants.
formerly all marriages by licence of infants without parents' consent, &c. void, vol. iii. 236.
repeal of former statute, *ib.*
retrospective clause making such marriages by licence good, if not otherwise invalid, *ib.*
but act not to render valid a marriage duly declared invalid, &c. vol. iii. 237.
nor where validity of marriage or legitimacy of children has been brought into question, &c. *ib.*
property, &c. affected by invalidity of marriage before passing of 3 Geo. 4, c. 75, not affected by that act, *ib.*
act not to affect anything done under the authority of any court, *ib.*
who are to give consent to marriages by licence, vol. iii. 240, 251, and n. (*f*).
if father, &c. be *non compos mentis*, or beyond sea, &c. parties may apply to lord chancellor, vol. iii. 240, and n. (*b*).
consequences of marrying without consent, contrary to 4 Geo. 4, c. 76, &c. vol. iii. 241—243.
parties to forfeit all property accruing from the marriage, vol. iii. 241, 242.
who and how to sue for such forfeiture, &c. *ib.*
within what time to be sued for, &c. vol. iii. 242, 243.
proceedings where parties abscond or are abroad, vol. iii. 243.
previous agreements and settlements, &c. void, vol. iii. 242.
penalty for marrying a child under sixteen, without consent of parents, &c. See title *Criminal Law.*

MARRIAGE—*continued.*
indemnity to clergymen, &c. marrying minors after due publication of banns, vol. iii. 239.
in what cases publication of banns void, *ib.*
idiots and lunatics,
persons found lunatic, marrying before declared sane, marriage void, vol. iii. 96.
clergymen may marry like others. (See the enactment collected in Burn's Eccl. Law.)
doctors of civil law may marry, 37 Hen. 8, c. 17; 1 Eliz. c. 1, s. 19.
six clerks in chancery may marry, 14 & 15 Hen. 8, c. 8.
Contracts relative to,
formerly precontracts of marriage might be enforced by compelling consummation, vol. iii. 233.
but now otherwise, vol. iii. 233, 235, 243.
agreement in consideration of, to bind party must be in writing, &c. vol. ii. 155.
what agreement within the act, vol. ii. 155, n. (*a*).
what sufficient form of agreement, *ib.*
what sufficient signature, vol. ii. 161, n. (*b*).
what sufficient authority for agent, vol. ii. 162, n. (*b*).
stamp on, not necessary, vol. iv. 481, n. (*c*).
Banns of, in Churches.
notice to be delivered to clergyman, &c. of names, &c. seven days before publication, vol. iii. 238.
where to be published, *ib.*
in a parish church or chapel of parish, &c. where parties reside, *ib.*
where persons reside in two parishes, &c. vol. iii. 238, 259, 260, 283.
bishop, with consent of patron and incumbent, may authorise publication in any public chapel, &c. vol. iii. 238, 283.
notice to be placed in such chapel, vol. iii. 238.
banns may be published in any chapel licensed for marriages under 6 & 7 Will. 4, c. 85, &c. vol. iii. 259, 260.
notice to be placed in such chapel, vol. iii. 259.
parishes where no church, &c. and extra-parochial places deemed to belong to any adjoining parish, vol. iii. 239.
provisions as to banns, where churches demolished or under repair, &c. vol. iii. 239, 246, 247.
as to proclamation of banns in district churches under 3 & 4 Vict. c. 60, vol. iii. 261, 262.
acts to render marriages valid, when solemnised in churches, &c. and where banns have not been usually published, &c. See *Validity of Marriages, infra.*
where to be published, vol. iii. 238.
to be so three Sundays preceding solemnisation, *ib.*
during the morning service, *ib.*
or during the evening if no morning service, *ib.*
and immediately after the second lesson, *ib.*
MARRIAGE—*continued.*
how to be published, vol. iii. 238.
book to be provided for registration of banns, and publication to be therefrom, *ib.*
book to be signed after publication, *ib.*
the form, &c. prescribed by the rubrick set forth in Common Prayer Book to be followed, *ib.*
dissent of parents, &c. to be expressed openly at time of publication of banns, vol. iii. 239.
in which case banns void, &c. *ib.*
certificate of publication of banns where parishes, &c. have no church, &c. *ib.*
republication of banns necessary if marriage not solemnised in three months, *ib.*
marriage void, if without due publication of banns, vol. iii. 241, n. (*b*).
where district assigned under 3 & 4 Vict. c. 60, who to decide as to banns and marriages, vol. iii. 261, 262.
proceedings where determined that banns may be published and marriages solemnised, vol. iii. 262.
how fees to be disposed of, *ib.*
Licence for, in Churches.
as to necessary consent of parents, &c. see *supra.*
oath to be taken before surrogate as to certain particulars, before licence granted, vol. iii. 239.
punishment for false swearing, &c. vol. iii. 241.
bond not required before licence granted, vol. iii. 240.
licence not to be granted, unless one of the parties reside fifteen days in the parish, &c. immediately before the licence, vol. iii. 239.
where *caveat* entered, no licence to issue till matter examined by judge, &c. *ib.*
right of archbishop of Canterbury to grant special licences, vol. iii. 240, 250.
surrogate to take oath of office, and give bond for due execution of it, vol. iii. 240.
stamp on, vol. iv. 498.
licences for marriage in churches under repairs, &c. extended to other places, &c. vol. iii. 245, 246.
when marriage by licence not to be impeached, &c. (3 Geo. 4, c. 75), vol. iii. 236, 237.
if marriage not solemnised in three months, a new licence necessary, vol. iii. 240.
marriages solemnised under licences duly granted after 3 Geo. 4, c. 75, and before 4 Geo. 4, c. 5, declared valid, vol. iii. 237.
persons granting such licences, not liable to penalties, *ib.*
forging licence, punishment for. See title *Criminal Law.*
marriage void, if parties wilfully marry without due licence, &c. vol. iii. 241, n. (*c*).
stamp duty on licence, vol. iv. 520.
Certificate of Superintendent Registrar for Marriage.
marriages may be solemnised in churches, &c. of church of England on production of superintendent registrar's certificate, &c. in place of publication of banns, vol. iii. 250, 260.

MARRIAGE—*continued.*
not to affect right of granting special and other licences, vol. iii. 250.
marriages to be in a church in district of superintendent registrar, vol. iii. 260.
superintendent registrar of marriages, who to be, vol. iii. 250.
locality, &c. of superintendent registrar's office, vol. iii. 258, 259.
power to appoint a deputy, vol. iii. 259.
notice of intended marriage to be given to superintendent registrar of district in which the parties reside, vol. iii. 250, 251.
provisions when parties reside in different districts, *ib.*
provisions where one of parties resides in Ireland, vol. iii. 274.
form of notice, vol. iii. 278, schedule A, vol. iii. 278.
declaration of particulars by one of the parties to accompany notice, vol. iii. 273.
penalties for making false declaration, *ib.*
notice and declaration to be entered in the "marriage notice book," vol. iii. 251, 273.
fees for entries, *ib.*
notice book to be open to inspection, vol. iii. 251.
additional notice to be given under 3 & 4 Vict. c. 72, for marriage out of district in which parties dwell, vol. iii. 260, 261.
form of such additional notice, vol. iii. 261.
penalties, &c. for false declarations, *ib.*
repeal of provisions requiring notice to be read before poor-law guardians, &c. vol. iii. 259, 273.
notice of marriage without licence to be suspended in superintendent registrar's office, &c. *ib.*
particulars of notice to be sent to all registrars in district, vol. iii. 259.
certificate of notice, when to be given, &c. vol. iii. 251, 273, 274.
form of certificate, vol. iii. 273, 274.
fees for certificates, vol. iii. 274.
certificate of proclamation of banns in Scotland equivalent to superintendent's certificate, &c. *ib.*
consent when parties under age, vol. iii. 251, 252, n. (*f*).
how and by whom issue of certificate may be forbidden, vol. iii. 251, 252.
penalty for forbidding on false representations, vol. iii. 256, 257.
entry of *caveat* against issue of certificate or licence, vol. iii. 253.
penalty for frivolous *caveat*, vol. iii. 256.
registrar-general's certificate of frivolous *caveat* evidence, vol. iii. 258.

Licence of Superintendent Registrar for Marriages in Registered Buildings, &c.
as to notice, &c. see *supra, Certificate.*
notice of marriage by licence not to be suspended in superintendent registrar's office, vol. iii. 274.
notice to superintendent of one district sufficient, *ib.*
superintendent registrar may grant licences within his district, vol. iii. 252.
but not for marriages in churches, &c. of church of England, *ib.*
security to be given by superintendent registrar, *ib.*

MARRIAGE—*continued.*
returns to be made of licences granted, vol. iii. 250, 263.
superintendent registrar may grant licences (under 3 & 4 Vict. c. 72) for marriage out of district, vol iii. 275.
and for marriage in usual place of worship of the parties, &c. vol. iii. 275, 276.
form of licence, vol. iii. 275.
fees for licences, *ib.*
stamp duty upon, vol. iii. 253.
entry of *caveat* against licence, &c. See *supra, Certificate.*
when and how certificate of notice granted under 6 & 7 Will. 4, c. 85, vol. iii. 251—253.
seven days after entry of notice certificate to be given, vol. iii. 251.
certificates for marriage by licence to be distinguishable, &c. *ib.*
oath to be taken by party applying, vol. iii. 252.
power to administer oath, *ib.*, n. (*b*), 259.
when and how certificate of notice and licence to be granted under 19 & 20 Vict. c. 119, vol. iii. 274, 275.
consent required when parties under age, vol. iii. 251, 252, n. (*f*).
issue of certificate, &c. may be forbidden, vol. iii. 275.
particulars to be contained in, &c. *ib.*, and vol. iii. 251, 252.
licence to be in force three months, vol. iii. 275.
superintendent registrars unduly issuing certificates for licences guilty of felony, vol. iii. 257, 258.

Solemnisation of, according to the rights of the Church of England.
where to be made.
if marriage by licence not solemnised in three months, new licence to be obtained, vol. iii. 240.
republication of banns necessary if not solemnised in three months, vol. iii. 239.
if marriage under certificate of superintendent registrar, new notice, &c. necessary after three months, vol. iii. 253.
where banns published, solemnisation to be made in same church, &c. vol. iii. 238.
as to places in which banns may be published, see *supra, Banns.*
after notice and certificate, &c. of superintendent registrar, marriage may be solemnised in same manner as after publication of banns, vol. iii. 250, 260.
where to be solemnised, if parties live in separate parishes, &c. vol. iii. 238, 259.
bishop, with consent of patron and incumbent, may authorise solemnisation in a public chapel, &c. *ib.*
parishes where no church, &c. and extra-parochial places, deemed to belong to any adjoining parish, vol. iii. 239.
provisions as to solemnisation, where church, &c. demolished or out of repair, &c. vol. iii. 239, 245, 246.

MARRIAGE—*continued.*
power to bishops to license chapels for marriages, vol. iii. 255, 259, 283.
no stamp duty payable on licensing such chapels, vol. iii. 259.
appropriation of fees on marriages in such chapels, vol. iii. 255.
patron or incumbent may appeal against licence, *ib.*
notice of licence to be affixed in chapel, *ib.*
same regulations as to performance of marriages therein as in parish church, vol. iii. 255, 256.
option to parties to be married at parish church, vol. iii. 256.
revocation of such licences, *ib.*
in case of revocation registers to be sent to incumbent of parish church, *ib.*
lists of licensed chapels to be sent yearly to register office and printed, *ib.*
as to solemnization of marriages in churches with districts assigned under 3 & 4 Vict. c. 60, vol. iii. 261, 262.
disposal of fees, vol. iii. 262.
how made.
consent of minister of the church, &c. necessary, vol. iii. 275.
rules prescribed by rubrick to be observed in all cases by persons in holy orders, vol. iii. 250.
to be in presence of two witnesses, and registered, vol. iii. 243, and notes.
and signed and attested, *ib.*
form of entry as to, *ib.*
superintendent registrar's certificates to be delivered to the officiating minister, vol. iii. 253.
how soon after notice to superintendent registrar marriage may be solemnized, vol. iii. 253.
marriage void, if parties wilfully omit, &c. duly solemnizing it, vol. iii. 241.
forfeiture of property, &c. on marriages fraudulently obtained, vol. iii. 241—243.

Solemnization of Marriages in Dissenting Chapels, &c. and Superintendent Registrar's Office.
how places of worship may be registered for solemnizing marriages, vol. iii. 253, 254.
when new place of worship to be registered in lieu of one disused, vol. iii. 254.
as to registration of Roman Catholic chapels, vol. iii. 260.
lists of registered buildings, &c. to be printed, vol. iii. 256.
registrar general to allow searches and give extracts from returns of certified places of worship, &c. vol. iii. 277.
how soon after notice or licence marriage may be solemnized, vol. iii. 253, 275.
fresh notice necessary, if marriage not had within three months, vol. iii. 253.
delivery of certificate or licence to officiating minister, vol. iii. 275.
consent of the minister of the registered chapel, &c. necessary, *ib.*
superintendent registrar may appoint registrars of marriages, vol. iii. 253.
appointment to be subject to approval of registrar-general, vol. iii. 276.
registrar-general may appoint registrars, *ib.*

MARRIAGE—*continued.*
and limit number of registrars, vol. iii. 259.
power to registrars to appoint a deputy, vol. iii. 276.
solemnization of marriages in districts in or near which the parties reside (3 & 4 Vict. c. 72) vol. iii. 260, 261.
in what cases marriages may be solemnized out of district of residence, *ib.* and vol. iii. 275, 276.
form of additional notice to be given, vol. iii. 261.
persons making false declaration guilty of perjury, *ib.*
how marriages to be solemnized in registered buildings, vol. iii. 254, 275.
how to be solemnized before superintendent registrar, *ib.*
provisions as to marriage in the Welsh tongue, vol. iii. 259.
parties may add religious ceremony to marriage contracted at the registry office, vol. iii. 275.
where and before whom such ceremony to take place, *ib.*
marriage fees to registrar, vol. iii. 254.
registrar may ask certain particulars, vol. iii. 256.
marriages to be registered by registrar, vol. iii. 254.
entries to be attested, *ib.*
copies of register book to be sent quarterly to the superintendent registrar, &c. vol. iii. 254, 255.
provisions of registry act extended to 6 & 7 Will. 4, c. 85, vol. iii. 257.
marriage void if unduly solemnized with the knowledge of both parties, *ib.*
forfeiture of property, &c. on marriages fraudulently obtained, *ib.*

Solemnization of Marriages of Quakers and Jews.
marriages of Quakers and Jews excepted from 4 Geo. 4, c. 76, vol. iii. 244.
where both parties Quakers or Jews, marriages may be according to usages of sect, after notice to and certificate from superintendent registrar, vol. iii. 250.
23 Vict. c. 18, above provisions extended to persons professing with Society of Friends, &c. vol. iii. 282.
marriages between such persons may be contracted according to usages of Quakers, under certain provisions, *ib.*
enactments in force to extend to marriages under this act, vol. iii. 282.
marriages of Quakers and Jews excepted from 3 & 4 Vict. c. 72, vol. iii. 261.
marriages of Quakers and Jews solemnized before certain dates made valid (10 & 11 Vict. c. 58), vol. iii. 263.
may be solemnized by licence from superintendent registrar, &c. vol. iii. 277.
registrar-general to furnish register books and forms to certified secretaries of synagogues of British Jews, *ib.*

Registers of Marriages, &c.
See REGISTRATION, *infra.*
a book is to be provided for the registration of banns, &c. vol. iii. 238.
entry to be made in register book of the solemnizations, &c. vol. iii. 243.
form of entry, *ib.*

MARRIAGE—*continued.*
each registrar of marriages to register all marriages solemnized before him, vol. iii. 254.
entries to be signed and attested, *ib.*
copies to be sent quarterly to the superintendent registrar, vol. iii. 254, 255.
register books to be furnished to Jewish synagogues, vol. iii. 277.
making false entry, forging, &c. or destroying, &c. it, liable to transportation. See title "CRIMINAL LAW."
superintendent registrar registering marriages void under the act, guilty of felony, vol. iii. 257.
provisions relative to registers extended to chapels licensed by bishop, &c. vol. iii. 238.
certain registers of marriages declared valid by acts, made evidence, vol. iii. 234, 235, 246, 285.
provisions for custody of certain registers, vol. iii. 234, 235, 246, 256.

Penalties, &c. against Clergymen, &c. for undue Solemnization, &c.
indemnity to clergymen solemnizing after due publication of banns, &c. though without parents' consent, vol. iii. 239.
to clergymen solemnizing marriages in certain churches, &c. vol. iii. 234, 235, 245, 285.
indemnity to persons granting licences for marriages made valid by 4 Geo. 4, c. 5, vol. iii. 237.
solemnizing out of a church or chapel, during illegal hours, or without banns or licence, or under pretence of being in holy orders, liable to transportation, &c. vol. iii. 240, 241.
limitation of prosecution, vol. iii. 241.
persons unduly solemnizing marriages, &c. guilty of felony under 6 & 7 Will. 4, c. 85, vol. iii. 257.
limitation of prosecution, *ib.*
exceptions as to Quakers or Jews, vol. iii. 244, 257.
superintendent registrars unduly issuing certificates, &c. or solemnizing marriages, guilty of felony, vol. iii. 257, 258.
limitation of prosecutions, vol. iii. 257.

Penalties, &c. against Parties for undue Solemnization, &c.
marriage void where parties wilfully marry out of church, &c. or without due publication of banns, &c. or where marriage unduly solemnized with the knowledge of both parties, vol. iii. 241, 257.
forfeiture of property, &c. for marrying maidens under sixteen without parents' consent. See title "CRIMINAL LAW."
forfeiture of property where marriage not duly solemnized, &c. vol. iii. 241—243, 257, 276.
punishment for making false entries, &c. and destroying same. See title "CRIMINAL LAW."
penalty for making false declarations, &c. vol. iii. 261, 273, 276.
limitation as to summary convictions, vol. iii. 259.

Validity of Marriages, &c.
act to enable persons to establish legitimacy

MARRIAGE—*continued.*
and validity of marriages, &c. 21 & 22 Vict. c. 93, vol. iii. 280, 281.
court for divorce, &c. to hear and determine petitions for declaration of validity, &c., vol. iii. 280.
petition to be accompanied by affidavit, *ib.*
provisions of 20 & 21 Vict. c. 81, to apply to proceedings under this act, *ib.*
award and payment of costs, vol. iii. 281.
copy of petition to be delivered to attorney-general as respondent, *ib.*
court may require persons to be cited, *ib.*
saving of rights of persons not cited, *ib.*
proceedings not to affect final judgments, &c. already pronounced, *ib.*
general provisions as to validity of marriage, see, *supra, Who capable of Marrying.*
when marriages void for undue solemnization, vol. iii. 241, 257, and *notes.*
when void, for insufficient publication of banns, &c. vol. iii. 250, n. (*a*).
after solemnization, proof of residence, &c. not necessary to validity of marriages, vol. iii. 243, 255.
proof of observance of act, &c. not necessary, vol. iii. 276.
marriages under 6 & 7 Will. 4, c. 85, and 19 & 20 Vict. c. 119, declared good and cognizable, vol. iii. 256, 277.
44 Geo. 3, c. 77, declaring valid marriages in certain churches, &c. where banns not usually published, vol. iii. 234, 235.
provisions for indemnity, evidence, custody of registers, &c. *ib.*
48 Geo. 3, c. 127 (like act and provisions as to marriages before Aug. 1808), vol. iii. 235.
4 Geo. 4, c. 5, declaring valid marriages under licences, duly granted before the act, vol. iii. 237.
indemnity to persons granting such licences, *ib.*
5 Geo. 4 c. 32, proviso for marriages where churches, &c. under repair, &c. vol. iii. 245, 246.
6 Geo. 4, c. 92, rendering valid past and future marriages in certain churches, &c., where banns not usually published, &c. vol. iii. 246.
evidence and custody of registers, &c. *ib.*
11 Geo. 4 and 1 Will. 4, c. 18, validity of certain marriages already solemnized not to be questioned, vol. iii. 247.
removal of doubts as to marriages in certain churches, vol. iii. 247, 248.
validity of marriages in certain chapels not to be questioned, vol. iii. 248.
not to be questioned on account of doubts as to consecration of chapel, *ib.*
7 & 8 Vict. c. 56, validity of marriages in certain district chapels not to be questioned, vol. iii. 262.
omissions to authorize marriages, how cured, *ib.*

MARRIAGE—*continued.*
reference to acts in representations to privy council, vol. iii. 262.
orders in council under church building acts to be inserted in London Gazette, vol. iii. 262, 263.
maps need not be enrolled in chancery, vol. iii. 263.
validity of marriages performed in error and without fraud, in certain churches, &c. not to be questioned, vol. iii. 272.
23 Vict. c. 24, removing doubt as to validity of certain marriages in extra-parochial places, vol. iii. 282, 283.
validity of certain marriages in churches, &c. not authorised to solemnize marriage, not to be questioned, vol. iii. 285.
provisions for validity of particular marriages, &c.
marriages already solemnized in St. Ann's chapel, Wandsworth, declared valid, vol. iii. 249.
marriages already solemnized in the church of St. Clement, Oxford, declared valid, &c. vol. iii. 258.
marriages in new church of Upton-cum-Chalvry, Bucks, rendered valid, vol. iii. 267.
marriages in the chapel of St. Mary Rydal rendered valid, vol. iii. 282.
marriages in Trinity church, rendered valid, vol. iii. 285.
provisions for indemnity, evidence, &c. *ib.*

Marriages in Scotland.
marriage acts not to extend to Scotland, vol. iii. 237, 244, 249, 257, 277.
act amending law of marriage in Scotland (19 & 20 Vict. c. 96), vol. iii. 272.
under what circumstances irregular marriages in Scotland, after Dec. 31, 1856, shall be valid, *ib.*
warrants to register such marriages, when and how to be obtained, *ib.*
certified copies of registry to be evidence, *ib.*
no conviction for, or registration of irregular marriage, without proof of previous residence, *ib.*

Marriage of British Subjects resident in Foreign Countries.
law and decisions as to validity of, in general, vol. iii. 244, n. (*a*), and 245, n. (*a*).
marriages abroad according to act 12 & 13 Vict. c. 68, valid, vol. iii. 263.
notice of marriage to be given to the consul, vol. iii. 263, 264.
consul to file and register notice, and to suspend copies in the consulate, vol. iii. 264.
register to be open to inspection, *&c. ib.*
mode of forbidding marriages, *&c. ib.*
consent to marriage by licence, *ib.*
how and when licences may be granted by consul, *ib.*
fees for licences, *ib.*
caveat against marriage, *ib.*
proceedings on entry of *caveat*, *&c. ib.*
new notice required when marriage not within three months, *ib.*
when and how marriages solemnized at the British consulate, vol. iii. 264, 265.
marriage fees, vol. iii. 265.

MARRIAGE—*continued.*
marriages to be registered by consul in duplicate, vol. iii. 265.
copies to be transmitted yearly through secretary of state to the registrar-general, *ib.*
proof of residence or consent unnecessary to establish validity of marriage, *ib.*
consul may ask the necessary particulars, *ib.*
forfeiture of property in case of fraudulent marriage, *&c. ib.*
persons taking false oaths, &c. guilty of perjury, vol. iii. 265, 266.
consul's certificate evidence, vol. iii. 266.
provisions of registration act extended to this act, *ib.*
consuls may be authorized by secretary of state to solemnize marriages, *ib.*
meaning of "consul" and districts in which they may act, *ib.*
confirmation of past marriages, *ib.*
extent of act, *ib.*
schedules of forms, vol. iii. 266, 267.
marriages abroad in British factories, &c. made valid, (4 Geo. 4, c. 91) vol. iii. 244, 245.
proviso for marriages solemnized beyond the seas, vol. iii. 245.
marriages legally solemnized at Hamburgh since abolition of British factory there, declared valid, vol. iii. 248.
certain marriages solemnized at Tahiti, Moscow, and Ningpo made valid, vol. iii. 280.
marriages in the British chapel at Lisbon declared valid, vol. iii. 281.
certificates to be sent to registrar-general through secretary of state, &c. vol. iii. 281, 282.
certified copies to be evidence, *ib.*
right to search and have copies, vol. iii. 282.

Marriages in the Ionian Islands (23 & 24 Vict. c. 86).
marriages contracted before the act, declared valid, vol. iii. 283.
exception of marriages declared invalid by competent court, &c. before the act, *ib.*
future marriages valid if solemnized in form prescribed by act, *ib.*
mode and form of solemnization, vol. iii. 283, 284.
certificate of marriage, how signed and registered, &c. vol. iii. 284.
copy of registry evidence, *ib.*
entries of marriages to be reported to registrar-general, *ib.*
copies to be kept by registrar-general, *&c. ib.*
searches to be allowed and certified copies given, *ib.*
such copies to be evidence, *ib.*
lord high commissioner to make regulations, *&c., ib.*
penalty of forfeiture on marriages procured by false notices, *&c. ib.*
false notice punishable as perjury, *ib.*
evidence, *ib.*
act not to invalidate marriages otherwise lawful, vol. iii. 284, 285.
interpretation of terms, vol. iii. 285.

Marriages in India,
before the 31st Dec. 1818, by ministers of church of Scotland, made good, vol. iii. 235, 236.

MARRIAGE—*continued.*
and after then, marriages between persons of church of Scotland by ministers of that communion, and appointed by the company, valid, vol. iii. 236.
declaration in such cases to be made by parties, *ib.*
ministers celebrating such marriages, to give duplicate certificates of the marriage, &c. *ib.*
marriages abroad in British factories, &c. made valid, vol. iii. 244, 245.
proviso for marriages beyond sea, vol. iii. 245.
marriage, of Christians in India solemnized under 14 & 15 Vict. c. 40, vol. iii. 267.
notice of marriage, to whom and how given, *ib.*
certificate of notice, *ib.*
consent where parties under age, *ib.*
issue of certificate may be forbidden, vol. iii. 268.
power of supreme court or judge of zillah, where consent cannot be obtained, or is improperly withheld, *ib.*
oath or declaration before issue of certificate, *ib.*
entry of protest against certificate, *ib.*
appeal where registrar refuses certificate, *ib.*
marriage, how solemnized after issue of certificate, vol. iii. 268, 269.
new notice required where marriage not within three months, vol. iii. 269.
marriages to be registered, &c. *ib.*
transmission of certificates to the secretary of the government, &c. *ib.*
proof of residence or consent unnecessary to establish validity of marriage, *ib.*
registrar may put necessary questions, *ib.*
persons vexatiously entering protests, liable to damages and costs, *ib.*
punishment for false oath or declaration, *ib.*
limitation of prosecutions, *ib.*
appointment of marriage registrars, *ib.*
fees, how settled and received, vol. iii. 269, 270.
governor-general in council to make laws and regulations for purposes of the act, vol. iii. 270.
marriages may be solemnized as before, *ib.*
governor-general in council to provide for registration, &c. of marriages not under this act, *ib.*
certificates to be subject to 6 & 7 Will. 4, c. 86, *ib.*
marriages under act valid, *ib.*
confirmation of certain marriages in India, *ib.*
interpretation of India, *ib.*
commencement of act, *ib.*
publication of act, *ib.*
schedule, vol. iii. 271.

MARRIED WOMAN. See *Feme Covert.*

MASTER AND SERVANT.
Determination of Complaints in general.
justices to hear complaints of master, and to punish offenders, vol. iii. 286, 287.
justices to hear servants' complaints, and upon satisfactory proof to discharge servant, vol. iii. 287.
persons, &c. to whom act extends, vol. iii. 286, and notes.

MASTER AND SERVANT—*continued.*
extension of act to other trades, vol. iii. 318.
right of appeal and costs, vol. iii. 288.
no *certiorari* allowed, *ib.*
stannaries not included, *ib.*
except tinners and miners therein, vol. iii. 286, n. (*c*), 288, n. (*d*).
apprehension and punishment of artificers, labourers, &c. for not fulfilling contracts, vol. iii. 292, 293.
appeal by persons aggrieved, vol. iii. 293.
apprehension and punishment of servants in husbandry, artificers, labourers, &c. absenting from service, vol. iii. 303—306.
extension of act, vol. iii. 318.

Regulations in particular Trades and Manufactures.
punishment of persons employed in the manufacture of hats and in the woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair, and silk manufactures, for purloining or unlawfully disposing, &c. of materials intrusted to them (22 Geo. 2, c. 27, and 17 Geo. 3, c. 56), vol. iii. 288, 289, 293.
acts extended to tools, implements, dyeing drugs, &c. vol. iii. 298.
acts repealed as to certain manufactures, vol. iii. 288, n. (*e*), and 293, n. (*b*).
persons not to be convicted unless before two justices, &c. vol. iii. 293, 294.
punishment of persons convicted of buying, receiving, &c. materials from workmen, vol. iii. 289, 290, 294.
how justices to proceed on second offence, vol. iii. 294.
appeal given to persons convicted, &c. vol. iii. 290.
penalty, &c. on workmen not returning unused materials, vol. iii. 291.
time allowed for returning, vol. iii. 295.
penalty, &c. on persons pawning, selling, &c. purloined materials, vol. iii. 294, 295.
how justices to proceed, &c. vol. iii. 295.
penalty, &c. on workmen neglecting to work up materials, *ib.*
on persons receiving materials in fictitious names, &c. vol. iii. 295, 296.
for having purloined materials in possession, vol. iii. 297, 298.
for dyeing materials without consent of employer, vol. iii. 298, 299.
for procuring any materials to be so dyed, vol. iii. 299.
warrants for apprehension of offenders, vol. iii. 291, 299.
peace officers may apprehend suspected persons, vol. iii. 296, 297.
justices empowered to grant search warrants, and proceedings thereon, vol. iii. 290, 291, 296.
as to disposal of materials found, vol. iii. 290, 291, 297.
rights of appeal, &c. of persons aggrieved, vol. iii. 291, 299, 300.
no person to be punished twice for the same offence, vol. iii. 292.
forfeitures, how levied, vol. iii. 298.
right of owners to inspect materials, *ib.*
conviction of offenders, and form, vol. iii. 300.
proceedings not to be quashed, vol. iii. 300, 301.

MASTER AND SERVANT—*continued.*
limitation of actions, power to plead general issue, &c. vol. iii. 301.
limitation of powers of 22 Geo. 2, c. 27, vol. iii. 291.
extent, &c. of 17 Geo. 3, c. 56, vol. iii. 301.
See amendment of laws for the prevention of frauds and abuses by persons employed in the woollen, worsted, linen, cotton, flax, mohair, and silk hosiery manufactures; and for the further securing the property of the manufacturers and the wages of the workmen engaged therein (6 & 7 Vict. c. 40), under title "CRIMINAL LAW."
tickets of work to be delivered by manufacturers to workmen (5 Geo. 4, c. 96, s. 18), vol. iii. 310, 311.
further regulations respecting the tickets of work to be delivered to silk weavers in certain cases (8 & 9 Vict. c. 128), vol. iii. 326.
manufacturer to deliver with warp a ticket of work, *ib.*
particulars to be contained in ticket, *ib.*
duplicate of ticket to be kept, *ib.*
ticket to be evidence in cases of dispute, *ib.*
work to be produced in order to adjudication, *ib.*
power to summon witnesses, *ib.*
penalty for non-appearance or refusing to give evidence, *ib.*
service of summons, *ib.*
levying and application of penalty, vol. iii. 326, 327.
recovery of wages and sums due for work, vol. iii. 327.
penalty for neglect of payment of wages, *ib.*
no *certiorari* allowed, *ib.*
proceedings not to be quashed for want of form, *ib.*
further regulations respecting tickets of work to be delivered to persons employed in the manufacture of hosiery in certain cases (8 & 9 Vict. c. 77). See title "FACTORIES."

Arbitration of Disputes between, 5 Geo. 4, c. 96, and 1 Vict. c. 67.
laws relative to arbitration of disputes between masters and workmen consolidated and amended, vol. iii. 307.
what causes of dispute may be referred, *ib.*
within what time complaints to be made, vol. iii. 308, 325.
when justice may determine matters in dispute, vol. iii. 308.
what justices to have jurisdiction, vol. iii. 325.
interpretation of "justice," *ib.*
provisions for appointment of referee or arbitrators, vol. iii. 308.
appointment of new arbitrators, &c. *ib.*
when award of single arbitrator to be binding, *ib.*
justice to appoint time and place of meeting, &c. *ib.*
form of justice's order certifying nomination of referees, &c. vol. iii. 308, 309.
place of meeting, vol. iii. 309.
attendance of parties, *ib.*
investigation of complaint, *ib.*
award to be final, *ib.*
referees, &c. to summon witnesses at request of parties, *ib.*
commitment of refractory witnesses, *ib.*

MASTER AND SERVANT—*continued.*
adjournment of complaint from referees, &c. to a justice, and proceedings thereupon, vol. iii. 309, 310.
proceedings where one referee refuses to go before justice, vol. iii. 310.
manufacturer not to act as justice, *ib.*
different mode of arbitration may be agreed upon between the parties, &c. *ib.*
partners, agents, and servants of masters, to be deemed principals, *ib.*
power to appoint deputy to submit to arbitration, &c. *ib.*
provision in case of bankruptcy, &c. of master after proceedings commenced, *ib.*
in whose name proceedings to be had where complainant *feme covert*, or infant, vol. iii. 310.
tickets of particulars to be given out with work, vol. iii. 310, 311, 326.
duplicates of such tickets to be kept by master, &c. vol. iii. 311, 326.
within what time articles received must be objected to, vol. iii. 311.
enlargement of time for making award, *ib.*
form of award, *ib.*
acknowledgment of award, *ib.*
performance of award, how enforced, *ib.*
when defaulter may be committed to prison in first instance, *ib.*
discharge of party on payment of sum awarded, &c. *ib.*
form of warrant of commitment, *ib.*
no appeal or *certiorari*, *ib.*
proceedings not to be invalid for want of form, *ib.*
fees to be taken for proceedings under act, vol. iii. 311, 312.
costs and expenses, how to be settled, vol. iii. 312.
proceedings exempt from stamp duty, *ib.*
limitation of actions against parties acting in execution of act, *ib.*
power to plead general issue, &c.—costs, *ib.*
proviso as to repeal of acts, *ib.*
schedule of forms, vol. iii. 312, 314.

Apprentices.
complaints of apprentices against masters, vol. iii. 287.
discharge by justices thereupon, *ib.*
complaints of masters against apprentices, vol. iii. 287, 288, 303.
punishment of offenders thereupon, vol. iii. 288, 303.
right of appeal and costs, vol. iii. 288.
no *certiorari*, *ib.*
punishment of apprentices absenting from and refusing to serve, vol. iii. 292.
restriction of act, *ib.*
justices may examine parties, and order payment of wages to apprentice, if under a certain sum, vol. iii. 303.
proceedings in case of non-payment, &c. *ib.*
extension of provisions, vol. iii. 318.
saving of the jurisdiction of the chamberlain of the city of London, vol. iii. 293, 307.

Protection of Persons under the Care and Control of others as Apprentices or Servants.
register to be kept of young persons hired or taken as servants from any workhouse, vol. iii. 327.
not to supersede existing obligations to keep registers, *ib.*

MASTER AND SERVANT—*continued.*
apprentices and young persons hired from workhouses to be visited periodically, vol. iii. 327, 328.
provisions, where resident at a distance, vol. iii. 328.
interpretation clause, *ib.*
extent of act, *ib.*
form of register, *ib.*

Adjustment and Recovery of Wages.
differences to be determined by a justice of the peace, vol. iii. 286.
justice may order payment of wages, *ib.*, and vol. iii. 307.
on nonpayment to be levied by distress, vol. iii. 286.
description of persons to whom act extends, *ib.* and notes, and vol. iii. 318.
right of appeal and costs, vol. iii. 288.
no *certiorari*, *ib.*
recovery of wages when masters absent, vol. iii. 306, 307.
recovery of wages and sums due for work (in the silk manufacture), vol. iii. 327.
recovery of wages and sum due for work in woollen, linen, cotton, or silk, &c. manufactures, 6 & 7 Vict. c. 40, s. 17.

For Prohibiting Payment of Wages in Goods, 1 & 2 Will. 4. cc. 36, 37.
repeal of prior enactments, vol. iii. 318.
exception as to recovery of wages, prosecution of offences, &c. *ib.*
in contracts for hiring of artificers, wages to be made payable in coin of realm, vol. iii. 318, 319.
must not contain stipulations as to expenditure of wages, vol. iii. 319.
whole amount of wages to be paid to artificer in current coin, *ib.*, and see vol. iii. 439.
if paid in goods, &c. payment void, vol. iii. 319.
artificers may recover wages if not paid in current coin, *ib.*
when action brought, no set-off for goods allowed, vol. iii. 319, 320.
employer not to have action for goods supplied on account of wages, vol. iii. 320.
overseers, when to recover wages, if family of artificer chargeable to parish, *ib.*
payment in bank notes valid if artificer consents, *ib.*
penalty on employers entering into contracts declared illegal by act, *ib.*
penalties how to be recovered, vol. iii. 320, 321.
proviso as to second and subsequent offences, vol. iii. 321.
justices may compel attendance of witnesses, *ib.*
power to levy penalties by distress, *ib.*
partner not liable in person for offence of copartner, but partnership property to be liable, *ib.*
summonses how to be served, vol. iii. 322.
form of conviction, &c. *ib.*
convictions to be returned to clerk of the peace, *ib.*
copies, &c. to be delivered to persons applying, *ib.*
convictions not to be quashed for want of form, &c. *ib.*
no *certiorari*, *ib.*
application of penalties, *ib.*

MASTER AND SERVANT—*continued.*
limitation of proceedings under the act, vol. iii. 332.
specification of trades to which act applies, *ib.*
not to extend to domestic servants, &c. *ib.*
who not to act as justices, *ib.*
county justices to act where those of towns disqualified, vol. iii. 323.
particular exceptions to the generality of the law, and provisions relating thereto, *ib.*
employers may advance money to artificers for certain purposes, *ib.*
definition of terms used in act, *ib.*
extent of act, *ib.*
schedule of forms, vol. iii. 323, 325.

Prohibiting Payment of Wages at Public Houses, 5 & 6 Vict. c. 99.
proprietors of mines not to pay miners or colliers at, vol. iii. 431.
wages so paid recoverable again, *ib.*
penalty, *ib.*

Combination of Workmen, 6 Geo. 4, c. 129, & 22 Vict. c. 34.
repeal of previous provisions respecting, vol. iii. 314.
penalty for compelling or endeavouring to compel journeyman to leave employment or to return work unfinished, or preventing hiring, vol. iii. 315.
or compelling, &c. to belong to clubs or pay fines, *ib.*
or compelling, &c. manufacturer to alter mode of carrying on his business, *ib.*
agreements in certain cases not to be deemed "molestation," &c. within the act, vol. iii. 328.
meetings for settling rates of wages or hours of work, &c. not to be affected, vol. iii. 315.
offenders may be compelled to give evidence, *ib.*
indemnity to witnesses, *ib.*
justices to summon offenders and issue warrants, vol. iii. 316.
and determine complaints, *ib.*
justices may summon witnesses, *ib.*
penalty for non-appearance or refusing to give evidence, *ib.*
form of convictions, and commitments, *ib.*
convictions to be transmitted to next general or quarter sessions to be filed, *ib.*
proceedings in Scotland, *ib.*
appeal to sessions, vol. iii. 316, 317.
master not to act as a justice, vol. iii. 317.
schedule of forms, vol. iii. 317, 318.

False Personation of Masters, False Characters and Representations respecting Servants, 32 Geo. 3, c. 56.
definition of offences under the act, vol. iii. 301, 302.
penalties and application, *ib.*
committal in default of payment, vol. iii. 302.
informer a competent witness, *ib.*
offenders discovering accomplices indemnified, *ib.*
form of conviction, *ib.*
appeal by parties aggrieved, *ib.*
proceedings not to be quashed for want of form, or removed by *certiorari*, vol. iii. 302, 303.

MEASURES. See *Weights and Measures.*

MEDICAL PRACTITIONERS.

Anatomy, Schools of, 2 & 3 Will. 4, c. 75.

licences to practice anatomy, how and to whom granted, vol. iii. 332.
appointment of inspectors of schools of anatomy, *ib.*
in what districts inspectors to act, *ib.*
inspectors to make quarterly returns of bodies removed for anatomical purposes, *ib.*
to inspect places where anatomy is practised, *ib.*
salaries to inspectors, *ib.*
when persons having lawful custody of bodies may permit them to undergo anatomical examination, *ib.*
provisions as to persons directing anatomical examination of their bodies after death, vol. iii. 333.
no body to be removed without a certificate, &c. *ib.*
professors, surgeons, &c. may receive bodies, *ib.*
to transmit certificates and returns to inspector, *ib.*
notice to be given of places where it is intended to practise anatomy, vol. iii. 333, 334.
how bodies to be removed for examination, vol. iii. 334.
provisions as to interment, *ib.*
persons described in act, not liable to punishment for having dead bodies in their possession, *ib.*
act not to prohibit post-mortem examinations, &c. *ib.*
limitation of actions, *ib.*
punishment of offences against act, *ib.*
interpretation of terms, *ib.*
commencement of act, *ib.*

Apothecaries (5 Geo. 3, c. 194, 6 Geo. 4 c. 133).

no person to practise without examination, &c. vol. iii. 329.
or under age, *ib.*
exception and provisions as to persons practising on or before 1st August, 1851, vol. iii. 329, 331.
penalty for acting without certificate of examinations, vol. iii. 329.
on assistants for so acting, *ib.*
apothecaries not to recover charges, unless duly certificated, *ib.*
evidence, &c. *ib.*, n. (*c*).
seal of the company to be proof of authenticity, vol. iii. 331, n. (*b*).
surgeons, &c. in the navy, army, or East India Company may practise without examination, &c. vol. iii. 330, 331.
commencement and continuance of 6 Geo. 4, c. 133, vol. iii. 331.

Chemists (*Pharmaceutical*) 15 & 16 Vict. c. 56.

charter of Pharmaceutical Society confirmed, vol. iii. 335.
power to council to alter bye-laws, provided they are approved by a general meeting of the society and the secretary of state, *ib.*
manner of voting at election of officers, *ib.*
council to appoint a registrar, &c. *ib.*
registrar to make register of members of the society, &c. and to keep an index and books as may be required, vol. iii. 335.
what persons entitled to be registered, vol. iii. 335, n. (*a*).
registrar bound to certify, &c. and his certificate good evidence in absence of the contrary, vol. iii. 335.
persons appointed under charter, or bye-laws, or this act, to conduct examinations, *ib.*
subjects of examination, *ib.*
powers to examiners to grant certificates, &c. *ib.*
examiners to be appointed for Scotland, vol. iii. 335, 336.
certificated persons entitled to be registered; persons registered as pharmaceutical chemists eligible to be members; eligibility of persons registered as assistants, &c. vol. iii. 336.
exceptions, *ib.*
persons not duly registered as such not to assume or use name, &c. of pharmaceutical chemists, or any name, &c. implying the same, *ib.*
penalty on persons offending, *ib.*
penalties, how recoverable in England and Wales, *ib.*
in Scotland, *ib.*
limitation of actions, &c. *ib.*
application of penalties, *ib.*
registrar, &c. falsifying register, &c. a misdemeanor, *ib.*
any person fraudulently obtaining a certificate, or exhibiting a false certificate, a misdemeanor, *ib.*

Medicine and Surgery (*Practitioners in*).

titles of acts, vol. iii. 337, 346.
commencement of the "Medical Act," 21 & 22 Vict. c. 90, vol. iii. 337.
general medical council and branch councils established, *ib.*
incorporation of general council (25 & 26 Vict. c. 91), vol. iii. 347.
members of general council, vol. iii. 337.
provision in case certain universities fail to appoint members, *ib.*
members and powers of branch councils, *ib.*
qualification of members of council, *ib.*
term of office, resignation, or death of members, *ib.*
time and place of meeting of general council, vol. iii. 337, 338.
quorum, &c. of general council, vol. iii. 338.
election of president, *ib.*
and power to appoint executive committee, *ib.*
appointment, &c. of registrars and other officers of general council and of branch council for England, *ib.*
of branch councils for Ireland and Scotland, *ib.*
fees for attendance, &c. of members, *ib.*
expenses of councils, how defrayed, *ib.*
duties and powers of registrars to keep registers correct, *ib.*
registration of persons qualified and fees payable, vol. iii. 338, 339.
who are qualified, vol. iii. 344, 345, schedule A.
council to make orders for regulating registers, vol. iii. 339.

MEDICAL PRACTITIONERS—*continued.*
form of registers, vol. iii. 339, 344, schedule D.
persons practising in England before 1st August, 1815, entitled to be registered, vol. iii. 339.
council may require information as to studies and examinations, &c. required by colleges, &c. for obtaining qualification, vol. iii. 339, 345.
colleges may unite in conducting examinations, vol. iii. 339.
defects in the course of study, &c. may be represented to the privy council, vol. iii. 339, 345.
privy council may suspend right of registration in respect of any qualification, and revoke order of suspension, vol. iii. 339.
persons not to be registered under such qualification, &c., *ib.*
privy council may prohibit attempts to impose restrictions as to any theory of medicine, &c. by bodies entitled to grant certificates, *ib.*
as to making and authentication of orders of privy council, *ib.*
as to registration by branch registrars, vol. iii. 339, 340.
evidence of qualification to be given before registration, vol. iii. 340.
fraudulent and incorrect entries to be erased, *ib.*
register to be published annually, *ib.*
copies to be evidence that persons specified therein are registered, and that persons not named therein are not registered, *ib.*
certified copy of registration entry, to be evidence notwithstanding that the person is registered, *ib.*
names of members struck off list of any college, &c. to be signified to the general council, and proceedings thereon, vol. iii. 340.
medical practitioners convicted of felony, &c. or guilty of infamous conduct, may be struck off register, *ib.*
subsequent qualifications may be registered, *ib.*
privileges of registered persons, *ib.*
none but registered persons to recover charges, vol. iii. 341, 345.
persons not disqualified as poor law medical officers if registered within a certain time, vol. iii. 341, 346.
meaning of terms "legally qualified practitioner," &c. vol. iii. 341, 345.
registered persons exempted from serving on juries, vol. iii. 341.
unregistered persons not to hold certain appointments, vol. iii. 341, 345, 346.
persons not British subjects and having foreign degrees may act as medical officers of hospitals exclusively for foreigners, vol. iii. 345.
medical certificates not valid unless person signing be registered, vol. iii. 341.
penalty on falsifying register, *ib.*
for obtaining registration by false pretences, *ib.*
for falsely pretending to be a registered person, vol. iii. 341, 342.
recovery of penalties, vol. iii. 342.
application of penalties, *ib.*
application of monies received by treasurer, *ib.*

MEDICAL PRACTITIONERS—*continued.*
accounts to be published, &c. vol. iii. 342.
notice of death of medical practitioners to be given, *ib.*
provision for persons practising in the colonies, &c., and for students, *ib.*
new charter may be granted to the "royal college of physicians of London," vol. iii. 342, 346.
meaning of the terms "royal college of physicians of London," vol. iii. 346.
provisions of 14 & 15 Hen. 8, c. 5, as to elects repealed, vol. iii. 347.
election of president, &c. *ib.*
new charter may be granted to the "royal college of physicians of Edinburgh," vol. iii. 343, 346.
and to the king and queen's college of physicians in Ireland, *ib.*
charters not to contain new restrictions, &c. vol. iii. 343.
colleges to retain existing rights notwithstanding change of name, vol. iii. 347, 348.
and to continue to hold property, &c. vol. iii. 348.
her majesty may grant power to college of surgeons to hold examinations, &c. for dentists, vol. iii. 343.
the royal college of surgeons of Edinburgh, and faculty at Glasgow, may be amalgamated, and receive a new charter, *ib.*
provisions as to university of London to continue in force, *ib.*
general council to publish a "British Pharmacopœia," *ib.*
power to alter and republish, *ib.*
right of printing vested in general council, vol. iii. 347.
chemists, &c. not to be affected, vol. iii. 343.
schedules to the "Medical Act," vol. iii. 344.
amendment and partial repeal of, vol. iii. 345.

MERCANTILE LAW AMENDMENT (19 & 20 Vict. c. 97). See *Limitation of Actions, and Trade Marks (Counterfeiting).*
persons acquiring title to goods before they have been seized, &c. under writ against seller, protected, vol. iii. 347, 348.
specific delivery of goods sold, vol. iii. 348.
consideration for a guarantee need not appear by writing, *ib.*
guarantee to or for a firm to cease upon change in firm except in special cases, *ib.*
surety discharging a liability to be entitled to assignment of securities, *ib.*
acceptance of a bill of exchange to be in writing and signed by acceptor or his agent, *ib.*
what are to be deemed inland bills, vol. iii. 349.
with reference to repairs of ships, all ports in United Kingdom, &c. to be home ports, *ib.*

MERCHANT SHIPPING ACTS. See *Shipping.*

METAL (DEALERS IN), 24 & 25 Vict. c. 110.
short title of act, vol. iii. 350.
commencement of act, *ib.*
definition of terms, *ib.*
justices may on complaint on oath issue warrant to search for and seize old metals, *ib.*

METAL (DEALERS IN)—*continued.*
proceedings on seizure, vol. iii. 350.
penalty on dealer being in possession of stolen property, vol. iii. 350, 351.
no person to be prosecuted by indictment and proceeded against under this act, vol. iii. 351.
justices may order dealers to be registered, &c. *ib.*
form of register, *ib.*, and schedule A., vol. iii. 353.
upon registry, dealers to conform to certain regulations, vol. iii. 351.
dealer to give notice of change of place of business, *ib.*
penalty for neglect, *ib.*
provisions where dealer removes out of the district in which he has been registered, *ib.*
police to visit places of business of registered dealers, &c. *ib.*
regulations to be observed by registered dealers, *ib.*
entries to be made in given form of all purchases and sales, *ib.*
purchases to be made and goods received between certain hours, *ib.*
not to purchase or receive from persons under sixteen, vol. iii. 352.
not to employ persons under sixteen, *ib.*
to produce books and goods to police, *ib.*
to give notice of articles in his possession, &c. and answering description given by police, *ib.*
to keep all old metals for forty-eight hours without changing their form, *ib.*
penalty for breach of regulations, *ib.*
recovery of penalties, *ib.*
application of penalties, *ib.*
appeal in certain cases, *ib.*
act to extend only to England, *ib.*
schedule to act, *ib.*

METROPOLITAN MANAGEMENT, 18 & 19 Vict. c. 120, 19 & 20 Vict. c. 112, and 25 & 26 Vict. c. 102.

Accidents.
as to providing against, in laying out new streets, vol. iii. 375, 376.

Accounts. See *Audit.*

Action. See *Proceedings.*
against metropolitan commissioners of sewers to continue against metropolitan board of works, vol. iii. 379.

Acts. See *Extension*, and *Repeal.*
commencement of 18 & 19 Vict. c. 120, vol. iii. 400.
short titles, vol. iii. 426.
to be construed together, vol. iii. 406, 426.
not to apply to things done before the passing of, vol. iii. 426.
not to attach further liability to certain places, *ib.*
schedules to, vol. iii. 400—404, 427—430.
provisions of conflicting local acts may be varied by order in council, vol. iii. 399.

Advances.
by commissioners under 14 & 15 Vict. c. 23, vol. iii. 388.
commissioners under 19 & 20 Vict. c. 17, vol. iii. 409.

METROPOLITAN MANAGEMENT—*continued.*

Agreement.
between landlord and tenant not affected by acts, vol. iii. 395, 423, 424.

Amends.
tender of, vol. iii. 395, 425.

Annual Reports.
annual reports, &c. to be made out and printed by vestries and district-boards, vol. iii. 390, 391.
to be sent to metropolitan board, vol. iii. 391.
and to be open to inspection, *ib.*
vestries to make out lists of estates, charities, &c. belonging to them or under their control, *ib.*
such lists to be open to inspection, *ib.*
metropolitan board to make annual reports, &c. *ib.*
copies to be sent to certain bodies, *ib.*
and to be laid before parliament, *ib.*
medical officers of health to make, vol. iii. 413.

Appeals,
against assessments of metropolitan board, vol. iii. 386.
against orders and acts of vestries, &c. vol. iii. 392, 393, 415.
metropolitan board to appoint a committee for hearing appeals, vol. iii. 393.
powers of such committee to make orders, vol. iii. 410.
to quarter sessions, vol. iii. 396.
court to make orders, *ib.*

Apportionment,
where two or more persons are to do any act or pay money, vol. iii. 394.
power to vestries in certain cases to do works and apportion expenses, vol. iii. 364.
appeal against orders of vestries as to, vol. iii. 415.

Arches. See *Vaults.*

Ashes. See *Refuse.*

Assessment. See *Expenses.*

Audit of Accounts,
accounts of metropolitan and district boards and of vestries to be balanced, and full statements drawn up annually, vol. iii. 389, 390.
time and mode of, vol. iii. 390.
certiorari for auditors' allowances and disallowances, vol. iii. 412.
abstracts of accounts to be made, vol. iii. 390.
accounts of other parochial boards, by whom to be audited, *ib.*

Auditors,
to be elected by vestries, vol. iii. 355.
number to be elected, vol. iii. 355, 356.
list of persons elected to be published, vol. iii. 356.
who qualified, *ib.*
term of office of, *ib.*
appointment of auditor of accounts of metropolitan board, vol. iii. 390.
remuneration of, vol. iii. 426.
three auditors to be elected by district boards, vol. iii. 390.
powers may be exercised by any two, *ib.*
disqualifications of, vol. iii. 361.
penalty for acting after disqualification, *ib.*

METROPOLITAN MANAGEMENT—*continued.*

Authentication,
of documents, vol. iii. 395.

Bankrupt,
proof of debts against, by vestries, &c. vol. iii. 395.
disqualified to be member of board, vestryman, or auditor, vol. iii. 361.

Baths and Washhouses,
how far excepted out of acts, vol. iii. 369.

Borrowing Powers of Metropolitan and District Boards and Vestries.
powers to borrow on mortgage, vol. iii. 387, 419, 424.
no priority amongst mortgagees, vol. iii. 387.
district boards and vestries to obtain sanction of metropolitan board, vol. iii. 387, 424.
parties lending not bound to see to application of moneys, vol. iii. 409.
commissioners under 14 & 15 Vict. c. 23, may make advances, vol. iii. 388.
and commissioners under 19 & 20 Vict. c. 17, vol. iii. 409.
form of mortgages, vol. iii. 388, 403.
register to be kept and to be open to inspection, vol. iii. 388.
penalty for refusing inspection, *ib.*
time and mode of repayment, *ib.*
interest to be paid half-yearly, *ib.*
repayment, where no time agreed upon, *ib.*
interest to cease on expiration of notice to pay off, *ib.*
power to borrow to pay off existing securities, *ib.*
appointment of a receiver, vol. iii. 388, 389.
transfer of mortgages, vol. iii. 389.
form of, vol. iii. 389, 404.
register of, to be kept, vol. iii. 389.
sinking fund to pay off mortgages, *ib.*
mode and order of paying off mortgages, *ib.*

Bridges, &c.
formation and management of, vol. iii. 410.

Buildings. See *Drains, Waterclosets.*
notice of intention to build to be given, and proceedings thereon, vol. iii. 366, 416.
penalty for neglect, vol. iii. 422.
and for not executing works ordered, vol. iii. 417.
projecting buildings to be set back when taken down, vol. iii. 419.
powers and proceedings as to, vol. iii. 378, 419.
metropolitan board may make conditions as to, vol. iii. 420.
future projections to be removed on notice, vol. iii. 374, 375.
penalty for neglect, vol. iii. 375.
vestries, &c. may remove existing projections, and make compensation, *ib.*
buildings in certain streets not to exceed certain height without consent, vol. iii. 421.
penalty for offending, *ib.*

Burial Boards,
property and powers of, excepted out of acts, vol. iii. 369.

By-Laws,
powers to make, vol. iii. 391.
penalties for breach of, *ib.*
power to justices to remit, *ib.*

METROPOLITAN MANAGEMENT—*continued.*
to be confirmed and approved by secretary of state, vol. iii. 391.
publication and inspection of, vol. iii. 391, 392.
evidence of, vol. iii. 392.
metropolitan board may make, for guidance of vestries, vol. iii. 420.

Canal Companies. See *Railway and Canal Companies.*

Cellars. See *Vaults.*

Charitable Trusts,
how far excepted out of acts, vol. iii. 369.
vestries, &c. to make out lists of charitable trusts, &c. under their control, vol. iii. 391.

Church,
powers and authorities relating to affairs of, how far affected by acts, vol. iii. 369, 404, 405.

Church Rates,
payment of, not necessary as a qualification for voting at election of vestrymen, vol. iii. 405.

Commissioners of Works,
plans of works for intercepting sewage to be submitted to, vol. iii. 378.

Commissioners under Local Acts. See *Local Acts.*

Committees,
may be appointed by metropolitan and district boards, and by vestries, vol. iii. 362.
powers of, *ib.*, and vol. iii. 410, 411.
metropolitan board to appoint committee to hear appeals against orders, &c. of vestries, vol. iii. 393.
powers of such committee, vol. iii. 410.

Compensation. See *Retiring Allowances.*
provisions for, in certain cases, vol. iii. 368, n. (*b*).
on removal by vestries, &c. of projecting buildings, vol. iii. 375.
how ascertained and recovered, vol. iii. 395, n. (*b*).
metropolitan board may order where communication made between sewers in different parishes, vol iii. 411.
how payment enforced, *ib.*

Contracts.
powers to metropolitan and district boards and vestries to enter into, vol. iii. 380.
existing contracts to remain valid, on transfer of powers, vol. iii. 369, 370.
disqualification of members of boards and vestries interested in, vol. iii. 361.
penalty on officers interested in, vol. iii. 362, 363.

Contribution.
by owners of property, &c. vol. iii. 366.
extension of provisions as to, vol. iii. 415, 416.
where time given for payment of, a register to be kept, vol. iii. 416.
vestries may contribute to drainage works executed by owners, &c. vol. iii. 413.

Cornwall, Duchy of. See *Crown.*

Costs. See *Damages.*

Courts, &c.
owners of freehold to pave, vol. iii. 371.
owners to drain and repair pavement of, *ib.*
penalty for neglect, *ib.*

METROPOLITAN MANAGEMENT—continued.
vestry may perform works and charge expenses, vol. iii. 420.
Cowhouses.
provisions as to licensing of, vol. iii. 423.
Crown and Duchies of Lancaster and Cornwall.
saving of rights of, vol. iii. 427.
Crossing Sweepers.
vestries and district boards may appoint and pay, vol. iii. 374.
Damages.
how ascertained and recovered, vol. iii. 395, n. (*b*).
damages and costs to be recovered in same manner as penalties, vol. iii. 425.
to be made good in addition to penalties, vol. iii. 396.
proceedings before justices in questions of, vol. iii. 395.
caused by gas and water-pipes, vol. iii. 374.
Disqualifications.
in certain cases, of members of boards and vestries, &c. vol. iii. 361.
penalty for acting in such cases, *ib.*
District Boards, Election of.
certain parishes to form districts and district boards to be constituted, vol. iii. 358.
vestries to elect members of district boards, *ib.*
number of members may be altered, *ib.*
term of office of members, vol. iii. 358, 359.
elections to be held annually, vol. iii. 359, 412.
who qualified to be elected, *ib.*
retiring members may be re-elected, vol. iii. 361, 362.
provision as to parishes not electing three members, vol. iii. 359.
resignation of members, vol. iii. 361.
provision as to casual vacancies, vol. iii. 359.
disqualification of members. See *Disqualifications.*
District Boards, Expenses of. See *Expenses, &c.*
District Boards, Meetings of, &c.
quorum at, vol. iii. 359.
ordinary meetings, when held, *ib.*
special meetings, when held, *ib.*
election and powers of chairman, *ib.*
procedure at. See *Procedure.*
District Boards, Powers of. See *Vestries and District Boards, Powers of.*
Ditches.
provisions as to cleansing, covering, and filling up offensive, vol. iii. 368.
by side of roads, power to fill up and substitute pipes, *ib.*
Drains.
meaning of "drain," vol. iii. 400.
owners and occupiers may, with consent, execute drainage works at their own expense, vol. iii. 413.
vestries may contribute, *ib.*
notice to be given and sanction of vestry &c. obtained before drains can be branched into main sewers, vol. iii. 414.
owners may be compelled to construct drains, vol. iii. 365.
on neglect, vestries, &c. may recover penalties, or do the works and recover costs, vol. iii. 417.
power to order combined drainage, vol. iii. 365.
METROPOLITAN MANAGEMENT—continued.
powers to metropolitan board or vestry, &c. to make private drains and to recover expenses, vol. iii. 366.
vestries may agree to make private drains at the expense of owners or occupiers, *ib.*
powers to order contribution. See *Contribution.*
no house to be built without drains to satisfaction of surveyor, vol. iii. 365.
temporary provision for drainage where no proper sewer within 200 feet, vol. iii. 417.
power to inspect drains, vol. iii. 367.
penalty for improperly making or altering, *ib.*
where no defect found vestry, &c. to pay expenses, *ib.*
vestry, &c. to cause drains to be cleansed and put into proper condition, &c. vol. iii. 367, 368, 417.
Drinking fountains,
vestries, &c. may provide and maintain, vol. iii. 418.
Exemptions,
existing exemptions from sewer rates to be allowed, vol. iii. 383, 418, n. (*b*).
and of land from lighting rates, *ib.* n. (*c*).
Existing Liabilities, Discharge of,
provisions in case of liabilities under local acts, &c. vol. iii. 386, 387.
in case of metropolitan commissioners of sewers, vol. iii. 387.
in what cases metropolitan board of works may levy improvement rates for, vol. iii. 387, 410.
metropolitan board may borrow on mortgage to pay off existing securities of the commissioners of sewers, vol. iii. 388.
Expenses of District Boards and Vestries. See *Borrowing Powers.*
how sums to be raised for defraying, vol. iii. 382.
power to exempt parts not benefited, *ib.* n. (*c*), (*d*).
provision when part of parish is under management of vestry, &c. of adjoining parish, vol. iii. 382.
payment by district boards of expenses incurred by vestries, vol. iii. 409.
provisions as to the levying and collecting necessary rates by the overseers, vol. iii. 382, 383.
overseers to pay over and account, vol. iii. 408.
power to demand copies of the poor rate, vol. iii. 409.
penalty for neglect, *ib.*
rating of public buildings and void spaces, vol. iii. 383.
land to be rated to sewer rate at one fourth of its annual value, *ib.*
existing exemptions from sewer rates to be allowed, *ib.*
and of land from lighting rates, *ib.*
proceedings on non-payment of rates by overseers, vol. iii. 384.
provisions where vestries make the poor rate, and where parishes have a common poor rate, *ib.*
appointment of special persons to levy rates, *ib.*
tenants may deduct sewer rate, *ib.*

METROPOLITAN MANAGEMENT—*continued.*

Expenses of Metropolitan Board. See *Borrowing Powers.*
sums to be assessed by metropolitan board, vol. iii. 384, 407.
basis and mode of such assessments, vol. iii. 407, 428, 430.
form of assessments and precepts, vol. iii. 407.
amendment of same, vol. iii. 408.
power to board to inspect rates, vol. iii. 384, 406.
and to require copies, &c. vol. iii. 406.
penalties for refusing, vol. iii. 384, 407.
precepts for payment to whom directed, vol. iii. 385.
payment of sums assessed upon city, *ib.*
payment by vestries, &c. vol. iii. 385, 407.
power to demand copies of poor rate, vol. iii. 409.
penalty for neglect, *ib.*
provisions as to places where no poor rate, vol. iii. 385.
mode of making assessment, *ib.*
allowance to assessors, *ib.*
sums collected in excess to be placed to credit of places, vol. iii. 408.
payment of sums assessed, *ib.*
places not now rated to sewers to be rated only for intercepting sewers, vol. iii. 385.
notice of assessment, *ib.*
power to ratepayers to inspect, &c. *ib.*
penalty for refusing inspection, *ib.*
collection of rate, vol. iii. 385, 386.
appeals against assessments, vol. iii. 386.
assessments may be altered as to appellant only, *ib.*
recovery of monies assessed on extra-parochial property, vol. iii. 409.
one summons only to issue for recovery of rates, *ib.*
expenses of obtaining, 25 & 26 Vict. c. 102, vol. iii. 425.
votes of metropolitan board authorizing expenditure exceeding 20,000*l.* to be confirmed, vol. iii. 410.

Extension of Act,
act may be extended by order in council, vol. iii. 399.
notice to be given, and proceedings thereon, vol. iii. 413.

Extortion,
penalty on officers exacting fees, vol. iii. 362, 363.

Fences,
to footways, &c. may be erected by vestries, vol. iii. 373.

Footways,
vestries, &c. may flag and levy costs, vol. iii. 420.
and may erect fences to, vol. iii. 373.
cleansing of, vol. iii. 374.

Gardens in Squares,
special provisions as to, vol. iii. 397.

Gas,
provisions as to gas or other companies taking up pavement, vol. iii. 373.
penalty for offending, *ib.*
streets not to be broken up except under the superintendence of the vestry, &c. *ib.*
when broken up to be reinstated without delay, and protected in the meantime, vol. iii. 373, 420.

METROPOLITAN MANAGEMENT—*continued.*
penalties for neglect, vol. iii. 373, 420.
pavements injured by gas or water pipes to be repaired by company, vol. iii. 374.
penalty for neglect, *ib.*
provisions where pipe requiring repair discovered not to belong to company opening ground, *ib.*
penalty for neglect, *ib.*
vestry, &c. may reinstate pavement and charge expenses, *ib.*
and may contract with companies for restoring pavements, *ib.*

Gully-holes, &c.
to be properly trapped, vol. iii. 364, 365.
connected with main sewers not to be trapped without consent of metropolitan board, vol. iii. 410.

Health, Medical Officers of,
appointment and duties of, vol. iii. 376, 377.
to make annual reports, vol. iii. 413.

Highways,
powers, duties and property of highway surveyors transferred to vestries and district boards, vol. iii. 370.
liability of vestry, &c. executing office of highway surveyors, *ib.* n. (*a*).
income of trust estates for repair of, to be paid to vestries, &c. vol. iii. 418.
provision as to highway rates already laid, vol. iii. 370, 371.

Hoards,
to be erected during repairs, vol. iii. 375.
penalty for neglect, *ib.*
not to be erected without licence, *ib.*
penalty for neglect and power to remove, *ib.*

Improvements,
vestries, &c. may make, (ss. 72, 73), vol. iii. 418, 419.
and take and maintain grounds as pleasure grounds, &c. vol. iii. 406.
metropolitan board may make, vol. iii. 379.
and authorize applications to parliament for providing public parks, &c. vol. iii. 406.

Incorporation,
district boards and vestries incorporated, vol. iii. 359.
metropolitan board incorporated, *ib.*

Inspection,
of minutes, and books, &c. of metropolitan and district boards and vestries, vol. iii. 362.
of annual reports and accounts of vestries, vol. iii. 391.
of lists of estates, charities, &c. under control of vestries, *ib.*
of register of mortgages, vol. iii. 388.
of rates, vol. iii. 384, 406.
of by-laws, vol. iii. 391, 392.
of assessments, vol. iii. 385.
of drains, privies, cesspools, water-closets, &c. vol. iii. 367.
of underground dwellings, vol. iii. 372.

Inspectors,
of nuisances, vol. iii. 377.
of weights and measures, vol. iii. 424.
of votes at election of vestrymen, vol. iii. 357, and n. (*c*).

METROPOLITAN MANAGEMENT—*continued.*

Interpretation of Terms,
interpretation clauses, vol. iii. 399, 400, 426.
meaning of "vestry," vol. iii. 363.

Joint Action,
special provision as to joint action of certain vestries, vol. iii. 396.
appointment of officers to act jointly for different parishes or districts, vol. iii. 378.

Lancaster, Duchy of. See *Crown.*

Landlord. See *Owner.*

Lands Clauses Consolidation Act.
parts incorporated with 18 & 19 Vict. c. 120, vol. iii. 380.

Lands,
powers to purchase, *ib.*
not to be taken compulsorily except as provided, vol. iii. 380, 381, 410.
notices to be given in such case, vol. iii. 381.
power to sell and convey spare lands, *ib.*
application of purchase-money, *ib.*
owners may reserve right of pre-emption, *ib.*
vestries may take and maintain as open spaces, or for pleasure grounds, vol. iii. 406.
to be rated to sewer rate at one-fourth of annual value, vol. iii. 383.
existing exemptions from sewer rates to be allowed, *ib.*
and from lighting rates, *ib.*
void spaces, how rated, *ib.*
may be charged in less proportion than house property, in making sewer where none previously, vol. iii. 415.

Lighting,
powers for, to vest in vestries and district boards, vol. iii. 369.
vestries and district boards to light streets, vol. iii. 376.

Limitation,
of actions against metropolitan and district boards and vestries, vol. iii. 425.
penalties to be sued for within six months, vol. iii. 426.
of time for completing certain works, vol. iii. 410.

Local Acts, &c. See also *Special Provisions.*
all powers for paving, lighting, &c. and other powers under local acts to vest in vestries and district boards, vol. iii. 369, 404, 405.
except powers relating to church affairs and the relief of the poor, &c. *ib.*
saving also as to baths and washhouses, burials, charitable, and markets, vol. iii. 369.
provision as to expenses incurred under existing powers, *ib.*
as to transfer of property, *ib.*
existing contracts to remain valid, vol. iii. 369, 370.
term of office of existing commissioners, vol. iii. 370.
powers under act relating to parish of St. Paul, Covent Garden, transferred, vol. iii. 426, 427.
provisions of, conflicting with 18 & 19 Vict. c. 120, may be varied by order in council, vol. iii. 399.
provisions in, to apply to metropolitan and district boards and to vestries, vol. iii. 329.

METROPOLITAN MANAGEMENT—*continued.*

Manure. See *Refuse.*

Markets,
excepted out of acts, vol. iii. 369.

Medical Officers. See *Health.*

Metropolitan Board of Works,
constituted and incorporated, vol. iii. 359.
city of London to elect three members, vol. iii. 359, 360.
certain vestries and district boards to elect members, vol. iii. 360.
certain district boards and parishes united for the election of members (secs. 46, 47), *ib.*
term of office of members, *ib.*
retiring members may be re-elected, vol. iii. 361, 362.
disqualification of members, &c. See *Disqualifications.*
resignation of members, vol. iii. 361.
election and salary, &c. of chairman, vol. iii. 360, 361.
removal, &c. of chairman, vol. iii. 361.
appointment of new chairman, *ib.*
meetings of the board,
quorum at, vol. iii. 361.
when and where to be held, *ib.*
special meetings, how convened, *ib.*
chairman to preside, *ib.*
provision in case of vacancy or absence, *ib.*
procedure at. See *Procedure.*

Metropolitan Board of Works, Powers of.
main sewers vested in the board, and powers to make sewers, vol. iii. 377, n. (*a*).
plans of works for intercepting sewage to be submitted to commissioners of works, vol. iii. 378.
power to declare sewers main sewers, and to take under their jurisdiction sewerage matters under the jurisdiction of vestries, &c. vol. iii. 378.
to order compensation where communication made between sewers in different parishes, vol. iii. 411.
how payment enforced, *ib.*
to make orders controlling vestries, &c. in sewerage matters, vol. iii. 378, 411.
to make by-laws for guidance of vestries, &c. vol. iii. 420.
powers as to appointment, &c. of officers for different parishes or districts jointly, vol. iii. 378.
power to place streets in different parishes under management of one vestry, &c. vol. iii. 378, 421.
or part of a parish under vestry of adjoining parish, vol. iii. 378.
powers to stop roads, &c. during construction of works, vol. iii. 409, 410.
as to formation and maintenance of bridges, &c. vol. iii. 410.
as to altering and regulating names of streets, vol. iii. 421.
register to be kept of such alterations, vol. iii. 378.
powers, &c. as to buildings projecting beyond line of street, vol. iii. 378, 419, 420.
powers as to height of buildings, vol. iii. 421.
as to width of streets, vol. iii. 424.
gully-holes connected with main sewers not to be trapped without consent of board, vol. iii. 410.

METROPOLITAN MANAGEMENT—*continued.*
powers to make improvements, vol. iii. 379.
as to applications to parliament, for providing public parks, vol. iii. 406.
votes authorizing expenditure exceeding 20,000*l.* to be confirmed, vol. iii. 410.
Metropolitan Commissioners of Sewers,
powers of, to cease, vol. iii. 379.
actions, &c. not to abate, but to continue against metropolitan board, *ib.*
rates made by, how recoverable, vol. iii. 379, n. (*b*).
property of, transferred, vol. iii. 379, 380.
pensions by, to be paid by metropolitan board, vol. iii. 380.
discharge of liabilities of, vol. iii. 387.
metropolitan board may borrow on mortgage to pay off existing securities of, vol. iii. 388.
and may levy and recover improvement rates for private works executed by, vol. iii. 410.
Mortgages. See *Borrowing Powers.*
Nuisances. See *Inspectors.*
provisions as to cleansing, covering, and filling-up ponds, ditches, &c. causing a nuisance, vol. iii. 368.
Nuisances Removal Acts,
vestries, &c. to execute powers of, vol. iii. 377.
Occupation,
of cellars. See *Underground Dwellings.*
Occupiers. See *Owners.*
may claim to be rated, vol. iii. 405.
compositions with and liabilities of landlord not to be thereby affected, *ib.*
right of occupiers so claiming to vote at election of vestrymen, *ib.*
Offenders, Transient,
how to be dealt with, vol. iii. 396.
Officers,
power to metropolitan and district boards and to vestries to appoint officers and fix salaries, vol. iii. 362.
clerk and treasurer not to be the same person, or partners, *ib.*
penalty on person offending, *ib.*
penalty on officers interested in contracts or exacting fees, vol. iii. 362, 363.
to give security and to account, vol. iii. 363.
penalties and liabilities on neglect or default, *ib.*
appointment by metropolitan board of officers, to act jointly for different parishes or districts, vol. iii. 378.
Offices,
to be provided by boards and vestries, and daily attendance given, vol. iii. 363.
Open Spaces. See *Pleasure Grounds.*
how to be rated, vol. iii. 383.
Orders,
provisions of conflicting acts may be varied by order in council, vol. iii. 399.
act may be extended by order in council, *ib.*
metropolitan board may make, controlling vestries in sewerage matters, vol. iii. 378, 411.
Owners,
power to compel owners to construct drains, vol. iii. 365.

METROPOLITAN MANAGEMENT—*continued.*
on neglect, vestries, &c. may recover penalties, or do works and recover costs, vol. iii. 417.
powers to metropolitan board, or vestry, &c. to make private drains and to recover expenses, vol. iii. 366.
vestries, &c. may agree to make private drains at expense of owners or occupiers, *ib.*
power to order contribution. See *Contribution.*
owners and occupiers (with consent) may execute drainage works at their own expense, vol. iii. 413.
vestries may contribute, *ib.*
owners of freehold to pave courts, &c. vol. iii. 371.
and to drain courts and repair pavements, *ib.*
penalty for neglect, *ib.*
vestry, &c. may perform works and charge expenses, vol. iii. 420.
vaults under streets to be repaired by owners or occupiers, vol. iii. 371.
consent of owner necessary to making a thoroughfare, vol. iii. 373.
penalty on occupier's refusing to disclose owner's name, vol. iii. 392.
owners to remove future projections on receiving notice, vol. iii. 374, 375.
penalty for neglect, vol. iii. 375.
occupiers may be required to pay expenses for which owner liable, vol. iii. 394, 423.
may deduct same out of rent, *ib.*
not to be required to pay more than the rent due, *ib.*
tenant may deduct sewer rates from rent, vol. iii. 384.
agreements between landlord and tenant not to be affected, vol. iii. 395, 424.
provisions where owner pays rent to a superior landlord, vol. iii. 424.
owners or occupiers to pay for removal of trade refuse, vol. iii. 376.
disputes to be determined by justices, *ib.*
Parishes,
division into wards, and apportionment of vestrymen, vol. iii. 354, 413.
extension of act to, vol. iii. 413.
Parks, &c.,
metropolitan board may authorize applications to parliament for providing, vol. iii. 406.
Finsbury park act, continued, vol. iii. 426.
Paving,
all powers of paving vested in vestries and district boards, vol. iii. 369.
provision as to expenses incurred under existing powers, *ib.*
transfer of property, *ib.*
existing contracts to remain valid, vol. iii. 369, 370.
provision as to rates already laid, vol. iii. 370, 371.
vestry or district board to pave streets, &c. vol. iii. 371.
owners to pave courts, &c. and repair pavement, *ib.*
penalty for neglect, *ib.*
vestry may perform works, and charge expenses, vol. iii. 420.

METROPOLITAN MANAGEMENT—*continued.*
as to paving new streets, vol. iii. 372.
expenses, how borne, vol. iii. 420.
Pavement,
provisions as to companies taking-up pavement, and injury of pavements by gas or water-pipes. See *Gas.*
Penalties,
powers to compound for, vol. iii. 380.
how to be recovered, vol. iii. 395, 425.
under 18 & 19 Vict. c. 120, extended to persons causing offences, vol. iii. 417.
to be sued for within six months, vol. iii. 426.
application of, vol. iii. 425.
for breach of the by-laws, vol. iii. 391.
power of justices to remit, *ib.*
forging or falsifying voting-papers or obstructing election, vol. iii. 357.
making incorrect return of persons elected, *ib.*
withholding property transferred by the act, vol. iii. 381.
neglecting to furnish copies of poor rate, vol. iii. 409.
refusing inspection of rates, vol. iii. 384.
of assessments, vol. iii. 408.
of register of mortgages, vol. iii. 388.
of accounts and minute books, &c. of boards and vestries, vol. iii. 362.
omitting to give notice before building, vol. iii. 422.
building above certain height without consent, vol. iii. 421.
neglecting to set back projecting buildings, vol. iii. 375.
not erecting hoards during repairs, or erecting without licence, *ib.*
offending provisions as to underground dwellings, vol. iii. 371, 372, 416.
building houses without proper water-closets, &c. vol. iii. 366, 367.
buildings or encroachments on sewers, vol. iii. 392, 418.
interfering with sewers, vol. iii. 418.
sweeping dirt into sewers, vol. iii. 392.
neglecting to execute drainage works ordered, vol. iii. 417.
improperly making or altering drains, &c. vol. iii. 367.
on owners neglecting to pave and drain courts, &c. vol. iii. 371.
or to comply with orders for construction, &c. of drains, vol. iii. 365.
occupiers obstructing works or not disclosing owner's name, vol. iii. 392.
companies not complying with provisions as to interference with pavements, &c. vol. iii. 373, 374.
same person or partners acting as clerk and treasurer to boards, &c. vol. iii. 362.
officers interested in contracts, vol. iii. 362, 363.
officers exacting fees, *ib.*
scavengers neglecting duties, vol. iii. 376.
for obstructing scavengers, vol. iii. 376.
obstructing workmen, vol. iii. 392.
acting as members of boards, &c. after disqualification, vol. iii. 361.

METROPOLITAN MANAGEMENT—*continued.*
wilfully damaging lamps or other property, vol. iii. 392.
affixing bills on lamp-posts, &c. vol. iii. 422.
keeping swine in improper places, *ib.*
wrongfully collecting ashes, refuse, &c. *ib.*
Pleasure Grounds,
vestries may take and maintain lands for, vol. iii. 406.
Ponds and Pools,
provisions as to cleansing, covering, and filling up offensive, vol. iii. 368.
Poor,
powers and authorities relating to relief of, how far affected by acts, vol. iii. 369, 405.
Privies. See *Water-closets.*
Procedure of Metropolitan and District Boards and Vestries,
resolutions of boards, &c. when may be subsequently revoked, vol. iii. 362.
votes of metropolitan board authorising expenditure exceeding 20,000*l.*, to be confirmed, vol. iii. 410.
committees may be appointed, vol. iii. 362.
powers of, vol. iii. 362, 410, 411.
minutes of proceedings and books of account to be kept, vol. iii. 362.
all books may be inspected and copies made, *ib.*
penalty for refusing inspection, *ib.*
Proceedings (Legal),
not to be quashed for want of form, vol. iii. 396.
against metropolitan and district boards and vestries, vol. iii. 425.
notice of action, *ib.*
limitation of actions, *ib.*
venue, general issue, tender of amends, &c. *ib.*
Property. See *Protection.*
provisions as to transfer of, to vestries, &c. vol. iii. 369.
penalty for withholding property transferred to vestries, vol. iii. 381.
income of trust estates for repair of highways to be paid to vestries, &c. vol. iii. 418.
vestries to make out lists of estates, charities, &c. under their control, vol. iii. 391.
such lists to be open to inspection, *ib.*
Protection of Property and Works of Metropolitan and District Boards and Vestries,
buildings not to be made over sewers, &c. without consent, vol. iii. 392.
penalty for sweeping dirt into sewers, *ib.*
penalty for wilfully damaging lamps or other property, *ib.*
persons accidentally damaging lamps, &c. to make satisfaction, vol. iii. 392.
penalty for obstructing workmen, *ib.*
on occupiers obstructing works, or not disclosing owner's name, *ib.*
provisions in local acts to apply to metropolitan and district boards and vestries, *ib.*
Public Buildings,
how to be rated, vol. iii. 383.
Railway and Canal Companies,
plans of work affecting, to be submitted to companies, vol. iii. 411, 412.
line of railway not to be altered, vol. iii. 412.

METROPOLITAN MANAGEMENT—*continued.*

Rates and Rating. See *Expenses.*

Recovery of Rates. See *Expenses.*

Refuse, &c.
to be disposed of by vestries, vol. iii. 376.
application of monies arising from sale of, *ib.*
penalty on persons wrongfully collecting, vol. iii. 422.
occupiers or owners to pay for removal of trade refuse, vol. iii. 376.
disputes to be determined by justices, *ib.*
vestries may contract for removal of manure from stables, &c. vol. iii. 423.

Repayment,
of expenses charged to owners, &c. power to vestries and boards to spread over a period, vol. iii. 394.
See also *Contribution.*

Repeal,
1 & 2 Will. 4, c. 60, repealed as to certain parishes, vol. iii. 353.
acts inconsistent with 18 & 19 Vict. c. 120, repealed, vol. iii. 399, n. (a).
provisions of conflicting local acts may be varied, vol. iii. 399.

Retiring Allowances, &c.
power to grant to persons employed under metropolitan commissioners of sewers, vol. iii. 393.
provisions as to compensation to officers of paving boards, &c. vol. iii. 393, 394.

Rubbish. See *Refuse.*

Saving of Powers, &c. See *Crown and Special Provisions.*
of commissioners under 14 & 15 Vict. c. 95, vol. iii. 398.
commissioners of works, *ib.*
city commissioners of sewers, *ib.*
metropolitan sewage manure company, *ib.*
commissioners or trustees of turnpike roads, *ib.*
metropolitan police commissioners, *ib.*

Scavengers,
vestries, &c. may appoint, vol. iii. 376.
penalty on, neglecting their duties, *ib.*
penalty for obstructing, *ib.*

Schedules,
of forms, &c. vol. iii. 400—404, 427—430.

Securities,
saving of rights of persons holding, vol. iii. 407.

Service,
of notices, &c. on boards and vestries, vol. iii. 395.
on owners, occupiers, and others, *ib.*

Sewage,
plans of works for intercepting, to be submitted to commissioners of works, vol. iii. 378.

Sewerage,
sewerage powers vested in metropolitan board of works, vol. iii. 377, n. (a).
metropolitan board may take under their jurisdiction sewerage matters under the jurisdiction of vestries, &c. vol. iii. 378.
and make orders controlling vestries, &c. in sewerage matters, vol. iii. 378, 411.
vestries and district boards may transfer sewerage powers to metropolitan board, vol. iii. 368.
but not without previous consent of the board, vol. iii. 410.

Sewers. See also *Sewerage and Drainage.*
main sewers vested in the metropolitan board of works, vol. iii. 377.
metropolitan board may declare sewers main sewers, vol. iii. 378.
and order compensation where communications made between sewers in different parishes, vol. iii. 411.
how payment thereof enforced, *ib.*
sewers (except main sewers) vested in vestries and district boards, vol. iii. 363.
powers of vestries and district boards to make and repair, vol. iii. 364, 415.
consent of metropolitan board, when necessary, *ib.*
plans of new, to be submitted to metropolitan board, vol. iii. 413.
and notice of communications with main sewers to be given, *ib.*
power to vestries, &c. to do certain works, and to apportion expenses, vol. iii. 364.
provisions as to private persons making or branching sewers into main or district sewers (25 & 26 Vict. c. 102, secs. 47—49), vol. iii. 413, 414.
abandonment of works previously approved, vol. iii. 414.
where not made within twelve months fresh application necessary, *ib.*
provisions as to openings into sewers, vol. iii. 416.
expenses of, in new streets, how borne, vol. iii. 414.
and where no sewer or only open sewer previously, *ib.*
land in these cases may be charged in less proportion than house property, vol. iii. 415.
provisions where estimated expense exceeds or falls short of actual cost, *ib.*
vestry, &c. may defray part of expenses, *ib.*
appeal against orders of vestries, &c. as to apportionment of, *ib.*
sewers to be properly constructed, kept, and cleansed, vol. iii. 365.
penalty on persons neglecting to execute sewerage works ordered, vol. iii. 417.
buildings not to be erected over, without consent, vol. iii. 392, 418.
penalty for sweeping dirt into, vol. iii. 392.
interfering with, vol. iii. 418.
provisions as to contribution towards cost of. See *Contribution.*
as to Victoria-street sewer, vol. iii. 407.

Slaughterhouses,
provisions as to licensing, vol. iii. 376, 423.
notice of application for licence to be given, vol. iii. 423.

Special Provisions,
as to joint action of vestries, and elections out of vestries under Local Acts, vol. iii. 396.
as to agreement between London and North-Western Railway and certain paving commissioners, vol. iii. 397.
powers of commissioners for paving Ely-place, *ib.*

METROPOLITAN MANAGEMENT—*continued.*
parish of Woolwich, vol. iii. 397.
enclosed gardens in squares, *ib.*
the Counterscreek and Ravensbourne works, vol. iii. 407.
Victoria-street sewer, *ib.*
roads on Bedford estate, vol. iii. 420.
as to loan from Clergy Mutual Assurance Society, vol. iii. 407.
acts not to prejudice dispute between Battersea and Penge, vol. iii. 399.
Streets,
as to buildings projecting beyond line of street, see *Buildings.*
companies taking up or injuring pavement of. See *Gas.*
sewering of. See *Sewers.*
vestries and district boards, to light, vol. iii. 376.
and to pave, vol. iii. 371, n. (*a*).
paving of new streets, vol. iii. 372.
expenses how borne, vol. iii. 420.
as to repairing streets not highways, vol. iii. 372, 373, 420.
not to be broken up except under superintendence of vestry, &c. vol. iii. 373.
when broken, to be reinstated without delay and protected in the meantime, vol. iii. 373, 420.
consent of proprietor necessary to making a thoroughfare, vol. iii. 373.
powers of stopping up streets during execution of works, vol. iii. 409, 410, 421.
watering streets, vol. iii. 374.
as to providing against accidents in laying out new, vol. iii. 375, 376.
provisions as to affixing, altering, and regulating names of streets, vol. iii. 421, 422.
register to be kept of alterations, vol. iii. 378.
buildings in certain streets not to exceed certain height without consent, vol. iii. 421.
penalty for offending, *ib.*
to be of certain width, vol. iii. 424.
except by permission in special cases of metropolitan board, *ib.*
as to placing streets in different parishes under management of one vestry, &c. vol. iii. 378, 421.
cleansing. See *Scavengers.*
Swine,
penalty for keeping in improper places, vol. iii. 422.
Tenants. See *Owners.*
Thoroughfare,
acts not to authorise making of, without consent of the proprietor, vol. iii. 373.
Treasurer,
and clerk to boards, &c. not to be same person or partners, vol. iii. 362.
penalty on persons offending, *ib.*
Turnpike Roads,
regulations as to breaking up, vol. iii. 411.
Underground Dwellings,
provisions as to occupation of underground rooms as dwellings, vol. iii. 371, 372.
penalty for offending, vol. iii. 372.
evidence in proceedings to recover penalty, vol. iii. 416.
district surveyors to report upon, periodically, vol. iii. 372.
powers to enter and inspect, *ib.*
VOL. IV.

METROPOLITAN MANAGEMENT—*continued.*
if refused admission justices may issue an order, vol. iii. 372.
Urinals. See *Water-closets.*
Vaults,
vaults under streets not to be made without consent, vol. iii. 371.
to be repaired by owners or occupiers, *ib.*
on default, vestry, &c. may repair and recover expenses, *ib.*
Vestries, Election of,
number of vestrymen to be elected in each parish, vol. iii. 354.
incumbent and churchwardens, &c. to be additional vestrymen, *ib.*
parishes to be divided into wards, and number of vestrymen appointed, vol. iii. 354, 413.
secretary of state to appoint persons to make such division and apportionment, vol. iii. 354.
how such persons to be paid, *ib.*
when number of vestrymen may be altered, vol. iii. 355.
qualification of vestrymen, *ib.*
how rental to be determined, vol. iii. 405.
retiring vestrymen may be re-elected, vol. iii. 361, 362.
term of office of vestrymen, vol. iii. 355, 357.
resignation of vestrymen, vol. iii. 361.
disqualifications of vestrymen. See *Disqualifications.*
vacancies, when to be filled up, vol. iii. 355, 357, 412.
when elections to take place, vol. iii. 355.
on first election, existing vestries to be superseded, *ib.*
notices of elections, when and how to be given, vol. iii. 356.
who to preside at, *ib.*
rate collectors to assist at, *ib.*
form of proceedings and who may vote at, vol. iii. 356, 357, 405.
occupiers may claim to be rated, vol. iii. 405.
compositions and landlord's liability not to be affected, *ib.*
right of occupiers claiming to vote, *ib.*
payment of church rates not necessary to qualification, *ib.*
a poll may be demanded, vol. iii. 357.
when and how to be taken, *ib.*
duties and powers of inspectors of votes, vol. iii. 357, n. (*c*).
to appoint an umpire, vol. iii. 412.
provision in case of equality of votes, vol. iii. 357.
penalty for forging or falsifying voting papers or obstructing election, *ib.*
lists of persons elected to be published, *ib.*
penalty for making incorrect returns, *ib.*
provision where vestryman returned for more than one ward, vol. iii. 412.
vestries to provide places for holding elections, and to pay expenses, vol. iii. 357, 358.
as to parishes having no churchwardens, vol. iii. 358.
how notices and lists to be published, *ib.*
churchwarden not complying with act, a misdemeanor, *ib.*

METROPOLITAN MANAGEMENT—*continued.*

Vestries, Meetings of,
quorum, and voting at, vol. iii. 358.
meetings, how called, vol. iii. 406.
when may be held, vol. iii. 412.
where may be held, vol. iii. 358.
chairman to be elected, *ib.*
to have casting vote, *ib.*

Vestries and District Boards (Duties and Powers of),
sewers (except main sewers) vested in, vol. iii. 363, 364.
powers to repair and make sewers, &c. vol. iii. 364, 415.
plans of new sewers to be submitted to metropolitan board, vol. iii. 413.
and notice to be given of communication with main sewers, *ib.*
powers to do (sewerage) works and apportion expenses, vol. iii. 364.
may consent to execution of drainage works by owners and occupiers, vol. iii. 413.
and may contribute thereto, *ib.*
powers as to private persons making or branching drains into district sewers, &c. (25 & 26 Vict. c. 102, secs. 47—49) vol. iii. 413, 414.
as to abandonment by such persons of sewers previously approved, vol. iii. 414.
powers and liabilities, &c. as to expense of sewers in new streets, &c. vol. iii. 415.
as to temporary provision for drainage in certain cases, vol. iii. 417.
proper construction and cleansing of sewers, vol. iii. 365.
power to compel owners to construct drains, &c. *ib.*
on neglect, to recover penalties, or to do the works and recover costs, vol. iii. 417.
may order combined drainage, vol. iii. 365.
make private drains and recover expenses, vol. iii. 366.
agree to make private drains at expense of owners or occupiers, *ib.*
as to contribution in such cases, see *Contribution.*
powers where houses without proper water-closets, &c. vol. iii. 367, 417.
may compel supply of water to houses, vol. iii. 417.
as to inspection of drains, vol. iii. 367.
to cause drains to be put into proper condition, vol. iii. 367, 368, 417.
and gully-holes to be properly trapped, vol. iii. 364, 365.
powers, &c. with respect to offensive ditches, ponds, &c. vol. iii. 368, 417.
may fill up ditches by side of roads, &c. vol. ii. 368.
as to transfer of sewerage powers to metropolitan board, vol. iii. 368, 410.
all powers of paving, lighting, &c. to vest in vestries and district boards, vol. iii. 369, 404, 405.
savings and provisions as to such transfer, vol. iii. 369, 370.
vestries, &c. to light streets, vol. iii. 376.
powers, duties, and property of highway surveyors transferred to, vol. iii. 370, n. (*a*).
income of trust estates for repair of highways to be paid to, vol. iii. 418.

METROPOLITAN MANAGEMENT—*continued.*
powers as to paving, generally, vol. iii. 371, n. (*a*).
paving of new streets, vol. iii. 372, 420.
flagging footways, vol. iii. 420.
placing fences to footways, vol. iii. 373.
repairing streets not highways, vol. iii. 372, 373, 420.
powers as to making and repairing vaults under streets, vol. iii. 371.
as to parties interfering with or injuring pavement of streets, vol. iii. 373, 374.
not empowered to make thoroughfares without consent of owners, vol. iii. 373.
powers as to affixing and regulating names of streets, vol. iii. 421, 422.
notice of intention to build to be given to, and proceedings thereon, vol. iii. 366, 416.
powers with regard to alteration of buildings projecting beyond line of street, vol. iii. 374, 375, 419.
as to erection of hoards during repairs, &c. vol. iii. 375.
regulation and inspection of underground dwellings, vol. iii. 371, 372, 416.
providing against accidents in laying out new streets, vol. iii. 375, 376.
stopping up streets during execution of works, vol. iii. 409, 410, 421.
appointment, &c. of scavengers, vol. iii. 376, 422.
contracting for removal of manure from stables, &c. vol. iii. 423.
disposal of refuse, vol. iii. 376.
appointment of crossing sweepers, vol. iii. 374.
cleansing footways, *ib.*
watering streets, *ib.*
providing public urinals, &c. vol. iii. 368.
licensing slaughter-houses and cow-houses, vol. iii. 376, 423.
appointment of inspector of weights and measures, vol. iii. 424.
of officers of health, vol. iii. 376, 377.
of inspectors of nuisances, vol. iii. 377.
of other officers, vol. iii. 362.
to execute powers of Nuisances Removal Acts, vol. iii. 377.
powers to make improvements, vol. iii. 418, 419.
to take and maintain ground for pleasure grounds, &c. vol. iii. 406.
to provide and maintain drinking-fountains, vol. iii. 418.

Water,
vestries, &c. may compel supply of, for houses, vol. iii. 417.

Water-closets, &c.
penalty on erecting houses without proper, vol. iii. 366, 367.
powers of vestries, &c. where houses without proper, vol. iii. 367, 417.
power to inspect, vol. iii. 367.
penalty for improperly making or altering, *ib.*
where no default, vestry, &c. to pay expenses, *ib.*
vestries, &c. may cause, to be cleansed, vol iii. 367, 368.

METROPOLITAN MANAGEMENT—*continued.*
public, may be provided by vestries, &c. vol. iii. 368.

Watering of Streets,
vestries, &c. to provide for, vol. iii. 374.

Weights and Measures,
appointment of inspectors, vol. iii. 424.

MILLS. See *Factories.*

MINES AND COLLIERIES.
Employment of Persons in,
females not to be employed in, vol. iii. 430.
indentures of apprenticeship of, void, *ib.*
males under twelve years of age not to be employed, vol. iii. 433.
exception for boys above ten, who have certain certificates as to education, *ib.*
such certificates to be filed and produced, *ib.*
penalty for granting false certificates, *ib.*
appointment of inspectors, vol. iii. 430, 434.
no person to be apprenticed under ten years of age, nor for more than eight years, vol. iii. 430.
indentures contrary to act, void, *ib.*
penalties, vol. iii. 431.
misrepresentation of ages, how punished, *ib.*
not to affect employment above ground, *ib.*
no person under eighteen to have charge of steam-engine for working shafts, vol. iii. 431—434.
no person under fifteen to have charge of any other engine, &c. vol. iii. 431.
definition of person having charge, *ib.*
wages not to be paid at public-house, *ib.*
if so paid, recoverable, *ib.*
penalties for so paying, *ib.*
wages, to whom and where to be paid, vol. iii. 439.
penalty for offending, *ib.*
where payment is by weight, &c. an account may be taken, *ib.*
agents and others responsible for acts done without consent, &c. of owners, *ib.*
definition of owners and agents, *ib.*
summons and service, vol. iii. 432.
recovery and application of penalties, *ib.*
imprisonment for non-payment, *ib.*
inhabitants of parishes not incompetent as witnesses, *ib.*
distress not unlawful for want of form, *ib.*
appeal to quarter sessions, *ib.*
convictions not removable by *certiorari*, vol. iii. 433.

Inspection and Regulation of,
former act repealed, vol. iii. 434.
provisoes as to inspectors appointed and penalties incurred under the repealed act, *ib.*
mines to which act is to extend, vol. iii. 434, 439.
interpretation of terms, *ib.*
construction of act, vol. iii. 440.
secretary of state to appoint inspectors, vol. iii. 434.
who may be appointed, *ib.*
general rules to be observed in mines, vol. iii. 434, 435.

MINES AND COLLIERIES—*continued.*
single shafts prohibited, vol. iii. 439, 440.
in certain cases owner may appeal to arbitration against such prohibition, vol. iii. 440.
mode of conducting such arbitrations, *ib.*
power to enforce prohibition by injunction, *ib.*
agreements in contravention of the act illegal, *ib.*
special rules to be established in every mine, vol. iii. 435.
existing special rules to continue in force, *ib.*
new special rules how to be framed, approved, and established, vol. iii. 435, 436.
how to be amended, vol. iii. 436.
rules to be published, *ib.*
and copies supplied, *ib.*
powers and duties of inspectors, *ib.*
to give notice of causes of danger not provided for by rules, vol. iii. 437.
proceedings, &c. consequent on such notice, *ib.*
penalties for neglect, *ib.*
maps to be produced or made if required, *ib.*
notice of accidents and inquests to be given to secretary of state, *ib.*
penalty for neglect, vol. iii. 438.
provision for adjournment of inquests in certain cases, *ib.*
notice to be given of abandonment and opening of mines, *ib.*
penalties for offences against act, *ib.*, p. (*a*).
for obstructing inspectors, vol. iii. 438.
for defacing notices, *ib.*
how recoverable, vol. iii. 438, 439.
copies of special rules certified by inspectors to be evidence, vol. iii. 439.
reports of inspectors to be laid before parliament, *ib.*

Leases of,
by ecclesiastical persons, vol. ii. 1231.
by committee of lunatic, vol. iii. 142, 143.

MORTGAGES. See *Property, Law of; Trustees.*
infant or lunatic mortgagee, act relative to conveyances, &c. by. See *Courts of Equity.*
of lunatic's property, vol. iii. 140.
act to avoid fraudulent mortgages, vol. ii. 188.
mortgages for gaming or usurious considerations, vol. ii. 269.
transfer of mortgages by trustees. See *Trustees.*
of ships. See *Shipping.*
of tolls. See *Turnpike Roads.*
in action on bond for payment of money secured on mortgage, how far court may stay proceedings on payment and where no suit to foreclose then depending, vol. iii. 441, n. (*a*).
staying proceedings in action for ejectment, on payment and where no suit to foreclose, vol. iii. 441 and notes, 755.
court may compel mortgagee to surrender, vol. iii. 441, 442,
in suits for foreclosure, on admission by defendant of plaintiff's right, court may proceed to a decree, vol. iii. 442, n. (*a*) and (*b*).

MORTGAGES—*continued.*
act to extend to cases where right to redeem, &c. is disputed, vol. iii. 442, 443.
limitation of actions by mortgagees. See *Limitation of Actions.*
as between persons claiming under deceased mortgagor, the mortgaged estates primarily liable to mortgage debt, vol. iii. 443 and notes.
copyholds within statute, vol. iii. 443, n. (*a*).
and equitable mortgages, vol. iii. 443, n. (*b*).
but not the vendor's heir for unpaid purchase money, *ib.*
act not to affect rights under wills, &c. previous to January, 1855, vol. iii. 444.
not to extend to Scotland, *ib.*
statutory powers of mortgagees (23 & 24 Vict. c. 145).
mortgagees to have certain powers as if conferred in express terms, vol. iii. 444.
power to sell, to insure, to appoint receiver, *ib.*
receipts by persons exercising power of sale, good discharges, *ib.*
notice of sale to be given, *ib.*
but purchaser not bound to inquire as to, *ib.*
remedy of persons damnified by sale, *ib.*
application of purchase money, vol. iii. 444.
conveyance to purchaser, *ib.*
power to call for title deeds and conveyance of legal estate, vol. iii. 444, 445.
appointment of receiver, how to be made, vol. iii. 445.
receiver to be deemed agent of mortgagor, *ib.*
how may be removed, *ib.*
what commission may receive, *ib.*
to insure if required by mortgagor, *ib.*
application of moneys received by, *ib.*
extent of act, *ib.*
stamp duties on,
amount of duty, vol. iv. 521, 585.
exemptions from, vol. iv. 525.
duties under 3 Geo. 4, c. 117, on transfer of mortgages in Great Britain, vol. iv. 550.
duties under the same act on transfer of mortgages, &c. in Ireland, vol. iv. 551.
for exempting mortgages from *ad valorem* stamps, where *ad valorem* bond duty previously paid, vol. iv. 552.

MORTMAIN. See *Charitable Uses.*

MUSEUMS. See *Libraries* and *Literary and Scientific Societies.*

NATURALIZATION. See *Aliens.*

NAVIGATION. See *Ships* and *Shipping.*

NEWSPAPERS. See *Criminal Law.*
certain publications at intervals exceeding twenty-six days to be published on 1st of every month or within two days after, under a penalty, vol. ii. (160).
price and day to be printed, vol. ii. (161).
no persons to print or publish newspapers, &c. without entering into recognizance or bond for securing fines upon conviction for libels, *ib.*
amount of bond, vol. ii. (163).
damages for libel may be recovered on bond, vol. ii. (164).
in what case new recognizance or bond required, vol. ii. (161).
sureties may withdraw on giving notice, *ib.*
new recognizances to be entered into, *ib.*
bonds not to be subject to stamp duty, vol. ii. (162).
lists of recognizances and bonds to be transmitted to commissioners of stamps, *ib.*
delivery of, to commissioners, *ib.*
penalty for selling unstamped, *ib.*
recovery of penalties, *ib.*
offences respecting, how determined, *ib.*
penalty on witnesses not attending, *ib.*
convictions and form, vol. ii. (162), (163).
actions for penalties, how commenced, vol. ii. (163).
exception of certain publications and papers, &c. &c. *ib.*
no person to print or publish, until declaration made and delivered at stamp office, vol. ii. (164).
when fresh declaration required, *ib.*
before whom to be made, vol. ii. (165).
penalty if false or defective, *ib.*
for printing without, *ib.*
declarations to be filed and certified copies delivered, *ib.*
effect of, as evidence, *ib.*
not necessary to prove purchase of paper, vol. ii. (165), (166).
penalty for giving unauthorized or false certificates, vol. ii. (166).
service of criminal and civil process on printers, publishers, &c. *ib.*
titles of, and names of printers, &c. to be entered in book, *ib.*
printers, &c. having already made affidavits and given security not required to renew, *ib.*
except in certain specified cases, *ib.*
copies of, to be delivered to commissioners of stamps and taxes, and to be evidence, vol. ii. (167).
commissioners may allow printer to lodge paper with any distributor, *ib.*
discovery of proprietors, printers, and publishers of, how enforced, vol. ii. (168).
stamps on, vol. iv. 607.

NOTARIES PUBLIC.
stamp duty on admission, vol. iv. 514.
on licence to practice, *ib.*
annual certificate, vol. i. 128.
court will take judicial notice of seal of, verifying affidavits sworn abroad, vol. iii. 445, n. (*a*).
no person to act as, unless duly admitted, vol. iii. 445.

Admission, &c. of Notaries in London and within ten miles therefrom,
restriction of acts to the above district, vol. iii. 448, 449.

NOTARIES PUBLIC—*continued.*
what service of clerkship necessary, vol. iii. 446, n. (*a*), 449.
affidavit of execution of contract or indenture of apprenticeship to be made and filed, vol. iii. 446.
if not filed within time prescribed, service to reckon from the date of filing, vol. iii. 449.
affidavit to be read in court on admission, vol. iii. 446.
officers for taking and filing affidavits, *ib.*
affidavits to be entered in book, *ib.*
fee for entry, *ib.*
book may be searched, *ib.*
fee for search, *ib.*
apprentices may serve with persons practising as attorneys and notaries, vol. iii. 449.
notary not to have apprentice, unless a general practitioner and while in actual practice, vol. iii. 446, 449.
apprentice bound for and actually serving five years entitled to admission, vol. iii. 449.
proviso as to consent of notary if bound for longer time, *ib.*
proviso as to time from which service to be reckoned, *ib.*
apprentice may be turned over, vol. iii. 446, 447.
affidavit of subsequent contract to be filed, vol. iii. 447.
affidavit of having duly served to be filed before admission, *ib.*
testimonials of character and ability, vol. iii. 449.
appeal where faculty to practise refused, vol. iii. 450.
oath on admission of notary, *ib.*
before whom may be taken, *ib.*
no person to become a notary within the jurisdiction of the Scriveners' Company unless a freeman, vol. iii. 447, 450.
penalties for acting without admission, *ib.*
notary allowing his name to be used by unqualified person to be struck off, vol. iii. 447.
exception, *ib.*
act not to extend to persons previously admitted, *ib.*
nor to proctors, secretaries to bishops, &c. except as mentioned, *ib.*
application to strike notary off the roll must be made within 12 months, vol. iii. 450.
recovery and application of penalties, vol. iii. 448.
limitation of actions, &c., *ib.*

Admission of notaries to practise in places more than 10 *miles from London,*
attornies may be allowed to practise within specified districts more than 10 miles from London, vol. iii. 448.
by whom and how to be admitted, *ib.*
such notary acting out of his specified district or in London to be struck off the roll, *ib.*

Acts enabling diplomatic and consular agents abroad to do notarial acts, vol. iii. 451—2, 460—1.

NOTICES.
affixing on church doors. See *Outlawry.*

NOTICE OF ACTION. See *References,* vol. iii. 451.
one calendar month's notice to be given in all cases, vol. iii. 451.
uniform period of limitation of actions under local and personal acts, *ib.*

OATHS. See *Affidavits, Courts* (*Admiralty*), (*Probate*), (*Criminal Law*).

Administration of Oaths, &c. abroad,
oaths, &c. may be administered by consuls (6 Geo. 4, c. 87), vol. iii. 451, n. (*c*).
power extended to ambassadors and other diplomatic agents (18 & 19 Vict. c. 42), vol. iii. 460.
affidavits taken before ambassadors, &c. may be sued in courts in united kingdom, vol. iii. 461.
proof of seal or signature not required, *ib.*
penalties for swearing or affirming falsely, *ib.*
forging seal or signature, a felony, *ib.*
as to affidavits, &c. connected with registration (16 & 17 Vict. c. 78), vol. iii. 459.

Allegiance, Abjuration, and Supremacy, Oaths of,
separate oaths abolished, vol. iii. 461.
form of single oath to be taken in lieu of, *ib.*
name of sovereign for time being to be used in oath, vol. iii. 462.
to be taken in same cases, &c. as the present oaths, vol. iii. 461, n. (*a*), 462.
form of affirmation to be taken by Quakers and others, vol. iii. 463, 464.
name of sovereign for time being to be used therein, vol. iii. 464.
declaration to be made by persons professing Jewish religion, vol. iii. 462.
act not to affect Roman Catholic Relief Act, *ib.*

Affirmations and Declarations in lieu of,
Quakers and Moravians may make, vol. iii. 452.
extended to persons who have been Quakers or Moravians, vol. iii. 457.
penalty on affirming falsely, vol. iii. 452, 457.
form of affirmation, *ib.*
form of affirmation in lieu of oath of abjuration, vol. iii. 453.
Separatists may make, *ib.*
form of affirmation, *ib.*
to have effect of an oath, *ib.*
penalty for false affirmation, *ib.*
declarations to be made in certain cases by Jews, vol. iii. 462.
Lords of the Treasury empowered to substitute declarations in lieu of oaths, &c. in certain cases, vol. iii. 454.
substituted declaration to be published in Gazette, &c. *ib.*
no oath to be administered where declaration substituted, *ib.*
false declaration in revenue matters, a misdemeanor, *ib.*
oath of allegiance still requisite, *ib.*
oaths in courts of justice still to be taken, *ib.*
universities may substitute declaration in lieu of oath, vol. iii. 454.
declaration substituted for churchwarden's and sideman's oath, vol. iii. 455.

OATHS—*continued.*
for oaths and affidavits by persons acting in turnpike trusts, vol. iii. 455.
and by persons taking out a patent, *ib.*
for oaths, &c. under pawnbrokers' acts, *ib.*
penalties as to such last-mentioned oaths to apply to substituted declarations, *ib.*
fees payable on oaths to be paid on declarations in lieu thereof, vol. iii. 456.
declarations to be in certain form unless otherwise directed, *ib.*
form of, vol. iii. 457.
making false declaration a misdemeanor, vol. iii. 456.
affirmation instead of oath when allowed in cases of witnesses in civil proceedings, vol. iii. 460.
form of affirmation, *ib.*
penalty for false affirmations, *ib.*
relief of witnesses objecting to be sworn in criminal proceedings, vol. i. 1397, vol. ii. (90).

Chancery, powers to administer Oaths and take Declarations in,
clerk of enrolments and clerks of records and writs may take declarations on enrolment of any documents, vol. iii. 458.
clerk of affidavits and assistant clerks may administer oaths, &c. in place of masters in ordinary, *ib.*
power to lord chancellor to appoint second assistant clerk, *ib.*
penalties on persons swearing falsely, *ib.*
"Masters Extraordinary" to be styled in future "Commissioners," vol. iii. 459.
Lord Chancellor may appoint "London Commissioners," *ib.*
fees to be taken by, *ib.*
and commissioners for Isle of Man and Channel Islands, *ib.*
fees to be taken by, *ib.*
stamp on appointment, *ib.*
saving of existing powers of Lord Chancellor, *ib.*
references to "masters extraordinary" in acts to apply to commissioners, *ib.*
persons authorised to administer oaths in chancery may administer oaths in chancery of county palatine of Lancaster, vol. iii. 460.

Common Law, appointment of Commissioners in London and Channel Islands, &c. to administer Oaths in. See *Affidavit*, vol. i. 22.

Form and Validity of,
all persons to be bound by oath administered in the form which such persons may declare binding, vol. iii. 457, 458.
no particular form required by the common law, vol. iii. 457, n. (*b*).

General Powers to Administer,
all courts, &c. and persons having authority by law or consent of parties to hear evidence, may administer, to witnesses, vol. iii. 459.

Municipal Offices,
declarations to be made on election to, by Quakers, Moravians, and Separatists, vol. i. 1067.
by Jews, vol. i. 1079.

OATHS—*continued.*
Parliament,
form of oath, &c. to be taken by members. See *Parliament.*
Select Committees of House of Commons may examine on oath, vol. iii. 463.
and any committee of House of Lords, *ib.*
penalties for false swearing, *ib.*

Registration of Deeds, Wills, &c.
affidavits, &c. relating to, before whom to be sworn in Scotland, Ireland, the colonies, and abroad, &c. vol. iii. 459.

Voluntary Oaths,
justices not to administer oaths where they have no jurisdiction, vol. iii. 455.
proviso and exceptions, *ib.*
declaration substituted for oath, on transfer of stock at the bank, vol. iii. 455, 456.
for oaths required by 5 Geo. 2, c. 7, and 54 Geo. 3, c. 15, vol. iii. 456.
declaration in writing sufficient to prove will, &c. *ib.*
suits on behalf of crown may be proved by declaration, *ib.*
voluntary declarations for certain purposes may be taken in certain form, *ib.*
making false declarations a misdemeanor, *ib.*
same fees on declarations as on oaths for which substituted, *ib.*
form of declarations, vol. iii. 457.

OFFICES, SALE OF.
none to obtain offices except upon their deserts, vol. iii. 464.
decisions on the act, vol. iii. 464, n. (*a*).
penalty for buying and selling some sort of offices, vol. iii. 465—467.
what is a buying and selling under the act, vol. iii. 465, notes (*a*) and (*b*).
act extended to offices in gift of the Crown, and to Scotland and Ireland, vol. iii. 468.
what offices within the act, vol. iii. 465, n. (*c*), and 466, n. (*b*).
to what offices act shall not extend, vol. iii. 467, 468, and 466, n. (*c*).
bargains and assurances contrary to the act void, vol. iii. 467.
acts done by officers offending shall be good, *ib.*
when right of appointment is forfeited, office to be vested in Crown, vol. iii. 468.
persons buying or selling, &c. guilty of a misdemeanor, vol. iii. 468, n. (*b*).
persons receiving or paying money for soliciting, &c. guilty of a misdemeanor, vol. iii. 469.
persons opening or advertising houses for transacting business relating to, guilty of a misdemeanor, vol. iii. 469, 470.
penalty on persons advertising or publishing the names of brokers, &c. vol. iii. 470, n. (*a*).
exceptions as to purchase or sale of certain offices in the palace or commissions in the army at regulated prices, and authorised regimental agents acting without fee, vol. iii. 470, n. (*b*).
officers in the army giving more than regulated prices, or paying agents for negotiating, shall forfeit their commissions and be cashiered and their commissions be sold: half of the produce (not exceeding 500*l.*) to informer, &c. vol. iii. 470.

OFFICES, SALE OF—*continued.*
exception as to offices excepted in former act, and offices legally saleable, &c. vol. iii. 470.
saving of lawful deputations and payments out of fees, vol. iii. 471.
exception as to annual payments out of fees to any person formerly holding the office, *ib.*
exceptions as to masters, six clerks, and examiners of chancery in Ireland till after death, &c. of present possessors, *ib.*
punishment of misdemeanors in Scotland, *ib.*
offences committed abroad shall be tried in Queen's Bench, under 42 Geo. 3, c. 85, *ib.*
commencement of act in certain places abroad, *ib.*

OUTLAWRY.
as to law of, generally, vol. iii. 471, n. (*a*).

When and for what offences,
exigents to be awarded against defrauders of the revenue, conspirators, and others, vol. iii. 472.
not for trespass, unless against the peace, *ib.*
no outlawry against accessory until attainder of principal, vol. iii. 471.
on indictments for felony where body not found on writ of *capias*, vol. iii. 472, 473.
on indictments and appeals against persons dwelling in foreign countries, vol. iii. 474.
on indictments removed into Queen's Bench, *ib.*
for treason, vol. iii. 475.
in debt, detinue, and replevin, vol. iii. 473.

Effect of,
in felonies and misdemeanors, vol. iii. 472, n. (*b*).
objection that plaintiff an outlaw, may be heard on interlocutory application by him, vol. iii. 473, n.
outlaw may claim protection against irregular proceedings, *ib.*
how far may be heard, *ib.*
as to taxation of bills, and recovery of damages, *ib.*
must be reversed by proper tribunal, *ib.*

Proceedings to Outlawry,
addition of defendant's estate, degree, or mystery in process, vol. iii. 474, n. (*a*).
proceedings on writs of *capias* and *distringas*, vol. iii. 478, n. (*b*), (*c*), (*d*).
after judgment given, vol. iii. 478.
appointment of filazer, exigenter, and clerk of the outlawries in the exchequer, vol. iii. 478, 479.
proceedings in the court of exchequer, vol. ii. 479, n. (*a*).

Proclamations,
writ of proclamation to be awarded, vol. iii. 474, 475.
three proclamations to be made after exigent, vol. iii. 475, 476.
where to be made, vol. iii. 476.
in counties palatine, vol. iii. 475, n. (*a*).
officer's fees for making, vol. iii. 475, 476.
sheriff's fee for making, at church door, vol. iii. 476.
to be in writing and affixed to the church door, vol. iii. 479, and notes.
to be delivered to sheriff of record, vol. iii. 475.
in criminal cases, writ of proclamations to be delivered three months before return, vol. iii. 478.

OUTLAWRY—*continued.*

Protection against,
by writ of *idemptitate nominis*, vol. iii. 473, 474.
where outlawries avoided without writ of error, vol. iii. 475.

Reversal of, &c.
writs of error to reverse, vol. iii. 475, n. (*b*).
if defendant in error makes default, the rule to reverse absolute in first instance, *ib.*
defendant on writ of error to find bail to answer plaintiff and to satisfy the condemnation money, vol. iii. 476, 477.
outlawry may be reversed by attorney, except in certain cases, vol. iii. 477, n. (*a*), (*b*).
where persons taken on *capias utlagatum* may be discharged on attorney's undertaking to appear and reverse outlawry, &c. vol. iii. 477.
discharge where special bail is required, *ib.*
security found after return of writ, *ib.*
pardon on outlawry on a judgment, vol. iii. 472.
on an original before appearance, party must first yield himself to prison, *ib.*
proceedings thereon, *ib.*
on surrender to indictment or appeal in treason, and acquittal thereon, vol. iii. 476.
limitation of proceedings after outlawry reversed, vol. iii. 8.

OVERSEERS. See *Poor.*

PARCENERS. See *Joint Tenants.*

PARISH CONSTABLES. See *Police Constables.*

PARLIAMENT.
as to the law of, generally, vol. iii. 479, n. (*f*).

I.—ELECTORS AND ELECTIONS.

Qualification of Electors,
in general,
trustees not to vote unless in actual possession, vol. iii. 484.
mortgagor or *cestui que trust* to vote, *ib.*
conveyances in order to multiply votes void, vol. iii. 484, n. (*b*).
devises to multiply votes void, vol. iii. 491.
certain devises made previously to act, not to be affected, *ib.*
no voice for one house only, vol. iii. 484.
one under twenty-one to vote, *ib.*
borough constables disqualified from voting, &c. vol. iii. 573.
penalty for offending, *ib.*
officers employed in the revenue disqualified, vol. iii. 488, n. (*b*), (*c*), (*d*).
penalty on disqualified persons voting, vol. iii. 488.
not to extend to commissioners of land tax, vol. iii. 489.
nor to offices held by letters patent for an estate of inheritance, *ib.*
limitation of actions under act, *ib.*

PARLIAMENT—*continued.*
Roman Catholics empowered to vote on taking oath, vol. iii. 592.
abolition of such oath, vol. iii. 541.
in counties,
forty-shilling freeholders, vol. iii. 481, 482.
what are freeholds within the act, vol. iii. 481, n. (*b*).
fraudulent conveyances for the purposes of qualification void, and penalties for making same, vol. iii. 484, 485, n. (*b*).
must have been in actual possession, or in receipt of rents and profits above twelve months, unless entitled by descent, marriage, marriage settlement, devise or promotion, vol. iii. 485, 486.
penalty for offending, vol. iii. 486.
no public tax to be deemed a charge on a freehold, *ib.*
husband voting in right of wife's dower, vol. iii. 487, 488.
votes in respect of purchase of land tax, vol. iii. 491.
limitation of right of voting for counties, &c. in respect of freeholds for life, vol. ii. 495—497.
decisions on the statute, vol. iii. 496, n. (*a*), (*b*), (*c*).
right of voting extended to copyholders having estate of certain value, vol. iii. 497.
as to customary freeholds and burgage tenure, *ib.*, n. (*a*).
right of voting extended to leaseholders for certain terms, and having estate of certain value, vol. iii. 497, n. (*b*).
proviso as to assignees and sub-lessees, vol. iii. 498.
right of voting extended to occupiers of premises of certain value, &c. above charges, *ib.* and notes.
what not to be deemed charges, vol. iii. 498.
successive occupation, vol. iii. 538.
joint occupation, *ib.*
county voters need not be assessed to the land tax, vol. iii. 498.
provisions as to trustees and mortgagees, vol. iii. 484, n. (*f*), 539.
freeholder not to vote in respect of qualification occupied by himself which would confer a borough vote, vol. iii. 498, n. (*g*).
copyholders and leaseholders not to vote in respect of qualification which could confer a borough vote, vol. iii. 499.
actual possession for a certain time, and registration essential to entitle party to vote, vol. iii. 499, n. (*b*).
exception in case of property coming by descent, vol. iii. 499.
in boroughs, &c.,
forty-shilling freeholders in cities and towns being counties of themselves, vol. iii. 486.
to be in possession above twelve months, except in certain cases, *ib.*
penalty for fraudulent qualification, *ib.*
occasional inhabitants not to vote (26 Geo. 3, c. 100), vol. iii. 490.
penalty for offending, and exceptions, *ib.*

PARLIAMENT—*continued.*
right of voting in boroughs—qualification, vol. iii. 500—502.
decisions on the act, *ib.* notes.
as to joining tenements to constitute a qualification, vol. iii. 502, n. (*a*).
occupation must be by tenants in their own right, vol. ii. 500, n. (*a*).
occupier not to vote unless rated to poor rate, vol. iii. 502, n. (*e*).
rates and assessed taxes must be paid, vol. iii. 503, n. (*a*).
time of payment, vol. iii. 561, 562.
inaccurate description in rate not to disqualify, vol. iii. 540.
residence requisite, vol. iii. 503.
to time of polling, vol. iii. 541.
how distance to be measured, vol. iii. 540.
provision as to premises occupied in succession, vol. iii. 503, n. (*f*), (*g*).
as to joint occupation, vol. iii. 503, 504, n. (*a*).
occupiers may demand to be rated, vol. iii. 504.
what a sufficient tender of rates due, vol. iii. 504, n. (*b*).
persons once claiming not required to renew claim, &c. vol. iii. 562.
provision as to freeholders voting for cities and towns, counties of themselves, vol. iii. 504.
to extend to freeholds within the new boundaries, vol. iii. 504, 505.
freemen not to vote in boroughs unless resident, &c. vol. iii. 505, n. (*a*).
how distance measured, vol. iii. 540.
exclusion of freemen created since 1st March, 1831, vol. iii. 505.
provision as to freemen of Swansea, &c. *ib.*
reservation of other rights of voting in boroughs, vol. iii. 505, 506, 540, 541.
provisions as to freeholders in New Shoreham, Cricklade, Aylesbury, and East Retford, vol. iii. 506, 540.
exclusion of certain rights of voting in boroughs, acquired since 1st March, 1831, vol. iii. 507.
parties receiving parochial relief, when excluded from voting, vol. iii. 507, 541.
parties excluded from register by barrister may tender their votes at elections, vol. iii. 507.

Registration of Electors,
in counties,
clerk of the peace to prepare forms and issue precepts with forms of notices, &c. to overseers, vol. iii. 520.
forms of precept, notices, claims, and lists, vol. iii. 547—552, and notes.
overseers to give notice annually requiring county voters to send in claims, vol. iii. 520, 521.
parties on the register not required to claim, except where qualification changed, *ib.*
overseers to prepare lists of claimants and names on old register every year, vol. iii. 521, n. (*b*).
may object, &c. to any name inserted in the lists, vol. iii. 521.

PARLIAMENT—*continued.*
lists to be published, and copies kept for inspection and sale, vol. iii. 521.
such lists to be deemed the list of voters, *ib.*
any person on the register may object to any other person named in the list, *ib.*
notice to be given to overseers and to party objected to, vol. iii. 522.
lists of persons objected to, to be published, and copies kept for inspection and sale, *ib.*
lists to be delivered to clerk of the peace, *ib.*
in boroughs,
town-clerks to have forms of precepts, &c. printed, and to issue same to overseers, *ib.*
as to boroughs where no town-clerk, *ib.* n. (*c*).
forms of precept, notices, claims, and lists, vol. iii. 553—559, and *notes.*
forms for the city of London, vol. iii. 559, 560.
overseers to give notice as to payment of rates and taxes by 10*l.* occupiers, vol. iii. 522.
to have power of inspecting tax assessments, &c. vol. iii. 523.
assessors or collectors to deliver to overseers list of persons in arrear, *ib.*
overseers to prepare and publish lists of persons (other than freemen) entitled to vote, vol. iii. 523.
town-clerk to prepare and publish lists of freemen, *ib.*
copies of lists to be kept for sale and inspection, *ib.*
persons omitted from the lists to give notice of claim, *ib.*
list of claimants to be made, *ib.*
registered electors and claimants may inspect, &c. rate books, vol. iii. 523, 524.
persons named in the list may object to others, vol. iii. 524.
notice of objection to be given to overseer or town-clerk, and person objected to, *ib.* and notes.
may be sent by post, vol. iii. 545, n. (*b*).
lists of objected persons and claimants to be published, vol. iii. 524.
copies of lists and notices of objection to be kept for sale and inspection, *ib.*
overseers to deliver copies to town-clerks, vol. iii. 525.
provisions as to freemen and liverymen of city of London, *ib.*
freemen in Horsham and Malmesbury, where to be registered, *ib.*
general provisions,
as to places where no overseers, *ib.*
what shall be publication of notices, and lists, &c. *ib.*
time for which to be published, and renewal when defaced, vol. iii. 526.
penalty for destroying or hindering publication of notices, &c. *ib.*
lists not invalidated by imperfect publication, *ib.*
if no list made out former list to be in force, *ib.*
transmission and service of notices, vol. iii. 545, 546.

PARLIAMENT—*continued.*
interpretation of terms, vol. iii. 534, 546, 547.
provision as to passing of boundary act, vol. iii. 512, 513.
revision of lists,
appointment of barristers to revise lists, vol. iii. 526.
who not to be appointed, *ib.*
appointment of additional barristers in case of need, vol. iii. 526, 527.
barristers may hold separate courts, vol. iii. 527.
remuneration of, vol. iii. 535.
notice of appointment to clerk of the peace and town-clerks, vol. iii. 527.
lists to be transmitted to barrister, *ib.*
courts for revising county lists when and where to be holden, *ib.*
the like for boroughs, *ib.*
clerk of the peace and overseers to attend with county lists, and answer questions, *ib.*
town-clerks, overseers, and, in London, secondaries and clerks of companies to give like attendance with borough lists, vol. iii. 527, 528.
attendance of former overseers and tax collectors, vol. iii. 528.
barrister may give power to elector to vote at polling place other than where his qualification is situate, *ib.*
insertion of omitted names in county lists, *ib.*
in borough lists, *ib.*
any person on list of voters may object to claimants, *ib.*
what corrections may be made by barrister in register, vol. iii. 528, 529, and *notes.*
no change to be made of qualification stated in lists, vol. iii. 529.
mode of proceeding in cases of objection, vol. iii. 529, 530.
provision in certain cases of change of abode, vol. iii. 530.
persons convicted of bribery, &c. to be struck off register, and names inserted in separate lists, vol. iii. 569.
power of barristers to adjourn courts and administer oaths, vol. iii. 530.
false swearing, perjury, *ib.*
validity of claims and objections to be decided in open court, *ib.*
assessors, overseers, and other officers, may be fined for non-attendance, vol. iii. 533.
overseers may be fined for neglect of duty, *ib.*
fines, to whom paid, and how applied, vol. iii. 534.
expenses of clerks of peace, how defrayed, *ib.*
of town-clerks, *ib.*
of overseers, vol. iii. 534, 535.
no payments by claimants, or persons on register, vol. iii. 535.
powers of barristers as to giving costs, vol. iii. 532.
costs and fines, how to be recovered, vol. iii. 536.
appeal from decisions of revising barristers,
on points of law, vol. iii. 530, n. (*c*).
not on facts or admissibility of evidence, vol. iii. 537.

PARLIAMENT—*continued.*
barrister to prepare statement of facts, vol. iii. 530, 531.
proceedings thereupon, vol. iii. 531.
who to be respondent, *ib.*
power to consolidate appeals, vol. iii. 531, 532.
facts to be same in each case, vol. iii. 531. n. (*c*).
overseers or town-clerk may be named respondents, vol. iii. 532.
to be conducted as single appeals, *ib.*
agreement for contribution to costs of, may be made a rule of court, *ib.*
provisions, where not duly prosecuted or answered, &c. *ib.*
appeals to be heard by court of common pleas, vol. iii. 535.
only one counsel to be heard on a side, vol. iii. 537, n. (*c*).
notice of appeal, vol. iii. 535, and *notes.*
entry of appeal, vol. iii. 536.
court to give notice of time and place of hearing, vol. iii. 536, n. (*a*).
not to be heard unless notice given, vol. iii. 536, n. (*c*), (*d*).
proof of notice, vol. iii. 536, n. (*c*).
statement of appeal may be remitted to revising barrister for amendment, vol. iii. 537.
decision of court final, *ib.*
notification of decision to sheriff or returning officer, and alteration of register, *ib.*
copies of decision admissible in evidence, *ib.*
appeal pending not to affect right of voting, *ib.*
decision after election not to effect election, *ib.*
costs of appeal, vol. iii. 538.
formation of register,
county lists to be transmitted to clerk of the peace, and copied into a book, vol. iii. 533.
signed copy to be delivered to the sheriff, *ib.*
borough lists to be delivered to town-clerks and copied into book, *ib.*
signed copies to be delivered to the returning officer, *ib.*
books to be the register of voters for one year, *ib.*
conclusive evidence, vol. iii. 541.
how far votes may be impeached by committee of house of commons, vol. iii. 507, 544, 545.
copies to be printed for sale, vol. iii. 533.
account of moneys to be kept, vol. iii. 534.
expenses, how defrayed, *ib.*

Distribution of Seats by Reform Act (2 Will. 4, c. 45; 24 & 25 Vict. c. 112),
certain boroughs to cease to send members to parliament, vol. iii. 493.
subsequent disfranchisement of Sudbury and St. Albans, vol. iii. 577.
certain boroughs to return one member only, vol. iii. 493.
list of new boroughs to return two members, *ib.*

PARLIAMENT—*continued.*
list of new boroughs to return one member, vol. iii. 493.
Birkenhead to form a borough, vol. iii. 578.
provisions as to returning officer, register, &c. vol. iii. 578, 579.
what boroughs to include certain adjacent districts, vol. iii. 493, 494.
Weymouth and Melcomb Regis to return two members only, &c. vol. iii. 494.
settlement of boundaries of existing boroughs in England, *ib.*
places in Wales to have a share in elections for shire towns, *ib.*
boundaries of shire towns and places in Wales to be settled, *ib.*
Swansea, &c. to form one borough, and electors thereof not to vote for member for Cardiff, *ib.*
description of returning officers for new boroughs, *ib.*
who disqualified or exempt, vol. iii. 495.
proviso in case of grant of royal charter, *ib.*
sheriff to appoint returning officer in case of a vacancy, vol. iii. 518, 519.
sheriff in certain cases to be returning officer in boroughs, vol. iii. 567.
six knights of the shire (formerly) for Yorkshire, two for each riding, vol. iii. 495.
subsequent division of the West Riding, vol. iii. 577.
two members for each of the two divisions, *ib.*
general provisions as to such division, vol. iii. 577, 578.
four knights of the shire for Lincolnshire, &c. vol. iii. 495.
certain counties to be divided and to return two knights for each division, *ib.*
southern division of Lancashire to return three members instead of two, vol. iii. 578.
certain counties to return three knights of the shire, *ib.*
Isle of Wight, severed from Hampshire, to return a member, *ib.*
towns, counties of themselves, to be included in adjoining counties, *ib.*
boundaries of divisions of counties and limitations of cities and boroughs (2 & 3 Will. 4, c. 64), vol. iii. 516.

Time and Mode of Holding Elections,
general provisions,
elections to be free and disturbance forbidden, vol. iii. 480.
forty days between teste and return of writs of summons for new parliament, vol. iii. 482, 483.
now thirty-five days, vol. iii. 616.
power to speaker during recess of the house to issue warrants for new writs for election of members in room of those dying or summoned to House of Lords, vol. iii. 489, n. (*b*), 579.
in room of member becoming bankrupt, vol. iii. 579, 590, n. (*a*).
in room of members accepting certain offices, vol. iii. 575, 579.
where case doubtful, speaker not to issue warrant, vol. iii. 575.
writs to be issued expeditiously, vol. iii. 483.

PARLIAMENT—*continued.*
and delivered to proper officers, who are to indorse receipt and make out precepts, vol. iii. 483.
messenger of great seal to carry writs to sheriffs of London and Middlesex, and all other writs to postmaster-general, vol. iii. 492.
sheriffs and others to give notice to post-office of the place where they hold their offices, *ib.*
or to messenger of great seal where offices held in or near London, &c. *ib.*
wilfully neglecting to deliver writ, a misdemeanor, vol. iii. 493.
punishment of offences in Scotland, *ib.*
notice of time and place of holding elections, vol. iii. 490, 491, 570.
hours of polling, vol. iii. 517, 518, 565, 566.
when returning officer may close poll before the expiration of the time fixed, vol. iii. 510.
adjournment of the poll in case of riot, vol. iii. 510, 518, 566.
who to be at expense of booths and poll-clerks, vol. iii. 510.
limitation of expense, *ib.*
houses may be hired for polling instead of booths, *ib.*
but poll not to be taken at inns, &c. without consent of all candidates, vol. iii. 567.
certified copies of register to be provided for each booth, vol. iii. 510.
powers of deputies of sheriffs and returning officers, *ib.*
soldiers to remain in barracks during elections, vol. iii. 561.
notice of elections to be given to secretary of war, *ib.*
act not to apply to Guards attending her Majesty, or soldiers in the Bank, *ib.*
constables to be provided, vol. iii. 543.
voters not compelled to serve as special constables, vol. iii. 569, 570.
sheriff and other officers forbidden to take fees, vol. iii. 483.
returning officer's oath, vol. iii. 485.
what inquiries may be made of electors at election, vol. iii. 541.
penalties for false answers, *ib.*
oath to be taken, if required, *ib.*
other oaths abolished, vol. iii. 542.
oaths of allegiance, supremacy, and abjuration not to be taken, vol. iii. 518.
no scrutiny to be allowed, vol. iii. 542.
personation of voters, a misdemeanor, *ib.*
aiders and abettors to be punished as principals, *ib.*
agents may be appointed to detect personation, vol. iii. 542.
returning officer may order into custody persons charged with personation, *ib.*
how dealt with by justices, and committed for trial, vol. iii. 542, 543.
vote not to be rejected, if questions answered in affirmative, vol. iii. 542.
if charge false, justices may order compensation, vol. iii. 543.
if compensation accepted no action to be brought, *ib.*

PARLIAMENT—*continued.*
provision where vote has been received, and another person tenders for same qualification, vol. iii. 543.
sheriff and returning officers may be sued for wilful delay, &c. in making return, vol. iii. 612.
provision for safe custody of poll-books, vol. iii. 543, 544.
office copies to be evidence, vol. iii. 544.
clerk of crown to preserve poll-books, and to permit inspection and furnish copies, *ib.*
penalties on parties wilfully contravening acts, vol. iii. 511, 544.
who to sue for penalties, *ib.*
writs, &c. to be made conformable to act, vol. iii. 511.
all election laws to remain in force except where superseded by the act, *ib.*
act not to extend to universities of Oxford and Cambridge, vol. iii. 511, 512.
meaning of terms, vol. iii. 512.
misnomer of person or place not to vitiate, *ib.*
corrupt practices at elections. See *infra, Corrupt Practices Prevention Acts.*
expenses of, see *ibid.*
borough constables prohibited from taking part in, vol. iii. 573.
for counties,
writ to be sent to the sheriff, vol. iii. 566.
proclamation at county court (7 Hen. 4, c. 15), vol. iii. 480.
when to be made, vol. iii. 489.
election to be not later than the twelfth, nor sooner than the sixth day after proclamation, vol. iii. 566.
sheriffs of divided counties to fix time, and preside at elections, vol. iii. 508.
time of day for holding, vol. iii. 482.
county court, when and where held, vol. iii. 483, n. (*f*).
notice of same, *ib.* n. (*g*).
form of notice of election, vol. iii. 570, 572.
sheriff to take the poll if one required, vol. iii. 483, n. (*h*).
sheriff in county elections may act in places of exclusive jurisdiction, vol. iii. 508, 509.
commencement and continuance of polls at county elections, vol. iii. 509.
now limited to one day, vol. iii. 565.
hours of polling, vol. iii. 565, 566.
party in custody cannot be brought up by *habeas corpus* for the purpose of voting, vol. iii. 508, n. (*a*).
counties to be divided into districts for polling, vol. iii. 508.
number of polling booths for counties, vol. iii. 519.
voter not to poll out of district where his property lies, vol. iii. 508.
provision as to sheriff's deputies, custody of poll-books, and final declaration of poll for counties, *ib.*
appointment of poll and check clerks, vol. iii. 483.
mode of taking votes, *ib.*

PARLIAMENT—*continued.*
elector's name to be entered, vol. iii. 485.
poll-books to be delivered to and kept by the clerk of the peace, *ib.*
appointment of additional polling-places, on petition from justices, vol. iii. 519.
notices to be given before petition presented, *ib.*
alteration of polling-places, vol. iii. 567.
sheriff's return by indenture, vol. iii. 480.
for boroughs,
making out and delivery of precept to officer of borough, and indorsement of receipt, vol. iii. 483.
when office vacant, sheriff to appoint returning officer, vol. iii. 518, 519.
or in certain cases to act as the returning officer, vol. iii. 567.
four days' notice of election, vol. iii. 483.
three clear days substituted, vol. iii. 566.
election to be within six days after receipt of writ, *ib.*
notices when to be given, vol. iii. 490, 491.
form of notice, vol. iii. 570, 573.
elections in cities and towns being counties of themselves (19 Geo. 2, c. 28), vol. iii. 486, 487.
commencement and continuance of polls at borough elections in England, vol. iii. 509.
now limited to one day, vol. iii. 517.
hours of polling, vol. iii. 517, 518.
number of polling-booths, vol. iii. 509, 518.
on requisition of candidate, &c. not more than 100 voters to poll in one booth, vol. iii. 518.
person making requisition to pay expenses, *ib.*
notice of situation of booths to be given, *ib.*
each person to vote at booth for his district, vol. iii. 509.
if booths in different places returning officer to appoint deputies to preside, *ib.*
liverymen of London, where to vote, vol. iii. 518, 543.
custody of poll-books and final declaration of poll, vol. iii. 509, 543, 544.
transmission of poll-books to clerk of crown, vol. iii. 544.
as to polling-places for New Shoreham, Cricklade, Aylesbury, and East Retford, vol. iii. 509.
regulations as to polling, &c. in borough of Monmouth and boroughs in Wales, vol. iii. 510, 511.
appointment of deputies by returning officer of Swansea, vol. iii. 511.
adjournment of nomination or poll in case of riot, vol. iii. 518.
in the universities,
2 Will. 4, c. 45, not to extend to universities, vol. iii. 511, 512.
writs to be directed to the vice-chancellors, vol. iii. 566.
duration of poll, vol. iii. 567.
appointment of additional polling-places, and of pro-vice-chancellors, *ib.*

PARLIAMENT—*continued.*
electors may vote by means of voting papers, vol. iii. 576.
form of voting papers, vol. iii. 577.
voting papers how delivered, and votes how recorded, vol. iii. 576.
declaration to be signed at foot or on the back, *ib.*
voting papers may be inspected by persons entitled to object to votes, *ib.*
grounds on which voting paper may be objected to, *ib.*
proceedings upon objections being made, *ib.*
voting papers to be filed, vol. iii. 576, 577.
penalty for falsely signing voting papers, vol. iii. 577.
voting papers not to be liable to stamp duty, *ib.*
Chester,
writs for the county and boroughs therein, vol. iii. 561, n. (*a*).

Election of Scotch and Irish Representative Peers, vol. iii. 480, n. (*a*).
Roman Catholics may vote at elections of, and be elected, upon taking oath prescribed, vol. iii. 592.

Corporate Property, Act to prevent application of, towards Expenses of Parliamentary Elections (2 & 3 Will. 4, c. 69),
property of municipal corporations not to be applied towards parliamentary elections, vol. iii. 516.
bonds, &c. for securing same void, *ib.*
payments by corporations, &c. to induce parties to act in elections within the act, vol. iii. 517.
dispositions of real property for securing expenses prohibited, *ib.*
votes and proceedings contrary to act, void, *ib.*
corporate officers, &c. making prohibited payments, to make good amount, *ib.*
corporators may bring actions, &c. in name of corporation, *ib.*
members of corporation offending guilty of a misdemeanor, *ib.*

Corrupt Practices Prevention Acts,
repeal of acts, vol. iii. 568, 581.
bribery (as respects the votes of other persons) defined, vol. iii. 568, and *notes.*
penalty for offending, vol. iii. 568.
act not to extend to payment of legal expenses, *ib.*
bribery (in respect of the voter's own vote) defined, *ib.*
penalty for offending, *ib.*
treating defined, vol. iii. 569.
penalty for offending, *ib.*
undue influence defined, *ib.*
penalty for offending, *ib.*
names of offenders to be struck off register and inserted in a separate list, *ib.*
candidate declared guilty, incapable of being elected during existing parliament, vol. iii. 571.
no cockades, &c. to be given at elections, vol. iii. 569.
penalty for offending, *ib.*
payments for chairing, music, banners, &c. declared illegal, *ib.*
refreshments to voters on days of nomination or polling illegal, vol. iii. 570.

PARLIAMENT—*continued.*

payment of travelling expenses illegal, vol. iii. 574.
voters not compelled to serve as special constables, vol. iii. 569, 570.
penalties how to be recovered, vol. iii. 570.
costs and expenses of prosecutions, *ib.*
bribery and undue influence not triable at quarter sessions, *ib.*
returning officer to give notice of election, vol. iii. 570, 572, 573.
costs to be awarded in private prosecutions where judgment given for defendant, vol. iii. 570.
when prosecutor entitled to costs, *ib.*
general allegations sufficient in indictments, vol. iii. 580.
provision as to evidence of witnesses before election committees and commissions, *ib.*
in actions for penalties, parties, &c. to be competent witnesses, vol. iii. 570.
limitation of actions, vol. iii. 570, 580.
payment of expenses,
not to be made except through authorized agents, vol. iii. 579, 580.
penalty for offending, *ib.*
returning officer to publish names of agents, vol. iii. 580.
bills to be sent to agents within one month or right to recover barred, *ib.*
detailed statement with bills and vouchers to be made out within two months and delivered to returning officer, *ib.*
penalty for neglect or untrue statement, *ib.*
statement, &c. to be open to inspection, *ib.*
abstract to be published, *ib.*
interpretion of terms, vol. iii. 571, 574.
continuance of acts, vol. iii. 581.

Commissions to inquire into corrupt practices (15 & 16 Vict. c. 57),
upon joint address of houses of parliament her Majesty may appoint commissioners to inquire into corrupt practices at elections, vol. iii. 563.
oath of commissioners, *ib.*
appointment of secretary and clerks, *ib.*
place of meeting, *ib.*
commissioners may hold meetings in London or Westminster, *ib.*
nature of inquiries to be made, vol. iii. 564.
reports to be laid before parliament, *ib.*
power to send for persons and papers, *ib.*
witnesses bound to answer, vol. iii. 580.
certificate of indemnity and protection of witnesses, *ib.*
how far statements of witnesses admissible in other proceedings, vol. iii. 564, n. (*a*), 581.
power of commissioners to examine upon oath, vol. iii. 564.
penalty for non-attendance or refusal to give evidence, vol. iii. 564, 565.
for false swearing, vol. iii. 565.
expenses of witnesses, *ib.*
expenses of inquiry, *ib.*
protection of the commissioners, *ib.*
limitation of actions, *ib.*

II.—Qualification of Members.

as to law relating to, in general, vol. iii. 582, n. (*a*).

PARLIAMENT—*continued.*

Miscellaneous Provisions,
for counties to be dwelling and resident in the county, vol. iii. 481.
repeal of the above provision, *ib.* n. (*a*).
must be of full age, vol. iii. 484.
penalty for offending, *ib.*
oath of abjuration to be taken by members, vol. iii. 583, 584.
punishment for voing without taking, vol. iii. 584.
repeal of acts requiring oaths to be taken before the lord steward, vol. iii. 593.
relief of Roman Catholics,
acts relating to declarations against transubstantiation repealed, vol. iii. 591.
Roman Catholics may sit and vote in either house on taking oath prescribed, *ib.*
and may be elected, vol. iii. 592.
form of oath, vol. iii. 591.
name of sovereign for time being to be used in oath, *ib.*
penalties for sitting and voting before oath taken, vol. iii. 591, 592.
oath, how to be administered, vol. iii. 592.
Roman Catholics may be elected and sit for Scotland, *ib.*
relief of Jews,
either house of parliament may modify form of oath by resolution, vol. iii. 594.
amendment of act as to house of commons, vol. iii. 595.
Jewish person taking oath so modified, entitled to sit and vote, vol. iii. 594, 595.
act not to enable persons professing Jewish religion to hold certain offices, vol. iii. 595.
repeal of disabilities in force by certain statutes for members voting without taking oath, vol. iii. 594.
not to affect liability to penalties already incurred, *ib.*

Property Qualification,
act to abolish (21 & 22 Vict. c. 26), vol. iii. 594.

Disqualifications by holding office or place under the Crown,
no member to be concerned in farming, collecting, or managing moneys, duties, &c. granted to sovereign, vol. iii. 582.
except commissioners of the treasury and of customs and excise, *ib.*
no member to be commissioner of excise, vol. iii. 590, 591.
persons having any new office of profit under the crown made incapable of being members of house of commons (6 Ann. c. 7) vol. iii. 582, 583, and notes.
offices within statute, vol. iii. 582, n. (*a*).
offices excepted out of statute, *ib.*
accepting such office while a member, election void, vol. iii. 583.
may be again elected, *ib.*
act not to extend to officers in navy or army, *ib.*
if disabled person returned election void, *ib.*
penalty on disqualified person sitting, *ib.*

PARLIAMENT—*continued.*
disabled person cannot be elected in any parliament, vol. iii. 583.
pensioners under the crown disqualified (1 Geo. 1, *st.* 2, *c.* 56), vol. iii. 584.
forfeiture for such person sitting, *ib.*
pensions for diplomatic services not within the act (22 & 23 Vict. c. 5), vol. iii. 595.
description of officers not permitted to sit in house of commons (15 Geo. 2, c. 22), vol. iii. 585.
penalty on such persons sitting or voting, *ib.*
proviso in favour of the treasurer of the navy, secretaries of the treasury, &c., &c. and persons holding office for life or during good behaviour, *ib.*
persons holding contracts for the public service disqualified (22 Geo. 3, c. 45), vol. iii. 585.
member accepting contract or continuing to hold it, election void, vol. iii. 586.
not to extend to incorporated trading companies, *ib.*
exceptions in favour of certain contracts, *ib.*
power to members to dissolve contracts, *ib.*
election of disqualified persons void, *ib.*
forfeiture for taking seat, vol. iii. 586, 587.
condition to be inserted in all public contracts that no member shall have a share in them, vol. iii. 587.
penalty on contractors admitting a member to a share in their contracts, *ib.*
limitation of actions, *ib.*
persons disabled from sitting in parliament of Great Britain disabled from sitting for Great Britain (41 Geo. 3, c. 52), *ib.*
persons disabled from sitting in Irish parliament disabled from sitting for Ireland, *ib.*
persons disabled by British statutes not enabled to sit for Ireland, nor *à contrà*, *ib.*
specification of offices, &c. in Ireland disqualifying for parliament, vol. iii. 587, 588.
penalties for disabled persons sitting, vol. iii. 588.
act not to extend to offices held for life or during good behaviour, except in certain cases, vol. iii. 589.
members accepting office from crown or lord-lieutenant to vacate seat, *ib.*
governor or deputy-governor in India disqualified, vol. iii. 592, 593.
penalty for such person sitting, vol. iii. 593.

Other Disqualifications, vol. iii. 582, n. (*a*).
no Roman Catholic priest to sit in house of commons, vol. iii. 592.
penalties for sitting, *ib.*
evidence of being such priest, *ib.*
disqualification of all persons in holy orders, vol. iii. 589.
evidence of being such person, *ib.*
election of such persons void, *ib.*
member being ordained to vacate seat, *ib.*
penalty for sitting and voting in either case, *ib.*
limitation of actions, *ib.*

PARLIAMENT—*continued.*
vacation of seats in case of bankruptcy, vol. iii. 590, n. (*a*).
when speaker to issue new writ, vol. iii. 590.
candidates declared guilty of bribery, &c. disqualified during the existing parliament, vol. iii. 571.

III. Election Petitions.
as to law relating to, generally, vol. iii. 599, n. (*b*).
repeal, &c. of former acts, vol. iii. 599.
Amendment of Law for Trial of (11 & 12 Vict. c. 98).
what shall be deemed election petitions, vol. iii. 600.
recognizances to be entered into before petition presented, *ib.*
affidavits of sufficiency to be made, *ib.*
form of recognizance, vol. iii. 600, 613.
no stamps necessary on recognizances and affidavits, vol. iii. 613.
person signing petition, instead of procuring recognizances may pay the amount into the bank, vol. iii. 600.
petition not to be received unless indorsed by examiner of recognizances, *ib.*
speaker to appoint examiner of recognizances, *ib.*
and deputy in case of illness, *ib.*
petitions how withdrawn, *ib.*
recognizances how to be entered into, vol. iii. 600, 601.
names of sureties to be open to inspection, vol. iii. 601.
grounds on which recognizance may be objected to, *ib.*
notice of objections to be published, &c. *ib.*
examiner to decide on the objections, *ib.*
on death of a surety petitioner may pay money into the bank, *ib.*
examiner to report to speaker upon the recognizances, *ib.*
admission of parties to defend,
when sitting member declines to defend or seat becomes vacant, vol. iii. 601, 602.
voters may become parties to oppose petition, vol. iii. 602.
members having given notice of intention not to defend not to appear as parties, *ib.*
provision in case of double return, *ib.*
general committee,
to be appointed by speaker every session, *ib.*
if the house disapprove, new appointment to be made, *ib.*
disapproval may be general or special, *ib.*
members not disapproved may be named again, *ib.*
for what time appointment to be, *ib.*
vacancies to be made known and proceedings suspended, vol. iii. 603.
how supplied, *ib.*
dissolution of committee, *ib.*
time and place of meeting how fixed, *ib.*
members to be sworn, *ib.*
regulations as to proceedings of (s. 32—34), *ib.*
panels,
certain members wholly excused from serving, *ib.*

PARLIAMENT—*continued.*
names of those so claiming, to be called over, vol. iii. 603.
members may be temporarily excused, *ib.*
members in certain cases disqualified, *ib.*
publication and correction of lists (s. 39, 40), vol. iii. 604.
who to serve as chairmen, *ib.*
remaining members to be divided into five panels, *ib.*
panels to be corrected from time to time, *ib.*
transfer of names to other panels, *ib.*
supplying vacancies and increasing the chairmen's panel, *ib.*
select committees, appointment of,
petitions to be referred to general committee who to make out list, vol. iii. 604, 605.
suspension of proceedings on vacancy or where member declines to defend, vol. iii. 605.
provisions where more than one petition, *ib.*
committees to be chosen according to order of list, *ib.*
provision where petition standing over prorogation, *ib.*
notice of time of choosing to be given, *ib.*
general committee may change time, vol. iii. 606.
notice of suspension of proceedings, vol. iii. 605.
notice of petitions and panels from which committees to be chosen, vol. iii. 606.
provisions where member does not defend and no party admitted to defend, vol. iii. 605, 606.
list of voters objected to, to be delivered to clerk of general committee, vol. iii. 606.
committees how chosen (sects. 56, 57), *ib.*
chairman how chosen (sects. 58, 59), *ib.*
when committee chosen, parties to be called in to hear names, *ib.*
within what time parties may object to members, vol. iii. 607.
if objection allowed, new committee to be chosen, *ib.*
members not objected to may be included in new committee, *ib.*
notice to be sent to every member of committee, *ib.*
member proving disqualification, new committee to be appointed, *ib.*
select committee to be reported to the house, *ib.*
members to be sworn, *ib.*
members not attending may be taken into custody, *ib.*
adjournment of committee on non-attendance of members, vol. iii. 608.
discharged, if members do not attend after adjournment, *ib.*
proceedings of select committees,
house to fix time and place of meeting, *ib.*
petitions and lists to be referred to, *ib.*
not to adjourn for more than twenty-four hours without leave, *ib.*

PARLIAMENT—*continued.*
evidence confined to objections specified, vol. iii. 608.
no member to absent himself, *ib.*
committee not to sit till all met, *ib.*
on failure to meet within hour to adjourn, *ib.*
absentees how dealt with, *ib.*
committee not dissolved by death or absence of not more than two members, *ib.*
provisions where reduced to less than three, vol. iii. 609.
room to be cleared during deliberations, *ib.*
questions decided by majority, *ib.*
names of members voting to be reported, *ib.*
short-hand writer to take evidence, *ib.*
powers to send for and examine persons, papers, &c. *ib.*
powers to enforce attendance and good behaviour of witnesses, *ib.*
administering oaths, *ib.*
falsely swearing, perjury, *ib.*
committee to report decision to house (secs. 86 and 87), vol. iii. 609, 610.
not dissolved by prorogation, vol. iii. 610.
costs,
powers of committee as to costs (secs. 89—93), vol. iii. 610.
how to be ascertained, *ib.*
taxation of, vol. iii. 610, 611.
recovery of, vol. iii. 611.
persons paying may recover proportion from other parties liable, *ib.*
recognisances when to be estreated, *ib.*
as to transmission of recognizances through post, vol. iii. 612.
as to payment of monies under or in lieu of recognizances, *ib.*
miscellaneous,
returning officer neglecting to return person declared duly elected by committee, may be sued, vol. iii. 612, 613.
commencement, short title, and interpretation of act, vol. iii. 613.

On Ground of Bribery,
evidence to be given on whole matter without proving agency, vol. iii. 596, n. (*a*).
committee may inquire into cause of abandonment of charges of bribery, and report, vol. iii. 596.
if committee recommend further inquiry, speaker to nominate an agent to prosecute, and committee re-assemble, *ib.*
powers of such committee, vol. iii. *ib.*
petition alleging general bribery presented within times mentioned, to be referred to general committee, vol. iii. 597.
committee thereupon selected as in other cases, *ib.*
committee may order costs, *ib.*
bribery must have been committed within three months before petition, *ib.*
unless in case of withdrawal of election petition, *ib.*
petitioners to enter into recognizances, *ib.*
forfeited recognizances, how recoverable, *ib.*
recognizances how to be entered into, *ib.*

PARLIAMENT—*continued.*
notice of recognizances, vol. iii. 597, 598.
objections to recognizances, and how determined, vol. iii. 598.
committee to have no power to affect seat in parliament, *ib.*
expenses of prosecuting inquiries, how defrayed, *ib.*
committee may order payment of costs, *ib.*
costs how ascertained, *ib.*
recovery of costs, vol. iii. 599.
costs to be a debt to crown, *ib.*
contribution for costs, *ib.*

IV. PRIVILEGE OF PARLIAMENT.
process against persons having privilege, see tit. "PROCESS."
as to privileges generally, vol. iii. 613, n. (*a*).

Protection to Persons employed in the Publication of Parliamentary Papers, vol. iii. 613, n. (*b*).
staying proceedings, civil or criminal, against persons for publication of papers printed by order of parliament, vol. iii. 613—615.
staying proceedings in case of copies, vol. iii. 615.
extracts or abstracts may be shown to have been made *bonâ fide*, *ib.*
act not to affect privileges of parliament, *ib.*

V. DURATION OF PARLIAMENTS.
to have continuance for seven years unless sooner dissolved by the crown, vol. iii. 615, 616, n. (*a*).
time for assembling of parliament after dissolution, vol. iii. 616.

VI. UNION ACTS.
laws to be used in Wales, *ib.* n. (*b*).
union of England and Scotland, *ib.* n. (*c*).
union of Great Britain and Ireland, *ib.*

PARTITION.
as to law of, generally, vol. iii. 617, n. (*a*).
of freeholds and leaseholds must be by deed, vol. iii. 620.
not to imply any condition in law, *ib.*
courts of equity may decree, in case of copyhold or customary tenure, *ib.*
under inclosure acts, vol. iii. 617, n. (*a*), 620.
originally parceners only compellable to make, vol. iii. 617, n. (*b*).
joint tenants and tenants in common made compellable in like manner (31 Hen. 8, c. 1), vol. iii. 617—619.
and joint tenants and tenants in common for life or years (32 Hen. 8, c. 32), vol. iii. 619, n. (*a*).
for the easier obtaining (8 & 9 Will. 3, c. 31), vol. iii. 619, 620.
practically obsolete, vol. iii. 620, n. (*a*).
statutory writ of partition superseded by commissions issued by courts of equity, vol. iii. 618, n. (*c*).
and since abolished, *ib.*
infants may file bill for, vol. iii. 617, n. (*b*).
of what things partition may be made, *ib.*, 618, n. (*a*) and (*b*).
power to sell or exchange does not authorise, vol. iii. 617, n. (*b*).
by tenants in tail, *femes covertes*, &c. *ib.*
proceedings, &c. in suit for, *ib.*
parties to partition suits, *ib.*

PARTITION—*continued.*
right to, commensurate with interests of the parties, vol. iii. 617.
no objection to on ground of smallness of interest, &c. *ib.*
if unequally made by mistake, may be set aside, *ib.*
costs of, *ib.*

PATENTS FOR INVENTIONS.
as to law of generally, vol. iii. 620, n. (*c*).
all monopolies void (21 Jac. 1, c. 3), vol. iii. 621.
monopolies, &c. to be tried by common law, *ib.*
all persons disabled to use, *ib.*
remedies, &c. of persons aggrieved, *ib.*

for what granted,
as to inventions in instruments or munitions of war, see *infra, War.*
must be for new manufactures, vol. iii. 622, 623, and notes.
what is "novelty" within meaning of act, vol. iii. 622, n. (*a*).
question of novelty, &c. when question for the jury, *ib.*
what is "manufacture" within meaning of the act, vol. iii. 622, n. (*b*).
how far "principles" may be subject of patent, *ib.*
invention must be useful, vol. iii. 626, n. (*a*).
patent void if specification ambiguous, vol. iii. 622, n. (*b*).

to whom granted,
to the true and first inventor, vol. iii. 624, 626, and notes.
who such inventor within the act, vol. iii. 624, n. (*b*), 625, n. (*a*).
unavoidable disclosure in the course of mere experiments not a publication, vol. iii. 624, n. (*b*).
saving in favour of grants to corporations, vol. iii. 626.
and for patents concerning printing, saltpetre, gunpowder, ordnance, and shot, *ib.*
not invalidated by provisional protection obtained by fraud, vol. iii. 637.
to personal representatives, vol. iii. 639.
to person believing himself to be the real inventor, vol. iii. 628, 629, and notes.
rules of judicial committee relating to, vol. iii. 628, n. (*a*).
may be for more than twelve persons, vol. iii. 641.

by whom granted,
appointment of commissioners, vol. iii. 635, 636.
seal of commissioners, vol. iii. 636.
rules to be made by, &c. *ib.*
to report annually, *ib.*
offices to be provided, *ib.*
appointment of officers, *ib.*
prerogative of crown reserved, vol. iii. 638, n. (*a*).

for what term,
for fourteen years, 21 Jac. 1, c. 3, vol. iii. 622, 626.
prolongation for further term of seven years, vol. iii. 630 and *notes.*
although former term expired, vol. iii. 632.
extension for fourteen years in certain cases, vol. iii. 633.

PATENTS FOR INVENTIONS—*continued.*
or for a less period, vol. iii. 633, 642, 651.
as to extension of term where patentees have assigned their patent rights, vol. iii. 633.
expiration of by reason of non-fulfilment of certain conditions, vol. iii. 638, n. (*b*).
when obtained in united kingdom for foreign inventions, vol. iii. 649.
how obtained,
petition to be accompanied with declaration and provisional specification, vol. iii. 636.
form of petition, vol. iii. 646.
form of declaration and of provisional specification, vol. iii. 647.
provisional specifications to be open to inspection, vol. iii. 650.
reference to law officers, *ib.*
law officers to give certificate if satisfied, or may require amendments, *ib.*
certificate of allowance, &c. to be filed, &c. *ib.*
thereupon inventor to have provisional protection for six months, *ib.*
deposit of complete in lieu of provisional specification, vol. iii. 637.
to be open to inspection, *ib.*
form of complete specification, vol. iii. 649, 650.
inventors to have provisional protection, vol. iii. 637.
protections to be advertised, *ib.*
applications to be advertised, *ib.*
parties may object, *ib.*
specifications and objections to be referred to law officer, *ib.*
law officer may order payment of costs, *ib.*
sealing of letters patent, vol. iii. 637, 638.
form of warrant for, vol. iii. 647, 648.
to be issued within three months of date of warrant, vol. iii. 638.
not to be issued (except in certain cases) after expiration of provisional protection, vol. iii. 638, 639, 651.
if lost other letters patent may be issued, vol. iii. 639.
date of letters patent, *ib.*
fees and stamp duties on grant of, vol. iii. 644—646.
stamp duties substituted for fees (16 & 17 Vict. c. 5), vol. iii. 650.
specification must not be ambiguous, vol. iii. 622, n. (*b*).
to be filed instead of enrolled (sects. 27, 28), vol. iii. 641, 650.
copy to be left at commissioner's office, vol. iii. 650.
copies to be open to inspection, vol. iii. 640.
certified copies to be evidence, vol. iii. 650.
specifications and other documents to be printed, vol. iii. 640.
presentation of copies to public institutions, *ib.*
certified printed copies to be transmitted to director in chancery in Scotland and court of chancery in Ireland, vol. iii. 650, 651.
indexes of specifications for public use (16 & 17 Vict. c. 5), vol. iii. 650.
Assignments of, vol. iii. 633, 634.

PATENTS FOR INVENTIONS—*continued.*
Caveats, vol. iii. 627, 642.
Colonies,
determining the time at which letters patent shall take effect in, vol. iv. 993.
Construction of Acts.
commencement of act, vol. iii. 646.
short title, *ib.*
acts to be construed together, vol. iii. 651.
not to extend to patents applied for before commencement of acts, vol. iii. 645.
Disclaimer of Part,
and memorandum of alteration, vol. iii. 627, 633, 634, 642.
rules of practice relating to, vol. iii. 627, n. (*a*).
not to affect actions pending at time, vol. iii. 628.
attorney-general may require to be advertised, *ib.*
Expenses.
fees and stamp duties to be paid, vol. iii. 644—646.
stamp duties substituted for fees (16 & 17 Vict. c. 5), vol. iii. 650.
salaries, &c. of officers, vol. iii. 645.
expenses, how defrayed, *ib.*
compensation to persons affected by act, *ib.*
accounts to be laid before parliament, *ib.*
Form of Letters Patent, vol. iii. 648, 649.
of specification, vol. iii. 649, 650.
Infringement of,
if in any action verdict given for patentee, judge may grant certificate, &c. which may be given in evidence in other actions, vol. iii. 629.
in actions for, particulars of objections, &c. to be given, and no other evidence allowed, vol. iii. 630, 631, 642.
costs in, vol. iii. 631, 644.
penalty for using name, &c. of patentee, vol. iii. 631, n. (*d*).
courts of common law may grant injunctions against, vol. iii. 643, and *notes.*
Interpretation of Terms, vol. iii. 646.
Objections
on application for letters patent, particulars to be in writing, vol. iii. 637.
costs of, *ib.*
in actions for infringement, &c. vol. iii. 630, 631, 642.
Register
of patents to be kept, vol. iii. 640, 641.
of proprietors, vol. iii. 641.
falsification or forgery of entries, *ib.*
entries may be expunged, *ib.*
Stamps. See *supra, Expenses.*
Scire facias to Repeal.
requisites of writs, vol. iii. 634, 635, 637, 638.
costs of, vol. iii. 641.
Validity and Force of, vol. iii. 638.
in colonies, *ib.*
in case of foreign ships in British ports, vol. iii. 639, 640.
War, Patents for Inventions in Instruments and Munitions of (22 Vict. c. 13), vol. iii. 651—653.
assignment of, to secretary for war, vol. iii. 651.
act to extend to assignments already made, vol. iii. 652.

PATENTS FOR INVENTIONS—*continued.*
secretary, for war may certify to commissioners of patents that invention should be kept secret, vol. iii. 652.
provisions for custody under seal, &c. *ib.*
copies of specifications not to be published or inspected, &c. *ib.*
no *scire facias*, *ib.*
secretary may waive benefit of the act, *ib.*
communication of invention to secretary not to prejudice letters patent, vol. iii. 653.

PAUPER LUNATICS. See *Lunatic* and *Poor.*

PAUPER PRISONERS. See *Bankruptcy.*

PAUPERS SUING.
writs may be sued by poor persons without payment (11 Hen. 7, c. 12), vol. iii. 653, 654, and *notes.*
and counsel and attorneys assigned, vol. iii. 655, n. (*a*).
he that sueth *in formâ pauperis* shall not be compelled to pay costs, but shall be otherwise punished, vol. iii. 655, 656, and *notes.*

PAWNBROKERS.
as to, generally, vol. iii. 656, n. (*b*).
who are pawnbrokers within act, vol. iii. 656, n. (*d*).
Profits of,
allowed to take certain rates, vol. iii. 658.
amount of such rates, vol. iii. 658, 659, and *notes.*
when intermediate sum lent exceed 2*s.* 6*d.* but does not exceed 40*s.*, rate of 4*d.* for loan of 20*s.* by the month to be paid, vol. iii. 659.
to give farthings in change, *ib.*
limiting profits for part of a month, vol. iii. 660.
Mode of conducting business,
pawns to be entered in books, *ib.*
to give a note describing things pawned, vol. iii. 660, 661.
may charge one half-penny for notes, when things under 10*s.*, vol. iii. 673.
but no charge where things pawned for 10*s.* or upwards, *ib.*
amount of profits to be endorsed on duplicates of pledges redeemed, vol. iii. 661.
penalty for unlawfully pawning goods of others, from 5*l.* to 20*s.*, and value of goods or imprisonment not exceeding three months and whipping, *ib.*
penalty for forging, counterfeiting, or uttering notes, vol. iii. 662, n. (*a*).
imprisonment not exceeding three months, vol. iii. 662.
persons not giving a good account of themselves on offering to pawn goods, liable to punishment, vol. iii. 662, n. (*b*).
persons buying, or taking in pledge unfinished goods, linen, &c. entrusted to others to wash or mend, to forfeit double the sum lent, and restore the goods, vol. iii. 663.
peace officers empowered to search for unfinished goods, &c. unlawfully come by, *ib.*
which shall be restored to owner, *ib.*
sale of goods wrongfully gotten does not alter the property, vol. iii. 656, n. (*c*), (*d*).
pawnbroker on request shall declare what goods be come to his hands, vol. iii. 657.
goods unlawfully pawned, pawnbroker to restore them, vol. iii. 664, n. (*a*).
penalty for not delivering goods to the pawner, vol. iii. 664, 665, and *notes.*
imprisonment till re-delivery of goods, or satisfaction made, vol. iii. 665.
persons producing notes or memorandums deemed the owners, *ib.*
where notes or memorandums lost, pawnbroker to deliver a copy, vol. iii. 666.
pawned goods deemed forfeited at end of a year, *ib.*
but original owner may redeem at any time before sale, *ib.* n. (*b*).
pledges above 10*s.* to be sold by auction, vol. iii. 666, 667.
liability of pawnbroker so selling, vol. iii. 666, n. (*c*).
pictures, prints, books, statues, &c. shall be sold only four times a year, vol. iii. 667.
on notice from persons having goods in pledge not to sell, three months further allowed beyond year for redemption, *ib.*
account of sales of pledges above 10*s.* to be entered by pawnbrokers in a book, *ib.*
overplus to be paid to owner, on penalty of 10*l.* and treble sum lent on pawn, *ib.*
pawnbroker not to purchase goods while in his custody, vol. iii. 667, 668.
pledges not to be taken from persons under twelve years of age, or intoxicated, vol. iii. 668.
nor from persons under sixteen in metropolitan police district, vol. iii. 668, n. (*a*).
hours of buying goods or taking in pawn limited, vol. iii. 668, 672.
penalty for offending, vol. iii. 672.
penalty and costs may be levied by distress, *ib.*
pawnbrokers to display table of profits, vol. iii. 668.
name and business to be placed over door, on penalty of 10*l.*, *ib.*
secret partnership illegal, under act, vol. iii. 668, n. (*c*).
pawnbrokers selling goods before time limited, shall make reasonable satisfaction, on penalty of 10*l.*, vol. iii. 669.
so for goods lost and injured, &c. *ib.* n. (*b*), (*c*).
pawnbrokers to produce books when necessary, vol. iii. 669.
penalty for neglect, vol. iii. 669, 670.
penalties on pawnbrokers, in neglecting entries not exceeding 10*l.*, and for other offences from 40*s.* to 10*l.*, vol. iii. 669, 670.
time of prosecuting by information limited to twelve months, vol. iii. 670.
information to be made before a justice near the place, *ib.*
churchwardens, &c. to prosecute, &c. *ib.*
convicted persons, &c. not to prosecute or inform against persons, &c. *ib.*
act not to extend to persons lending money at 5*l.* per cent. without further profit, *ib.*
act to extend to executors, &c. of pawnbrokers, *ib.*

PAWNBROKERS—*continued.*
general issue may be pleaded. vol. iii. 670.
double costs, vol. iii. 670, n. (*c*).
inhabitants of any place where offences committed deemed competent witnesses, vol. iii. 670, 671.
conviction, form of, vol. iii. 671.
to be filed, *ib.*
appeal, *ib.*
Licence,
who to be deemed pawnbrokers, vol. iii. 657, 672.
exemption of parties lending money at or under 5*l.* per cent., vol. iii. 657, 658.
penalty for acting without, vol. iii. 657, 672.
penalties, how recoverable, vol. iii. 658, 672.
justices may mitigate, vol. iii. 672, 673.
only one shop to be kept for one licence, vol. iii. 658.
persons in partnership need only take out one licence, *ib.*
by whom licences to be granted, vol. iii. 657.
to be renewed annually, *ib.*
stamp duties upon, vol. iv. 521, vol. iii. 657, n. (*a*) and (*b*).
Certain Provisions of 2 & 3 *Vict.* c. 71 (*Metropolitan Police Courts*) *extended to Pawnbrokers' Acts, and to all parts of England,* vol. iii. 673.

PEDIGREE, FALSIFICATION OF. See [*Conveyances,* vol. i. 832.

PENAL ACTIONS
in general, vol. iii. 673, n. (*a*).
who may be plaintiff.
informer must exhibit his suit in person or by attorney, vol. iii. 675, n. (*b*), (*c*).
corporation cannot sue as common informer, vol. iii. 675, n. (*a*).
no person who hath been guilty of a misdemeanor and ordered not to sue, vol. iii. 678.
in what courts, &c. to be brought.
actions, &c. to be prosecuted in courts of counties where offences committed, vol. iii. 679, and *notes.*
certain offences whereof information may be given in any county, vol. iii. 678.
certain offences only punishable at assizes, quarter sessions, or at a leet, *ib.*
informer to make oath that offence was committed in county where action brought, vol. iii. 680, n. (*b*).
form of proceeding, &c. to recover penalties.
must be by action or information, vol. iii. 675, 676.
but certain persons, as bodies politic, &c. may sue as before, vol. iii. 677.
note of month, &c. to be put on information, vol. iii. 676.
indorsement to be made on process, *ib.*
limitation of actions, &c. on.
within what time actions, &c. to be brought, vol. iii. 681.
when penalty given to queen only, action to be in two years, *ib.*
when given to queen and party to be in one year, *ib.*
or else two years by the queen, *ib.*
where a shorter time is expressly provided for, then action to be in that time, vol. iii. 681.
venue in,
is local, at suit of informer, vol. iii. 678.
certain offences excepted, vol. iii. 678, 679, and *notes.*
venue in declaration, &c. to be laid in the county, *ib.*
defendant to be found not guilty on proving offence committed out of county, &c. vol. iii. 679.
informer to make oath that offence was committed in county, &c. *ib.*
no necessity for pleading this defence specially, vol. iii. 680.
officers of record, &c. not bound by these provisions, vol. iii. 678.
pleas and defences by defendant.
plea of general issue, vol. iii. 680.
defendant cannot plead double, vol. iii. 674, n.
may under general issue prove offence committed out of county where venue laid, vol. iii. 678.
effect of new rules upon, vol. iii. 480, n. (*c*).
consequence of pleading a former recovery or release, &c. fraudulently obtained, vol. iii. 675.
replication.
plaintiff may reply to plea of former recovery that same was obtained by fraud, *ib.*
so to plea of release, &c. *ib.*
amendment in, vol. iii. 674, n.
costs in,
to defendant for nonsuit, verdict, &c. vol. iii. 677.
provisions as to bodies politic, &c. officers suing *ex officio,* &c. *ib.*
compounding of.
no informer shall compound but with consent of court, vol. iii. 676, 677, and *notes.*
penalty for so doing, vol. iii. 677.
leave to compound, how granted, vol. iii. 676, 677.
punishment of informer misbehaving himself in a suit, 677.

PENALTIES,
under penal statutes may be remitted by the crown although payable to other parties (22 Vict. c. 32), vol. iii. 681.

PERPETUAL COMMISSIONERS. See *Fines and Recoveries.*

PERPETUITIES. See *Thelluson Act.*

PETITION OF RIGHT. See *Crown Suits.*

PETROLEUM, act for safe keeping of (25 & 26 Vict. c. 66), vol. iii. 681.

PHARMACEUTICAL SOCIETY. See *Medical Practitioners.*

PHYSICIANS. See *Medical Practitioners.*

PLEADING, PRACTICE, &c. (AT LAW).
Abandonment of Action
against some defendants when writ specially indorsed, vol. iii. 727, s. 33.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
Abatement,
plea in, of nonjoinder.
of plaintiffs,
amendment after, vol. iii. 728, s. 36.
of defendants,
amendment after, vol. iii. 729, s. 38.
costs of plea, and subsequent proceedings, vol. iii. 729, s. 39.
liability of persons named may be shown, *ib.*
form of declaration after, vol. iii. 732, s. 60.
of action,
brought by husband and wife by death of either, vol. iii. 729, s. 40.
by death. See *Death.*
by marriage, vol. iii. 743, s. 141. See *Marriage.*
by bankruptcy, vol. iii. 743, s. 142. See *Bankruptcy.*
of proceedings in error.
by death. See *Death.*
by marriage, vol. iii. 747, s. 167. See *Marriage.*
Account,
matters of, may be referred to arbitration, vol. iii. 769, s. 3; 770, s. 6.
Actionem non,
formal commencement of, unnecessary, vol. iii. 732, s. 66.
Actions,
personal, commencement of, vol. iii. 719, s. 2. See *Summons, Writ of.*
of ejectment, commencement of, vol. iii. 747, s. 168.
abatement of. See *Abatement.*
joinder of causes of, vol. iii. 729, s. 41. See *Causes of Action.*
commenced in disobedience of injunction or order, vol. iii. 757, s. 226.
against garnishees. See *Attachment.*
for mandamus, vol. iii. 783, s. 68, *et seq.* See *Mandamus.*
claim of injunction in, vol. iii. 784, s. 79, *et seq.* See *Injunction.*
for detention of chattels, vol. iii. 784, s. 78.
equitable defence to, vol. iii. 784, s. 83; 786, s. 84.
equitable replication, vol. iii. 787, s. 85.
equitable defence on replication may be struck out, vol. iii. 787, s. 86.
on lost negotiable instruments, vol. iii. 788, s. 87.
real, abolished, vol. iii. 793, s. 26.
Address,
to be given, if defendant appears in person, vol. iii. 727, s. 30.
proceedings if not given, or fictitious, *ib.*
Adjournment
of trial, vol. iii. 773, s. 19.
Administrators,
proceedings by, or against, on death of parties. See *Death.*
Admission
of documents,
notice to obtain, vol. iii. 740, s. 117.
costs of proof, on refusal to admit, *ib.*

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
when no notice given, vol. iii. 740, s. 117.
evidence of, vol. iii. 740, s. 118.
Affidavits
of service of writ of summons, vol. iii. 723, s. 15.
on application to proceed, where service not effected, vol. iii. 723, s. 17.
when defendant is within jurisdiction, *ib.*
when defendant is out of jurisdiction, vol. iii. 723, s. 18.
in certain cases may be sworn abroad, vol. iii. 725, s. 23.
in proceedings to judgment after non-appearance, vol. iii. 726, 727, ss. 27, 28.
for leave to defend, after time for appearance expired, vol. iii. 726, s. 27.
on application to plead and demur to same pleading, vol. iii. 735, s. 80.
on application to plead several pleas, vol. iii. 735, s. 81.
to accompany plea of *puis darrein continuance,* vol. iii. 733, s. 69.
to set aside judgment for pleading several matters without leave, vol. iii. 736, s. 86.
to obtain rule for costs of the day, vol. iii. 737, s. 99.
of signature of admission of documents, vol. iii. 740, s. 118.
of service of notice to produce documents, vol. iii. 740, s. 119.
to obtain order to charge in execution, vol. iii. 741, s. 127.
to accompany memorandum of error in fact, vol. iii. 746, s. 158.
in ejectment,
on appearance of person not named in writ, vol. iii. 748, s. 172.
when joint tenant, coparcener, &c. defends, vol. iii. 749, s. 188.
in action for non-payment of rent, vol. iii. 752, s. 210.
against tenant holding over, vol. iii. 753, s. 213.
in answer to affidavits upon new matter, vol. iii. 777, s. 45.
examination of persons refusing to make, vol. iii. 778, ss. 48, 49.
by party seeking discovery of documents and his attorney or agent, vol. iii. 778, s. 50.
by party proposing to interrogate the opposite party, vol. iii. 780, s. 52.
by judgment creditor seeking attachment of debts, vol. iii. 781, s. 61.
Affirmation,
instead of oath, when allowed, vol. iii. 774, s. 20.
form of, *ib.*
Agreements,
before trial of questions without pleadings, vol. iii. 730, s. 47.
Alias Writs,
abolished, vol. iii. 722, s. 10.
Amendment,
general powers of, given to judges, vol. iii. 755, s. 222; vol. iii. 789, s. 96.
of writs of summons,
in case of omission to indorse, vol. iii. 725, s. 20.
when wrong form is used, vol. iii. 725, s. 21.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
in case of misjoinder. See *Misjoinder.*
in case of nonjoinder. See *Nonjoinder.*
of pleadings, vol. iii. 736, s. 90.

Appeal,
in case of rule to enter a verdict or nonsuit, vol. iii. 776, s. 34.
on refusal or discharge of, or making absolute rule for a new trial, vol. iii. 776, s. 35.
courts of appeal, vol. iii. 776, s. 36.
notice of, vol. iii. 776, s. 37.
stay of execution, vol. iii. 776, s. 38.
form of, vol. iii. 777, s. 39.
rule nisi in court of appeal, vol. iii. 777, s. 40.
judgment of court of appeal and proceedings thereon, vol. iii. 777, s. 41.
powers of court of appeal as to costs and otherwise, vol. iii. 777, s. 42.
error on award of trial *de novo*, vol. iii. 777, s. 43.
from Palatine Courts, vol. iii. 789, s. 102.
against order upon application for relief against forfeiture, vol. iii. 791, ss. 4—11.

Appearance,
to writ of summons,
time for, if defendant is in jurisdiction, vol. iii. 727, s. 29.
if defendant is out of jurisdiction, vol. iii. 723, s. 18.
distringas to compel, abolished, vol. iii. 725, s. 24.
sec. stat. abolished, vol. iii. 726, s. 26.
proceedings in default of,
when writ specially indorsed, vol. iii. 726, s. 27.
not specially indorsed, vol. iii. 727, s. 28.
when defence allowed, if not entered in time, *ib.*
may be entered at any time before judgment, vol. iii. 727, s. 29.
in person, shall give an address, vol. iii. 727, s. 30.
mode of entering, vol. iii. 727, s. 31.
proceedings in default of, vol. iii. 727, s. 32.
by some defendants only, after special indorsement, vol. iii. 727, s. 33.
to writ of revivor,
may be made by notice in writing, vol. iii. 742, s. 133.
to suggestion on death of sole defendant, vol. iii. 742, s. 138.
to writ of ejectment. See *Ejectment.*

Arbitration,
matters of account may be referred to, before trial, vol. iii. 769, s. 3.
special case stated or issue ordered to be tried auxiliary to arbitration, vol. iii. 770, s. 4.
arbitrator may state special case, vol. iii. 770, s. 5.
matters of account may be referred to arbitration at trial, vol. iii. 770, s. 6.
proceedings before, and power of arbitrator, vol. iii. 770, s. 7.
case may be remitted to arbitrator, vol. iii. 771, s. 8.
enforcing award, vol. iii. 769, s. 3; 770, s. 7.
setting aside award, vol. iii. 771, s. 9.
within what time, *ib.*

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
enforcing award within time for setting aside, vol. iii. 771, s. 10.
action or suit after arbitration, vol. iii. 771, s. 11.
appointment of arbitrator or umpire by judge on failure of parties to do so, vol. iii. 772, s. 12.
supplying vacancy by failure of arbitrator, vol. iii. 772, s. 13.
arbitrator appointed to act for both parties, *ib.*
appointment of umpire, vol. iii. 772, s. 14.
award to be made in three months unless time enlarged, vol. iii. 773, s. 15.
umpire entering on reference, *ib.*
rule to deliver possession of land pursuant to award, vol. iii. 773, s. 16.
submission to arbitration made a rule of court, vol. iii. 773, s. 17.

Arbitrator. See *Arbitration.*

Arrest of judgment,
not to be allowed for want of form, vol. iii. 730, s. 50.
proceedings upon motion,
omitted facts may be suggested, vol. iii. 744, s. 143.
suggestion may be pleaded to and tried, *ib.*
judgment on and costs of suggestion, vol. iii. 744, s. 144.
costs of abortive issues, vol. iii. 744, s. 145.

Assignees,
of bankrupt or insolvent may continue action, vol. iii. 743, s. 142.

Assignment. See *New Assignment.*

Assignment of Error,
not necessary, except in certain cases, vol. iii. 745, s. 152.
proceedings in lieu of, *ib.*

Associate,
may appoint deputy, vol. iii. 769, s. 2.

Attachment of debts,
judgment debtor may be examined as to debts due to time, vol. iii. 781, s. 60.
such debts may be ordered to be attached, vol. iii. 781, s. 61.
judge may refuse attachment, vol. iii. 793, s. 28.
order to bind debt, vol. iii. 782, s. 62.
execution, vol. iii. 782, s. 63.
suing garnishee, vol. iii. 782, s. 64.
garnishee discharged by payment on execution, vol. iii. 782, s. 65.
attachment-book, vol. iii. 782, s. 66.
proceedings where third person has a lien on the debt, vol. iii. 793, ss. 29, 30.
mandamus enforced by attachment. See *Mandamus.*
injunction enforced by attachment. See *Injunction.*

Attestation,
when attesting witness need not be called, vol. iii. 775, s. 26.

Attorney,
name and abode of, to be endorsed on writs, vol. iii. 720, s. 6; 747, s. 169.
to declare if writ issued by his authority, vol. iii. 720, s. 7; 747, s. 169.
if writ not issued by, proceedings stayed, *ib.*

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
money may be paid out of court to, vol. iii. 733, s. 72.
affidavit by, to prove admission of documents, vol. iii. 740, s. 118.
to prove service of notice to produce, vol. iii. 740, s. 119.
on application to plead and demur, vol. iii. 735, s. 80.
on application to plead several pleas, vol. iii. 535, s. 81.
order by, to discharge prisoner under *ca. sa.*, vol. iii. 741, s. 126.
appointed by *feme sole*, may act after marriage, vol. iii. 743, s. 141.
must attest confession by defendant in ejectment, vol. iii. 751, s. 203.
affidavit by attorney of party proposing to interrogate the opposite party, vol. iii. 780, s. 52.

Averments,
petitions and needless, to be omitted, vol. iii. 730, s. 49.
of performance of conditions precedent, vol. iii. 731, s. 57.
in actions for libel and slander, vol. iii. 732, s. 61.

Avowries,
form of, vol. iii. 732, s. 67.

Award. See *Arbitration.*

Audità Querelâ,
equitable defence by way of, vol. iii. 786, s. 84.

Bail,
in error. See *Error.*
in ejectment. See *Ejectment.*
in error after ejectment. See *Error.*
on appeal, vol. iii. 776, s. 38.
execution to fix, vol. iii. 788, s. 90.

Bankruptcy,
when not to abate action, vol. iii. 743, s. 142.
when may be pleaded in bar, *ib.*

Beyond Seas,
absence of parties, provisions as to bringing error, vol. iii. 744, s. 147.
interpretation of term, vol. iii. 758, s. 227.

Bill of Exceptions,
may be tendered at trial of ejectment, vol. iii. 749, s. 184.

Bill of Exchange,
action on lost, vol. iii. 788, s. 87.

Breach of Contract,
injunction against. See *Injunction.*

British Subject,
residing out of jurisdiction, proceedings against, vol. iii. 723, s. 18.

Capias,
discharge of prisoner under, by order of attorney, vol. iii. 741, s. 126.

Case Special,
error may be brought on, vol. iii. 775, s. 32.

Causes of Action,
need not be mentioned in writ of summons, vol. iii. 719, s. 3.
joinder of different, in same suit, vol. iii. 729, s. 41.

Chattels,
specific delivery of, vol. iii. 784, s. 78.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*

Circuits,
power to her majesty in council to alter, vol. iv. 994.

Claimant. See *Ejectment.*

Cognizance,
form of, vol. iii. 732, s. 67.

Cognovit,
how to be attested, vol. iii. 709.

Colour,
express, abolished, vol. iii. 732, s. 64.

Compute, rule to,
abolished, vol. iii. 737, s. 92.

Concurrent Writs. See *Summons, Writ of.*

Conditions precedent,
performance of, how averred and denied, vol. iii. 731, s. 57.

Consent,
of persons to be added on nonjoinder of plaints, vol. iii. 727, s. 34; 728, s. 35.
of persons to be struck out on misjoinder of plaints, *ib.*
of persons to be struck out on misjoinder of defendants, vol. iii. 728, s. 37.
questions raised by, without pleadings, vol. iii. 729, s. 42.
to special case in ejectment, vol. iii. 749, s. 179.
judge by consent of parties may try questions of fact, vol. iii. 768, s. 1.

Consul,
when affidavits may be sworn before, vol. iii. 725, s. 23.

Conviction,
of witness may be proved, vol. iii. 774, s. 25.

Coparceners,
defence by, in action of ejectment, vol. iii. 749, s. 188. See *Ejectment.*

Copy,
of writ of summons,
contents of, vol. iii. 719, s. 2.
indorsement on, of debt, costs, &c. vol. iii. 721, s. 8.
special indorsements on, of debt, vol. iii. 725, s. 25.
to be filed before judgment for nonappearance, vol. iii. 726, s. 27; 727, s. 28.
of notice to produce,
to be annexed to affidavit of service, vol iii. 740, s. 119.
of particulars in ejectment,
to be annexed to record, vol. iii. 749, s. 180.
of panel of jurors,
to be annexed to record, vol. iii. 738, s. 106.
to be given by sheriffs to any party, *ib.*
of receipt of memorandum of error,
how and when to be served, vol. iii. 745, s. 149.

Corporation,
service of writs of summons upon, vol. iii. 723, s. 16.
officers of, to answer as to documents in their possession or power, vol. iii. 778, s. 50.
to answer interrogatories, vol. iii. 778, s. 51.
affidavit by officer of, when proposing to interrogate, vol. iii. 780, s. 52.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
mode of enforcing writs of injunction against, vol. iii. 794, s. 33.
Costs,
claimed by attorney for writ, &c. to be indorsed, vol. iii. 721, s. 8.
upon judgment in default of appearance, vol. iii. 726, s. 27; 727, s. 28.
of amendment to be at discretion of court or judge, vol. iii. 755, s. 222.
of proceedings on plea of nonjoinder of defendants, vol. iii. 729, s. 39.
of application to amend pleadings, vol. iii. 731, s. 52.
after plea of payment into court, vol. iii. 734, s. 73.
of issues on several pleas, vol. iii. 735, s. 81.
of setting aside judgment for pleading without leave, vol. iii. 736, s. 86.
for not proceeding to trial pursuant to notice, vol. iii. 737, s. 99.
for not countermanding notice of trial, *ib.*
of proving documents after notice to admit, vol. iii. 740, s. 117.
if no notice given, *ib.*
of application for suggestion to revive judgment, vol. iii. 741, s. 130.
of proceedings upon writ of revivor, vol. iii. 741, s. 131.
security for, by assignees continuing action, vol. iii. 743, s. 144.
of suggestion of omitted facts, and trial thereof, vol. iii. 744, s. 144.
of abortive issues upon arrest of judgment, &c. vol. iii. 744, s. 145.
Costs,
of proceedings in error after discontinuance, vol. iii. 746, s. 159.
in case of death of parties, vol. iii. 742, s. 138. See *Death.*
in case of bankruptcy, vol. iii. 743, s. 142.
in ejectment,
upon verdict when title expires before trial, vol. iii. 749, s. 181.
upon finding for claimants, vol. iii. 749, s. 185.
for defendants, vol. iii. 749, s. 186.
writs for, joint or separate with writs of execution, vol. iii. 749, s. 187.
in case of discontinuance, vol. iii. 751, s. 200.
for not proceeding to trial, vol. iii. 751, s. 202.
after confession of action by defendant, vol. iii. 751, ss. 203, 204, 205.
upon proceedings in error, vol. iii. s. 208.
in actions by landlords for rent in arrear, vol. iii. 752, s. 210.
to be paid by lessee proceeding in equity, vol. iii. 753, s. 211.
in actions by mortgagees, vol. iii. 755, s. 219.
security for, on second action of ejectment, vol. iii. 788, s. 93.
power of court of appeal as to, vol. iii. 777, s. 42.
upon new trial on matter of fact, vol. iii. 777, s. 44.
of examination of witness, vol. iii. 780, s. 57.
of application for an attachment of debt, vol. iii. 783, s. 67.
of writs of mandamus and injunction may be included in writs, vol. iii. 794, s. 32.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
plaintiff deprived of in actions of tort, vol. iii. 794, s. 34.
where plaintiff recovers by verdict less than *5l. ib.*
and judge certifies certain particulars, *ib.*
repeal of provisions in local and personal acts giving double and treble costs, vol. iii. 713.
Countermand,
of notice of trial, vol. iii. 737, s. 98.
Counts. See *Pleadings.*
Counties Palatine,
records to be entered, &c. as in other counties, vol. iii. 738, s. 103.
writs to be executed, &c. as in other counties, vol. iii. 740, s. 122.
Common Law Procedure Act, 1852, to extend to superior courts of, vol. iii. 758, s. 229.
Common Law Procedure Act, 1854, to extend to superior courts of, vol. iii. 789, s. 100.
Common Law Procedure Act, 1860, to extend to superior courts of, vol. iii. 795, s. 50.
County,
writ of summons may be served in any, vol. iii. 723, s. 14.
writ of execution may issue into any, vol. iii. 740, s 121.
writ of revivor may be served in any, vol. iii. 741, s. 131.
Courts,
empowered to make rules, vol. iii. 757, s. 223; 789, s. 97; 794, s. 37.
general power of amendment given to, vol. iii. 755, s. 222; 789, s. 96; 794, s. 36.
interpretation of term, vol. iii. 758, s. 227.
of record, Common Law Procedure Act, 1852, may be extended to, vol. iii. 758, s. 228.
of record, Common Law Procedure Act, 1854, may be extended to, vol. iii. 790, s. 105.
of record, Common Law Procedure Act, 1860, may be extended to, vol. iii. 795, s. 54.
enactments in ss. 19—32, of Common Law Procedure Act, 1854, to apply to every court of judicature, vol. iii. 789, s. 103.
trial of causes pending, in same court at same time, vol. iii. 789, s. 2.
officer of, to point out omission or insufficiency of stamp, vol. iii. 775, s. 28.
masters of, to keep attachment-book, vol. iii. 782, s. 60.
of Common Pleas at Lancaster, and Pleas at Durham,
certain provisions of Common Law Procedure Act, 1852, to extend to, vol. iii. 758, s. 229.
certain provisions of Common Law Procedure Act, 1854, to extend to, vol. iii. 789, s. 100.
certain provisions of Common Law Procedure Act, 1860, to extend to, vol. iii. 795, s. 50.
provisions as to masters of superior courts to apply to prothonotaries of, vol. iii. 759, s. 232; 789, s. 101; 795, s. 51.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
proceedings in error from, vol. iii. 759, s. 233.
of appeal. See *Appeal.*
Coverture,
provisions for disability by, vol. iii. 744, s. 147.
Cross-Examination,
proof of contradictory statement on, vol. iii. 774, s. 23.
as to previous statements in writing, vol. iii. 774, s. 24.
Crown Office,
act for regulating, vol. iii. 714.
Damages,
proof of, in actions against defendants abroad, vol. iii. 723, s. 18.
ascertaining amount of, before master, vol. iii. 737, s. 94.
Date,
of original and concurrent writs of summons, vol. iii. 720, s. 5; 722, s. 9.
of writs of ejectment, vol. iii. 747, s. 169.
of memorandum of appearance, vol. iii. 727, s. 31.
of pleadings, vol. iii. 731, s. 54.
Death,
action not to abate by, vol. iii. 742, s. 135.
proceedings in case of death
of one or more of several plaintiffs or defendants, vol. iii. 742, s. 136.
of sole or sole surviving plaintiff, vol. iii. 742, s. 137.
of sole or sole surviving defendant, vol. iii. 742, s. 138.
of either party between verdict and judgment, vol. iii. 743, s. 139.
of either party after interlocutory and before final judgment, vol. iii. 743. s. 140.
in actions by husband and wife, vol. iii. 729, s. 40.
error not to abate by, vol. iii. 747, ss. 161, 164.
proceedings in case of death
of one of several plaintiffs in error, vol. iii. 747, s. 162.
of sole plaintiff, or of all plaintiffs, in error, vol. iii. 747, s. 163.
of one of several defendants in error, vol. iii. 747, s. 165.
of sole defendant, or of all defendants in error, vol. iii. 747, s. 166.
ejectment not to abate by, vol. iii. 750, s. 190.
proceedings in case of death
before trial, where right survives, vol. iii. 750, s. 191.
before trial, where right does not survive, vol. iii. 750, s. 192.
of one of several claimants having obtained a verdict, vol. iii. 750, s. 193.
of claimant, where right does not survive, vol. iii. 750, s. 194.
of one of several joint defendants, vol. iii. 750, s. 195.
of all defendants before trial, vol. iii. 750, s. 196.
of all defendants after verdict, vol. iii. 751, s. 197.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
before trial of defendant who defends separately for part, vol. iii. 751, s. 198.
of defendant defending separately for property in respect of which others also defend, vol. iii. 751, s. 199.
Debt,
amount of, to be stated on writ and copy, vol. iii. 721, s. 8.
special indorsement of, upon writ, vol. iii. 725, s. 25.
proof of, against defendants residing abroad, vol. iii. 723, s. 18.
judgment by default for, to be final, vol. iii. 737, s. 93.
See *Attachment.*
Declaration. See *Pleadings.*
in action for mandamus, vol. iii. 783, s. 69.
Deeds,
how may be set out in pleadings, vol. iii. 731, ss. 55, 56.
Defendants,
actions against, when within jurisdiction, vol. iii. 719, s. 2.
when British subjects out of jurisdiction, vol. iii. 723, s. 18.
when foreigners out of jurisdiction, vol. iii. 724, s. 19.
writ of summons to state names of all defendants, vol. iii. 719, s. 4.
appearance for, need not be entered by plaintiff, vol. iii. 726, s. 26.
appearance by. See *Appearance.*
See *Death; Nonjoinder; Misjoinder.*
Delivery,
of specific chattels, vol. iii. 784, s. 78.
Demand,
liquidated, special indorsement of, on writ, vol. iii. 725, s. 25.
judgment by default for, to be final, vol. iii. 737, s. 93.
of plea, abolished, vol. iii. 732, s. 62.
of possession by landlord before ejectment, vol. iii. 753, s. 213.
Demurrer. See *Pleadings.*
Depositions,
of party refusing to make affidavit, vol. iii. 778, s. 49.
on examination of witnesses, vol. iii. 780, s. 55.
Discharge,
of prisoner under *ca. sa.*, by order of attorney, vol. iii. 741, s. 126.
Discontinuance,
of proceedings in error, vol. iii. 746, s. 159. See *Error.*
of proceedings in ejectment, vol. iii. 751, s. 200. See *Ejectment.*
Discovery,
of documents, vol. iii. 778, s. 50.
Distringas,
writs of, abolished, vol. iii. 725, s. 24.
Distringas juratores,
writ of, abolished, vol. iii. 738, s. 104.
Documents,
how may be sent out in pleadings, vol. iii. 731, s. 56.
admission of, and costs of proof, vol. iii. 740, s. 117.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
production of, before master on inquiry of damages, vol. iii. 737, s. 94.
provisions for stamping, at trial, vol. iii. 775, ss. 28, 29.
under Common Law Procedure Act, 1854, not to require stamp, vol. iii. 775, s. 30.
ordered to be produced on hearing of motion, vol. iii. 777, s. 46.
discovery of, vol. iii. 778, s. 50.
production of, by party, vol. iii. 780, s. 53.
Dower,
writ of right of, and writ of dower *nude nihet habet,* abolished, vol. iii. 793, s. 26.
Durham,
courts of pleas at. See *Courts.*
Ejectment,
writ of.
action to be commenced by, vol. iii. 747, s. 168.
to whom to be directed, *ib.*
to describe property, *ib.*
judge may order better particulars, vol. iii. 748, s. 175.
form and contents of, vol. iii. 747, s. 169.
teste and duration of, *ib.*
indorsement on, of name of attorney, *ib.*
proceedings on, if issued without authority, *ib.*
service of, vol. iii. 748, s. 170.
in action by landlord when rent in arrear, vol. iii. 752, s. 210.
notice of to be given by tenant to landlord, vol. iii. 752, s. 209.
appearance and defence.
time for, to be 16 days, vol. iii. 747, s. 169.
in certain cases to be 10 days, vol. iii. 754, s. 217.
by any person named in writ, vol. iii. 748, s. 171.
by any person not named in writ, vol. iii. 748, s. 172.
by landlord for property in possession of tenant, vol. iii. 748, s. 173.
may be limited by notice to part of property, vol. iii. 748, s. 174.
by joint tenants, tenants in common or coparceners, vol. iii. 749, s. 188.
when may be struck out or confined, vol. iii. 748, s. 176.
judgment for default of, or when limited defence, vol. iii. 748, s. 177.
in case of death of parties. See *Death.*
non-appearance at trial.
of claimant, nonsuit, vol. iii. 749, s. 183.
of defendant, no proof of title necessary, *ib.*
issue.
how made up, vol. iii. 749, s. 178.
special case.
may be stated by consent, vol. iii. 749, s. 179.
trial of issue.
may be ordered to take place in any county, vol. iii. 749, s. 182.
same as in other actions, vol. iii. 749, s. 180.
what question to be raised at, *ib.*
special verdict may be found, vol. iii. 749, s. 184.
bill of exceptions may be tendered, *ib*

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
verdict.
form of entry of, vol. iii. 749, s. 180.
when title expires before trial, vol. iii. 749, s. 181.
special verdict may be found, vol. iii. 749, s. 184.
judgment.
for what and when to be signed, vol. iii. 749, ss. 185, 186.
in default of appearance or defence, vol. iii. 748, s. 177.
upon discontinuance, form of, vol. iii. 751, s. 200.
for not proceeding to trial after notice, vol. iii. 751, s. 202.
upon confession of action by defendant, vol. iii. 751, ss. 203, 204, 205.
entry of, upon roll, not necessary before execution, vol. iii. 751, s. 206.
effect of, vol. iii. 752, s. 207.
in actions against tenants holding over, vol. iii. 753, s. 213.
execution.
when it may issue, vol. iii. 749, ss. 185, 186.
for recovery of possession and costs may be joint or separate, vol. iii. 749, s. 187.
not stayed by error unless bail put in, vol. iii. 752, s. 208.
when awarded for mesne profits, *ib.*
may issue before formal entry of judgment, vol. iii. 751, s. 206.
costs. See *Costs.*
death.
not to abate action. See *Death.*
discontinuance, vol. iii. 751, ss. 200, 201.
confession, vol. iii. 751, ss. 203, 204, 205.
error, and bail in error, vol. iii. 752, s. 208.
mesne profits.
remedy for, pending error, vol. iii. 752, s. 208.
evidence of, when may be given at trial, vol. iii. 754, s. 214.
joint tenants, tenants in common, and coparceners, defence by, vol. iii. 749, 750, ss. 188, 189.
landlord and tenant.
tenant to give notice of writ to landlord, vol. iii. 752, s. 209.
ejectment for non-payment of rent, vol. iii. 752, 753, ss. 210, 211, 212.
ejectment against tenant holding over, vol. iii. 753, 754, ss. 213—216.
for recovery of lands not in London or Middlesex, vol. iii. 754, s. 217.
saving of former remedies, vol. iii. 755, s. 218.
mortgagee and mortgagor, vol. iii. 755, ss. 219, 220.
statutes.
not inconsistent with this act to remain in force, vol. iii. 755, s. 221.
jurisdiction.
of courts and judges same as heretofore, *ib.*
second action of ejectment.
claimant in, to give security for costs. vol. iii. 788, s. 93.
Elegit,
writ of, vol. iii. 682, and *notes.*

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
Enlargement,
of time for going to trial, vol. iii. 737, s. 101.
for pleading, vol. iii. 732, s. 63.
Equitable,
defence may be pleaded, vol. iii. 784, s. 83.
after judgment, vol. iii. 786, s. 84.
plea may be struck out, vol. iii. 787, s. 86.
replication may be pleaded, vol. iii. 787, s. 85.
may be struck out, vol. iii. 787, s. 86.
Equity,
suit in, after agreement to refer to arbitration, vol. iii. 771, s. 11.
Error,
when does not lie on judgment for non-appearance, vol. iii. 726, s. 27.
when death not to be alleged as, vol. iii. 743, s. 139.
writ of, abolished, vol. iii. 744, s. 148.
to be brought within six years, vol. iii. 744, s. 146.
proviso for disabilities, vol. iii. 744, s. 147.
discontinuance of proceedings in, vol. iii. 746, s. 159.
confession of, by defendant in error, vol. iii. 747, s. 160.
death of either party not to abate proceedings. See *Death.*
marriage not to abate proceedings in, vol. iii. 747, s. 167.
from superior courts in counties palatine, vol. iii. 759, s. 233.
in law.
how brought, and when *supersedeas*, vol. iii. 745, ss. 149, 150.
bail in error, vol. iii. 745, s. 151.
suggestion instead of assignment of, and joinder in error, vol. iii. 745, s. 152.
trial of, vol. iii. 746, s. 155.
judgment, *ib.*
jurisdiction of courts of error, vol. iii. 746, ss. 156, 157.
in fact.
how brought, vol. iii. 746, s. 158.
in ejectment, vol. iii. 752, s. 208.
Error,
on special case, vol. iii. 775, s. 32.
on award of trial *de novo*, vol. iii. 777, s. 43.
court of, to be court of appeal, vol. iii. 776, s. 36.
Evidence,
of renewal of writs of summons, vol. iii. 722, s. 13.
of renewal of writs of execution, vol. iii. 741, s. 125.
of affidavits sworn before consuls, &c. vol. iii. 725, s. 23.
of admissions of documents after notice to admit, vol. iii. 740, s. 118.
of service of notice to produce, vol. iii. 740, s. 119.
may be given by defendants of liability of defendants named in plea of abatement, vol. iii. 729, s. 39.
of mesne profits in ejectment, vol. iii. 754, s. 214.
on affirmation instead of oath, vol. iii. 774, s. 20. See *Affidavit, Examination, Witness.*
Examination,
oral, of witnesses on hearing of motion or summons, vol. iii. 777, ss. 46, 47.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
of person who refuses to make affidavit, vol. iii. 778, ss. 48, 49.
of party as to documents in his possession or power, vol. iii. 778, s. 50.
of party as to facts by written interrogatories, vol. iii. 778, s. 51; 780, s. 52.
oral, of parties, vol. iii. 780, ss. 53, 54.
deposition, vol. iii. 780, s. 55.
report of examiner, vol. iii. 780, s. 56.
costs of, vol. iii. 780, s. 57.
of judgment debtor, vol. iii. 781, s. 60. See *Witness, Cross-Examination.*
Execution,
what property may be seized in, vol. iii. 710—712.
on judgment in default of appearance, vol. iii. 726, s. 27; 727, ss. 28, 33.
on judgment on trials of questions without pleadings, vol. iii. 730, ss. 44, 47.
when it may be issued after trial out of term, vol. iii. 740, s. 120.
may be issued within six years without revival, vol. iii. 741, s. 123.
in case of death of parties. See *Death.*
marriage of female plaintiff or defendant, vol. iii. 743, s. 141.
when proceedings in error are taken. See *Error.*
in ejectment. See *Ejectment.*
writs of,
ground writs abolished, vol. iii. 740, s. 121.
to whom to be directed, vol. iii. 740, ss. 121, 122.
how long to remain in force, vol. iii. 740, s. 124; 788, s. 94.
renewal of, vol. iii. 740, s. 124; 741, s. 125.
to fix bail, vol. iii. 788, s. 90.
party entitled to, may levy fees and expenses, vol. iii. 740, s. 123.
proceedings for charging prisoner in, vol. iii. 741, s. 127.
on rule to deliver possession pursuant to award, vol. iii. 773, s. 16.
notice of appeal to be stay of, vol. iii. 776, s. 38.
against garnishee, vol. iii. 782, ss. 63—65.
on action for misdemeanors, vol. iii. 783, s. 71.
for expense of doing act for defendant, vol. iii. 783, s. 74.
for return of chattel and damages for detainer, vol. iii. 784, s. 78.
relief of creditors of persons dying in, vol. iii. 686.
Executors,
proceedings against, on judgment of assets *in futuro*, vol. iii. 788, s. 91.
proceedings by and against on death of parties. See *Death.*
Extents in aid,
act regulating the issuing of, vol. iii. 690.
Fact,
questions of, judge may try by consent, vol. iii. 768, s. 1.
Foreigner,
residing out of jurisdiction, proceedings against, vol. iii. 724, s. 19.
Forfeiture,
relief against, for non-payment of rent, vol. iii. 791, s. 1.
for not insuring, vol. iii. 791, s. 2.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*

Forms,
of writs of summons, vol. iii. 759, 760.
of præcipe for renewal, vol. iii. 722, s. 11.
of notice of writ of summons, vol. iii. 761.
of indorsements upon writs of summons, vol. iii. 721, s. 8; 761.
of final judgment in default of appearance, vol. iii. 762.
of appearance, vol. iii. 727, s. 31.
of issue in trials of questions without pleadings, vol. iii. 762.
of commencements and conclusions of declarations, vol. iii. 732, s. 59.
of commencements of pleas, vol. iii. 732, s. 67.
of demurrers, vol. iii. 736, s. 89.
of joinder of issue, vol. iii. 735, s. 79.
of pleadings, vol. iii. 736, s. 91; 765, *et seq.*
of payment into court, vol. iii. 733, s. 71.
of judgment for money demands, vol. iii. 737, s. 95.
of rule to enter suggestion to revive judgment, vol. iii. 762.
of suggestion to revive judgment, *ib.*
of writ for revivor, vol. iii. 762, 763.
of memorandums of error, vol. iii. 763.
of actions, need not be mentioned in writ, vol. iii. 719, s. 3.
in ejectment, vol. iii. 763—765.
judges empowered to make, vol. iii. 757, s. 224; 789, s. 98; 794, s. 38.
of appeal, vol. iii. 777, s. 39.
of peremptory writ of mandamus, vol. iii. 783, s. 72.
of equitable defence, vol. iii. 784, s. 83.
of equitable replication, vol. iii. 787, s. 85.

Free Bench,
plaint for, abolished, vol. iii. 793, s. 26.

Garnishee. See *Attachment.*

General issue,
repeal of provision in local and personal acts allowing plea of, vol. iii. 713.

Ground Writs,
abolished, vol. iii. 740, s. 121.

Hundredors,
service upon, of writ of summons, vol. iii. 723, s. 16.

Husband and Wife,
action by.
joinder of claims of husband, vol. iii. 729, s. 40.
marriage not to abate action, vol. iii. 743, s. 141.

Infancy,
provisions for, as to bringing error, vol. iii. 744, s. 147.

Inhabitants,
of county, of city, &c. service upon, of writs, vol. iii. 723, s. 16.

Injunction,
proceedings commenced in disobedience of, vol. iii. 757, s. 226.
may be claimed in action, vol. iii. 784, s. 79.
form of summons and indersement, vol. iii. 784, s. 80.
proceedings and judgment, vol. iii. 784, s. 81.
may be applied for at any stage of cause, vol. iii. 784, s. 82.
costs of, may be included in writ, vol. iii. 794, s. 32.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
how enforced against corporations, vol. iii. 794, s. 33.

Inquiry,
before master, vol. iii. 737, s. 94.
notice of, vol. iii. 737, s. 97.

Inspection,
by juries, parties, and witnesses, vol. iii. 780, s. 58.

Instrument,
action on lost, vol. iii. 788, s. 87.

Insuring,
relief against forfeiture for not, vol. iii. 791, s. 2.

Interpleader,
may be granted though titles have not a common origin, vol. iii. 792, s. 12.
court or judge may direct sale of goods seized in execution, vol. iii. 792, s. 13.
power to court or judge to decide summarily in certain cases, vol. iii. 792, s. 14.
special case may be stated where facts undisputed, vol. iii. 792, s. 15.
proceedings on special case in court below and in error, vol. iii. 792, s. 16.
judgment and decision, when to be final, vol. iii. 792, s. 17.
rules, orders, &c. made in interpleader proceedings may be entered of record and made evidence, vol. iii. 792, s. 18.

Interrogatories,
examination of party on, vol. iii. 778, s. 51.

Issue,
of fact may be tried by judge by consent, vol. iii. 768, s. 1.
may be directed as to matter of account, vol. iii. 770, s. 4.
upon trial of, by judge, he may refer matter of account to arbitration, vol. iii. 770, s. 6.
on trial of question without pleadings, vol. iii. 729, s. 42, *et seq.*
joinder of, when and how pleaded, vol. iii. 735, s. 79.
trial of, when plea and demurrer to same pleading, vol. iii. 735, s. 80.
costs of, vol. iii. 735, s. 81.

Joinder
of parties. See *Misjoinder and Nonjoinder.*
of too many plaintiffs, effects of, vol. iii. 379, ss. 19, 20, 21.
of claims in action by husband and wife, vol. iii. 729, s. 40.
of different causes of action in same suit, vol. iii. 729, s. 41.
of issue, when and how pleaded, vol. iii. 735, s. 79.
in demurrer, form of, vol. iii. 736, s. 89.
in error, vol. iii. 745, s. 152.

Judge
by consent, may try issues of fact, vol. iii. 768, s. 1.
may decide matters of account in a summary way, vol. iii. 769, s. 3.
may adjourn trial, vol. iii. 773, s. 19.
may strike out equitable plea or replication, vol. iii. 787, s. 86.

Judges,
general powers of amendment given to, vol. iii. 755, s. 222; 789, s. 96; 794, s. 36.
empowered to make general rules, vol. iii. 757, s. 223; 789, s. 97; 794, s. 37.
forms of writs, &c. vol. iii. 757, s. 224; 789, s. 98; 794, s. 38.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
of superior courts of counties palatine may exercise powers given by Common Law Procedure Acts, 1852, 1854, 1860, vol. iii. 758, s. 230; 789, s. 100; 795, s. 50.
may make rules and orders, vol. iii. 759, s. 231; 789, s. 100; 795, s. 50.
Judgment
in default of appearance,
when writ specially indorsed, vol. iii. 726, s. 27.
where one or more defendants only do not appear, vol. iii. 727, s. 33.
when writ not specially indorsed, vol. iii. 727, s. 28.
in actions of ejectment,
forms of, vol. iii. 763, 764.
after plea in abatement for nonjoinder of defendants, vol. iii. 729, s. 39.
on trials of questions without pleadings, vol. iii. 730, ss. 44, 47.
after plea of payment into court, vol. iii. 734, s. 73.
after demurrer with frivolous statement, vol. iii. 736, s. 89.
upon general demurrer, vol. iii. 730, s. 50.
for pleading several pleas without leave, vol. iii. 736, s. 86.
after inquiry before the master, vol. iii. 737, s. 94.
by default,
for liquidated demands to be final, vol. iii. 737, s. 93.
form of, when sum of money recovered, vol. iii. 737, s. 95.
for not proceeding to trial,
proceedings to obtain, vol. iii. 737, s. 101.
in ejectment, vol. iii. 751, s. 202.
arrest and reversal of,
not to be allowed for want of form, vol. iii. 730, s. 50.
not to be reversed for error after six years, vol. iii. 744, s. 146.
revival of, vol. iii. 741, s. 128, *et seq.*
non obstante veredicto, or in arrest of, vol. iii. 744, ss. 143—145.
error upon, vol. iii. 744, s. 146, *et seq.*
in case of death of parties. See *Death.*
in actions of ejectment. See *Ejectment.*
Judgment Roll,
entry of pleadings upon, date of, vol. iii. 731, s. 54.
of suggestion of error upon, vol. iii. 745, s. 152.
to be brought into court of error, vol. iii. 747, s. 155.
entry upon, when not necessary before execution, vol. iii. 751, s. 206.
Jurisdiction,
proceedings against persons residing out of, vol. iii. 723, s. 18; 724, s. 19.
Jury,
jury process abolished, vol. iii. 738, s. 104.
in country causes,
common
to be summoned for trial of all issues, vol. iii. 738, s. 105.
panel to be prepared and annexed to record, vol. iii. 738, s. 106.
special
to be summoned to try all special jury causes, vol. iii. 739, s. 108.
PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
mode of obtaining, vol. iii. 739, s. 109.
in London and Middlesex,
common
to be summoned for trial of all issues, vol. iii. 738, s. 107.
panel to be prepared and annexed to the record, *ib.*
special
how struck, &c. vol. iii. 739, s. 110.
remedy, when notice of trial by special jury is given for delay, vol. iii. 739, s. 111.
after proceeding by view, vol. iii. 739, s. 114.
inspection by, vol. iii. 780, s. 58.
summoning, vol. iii. 781, s. 59.
speeches to, vol. iii. 723, s. 18.
Libel
averments in declaration for, vol. iii. 732, s. 61.
payment into court in action for, vol. iii. 733, s. 70.
Liquidated Demand,
special indorsement of, upon writs, vol. iii. 725, s. 25.
judgment by default for, to be final, vol. iii. 737, s. 93.
Mandamus,
action for, vol. iii. 783, s. 68.
costs of may be included in writ, vol. iii. 794, s. 32.
declaration in action for, vol. iii. 738, s. 69.
proceedings in action for, vol. iii. 738, s. 70.
judgment and execution, vol. iii. 738, s. 71.
peremptory writ of, vol. iii. 738, s. 72.
effect of writ, vol. iii. 738, s. 73.
act may be done at defendant's expense, vol. iii. 738, s. 74.
prerogative writ of, preserved, vol. iii. 738, s. 75.
proceedings for, accelerated, vol. iii. 738, s. 76.
provisions of Common Law Procedure Acts, 1852, 1854, to apply to, vol. iii. 738, s. 77.
Marriage
of feme, plaintiff or defendant, not to abate action, vol. iii. 743, s. 141.
not to abate proceedings in error, vol. iii. 747, s. 167.
Masters
to renew writs of execution, vol. iii. 740, s. 124.
when inquiry of damages to be directed to, vol. iii. 737, s. 94.
to file and give receipt of memorandum of error, vol. iii. 745, s. 149.
to bring judgment roll into court of error, vol. iii. 746, s. 155.
notice of appeal to be given to, vol. iii. 776, s. 37.
Members of Parliament,
their privilege from being taken in execution, vol. iii. 685.
Mesne Profits
remedy for, after proceedings in error, vol. iii. 752, s. 208.
evidence of, when may be given at trial, vol. iii. 754, s. 214.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
Misjoinder
of plaintiffs
may be amended before trial, vol. iii. 727, s. 34.
may be amended at the trial, vol. iii. 728, s. 35.
of defendants
in action on contract may be amended before or at trial, vol. iii. 728, s. 37.
Motion,
on, in arrest of judgment,
suggestion of omitted facts may be made, vol. iii. 744, s. 143.
trial of such suggestion, *ib.*
judgment on and costs of such suggestion, vol. iii. 744, s. 144.
founded upon affidavits,
affidavits on new matter, vol. iii. 777, s. 45.
examination of witnesses on, vol. iii. 777, ss. 46, 47.
New Assignment
one only allowed in respect of same cause of action, vol. iii. 736, s. 87.
pleas to declaration, except on denial, not to be pleaded to, except by order, vol. iii. 736, s. 88.
New Trial
not to be granted on account of ruling as to stamp, vol. iii. 775, s. 31.
grounds to be stated in rule *nisi* for, vol. iii. 776, s. 33.
appeal in case of motion for, vol. iii. 776, s. 35.
error upon award of, vol. iii. 777, s. 43.
costs of first trial, vol. iii. 777, s. 44.
Nisi Prius Record
not to be sealed or passed, vol. iii. 738, s. 102.
in counties palatine, vol. iii. 738, s. 103.
Nonjoinder
of plaintiffs
amendment of, before trial, vol. iii. 727, s. 34; 728, s. 36.
amendment of, at trial, vol. iii. 728, s. 35.
of defendants
amendment of, upon plea in abatement, vol. iii. ss. 38, 39.
Nonsuit.
grounds to be stated in rule *nisi* for, vol. iii. 776, s. 33.
appeal in case of rule to enter, vol. iii. 776, s. 34.
judgment as in case of.
14 Geo. 2 c. 17 repealed, vol. iii. 737, s. 100.
proceedings in lieu of, vol. iii. 737, s. 101.
in ejectment, vol. iii. 749, s. 183.
Notice
of action, provision for uniformity of, vol. iii. 713.
of writ of summons,
form or cause of action need not be stated in, vol. iii. 719, s. 3.
to be served on foreigners out of jurisdiction, vol. iii. 724, s. 19.
of appearance, vol. iii. 727, s. 29.
of objection to nonjoinder of plaintiffs, vol. iii. 728, s. 35.
to declare, reply, &c. vol. iii. 731, s. 53.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
to plead, vol. iii. 732, ss. 62, 63.
of trial, vol. iii. 737, s. 97; 754, s. 217.
countermand of, vol. iii. 737, s. 98.
when may be given by defendant, vol. iii. 757, s. 101.
of inquiry, vol. iii. 737, s. 97.
to appear.
when given to executor of defendant, vol. iii. 742, s. 138.
to try by special jury.
to be given to opposite party, vol. iii. 739, s. 109.
and to sheriff, vol. iii. 739, s. 112.
if not given common jury may try, vol. iii. 739, s. 113.
to admit, vol. iii. 740, ss. 117, 118.
to produce, vol. iii. 740, s. 119.
of renewal of writs of examination, vol. iii. 740, s. 124.
in proceedings in error, vol. iii. 745, s. 152; 746, s. 159; 747, ss. 160, 166.
in ejectment
of limited defence for part only, vol. iii. 748, s. 174.
of defence as joint tenant, coparcener, &c. vol. iii. 749, s. 188.
of discontinuance, vol. iii. 751, s. 200.
of confessions by sole, or one of several defendants, vol. iii. 751, ss. 203, 204.
to proceed to trial, when given by defendant, vol. iii. 751, s. 202.
of writ, to be given by tenant to landlord, vol. iii. 752, s. 209.
to quit, when to be given to tenant, vol. iii. 753, s. 213.
to find bail, when inserted in writ, *ib.*
Oath.
affirmation instead of, vol. iii. 774, s. 20.
Orders, vol. iii. 795.
power to judges to make general orders, vol. iii. 757, s. 223; 789, s. 97; 794, s. 37.
may be made by judges of superior courts of counties palatine, vol. iii. 758, s. 230; 789, s. 100; 795, s. 50.
Outlawry,
distringas to proceed to, abolished, vol. iii. 725, s. 24.
proceedings in lieu of, vol. iii. 723, s. 18.
Oyer,
abolished, vol. iii. 731, s. 55.
Particulars
in actions on contract,
of plaintiff's demand,
when to be specially indorsed, vol. iii. 725, s. 25.
in actions of ejectment,
may be ordered, vol. iii. 748, s. 175.
copy of, to be annexed to record, vol. iii. 749, s. 180.
Parties. See *Death, Misjoinder, Nonjoinder.*
may be required to make discovery as to documents in their possession or control, vol. iii. 778, s. 50.
inspection by, vol. iii. 780, s. 53.
Payment into Court. See *Pleadings.*
Pleadings
in general.
petitions and needless averments need not be made, vol. iii. 730, s. 49.
judgment on, not to be arrested, &c. for formal defects, vol. iii. 730, s. 50.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
objections to, by special demurrer, taken away, vol. iii. 730, s. 50.
amendment of, vol. iii. 731, s. 52; 736, s. 90. See *Misjoinder, Nonjoinder.*
demurrer to
may be allowed with plea to same pleading, vol. iii. 735, s. 80.
form of and joinder in, vol. iii. 736, s. 89.
special demurrers abolished, vol. iii. 731, s. 51.
rules to declare, reply, &c. abolished; four days' notice; vol. iii. 731, s. 53.
rules to plead abolished; eight days' notice; vol. iii. 732, ss. 62, 63.
time for pleading after amendment, vol. iii. 736, s. 90.
to suggestion of omitted facts, vol. iii. 744, s. 143.
how to be entitled and dated, vol. iii. 731, s. 54.
entry of, on record and judgment roll, date of, *ib.*
profert and oyer abolished, vol. iii. 731, s. 55.
in ejectment. See *Ejectment.*
in particular
declarations,
when they may be filed, vol. iii. 727, s. 28.
time for declaring, vol. iii. 731, s. 58.
forms of commencement and conclusion, vol. iii. 732, ss. 59, 60.
form of declaration for libel and slander, vol. iii. 732, s. 61.
pleas and subsequent pleadings,
rules to plead and demand of plea abolished, vol. iii. 732, s. 62.
time for pleading where defendant is within jurisdiction, vol. iii. 732, s. 63.
express colour abolished, vol. iii. 732, s. 64.
special traverses abolished, vol. iii. 732, s. 65.
formal commencement and prayer of judgment unnecessary, vol. iii. 732, s. 66.
form of commencement of plea, vol. iii. 732, s. 67.
plea of matter subsequent to action, vol. iii. 733, s. 68.
plea *puis darrein continuance,* when and how to be pleaded, vol. iii. 733, s. 69.
payment into court in certain actions, vol. iii. 733, s. 70; 793, ss. 23, 24, 25.
payment into court, how pleaded, vol. iii. 733, s. 71.
no order to pay money into court, vol. iii. 733, s. 72.
proceeding by plaintiff after payment into court, vol. iii. 734, s. 73.
pleas to actions partaking both of breach of contract and wrong, vol. iii. 734, s. 74.
pleadings which can be construed distributively shall be so construed, vol. iii. 734, s. 75.
traverse of the declaration, vol. iii. 734, s. 76.
traverse of plea or subsequent pleading of defendant, vol. iii. 734, s. 77.
traverse of replication or subsequent pleading of plaintiff, vol. iii. 734, s. 78.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
joinder of issue, vol. iii. 735, s. 79.
pleading and demurring together, vol. iii. 735, s. 80.
several matters may be pleaded at any stage of the pleadings, vol. iii. 735, s. 81.
judge's order to plead several matters sufficient, vol. iii. 736, s. 82.
objections to be heard on summons to plead several matters, vol. iii. 736, s. 83.
certain pleas may be pleaded together without leave, vol. iii. 736, s. 84.
signature of counsel not required to pleadings, vol. iii. 736, s. 85.
pleading several matters without leave, judgment may be signed, vol. iii. 736, s. 86.
one new assignment only allowed in respect of same cause of action, vol. iii. 736, s. 87.
pleas not to be repeated to new assignment, vol. iii. 736, s. 88.
form of demurrer and joinder in demurrer, vol. iii. 736, s. 89.
time for pleading after amendment, vol. iii. 736, s. 90.
equitable pleas and replications, vol. iii. 784, s. 83, *et seq.*
forms of pleadings, vol. iii. 736, s. 91; 765, *et seq.*

Pluries,
writs of summons abolished, vol. iii. 722, s. 10.

Poundage fees,
may be levied by party entitled to execution, vol. iii. 740, s. 123.

Præcipe,
to be delivered on renewal of writs, vol. iii. 722, s. 11.

Profert,
not necessary, vol. iii. 731, s. 55.

Proviso,
trial by, not affected by C. L. P. A., 1852, vol. iii. 740, s. 116.

Puis darrein continuance, vol. iii. 733, s. 69.

Quare impedit,
writ of, abolished, vol. iii. 793, s. 26.

Questions by consent without pleadings,
when and how they may be stated, and practice as to, vol. iii. 729, s. 42, *et seq.*

Real actions,
abolished, vol. iii. 793, s. 26.

Record,
when separate records may be ordered, vol. iii. 729, s. 41.
pleadings to be entered upon, date of entry, vol. iii. 731, s. 54.
particulars in ejectment to be annexed, vol. iii. 749, s. 180.
suggestions to be entered upon. See *Suggestions.*
of defendant to stand after plaintiff's, when both entered, vol. iii. 740, s. 116.
of *nisi prius,* vol. iii. 738, ss. 102, 103.

Rejoinder. See *Pleadings.*

Release,
of errors, may be assigned specially, vol. iii. 745, s. 152.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*

Renewal,
of writs of summons, vol. iii. 722, ss. 11, 12, 13.
of writs of execution, vol. iii. 740, ss. 124, 125.

Rent,
relief against forfeiture for non-payment of, vol. iii. 791, s. 1.

Replevin,
may not be joined with other actions, vol. iii. 729, s. 41.
provisions of 19 & 20 Vict. c. 108, extended to all cases of, vol. iii. 793, s. 22.
plaintiff may pay money into court in, vol. iii. 793, s. 23.
effect of such payment, vol. iii. 793, s. 24.

Replication. See *Pleadings.*

Reversal of Judgment,
not to be allowed for lack of form, vol. iii. 730, s. 50.
error must be brought within six years, vol. iii. 744, s. 146.
consent to reversal by defendant in error, vol. iii. 747, s. 160.

Revivor, Writ of,
in general, vol. iii. 741, ss. 129—134.
after death between interlocutory and final judgment, vol. iii. 743, s. 140.
after marriage of female plaintiff or defendant, vol. iii. 743, s. 141.
not necessary, if defendant in ejectment dies after verdict, vol. iii. 751, s. 197.

Rules,
to declare, reply, &c. abolished, vol. iii. 731, s. 53.
to plead, abolished, vol. iii. 732, s. 62.
to plead several matters, when unnecessary, vol. iii. 736, s. 82.
to pay money into court, when necessary, vol. iii. 733, s. 72.
to compute, abolished, vol. iii. 737, s. 92.
for costs of the day, vol. iii. 737, s. 99.
for a view, vol. iii. 739, s. 114.
to enter suggestion to revive judgment, vol. iii. 741, s. 129.
for writ of revivor, vol. iii. 742, s. 134.
proceedings commenced in disobedience of, vol. iii. 757, s. 226.
general powers given to judges to make. See *Orders.*
to deliver possession pursuant to award, vol. iii. 773, s. 16.
agreement or submission to arbitration may be made rule of court, vol. iii. 773, s. 17.
rule nisi granted on appeal, how disposed of, vol. iii. 777, s. 40.

Scire facias,
on judgment of assets *in futuro*, vol. iii. 788, s. 91.

Service,
of writs of summons,
may be in any county, vol. iii. 723, s. 14.
indorsement of, on writ, vol. iii. 723, s. 15.
upon corporations, hundredors, &c. vol. iii. 723, s. 16.
to be personal, vol. iii. 723, s. 17.
proceedings if personal service not effected, vol. iii. 723, ss. 17, 18.
of writ amended for nonjoinder of defendants, vol. iii. 727, s. 28.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
of notice of writ of summons, vol. iii. 724, s. 19.
of proceedings at address of defendant, vol. iii. 727, s. 30.
affidavit of, before judgment for non-appearance, vol. iii. 726, ss. 27, 28.
of judge's order to proceed, *ib.*
of notice to produce, vol. iii. 740, s. 119.
of judge's order to charge in execution, vol. iii. 741, s. 127.
of rule to enter suggestion to revive judgment, vol. iii. 741, s. 129.
of writ of revivor may be in any county, vol. iii. 741, s. 131.
of suggestion of death of defendant, vol. iii. 742, s. 138.
of copy receipt of memorandum of error, vol. iii. 745, s. 149.
of grounds of error in law, *ib.*
of affidavit of error in fact, vol. iii. 746, s. 158.
of writ of ejectment, vol. iii. 748, s. 170.
of notice to defend for part, vol. iii. 748, s. 174.
of demand of possession upon tenant, vol. iii. 753, s. 213.

Set off,
plea of, to be taken distributively, vol. iii. 734, s. 75.
defendant to have benefit of, although some plaintiffs improperly joined, vol. iii. 793, s. 20.

Sheriff's,
how to summon jurors. See *Jury.*
proceedings before, on rule for a view, vol. iii. 739, s. 114.
of counties palatine, how to execute writs, vol. iii. 740, s. 122.
when he may discharge prisoner by order of plaintiff's attorney, vol. iii. 741, s. 126.
trial of actions before, in what cases, vol. iii. 697, 698.

Signature,
of counsel to pleadings, unnecessary, vol. iii. 736, s. 85.

Special Case,
when stated without pleadings, vol. iii. 729, s. 42, *et seq.*
may be stated in ejectment, vol. iii. 749, s. 179.
stated by judge, vol. iii. 770, s. 4.
by arbitrator, vol. iii. 770, s. 5.
error upon, vol. iii. 775, s. 32.

Special demurrers,
abolished, vol. iii. 731, s. 51.

Special Jury. See *Jury.*

Special traverses,
abolished, vol. iii. 732, s. 65.

Specific
performance of duty. See *Mandamus.*
delivery of chattel, vol. iii. 784, s. 78.

Speeches,
to jury, vol. iii. 773, s. 18.

Stamp,
not necessary for agreements to try questions by consent, vol. iii. 730, ss. 48, 47.
provisions for stamping documents at trial, vol. iii. 775, s. 28.
officer of court to receive duty and penalty, vol. iii. 775, s. 29.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
no document under Common Law Procedure Act, 1854, to require a stamp, vol. iii. 775, s. 30.
no new trial for ruling as to, vol. iii. 775, s. 31.
Stay of Proceedings,
if writ issued without attorney's authority, vol. iii. 720, s. 7.
on payment of debt, &c. mentioned on writ, vol. iii. 721, s. 8.
application for by tenant in ejectment, vol. iii. 754, s. 217.
commenced in disobedience to injunction or order, vol. iii. 757, s. 226.
Suggestions,
on non-appearance to writ specially indorsed, vol. iii. 727, s. 33.
before judgment for not proceeding to trial, vol. iii. 757, s. 101.
to revive judgment, vol. iii. 741, ss. 129, 130.
in case of death. See *Death.*
in case of marriage, vol. iii. 743, s. 141.
on motion in arrest of judgment, &c. vol. iii. 744, ss. 143, 144.
in proceedings in error, vol. iii. 745, s. 153.
in case of death of parties. See *Death.*
in case of marriage, vol. iii. 747, s. 167.
in ejectment.
of order for change of place of trial, vol. iii. 749, s. 182.
in case of death of parties. See *Death.*
Summons and Severance,
proceedings by suggestion in lieu of, vol. iii. 746, s. 154.
Summons, Writ of,
all personal actions to be commenced by, vol. iii. 719, s. 2.
form of, vol. iii. 719, s. 2; 723, s. 18; 724, s. 19.
contents of, vol. iii. 719, ss. 2, 3, 4.
date and teste of, vol. iii. 720, s. 5.
indorsements on, vol. iii. 720, s. 6; 721, s. 8; 723, s. 18; 723, s. 15; 725, s. 25.
issuing of, vol. iii. 719, s. 2; 720, s. 7.
copy of, vol. iii. 719, s. 2; 721, s. 8; 725, s. 25; 726, s. 27; 727, s. 28.
notice of, vol. iii. 724, s. 19.
service of, vol. iii. 723, s. 14—19; 729, s. 38.
duration of, vol. iii. 722, s. 11.
alias and pluries writs, vol. iii. 722, s. 10.
renewal of, vol. iii. 722, ss. 11, 12, 13.
concurrent writs, vol. iii. 722, ss. 9, 11: 725, s. 22.
appearance to. See *Appearance.*
amendment of, vol. iii. 725, ss. 20, 21; 727, s. 34; 728, ss. 36—38.
proceedings on, when defendant, British subject, is out of jurisdiction, vol. iii. 723, s. 18.
proceedings on, when defendant, foreigner, is out of jurisdiction, vol. iii. 723, s. 19.
actions formerly classed as real actions to be commenced by writ of summons, vol. iii. 793, s. 26.
Supersedeas,
of execution by proceedings in error, vol. iii. 745, ss. 150, 151; 752, s. 208.
Teste,
of writ of summons, vol. iii. 720, s. 5.
of concurrent writs of summons, vol. iii. 722, s. 9.

PLEADING, PRACTICE, &c. (AT LAW)—*continued.*
of writ of revivor, vol. iii. 741, s. 131.
of writ of ejectment, vol. iii. 747, s. 169.
Title,
of pleadings, vol. iii. 731, s. 54.
Traverses, vol. iii. 732, s. 65; 734, ss. 76, 77.
Trial,
of two causes at same time in same court, vol. iii. 769, s. 2.
may be adjourned, vol. iii. 773, s. 19.
postponement of, after misjoinder or non-joinder, vol. iii. 727, s. 34.
may be separate, when causes of action joined, vol. iii. 729, s. 41.
of questions without pleadings, vol. iii. 729, s. 42, *et seq.*
pleadings framed to delay, vol. iii. 731, s. 52.
by proviso, vol. iii. 740, s. 116.
notice of, vol. iii. 737, s. 97.
costs of the day for not proceeding to, vol. iii. 737, s. 99.
judgment for not proceeding to, vol. iii. 737, s. 101.
of actions before the sheriff, in what cases, vol. iii. 697, 698.
Umpire,
appointed by judge, vol. iii. 772, s. 12.
by arbitrators, vol. iii. 772, s. 14.
Venire facias juratores.
writ of, abolished, vol. iii. 738, s. 104.
Venue,
where different causes of action joined are local, vol. iii. 729, s. 41.
in writs of revivor, vol. iii. 741, s. 131.
in ejectment, vol. iii. 749, s. 182.
Verdict,
of judge, vol. iii. 768, s. 1.
grounds to be stated in rule *nisi* to enter, vol. iii. 776, s. 33.
appeal in case of rule to enter, vol. iii. 776, s. 34.
on trial of questions without pleadings, vol. iii. 730, s. 43.
View. See *Inspection.*
writ of, abolished, and other proceedings substituted, vol. iii. 739, s. 114.
Warrant of Attorney,
how to be executed and attested, vol. iii. 709.

PLEADING, PRACTICE, &c. (IN EQUITY).
Abatement. See *Revivor.*
Account.
court may give special directions as to taking, vol. iii. 897.
ordinary administration accounts,
may be directed by order of course, upon application of representatives of testator or intestate, vol. iii. 869.
order for, how proceeded under, *ib.*
Administration,
of deceased person's personal estate on application of personal representatives, *ib.*
of testator's or intestate's personal estate, order for may be obtained on summons by creditor against personal representative, vol. iii. 893.
so of testator's real estate, on summons against trustee empowered to sell and give discharges, vol. iii. 894.
summons, how to be filed, and copy of, how to be served, vol. iii. 894.

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*

Affidavits,
how to be taken out of jurisdiction, vol. iii. 888.
proof by, may be received at hearing, vol. iii. 890.
to be used on common law side of Court of Chancery, by whom to be administered, vol. iii. 865. See also *Evidence; Witnesses.*

Affirmations,
how to be taken, out of jurisdiction, vol. iii. 888.

Annual Income
of property in suit, court may allow whole or part of, to parties interested, vol. iii. 897.

Answer,
within what time to be filed, vol. iii. 885.
form of, *ib.*
how to be taken out of the limits of the jurisdiction, vol. iii. 888.
may be filed without oath of messenger, *ib.*
alterations in, how authenticated, *ib.*
to be regarded as affidavit on motion or petition for injunction, receiver, &c. vol. iii. 897.
commissions to take within the jurisdiction abolished, vol. iii. 887.

Attestations of Honour,
how to be taken out of jurisdiction, vol. iii. 888.

Bills,
to be printed, vol. iii. 883.
how, *ib.*
printed copy of, to be stamped, indorsed, and served, *ib.*
form of indorsement, vol. iii. 898.
service of copy, how to be effected, vol. iii. 883.
appearance to, penalties for default, *ib.*
written copy of bill to be filed and served in certain cases, and as to costs thereof, *ib.*
written copy when to be taken off the file, and with what costs, *ib.*
printed copies for defendants' use, how many, and by whom, and at what rate to be delivered, vol. iii. 884.
form of bill, is not to contain interrogatories, *ib.*
amended practice as to serving, filing, and delivering printed copies of, *ib.*
cross bill may be filed by defendant instead of interrogatories, vol. iii. 887.
on dismissal of, by plaintiff or for want of prosecution, plaintiff to pay full costs, vol. iii. 828.

Court of Chancery,
proceedings on common law side of, to be taken, filed, &c. either in term time or vacation, vol. iii. 862.
action or suit on common law side of, proceedings in how to be conducted, vol. iii. 863.

Damages
to be awarded on untrue suggestions, vol. iii. 828.
court of chancery may award, where it can entertain applications for injunction or specific performance, vol. iii. 916.
damages may be assessed, or questions of fact arising in any suit may be tried by a jury before the court itself, *ib.*

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*

the court may make rules and orders upon sheriff, &c. for procuring juries, vol. iii. 916.
jurors to be summoned, &c. and called as in trials in superior courts of common law, *ib.*
challenge of jurors, *ib.*
court to have same powers as a superior court or judge, *ib.*
application for new trial, *ib.*
appeal from order on such application, *ib.*
question tried to be reduced into writing, *ib.*
jury to be sworn to try such question, *ib.*
court at trial to have all the powers, &c. of judge at nisi prius, *ib.*
damages may be assessed, or questions of fact arising in any suit may be tried, before the court itself, without a jury, vol. iii. 917.
evidence to be given in open court, *ib.*
witnesses to be examined orally, *ib.*
question tried to be reduced into writing, *ib.*
verdict of judge to have same effect as verdict of jury, *ib.*
proceedings and powers of the court to be the same as in trials by jury before the court, *ib.*
but applications for new trial may be made to the court of appeal in the first instance, *ib.*
damages may be assessed by a jury before judge of a superior court at nisi prius, &c. *ib.*
or before sheriff of any county or city, *ib.*
court of chancery may issue precept to sheriff to return jury, *ib.*
verdict or inquisition may be set aside by court, *ib.*
and new inquiry directed, *ib.*

Declarations,
how to be taken out of jurisdiction, vol. iii. 888.

Decrees and Orders,
declaratory only may be sought, vol. iii. 895.
office copy of, part only may be taken, vol. iii. 849.
recitals not to be introduced into, *ib.*
as to appeals from, when made under 13 & 14 Vict. c. 35, vol. iii. 872.

Disclaimers,
commissions to take within the jurisdiction, abolished, vol. iii. 887.
how to be taken out of jurisdiction, vol. iii. 888.
may be filed without oath of messenger, *ib.*

Documents,
production of, by defendant, vol. iii. 886.
by plaintiff, vol. iii. 887.
enrolled in petty bag office, evidence of, vol. iii. 860.
enrolled in enrolment office, evidence of, vol. iii. 861.
how to be identified on proceeding by special case, vol. iii. 869.
production of, may be ordered on proceeding by special case, *ib.*

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*

Evidence
may be taken orally at instance of any party, when and how, vol. iii. 889.
if to be taken orally, when suit at issue, plaintiff must give notice, *ib.*
otherwise must be by affidavit, *ib.*
depositions taken orally, how and by whom taken down, vol. iii. 889, 890.
how to be authenticated, and where to be filed, vol. iii. 890.
practice where witness refuses to answer or be sworn, or demurs, *ib.*
commission to examine witnesses, not necessary within the jurisdiction, *ib.*
by affidavit, admitted notwithstanding election to take orally, when, *ib.*
form of affidavit, *ib.*
when to be closed, *ib.*
witness, when to be examined or cross-examined after time to close evidence has expired, *ib.*
witness may be produced and orally examined at the hearing, vol. iii. 891.
to be used on interlocutory applications, how obtained, *ib.*
required subsequently to the hearing, how to be taken, *ib.*

Examinations,
commissions to take within the jurisdiction, abolished, vol. iii. 887.
how to be taken out of jurisdiction, vol. iii. 888.
may be filed without oath of messenger, *ib.*
See *Evidence; Witnesses.*

Fact,
questions of. See *Damages; Question of Fact.*

Foreclosure.
in suit for, court may direct sale instead of foreclosure, when, vol. iii. 894.

Impertinence,
excepting for, practice of, abolished, vol. iii. 886.

Injunctions,
in cases of, written copy of bill may be filed, vol. iii. 883.
to stay proceedings at law, how to be obtained, vol. iii. 897.
how answer to be regarded on motion for, *ib.*

Interrogatories
not to be inserted in bill, vol. iii. 884.
must be filed separately, *ib.*
within what time to be filed, *ib.* n. (*d*).
copy of, how, when, where, and to whom to be delivered, *ib.*
form of, *ib.*
for examination of plaintiff, may be filed by defendant in lieu of cross bill, vol. iii. 887.

Lancaster.
Court of Chancery of Lancaster Act, 1850, vol. i. 1133.
Court of Chancery of Lancaster Act, 1854, vol. iii. 908.

Legal Personal Representative.
court may proceed in absence of representatives of parties interested, vol. iii. 892, 893.
protection to be afforded to, under order for administration accounts made on their own application, vol. iii. 869.

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*

Legal Title
may be determined by court itself, vol. iii. 898.

Motions
arising in court of chancery may be determined by master of rolls, vol. iii. 849.

Motion for Decree,
within what time to be made, vol. iii. 885.
affidavits in support of, when to be filed, vol. iii. 886, n. (*a*).
affidavits in answer, when to be filed, *ib.*
affidavits in reply, when to be filed, *ib.*
evidence upon, when to be closed, *ib.*
notice of, when to be given, and how to be entered, *ib.*
in what order to be heard, *ib.*
hearing of, course open to court on, *ib.*

Motion to dismiss Bill for want of Prosecution,
when to be made, vol. iii. 889.

Next Friend,
authority of, to use his name in a suit, must be in writing, vol. iii. 884.

Oaths,
officers empowered to administer, vol. iii. 849, 857.

Orders and Decrees,
made by master of the rolls to be valid orders and decrees of the court of chancery, vol. iii. 880.
See *Decrees and Orders.*

Parties,
objections for want of, in what cases not to be taken, vol. iii. 891.
permissively excluded, to be served with notice of decree, vol. iii. 892, rule 8.
may apply to add to decree, when, *ib.* and n. (*a*).
memorandum of service of decree upon, to be entered, *ib.* n. (*a*).
cause not to be set down merely on objection for want of, vol. iii. 892.
interested in suit, court may adjudicate between some only, vol. iii. 895.
misjoinder of, not a ground for dismissal of suit, vol. iii. 894.
deceased, court may proceed without personal representative of, vol. iii. 892, 893.

Penalty,
for falsely swearing, vol. iii. 888.
for forging signature or seal of judge, *ib.*

Pleas,
commissions to take within the jurisdiction abolished, vol. iii. 887.
how to be taken and sworn out of jurisdiction, vol. iii. 888.
may be filed without oath of messenger, *ib.*

Practice.
new practice,
as to printing, &c. may be discontinued, vol. iii. 884.
or suspended by order of lord chancellor, *ib.*
remedy, where, has not been followed, vol. iii. 897.
old practice,
as to filing bills, and serving subpœnas and writs of summons may be revived by order of lord chancellor, vol. iii. 884.

Proceedings
of the court of chancery may be taken, filed, &c. either in term time or vacation, vol. iii. 862, 863.

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*

Process
of contempt,
rules for remedying the practice of courts of equity with regard to, vol. iii. 841.
for non-payment of sum of money and costs of creditor, discharge of prisoner by insolvent debtors' court to extend to, vol. iii. 846.
for non-performance of an act, and bill taken *pro confesso*, court may discharge prisoner under, vol. iii. 847.
prisoner committed under, may be discharged by court, except as to costs, vol. iii. 847, 849.
service of, out of jurisdiction,
may be directed in suits concerning land, vol. iii. 847.
so in suits concerning incumbrances on land, or money in public funds, or public shares, vol. iii. 851.

Pro confesso.
practice as to taking bill *pro confesso* under 11 G. 4 & 1 W. 4, c. 36, where defendant avoids or refuses to appear, vol. iii. 838.
rules for remedying the practice of courts of equity with regard to taking bills *pro confesso*, vol. iii. 841.

Questions of Fact. See *Damages.*
court shall determine every question of fact incident to the relief sought, vol. iii. 921.
trial of. See *Damages.*
where question of fact may be more conveniently tried at assizes, issues may be directed, vol. iii. 932.
where object of suit is to recover or defend possession of land under a legal title, *ib.*

Questions of Law,
to be determined by court itself, vol. iii. 897.
cases for opinion of court of law not to be directed, *ib.*
court shall determine every question of law incident to the relief sought, vol. iii. 921.
where object of suit is to recover or defend possession of land under a legal title, vol. iii. 922.

Receiver,
on motion or petition for, how answer to be regarded, vol. iii. 897.

Relator,
authority to use name as, must be in writing, vol. iii. 884.

Replication,
issue joined by filing, when and in what cases, vol. iii. 888.
form of, *ib.*
notice of, how to be given where appearance has been entered for absconding defendant, *ib.* n. (*b*).

Representative,
personal, of deceased party, court may proceed without, vol. iii. 892, 893.

Revivor,
bill of, unnecessary where suit abated, vol. iii. 895.
order to revive,
how to be obtained, *ib.*

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*
course of proceeding as to appearance to, vol. iii. 895.
application to discharge, how to be made and within what time, *ib.*

Sale
of real estate may be directed at any stage of suit, vol. iii. 897.
mode of proceeding under decree or order for, *ib.*
court may direct, instead of foreclosure, vol. iii. 894.

Special case,
for opinion of court of chancery, may be stated by persons interested, vol. iii. 866.
persons interested, not *sui juris*, as to concurrence of in special case, *ib.*
form and filing of, and of entering appearance thereto, vol. iii. 867.
statements of, when binding on parties to, *ib.*
as to setting down and hearing of, vol. iii. 867, 868.
declaration to be made thereon, vol. iii. 868.
to be a *lis pendens*, vol. iii. 869.

Stock,
transfer of, compellable in suits, without making Bank of England, &c. party (39 & 40 G. 3, c. 36), vol. iii. 820.
unclaimed dividends upon,
to be transferred to commissioners of national debt, vol. iii. 835.
how to be reclaimed after transfer, vol. iii. 836.

Subpœna,
to appear and answer abolished, vol. iii. 883.
practice of issuing may be revived by lord chancellor, vol. iii. 884.
ad testificandum or *duces tecum*, in what cases to be procured, vol. iii. 891.

Supplement.
supplemental bill,
not now necessary, vol. iii. 896.
supplemental decree,
how to be obtained, *ib.* and n. (*a*).
supplemental matter,
statements of, under what circumstances, and how and when to be filed, *ib.*

Tenant for life,
being a minor, &c., remainderman may move lord chancellor for production of, and proceedings thereupon, vol. iii. 828 *et seq.*

Testimony,
bills to perpetuate, may be filed in chancery by persons claiming honours, &c. contingent on future events, vol. iii. 856.
where queen may be interested, attorney-general to be named a defendant, *ib.*

Trusts created for charitable purposes,
summary remedy in cases of abuses of, vol. iii. 831.
practice under Sir Samuel Romilly's Act, *ib.* n. (*b*).

Trustees,
having authority to lend trust fund on security of real estates in England, may lend on real estates in Ireland, vol. iii. 850.
loans by, on securities in Ireland, must be made by direction of court, where minors are interested, *ib.*
repayment to, of such loans may be enforced by courts of equity in England, *ib.*

PLEADING, PRACTICE, &c. (IN EQUITY) —*continued.*
consent of *cestuis que trust* to such loans, where necessary, vol. iii. 851.
not to make such loans, where forbidden by trust, *ib.*
to be responsible as to title of security on which such loans made, *ib.*
Witnesses,
commissions to examine (within the jurisdiction) abolished, vol. iii. 890.
oaths administered to, by examiners, vol. iii. 889.
old mode of examining abolished, *ib.*
except where specially directed by court, *ib.*
how to be examined under new practice, *ib.*
demurrer or objection by, to questions put, practice in reference to, vol. iii. 890.
refusing to be sworn, practice in reference to, *ib.*
conclusion of examination of, *ib.*
original depositions of, how and where to be filed, *ib.*
Writs. See *Subpœna.*
issued out of petty bag office to be tested or made returnable in term time or in vacation, vol. iii. 862.
of *scire facias* deliverable to sheriff of any county, vol. iii. 863.

POISON. See *Criminal Law.*
Sale of.
on sale of arsenic, particulars of sale to be entered in a book by the seller, vol. iii. 922.
restrictions as to sale of, *ib.*
must be coloured, *ib.*
unless sold in quantity of not less than 10lb. *ib.*
penalties, *ib.*
not to apply to sale of arsenic as medicine prescribed by qualified persons, vol. iii. 923.
arsenic to include arsenious compounds, *ib.*
The Poisoned Flesh Prohibition Act, 1864, vol. iv. 996.
penalty for placing poisoned flesh in fields, &c., *ib.*
proviso as to land in Ireland, 49.
after notice, *ib.*
not to apply to occupier placing poisoned preparations for destruction of vermin in any such dwelling-house or other building, *ib.*
or in enclosed garden, *ib.*
if protected, *ib.*
as to application of act, *ib.*
The Poisoned Grain Prohibition Act, 1863, vol. iv. 995.
penalty for selling poisoned grain, seed, or meal, *ib.*
penalty for sowing, &c. poisoned grain, seed, or meal, *ib.*
solutions or infusions, &c. allowed for use in agriculture, *ib.*
recovery of penalties, *ib.*
application of 11 & 12 Vict. c. 43, and 14 & 15 Vict. c. 93, to this act, *ib.*
informer (not a constable) entitled to moiety of penalty, *ib.*
indemnity to witnesses, &c., *ib.*

POLICE (METROPOLITAN),
Establishment of.
establishment of new police office in the city of Westminster, vol. iii. 923.
appointment of justices, *ib.*
continuance of police courts and magistrates (2 & 3 Vict. c. 71), vol. iii. 946.
number of magistrates limited to twenty-seven, vol. iii. 947.
vacancies, how supplied, *ib.*
constitution of police court divisions, vol. iii. 957.
qualification by estate not necessary, vol. iii. 923, 924.
proviso as to authority of justices, vol. iii. 924.
oath to be taken by justices, *ib.*
salary of justices, vol. iii. 948.
magistrates exempt from serving on juries, vol. iii. 947.
not to sit in parliament or vote at certain elections, vol. iii. 927, 947.
formation of "metropolitan police district," vol. iii. 924.
police force for whole district to be appointed, *ib.*
power of justices to make regulations concerning, *ib.*
policemen may be suspended or dismissed by justices, *ib.*
time of attendance of magistrates, vol. iii. 948, 958.
may be ordered to attend at other courts, vol. iii. 958.
appointment of clerks, ushers, door-keepers, and messengers, vol. iii. 947.
their salaries, vol. iii. 948.
appointment of receiver of moneys applicable to act, vol. iii. 925.
to be receiver under 2 & 3 Vict. c. 71, vol. iii. 947.
receiver to give security, vol. iii. 925.
moneys received to be placed in bank, &c. *ib.*
receiver's accounts to be audited, *ib.*
salary of receiver, vol. iii. 925, 948.
receiver constituted a corporation sole, vol. iii. 963.
transfer of property vested in previous receivers, *ib.*
exoneration of receiver, *ib.*
power of receiver to purchase, &c. *ib.*
salaries and wages of policemen to be regulated by secretary of state, vol. iii. 925, 926.
rewards for activity, &c. and superannuation allowances, vol. iii. 926.
transfer of cash balance at bank on death, &c. of receiver, *ib.*
on removal of receiver, successor may sue for balance in hand, *ib.*
mode of proceeding, *ib.*
mode of proceeding against representatives of deceased receiver, *ib.*
proof of receiver's official character, *ib.*
power to receiver to contract for lands, &c. for purposes of act, *ib.*
property purchased vested in receiver, *ib.*
corporations, &c. empowered to sell lands, &c. to receiver, vol. iii. 927.
value to be assessed by jury in case of disagreement, &c. *ib.*
discontinuance of present watch, &c. on appointment of new police, vol. iii. 927.

POLICE (METROPOLITAN)—*continued.*
penalty for not delivering up watch-boxes, &c. vol. iii. 928.
additional constables may be appointed at the cost of individuals, vol. iii. 935.
acts directed to be done by one justice may be done by another, vol. iii. 948, 949.
table of fees to be hung up, vol. iii. 953.
accounts of fees and forfeitures to be kept, vol. iii. 954.
any two justices may act with the authority of a police magistrate, vol. iii. 958.
two London justices to have same power as two metropolitan justices, vol. iii. 960.
one magistrate may do any act directed to be done by more than one justice, vol. iii. 949.
magistrates to meet quarterly for reporting to the secretary of state, *ib.*
secretary of state may make rules for conducting the business of the courts, *ib.*
no other justice than police magistrates shall take fees within the police district, vol. iii. 953.
Extent of Jurisdiction,
parishes, townships, precincts, and places constituting police district, under 10 G. 4, c. 44, vol. iii. 924, 933.
power to king in council to add parishes within a certain distance, vol. iii. 931.
parts of parishes not more than fifteen miles from Charing-cross may be added, 2 & 3 Vict. c. 47, vol. iii. 934.
constables to act on the Thames, &c. vol. iii. 935.
constables may be sworn to act for the royal palaces, *ib.*
queen in council may constitute police court divisions, and define and alter their extent and number, vol. iii. 957, 958.
Powers of Police Officers and Constables
to apprehend disorderly and suspected persons without warrant, vol. iii. 924, 944.
to take bail in petty misdemeanours, vol. iii. 925, 945.
condition of recognizance, *ib.*
to bind over prosecutors, vol. iii. 945.
condition of recognizance, *ib.*
to take into custody persons throwing cargo of vessels overboard to prevent its seizure or discovery, vol. iii. 937.
to board vessels, vol. iii. 938.
and apprehend persons suspected of felony, *ib.*
to enter, search for, and detain gunpowder, *ib.*
to take into custody owners of booths at fairs and persons therein, vol. iii. 939.
to inquire into fairs, &c. *ib.*
and remove booths on order of commissioners, *ib.*
to enter unlicensed theatres, vol. iii. 940.
and places used for unlawful purposes, *ib.*
gaming-houses, *ib.*
commissioners may regulate route of carriages, cattle, &c. vol. iii. 941.
and make regulations for preventing obstructions in the streets, *ib.*
offences for which constables may apprehend without warrant, vol. iii. 941, 942.
and for all offences committed within view, where name and residence unknown and cannot be ascertained, vol. iii. 944.

POLICE (METROPOLITAN)—*continued.*
for recent assaults, although not committed within view, vol. iii. 944.
to destroy dogs mad, or reasonably suspected to be in a rabid state, *ib.*
to apprehend persons found committing offences punishable by indictment, or as a misdemeanour upon summary conviction, vol. iii. 945.
to take charge of horses, carriages, &c. of offenders, *ib.*
of magistrates,
summarily to convict, vol. iii. 946, 958.
to grant search warrants, vol. iii. 950.
to order delivery of goods stolen, &c. in hands of brokers and dealers, vol. iii. 950, 951.
removing doubts as to ordering the restoration of property unlawfully pawned, vol. iii. 951.
to order delivery of possession of goods charged to have been stolen or fraudulently obtained and in possession of police, *ib.*
unclaimed stolen goods delivered to the receiver may be sold after twelve months, *ib.*
delivery of goods unlawfully detained, to the owner, vol. iii. 953.
to award costs on hearing of charges, vol. iii. 951.
to award amends for frivolous informations, *ib.*
to lessen the share of informers, *ib.*
to mitigate penalties, vol. iii. 952.
but penalties under excise or custom laws not to be reduced below a certain amount, *ib.*
to remand or enlarge prisoners on recognizances, *ib.*
to order houses to be cleansed, vol. iii. 953.
Duty of Police Constables.
to attend on magistrates, vol. iii. 936.
to execute summonses and warrants in criminal proceedings, *ib.*
to deliver warrants to superintendent, *ib.*
penalty for neglect of duty, *ib.*
not to resign without leave or notice, *ib.*
when dismissed to deliver up accoutrements, *ib.*
to make out militia balloting lists, vol. iii. 959.
to take offenders to station house, vol. iii. 945.
Process, Service, and Procedure.
warrants need not be indorsed, vol. iii. 949.
summonses and warrants for persons residing within police district to appear at place without limits void, *ib.*
magistrates may proceed by summons, and if party summoned does not appear may issue warrant, *ib.*
service of summons, *ib.*
warrant may be issued without summons, vol. iii. 950.
search warrants, *ib.*
summons to witnesses, *ib.*
offences to be heard and determined in a summary way, with or without information in writing, vol. iii. 954.
forms of information and conviction, vol. iii. 955, 957, 958, 960.
conviction not to be quashed for informality, &c. vol. iii. 955.

POLICE (METROPOLITAN)—*continued.*
appeal to quarter sessions, vol. iii. 955.
distress not unlawful for want of form, *ib.*
enlargement of prisoners on recognizance, vol. iii. 958.
Control and Punishment of Constables.
justices may make regulations for the management of the force, vol. iii. 924.
and may dismiss constables, *ib.*
penalty for neglect of duty, vol. iii. 936.
Offences against Police Acts.
publicans harbouring policemen while on duty, vol. iii. 924.
assaulting or resisting policemen, vol. iii. 936, 962.
fraudulently claiming exemption from toll, vol. iii. 935, 936.
unlawful possession of accoutrements, or assuming the dress of constables, vol. iii. 936.
offences on the Thames, docks, &c.
boatmen selling liquors, &c. on Thames, to be within 7 & 8 Geo. 4, c. 75, vol. iii. 937.
receiving ships' stores from seamen, *ib.*
cutting ropes, &c. *ib.*
wilfully letting fall articles into the Thames or boat, &c. with fraudulent intention, *ib.*
possessing instruments for unlawfully procuring and carrying away wine, &c. vol. iii. 938.
piercing casks, opening packages, &c. *ib.*
breaking packages, with intent to spill contents, *ib.*
superintendents and inspectors may board vessels, *ib.*
superintendent, inspector, or sergeant, having just cause to suspect felony, may enter on board vessels, and take up suspected persons, *ib.*
unlawful quantities of gunpowder may be seized, *ib.*
penalty for having on board guns loaded with ball, or discharging guns in the night, *ib.*
penalty for heating combustible matters on board of vessels, vol. iii. 939.
disputes under 5*l.* about wages for labour on river, &c. to be settled by magistrates, vol. iii. 952.
framing a false bill of parcels to escape detection, vol. iii. 938.
keeping fairs open within forbidden hours, vol. iii. 939.
fairs within police district may be inquired into, *ib.*
if declared unlawful, booths, &c. to be removed, *ib.*
on entering into recognizance, question as to right to fair may be tried in the queen's bench, *ib.*
freemen of vintners' company subject to certain provisions, *ib.*
public houses to be shut on the mornings of Sundays, &c. vol. iii. 940.
publicans prohibited from supplying liquors to persons under sixteen, *ib.*
regulations of 9 Geo. 4, c. 61, respecting public houses to extend to other houses of public resort, *ib.*
penalty on keepers of cookshops, &c. making internal communication with adjoining public house, *ib.*

POLICE (METROPOLITAN)—*continued.*
power to enter unlicensed theatres, and take away persons found therein, *ib.*
provisions to prevent bear-baiting, cock-fighting, &c. *ib.*
keeping gaming houses, vol. iii. 940, 941.
proof of gaming for money, &c. not necessary in support of informations for gaming, vol. iii. 941.
penalty on pawnbrokers receiving pledges from persons under sixteen, *ib.*
offences by drivers, &c. of stage carriages, cattle, &c. in breaking rules, *ib.*
prohibition of certain nuisances in the thoroughfares, *ib.*
cannon, &c. not to be fired near dwelling-houses, vol. iii. 942.
dog-carts prohibited, vol. iii. 943.
street musicians to depart when desired to do so, vol. iv. 996.
drunkards guilty of riotous or indecent conduct may be imprisoned, vol. iii. 943.
persons using carriages without driver's consent liable to penalty, *ib.*
prohibition of other defined offences in any street or public place, *ib.*
permitting mad dogs to be at large, vol. iii. 944.
compensation for hurt or damage caused by committing offences, *ib.*
apprehension of loose, idle, and disorderly persons, *ib.*
apprehension of persons for assaults, *ib.*
of persons found committing offences, vol. iii. 945.
removing furniture to evade rent, *ib.*
horses, carriages, &c. of offenders may be detained, *ib.*
refusal to enter into recognizances, *ib.*
condition of recognizance, *ib.*
penalty for offences not otherwise provided for, vol. iii. 946.
act not to prevent persons being indicted under other acts, *ib.*
offences how to be tried, *ib.*
if penalty not paid offender may be committed, *ib.*
possessing or conveying stolen goods, vol. iii. 950.
person from whom stolen goods are received to be examined by the magistrate, *ib.*
power to magistrates to order delivery of goods stolen or fraudulently obtained, vol. iii. 950, 951.
penalty on common informers for compounding informations, vol. iii. 951.
penalty may be withheld from informer, *ib.*
compensation for wilful damage by tenants, vol. iii. 952.
summary proceedings in cases of oppressive distress, *ib.*
when penalties and forfeitures to be paid to the receiver, vol. iii. 954, 955.
appeal from conviction to the quarter sessions, *ib.*
Recovery and Application of Penalties,
summary proceedings, how taken, vol. iii. 931.
time for such proceedings limited, *ib.*
application of penalties, *ib.*
persons paying police rate may give evidence, or act as justices, vol. iii. 932.
scale of imprisonment for non-payment of penalties, *ib.*
form of conviction, *ib.*

POLICE (METROPOLITAN)—*continued.*
proceedings not to be quashed for want of form, or removed by *certiorari*, vol. iii. 932.
as to informality in warrants, &c. *ib.*
recovery of penalties, vol. iii. 954.
account of to be kept, *ib.*
certain of them to be paid to the receiver, *ib.*
not to extend to penalties under revenue acts, vol. iii. 955.

Police Rates,
proviso for watch rates already imposed, vol. iii. 928.
act not to affect rates for paving and lighting, &c. *ib.*
provision for outstanding debts, *ib.*
power to erect watch-boxes, *ib.*
warrant to overseers to levy police rate, &c. *ib.*
amount of rate limited, *ib.*
who to be deemed overseers within act, vol. iii. 929.
police rate to be collected in same manner as poor rate, *ib.*
amount mentioned in warrant to be paid over to receiver, *ib.*
receiver's receipt to be a sufficient discharge, *ib.*
overseers, on non-payment of police rate, to be distrained upon, *ib.*
in case of insufficient distress, arrears to be relevied on parish, *ib.*
appointment of fresh overseers in case of default, &c. *ib.*
where property occupied by ambassadors, &c. landlord to pay police rate, *ib.*
right of inspecting county rates, &c. *ib.*
accounts to be laid before parliament annually, vol. iii. 929, 935.
provision for assessing and levying police rate in places having no poor rate, vol. iii. 930.
mode of making assessment, *ib.*
allowance to assessors, *ib.*
notice of assessment, and right of inspection, *ib.*
penalty for refusing inspection, *ib.*
how rate charged in such assessment to be collected, *ib.*
appeal against assessment, *ib.*
how assessment may be amended, vol. iii. 931.
providing for increased charges of parishes added to district, by making them within 3 & 4 Will. 4, c. 89, vol. iii. 931, 934.
rateable value of buildings erected since last county rate valuation to be taken into account for the purposes of the police rate, vol. iii. 961.
overseers to make returns of new buildings, *ib.*
power to receiver for metropolitan police district to inspect rates, *ib.*
penalty on overseers neglecting to make returns or refusing to produce rates, &c. *ib.*

Consolidated Fund,
payment out of the consolidated fund to defray cost of Thames police, &c. vol. iii. 935.
towards expenses of act 2 & 3 Vict. c. 71, vol. iii. 948.

Salaries, &c.
of justices, vol. iii. 948, 960, 961.
of receivers, vol. iii. 925.

POLICE (METROPOLITAN)—*continued.*
and wages of policemen to be regulated by secretary of state, vol. iii. 925, 926.
rewards for activity, vol. iii. 926.
superannuation allowances, vol. iii. 926, 937, 962.
employment in police force not to prevent the receipt of half-pay, vol. iii. 936.
increased salary to commissioners of police, *ib.*
commissioners, surgeon, receiver, and clerks to be within 4 & 5 Will. 4, c. 24, vol. iii. 937.
pensions and compassionate allowances to widows and children of constables killed in the execution of their duty, vol. iii. 963.

Miscellaneous Provisions.
venue, limitation, &c. of actions against persons acting under statutes, vol. iii. 932, 955, 956.
defendant succeeding, to have costs as between attorney and client, vol. iii. 932, 933.
judge cannot certify to deprive defendant of costs, vol. iii. 933, n. (*a*).
plaintiff not to recover after tender of amends, vol. iii. 955.
certain statutes not to be affected, vol. iii. 933, 956.
misnomers not to affect execution of act, vol. iii. 931.
repeal of so much of 29 Geo. 2, c. 25, as requires the appointment of constables at courts leet repealed, vol. iii. 934.
repeal of 6 & 7 Will. 4, c. 50, vol. iii. 935.
exemption from toll of horse or van in service of police, *ib.*
repeal of 2 Geo. 3, c. 28, vol. iii. 937.
meaning of the word "magistrate," vol. iii. 946, 957.
interpretation clause of 2 & 3 Vict. c. 47, vol. iii. 946.
2 & 3 Vict. c. 47, to be construed with 10 Geo. 4, c. 44, *ib.*
magistrates may be required to take duties of small debts courts, if established, vol. iii. 948.
punishment for giving false evidence on examination, vol. iii. 950.
repeal of 3 & 4 Will. 4, c. 19, and 7 Will. 4 & 1 Vict. c. 37, vol. iii. 956.
2 & 3 Vict. c. 71 not to extend to customs, excise, stamps and taxes, or post-office, *ib.*
penalty for obtaining money by threatening information, vol. iii. 959.
appeal to police magistrates from proceedings at the leet concerning weights and measures, *ib.*
giving possession of deserted premises, *ib.*

POLICE (RURAL).
Parish Constables
to deliver to overseers every three months an account of money expended or received, vol. iii. 964.
if account disallowed, a justice may settle same, *ib.*
appeal by overseers in case of neglect, act, or omission of, *ib.*
or objection to account of, *ib.*
certain corporations may appeal to quarter sessions, vol. iii. 965.
for the appointment and payment of (5 & 6 Vict. c. 109), vol. iii. 932.

POLICE (RURAL)—*continued.*
justices to hold special sessions for, vol. iii. 982.
and to issue precepts to overseers requiring lists of men qualified to serve as, *ib.*
overseers to make out lists of persons qualified to serve as, *ib.*
small parishes and extra-parochial places may be annexed to any adjoining parish, vol. iii. 983.
who qualified to be, *ib.*
exemptions from serving as, *ib.*
disqualifications, *ib.*
lists to be affixed on church doors, and also kept by overseers for inspection, *ib.*
penalty on overseers for neglecting returns, or making false returns, vol. iii. 984.
overseers to attend special session, *ib.*
justices to choose, *ib.*
constables to be sworn, *ib.*
form of oath, *ib.*
substitutes may be allowed, *ib.*
penalty for refusing to act or to find a substitute, *ib.*
list of in division to be published, and parish lists to be affixed to the church doors, vol. iii. 984, 985.
power of, vol. iii. 985.
provision in case of vacancy, *ib.*
fees and allowances, *ib.*
vestry may resolve to have paid, *ib.*
to be appointed by justices, vol. iii. 986.
in places where paid and appointed, none other need be, *ib.*
salary to be paid out of the poor rate, *ib.*
constables not to be appointed in courts leet, *ib.*
lock-up houses and strong-rooms to be provided, *ib.*
recovery and application of penalties, *ib.*
interpretation clause, *ib.*
act to extend to all liberties having a commission (7 & 8 Vict. c. 52), vol. iii. 989.
confirmation of previous appointments, *ib.*
horses, &c. in service of superintendent constables exempted from toll, *ib.*
exemption of such parts of parishes as lie within boroughs exempted by 5 & 6 Vict. c. 109, *ib.*
provision in case of discharge of, vol. iii. 1002.
vacancies how filled up, *ib.*
notices for holding special sessions for appointing, *ib.*
persons employed by post-office, exempt from serving, *ib.*
appointment of constables to take charge of lock-up houses, *ib.*
act not to apply to London, the metropolitan police district, or places where rates are levied for the payment of constables, vol. iii. 1002, 1003.
exemption of metropolitan police district from payments under acts, vol. iii. 1003.

High Constables,
allowance of extraordinary expenses to, in case of riot or felony, &c. vol. iii. 965, 966.
to be appointed at special sessions, vol. iii. 988.
oath of, vol. iii. 989.

Special Constables,
appointed to execute warrants in cases of felony, allowance for expenses of, vol. iii. 965.

POLICE (RURAL)—*continued.*
amending the laws relating to the appointment of (1 & 2 Will. 4, c. 41), vol. iii. 966.
may be appointed by two or more justices, upon information on oath that disturbances exist or are apprehended, *ib.*
form of oath to be taken by, *ib.*
notice of appointment of to be transmitted to secretary of state and to lieutenant of county, *ib.*
secretary of state, on representation of justices, may order persons to be sworn in as, though exempt by law, *ib.*
and may direct lord lieutenant to cause to be sworn in, and no exemption allowed, vol. iii. 966, 967.
justices may make regulations respecting, and remove them for misconduct, vol. iii. 967.
powers of, *ib.*
may act in the adjoining county in certain cases, *ib.*
penalty on, for refusing to take the oath of office, &c. *ib.*
for refusing to serve, or for disobedience of orders, *ib.*
power to discontinue the services of, *ib.*
to deliver staves to successors, *ib.*
punishment for assaulting or resisting, vol. iii. 968.
not to gain a settlement nor be exempt from militia, *ib.*
allowance to, and order for payment, *ib.*
mode of payment in places not contributing to county rate, *ib.*
adjournment of special session held respecting, *ib.*
when proceedings to be taken, *ib.*
application of penalties, *ib.*
payment of penalties, *ib.*
form of conviction, vol. iii. 969.
no *certiorari*, *ib.*
venue, notice, and pleadings in actions, *ib.*
extent of act, *ib.*
enlarging the powers of magistrates in the appointment of (5 & 6 Will. 4, c. 43), vol. iii. 969.
may act in other parishes than those where they reside, vol. iii. 970.
for the payment of for keeping the peace near public works (1 & 2 Vict. c. 80), *ib.*
in what cases expenses to be paid by companies carrying on public works, *ib.*
secretary of state may reduce excessive orders, *ib.*
amount ordered and allowed may be recovered by distress, *ib.*

County, Borough, and District Police,
establishment of,
for the establishment of, by the authority of justices of the peace (2 & 3 Vict. c. 93), *ib.*
establishment of, in counties made compulsory, vol. iii. 1003.
justices in quarter sessions may report to the secretary of state the necessity of an additional appointment of constables, vol. iii. 971.
limitation of numbers, *ib.*
alteration of numbers, *ib.*
secretary of state to make rules for their government, pay, &c. *ib.*
one or more chief constables of the county to be appointed, *ib.*

POLICE (RURAL)—*continued.*
may serve for more than one county, vol. iii. 971.
notice of proceedings to be given, *ib.*
chief constables to appoint petty constables, *ib.*
and a deputy under certain restrictions, vol. iii. 971, 972.
authority of constables, vol. iii. 972, 1004.
disqualification of, from voting, vol. iii. 972, 1016.
borough constables disqualified from voting, vol. iii. 1005.
not to exercise any other employment, &c. vol. iii. 972.
may receive half-pay, *ib.*
not to receive fees for their own use, vol. iii. 1005.
certain liberties to be considered as forming parts of counties, vol. iii. 974.
meaning of "county," *ib.*
horses, &c. in service of police exempted from toll, vol. iii. 975.
outlying districts may be transferred from one county to another, *ib.*
station-houses and strong-rooms to be provided, vol. iii. 977, 1006, 1007.
boroughs may agree to consolidate their police with county police, vol. iii. 978.
her majesty in council, on representations from boroughs, may arrange terms of consolidation with counties, vol. iii. 1004.
power to vary such terms, *ib.*
government of consolidated police, vol. iii. 978.
number of superintendents may be altered by the justices, vol. iii. 980.
notice of intended adoption of act, vol. iii. 981.
chief constable to furnish to the clerk of the peace a monthly return of the disposition and number of the constabulary force, *ib.*
monthly returns of the force, *ib.*
interpretation clause of 3 & 4 Vict. c. 88, vol. iii. 982.
annual statement as to crime in counties and boroughs to be furnished to secretary of state, vol. iii. 1005.
appointment of inspectors for inquiring into state and efficiency of police in counties and boroughs, vol. iii. 1005, 1006.
conditions upon which one fourth of the charge for pay and clothing of the police is to be paid by the treasury, vol. iii. 1006.
police districts and divisions,
formation of, vol. iii. 981, 1004.
police districts under 3 & 4 Vict. c. 88, and 19 & 20 Vict. c. 69, may be consolidated or merged, vol. iii. 1010.
each district to pay for its own constables, vol. iii. 981.
constables subject to duty in any part of the county as if no districts had been made, *ib.*
justices may form any number of parishes containing not less than 25,000 inhabitants into a division, vol. iii. 981.
where constabularies have been established in divisions of a county, such establishments to be consolidated into one county police force, vol. iii. 1004.
constables, penalty on, for neglect of duty, vol. iii. 972.
not to resign without leave or notice, *ib.*
when dismissed to deliver up accoutrements, &c. *ib.*
penalty on persons in unlawful possession of accoutrements or assuming dress of, vol. iii. 973.
on publicans harbouring during duty, *ib.*
chief constable to attend quarter sessions, *ib.*
allowances to, *ib.*
power to justices to appoint a person to be chief constable, although he may hold a similar appointment in an adjoining county, vol. iii. 1009.
constables may be appointed for separate divisions, vol. iii. 973.
discontinuance of local constables, vol. iii. 974.
act not to affect for two years any places where population exceeds 10,000, *ib.*
appointment of local constables, vol. iii. 978.
their oath, *ib.*
fees and allowances for special services, vol. iii. 979.
accounts of allowances to be kept, *ib.*
appointment of additional constables at the cost of individuals, *ib.*
discontinuance thereof, *ib.*
watchboxes and accoutrements provided under local acts to be given up for the use of the county police, vol. iii. 980.
constables may be discontinued when deemed to be unnecessary, *ib.*
execution of warrants of commitment by constables, vol. iii. 981.
county constables not to be required to act in any borough, vol. iii. 1010.
justices may direct police to keep order in court of assize, vol. iii. 1012.
embezzlement by police, how punishable, vol. iii. 1013, 1014.
chief constables empowered to suspend constables, vol. iii. 1014.
superannuation fund
to be provided for constables, vol. iii. 977, 1011.
rates of allowance from, *ib.*
application of certain penalties towards, vol. iii. 1003, 1012.
power to grant gratuities out of, to incapacitated constables who have not served fifteen years, vol. iii. 1005, 1012.
deficiency in, to be made up out of police rate, *ib.*
provisions as to police superannuation fund in boroughs, vol. iii. 1011—1013.
police rates,
repeal of previous provisions, vol. iii. 975.
justice at quarter sessions to make, *ib.*
how property to be valued, vol. iii. 976.
to be levied with the county rate, *ib.*
contribution by liberties and detached parts, *ib.*

POLICE (RURAL)—*continued.*
how treasurer of other county or liberty to be reimbursed, vol. iii. 976.
in case of default amount may be levied on inhabitants, *ib.*
inspection of county and liberty rates, vol. iii. 977.
money may be borrowed on credit of, vol. iii. 978.
power of 3 & 4 Will. 4, c. 90, and of local acts for levying rates to cease, except the reservation for paying additional constables, vol. iii. 979.
proviso as to places situated in more than one county, vol. iii. 979, 980.
rates already imposed to be collected, vol. iii. 980.
provision for outstanding debts, *ib.*
where two chief constables, rates may be levied separately, *ib.*
deficiency in superannuation fund to be made up out of, vol. iii. 1005.
power to grant superannuations to chief constables to be paid out of, *ib.*

Police of Towns,
consolidating provisions usually contained in acts for regulating police of (10 & 11 Vict. c. 89), vol. iii. 989.
extent of act, vol. iii. 990.
interpretations, *ib.*
form in which act may be incorporated with others, *ib.*
constables,
appointment of, *ib.*
power to apply for additional in case of need, vol. iii. 991.
to be sworn in, *ib.*
expenses of prosecutions and allowances to, *ib.*
not to resign without leave or notice, *ib.*
when dismissed, to deliver up accoutrements, *ib.*
penalty for unlawful possession of accoutrements, or for assuming the dress of, *ib.*
provision of offices, watch-houses, &c. for, *ib.*
duties of, *ib.*
power to apprehend offenders, *ib.*
penalty on for neglect of duty, vol. iii. 992.
power of, to take recognizances, *ib.*
form of recognizances, *ib.*
recognizance to be registered and returned to the justice, *ib.*
penalties on persons assaulting, *ib.*
obstructions and nuisances,
power to prevent in the streets, during public processions, &c. *ib.*
power to regulate the route of stage carriages, &c. during divine service, *ib.*
proprietors of stage carriages, deviating from route by order, free from penalty, *ib.*
power to impound stray cattle, *ib.*
power to sell stray cattle, for penalty and expenses, *ib.*
persons guilty of pound breach to be committed for three months, vol. iii. 993.
power to provide a pound, *ib.*
penalty on persons committing specified offences, *ib.*
penalty on drunken persons, &c. guilty

POLICE (RURAL)—*continued.*
of riotous or indecent behaviour, vol. iii. 994.
fires.
penalty for setting chimneys wilfully on fire, vol. iii. 994, 995.
for accidentally allowing chimneys to catch fire, vol. iii. 995.
fire engines and firemen may be provided by the commissioners, *ib.*
fire police permitted to go beyond the limits of the act in certain cases, *ib.*
places of public resort.
penalty on victuallers harbouring constables while on duty, *ib.*
on coffee-shop keepers harbouring disorderly persons, *ib.*
on persons keeping places for bear-baiting, cock-fighting, &c. *ib.*
hackney carriages.
to be licensed, *ib.*
definition of, *ib.*
licence, fee for, vol. iii. 996.
persons applying for, to sign requisition, *ib.*
what shall be specified in, *ib.*
to be registered, *ib.*
to be in force for one year, *ib.*
notice to be given by proprietors of, of any change of abode, *ib.*
licence, penalty for plying for hire without, *ib.*
drivers not to act without first obtaining, *ib.*
penalty on drivers acting without, *ib.*
proprietor to retain and produce it when summoned, vol. iii. 996, 997.
justices may endorse convictions upon, vol. iii. 997.
penalty on proprietors, *ib.*
proprietor to return, to drivers when quitting service if they behave well, if otherwise proprietor to summon them, *ib.*
compensation, if improperly withheld, *ib.*
to be suspended or revoked for misconduct, *ib.*
number of persons to be carried in to be painted thereon, *ib.*
penalty for neglect or refusal to carry the prescribed number, *ib.*
on driver for refusing to drive, *ib.*
penalty for demanding more than sum agreed for, though less than the legal fare, *ib.*
agreement to pay more than legal fare not to be binding, and sum paid beyond may be recovered back, *ib.*
driver to carry, under an agreement for a discretionary distance, the distance to which hirer is entitled for the fare, vol. iii. 997, 998.
deposit to be made for carriages waiting, vol. iii. 998.
penalty on the driver refusing to wait or to account for the deposit, *ib.*
overcharge to be included in conviction and returned to aggrieved party, *ib.*
penalty for permitting persons to ride without consent of the hirer, *ib.*
no person to act as driver without the consent of the proprietor, *ib.*

POLICE (RURAL)—*continued.*
penalty on drivers misbehaving, vol. iii. 998.
for leaving carriages unattended at places of public resort, *ib.*
damage done by driver may be recovered from the proprietor, *ib.*
penalty for improperly standing with carriage, refusing to give way to, or obstructing others, *ib.*
justices may award compensation to drivers for loss of time in attending to answer complaints not substantiated, vol. iii. 998, 999.
penalty for refusing to pay the fare, vol. iii. 999.
for damaging carriage, *ib.*
commissioners may make by-laws for regulating, *ib.*
bathing machines, *ib.*
regulations as to rates, *ib.*
incorporation of clauses in the Towns Improvement Clauses Act, 1847, with respect to by-laws, *ib.*
tender of amends in actions for acts done in execution of act, *ib.*
recovery of damages and penalties,
incorporation of clauses of Railways Clauses Consolidation Act, vol. iii. 1000.
in Ireland, part of penalties to be paid to guardians of unions, *ib.*
one justice to have power of two, *ib.*
false evidence punishable as for perjury, *ib.*
access to special act,
keeping, depositing, and inspection of copies, *ib.*
penalty for failing to keep or deposit copies, *ib.*

Lock-up Houses,
justices may enter into agreements for providing, for two or more counties, &c. to be maintained at joint expense, *ib.*
must be approved of by secretary of state, *ib.*
justices at quarter sessions may appoint a committee of justices, vol. iii. 1001.
and councils of boroughs may appoint a committee of councillors to make agreement, *ib.*
committees may unite, *ib.*
agreements to specify situation, *ib.*
to be approved by sessions and councils of boroughs, *ib.*
committees to assemble or other committees appointed, *ib.*
lock-up houses to be deemed lock-up houses for each county or borough, *ib.*
duration of office and salary of superintendents, *ib.*
interpretation of act, *ib.*

POLICY OF INSURANCE. See *Insurance.*

POOR.
Poor Law Commissioners, 4 & 5 Will. 4, c. 76.
appointment and removal of, vol. iii. 1156.
style of commissioners, *ib.*
board of commissioners, *ib.*
power to summon witnesses, &c. *ib.*
may substitute declaration for oath, *ib.*
not to inquire into title, *ib.*
to have a common seal, *ib.*

POOR—*continued.*
rules, &c. purporting to be sealed with such seal, to be evidence, vol. iii. 1156.
proceedings to be recorded, *ib.*
to make general report to secretary of state yearly, *ib.*
to report proceedings when required, *ib.*
power to appoint assistant commissioners, and to remove same, *ib.*
not more than nine to be appointed without consent of treasury, *ib.*
not to sit in parliament, *ib.*
to appoint secretary, &c. *ib.*
appointment limited to five years, *ib.*
commissioners and assistant commissioners to take oath, *ib.*
form of oath, *ib.*
notification of appointment to be sent to clerks of the peace, and published, *ib.*
may delegate powers to assistant commissioners, and revoke them, *ib.*
assistant commissioners may summon witnesses, &c. *ib.*
persons giving false evidence guilty of perjury, *ib.*
refusing to attend, &c. guilty of misdemeanor, vol. iii. 1156, 1157.
reasonable expenses of witnesses to be paid, and by whom, vol. iii. 1157.
administration of relief to poor to be under control of commissioners, *ib.*
not more than nine assistant commissioners to act in England, vol. iii. 1210.
professional persons, not being assistant commissioners, may be appointed to make special inquiries, vol. iii. 1210, 1211.
oath to be taken, vol. iii. 1211.
in special inquiries on charges of misconduct, the persons may be heard by counsel, *ib.*
rules and regulations for management of poor, vol. iii. 1157, 1211.
suspension and alteration of rules, &c. *ib.*
submission of rules to secretary of state, &c. *ib.*
disallowance of rules, *ib.*
rules to be laid before parliament, *ib.*
rules, orders, &c. to be sent to overseers, &c. before coming into operation, vol. iii. 1157.
publicity to be given to rules, &c. in manner directed by commissioners, vol. iii. 1157, 1158.
penalty on overseers, &c. neglecting to give publicity, vol. iii. 1158.
notification of disallowance of rules, *ib.*
no rule, &c. to oblige inmate of workhouse to attend religious service, &c. *ib.*
orders, &c. of assistant commissioners to be approved, &c. by commissioners, *ib.*
general rules not to be altered by particular rules without the consent of the secretary of state, vol. iii. 1211.
time of operation of certain rules and orders in cases of urgency, *ib.*
rules to be received in evidence, vol. iii. 1236, 1237.
not necessary to prove transmission, vol. iii. 1237.
rules, &c. to be removable into court of queen's bench only, vol. iii. 1184.
to continue in force until declared illegal, *ib.*

POOR—*continued.*
when application for *certiorari* to be made, vol. iii. 1184.
notice to commissioners of application for, &c. *ib.*
commissioners may show cause in first instance, *ib.*
recognizance to be entered into, *ib.*
commissioners to have costs if rule declared legal, *ib.*
if rule quashed, notice thereof to be given to parishes, *ib.*
proviso for existing contracts, vol. iii. 1185.
no person to be answerable until receipt of notice, *ib.*

Commissioners for administering the Laws for the Relief of the Poor in England.
appointment of (10 & 11 Vict. c. 109), vol. iii. 1261.
ex officio, ib.
when to enter on office, *ib.*
who to preside at meetings, *ib.*
seal of, *ib.*
appointment of secretaries, &c. *ib.*
what number, &c. competent to act, *ib.*
salaries, *ib.*
president and one secretary may sit in the house of commons, *ib.*
transfer of powers and duties of the poor law commissioners, vol. iii. 1261, 1262.
power to summon witnesses, vol. iii. 1262.
repeal of certain enactments, *ib.*
annual report to be laid before parliament, *ib.*
how rules to be made, *ib.*
definition of general rules, *ib.*
repeal of part of 4 & 5 Will. 4, c. 76, as to making general rules, *ib.*
disallowance of general rules by the queen in council, *ib.*
confirmation of existing rules, *ib.*
commission to last for five years, vol. iii. 1264.
confirmation of previous proceedings, vol. iii. 1263, 1264.
orders of, may be acted upon if the parties think fit, within fourteen days after being sent, vol. iii. 1277.
limitation of time for *certiorari* to bring up orders, *ib.*
guardians and vestry in parishes under local acts may consent to orders of poor law board, vol. iii. 1278.
by consent, questions of settlement, removal, or chargeability may be referred to, vol. iii. 1283.

Mode of Relieving and Ordering of the Poor.
order to be taken therein, vol. iii. 1017.
poor to be set to work, vol. iii. 1017, 1211.
convenient stock to be provided, vol. iii. 1025.
impotent, &c. to be maintained, *ib.*
those who refuse to work to be punished, vol. iii. 1028, 1211.
agreements for clothing, dieting, &c. vol. iii. 1079.
parish may provide land for employment of poor, vol. iii. 1137, 1138.
not exceeding twenty acres, *ib.*
and poor entitled to wages, *ib.*
parish may let portions of land to poor inhabitants, vol. iii. 1138.
at what rent, *ib.*
amount limited as to purchases, &c. *ib.*

POOR—*continued.*
workhouses in London, Westminster, Middlesex, and Surrey, vol. iii. 1039.
persons relieved to be registered in a book, vol. iii. 1052, 1053.
no others to be relieved but by order of justices, *ib.*
none to be relieved till oath made of a reasonable cause, vol. iii. 1061.
nor longer than the cause continues, vol. iii. 1062.
of married women in certain cases to be subject to the same conditions as if they were widows, vol. iii. 1224.
to widows in certain cases, vol. iii. 1225.
overseers empowered in certain cases to give relief by way of loan only, vol. iii. 1142.
consent of justices to application necessary, *ib.*
justices may act although themselves chargeable to rates, vol. iii. 1072.
act for distributing the charge of relief of certain classes of poor persons over the whole of the metropolis, vol. iv. 999.

Burial of Paupers,
how to be paid, vol. iii. 1225.
expences of, when recoverable as loans, vol. iii. 1278.
dying in workhouse, vol. iii. 1279.
where burial ground of parish closed or overcrowded, guardians or overseers may bury in neighbouring parish, vol. iii. 1285.
power to enter into agreement with cemetery companies, &c., *ib.*

Contracts for employing Poor.
contract for maintenance and employment of poor may be made by overseers, &c. vol. iii. 1062, 1063.
two or more places may join, where one parish, &c. too small, vol. iii. 1063.
overseers, &c. of one parish may contract with those of another, *ib.*
in such cases poor not to acquire a settlement, *ib.*

1 & 2 W. 4, cc. 42, 59; 2 W. 4, c. 42.
churchwardens, &c. may hire land for employment of poor, &c. vol. iii. 1152.
may inclose waste lands, &c. for cultivation, &c. *ib.*
extent of lands hired or inclosed limited, *ib.*
power to hire lands, &c. extended to guardians, &c. *ib.*
power to inclose crown lands, vol. iii. 1152, 1153.
no settlement to be gained by renting such lands, *ib.*
power to let portions of poor allotments to industrious cottagers, vol. iii. 1153.
land to be duly cultivated, *ib.*
vestry to be held annually to receive applications, *ib.*
order of vestry to authorise occupation, *ib.*
payment of rent, *ib.*
if rent in arrear, or land not duly cultivated, tenant may be evicted, *ib.*
summary process for recovery of land illegally held over, *ib.*
arrears of rent, how to be recovered, vol. iii. 1154.
application of rent, *ib.*
power to exchange lands, *ib.*
no habitations to be erected on demised lands, *ib.*
extent of act, *ib.*

POOR—*continued.*
Workhouses.
houses may be erected for benefit of poor, vol. iii. 1029, 1062.
poor refusing to be lodged in, not to be relieved, vol. iii. 1063.
power to build or enlarge workhouses, vol. iii. 1137.
workhouses insufficient may be sold, *ib.*
further power to guardians to sell houses and lands, vol. iii. 1147.
application of money arising by sale, vol. iii. 1148.
where no poor-house, &c. can be procured in parish, adjoining parish may be resorted to, vol. iii. 1137.
parishes purchasing wastes for employment of poor, how purchase-money to be paid, &c. vol. iii. 1138.
powers of former acts relating to, &c. to be exercised under control of commissioners, vol. iii. 1158.
powers of commissioners respecting, vol. iii. 1159.
may order workhouses to be built, &c. with consent, &c. *ib.*
sums raised for building workhouses to be charged on poor rates, *ib.*
sums raised not to exceed one year's amount of poor rates, *ib.*
how loans to be repaid, *ib.*
time for repayment of loans extended, vol. iii. 1197.
extended to loans made by chartered or incorporated companies, vol. iii. 1200.
extension of repayment not to prejudice securities, vol. iii. 1197.
power to order workhouses to be altered or enlarged without consent, &c. vol. iii. 1159.
making provision for the liquidation of loans for the building and enlarging of, vol. iii. 1200, 1209.
in metropolitan district, vol. iii. 1225.
sums to be raised for such purposes limited, vol. iii. 1160.
application to commissioners of exchequer bills for advance of money, vol. iii. 1172.
management and regulations in workhouses.
justices, &c. may visit parish workhouses, vol. iii. 1096.
finding poor afflicted with contagious or infectious disease, may order immediate relief, *ib.*
to report same at sessions, vol. iii. 1096, 1097.
not to extend to houses, &c. established by special act of parliament, vol. iii. 1097.
justices may order rules under 22 Geo. 3, c. 83, to be observed in workhouses, vol. iii. 1118.
may alter such rules, if there be no master or mistress, vol. iii. 1120.
justices may appoint keeper of workhouse to be governor, vol. iii. 1121.
penalty on embezzling goods, &c. *ib.*
power of justices to commit offenders, *ib.*
masters, &c. of poorhouse, not to punish or confine beyond a limited time, vol. iii. 1125.
confining poor by chains or manacles unlawful, vol. iii. 1129.

POOR—*continued.*
property in goods, &c. provided for use of poor to be vested in overseers, vol. iii. 1126.
not to repeal provisions in local acts, *ib.*
parish officers may cause goods, &c. to be marked, *ib.*
penalty on persons buying or receiving into pawn property provided for poor by parish officers, vol. iii. 1126, 1127.
or defacing marks, vol. iii. 1127.
application of penalty, *ib.*
on nonpayment of penalty offenders to be committed, *ib.*
persons absconding with workhouse property to be committed, *ib.*
mark or stamp on articles to be evidence of the right of property, *ib.*
mark not to be put on outside of wearing apparel, *ib.*
persons guilty of drunkenness, misbehaviour, &c. in workhouses may be committed, *ib.*
form of conviction, vol. iii. 1129.
conviction not to be set aside for want of form, *ib.*
appeal to quarter sessions, *ib.*
decision to be final, *ib.*
recognizances to be entered into, *ib.*
certain enactments in local poor acts passed since the commencement of the reign of Geo. 1, repealed (56 Geo. 3, c. 129), *ib.*
power to make rules, &c. and vary bye-laws for present or future workhouses, vol. iii. 1166.
what to be deemed general rules, *ib.*
justices may visit workhouses and see rules and bye-laws enforced, *ib.*
proviso for visiting workhouses where commissioners' rules not in force, *ib.*
within what jurisdiction workhouses to be deemed, *ib.*
lunatics, &c. not to be detained in workhouses more than fourteen days, vol. iii. 1167.
removal of masters of workhouses, vol. iii. 1168.
masters of workhouses to keep registers, vol. iii. 1170.
repeal of 6 Geo. 4, c. 80, as to prohibition of spirituous liquors in workhouses, vol. iii. 1181.
penalty on persons introducing spirituous liquors into workhouses, *ib.*
penalty on masters of workhouses allowing use of spirituous liquors, &c. *ib.*
penalty on masters ill-treating paupers, &c. *ib.*
power of justices to order salaries, &c. to be stopped and applied towards payment of penalties, vol. iii. 1182.
clauses of act relating to the introduction and use of spirits to be hung up in workhouses, *ib.*
penalty on masters, &c. for disobedience of orders, &c. *ib.*
married persons above sixty years of age not compellable to live apart, vol. iii. 1263.
visitation of, *ib.*
situation of,
to be deemed to be situate in every parish of an union, vol. iii. 1232.

POOR—*continued.*
offenders in, committal of to the gaol of the place to which they belong, vol. iii. 1233.
punishment of persons in for misconduct, *ib.*
repeal of 55 Geo. 3, c. 137, s. 7, as to notices of contracts for supplying, vol. iii. 1236.
conveyances, &c. for, need not be enrolled, vol. iii. 1237.
poor persons may be searched on admission to, vol. iii. 1278.
poor persons belonging to other union or parish may be received in, vol. iii. 1277, 1278.
burials of poor persons dying in, vol. ii. 1279.
masters of and relieving officers not to be appointed to any parochial offices, vol. iii. 1280.
children may be removed to workhouse of another union, vol. iii. 1282.

Maintenance in Houses not being Workhouses of any Union or Parish.
poor law board to issue rules and regulations as to houses where the poor are maintained under contract, vol. iii. 1274.
not to extend to lunatic asylums and hospitals, *ib.*
rules how to be directed, *ib.*
poor law board may prohibit the reception or retention of poor in any such house, *ib.*
may remove officers of such houses, vol. iii. 1275.
and regulate contracts, *ib.*
may appoint visitors, *ib.*
power of justices to visit, &c. *ib.*

Relief out of Workhouses,
by justices to aged and infirm poor, vol. iii. 1160.
to be regulated by commissioners, vol. iii. 1168.
relief contrary to their regulations to be disallowed, vol. iii. 1169.
when overseers, &c. may delay operation of such regulations, *ib.*
commissioners disapproving of delay may fix day from which relief to be disallowed, *ib.*
proviso for cases of emergency, *ib.*
repeal of acts, *ib.*
no relief to be in future given, except by board of guardians, *ib.*
justices may give order for medical relief in dangerous illness, vol. iii. 1170.
registers to be kept by officers, &c. *ib.*
poor persons liable for relief to wife or children, *ib.*
not to discharge liability of relations under 43 Eliz. c. 2, *ib.*
how sums payable under that act to be recovered, vol. iii. 1175.
husband liable to maintain children born before marriage, vol. iii. 1170.
such children not removable to settlement of stepfather, *ib.* n. (*b*).
discharge of putative father of bastard on marriage of the mother, *ib.*
relief to be considered as given by way of loan, vol. iii. 1171.
justices may attach wages in hands of master, &c. *ib.*

POOR—*continued.*
mode of proceeding for recovery thereof, vol. iii. 1171.
repeal of 43 Geo. 3, c. 47, as to relieving wives and families of militiamen, *ib.*
power for guardians of parishes, &c. under local acts to grant out-door relief, in the same manner as in unions under 4 & 5 Will. 4, c. 76, vol. iii. 1270.
select vestries under 59 Geo. 3, c. 12. See further, *post, Vestries.*
parishes empowered to establish select vestries for the concerns of the poor, vol. iii. 1135.
constitution of select vestries, *ib.*
members elected to be appointed by a justice, *ib.*
vacancies to be supplied, *ib.*
continuance of select vestries, *ib.*
power of renewal, *ib.*
meetings and duties of select vestries, *ib.*
overseers (except in cases of emergency) to give no other relief than such as shall be ordered by select vestry, *ib.*
minutes to be kept of the proceedings of select vestries, *ib.*
minutes of select vestries and reports of their proceedings to be laid before the inhabitants in general vestry, vol. iii. 1135, 1136.
notice to be given of vestries for the establishment and election of members, and for receiving reports of select vestries, vol. iii. 1136.
justices to act within their respective jurisdictions, vol. iii. 1144.
provisions relating to parishes applied to townships, &c. *ib.*
majority to act, *ib.*
powers given to vestries applied to meetings of townships, &c. *ib.*
saving powers of 22 Geo. 3, c. 83, where provisions are adopted, *ib.*
saving powers given by special acts, *ib.*
in incorporated districts,
what parishes entitled to benefit of acts, vol. iii. 1079, 1103.
three persons to be nominated for guardians, and three for governors of poor, vol. iii. 1079.
two or more parishes may unite in taking benefit of act, *ib.*
notice of meetings, vol. iii. 1080.
qualification of voters, *ib.*
a guardian for each parish uniting, *ib.*
duties and powers of, *ib.*
two or more may be appointed, vol. iii. 1103, 1104, 1109.
churchwardens and overseers to receive rates, vol. iii. 1080.
to pay necessary sums to guardian, vol. iii. 1080, 1081.
or treasurer of united districts, *ib.*
guardians may order any sum for purposes of act, vol. iii. 1109.
justices to appoint a governor of poor house, vol. iii. 1081.
his salary, *ib.*
may be removed, *ib.*
guardians of united parishes may nominate persons for visitors, *ib.*

POOR—*continued.*
justices to appoint, vol. iii. 1081.
visitor may appoint a deputy, *ib.*
duties of, *ib.*
exempt from serving parish offices, vol. iii. 1081, 1082.
single parishes may have a visitor, vol. iii. 1082.
one of the guardians to be treasurer, *ib.*
his duties, *ib.*
salary of, *ib.*
treasurer may be appointed for a single parish, vol. iii. 1109.
vacancies to be filled up, vol. iii. 1082.
offices, when to determine, *ib.*
justices of other limits to act, *ib.*
justices may appoint special sessions, &c. *ib.*
houses, &c. to be provided by guardians, vol. iii. 1082, 1083.
where to be situate, vol. iii. 1083.
houses, on what terms hired, *ib.*
wastes adjoining poorhouses may be inclosed with consent of lord of manor, vol. iii. 1085.
poorhouses may be sold by guardians with approbation of parishioners, vol. iii. 1088.
and paupers may be removed, *ib.*
further power given to sell poorhouses and lands, vol. iii. 1147.
money may be borrowed by visitors and guardians, vol. iii. 1083.
assessments to remain the same till debt paid off, *ib.*
but assessments may be diminished, vol. iii. 1116.
by paying one-twentieth of the sum borrowed, and interest of the remaining debt, *ib.*
visitors and guardians made a body corporate, vol. iii. 1083.
their name, *ib.*
power to take lands and sue, &c. *ib.*
incapacitated persons empowered to sell lands, &c. vol. iii. 1084.
how purchase money to be applied, *ib.*
to be laid out in purchase of other lands, &c. to be settled to same uses, *ib.*
poor to be maintained at expense of respective parishes, *ib.*
monthly meetings to be held, *ib.*
treasurer to produce his accounts, *ib.*
how same to be settled, vol. iii. 1084, 1085.
poor's rates, &c. to be produced, vol. iii. 1085.
penalty for neglect after demand, *ib.*
penalty on guardians not attending meetings, *ib.*
order for admission to poorhouse, *ib.*
who may be sent to poorhouse, *ib.*
how poor children are to be provided for, *ib.*
idle persons neglecting to provide for their families to be prosecuted, vol. iii. 1086.
penalty for not complaining, *ib.*
how guardians to proceed where poor cannot get employment, *ib.*

POOR—*continued.*
guardians may agree for employment of the poor, vol. iii. 1086.
to take their wages, *ib.*
and support them, *ib.*
visitors and guardians to contract for the diet, clothing, &c. of the poor, and for their labour, vol. iii. 1079.
guardians to provide clothing, vol. iii. 1086.
penalty for neglect, &c. *ib.*
rules, &c. to be observed at poorhouses, *ib.*
same to be printed, *ib.*
justice may order relief where guardian refuses, &c. vol. iii. 1087.
or order poor person to be sent to poorhouse, *ib.*
idle and disorderly poor may be punished, *ib.*
complaints and application first to be made to the guardians, *ib.*
secondly to the visitor, *ib.*
thirdly to the justice, *ib.*
application to visitor before recourse is had to a justice dispensed with in certain cases, vol. iii. 1142.
justice may order penalty to be paid to the poor, vol. iii. 1087.
guardian shall maintain casual poor, vol. iii. 1087, 1088.
and recover the expenses from the parish where such person is settled, *ib.*
casual poor how maintained by united parishes, vol. iii. 1104.
residence in poorhouse not to alter settlement, vol. iii. 1088.
settlement of bastards born in workhouse, *ib.*
punishment for embezzling goods belonging to workhouse, *ib.*
penalty for enticing poor persons to another parish, *ib.*
penalty on visitors, guardians, &c. who furnish provisions, &c. for poorhouse, *ib.*
act not to extend to places not adopting its provisions, *ib.*
penalties how recovered and applied, vol. iii. 1088, 1089.
appeal, vol. iii. 1089.
assessments may be increased in amount, vol. iii. 1108.
provisions as to corporations or workhouses in London and Westminster, Middlesex and Surrey, vol. iii. 1039.
all sales and dispositions of lands, buildings, &c. by overseers and acting guardians of dissolved incorporations to unions formed under 4 & 5 Will. 4, c. 76, and 7 Will. 4 & 1 Vict. c. 50, deemed valid, vol. iii. 1208.

Union of Parishes.
commissioners may order parishes to be united, vol. iii. 1160.
to what parishes this power extends, *ib.*, n. (*a*).
each parish chargeable for its own poor, *ib.*
power of justices to order out-door relief, *ib.*
inquiry to be made as to expense of each parish proposed to be united, *ib.*
power for taking future averages, *ib.*

POOR—*continued.*
the like as to unions under local acts of incorporation, vol. iii. 1161.
parliamentary returns to be evidence of actual expense of poor to each parish, *ib.*
repeal of acts as to contributions to workhouses, &c. vol. iii. 1161, 1162.
power to dissolve, add to, or take from union, vol. iii. 1162.
rules to be made and adapted accordingly, *ib.*
rights and liabilities of parishes to be ascertained and secured, *ib.*
dissolution, &c. not to affect rights of third parties, *ib.*
not to take place without consent of guardians, *ib.*
united parishes may be one for purpose of settlement, vol. iii. 1162, 1163.
so for purpose of rating, with consent of guardians, vol. iii. 1163.
counterpart of agreement for such rating to be deposited with clerk of peace, *ib.*
guardians to ascertain and assess value of property, *ib.*
rates grounded on such assessment to be allowed as poor rates, *ib.*
in such cases expenditure for poor to be in common, *ib.*
expense of valuation, *ib.*
proviso for consent of parishes not represented by guardian, *ib.*
no union to be so formed without consent of commissioners, vol. iii. 1164.
where parishes more than four miles from place of meeting of guardians, it may be formed into a district for the purposes of relief, vol. iii. 1212.
parishes under local acts, with a population exceeding twenty thousand, not to be united without consent of guardians, vol. iii. 1235.
exception as to vagrant and audit districts, *ib.*
commissioners may separate parishes from unions or add parishes to unions without the consent of the guardians of the union, vol. iii. 1235, 1236.
parishes comprised in any union under 4 & 5 Will. 4, c. 76, to contribute to common fund according to the annual value of rateable property, vol. iii. 1290.
proviso as to liabilities, *ib.*
proviso for contributions in arrear, *ib.*
mode of ascertaining annual rateable value, *ib.*
order for contribution not to be deemed void by reason of error in the calculation, *ib.*
certain species of relief charged upon common fund of unions, vol. iii. 1289.
provisions for the payment of debts incurred by boards of guardians in unions, vol. iii. 1287.
The Union Assessment Committee Act, 1862. (25 & 26 Vict. c. 103.)
interpretation, vol. iii. 1293.
appointment of the assessment committee by a board of guardians, *ib.*
where union has the same bounds as borough, names of assessment committee to be transmitted to town council, who may appoint additional members, *ib.*

POOR—*continued.*
provision for neglect to appoint, vol. iii. 1294.
provision for vacancies, *ib.*
continuing members may act during vacancies, *ib.*
extent of committee's authority, *ib.*
first meeting, when to be holden, *ib.*
quorum of meetings, *ib.*
committee may employ and pay clerk, *ib.*
proceedings to be entered in books, and signed; such entries evidence, *ib.*
books to be open to inspection, *ib.*
proceedings of committees to be reported, *ib.*
committee may require returns from overseers, &c.; and may require production of rates, &c., and examine persons attending before them, *ib.*
overseers to prepare valuation lists, *ib.*
definition of gross estimated rental, vol. iii. 1297.
committee may enlarge the time for making valuation lists, and may give directions concerning valuations and valuation lists, and may appoint persons to make the same, *ib.*
valuation lists to be deposited for inspection, and afterwards transmitted to the committee, *ib.*
objections to valuation list, *ib.*
committee to hold meetings to hear objections, *ib.*
board may direct further valuation, and correct valuation lists, and when corrected to approve the same, vol. iii. 1296.
valuation list when altered to be deposited, &c., *ib.*
if on appeal a rate is amended the valuation list to be altered, *ib.*
custody, &c. of valuation list after approval, *ib.*
what shall be deemed valuation lists in force, *ib.*
overseers to prepare supplemental valuation lists in case of additions to or alterations in the rateable property of the parish, *ib.*
committee may from time to time direct new valuation, and new or supplemental valuation lists, *ib.*
this act as to valuation lists first directed to be made to apply to new and supplemental valuation lists, *ib.*
after a valuation list is approved no rate to be allowed unless made according to such list, vol. iii. 1296, 1297.
provision for places under local acts, vol. iii. 1297.
in computing amount of contributions to common fund the annual rateable value to be taken from approved valuation lists, *ib.*
copy of valuation lists to be deposited in board room, *ib.*
appeal against valuation list, *ib.*
hearing and determining appeals, *ib.*
costs of valuation and appeal, vol. iii. 1298.
act not to prevent composition for rates, *ib.*
saving of exemptions and special rules of rating, *ib.*
board may allow compensation for returns, &c. and expenses, *ib.*
remuneration to clerk and certain expenses of committee to be paid out of common fund, *ib.*

POOR—*continued.*
expenses of valuation, &c. to be paid out of poor rates, vol. iii. 1298.
penalty for non-attendance, &c. in obedience to order of the committee, *ib.*
injury, &c. rate books a misdemeanor, *ib.*
authentication and service of orders and notices of the committee, *ib.*
service of notices, &c. on the committee, *ib.*
provision as to form of poor rate, *ib.*
provisions concerning the assessment, &c. of poor rates to be applicable to rates made according to this act, vol. iii. 1299.
power for unions under Gilbert's or local acts to be included in this act, *ib.*
act to extend to England, *ib.*

SCHEDULE.
valuation list, *ib.*
declaration to be added to rate, *ib.*
"The Union Assessment Committee Amendment Act, 1864." (27 & 28 Vict. c. 39.)
notice of appeal against poor rate to be given to the assessment committee of union, vol. iv. 997.
notice of objection, *ib.*
amendment of list, *ib.*
committee may, with consent of guardians, be co-respondents, *ib.*
provision as to costs of committee on appeals, *ib.*
valuation to be in writing, *ib.*
notice of assessment to be given to certain companies, *ib.*
transmission by post, *ib.*
justices in certain cases not disqualified for hearing appeals, *ib.*
expenses of overseers incurred with consent of vestry or allowed by assessment committee may be charged on poor rates, vol. iv. 997, 998.
power to guardians, with the order of the poor law board, to borrow money for valuation expenses, vol. iv. 998.
how chargeable, *ib.*
clerks of assessment committees to furnish clerks of the peace with totals of valuation lists, *ib.*
power to poor law board to order map or plan to be made, *ib.*
penalty on overseers omitting to make declaration, &c. *ib.*
Union Assessment Committee Act, 1862, incorporates with this Act, *ib.*
"Union Relief Aid Acts," vol. iii. 1299, 1305.
superannuation allowances to union officers, vol. iv. 998.

Schools and Asylums,
lords of manors may convey part of commons, &c. as sites for poor schools, vol. iii. 1191.
power to incapacitated persons to convey land for poor schools, *ib.*
ecclesiastical bodies may convey portion of lands as sites for poor schools, *ib.*
provision for school rooms built before act, vol. iii. 1192.
conveyances may be made either for valuable consideration, or as free gift, *ib.*
quantity of land conveyed not to exceed half an acre, *ib.*
parishes and unions may, within certain limits, be combined into school districts, vol. iii. 1228.

POOR—*continued.*
removal of limitations, vol. iii. 1267, 1283.
districts for providing asylums for houseless poor may be formed in the towns specified in schedule, vol. iii. 1228, 1229.
constitution of the district boards for schools and asylums, vol. iii. 1229.
powers and duties of district boards, *ib.*
powers of district boards for purchase and hire of lands, vol. iii. 1229, 1283.
amount of sums to be raised for, vol. iii. 1230, 1279, 1280.
district board to hold property of the district as a corporation, vol. iii. 1230.
conveyances of, vol. iii. 1283.
payment of contributions to district boards, vol. iii. 1230.
distribution of charges for schools, *ib.*
for asylums, *ib.*
appointment of auditors for district boards, vol. iii. 1231.
guardians may visit and inspect, *ib.*
children may be sent to district schools from parishes and unions not combined, but not distant more than twenty miles, *ib.*
class of destitute poor to be relieved in asylum, *ib.*
mode of admission into, *ib.*
regulations with respect to poor persons admitted into, vol. iii. 1232.
liabilities of persons relieved in, *ib.*
chargeability of persons returning and becoming chargeable in asylum after removal, *ib.*
provisions in 5 & 6 Vict. c. 57, relating to guardians extended to members of district boards, vol. iii. 1267, 1268.
poor law board may dissolve any asylum district, vol. iii. 1283.
provisions as to the payment of debts incurred by boards of management in school districts, vol. iii. 1287.

Relief of,
by binding out apprentices, vol. iii. 1028.
how parish apprentices to be bound, vol. iii. 1129.
justices to inquire into certain matters, vol. iii. 1130.
may examine parents, vol. iii. 1131.
when justices to make an order that overseers bind the child apprentice, *ib.*
proviso as to employing apprentices out of county where bound, *ib.*
indentures to be allowed by two justices of county into which apprentice is to be bound, as well as by two justices of the county from which he is bound, *ib.*
notice to overseers before indenture allowed, vol. iii. 1131, 1132.
allowance by county magistrates valid in places having exclusive jurisdiction, vol. iii. 1132.
distance to which apprentice bound not limited to cities which are counties, *ib.*
no settlement gained unless directions complied with, *ib.*
overseers binding apprentices contrary hereto, *ib.*
penalty for, *ib.*
children not to be bound till nine years of age, *ib.*
in cases of master's removal, how apprentice to be disposed of, *ib.*
notice of removal, *ib.*

POOR—*continued.*
masters removing and taking apprentices without order, vol. iii. 1132, 1133.
penalty, vol. iii. 1133.
compulsory bindings abolished, vol. iii. 1222.
provisions in case of death of master, vol. iii. 1097 *et seq.*
masters may assign, vol. iii. 1099.
or justices discharge, vol. iii. 1100.
overseer to keep register of apprentices, under penalty for neglect, vol. iii. 1113, 1114.
provision of 32 Geo. 3, c. 57, enforced with respect to assigning apprentices, vol. iii. 1133.
discharging apprentices without consent of justices, *ib.*
penalty, *ib.*
penalties, how recovered, vol. iii. 1134.
justices empowered to dispose of penalties, *ib.*
recovery of penalties, *ib.*
form of conviction, *ib.*
not paying penalties, *ib.*
imprisonment, *ib.*
appeal, *ib.*
power of overseers extended to churchwardens, *ib.*
indentures allowed by justices acting for two counties to be as valid as if granted by justices acting for different counties, vol. iii. 1155.
with seal of corporations annexed to be valid, *ib.*
in corporate towns, one justice to be for the county, *ib.*
justices to certify that rules of commissioners have been complied with in binding, vol. iii. 1171.
reservation of justice's jurisdiction over master and servant, *ib.*
commissioners to prescribe the duties of poor apprentices, and masters neglecting to fulfil them liable to penalty, vol. iii. 1222.
guardians instead of overseers to bind poor children, *ib.*
compulsory apprenticeship abolished, *ib.*

Emigration,
power to raise money for purposes of, vol. iii. 1171, 1172, 1272.
application of moneys raised, vol. iii. 1225.
application to commissioners of exchequer bills for advance, vol. iii. 1172.
guardians may expend a limited sum for purposes of, without previous vestry meeting, vol. iii. 1279.
of orphans and deserted children, vol. iii. 1280.

Education,
guardians may grant relief for the education of children of persons receiving out-door relief, vol. iii. 1284, 1285.
poor law board may regulate proceedings of guardians granting such relief, vol. iii. 1285.
such education not to be a condition of relief, *ib.*
costs of relief for education, on what fund to be charged, *ib.*
education of orphans and deserted children, *ib.*
power to guardians to send poor children to schools, vol. iii. 1292.
poor law board to certify the school, *ib.*

POOR—*continued.*
may order poor children to be removed from school, vol. iii. 1292.
school to be open to inspection, *ib.*
guardians to bring back child to parish or union, *ib.*
description of child to be sent to school, *ib.*
continuance in school not to be compulsory, vol. iii. 1292, 1293.
child not to be sent to certain schools, vol. iii. 1293.

Lunatic Paupers, maintenance of,
expenses incurred for, may be levied off their estates, vol. iii. 1225.
guardians under local acts to have powers with respect to, *ib.*
to be chargeable upon the common fund of the union, vol. iii. 1289.

Miscellaneous Provisions as to Relief,
costs of relief of wandering poor, &c. to be charged to the common fund of unions, vol. iii. 1271.
definition of destitute foundling, vol. iii. 1276.
relief of poor persons meeting with accidents, having a fixed place of abode, vol. iii. 1271.
paupers rendered irremovable by 9 & 10 Vict. c. 66, chargeable to the common fund of the union, vol. iii. 1272.
questions as to costs of relief, &c. may be referred to poor law board, whose orders shall not be removable after a certain time, nor be quashed, &c. *ib.*
guardians may assist in the emigration of poor, and charge the cost upon the common fund of the union or parish, &c. *ib.*
mode of charging relief to the common fund of unions, *ib.*
guardians may cause a valuation to be made, *ib.*
and may obtain orders of maintenance, and charge expenses in same manner as churchwardens, &c. *ib.*
recovery of relief advanced by way of loan, *ib.*
persons chargeable to common fund and convicted of any offence may be committed to common gaol, and expenses borne in the usual manner, vol. iii. 1272, 1273.
persons in possession of means and applying for relief, punishable as idle and disorderly persons, vol. iii. 1273.
evidence of chargeability, *ib.*
chargeability to common fund to bring persons within the vagrant act, vol. iii. 1276.
recovery of contributions, when copy of order served upon one overseer, vol. iii. 1276, 1277.

Liability of Pauper's Property to his Support.
pensions.
justices may order payment to overseers of the pensions, &c. of persons leaving their families chargeable, vol. iii. 1143.
paymaster general, &c. to make payment accordingly, *ib.*
how churchwardens to apply the same, *ib.*
repeal of part of 59 Geo. 3, c. 12, and whole of 6 Geo. 4, c. 27, vol. iii. 1201.
guardians may require the payment of to be made to them, for relief given by admission of pensioners into the workhouse, *ib.*

POOR—*continued.*
authorizing assignment of, in certain cases, vol. iii. 1201.
justices to make orders respecting in certain cases, vol. iii. 1202.
of insane persons, vol. iii. 1203.
of officers or seamen becoming lunatic, to be payable to their wives, *ib.*
orders and assignments relating to the same quarter's pension to be paid according to priority of dates, *ib.*
assignments of, must be made to guardians and overseers, *ib.*
forgery of documents relating to, *ib.*
schedules of forms relating to, vol. iii. 1203, 1205.
seamen's wages.
relief to seamen's families to be chargeable on a certain proportion of their wages, vol. iv. 287.
notice to be given to owner and charge to be enforced on the return of the seaman, *ib.*
Liability of Relatives to Pauper's Support.
who compellable.
poor persons to be relieved by their parents or children, vol. iii. 1029, 1030.
to whom this provision extends, vol. iii. 1030, n. (*a*).
justices to order relief, &c. vol. iii. 1030.
penalty for neglect, *ib.*
justices in petty sessions empowered to order relief by parents, &c. as justices in quarter sessions, vol. iii. 1142.
masters to provide for apprentices, vol. iii. 1078.
persons deserting their families.
persons running away and deserting their children chargeable, deemed rogues, &c. (7 Jac. 1, c. 4, s. 8), vol. iii. 1032.
churchwardens, &c. by warrant of two justices may seize offender's goods, &c. vol. iii. 1061.
and by order of quarter sessions dispose thereof, *ib.*
churchwardens accountable for the moneys so received, *ib.*
apprehension of rogues and vagabonds, vol. iii. 1039; vol. ii. (177).
Maintenance of Bastards,
justices of peace may order the punishment of mother and reputed father of a bastard, &c. vol. iii. 1014.
may examine the matter and make an order of bastardy, *ib.*
may make order of maintenance, *ib.*
parent of bastard may be committed for disobeying order, vol. iii. 1015.
putative fathers how to be proceeded against, vol. iii. 1039.
men charged on oath of women likely to be delivered of bastards may be apprehended by a warrant of a justice, vol. iii. 1078.
repeal of acts relating to liability, &c. of putative father, and punishment of mother of illegitimate children, vol. iii. 1173.
securities, &c. for indemnity of parishes against children likely to be born bastards, to be null and void, *ib.*
persons in custody for not giving indemnity to be discharged, *ib.*
mother bound to maintain, vol. iii. 1173, 1174.

POOR—*continued.*
when court of quarter sessions may make order on putative father for support, vol. iii. 1174.
moneys paid not applicable to support of mother, *ib.*
no application to be heard without fourteen days' previous notice, *ib.*
if application heard, how costs to be calculated, *ib.*
power to proceed *ex parte*, *ib.*
when recognizance for appearance may be required, vol. iii. 1175.
how arrears to be recovered from putative father, *ib.*
powers of quarter sessions to make orders on putative fathers of bastard children transferred to special or petty sessions (2 & 3 Vict. c. 85), vol. iii. 1206.
justices may enforce attendance of witnesses, vol. iii. 1207.
parties charged may enter into recognizance to try the charge at quarter sessions, *ib.*
meaning of certain terms, *ib.*
powers of making order on putative father to cease (7 & 8 Vict. c. 101), vol. iii. 1217.
putative father to be summoned to petty sessions on application of mother of bastard, *ib.*
justices may make an order on the putative father for maintenance and costs, and enforce the same by distress and commitment, vol. iii. 1218, 1219.
applications to be made within forty days, vol. iii. 1220.
appeal to quarter sessions, *ib.*
money under the order to be paid to the mother, or to a person appointed by the justices, vol. iii. 1220, 1221.
time of cessation of order, vol. iii. 1221.
mother punishable for neglect or desertion of her bastard children, *ib.*
officers of parishes or unions not to receive money under the order, or to interfere in any respect, *ib.*
proceedings against putative father in case of death or incapacity of mother, *ib.*
penalties for promoting marriage of a mother of a bastard, improperly, *ib.*
for misapplying moneys, *ib.*
or for maltreating bastard child, *ib.*
existing orders not to be affected, *ib.*
orders made by justices acting in two adjoining counties to be valid, although not made in the county in which the parish is situate, vol. iii. 1221, 1222.
clerks to justices to make annual return of proceedings under act to clerk of the peace, who shall transmit copies to the secretary of state, vol. iii. 1222.
proceedings in bastardy according to forms to be valid, vol. iii. 1238, 1239.
schedule of forms, vol. iii. 1241—1252.
mother, when order has been quashed for defect in form, may apply again within six months, vol. iii. 1239.
form of recognizance to be given by the putative father, *ib.*
mode of proceeding in cases of applications by women who are pregnant, vol. iii. 1240.
putative father may abandon appeal, and his recognizance shall not be estreated, *ib.*
mother to be examined by the court of quarter sessions, on appeal against the order, *ib.*

POOR—*continued.*
but order not to be confirmed unless her evidence is corroborated, vol. iii. 1240.
parties at petty sessions may be heard by counsel or attorney, *ib.*
default of sufficient distress to warrant the commitment of putative father to prison, *ib.*
magistrates of police courts may act alone in cases of bastardy, vol. iii. 1241.
definition of "petty sessional division," *ib.*

Settlement,
in general, and in what place to be gained, &c. by residence.
poor people going from one parish to another, vol. iii. 1032.
how to be settled, coming to any tenement under 10*l.* yearly value, *ib.*
the forty days mentioned in 13 & 14 Car. 2 to be reckoned from notice in writing, &c. given to parish officers, vol. iii. 1041.
and from publication of such notice in parish church, *ib.*
but now no person to gain a settlement by delivery and publication of notice, vol. iii. 1107.
nor by paying taxes for tenement of less yearly value than 10*l.*, *ib.*
all enactments and provisions in respect of gaining settlements contained in local acts repealed, vol. iii. 1122.
persons born in prisons not to gain settlement, vol. iii. 1095, 1123.
or houses licensed for reception of pregnant women, not to gain settlement thereby, vol. iii. 1123.
provision respecting settlements by reason of birth in any poor house or house of industry belonging to united parishes, vol. iii. 1063, 1123.
prisoners for debt or contempt not to gain settlements while in custody, vol. iii. 1095, 1124.
no gatekeeper or person residing in toll-house to gain a settlement thereby, vol. iii. 1124.
no person maintained in any charitable institution to gain any settlement by residence therein, vol. iii. 1125.
not to be gained by reason of irremovability under 9 & 10 Vict. c. 66, vol. iii. 1259.
by birth, and bastards' settlements.
bastards to be deemed of the mother's parish, vol. iii. 1107.
former acts before 35 Geo. 3 to remain in force, vol. iii. 1107, 1108.
bastard born in house of industry of an incorporated district to belong to mother's parish, vol. iii. 1079.
so bastards born in a lying-in hospital, vol. iii. 1078.
persons born in prisons or licensed houses not to gain a settlement thereby, vol. iii. 1123.
by marriage.
as to proof of marriage. See *Marriage.*
by hiring and service.
hiring for a year, of person without wife or child, a settlement, vol. iii. 1044.
there must be a contract of hiring to serve, *ib.* n. (*c*).

POOR—*continued.*
also an entire contract for a year's prospective service, vol. iii. 1046, n. (*d*), 1048 (n).
absence in militia, under contract, does not bar settlement, vol. iii. 1045, (n).
party must continue and abide in the same service for a year, vol. iii. 1056.
year's service not to be under yearly hiring, *ib.* n. (*b*).
forty days' residence in capacity of servant necessary, must be in parish, &c. vol. iii. 1058, n.
must not be as prisoner, in workhouse, &c. *ib.*
particular disabilities as to.
persons coming under a certificate, unless they take lease of tenement of 10*l.* yearly value, or execute annual office there, not to gain a settlement, vol. iii. 1060.
so persons hired and living with persons who reside in parish under a certificate, *ib.*
inhabitants witnesses, vol. iii. 1125.
22 Geo. 3, c. 83, not to alter settlements, vol. iii. 1088.
repeal of settlement by hiring and service, vol. iii. 1172.
no settlement incomplete to be acquired by completion, *ib.*
by apprenticeship.
apprenticeship a settlement, when, vol. iii. 1049.
forty days' residence requisite, vol. iii. 1037.
no notice of inhabitancy requisite, vol. iii. 1049.
apprentices to certificated persons not to gain a settlement, vol. iii. 1060.
not to be gained by apprenticeship in sea service, vol. iii. 1173.
how to be bound apprentice, vol. iii. 1129.
binding must be by indenture, vol. iii. 1059, 1131.
indenture to be allowed by two justices, vol. iii. 1131.
notice to overseers before indenture allowed, vol. iii. 1131, 1132.
parish officers must be parties to, vol. iii. 1121.
indentures signed by two persons only acting as churchwardens, &c. valid, *ib.*
not to affect any prior decision in any court, *ib.*
indentures valid, though churchwardens, &c. not sworn in, vol. iii. 1122.
valid if executed by overseers of poor of any township, &c. *ib.*
not to affect settlements, *ib.*
other indentures declared valid, vol. iii. 1147.
no settlement gained, unless provisions of 56 Geo. 3 as to binding, &c. complied with, vol. iii. 1132.
no settlement gained, unless regularly assigned under 32 Geo. 3, c. 57, vol. iii. 1133.
no indenture valid nor settlement gained where money advanced out of parish funds, unless approved under the act, vol. iii. 1133, 1134.
stamp for apprentice fee. See *Stamps.*

POOR—*continued.*
by serving public office.
what office conferred a settlement, vol. iii. 1041, 1042.
serving an office for one year, vol. iii. 1042, n. (*a*).
he must be legally placed in the office, vol. iii. 1060.
this ground of settlement taken away, vol. iii. 1172.
by renting a tenement of 10*l.* a year value.
persons coming to settle in tenement under 10*l.* a year removable to place of legal settlement, vol. iii. 1032, 1033, and *notes.*
certificated persons to gain settlement only by tenement or annual office, vol. iii. 1060.
prisoners in Q. B. not to gain settlement by renting a tenement or payment of rates, nor their servants by residence, vol. iii. 1095.
no settlement to be gained by a prisoner, vol. iii. 1123.
persons in houses of charitable institutions, *ib.*
all local acts respecting gaining of settlements repealed, vol. iii. 1122.
by 59 Geo. 3, c. 50, settlement not acquired by renting any tenement unless *bonâ fide* hired at and for 10*l.* a year, vol. iii. 1145, 1146.
but this provision repealed by 6 Geo. 4, c. 57, vol. iii. 1148.
settlement not gained unless tenement consist of a distinct house, &c. *ib.*
must be *bonâ fide* rented in the parish, vol. iii. 1148, 1149.
at 10*l.* a year at least for one whole year, vol. iii. 1149.
must be actually occupied for such year, vol. iii. 1149, 1150.
and rent actually paid for the year, vol. iii. 1150.
not necessary to prove actual value of tenement, *ib.*
actual occupation made necessary (1 Will. 4, c. 18), vol. iii. 1150, 1151, and *notes.*
settlement may still be gained by payment of rates, though occupation insufficient, vol. iii. 1151, n. (*a*).
nature of taking, vol. iii. 1150, 1151, *notes.*
nature of property hired, *ib.*
payment of rent to amount of 10*l.* sufficient, vol. iii. 1151.
act retrospective as to payment of rent, *ib.*, n. (*e*).
payment of rent within the year not necessary, vol. iii. 1151, n. (*c*).
discharge of rent by means of a distress sufficient payment by party hiring, vol. iii. 1151, n. (*d*).
settlement by occupying tenement not to be gained without payment of poor-rate for one year, vol. iii. 1172.
by estate.
what estate sufficient, vol. iii. 1064, 1065, n. (*a*).
purchases under 30*l.* not to entitle to settlement in parish, vol. iii. 1064.
to what cases this enactment extends, vol. iii. 1064, n. (*c*).
settlement by estate not to be retained unless party inhabit within ten miles, vol. iii. 1064, n. (*c*).
by paying taxes, rates, &c.
paying public taxes of parish confers a settlement, vol. iii. 1042, 1043, and *notes.*
but tenement must be of 10*l.* yearly value, vol. iii. 1107.
must be a distinct dwelling, &c. in parish, vol. iii. 1148.
must be rented and occupied an entire year, vol. iii. 1148, 1149.
rent must be paid for a year, vol. iii. 1150.
certificates.
persons coming to inhabit in any parish, and bringing with them a certificate under churchwardens' hands, owning them to be inhabitants of such other parish, to provide for them when they ask relief of parish to which such certificate was given, vol. iii. 1053, 1054.
such persons not to be removed until actually chargeable, vol. iii. 1053, n. (*b*).
certificate must be under hand and seal of majority, &c. vol. iii. 1054, and n. (*b*).
two witnesses to attest the execution of certificates, &c. vol. iii. 1054.
such witnesses to swear to execution, &c. vol. iii. 1054, 1055, 1069.
justices to certify oath was made, &c. vol. iii. 1069.
certificates signed by two persons only acting as churchwardens, &c. valid, vol. iii. 1121.
certificates made valid, although the churchwardens, &c. were not sworn in, vol. iii. 1122.
such certificates to be valid, if executed by the overseers of the poor of any township, &c. *ib.*
not to affect settlements, *ib.*
certain indentures and certificates of settlement declared valid, vol. iii. 1147.
reimbursing the certificated parish, vol. iii. 1070.

REMOVALS.

Who may be removed.
poor people going from one parish to another, how to be settled coming to any tenement under 10*l.* yearly value, vol. iii. 1032.
persons may go into any county to work, so that they carry with them a certificate of their habitation, vol. iii. 1038, 1053, 1054.
two justices may remove them to place of habitation, vol. iii. 1038, 1039.
punishment of persons so removed, and returning to the place from which removed, vol. iii. 1039.
such offenders shall be deemed idle and disorderly persons, vol. ii. (178).
churchwardens and overseers refusing to receive person removed to be indicted, &c. vol. iii. 1039.
churchwarden must receive a person removed by warrant of two justices of peace, upon 5*l.* penalty, vol. iii. 1051.

POOR—*continued.*
one justice may cause pauper to be brought to be examined as to his settlement, vol. iii. 1117, 1118.
no person is to be removed till he become actually chargeable, vol. iii. 1104, 1105.
except felons, rogues, vagabonds, vol. iii. 1107.
and unmarried women with child, who are to be deemed chargeable, *ib.*
power to two justices to remove chargeable poor born in Scotland, Ireland, &c. although they have not committed any act of vagrancy, vol. iii. 1143.
extended to all townships, &c. maintaining poor separately, vol. iii. 1144.
not extends to England only, *ib.*
no person to be removed from any parish in which he or she shall have resided for three years, vol. iii. 1255, 1289, and *notes.*
time during which persons are in prison, or serving in the army or navy, &c. not to be computed, vol. iii. 1256, 1257.
proviso as to wife and children, vol. iii. 1258, 1259, 1273.
widow not to be removed for twelve months after husband's death, vol. iii. 1258.
nor child under sixteen, vol. iii. 1259, 1289.
nor sick person, except under certain circumstances, *ib.*
settlement not to be gained thereby, *ib.*
penalty on persons unlawfully procuring removals, *ib.*
application of, vol. iii. 1282.
delivery of paupers under orders of removal, vol. iii. 1260.
removal to lunatic asylum or workhouse of union not to be an interruption of residence, vol. iii. 1276.

Scotland, Ireland, Isle of Man, and Channel Islands.
repeal of previous acts, vol. iii. 1252.
provision for the removal of natives of, *ib.*
persons executing warrants of removal to have the authority of constables, vol. iii. 1253, 1260.
justices to make new regulations for removal of paupers to their respective places of birth or residence, vol. iii. 1253.
expenses of certain parishes to be repaid out of county rates, *ib.*
appeals against removals, how to be lodged, vol. iii. 1253, 1254.
act to be construed with Poor Law Amendment Act, vol. iii. 1254.
forms, *ib.*
guardians, &c. in England may take persons removable therefrom under the above provisions before two justices without summons, &c. vol. iii. 1260.
inspectors in Scotland may take persons removable therefrom under 8 & 9 Vict. c. 83, before sheriff or two justices, without previous complaint, &c. *ib.*
amendment of the law relating to the removal of paupers to Ireland, vol. iii. 1290, 1301, 1302.
amendment of the law relating to the removal of paupers from England to Scotland, and from Scotland to England and Ireland, vol. iii. 1301.

POOR—*continued.*
Order of Removal.
enactment of Car. 2, as to removals, vol. iii. 1032.
may be suspended in case of sickness, &c. of pauper, vol. iii. 1105.
examination of prisoners to be taken, &c. vol. iii. 1142.
repeal of so much of 4 & 5 Will. 4, c. 76, as requires copy of examination to accompany notice of removal, vol. iii. 1264.
substitution of statement of grounds of removal, *ib.*
copy of depositions to be furnished on application, *ib.*
formal objections to statement of grounds of removal or appeal not to be taken, vol. iii. 1265.
party making frivolous or vexatious statement of grounds of removal or appeal liable to pay costs, *ib.*
power of amendment, *ib.*
no objections to be allowed on *certiorari*, unless specified in the rule, *ib.*
abandonment of orders of removal, vol. iii. 1266.
payment of costs thereon, *ib.*
former acts to be construed with this, vol. iii. 1267.
paupers ordered to be removed may be conveyed by other persons than churchwardens, &c. vol. iii. 1125.

Suspending Orders of Removal.
magistrate may take examination of infirm pauper as to his settlement, and report to petty sessions, vol. iii. 1117, 1118.
justices empowered to suspend orders of removal of sick or infirm persons, vol. iii. 1105.
charges of suspension to be paid by officers of parish to which they are to be removed, which may be levied with costs, vol. iii. 1106.
if costs exceed 20*l.* appeal may be made to quarter sessions, vol. iii. 1106, 1107.
act not to alter power of justices to pass or punish vagrants by 17 Geo. 2, c. 5, except as to suspension, vol. iii. 1107.
when order of removal, &c. suspended, any other justice of county, &c. where such removal, &c. made, may order same to be executed, vol. iii. 1117.
how time of appealing to be computed, *ib.*
order of removal suspended in case of sickness, may extend to other persons named in order, to prevent separation of a family, *ib.*
service of suspended orders, vol. iii. 1267.
payments under suspended orders, vol. iii. 1282.

Appeal against Order.
who may appeal, vol. iii. 1038, 1051.
power of appealing, *ib.*
appeal may be to quarter sessions, whose order shall be final, vol. iii. 1051.
appeal against any order for removal of poor persons to be determined at quarter sessions, vol. iii. 1059.
no appeal unless notice given within certain time of chargeability, vol. iii. 1266.
removal not to take place until twenty-one days after notice of chargeability, vol. iii. 1175, 1176.

POOR—*continued.*
proviso where order of removal submitted to, vol. iii. 1176.
proviso in case of appeal, vol. iii. 1176, 1177.
notice of appeal need not be given within the twenty-one days, vol. iii. 1176, n. (*a*).
signature and service of notice by or on majority of overseers sufficient, *ib.* n. (*d*).
in case of appeal overseers may examine pauper touching settlement, vol. iii. 1177.
grounds of appeal to be stated in notice, *ib.* and n. (*c*).
when statement to be delivered, vol. iii. 1177—1179, and *notes.*
not to affect practice of sessions, as to time of giving notice, vol. iii. 1177, n. (*c*).
what is or is not a sufficient statement of grounds of appeal, *ib.*
delivery of statement to attorney of respondent parish not sufficient, vol. iii. 1179, n. (*a*).
decision to be final, vol. iii. 1265.
costs of appeal to be paid by losing parish, vol. iii. 1179.
party making frivolous or vexatious statement to pay costs, *ib.*
costs of relief to be paid by parish to which pauper belongs, *ib.*
relief under suspended order not recoverable without notice of order, *ib.*
notices of appeal against, may be sent by post, vol. iii. 1282.
delivery of statement of charges for maintenance of paupers, vol. iii. 1283.

Reimbursing
overseers on re-conveying certificated persons, vol. iii. 1070.

Workhouses, &c. Conveyance of, 59 Geo. 3, c. 12; 5 & 6 Will. 4, c. 69; 7 Will. 4 & 1 Vict. c. 50.
limiting amount to be raised for buildings and purchase of lands, &c. vol. iii. 1138.
power to raise further sums by loans, or by sale of annuities, *ib.*
future rates charged with loans and annuities, *ib.*
no greater rate than 1s. in the pound to be charged on future rates, unless with consent of two-thirds in value of proprietors of premises, vol. iii. 1138, 1139.
churchwardens and overseers may take and sue as bodies corporate, vol. iii. 1139.
incapacitated persons empowered to convey, vol. iii. 1139, 1140.
powers and directions of 22 Geo. 3, c. 83, as to sales, &c. applied, vol. iii. 1140.
powers for corporations and persons under disability to convey lands, &c. vol. iii. 1186.
investment of purchase-money, vol. iii. 1187.
parties in possession to be deemed entitled, *ib.*
court of exchequer may order payment of expenses, *ib.*
powers to overseers and guardians to sell, exchange, and let workhouses, &c. *ib.*
explanation of meaning of, vol. iii. 1208.
proviso for charitable donations, and for consent of rate-payers, &c. to certain sales, &c. vol. iii. 1209.
powers to overseers to take waste or forest lands extended to guardians, &c. vol. iii. 1188.
powers to justices to deliver possession of

POOR—*continued.*
parish houses, &c. extended to property of unions, &c. vol. iii. 1188, 1189.
mode of conveyance, &c. vol. iii. 1189.
approval of poor law commissioners, *ib.*
guardians incorporated, *ib.*
previous sales made with consent of commissioners to be valid, *ib.*
interpretation clause, *ib.*
schedule of forms, vol. iii. 1190, 1191.
provisions to extend to copyhold and customary lands, &c. vol. iii. 1198.
provision for enfranchisement of copyholds, &c. *ib.*
steward of manor to enter certificate on rolls, &c. vol. iii. 1199.
mode of conveyance, *ib.*

Sale of Parish Property and Discharge of Debts.
where, belonging to several parishes, vol. iii. 1209.
no trustee to be required to join in any conveyance of parochial property, *ib.*
provisions of 1 & 2 Vict. c. 25, for the payment of debts out of the produce of the sale of parochial property extended to any recognised *bonâ fide* debts, *ib.*
commissioners may, upon receipt of a parochial request, order payment of the aforesaid debts out of the poor rates, vol. iii. 1209, 1210.
overseers may borrow money and charge the same on the poor rates for the payment of such debts, vol. iii. 1210.
provision for the discharge of bonds under 22 Geo. 3, c. 83, *ib.*
payments in respect of debts not legally charged on the rates or provided for by act, illegal, and to be disallowed, *ib.*
interpretation clause, *ib.*

RATES.
Who are to make the Rate.
churchwardens and overseers may, vol. iii. 1017, 1027.
in corporate towns, vol. iii. 1030.
in townships, vol. iii. 1041.

For what Purposes to be made.
for setting to work poor, &c. and putting out apprentices, vol. iii. 1017—1026.
for other purposes, vol. iii. 1108.
for payment, &c. of building poor-houses, &c. vol. iii. 1138.
for payment of money borrowed for erection, &c. *ib.*
to reimburse parish officers, vol. iii. 1039.
for paying assistant overseer, vol. iii. 1136.
costs of certain civil and criminal proceedings to be paid out of, vol. iii. 1233.
jury lists and boundaries, vol. iii. 1234.

When to be made.
succeeding churchwardens, &c. empowered to make rate for reimbursing preceding churchwardens while there was no rate, or during appeal, &c. vol. iii. 1077, 1113.

For what time Poor Rate may be made.
rate may be weekly, prospective, &c. vol. iii. 1017, and n. (*e*).
justices may rate parish to a weekly sum, vol. iii. 1031.

Who to be rated.
in general, vol. iii. 1018 *et seq.* and *notes.*
every inhabitant, occupier, &c. *ib.*
power to rate owners of certain houses instead of occupiers, vol. iii. 1140.

POOR—*continued.*
goods of such occupiers may be distrained for rates to amount of rent actually due, vol. iii. 1140.
such occupier paying rates empowered to deduct the amount out of the rent, *ib.*
receivers in certain cases may be rated as owners, vol. iii. 1140, 1141.
persons rated as owners may appeal, and may vote in vestries, &c. vol. iii. 1141.
no owner not being an occupier to be rated in places where the right of voting for members to serve in parliament depends on the rating, *ib.*
owners of divided houses rateable, and how, vol. iii. 1095, 1096.
justices out of sessions, with consent of parish officers, may discharge paupers from payment of rates, vol. iii. 1125.

What Property rateable.
land, houses, &c. vol. iii. 1018, n. (*c*), 1023, and *notes.*
stock in trade, vol. iii. 1018, n. (*a*).
salaries and wages of labour, *ib.*
tithes, vol. iii. 1018, n. (*b*).
manorial profits, vol. iii. 1023, n.
mines, vol. iii. 1023, n. (*b*).
woods, vol. iii. 1024, n. (*a*).
commons, vol. iii. 1023, n.
extra profits from land, *ib.*
canal, dock tolls, &c. vol. iii. 1024, n. (*b*).

Exemptions from.
places used for religious worship exempted, vol. iii. 1154.
not liable if generally used as schools, *ib.*
scientific societies exempted from rates on obtaining a certificate of barrister or lord advocate, vol. iii. 1214.
three copies of rules of society to be submitted to barrister appointed to certify the rules of friendly societies for his certificate, vol. iii. 1215, 1216.
certificate a condition precedent to but not conclusive proof of exemption, vol. iii. 1216, n. (*a*).
distribution of copies, vol. iii. 1216.
alterations to be certified and deposited in like manner, *ib.*
effect of refusal to certify, *ib.*
fee to be paid by society to the barrister or lord advocate, *ib.*
application to sessions where certificate refused, *ib.*
appeal to quarter sessions, *ib.*

Property, where to be rated.
in the parish, &c. vol. iii. 1024, and n. (*b*).
in corporate places, vol. iii. 1021, n.
marsh lands drained, to be rated, vol. iii. 1074.
justices in sessions may hear, &c. disputes as to, *ib.*

The Proportion in which Rate to be made.
should be a competent sum, vol. iii. 1025.
clause concerning persons removing out of parishes, &c. vol. iii. 1077.

Rating Parishes in Aid.
where inhabitants incapable of maintaining poor, vol. iii. 1026, 1027.
hundred contributory, vol. iii. 1026, n. (*k*).
county contributory, vol. iii. 1027.

POOR—*continued.*
Property, how to be rated (*Parochial Assessments, 6 & 7 Will. 4, c. 96*).
all rates to be made on net annual value of property, vol. iii. 1192.
act not to affect principles of rating in certain cases, vol. iii. 1193.
rates to be made in a given form, vol. iii. 1194.
act not to prevent composition for rates, *ib.*
power to order new survey and valuation, *ib.*
surveyors may enter and examine lands, &c. for making survey and plans, vol. iii. 1195.
power to take copies, &c. of rates gratis, *ib.*
penalty for refusal to permit, *ib.*
special sessions to be held four times a year for hearing appeals, *ib.*
appeal to quarter sessions, *ib.*
notice of appeal, &c. *ib.*
powers of justices in special sessions, *ib.*
fee for giving notice of special sessions to be paid by overseers out of the poor rate, vol. iii. 1280.
schedule of forms, vol. iii. 1196.

Overplus,
how to be disposed of, vol. iii. 1031.

Allowance, Publication, and Inspection of Rate.
officers of corporate towns have the authority of justices, vol. iii. 1030.
aldermen of London, *ib.*
parish extending into two counties or into two liberties, *ib.*
separation of towns from parishes, and distinct appointment of overseers lawful, vol. iii. 1146.
but with respect to poor such separation must have commenced within sixty years, *ib.*
publication of rate to be made in the church, &c. vol. iii. 1072.
rate may be inspected, and any inhabitant, &c. may take a copy, &c. vol. iii. 1073.
penalty for refusing him, *ib.*

Appeal against quashing, &c. Rate, and Power of Sessions thereupon.
appeal given to general quarter sessions, vol. iii. 1029.
must be to next general or quarter sessions, vol. iii. 1075.
proviso for corporations, vol. iii. 1076.
may be to general or quarter sessions from corporations and franchises not having six justices, vol. iii. 1146, 1147.
costs of, vol. iii. 1075, 1076.
how far justices may give relief on, by amending rate, &c. vol. iii. 1076.
quarter sessions may amend rate without quashing it, vol. iii. 1110.
or if necessary to grant relief may quash rate, but sum assessed shall notwithstanding be levied, *ib.*
quarter sessions having ordered rate to be quashed, may order sum charged on any person not to be paid, and stop proceedings for recovery thereof, &c. vol. iii. 1111.
justices not to be liable as trespassers for previous proceedings, *ib.*
notices of appeal to be given to churchwardens and overseers, &c. *ib.*
appeals may be decided, if parties consent, although notice be not given, *ib.*
persons appealing to give notice, but also to the persons interested, *ib.*

POOR—*continued.*
rate shall be recovered as altered by quarter sessions, vol. iii. 1112.
if name of any person be struck out, or any sum lowered, money which ought not to have been recovered may be ordered to be repaid, with costs, *ib.*
inhabitants not to be incompetent witnesses in certain cases on behalf of or against their parishes, vol. iii. 1125.
after appeal rates to be entered in a book, vol. iii. 1077.

Levying of, by Distress. See *Distress.*
rate may be levied by distress and sale, vol. iii. 1027, and *notes*, 1031.
distress may be made in any place in county or precinct, vol. iii. 1076, 1077.
distress, if not to be found within district, &c. may be made out of district, vol. iii. 1126.
if rate quashed, sums charged to be taken as payment on account of next rate, vol. iii. 1110.
notice of appeal not to prevent a distress for sum not greater than that assessed in last effective rate, vol. iii. 1110, 1111.
where rate quashed, sessions may stop proceedings for enforcing same, vol. iii. 1111.
the altered rate shall be recovered as usual, vol. iii. 1112.
distress not unlawful for want of form in proceedings, vol. iii. 1077.
commitment for want of distress, vol. iii. 1027.
arrears to be levied by succeeding overseers, vol. iii. 1077.
manner of proceeding by board of guardians in case the contributions required by any parish are in arrear, vol. iii. 1206.
orders of commissioners for appointing collectors declared valid, *ib.*
provisions of the 58 Geo. 3, c. 69, for the regulation of vestries, not to be affected, *ib.*
expense of collecting, vol. iii. 1281.
consolidation of proceedings for recovery of different kinds of rates from the same person, vol. iii. 1293.
no costs in respect of several informations, *ib.*

Collection of.
collectors of, to perform duties of assistant overseers, vol. iii. 1234.
appointment of paid collectors, vol. iii. 1235.

Guardians.
constitution and election of board of guardians for unions, vol. iii. 1164.
power of guardians limited, *ib.*
guardians may be re-elected, *ib.*
the like as to single parishes, *ib.*
in what parishes commissioners not authorized to order election of board, vol. iii. 1164, n. (*l*).
right of voting, and how votes to be taken, vol. iii. 1165, 1222, 1223.
scale of voting, *ib.*
votes may be given by proxy, vol. iii. 1165.
no rate-payer to vote unless rated to poor rates one year, vol. iii. 1165, 1223.
future elections of guardians, &c. under 22 Geo. 3, c. 83, or any local act, to be according to present act, vol. iii. 1165, 1166.
determination of disputes as to the election of vol. iii. 1212.

POOR—*continued.*
resignation of candidates, vol. iii. 1212.
continuance of guardians in office, *ib.*
commissioners may accept resignation of any, *ib.*
in case of vacancy, remaining guardians to act, *ib.*
no defect in qualification of, to vitiate proceedings, *ib.*
paid officers and others incapable of serving as, *ib.*
ex officio, not incompetent to act as justices, *ib.*
corporate powers of, vol. iii. 1213.
mode of application to justices by boards of, *ib.*
may authorise their officers to take legal proceedings, *ib.*
construction and interpretation of provisions, *ib.*
schedule, vol. iii. 1214.
under local acts,
in what manner to conduct proceedings, vol. iii. 1235.
when consent of, necessary or otherwise to addition or subtraction of parishes to or from unions, vol. iii. 1235, 1236.
proceedings at petty sessions on behalf of, by whom to be conducted, vol. iii. 1236.
election of,
repeal of so much of 4 & 5 Will. 4, c. 76, as relates to number of votes of owners and rate-payers, vol. iii. 1222.
owners of property and rate-payers to vote according to specified scale, *ib.*
regulations as to votes of owners and of proxies, vol. iii. 1222, 1223.
so much of 4 & 5 Will. 4, as relates to not voting only to extend to poor's rates, vol. iii. 1223.
annual election of, to take place within forty days after 25th of March, vol. iii. 1223, 1224.
number of guardians may be altered with reference to population, vol. iii. 1224.
parishes may be divided into wards, *ib.*
qualification of, *ib.*
rate-payers may elect in what wards to vote, *ib.*
ex officio,
justices residing in extra-parochial places or parishes within unions to be, *ib.*
confirmation of proceedings of boards of, vol. iii. 1263.
chairman of, to have a casting vote, vol. iii. 1278.
boards to be constituted from 15th April in each year, vol. iii. 1281.
penalties for mal-practices at election of, *ib.*
with consent of poor law board, may subscribe to hospital or infirmary, vol. iii. 1281, 1282.
may reimburse, for damage to the property of their officers, vol. iii. 1282.
provisions for the payment of debts incurred by boards of guardians in unions and parishes, vol. iii. 1287.

OVERSEERS.
For what places Overseers may be appointed.
in parishes, vol. iii. 1015—1017.
reputed parishes, vol. iii. 1015, n. (*c*).

POOR—*continued.*
in villages and townships, vol. iii. 1039.
in cities and boroughs. See vol. i. 1082.
in extra-parochial places, vol. iii. 1286.
separate overseers not to be appointed for townships or villages not heretofore appointing them, vol. iii. 1224.
officers of corporate towns to have the authority of justices, vol. iii. 1030.
aldermen of London, *ib.*
a parish extending into two counties or into two liberties, who to be overseers of, *ib.*
separation of parishes legalized, and distinct appointment lawful, vol. iii. 1146.
provided separation has commenced within sixty years, *ib.*

What number may be appointed.
must not be more than four, nor less than two, besides churchwardens, vol. iii. 1015, and n. (*d*).
in townships and villages, vol. iii. 1039—1041.

Who may be appointed.
must be substantial householder, vol. iii. 1015, 1016.
women, vol. iii. 1016, n. (*a*).

Exemptions.
clergymen, vol. iii. 1016, n. (*d*).
dissenting teachers, *ib.*
aldermen of London, *ib.*
justices of peace, *ib.*
officers of the courts of law, *ib.*
practising barristers and attorneys, *ib.*
freemen of the corporation of surgeons of London, *ib.*
apothecaries (6 & 7 Will. 3, c. 4, s. 2), *ib.*
registrars of births, *ib.*
peers and members of parliament, *ib.*
officers of customs, *ib.*
persons concerned in contracts for the workhouse, *ib.*
or in certain other contracts, vol. iii. 1276.
power to appoint non-resident overseers, vol. iii. 1136.
assistant overseers may be appointed, *ib.*
security may be taken on such appointments, vol. iii. 1137.
appointment of collectors to perform duties of assistant overseers, vol. iii. 1234.

Time of Appointment of.
to be nominated on 25th March, or in fourteen days after, vol. iii. 1017, n. (*a*), 1122.
appointment on a Sunday not good, semble, vol. iii. 1017, n. (*a*).
appointment in case of death, &c. of overseer, vol. iii. 1075.

Who to appoint and mode of appointment.
must be by two justices under seal, &c. vol. iii. 1017.
officers of corporate towns, &c. to have the authority of justices of peace, vol. iii. 1030.
aldermen of London, *ib.*
proviso for a parish extending into two counties or into two liberties, *ib.*
appointment in townships and villages, vol. iii. 1039—1041.
separation of towns from parishes and distinct appointment of overseers lawful, vol. iii. 1146.
but with respect to the poor, such separation must have commenced within sixty years, *ib.*

POOR—*continued.*
penalty on justices, where no nomination of overseers, vol. iii. 1031.
distress, &c. for rate, not unlawful for defect of form in appointment, vol. iii. 1077.
on overseer dying, &c. two justices to choose another, vol. iii. 1075.

Mode of enforcing Appointment.
justices to forfeit, &c. for not appointing, vol. iii. 1031.
mode of levying fine, &c. *ib.*

Constitution and Incidents of the Office.
the jurisdiction of overseers,
in parishes extending into two counties or liberties, vol. iii. 1030, 1031.
power of overseers where there are no churchwardens the same as if there were, vol. iii. 1078.

General Duties and Powers of.
powers as to putting poor to work, &c. vol. iii. 1017.
power of taxing, vol. iii. 1017, and n. (*e*).
who shall be taxed towards relief of poor, vol. iii. 1018, and *notes.*
a convenient stock shall be provided to set the poor on work, vol. iii. 1025.
overseers to meet once every month, vol. iii. 1026.
matters required to be done by overseers under 6 & 7 Will. 4, c. 76, may be done by the major part of them, vol. iii. 1284.
service upon overseers of notices required by the 6 & 7 Will. 4, c. 76, *ib.*

Recovering Possession of Houses, &c.
justices empowered in certain cases to deliver the possession of parish houses to overseers, vol. iii. 1141.
recovering possession of parish houses, &c. *ib.*
mode of proceeding, *ib.*
justices empowered to deliver possession of lands appropriated for poor, *ib.*

Privileges of Overseers, &c.
may plead general issue, vol. iii. 1032.
tender of amends, vol. iii. 1077.
treble damages and costs, vol. iii. 1032.
overseers in populous parishes enabled to provide offices for the discharge of parochial business, vol. iii. 1291.

Remedies against Overseers, &c.
penalty of 20*s.* for absenting themselves from monthly meeting, vol. iii. 1026.
or for being negligent in office, *ib.*
penalty for refusing to read or register notice of forty days' settlement, vol. iii. 1041.
penalty of 20*s.* and not exceeding 5*l.* for neglecting to obey directions of 17 Geo. 2, c. 38, vol. iii. 1077.
penalty on neglecting to obtain a supply of funds for the relief of the poor, vol. iii. 1235.

Inspectors,
appointment of, vol. iii. 1262.
duties of, vol. iii. 1263.
power to summon witnesses, *ib.*
for conducting special inquiries, *ib.*

Paid Officers,
appointment of, &c. vol. iii. 1167.

ACCOUNTS.
Time and manner of Making up, &c.
may be rendered half-yearly, vol. iii. 1228.

POOR—*continued.*
Overseers, &c.
to pass accounts quarterly, vol. iii. 1167.
recovery of balances, vol. iii. 1168.
proviso as to liability of surety, *ib.*
to keep accounts, vol. iii. 1167, 1170.
must account to their successors in four days, &c. vol. iii. 1026.
altered to fourteen days, vol. iii. 1074.
accounts to be preserved and inspection granted, vol. iii. 1074, 1075.
fee for inspection, *ib.*
refusing to account, to be committed, vol. iii. 1075.
penalty for treasurer neglecting to account, vol. iii. 1031.
removing to another parish, to account, vol. iii. 1075.
executors of overseers to account in forty days, *ib.*
priority over other debts, vol. iii. 1075.
taxation and allowance of law bills, vol. iii. 1228.
accounts to be fairly entered in a book and signed by overseers of all moneys received, &c. vol. iii. 1074.
accounts to be verified on oath, *ib.*
accounts to be submitted to two or more justices at a special sessions, vol. iii. 1118.
justices may examine accounts, and disallow charges, *ib.*
penalty for neglect, &c. *ib.*
power of commitment, vol. iii. 1119.
refusing to pay successors, distress and imprisonment, *ib.*
magistrates of corporations have the same power in such cases as justices, *ib.*
provisions not to extend to officers exempted from accounting under 43 Eliz. or 17 Geo. 2, vol. iii. 1120.
nor to city of London, *ib.*
debts contracted by overseers within three months of termination of office to be discharged by successors, vol. iii. 1268.
provision for payment of bills of costs for legal proceedings, *ib.*
parties advancing money on behalf of unions and parishes to be reimbursed, vol. iii. 1268, 1269.
appeal against disallowances and surcharges may be determined by the poor law board on the merits, and disallowances may be remitted, &c. vol. iii. 1269.
mode of certifying as to balances to officers, vol. iii. 1269.
forms of certificates, vol. iii. 1271.
sums paid by overseers to constables, &c. by order of justices not to be disallowed by auditors, vol. iii. 1269.
notice of audit to be advertised, *ib.*
proceedings to be taken against persons now liable to be surcharged by auditor, and to whom no notice is required to be given, vol. iii. 1269, 1270.
what to be proved by auditors in order to recover sums certified to be due, vol. iii. 1270.
auditor may appoint a deputy, *ib.*
power for parishes, with consent of vestries, mutually to bear the costs of several appeals involving the same common principle, *ib.*
determination of complaints as to non-payment of money to treasurer, vol. iii. 1282.

POOR—*continued.*
Appeal against.
appeal against the account allowed, vol. iii. 1075, and n. (*i*).
appeal must be to next general or quarter sessions, vol. iii. 1075, n. (*l*).
corporations, &c. may appeal to next county sessions, vol. iii. 1146, 1147.
notice of appeal, vol. iii. 1111.
churchwardens, &c. may appeal to quarter sessions, vol. iii. 1119.
power to adjourn same, *ib.*
appeal by any other person not taken away, *ib.*
magistrates of corporations to have same jurisdiction as two or more justices, *ib.*
proceedings of quarter sessions final, *ib.*
not to extend to churchwardens, &c. exempted from accounting under the recited acts, vol. iii. 1120.
nor to the city of London, *ib.*
43 Eliz. and 17 Geo. 2, unless expressly mentioned, not to be affected, *ib.*
determination of appeals by poor law board, vol. iii. 1269.
Auditors of Accounts.
commissioners may combine parishes and unions into districts for audit of accounts, vol. iii. 1226.
election of district auditors, *ib.*
their powers and duties, *ib.*
rate books to be made up seven days before the audit day, vol. iii. 1226, 1227.
notice of time and place of audit, vol. iii. 1227.
inspection of books, *ib.*
balances found previous to act may be discharged, *ib.*
certiorari for auditors' allowances or disallowances, *ib.*
persons aggrieved may apply to commissioners, who may issue orders thereupon, vol. iii. 1228.
cessation of powers of justices to audit, *ib.*
existing district auditors may be retained, *ib.*
additions to district not to vacate appointment, *ib.*
in case of vacancy of office, temporary auditor to be appointed by poor law board, vol. iii. 1277.
certain limitations in 11 & 12 Vict. c. 43, not to apply to proceedings by auditors, *ib.*
may recover costs of proceedings to enforce due attendance at the audit, *ib.*
Remedies against Parish Officers for Misbehaviour.
20*s.* penalty for not meeting once a month, vol. iii. 1026.
Protection of Parish Officers in Discharge of their Duty.
protected in case of informal distresses, vol. iii. 1077.
may tender amends, *ib.*

APPEAL
Against rates,
who may appeal, vol. iii. 1075, 1076.
To what Sessions.
to general or quarter sessions, &c. *ib.*
jurisdiction reserved to corporate justices, vol. iii. 1076.
party rated within a franchise not having four justices, may appeal to the county sessions, vol. iii. 1146, 1147.

POOR—*continued.*
Against Orders of Removal.
who may appeal, vol. iii. 1038.
appeals to quarter sessions, *ib.*
appeal transferred to county sessions in limited jurisdictions, vol. iii. 1146, 1147.
allowed from corporations not having six justices, *ib.*
excepting counties, *ib.*
Of entering Appeals.
against rates under 43 Eliz. appeal might be made to any sessions, vol. iii. 1029.
but 17 Geo. 2 confines appeals to next sessions after party aggrieved, vol. iii. 1075.
Notice of Appeal,
against removals not proceeded on, unless reasonable notice given, vol. iii. 1067.
against rates and overseers' accounts regulated, vol. iii. 1111.
must be in writing and signed by appellants or their attorneys, *ib.*
objections not in notice may be heard by consent, *ib.*
several may join in a notice, vol. iii. 1068, n. (*b*).
in appeal against rate, service by leaving at house sufficient, vol. iii. 1111.
in rates and removals, service on two parish officers sufficient, *ib.*
notice to be given to all persons whose rate is made a ground of appeal, *ib.*
may be given to one parish officer, vol. iii. 1069, n. (*b*).
but not to an attorney, *ib.*
Of Hearing and Judgment, &c. Costs on Appeals.
relief to be given on, vol. iii. 1076.
sessions must order new rate to be made, *ib.*
power of amendment given, vol. iii. 1070.
power of amendment by 41 Geo. 3, c. 23, vol. iii. 1110.
sessions may order quashed rate not to be paid, and stay proceedings, &c. vol. iii. 1111.
or order rate to be repaid, vol. iii. 1112.
costs on determination of appeals against removals, vol. iii. 1055, 1056, 1069.
costs on appeal against rate, vol. iii. 1112, 1113.
maintenance given on undue removals, &c. vol. iii. 1069.
amendments, vol. iii. 1070.
Certiorari.
no *certiorari* allowed without recognizance of 50*l.* to prosecute with effect, vol. iii. 1071.
on refusal of recognizance, justices to proceed, *ib.*
recognizance to be certified into queen's bench, *ib.*
attachment for contempt, *ib.*
costs, *ib.*
recovery and application of penalties, vol. iii. 1182, 1183.
competency of witnesses, vol. iii. 1183.
justices may proceed by summons, *ib.*
distress not unlawful for want of form, *ib.*

POOR—*continued.*
satisfaction recoverable for special damage, vol. iii. 1183.
plaintiff not to recover for irregularity of tender of amends made, *ib.*
parties aggrieved may appeal to quarter sessions, *ib.*
within what time appeal to be made, *ib.*
notice of appeal, &c. *ib.*
limitations of actions, &c. *ib.*
defendant may plead general issue, &c. vol. iii. 1184.
costs to defendant as between attorney and client, *ib.* and n. (*b*).
in informations and proceedings for penalties and forfeitures under 5 Will. 4, or subsequent acts, full costs to be allowed, vol. iii. 1277.
mode of describing collectors of poor rates in indictments for larceny and embezzlement, vol. iii. 1278.
guardians may appropriate certain property of paupers, *ib.*
assaults upon workhouse officers or relieving officers, vol. iii. 1281.
form of security for money borrowed, vol. iii. 1282.
assaults upon poor law officers in the execution of their duty, vol. iii. 1283.

MISCELLANEOUS PROVISIONS.
Notices.
heretofore usually given during or after divine service, &c. to be affixed to the church doors, vol. iii. 1197.
for holding vestries to be signed by a churchwarden, or rector, vicar, curate, or overseer, vol. iii. 1198.
service upon overseers of notices required by the 6 & 7 Will. 4, c. 76, vol. iii. 1284.
Postage.
letters, &c. to and from board of commissioners free, vol. iii. 1180.
letters sent under cover, when to be charged, *ib.*
Disallowance of Payments, vol. iii. 1180, 1181.
Service of Summons, vol. iii. 1181.
Disobedience of Officers.
penalty on overseers, &c. disobeying guardians, vol. iii. 1182.
proviso for non-execution of illegal orders, *ib.*
penalty on overseers, &c. purloining goods, &c. *ib.*
penalty on persons wilfully disobeying rules, &c. *ib.*
Removal of Officers, &c. vol. iii. 1168.
Contracts,
not valid unless conformable to rules of commissioners, *ib.*
repeal of 45 Geo. 3, c. 54, *ib.*
penalty imposed by 55 Geo. 3, c. 137, extended to present Act, *ib.*
Supplying Goods, &c.
officers not to be concerned in, vol. iii. 1175.
Trust and Charity Estates.
how to call for and publish accounts of, vol. iii. 1179.
Stamps.
advertisements, &c. not liable to stamp duty, vol. iii. 1180.

POOR—*continued.*
exemption of bonds and securities, &c. vol. iii. 1180.
Evidence.
justices in petty sessions, power of, to summon witnesses, &c. vol. iii. 1236.
guardians, certificates of, *ib.*
to be evidence of contents, *ib.*
what facts unnecessary to prove and incapable of being disputed, in proceedings civil or criminal, vol. iii. 1263.
penalties for giving false evidence, *ib.*
Extra-Parochial Places.
act to provide for the relief of the poor in, vol. iii. 1286.
all extra-parochial places where no poor rate is levied to be deemed parishes for relief of the poor, &c. and overseers to be appointed, *ib.*
justices may appoint one overseer only, *ib.*
provision for the inns of court, *ib.*
annexation of extra-parochial place to adjoining parish, *ib.*
overseers may act as guardians until there shall be ratepayers qualified to elect, *ib.*
powers of overseers in the extra-parochial places, *ib.*

PORTS AND HARBOURS, vol. ii. 376. See tit. "HARBOURS," &c.

POST OFFICE.
statutes now in force relating to, vol. iii. 1305.

POUND, vol. i. 63. See tit. "ANIMALS."

POUND BREACH.
amendment of the law relating to, vol. iii. 1306.
punishment for releasing or attempting to release cattle impounded, or damaging any pound, &c. *ib.*
justices not to hear cases where questions of title arise, or as to any bankruptcy, insolvency, or execution, &c. *ib.*
summons, how issued, and proceedings thereon, *ib.*
apprehension by warrant instead of summons, *ib.*

POWERS.
act to amend laws as to attestation of instruments of appointment, &c. under powers, &c. vol. iii. 1306.
deeds, &c. containing powers, &c. executed without memorandum of attestation, deemed valid, vol. iii. 1307.
to what deeds act to extend, *ib.*
act not to have retrospective operation, &c. *ib.*
appointments, &c. not affected, *ib.*
no instrument, unless within provisions of act, affected, *ib.*
Illusory appointments,
act to alter and amend the law relating to, vol. iii. 1308.
to be valid in equity as well as at law, *ib.*
exceptions, *ib.*
mode of execution of powers, *ib.*
sale under power not to be affected by

POWERS—*continued.*
reason of mistaken payment to tenant for life, vol. iii. 1308.
devisee in trust may raise money by sale notwithstanding want of express possession in the will, vol. iii. 1309.
purchasers, &c. not bound to inquire as to power, *ib.*
act giving to trustees, mortgagees and executors certain powers now commonly inserted in settlements, mortgages and wills, *ib.*

PRESCRIPTION.
shortening the time of, in certain cases (2 & 3 Will. 4, c. 71), vol. iii. 1310.
after what time claims of right of common and other *profits à prendre* not to be defeated, vol. iii. 1310, 1311.
in claims of right of way and other easements, periods to be twenty and forty years, vol. iii. 1311.
how claim defeated, vol. iii. 1311, n. (*f*).
enjoyment as of right, what, *ib.*
claim must be good as against all persons having estates in *locus in quo*, *ib.*
enjoying by consent, when agreement need not be in writing, vol. iii. 1312, n. (*b*).
claim to use of light enjoyed for twenty years indefeasible, unless by consent, vol. iii. 1312, 1313.
periods to be next before some suit or action, vol. iii. 1313, 1314.
periods, how may be stated in pleading, vol. iii. 1313, n. (*d*).
what not to be deemed an interruption, vol. iii. 1313, 1314.
in actions on the case, right may be alleged generally, vol. iii. 1314.
pleadings in trespass, vol. iii. 1314, 1315.
exceptions, &c. to be replied specially, vol. iii. 1315.
what matters need not be specially replied, *ib.* n. (*b*).
when no presumption to be made in support of claim, vol. iii. 1315.
proviso for infants, &c. *ib.*
what time to be excluded in computing the forty years, *ib.*
replication of life estate, *ib.* n. (*c*).

PRINT WORKS. See *Factories.*

PRINTS AND ENGRAVINGS.
copyright in, vol. i. 900. See *Copyright.*

PRISONS.
statutes relating to, vol. iii. 1316—1376.

PRIVY COUNCIL.
Court of Delegates (2 & 3 Will. 4, c. 92).
repeal of acts relating to power of appeal and appointment of delegates, vol. iii. 1376, 1377.
repeal of 8 Eliz. c. 5, vol. iii. 1377.
powers of high court of delegates transferred to king in council, *ib.*
no commission of review to be granted, *ib.*
proviso for pending appeals, vol. iii. 1378.
Judicial Committee of (3 & 4 Will. 4, c. 41).
formation of, &c. *ib.*
appeals from vice-admiralty courts abroad to be made to king in council, vol. iii. 1378, 1379.

PRIVY COUNCIL—*continued.*
appeals from sentence of any judge, &c. to be transferred to committee to report thereon, vol. iii. 1379.
power to transfer other matters to committee, *ib.*
no matter to be heard unless in presence of three members of committee, vol. iii. 1380, 1388.
if judge directed to attend committee, other judges of court may make arrangements as to business of court, vol. iii. 1380.
evidence may be taken *vivâ voce,* or upon written depositions, *ib.*
power as to examination of witnesses, vol. iii. 1380, 1381.
power to remit causes for rehearing, &c. vol. iii. 1381.
witnesses to be examined upon oath, &c. *ib.*
false swearing to be deemed perjury, *ib.*
committee may direct issue to try fact, *ib.*
in certain cases may direct depositions to be read at trial of issue, *ib.*
power to make orders for admission of evidence, *ib.*
may direct new trials of issues, *ib.*
powers, &c. of 13 Geo. 3, c. 63, and 1 Will. 4, c. 22, as to examination of witnesses, extended to committee, *ib.*
See tit. "EVIDENCE AND WITNESSES," vol. i. 1399.
costs to be in discretion of committee, vol. iii. 1381.
decrees to be enrolled, vol. iv. 1382.
power to refer matters to registrar, *ib.*
appointment of registrar, *ib.*
attendance of witnesses and production of papers, &c. how enforced, *ib.*
time of appealing, *ib.*
decrees for courts abroad, how to be carried into effect, *ib.*
act not to abridge powers of privy council, *ib.*
orders made on such appeals to have effect, notwithstanding death of parties, vol. iii. 1382, 1383.
power to make orders for regulating mode, &c. of such appeals, vol. iii. 1383.
when such appeals must be prosecuted, vol. iii. 1388.
power of enforcing decrees, vol. iii. 1383, 1384, 1387.
registrar of court of admiralty may attend committee, vol. iii. 1383.
retired judges attending committee to receive an allowance, *ib.*
proviso as to treaties appointing certain persons to hear prize appeals, *ib.*

Regulations for hearing Appeals and other Matters (6 & 7 Vict. c. 38).
appeals, &c. may be heard by not less than three members of the judicial committee, under a special order of her majesty, vol. iii. 1384.
in general, no matter to be heard unless three members are present exclusive of the lord president (14 & 15 Vict. c. 83), vol. iii. 1388.
powers of the judicial committee, &c. in respect of appeals from ecclesiastical and admiralty courts, vol. iii. 1384.
who to be surrogates and examiners of the judicial committee in ecclesiastical and admiralty appeals, vol. iii. 1384.
validity of past proceedings, *ib.*
manner of conducting appeals before the judicial committee, *ib.*
punishment for contempt of, repeal of previous provisions as to, *ib.*
enforcement of orders, &c. by sequestration against persons in contempt, vol. iii. 1385.
inhibitions and other instruments to be in her majesty's name, and of force throughout the British dominions, *ib.*
monitions for the transmission of money in appeals in ecclesiastical and maritime causes, *ib.*
appeals from ecclesiastical and admiralty courts may be referred to the judicial committee by an order in council, *ib.*
costs may be awarded by the judicial committee and taxed, *ib.*
appointment of registrar and assistant registrar in ecclesiastical and maritime causes, vol. iii. 1385, 1386.
registrar to have custody of the records, &c. vol. iii. 1386.
judicial committee may make rules, &c. respecting the practice and mode of proceeding in appeals, &c. vol. iii. 1386.
such rules must be approved by the queen in council, *ib.*
judicial committee to proceed with causes depending before the high court of delegates, *ib.*
definition of terms, *ib.*

Amending and extending 3 & 4 *Will.* 4, *c.* 41 (7 & 8 Vict. c. 69).
the queen in council may provide for the admission of an appeal from any colony, although there shall not be a court of error or of appeal in such colony, vol. iii. 1386, 1387.
orders may be revoked, vol. iii. 1387.
form of orders, *ib.*
how to be published, *ib.*
not to affect existing powers for regulating appeals from the colonies, *ib.*
judicial committee may appoint clerk of privy council to take proofs in matters referred to them, *ib.*
may hear appeals on general order without special order, *ib.*
general order may be rescinded, *ib.*
may require notes of evidence taken in colonial courts, *ib.*
may make rules to be binding upon courts in colonies and settlements, as to notes of evidence and their transmission, *ib.*
punishment for neglecting to comply with order of council, vol. iii. 1387, 1388.

PROHIBITION. See also *County Courts,* vol. i. 1228, 1239, and *notes.*
applications for writs of prohibition may be made on affidavit only, vol. iii. 1389.
contents of declaration in case party directed to declare in prohibition, *ib.*
defendant may demur to declaration, vol. iii. 1390.
judgment, costs, and damages, *ib.*
so much of 2 & 3 Edw. 6, c. 13, as relates to prohibition, repealed, *ib.*

PROMISSORY NOTES. See *Bankers; Bills of Exchange.*

PROPERTY, LAW OF, vol. iii. 1390.

PROPERTY TAX.
statutes relating to, vol. iii. 1390—1469.

PROVIDENT SOCIETIES.
act consolidating and amending the laws relating to, vol. iii. 1470.

PUBLIC COMPANIES. See *Companies.*

PUBLIC IMPROVEMENTS, vol. iii. 1472.

PUBLIC WORKS, vol. iii. 1473.

QUAKERS. See *Oaths.*

QUARE IMPEDIT.
action of, abolished as a real action, and writ of summons in ordinary form substituted, vol. iii. 793.

QUARTER SESSIONS. See *Sessions of the Peace.*

QUO WARRANTO. See *Corporations,* vol. i. 949, 955, 1077.

RAILWAYS.
as to laws relating to, in general, vol. iv. 1, n. (*a*).

Abandonment of, and Dissolution of Companies (Act to facilitate, 13 & 14 Vict. c. 83).
company may apply to commissioners of railways to abandon undertaking, vol. iv. 58.
directors may call meeting to determine whether such application shall be made, *ib.*
shareholders may require directors to call meeting, vol. iv. 59.
and on default, may call meeting themselves, *ib.*
after requisition, directors not to make any payments (with certain exceptions), nor to enter into contract, make calls, nor register transfers of shares, *ib.*
mode of calling meeting and signifying consent of shareholders, *ib.*
number of shares held by shareholders assenting or dissenting, how to be ascertained and reported, *ib.*
who to be chairman of meeting, *ib.*
scrutineers to be elected, *ib.*
mode of electing, vol. iv. 60.
chairman may adjourn meeting on application of scrutineers, *ib.*
certificate of chairman made evidence, *ib.*
shareholders desiring abandonment, and complaining that proceedings irregular, may apply to commissioners, *ib.*
if meeting determine to make application, directors not to proceed meanwhile, *ib.*
commissioners to advertise application, &c. *ib.*
powers to commissioners to inspect company's books and documents, *ib.*
penalty for refusing to allow inspection or to produce books, &c. vol. iv. 61.
commissioners may authorise abandonment of railway or part, *ib.*

RAILWAYS—*continued.*
commissioners in considering objections to be guided by local circumstances, vol. iv. 61.
power to reduce or cancel shares of objectors, *ib.*
abandonment of railway to be advertised, and demands for compensation to be sent in, *ib.*
certificate of publication of notice, *ib.*
after warrant granted, company to be released from liability to make the railway, *ib.*
compensation where contracts entered into or notice given, vol. iv. 61, 62.
to adjoining landowners in lieu of accommodation works, vol. iv. 62.
in lieu of keeping bridges, &c. in repair where roads have been carried across abandoned line, *ib.*
to trustees and overseers of public roads, how to be applied, *ib.*
to trustees, &c. in Scotland, how to be applied, *ib.*
amount of, to be settled by arbitration, *ib.*
claims for, when to be made, *ib.*
company to be still liable for damage caused by entry on lands for surveying, &c. *ib.*
entry on lands taken, *ib.*
lands purchased by company to be sold within a limited time, vol. iv. 63.
proviso where lands offered to owner of lands from which they were severed, *ib.*
commissioners may require reduction of capital in case of part abandonment, *ib.*
powers of company to cease after warrant for complete abandonment, *ib.*
provisions of certain acts to apply to previous cases, *ib.*
when warrant granted for abandonment, shareholders may petition for winding up, under 11 & 12 Vict. c. 45, *ib.*
when warrant granted for abandonment, of railway in Scotland, court of session may sequestrate, &c. *ib.*
and may make rules for adjustment of claims, vol. iv. 64.
where company wound up, landowners to be "creditors" in respect of compensation under this act, *ib.*
act not to affect actions, &c. before certain date, *ib.*
nothing in act to authorize abandonment of railway agreed to be constructed without consent, *ib.*
commissioners to report to parliament, *ib.*
interpretation of terms, *ib.*
schedule, vol. iv. 65.

Accidents,
notice of, to be given to board of trade, vol. iv. 8.
penalty for neglect, *ib.*
returns of. See *Returns.*

Arbitration,
settlement of disputes by, generally (Railway Clauses Consolidation Act).
how, and by whom, arbitrators to be appointed, vol. iv. 57.
vacancy of arbitrator, how supplied, *ib.*
appointment of umpire, *ib.*
board of trade may appoint umpire on neglect of arbitrators, *ib.*

RAILWAYS—*continued.*
where single arbitrator dies, the matter to begin *de novo*, vol. iv. 57.
either arbitrator refusing to act, the other may proceed *ex parte*, *ib.*
on failure to make award within certain time, the matter to be determined by umpire, *ib.*
power of arbitrators, &c. to call for documents, *ib.*
and to examine witnesses on oath, *ib.*
declaration by arbitrator or umpire, vol. iv. 51, 52.
wilfully acting contrary thereto a misdemeanor, vol. iv. 52.
costs of, how determined, *ib.*
submission to, may be made a rule of court, *ib.*
award not to be set aside for matter of form, *ib.*
service of notices upon company, *ib.* and n. (*a*).
differences with other companies (Railway Companies Arbitration Act, 1859).
interpretation clause, vol. iv. 73.
power for companies to refer to arbitration, vol. iv. 74.
and to alter or revoke agreements for reference, *ib.*
agreements to be carried into effect, *ib.*
reference to single arbitrator, *ib.*
to two or more arbitrators, *ib.*
appointment of arbitrators by companies, *ib.*
by board of trade, *ib.*
appointment of arbitrators by companies to supply vacancies, vol. iv. 74.
by board of trade, *ib.*
appointment of arbitrators not revocable, *ib.*
appointment of umpire by arbitrators, *ib.*
by board of trade, *ib.*
like powers of appointment to supply vacancy, *ib.*
succeeding arbitrators, &c. to have powers of their predecessors, vol. iv. 74, 75.
reference to umpire, vol. iv. 75.
power to arbitrators, &c. to call for documents, &c. *ib.*
and to examine witnesses on oath, *ib.*
mode of procedure, *ib.*
after notice, may proceed in absence of companies, *ib.*
several awards may be made, *ib.*
awards within certain time binding on all parties, *ib.*
power to umpire to extend time for award, *ib.*
awards not to be set aside for want of form, *ib.*
awards to be obeyed, *ib.*
agreements, arbitration, and awards, how enforced, *ib.*
costs, how determined, *ib.*
how paid when not determined by award, *ib.*
submission to arbitration may be made a rule of court, *ib.*

Board of Trade, General Powers of, over Railways.
appointment of arbitrators and umpires by, vol. iv. 51, 74.

RAILWAYS—*continued.*
powers of, as to bye-laws. See *Bye-Laws.*
determination of disputes by, vol. iv. 7, 10.
prosecutions by, vol. iv. 6, 16, 17.
notice of to be given to companies, vol. iv. 17.
returns to be made to, vol. iv. 5, 9. See *Returns.*
communications, notices, &c. how made to, vol. iv. 7, 12, 18, 36.
communications, orders, notices, &c. by, how authenticated and served, vol. iv. 8, 12, 18, 36, 65.
power to appoint inspectors, vol. iv. 5.
notice of opening of railway to be given to, vol. iv. 8.
penalty for default, *ib.*
may postpone opening, *ib.*
power to regulate gates at level crossings, vol. iv. 9.
and alteration of dangerous crossings, vol. iv. 10.
branch communications, *ib.*
deviations in construction of railway, vol. iv. 22.
to authorise entry on adjoining lands, vol. iv. 10, 11.
to modify construction of roads and bridges, vol. iv. 35, 36.
to extend compulsory powers of taking land, vol. iv. 11.
to regulate cheap trains, vol. iv. 14, 15.
to establish electric telegraphs, vol. iv. 16.
powers of railway commissioners transferred to, vol. iv. 65.
power to continue officers appointed by commissioners, *ib.*

Bye-Laws,
copies of existing, to be laid before the board of trade, vol. iv. 6.
otherwise to be void, *ib.*
future, not to be valid until two months after they are laid before the board of trade, vol. iv. 6.
unless approved by board, in meantime, *ib.*
board of trade may disallow, *ib.*
former provisions requiring confirmation by justices, repealed, *ib.*
not to be repugnant to 1 & 2 Vict. c. 98, vol. iv. 3.
purposes for which bye-laws may be made, vol. iv. 48.
power to make, alter, and repeal, vol. iv. 48, n. (*a*).
to be in writing, &c. vol. iv. 48.
penalty for offending against, *ib.*
summary interference to prevent infraction of, *ib.*
publication of, *ib.*, n. (*b*).
proof of, vol. iv. 49.
to be binding on all parties, *ib.*
are "public documents" under 14 & 15 Vict. c. 99, s. 14, vol. iv. 48, n. (*a*).

Cheap Trains.
companies to provide one cheap train each way, daily, vol. iv. 14.
conditions to which such trains to be subject, *ib.*
penalty for non-compliance, vol. iv. 15.
provisions as to rates to be charged for fractional parts of a mile, vol. iv. 73.

RAILWAYS—*continued.*
board of trade to have power of allowing alternative arrangements, vol. iv. 15.
where companies run trains on Sundays, cheap trains to be provided, *ib.*
Commissioners of Railways.
repeal of act constituting, vol. iv. 65.
powers of, transferred to board of trade, *ib.*
power to continue officers appointed by, *ib.*
Communication between different Railways.
repeal of provisions empowering justices to decide disputes respecting opening the ledges or flanches, vol. iv. 7.
board of trade to determine such disputes, *ib.*
power of making branch communications to be regulated by board of trade, vol. iv. 10.
Construction of (*Railway Clauses Consolidation Act*, 8 Vict. c. 20).
operation of act confined to future railways, vol. iv. 18.
form of incorporation, vol. iv. 20.
construction of railways to be subject to this and the Land Clauses Consolidation Act, *ib.*
plans, sections, and deviations.
errors and omissions in plans to be corrected, *ib.*
works not to be proceeded with, until plans of alterations authorised by parliament have been deposited, *ib.*, n. (*e*).
clerks of the peace to receive plans, and allow inspection, &c. vol. iv. 21.
penalty for default, *ib.*
copies of plans to be evidence, *ib.*
limitation of deviations from datum line described in the sections, *ib.*
exceptions, *ib.*, *notes*, vol. iv. 22.
notice to be given of greater deviations, vol. iv. 22.
owners may appeal to board of trade, *ib.*
arches, tunnels, &c. to be made as on plans deposited, *ib.*
unless consent of owners, &c. obtained, *ib.*
limitation of deviations from gradients, curves, &c. *ib.*
limitation of lateral deviations, vol. iv. 22, 23.
works to be executed.
inclined planes, &c. vol. iv. 23.
alteration of courses of rivers, roads, &c. *ib.* n. (*d*).
right of property in roads diverted, vol. iv. 23, n. (*c*), and vol. iv. 32, n. (*c*).
drains, &c. vol. iv. 24.
warehouses, stations, works, &c. *ib.*
alterations and repairs, &c. *ib.*
general power, *ib.*
proviso as to damages, *ib.*, and n. (*b*) and (*c*).
works below high water mark not to be executed without the consent of the commissioners of woods and forests, and of admiralty, vol. iv. 24.
if executed without such consent may be removed, and costs recovered as a penalty, *ib.*
alteration of gas and water pipes, *ib.*
company not to disturb pipes until they have laid down others, vol. iv. 25.
pipes not to be laid contrary to any act, and eighteen inches depth from surface to be maintained, vol. iv. 25.
company to make good all damage, *ib.*
when railway crosses pipes company to make a culvert, *ib.*
penalty for obstructing supply of gas or water, *ib.*
for obstructing construction of railway, *ib.*
company to submit plans, &c. to drainage commissioners in Ireland, *ib.*
commissioners to investigate and report on the works necessary for drainage, vol. iv. 25, 26.
and may make summary application to court of chancery to enforce the execution of such works, vol. iv. 26.
saving of the powers of the drainage commissioners, *ib.*
power of drainage commissioners to decide questions as to works for carrying water-courses across railways, *ib.*
temporary occupation of lands.
company may occupy private roads temporarily within certain limits, vol. iv. 26.
power to owners and occupiers to object that other roads should be taken, *ib.*
power to company to take temporary possession of land without previous payment of price, vol. iv. 27.
purposes for which land may be so taken, *ib.*
proviso and restrictions, *ib.*
notice to be given previous to temporary possession, *ib.*
notice to state purposes for which land is taken, *ib.* n. (*c*).
notices, how served, vol. iv. 27.
power to owners, &c. to object that other lands should be taken, *ib.*
power to two justices to order lands, &c. not to be taken, vol. iv. 28.
and to order other lands to be taken, *ib.*
power to justices to summon other owners before them, *ib.*
company to give sureties if required, *ib.*
company to separate lands before using them, *ib.*
lands taken for getting materials, &c. to be worked as surveyor, &c. of owner may direct, *ib.*
or in case of disagreement as justice shall direct, *ib.*
owners may compel company to purchase lands temporarily occupied, vol. iv. 28, 29.
where not required to purchase, company to pay compensation, vol. iv. 29.
how compensation to be ascertained, *ib.*, and n. (*a*).
company for certain purposes may contract for additional lands, vol. iv. 29, and n. (*b*) and (*c*).
crossing or other interference with roads.
act applies to incidental interference with roads, vol. iv. 29, n. (*d*).
crossing of roads, vol. iv. 29, 30, and *in notis.*
provision where roads are crossed on a level, vol. iv. 30, and see n. (*e*).

RAILWAYS—*continued.*
crossing of turnpike roads adjoining stations, vol. iv. 30, and see n. (*c*).
construction of bridges over roads, vol. iv. 31.
construction of bridges over railway, *ib.*
provisions as to width of bridges, vol. iv. 31, vol. iv. 32, and *ib.* n. (*a*).
existing inclinations of roads crossed or diverted, need not be improved, vol. iv. 32.
before roads interfered with, others to be substituted, vol. iv. 32, and notes (*c*), (*d*), and (*e*).
penalty for not substituting, vol. iv. 33.
parties suffering special damage may recover by action, *ib.*
when new road made, old road reverts to owner of the soil, vol. iv. 32, n. (*c*).
period for restoration of road interfered with, vol. iv. 33, and see n. (*d*) and (*f*).
penalty for failing to restore, vol. iv. 34.
company to repair roads used by them, *ib.*
power to two justices to decide and to impose penalties where questions arise, *ib.*
proceedings on application to justices to consent to level crossings of bridleways and footways, *ib.*
appeal against determination of justices, *ib.*
approaches and fences to bridleways and footways, *ib.*
where railway fence obstructs a way, the remedy of persons aggrieved is by action, *ib.* n. (*f*).
power of justices to order approaches and fences to be made to highways crossing on the level, vol. iv. 35.
penalty for non-compliance, *ib.*
power of justices to order repair of bridges, &c. *ib.*
penalty for non-compliance, *ib.*
screen for roads to be made, if required by the board of trade, *ib.*
penalty for neglect, *ib.*
board of trade may modify construction of roads and bridges, in certain cases, vol. iv. 35, 36.
authentication of certificates of board of trade, service of notices, &c. vol. iv. 36.
works for the accommodation of lands.
gates, bridges, &c. vol. iv. 36.
fences, *ib.* n. (*e*).
drains, vol. iv. 37.
watering places, *ib.*
company not required to make such works so as to obstruct the railway, or where compensation has been paid, *ib.*
differences as to accommodation works to be settled by justices, *ib.* n. (*c*).
execution of works by owners on default of the company, vol. iv. 37.
power to owners of land to make additional accommodation works, *ib.*
such works to be constructed under superintendence of the company's engineer, vol. iv. 37, 38.
accommodation works after five years, vol. iv. 38.
owners to cross until works made, *ib.*
penalty for omitting to fasten gates, *ib.*

RAILWAYS—*continued.*
power to make private branch railways communicating with the railway, vol. iv. 38, 39.
restrictions and conditions, vol. iv. 39.
mines.
company not to be entitled to minerals unless expressly purchased and conveyed to them, *ib.*
mines near the railway not to be worked, if company willing to pay compensation, vol. iv. 39.
if company unwilling, the owner may work, vol. iv. 40.
damages caused to railway by improper working to be repaired by the owner, &c. *ib.*
if repairs not done forthwith, company may repair and recover the expense, *ib.*
mining communications, *ib.*
company to make compensation for injury to mines, vol. iv. 41.
and for airway and other work made necessary by the railway, *ib.*
company may enter and inspect working of mines, *ib.*
penalty for refusing to allow inspection, *ib.*
if improperly worked, the company may require means to be adopted for the safety of the railway, *ib.*
The Railways Construction Facilities Act, 1864, vol. iv. 1005.

Conveyance of Mails by (1 & 2 Vict. c. 98).
postmaster-general may require railway companies to convey the mails, &c. vol. iv. 1, and *ib.* n. (*c*) and (*d*).
companies to provide carriages, &c. vol. iv. 1, 2.
provisions as to rate of speed to be required, vol. iv. 2.
if required, carriage to be applied exclusively to conveyance of mails, *ib.*
company, if required, to provide separate carriages for sorting letters, *ib.*
postmaster-general may direct mails to be carried in mail coaches, &c. on railway trucks, *ib.*
companies to be subject to the directions of the post-office respecting the conveyance of mails, *ib.*
but post-office servants not to interfere with engineers, &c. *ib.*
to whom complaints to be made, *ib.*
companies responsible for defaults, &c. of their servants, *ib.*
remuneration to companies, how to be fixed, *ib.*
agreements as to, may be altered and fresh agreements made, vol. iv. 3.
postmaster-general may terminate services of companies on notice, *ib.*
or without notice, subject to certain conditions, &c. *ib.*
royal arms to be painted on carriages provided for service of post-office, *ib.*
bye-laws of companies not to be repugnant to provisions of act, *ib.*
penalty for refusing or neglecting to carry mails, vol. iv. 3, 4.
postmaster-general may require companies to give security by bond, vol. iv. 4, and *ib.* n. (*a*).

RAILWAYS—*continued.*
limitation of security in case of lessees not being a body corporate or company, vol. iv. 4.
service of notices, *ib.*
differences, how to be settled, *ib.*
reference of contracts to arbitration, as to their continuance after certain period, vol. iv. 4, 5.
appointment of arbitrators under the act, vol. iv. 5.
construction of terms, *ib.*
companies to afford additional facilities (7 & 8 Vict. c. 85, s. 11), vol. iv. 15.

Conveyance of Military, Police, &c. on.
to be conveyed at the price and on the conditions contracted for between secretary-at-war and companies, vol. iv. 12.
certain companies to convey military and police at certain charges, &c. vol. iv. 15, 16.
conveyance of wives and children of soldiers, vol. iv. 16.
provisions as to conveyance of luggage of, *ib.*
and of public baggage, stores, &c. *ib.*

Damages. See *Offences.*

Dissolution of Companies. See *Abandonment.*

Duties on Carriages and Passengers. See *Stamps.*
not to extend to passengers carried for 1*d.* per mile, vol. iv. 15.

Extension of Time for making.
companies may apply to commissioners for extension of time for purchase of lands, &c. vol. iv. 56.
notice of application, *ib.*
upon proof of notice commissioners may, by warrant, enlarge time for completion of purchases and works, vol. iv. 57.
acts mentioned or referred to in extension warrants to be construed with reference to the same, *ib.*
not to revive expired powers, *ib.*
existing contracts and notices to take lands to be construed as if this act had not been passed, *ib.*
notices of warrants to be published in Gazette, *ib.*
compensation to parties aggrieved by extension of time, *ib.*
contracts for new works not to be entered into for a limited period, except in certain cases, *ib.*
mode of ascertaining consent of shareholders to making new contracts, vol. iv. 57, 58.
certificate of the chairman, countersigned by the secretary, to be evidence, vol. iv. 58.
schedule, *ib.*

General Management of.
gates at level crossings to be kept closed, vol. iv. 9, *ib.* n. (*a*), and 30, n. (*c*).
board of trade may order gates to be closed across the railways, vol. iv. 9.
companies to erect and maintain fences, vol. iv. 9, 36, n. (*c*).
disputes between connecting railways to be decided by board of trade, vol. iv. 7, 10.
penalty for neglecting to obey orders of board of trade, vol. iv. 10.
powers of making branch communication with railways, and of entering upon them

RAILWAYS—*continued.*
with locomotives, to be regulated by the board of trade, vol. iv. 10.
alteration of dangerous level crossings, *ib.*
power for companies to enter upon adjoining lands to repair accidents, *ib.*
compensation to owners and occupiers to be paid, vol. iv. 11.
extension of compulsory powers of taking lands, how obtained, *ib.*
costs of opposing application for, when allowed, *ib.*
carriages of greater weight than four tons may be used, *ib.*
companies to allow lines of electric telegraph to be laid down for her majesty's service, vol. iv. 16.
such telegraphs may be used by companies on certain conditions, *ib.*
electric telegraphs established by other parties to be open to public on certain conditions, *ib.*
if companies contravene or exceed provisions of acts, the board of trade to certify same to attorney-general, &c. who shall proceed against them, vol. iv. 16, 17.
where no certificate, attorney-general may proceed at his discretion, vol. iv. 17, n. (*a*).
issue of loan notes and other illegal securities by, prohibited, vol. iv. 17.
penalty for offending, *ib.*
loan notes already issued may be renewed, *ib.*
and paid when due, *ib.*
register of loan notes to be kept, *ib.*
and to be open to inspection, *ib.*
remedy for recovery of tithe rent charged on railway land, *ib.*
company may make regulations for certain purposes and generally for regulating use of railway, vol. iv. 48.
power to make such regulations by bye-laws, *ib.*
and to repeal and alter bye-laws and fix penalties, *ib.* See also *Bye-Laws.*
engines and carriages.
engines to consume their own smoke, vol. iv. 49.
penalty for breach, *ib.*
when liable to penalty, *ib.* n. (*b*).
engines to be approved by company, &c. vol. iv. 49, and *ib.* n. (*c*).
unfit engines to be removed, vol. iv. 49.
penalty for using engines without obtaining approval, or after notice to remove, vol. iv. 49, 50.
penalties are cumulative, vol. iv. 49, n. (*d*).
company may distrain engines not approved, *ib.*
carriages to be constructed according to the company's regulations, vol. iv. 50.
disputes to be settled by arbitration, *ib.*
but jurisdiction of chancery not ousted, *ib.* n. (*d*).
company's regulations as to carriages to be in writing, &c. vol. iv. 50.
and to apply to company's carriages also, *ib.*
copies to be furnished by company, *ib.*
penalty for using improper carriages, *ib.*

RAILWAYS—*continued.*
owner's name to be registered and exhibited on carriages, vol. iv. 50.
on non-compliance, carriage may be removed, *ib.*
unloading or removal of carriages improperly loaded, or obstructing, *ib.*
company not liable for damage by such unloading, &c. *ib.*
owners of engines and carriages liable for damages by their servants, *ib.*
may recover from servants, *ib.*
notices upon company, how served, vol. iv. 52, *ib.* n. (*a*).
notices by company, how served, vol. iv. 27.
tender of amends, vol. iv. 52.
payment of money into court, vol. iv. 53.
money paid into the bank of Ireland to be exempt from usher's poundage, vol. iv. 54.
copies of special act to be kept and deposited, &c. vol. iv. 54, 55.
penalty for neglect, vol. iv. 55.

Gauge of, (Act for regulating, 9 & 10 Vict. c. 57.)
on what gauge railways shall be made, vol. iv. 55.
exceptions, *ib.*
certain railways to be on the broad gauge, *ib.*
not to be altered, *ib.*
provision as to the Oxford and Rugby, and Oxford, Worcester, and Wolverhampton railways, vol. iv. 55, 56.
penalty for constructing contrary to act, vol. iv. 56.
if so constructed, may be abated, *ib.*
recovery of penalties, *ib.*

Inspectors.
appointment of, by board of trade, vol. iv. 5, 16.
repeal of former provisions as to non-eligibility of certain persons, vol. iv. 16.
not to interfere in the affairs of companies, *ib.*
penalty for obstructing, vol. iv. 6.

Interpretation Clauses.
meaning of "railway" and "company," vol. iv. 8, 12, 18.
of "passenger railway," vol. iv. 18.
of "railway companies," vol. iv. 73.
interpretation clauses in Railway Clauses Consolidation Act, 1845, vol. iv. 18, 19.
in Railways Abandonment Act, 1850, vol. iv. 64.
in Railway Traffic Act, 1854, vol. iv. 65, 66.

Leasing of.
covenants and provisions, &c. to be contained in leases under special act, vol. iv. 49.
powers vested in the company may be exercised by the lessee, *ib.*
canal companies also being railway companies not to take leases of canals unless specially authorized, vol. iv. 73.

Loan Notes.
issue of, and other illegal securities by railway companies, prohibited, vol. iv. 17.
penalty for offending, *ib.*
loan notes already issued may be renewed and paid when due, vol. iv. 17.

RAILWAYS—*continued.*
register of, to be kept, vol. iv. 17.
and to be open to inspection, *ib.*

Notices, Service of.
notices to and from board of trade, how served, vol. iv. 12, 18, 36.
upon owners and occupiers of lands, vol. iv. 27.
upon railway companies, vol. iv. 4, 52, *ib.* n. (*a*).

Offences, Penalties, and Damages relating to.
as to offences connected with railways, generally, vol. iv. 1, n. (*a*).
prosecution by authority of board of trade, how and within what time to be commenced, vol. iv. 6, 16, 17.
notice of, to be given, vol. iv. 17.
punishment of servants of companies for misconduct, vol. iv. 6, 11.
justices may commit for trial at quarter sessions, vol. iv. 7.
punishment for obstructing officers of company, *ib.*
endangering passengers, *ib.* n. (*a*).
trespassing, vol. iv. 7.
penalties for refusing to carry mails, vol. iv. 3, 4.
neglecting to make returns to board of trade, vol. iv. 5, 8, 9.
or making false returns, vol. iv. 5.
neglecting to obey orders of board of trade, vol. iv. 10.
obstructing inspectors, vol. iv. 6.
omitting to give notice of opening of railway, vol. iv. 8.
non-compliance with provisions as to cheap trains, vol. iv. 15.
issuing loan notes or other illegal securities, vol. iv. 17.
refusing to allow inspection, &c. of plans, vol. iv. 21.
executing certain works without consent of the admiralty, &c. vol. iv. 24.
obstructing construction of railway, vol. iv. 25.
supply of gas or water, *ib.*
relating to interference with roads, bridges, &c. vol. iv. 33, 34, 35.
proceedings before justices relating to the alteration, making, and repairs of roads, fences, bridges, &c. vol. iv. 34, 35.
penalties for omitting to fasten gates, vol. iv. 38.
refusing to allow inspection of mines, vol. iv. 41.
on passengers practising frauds on companies, vol. iv. 47.
not giving true bill of lading of goods, vol. iv. 46.
bringing dangerous goods on the railway, *ib.*
omitting to make up and transmit annual account, *ib.*
offending against bye-laws, vol. iv. 48.
engines not consuming their own smoke, vol. iv. 49, n. (*b*).
using improper engines, &c. vol. iv. 49, 50.
defacing milestones and notice boards, vol. iv. 45, 53.
failing to keep and deposit copies of special act, vol. iv. 55.
on witnesses making default, vol. iv. 54.
relating to gauge of railways, vol. iv. 56.

RAILWAYS—*continued.*
refusing to allow inspection of books by commissioners, vol. iv. 61.
application of penalties, vol. iv. 12, 18, 54.
publication of penalties, vol. iv. 53.
recovery of penalties, vol. iv. 53, 56.
penalties to be levied by distress, vol. iv. 53.
imprisonment in default of distress, *ib.*
how distress to be levied, *ib.*
distress not unlawful for want of form, *ib.*
penalties to be sued for within six months, vol. iv. 54.
damage to be made good in addition to penalty, *ib.*
detention of offenders, vol. iv. 47, n. (*a*).
transient offenders, how to be dealt with, vol. iv. 54.
form of conviction, *ib.*
power of summary interference to prevent infraction of bye-laws, vol. iv. 48.
proceedings not to be quashed for want of form, vol. iv. 7, 54.
nor removed by *certiorari*, *ib.*
appeal to quarter sessions, vol. iv. 54.
jurisdiction of sheriffs in Scotland, vol. iv. 12.
persons giving false evidence guilty of perjury, vol. iv. 54.
tender of amends and payment of money into court, vol. iv. 52, 53.
provision for damages not otherwise provided for, vol. iv. 53.
distress against the treasurer, *ib.*
method of proceeding before justices in questions of damages, *ib.*

Opening.
notice of, to be given to the board of trade, vol. iv. 8.
penalty for neglect, *ib.*
board of trade may postpone, *ib.*

Powers.
The Railway Companies' Powers Act, 1864, vol. iv. 1000.

Purchase of, by Treasury.
option of purchase by treasury of future railways, vol. iv. 13.
how such option to be exercised, *ib.*
not applicable to existing railways, *ib.*
reservation to parliament of the consideration of future policy as to options, *ib.*
accounts to be kept and abstracts furnished to the treasury, vol. iv. 13, 14.
treasury may appoint persons to inspect accounts, vol. iv. 14.

Returns by Railway Companies.
to the board of trade of traffic, vol. iv. 5.
of accidents, vol. iv. 5, 8, 9.
of tolls, rates, and charges, vol. iv. 5.
penalty for neglect, vol. iv. 5, 8, 9.
for false returns, vol. iv. 5.
to the treasury, of abstracts of half-yearly accounts, vol. iv. 13, 14.
to overseers and clerks of peace, vol. iv. 47.

Tithe-rent.
remedy for recovery of, when charged on railway land, vol. iv. 17.

Tolls.
returns of tolls, &c. levied, to be made to board of trade, vol. iv. 5.
if after twenty-one years profits exceed ten per cent. treasurer may revise tolls and fix a new scale, vol. iv. 12, 13.

RAILWAYS—*continued.*
revised scale to be accompanied with guarantee, &c. vol. iv. 13.
and not to be again revised within twenty-one years without consent of company, *ib.*
company not to exceed tolls authorised by special act, vol. iv. 42.
companies may contract with each other for payment of tolls for passage over each other's lines, vol. iv. 42.
and for division and apportionment of tolls, vol. iv. 43.
decisions as to what tolls and agreements within the act, vol. iv. 42, n. (*c*).
such contracts not to affect persons not parties thereto, vol. iv. 43.
power to alter and vary tolls, vol. iv. 43, 45.
but so that tolls be charged equally under like circumstances, and without partiality, *ib.* and *notes.* See also vol. iv. 66, n. (*a*).
how tolls to be calculated where railways amalgamated, vol. iv. 45.
railway to be free on payment of, *ib.*
list of, to be exhibited, *ib.*
milestones showing distances to be set up, *ib.*
tolls to be taken only whilst list exhibited and milestones set up, *ib.*
to be paid as directed, vol. iv. 46.
in default of payment goods may be distrained, *ib.*
account of lading, &c. to be given to collector of tolls, *ib.*
penalty for not giving, &c. *ib.*
disputes as to amount chargeable to be settled by a justice, *ib.*
company may detain goods in the meantime, *ib.*
differences as to weights, vol. iv. 46.
toll collectors liable for wrongful detention of goods, vol. iv. 47.
delivery, to company, of matters in custody of collectors at time of removal, death, &c. *ib.*

Traffic, Regulation of, and Liabilities in respect of.
returns of, to be made to board of trade, vol. iv. 5.
Railway Clauses Consolidation Act, 1845.
company may employ locomotive engines, &c. and convey passengers and merchandise, vol. iv. 41.
liability of company for damage by fire occasioned by sparks from engine, *ib.* n. (*a*).
company receiving goods become common carriers, *ib.*
not bound to convey all goods to and from every station, *ib.*
liability of company for parcels lost on another line, *ib.*
for injury to passenger travelling through in same carriage but injured on another line, vol. iv. 42, *note.*
carriage of horses, *ib.*
in respect of personal luggage, *ib.*
company may contract with other companies for passage of engines, &c. over their lines, vol. iv. 42.
decisions as to extent of this power, *ib.* n. (*b*), and (*c*).

RAILWAYS—*continued.*
such contracts not to affect persons not parties thereto, vol. iv. 43.
company not to be liable to a greater extent than common carriers, *ib.*
Railway and Canal Traffic Act, 1854.
companies to afford reasonable facilities for receiving and forwarding traffic, without undue preference to any one, vol. iv. 66.
decision as to what is an undue preference, &c. *ib.* n. (*a*).
parties complaining of the contravention of act may apply to superior courts, vol. iv. 68.
must first represent grievance to the company, *ib.* n. (*a*).
judges may make rules for proceedings under the act, vol. iv. 69.
rules made in pursuance of this power, *ib.* n. (*b*).
as to costs in proceedings under the act, *ib.* n. (*a*).
court may order a rehearing, vol. iv. 70.
mode of proceeding under the act, *ib.*

RAILWAY COMPANIES' POWERS,
27 & 28 Vict. c. 120.

Preliminary.
short title, "The Railway Companies' Powers Act, 1864," vol. iv. 1000.
interpretation of terms, *ib.*

Description of Cases within this Act.
act to apply in cases therein named, vol. iv. 1001.

Application for Certificate.
as to application for certificate by company to board of trade, *ib.*
said board to inquire if requirements have been complied with, *ib.*
and to consider all representations and objections, *ib.*

Opposition of Railway or Canal Company to Application:
on railway or canal company affected giving notice of opposition proceedings before board of trade to cease, if the company lodging notice would be affected, *ib.*
further proceedings to be in parliament, *ib.*

Settlement of Draft Certificate.
power to board of trade to settle certificate according to nature of application as herein named, *ib.*
insertion of conditions in certificate, vol. iv. 1002.
form of certificate, *ib.*

Submission of Draft Certificate to Houses of Parliament.
draft certificate to be laid before houses of parliament, *ib.*
notice thereof to be given, *ib.*
if either house resolve that certificate ought not to be made, it shall not be proceeded with, *ib.*

Issue and Publication of Certificate.
if neither house resolve that certificate ought not to be made, board of trade may issue the same, *ib.*
publication of certificate in Gazette, *ib.*

RAILWAYS—*continued.*
Effect of Certificate.
operation of certificate as special act, vol. iv. 1002.
judicial notice of certificate, *ib.*
interpretation of certificate, *ib.*
parts of 26 & 27 Vict. cc. 92 and 118, incorporated, *ib.*
rule as to short distances, *ib.*
restrictions as to issue of shares, *ib.*
restrictions on company as to borrowing, &c. *ib.*

Miscellaneous.
power to board of trade to reject application, vol. iv. 1003.
nothing to exempt railways from operation of general acts, *ib.*
certificate under this and railways construction act, *ib.*
approval by members of company required, as under standing orders, *ib.*
power for board of trade to amend or revoke certificate, *ib.*
power to correct error, *ib.*
proof of certificate, *ib.*
copies of certificate for sale, *ib.*
penalty, *ib.*
application of act to proprietors of railways generally, *ib.*
recovery and application of penalties, *ib.*
custody of documents, 7 Will. 4 & 1 Vict. c. 83, *ib.*
general rules in schedule, with power for amendment, vol. iv. 1004.
annual report to parliament by board of trade, *ib.*

SCHEDULE.
(I.)—*Notice of Opposition, ib.*
(II.)—*Form of Certificate of Board of Trade, ib.*
(III.)—*General Rules—Form of Application, ib.*
Advertisements as to Application, ib.
Notice to Landowners, vol. iv. 1005.
Notice of Opposition, ib.
Notice of Settlement of Draft Certificate, ib.
Supply of Copies of Draft Certificate, ib.
Printing of Certificate, ib.

RAILWAYS CONSTRUCTION FACILITIES,
27 & 28 Vict. c. 121, *ib.*

Preliminary.
short title, "The Railways Construction Facilities Act, 1864," vol. iv. 1006.
interpretation of terms, *ib.*

Contracts for Lands.
power for promoters of railway and all persons interested in land to enter into provisional contracts for land required, subject to restrictions and provisions, *ib.*
contracts for sale of lands belonging to the crown or duchy of Lancaster or Cornwall, vol. iv. 1007.
user of or interference with public or turnpike roads, *ib.*

Application for Certificate.
after land contracted for, power for promoters to apply to the board of trade for certificate, *ib.*
publish notices, &c. *ib.*
consideration of application by board of trade, *ib.*
board of trade to consider all representations and objections, *ib.*

RAILWAYS—*continued.*

Opposition of Railway or Canal Company to Undertaking.
on railway or canal company affected giving notice of opposition, proceedings before board of trade to cease, vol. iv. 1007.
further proceedings to be in parliament, *ib.*

Settlement of Draft Certificate.
power to board of trade to settle certificate on being satisfied that the promoters have contracted for lands and complied with requirements of rules, *ib.*
insertion of conditions in certificate, *ib.*
form of certificate, vol. iv. 1008.

Submission of Draft Certificate to Houses of Parliament.
draft certificate to be laid before houses of parliament, *ib.*
notice thereof to be given according to general rules, *ib.*
if either house resolve that certificate ought not to be made, it shall not be proceeded with, *ib.*

Issue, Publication and Effect of Certificate.
if neither house resolve that certificate ought not to be made, board of trade may issue the same, *ib.*
publication of certificate in Gazette, *ib.*
operation of certificate as special act, *ib.*
judicial notice of certificate, *ib.*
interpretation of certificate, *ib.*

Duration of Powers under Certificate.
cesser of powers at expiration of prescribed time, *ib.*

Lands.
incorporation of lands clauses acts in certificate, except provisions giving compulsory powers, &c. *ib.*

Incorporation of Company.
in what cases company shall be incorporated, *ib.*
in others company may be incorporated, *ib.*
power for board of trade to incorporate company by certificate, vol. iv. 1009.
incorporation of companies clauses acts, *ib.*
restriction as to issue of shares, *ib.*
restrictions on company as to borrowing, &c. *ib.*
contracts by promoters binding on company, *ib.*

Construction of Railway.
incorporation of railways clauses acts in certificate, except as to compulsory powers, &c. *ib.*
restriction on alterations of plan or section, *ib.*
provision respecting gauge, *ib.*

Provisions to secure completion of Railway.
promoters to deposit eight per cent. on estimate in court of chancery, &c. vol. iv. 1010.
warrant of board of trade for payment into court, *ib.*
liberty for promoters to bring in as a deposit other securities, *ib.*
provision for vacations in offices of courts, *ib.*
power for court to direct investment, *ib.*
interpretation of "deposit fund" and "depositors," in following provisions, *ib.*

RAILWAYS—*continued.*
repayment of deposit on completion of railway or on terms, vol. iv. 1010.
forfeiture of deposit on non-completion of railway, &c. *ib.*
application of money recovered on bond, vol. iv. 1011.
depositors to receive dividends accruing while fund in court, *ib.*
proof as to capital and expenditure, examination of bond, &c. *ib.*
protection to board of trade in case of error, &c. *ib.*
mode of application to court, *ib.*
power for courts to make general orders, *ib.*
penalty on company failing to open new railway in certain cases, *ib.*

Tolls and Charges for use of Railway.
tolls, &c. in schedule may be taken, *ib.*
board of trade may vary tolls, &c. *ib.*

Application of General Railway Acts.
enactments in schedule applied to the railway and company, subject to variations, *ib.*

Miscellaneous.
board of trade may reject the application to settle draft certificate, vol. iv. 1012.
saving for general acts or revision of charges, *ib.*
new works in connection with railway, *ib.*
power to authorise joint work, *ib.*
power to promoters being a company to raise additional capital, vol. iv. 1012, 1013.
where promoters are a company, approval of application by a meeting, vol. iv. 1013.
power to board of trade to amend or revoke certificate, *ib.*
power to correct error in certificate, *ib.*
proof of certificate, *ib.*
copies of certificate to be kept for sale, *ib.*
recovery and application of penalties, *ib.*
as to custody of documents under 7 Will. 4, & 1 Vict. c. 83, *ib.*
general rules in schedule with power for amendment, *ib.*
annual report to parliament by board of trade, *ib.*

SCHEDULE.
notice of opposition, *ib.*
form of certificate of board of trade, vol. iv. 1014.
tolls and charges, *ib.*
enactments in general acts relating to railways applied to railways under this act, vol. iv. 1016.
general rules, vol. iv. 1017.

REAL ASSETS. See *Wills.*

REFRESHMENT HOUSES. See *Beer.*
definition of, vol. i. 388.
occupier of, when compelled to take out licence, vol. i. 388, 398.
certain other persons may take out licence, vol. i. 389.
duty upon such licence, vol. i. 388, 398.
licensee may take out licence to sell wine to be drunk on the premises, vol. i. 389.
except where refreshment house under certain rent or annual value, vol. i. 389.

REFRESHMENT HOUSES—*continued.*
persons disqualified to hold wine licences, vol. i. 389.
duty upon wine licence, vol. i. 388.
allowance of duty paid for refreshment-house licence to be made on taking out wine licence, vol. i. 398.
by whom licence to be granted, vol. i. 389.
form of licences, vol. i. 389, 396.
date, expiration, and renewal of licence, vol. i. 389.
death of licensee, carrying on business after, vol. i. 389.
notice of first application for wine licence to be given to justices, vol. i. 389.
justices may object to the granting thereof, vol. i. 389.
applicant to be heard against objection, vol. i. 390.
justices may object to renewal of wine licence, vol. i. 390.
proceedings thereon, vol. i. 390, 391.
list of licences to be kept, vol. i. 391.
copy thereof to be transmitted periodically to magistrates' clerk, vol. i. 391.
General Offences,
keeping refreshment house without licence, vol. i. 389.
refusing to admit constable, vol. i. 391.
selling intoxicating liquor without licence, vol. i. 394.
suffering gaming, vol. i. 394.
harbouring prostitutes, thieves, or drunken and disorderly persons, vol. i. 394.
Offences against Licence.
permitting drunkenness, &c. vol. i. 394.
Offences by other than Refreshment-house keepers.
witnesses refusing to attend or give evidence, vol. ii. 395.
drunken and disorderly persons refusing to quit refreshment house, vol. i. 395.
Penalties, how to be recovered, vol. i. 393.
power to summon witnesses, vol. i. 395.
justices may mitigate penalties, vol. i. 394.
Appeal to Quarter Sessions against second or third convictions, vol. i. 394.
costs of appeal, vol. i. 394.
proceedings to be carried on by constable, vol. i. 395.
expenses of prosecution to be charged on county rates, vol. i. 395.

REGISTRATION OF DEEDS, vol. iv. 76. See *Conveyances.*

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES (6 & 7 Will. 4, c. 86; 1 Vict. c. 22).
stamps on certificates from registers, vol. iv. 99, n. (*a*).
repeal of former acts as to registration of marriages, vol. iv. 99.
provision for general register office, *ib.*
appointment and salaries of officers, *ib.*
salaries, how paid, *ib.*
regulations for conduct of officers to be framed, *ib.*
annual abstract of births, deaths, and marriages to be laid before parliament, *ib.*
districts to be formed by boards of guardians, and registrars and superintendent registrars appointed, *ib.*

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES—*continued.*
provision where guardians neglect to form districts, vol. iv. 111.
or to appoint registrars, &c. *ib.*
clerks to unions may be first superintendent registrars, vol. iv. 100, 111.
registrar-general may limit number of registrars to be appointed, vol. iv. 112.
formation of temporary districts, vol. iv. 100.
appointment of temporary registrars, &c. *ib.*
where new unions established previous appointments to be vacated, *ib.*
provision for including extra-parochial places in register districts, vol. iv. 110.
registrar-general may unite districts, *ib.*
and may divide districts, vol. iv. 111.
appointment of officers of unions to be subject to approval of poor law board, vol. iv. 100.
officers of unions removed by poor law board, &c. incapable of reappointment, *ib.*
deputy registrars to be appointed, *ib.*
appointments to be exempt from stamp duty, *ib.*
guardians to provide register offices, *ib.*
locality of superintendent-registrar's office, vol. iv. 111.
guardians may borrow money for providing register offices, vol. iv. 112.
provision in case of neglect, *ib.*
until provided, fit rooms to be appropriated, *ib.*
registrar-general may appoint assistant in case of illness, vol. iv. 111.
registrars, &c. exempted from parochial and corporate offices, *ib.*
registrars and deputies to dwell in the districts, &c. vol. iv. 101.
and list of their names and abodes published by superintendent, *ib.*
register boxes to be furnished, &c. *ib.*
all books, &c. to be transferred on removal of registrar, *ib.*
register books to be provided, *ib.*
form of, vol. iv. 108.
registrars to register births and deaths, vol. iv. 101.
registrar-general may direct place of birth or death to be inserted, vol. iv. 110.
superintendent registrars may appoint deputies in certain cases, vol. iv. 111.
parents, occupiers, &c. bound to give notice of birth or death, vol. iv. 101.
who to be deemed "occupiers," *ib.*
overseers and coroners to give notice of foundlings and exposed dead bodies, *ib.*
parent or occupier of house to give particulars of birth, vol. iv. 102.
refusing to give information, a misdemeanor, *ib.* n. (*a*).
registry of births at sea, vol. iv. 102.
of deaths at sea, vol. iv. 103.
when "marine registor" to commence, vol. iv. 110.
registry after forty-two days from birth, how made, vol. iv. 102.
additional fees in such case, *ib.*
penalty for offending provisions, *ib.*
births not to be registered after six months, *ib.*
except children born at sea, *ib.*
penalty for so registering, *ib.*

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES—*continued.*
baptismal name may be registered within six months of registration of birth, vol. iv. 102, 109.
fees for such registration, vol. iv. 102.
particulars as to deaths, of whom may be required, vol. iv. 102, 103.
registration of finding of jury on coroners' inquests, vol. iv. 103.
registrar to give certificate of registry to undertaker, *ib.*
coroner may order body to be buried, and give certificate thereof, *ib.*
no dead body to be buried without certificate of registrar or coroner, under penalty, *ib.*
persons giving information of birth or death to sign the register, *ib.*
registrars to make out accounts quarterly, *ib.*
guardians or overseers to pay registrars, *ib.*
marriage register books, &c. to be provided, *ib.*
how costs thereof to be defrayed, vol. iv. 112.
marriage registers to be kept in duplicate, vol. iv. 103, 104.
clergyman to be paid for making register in duplicate, vol. iv. 112.
certified copies of registers to be made up quarterly, vol. iv. 104.
duplicates and certified copies of marriage registers to be sent to superintendent, &c. *ib.*, and vol. iv. 112.
penalty for neglect, vol. iv. 113.
superintendents, &c. to send certified copies of registers to general registry office, vol. iv. 104, 105.
fees to be received for each entry in such certified copies, vol. iv. 105.
searches may be made and certificates given by keepers of registers, *ib.*
fees to be taken therefor, *ib.* and n. (*a*).
indexes to be made at superintendent's offices, and persons allowed to search, &c. vol. iv. 105.
fees for searching, *ib.*
indexes to be kept at general register offices, searches allowed, and certified copies given, *ib.*
fees for searches and certificates, *ib.*
certified copies given at general registry office to be sealed, *ib.*
fees for searches in general registry office, how to be accounted for, *ib.*
clergymen, &c. may ask parties married the particulars required, *ib.*
penalty for wilfully giving false information, *ib.*
penalty for not duly registering, or for losing or injuring registers, vol. iv. 106.
penalty for destroying or falsifying register books, *ib.* and n: (*a*) and (*b*).
accidental errors may be corrected, vol. iv. 106.
recovery and application of penalties, *ib.*
whereunto offenders may be committed, vol. iv. 110.
distress not illegal for want of form, &c. vol. iv. 106.
satisfaction for special damage, *ib.*
appeal, notice of, &c. vol. iv. 107.
proceedings not to be quashed for want of form, *ib.*
no *certiorari*,

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES—*continued.*
correspondence of registrar-general relating to act, free of postage, vol. iv. 107.
registers of baptisms and burials may be kept as heretofore, *ib.*
registrar-general to furnish notices to guardians of acts to be done by parties registering, *ib.*
meaning of "notice to registrar," and "registrar's certificate," vol. iv. 109.
schedules of forms, vol. iv. 108, 109.
temporary suspension of acts, vol. iv. 109.
non-parochial registers made evidence, vol. iv. 113.

RELIGIOUS WORSHIP.
certifying of places of (18 & 19 Vict. c. 81.)
repeal of 15 & 16 Vict. c. 36, but the certifying of places of worship thereunder to have same force, vol. iv. 113, 114.
places of, to be certified to registrar-general, vol. iv. 114.
record to be kept of places certified, *ib.*
such places not to be registered in courts of any bishop, &c. or at quarter sessions, *ib.*
effect of certifying, *ib.*
places already certified (except under 15 & 16 Vict. c. 36), may be recorded by registrar-general, *ib.*
fee to be paid with certificate, *ib.*
notice to be given of place of meeting being disused for, *ib.*
list of certified places to be printed, *ib.*
and copies sent to superintendent registrars, vol. iv. 115.
to be open to inspection, *ib.*
records of certificates of places of worship, ceasing to be used as such, to be cancelled, *ib.*
certified places exempted from the Charitable Trusts Act, 1853, *ib.*
churches, &c. of established church not to be affected, *ib.*
certificate of place having been certified to be given, *ib.*
evidence of certificate, *ib.*
sums received, and expenses, how to be accounted for and defrayed, *ib.*
act not to affect validity of marriages, *ib.*
not to extend to Scotland, *ib.*
schedules, vol. iv. 115, 116.
act for securing liberty of (18 & 19 Vict. c. 86), vol. iv. 116.
no prosecution maintainable for assembling for worship in places not certified, vol. iv. 116, 117.
Roman Catholics and Jews to be subject to same laws, as to places of worship, as Protestant Dissenters, vol. iv. 117.
abolition of jurisdiction of ecclesiastical courts in certain cases of defamation and brawling (23 & 24 Vict. c. 32), vol. iv. 117.

RENTS, APPORTIONMENT OF. See *Landlord and Tenant.*

RIGHT, WRIT OF. See *Crown Suits.*

RIOT. See *Criminal Law.*

SATISFIED TERMS. See *Conveyances.*

SAVINGS BANKS.
as to friendly societies. See *Friendly Societies.*
consolidating and amending laws relating to (9 Geo. 4, c. 92; 7 & 8 Vict. c. 83; and 16 & 17 Vict. c. 45).
repeal of former acts, vol. iv. 117.
what institutions entitled to privileges and benefits of the act, vol. iv. 118.
savings banks not to be formed in future without sanction of justices and commissioners, *ib.*
rules to be entered in book kept by institution, *ib.*
provisions as to deposit with and enrolment by clerk of peace (9 Geo. 4, c. 92), *ib.*
repeal of such provisions (7 & 8 Vict. c. 83), vol. iv. 132.
rules, and alterations of rules, &c. to be submitted to barrister to be appointed for purpose, vol. iv. 119, 132.
fee to be paid to barrister, *ib.*
barrister to certify whether rules in conformity to law, *ib.*
when certified one copy to be returned, vol. iv. 132.
another copy to be sent to commissioners of national debt, *ib.*
rules so certified to be binding, *ib.*
evidence of rules, *ib.*
repeal of provisions as to transcript being laid before justices, &c. vol. iv. 119, 132.
rules when entered and deposited to be binding on members and depositors, vol. iv. 119.
treasurer, trustees, or manager, &c. not to derive any benefit from institution, *ib.*
treasurer, and other officers entrusted with receipt or custody of money, to give security by bond, vol. iv. 119, 131.
bond not subject to stamp duty, vol. iv. 120, 131.
how to be cancelled, vol. iv. 131.
trustees may sue upon, *ib.*
bonds to be transmitted to the commissioners for the reduction of the national debt, *ib.*
executors, &c. of officers to pay money due to savings banks before any other debts, vol. iv. 128.
effects of institution vested in trustees for time being, without fresh assignment, vol. iv. 120.
costs, *ib.*
trustees and managers, how far liable, vol. iv. 120, 129, 130.
treasurer and trustees, &c. to account and deliver up effects, when required, vol. iv. 120.
money belonging to savings banks shall be invested in bank of England or Ireland only, and not in any other security, vol. iv. 121.
not to prevent trustees from receiving money to be applied in any other manner, *ib.*
central banks may invest the money of branch banks, *ib.*
certificate of treasurer of branch banks, *ib.*
penalty on false declaration to obtain receipts, *ib.*
moneys paid in on savings bank account to be invested in bank annuities or exchequer bills, vol. iv. 121, 122.
on payment of money into bank by trustees

SAVINGS BANKS—*continued.*
to account of commissioners for reduction of national debt, their officer to give receipt for same, vol. iv. 122.
such receipt, &c. carrying interest at 2¼ per cent. per diem, *ib.*
now altered to 3*l.* 5*s.* per cent. per annum, vol. iv. 129.
interest due on money mentioned in receipt to be calculated half-yearly up to twentieth November and twentieth May, and carried to account of savings bank as additional principal, vol. iv. 122, 129.
interest due to depositors may be calculated yearly or half-yearly, and carried to accounts as principal, vol. iv. 122.
before drawing for money, trustees to sign appointment of agent to receive same, *ib.*
such appointment to be deposited with commissioners, *ib.*
new appointment to be produced, *ib.*
trustees may draw at any time for whole or part of sum placed to their account, *ib.*
draft or order to be addressed to commissioners, *ib.*
drafts exceeding 5,000*l.* and upwards to be signed by trustees and attested, *ib.*
draft exceeding 10,000*l.* not to be paid until after fourteen days, *ib.*
officer not to issue in any one day orders for more than 10,000*l.* for the same bank, *ib.*
trustees, &c. to ascertain amount of surplus fund, and appropriate same, *ib.*
surplus to be transferred to commissioners for reduction of national debt, *ib.*
interest payable to depositors not to exceed 2¼*d.* per cent. *per diem*, *ib.*
now altered to 3*l.* 0*s.* 10*d.* per cent. per annum, vol. iv. 129.
savings of minors may be invested, vol. iv. 122.
payment to married women of deposits made by them, when valid, vol. iv. 122, 123, 130.
charitable societies may invest sums not exceeding 100*l.* per annum, nor exceeding 300*l.* in the whole, vol. iv. 123.
friendly societies may subscribe any portion of their funds into savings bank, *ib.*
not exceeding 300*l.* *ib.*
receipt of treasurer, &c. sufficient discharge for same, *ib.*
members of friendly or charitable societies not liable to forfeiture by subscribing to any institution under 9 Geo. 4, c. 92, *ib.*
regulations, &c. of act extend to payments, &c. under 59 Geo. 3, c. 128, *ib.*
anonymous subscriptions not permitted, *ib.*
persons may subscribe as trustees for others, *ib.*
deposits to be in joint names of trustees and of *cestui que* trusts, vol. iv. 123, 124.
receipts of trustees formerly good discharges, vol. iv. 124.
present provisions as to repayment of and receipts for trust deposits, vol. iv. 130.
subscribers to one savings bank not to subscribe to any other, vol. iv. 124.
declaration to be made at time of subscription, vol. iv. 124, 129.
penalty if false, vol. iv. 124.
copy of declaration and penalty to be prefixed to deposit book, vol. iv. 129.

SAVINGS BANKS—*continued.*
notice of such regulations, &c. to be affixed in office, vol. iv. 124.
depositor to produce his book once a year, vol. iv. 129.
punishment of officers of bank not paying over deposits, *ib.*
deposits of any one depositor not to exceed 30*l.* in any one year, nor beyond 150*l.* in the whole, vol. iv. 124.
when sum amounts to 200*l.* no interest payable, *ib.*
not to affect deposits of, or above 200*l.* at the passing of act, *ib.*
trustees not to receive fresh deposits from persons whose deposits amount to 150*l.* *ib.*
depositors may withdraw their deposits, and again subscribe, vol. iv. 125.
repealed, vol. iv. 128.
no money exceeding 30*l.* to be deposited in any one year, vol. iv. 125, 128.
deposits may be withdrawn from one savings bank to be placed in another, vol. iv. 125.
depositor dying leaving sum exceeding 50*l.* probate or administration to be taken out, *ib.*
where whole estate, &c. under 50*l.* no stamp or legacy duty chargeable, *ib.*
how such exemption to be granted, *ib.*
administration bonds for effects of depositor not exceeding 50*l.* exempt from stamp duty, *ib.*
where person dying leaves deposit not exceeding 50*l.* and no will or letters of administration, to whom money to be paid (9 Geo. 4, c. 92), vol. iv. 125, 126.
if will not proved or administration taken out within one month, &c. to whom money may be paid under 7 & 8 Vict. c. 83, vol. iv. 130.
remedy of next of kin against persons to whom money so paid, *ib.*
payment to persons appearing to be next of kin declared valid, vol. iv. 126.
payment under probates of wills, &c. afterwards repealed, valid, *ib.*
payment on death of illegitimate depositor dying intestate, vol. iv. 130.
adaptation of provisions (as to payments to relations of deceased depositors) to the law of Scotland, vol. iv. 132.
powers of attorney given by trustees or depositors, not liable to stamp duty, vol. iv. 126.
settlement of disputes, vol. iv. 131, n. (*a*); *see* vol. iv. 126.
to be referred to barrister, vol. iv. 131.
who may inspect books and administer oaths, *ib.*
award to be final, *ib.*
submission, &c. not liable to stamp duty, *ib.*
no action maintainable against trustees by depositors, *ib.* n. (*a*).
savings banks to make up annually accounts of their progress, stating the balance and in whose hands, vol. iv. 126.
and transmit such account to commissioners for reduction of national debt, vol. iv. 126, 131.
in case of neglect or refusal, commissioners may close account of the trustees, vol. iv. 127.
power to re-open the account, &c. on trustees complying, *ib.*

SAVINGS BANKS—*continued.*
if annual returns not made, name of bank to be published in the Gazette, vol. iv. 128.
duplicate of annual account to be affixed in office of savings bank, vol. iv. 127.
depositors entitled to receive a printed copy, on payment of one penny, *ib.*
accounts to be annually laid before parliament by commissioners for reduction of national debt, vol. iv. 127.
savings banks to compute interest to 20th May and 20th November, half-yearly or yearly, *ib.*
commissioners of national debt may require statement of expenses of management, vol. iv. 128.
where it appears that money is in hands of treasurer, &c. certificate to accompany statement, *ib.*
extent of acts, vol. iv. 129, 132.
where no savings bank, society may be formed for purchasing annuities, &c. (3 & 4 Will. 4, c. 14), vol. iv. 127, 128.
who to be trustees of such societies, vol. iv. 128.
provisions applicable to such societies, *ib.*

Purchase of Government Annuities through the medium of (16 & 17 Vict. c. 45).
repeal of former statutes relating to, vol. iv. 132.
commissioners for reduction of national debt may receive money from depositors, &c. for purchase of annuities, *ib.*
annuities not to be granted to persons under ten years of age, vol. iv. 133.
annuity may be granted to husband or wife, *ib.*
grant of deferred annuities with a condition that purchase-money shall be returnable, *ib.*
or with condition that purchase-money shall not be returnable, *ib.*
parties unable to keep up annual payments, may have annuity in lieu of return of money, *ib.*
power to convert deferred into immediate annuity, vol. iv. 133.
name of party to be inserted in grant, *ib.*
where grants may be to trustees, *ib.*
payment of money on death of persons purchasing deferred annuities, *ib.*
contracts, how made, *ib.*
money paid on account of purchase of annuity to be kept distinct, *ib.*
rules and regulations to be made by commissioners, vol. iv. 134.
commissioners may decline to contract for annuities or payments on death, *ib.*
penalty for making false declaration, *ib.*
commutation of contracts at death for annuity after death to nominees, *ib.*
treasury may direct use of tables of value approved by them, *ib.*
notice of adoption thereof to be given, *ib.*
purchasers of annuities for lives to be entitled to specified amount, *ib.*
life annuities and payments at death under act, to be carried to separate account by commissioners, *ib.*
life annuitants may make further purchases without fresh certificates, vol. iv. 135.

SAVINGS BANKS—*continued.*
amount of annuities and sums payable at death to be certified to treasury, vol. iv. 135.
time of payment of annuities, *ib.*
additional quarter's payment to be made on death of annuitant, *ib.*
proviso as to deferred annuities, *ib.*
annuities, where to be paid, *ib.*
contracts for annuities not to be made for fourteen days after quarterly day of payment, *ib.*
moneys paid to commissioners, how to be invested, vol. iv. 135, 136.
reservation of part to meet claims on death, vol. iv. 136.
annuities not assignable, *ib.*
except in case of bankruptcy, &c. *ib.*
transfer of by trustees to secure interest of parties beneficially interested, *ib.*
annuities to be free from taxes and to be personal estate, *ib.*
yearly account of unclaimed annuities to be made, *ib.*
when arrears to cease to be charged on consolidated fund, *ib.*
but not to prejudice rights of parties, *ib.*
receipts, &c. exempted from stamp duty, *ib.*
where certificate or declaration false, money paid to be forfeited and annuity to cease, vol. iv. 136, 137.
punishment for forging register, certificate, &c. vol. iv. 137.
for perjury, *ib.*
penalty for receiving annuity after death of nominee, *ib.*
recovery and application of penalties, *ib.*
power to reward informers, *ib.*
expenses of act, how defrayed, *ib.*
annual accounts to be laid before parliament, vol. iv. 138.
powers of attorney under recited acts, to be available, *ib.*

Investment of moneys received from (23 & 24 Vict. c. 137).
powers of commissioners to extend to all parliamentary securities, vol. iv. 142.
annual report to be laid before parliament, *ib.*

Military Savings Banks (22 & 23 Vict. c. 20).
repeal of former acts, vol. iv. 139.
but acts done under authority of former rules, &c. confirmed, *ib.*
establishment of, *ib.*
regulations for, how made, *ib.*
copy of, to be deposited in orderly room of every regiment, *ib.*
what to be provided for by regulations, vol. iv. 139, 140.
deposits exceeding 30*l.* in one year, not to bear interest till end of year, vol. iv. 140.
interest not to accrue on amounts in excess of 200*l.* *ib.*
except funds retained for orphans, or charitable purposes, *ib.*
receipts of infants and married women, *ib.*
payments and deposits, how made and applied, *ib.*
secretary at war may direct moneys to be paid to account of commissioners of national debt, &c. *ib.*
investment of such moneys, vol. iv. 141.

SAVINGS BANKS—*continued.*
secretary at war may direct moneys invested in annuities to be transferred to paymaster-general, vol. iv. 141.
commissioners empowered to sell, *ib.*
provisions as to money arising from dissolved benefit society, *ib.*
officers of savings banks under the act, liable only for their own acts, *ib.*
accounts to be laid before parliament, *ib.*
provisions of 9 Geo. 4, c. 92, and other acts, not to extend to, *ib.*
meaning of "India," *ib.*
commencement of act, vol. iv. 141, 142.

Penny Savings Bank, &c. (22 & 23 Vict. c. 53).
funds of penny savings banks, charitable or provident societies, &c. may be invested in savings banks to any amount, vol. iv. 142.
act not to render it necessary to have rules again certified, *ib.*

Post-Office Savings Banks (24 Vict. c. 14).
postmaster-general may direct officers to receive deposits, *ib.*
deposits, how to be made, *ib.*
to be reported same day to postmaster-general, *ib.*
acknowledgment to be transmitted to depositor, *ib.*
legal title of depositor, how evidenced, *ib.*
deposits not to be less than one shilling, *ib.*
nor sums not a multiple thereof, *ib.*
depositors entitled to repayment within ten days, &c. vol. iv. 143.
names of, not to be disclosed, *ib.*
moneys to be paid over by postmaster-general to commissioners of national debt, *ib.*
to be repaid through post-office, *ib.*
treasury to issue amount of any deficiency out of consolidated fund, *ib.*
rate of interest, and how calculated, *ib.*
investment of funds received under act, *ib.*
deposits may be transferred to general savings bank, *ib.*
how transfer to be made, *ib.*
not necessary to certify rules of savings banks again, *ib.*
postmaster to make regulations, vol. iv. 143.
copies to be laid before parliament, vol. iv. 143, 144.
accounts to be laid before parliament annually, vol. iv. 144.
to be examined by commissioners of audit, *ib.*
provisions of savings banks, applicable to this act, *ib.*
expenses, how paid, *ib.*

Seamen, Savings Bank for (19 & 20 Vict. c. 41).
board of trade may establish, vol. iv. 138.
wives, widows, and children of seamen may deposit, *ib.*
deposits not to exceed 200*l.*, *ib.*
power to constitute shipping offices branch savings banks, *ib.*
commissioners of national debt to receive deposits and pay interest, *ib.*
board of trade to make regulations for, *ib.*
application of deposits of deceased depositor, *ib.*
punishment of forgery, false representations, &c. vol. iv. 139.
expenses, how defrayed, *ib.*

SAVINGS BANKS—*continued.*
accounts and rules to be laid before parliament, vol. iv. 139.
mode of criminal proceeding, *ib.*

SCHOOLS, INDUSTRIAL. See *Criminal Law.*

SCIENTIFIC AND LITERARY SOCIETIES.
act to afford greater facilities for establishment of (17 & 18 Vict. c. 112).
land (not exceeding one acre) may be granted as a site for, vol. iv. 144.
where commonable land granted, rights of commoners to be barred, *ib.*
chancellor, &c. of duchy of Lancaster may grant sites, *ib.*
and officers of duchy of Cornwall, vol. iv. 144, 145.
lands ceasing to be used for purposes of act, to revert to such duchies, vol. iv. 145.
except where institution removes to another site, &c. *ib.*
persons not having legal estates empowered to convey for purposes of act, *ib.*
corporations, justices, &c. may convey lands for purposes of act, *ib.*
consent of bishop requisite in conveyances by ecclesiastical corporation sole, *ib.*
consent of majority of ratepayers, poor-law board, and guardians in conveyances of parochial property, *ib.*
consent of charity commissioners in conveyances of charitable trust property, *ib.*
how such parties to convey, *ib.*
apportionment of rent, when part only of land subject thereto is conveyed, *ib.*
parties to agreement for such apportionment, *ib.*
rights and liabilities of landlords and tenants as to part of land not conveyed, vol. iv. 145, 146.
any number of sites may be granted for separate institutions, vol. iv. 146.
to whom grants may be made where institution not incorporated, *ib.*
provisions of 13 & 14 Vict. c. 28, to apply to conveyances to trustees for purposes of this act, *ib.*
form of conveyance, *ib.*
no bargain and sale or livery of seisin necessary, *ib.*
nor more than one witness, *ib.*
death of donor within twelve months not to invalidate grant, *ib.*
copyhold lands, how to be conveyed, *ib.*
application of purchase money for land sold by any ecclesiastical corporation sole, *ib.*
incorporation of certain clauses of Lands Clauses Consolidation Act, vol. iv. 146, 147.
trustees of, may sell, exchange, and let lands or buildings, vol. iv. 147.
trustees to be indemnified, *ib.*
in default may sell or mortgage, *ib.*
property of, how to be vested, *ib.*
suits by and against, how to be brought, *ib.*
suits not to abate or discontinue, *ib.*
judgments against, how enforced, *ib.*
governing body may make bye-laws and impose penalties, *ib.*
recovery of penalties, *ib.*
penalties not recoverable unless bye-law confirmed by three-fifths of members at special meeting, vol. iv. 147.
members, how and for what may be sued, *ib.*
recovery of costs by defendant, *ib.*
members guilty of offences punishable as strangers, vol. iv. 148.
institutions enabled to alter, extend, and abridge their purposes, *ib.*
how such alteration to be agreed to and confirmed, *ib.*
board of trade may suspend alteration on application of two-fifths of members, *ib.*
dissolution of institutions, &c. how effected, *ib.*
no member to receive a profit, *ib.*
except in case of joint-stock companies, *ib.*
members, who are to be deemed, *ib.*
who may vote at elections, *ib.*
governing body defined, *ib.*
if none, members may create, *ib.*
to what institutions act shall apply, *ib.*
the Royal Institution and London Institution exempted from act, *ib.*
definition of parish, *ib.*
short title, *ib.*

SERVANTS. See *Master and Servant.*

SESSIONS OF THE PEACE.
Constitution, &c. of.
is a court of record, vol. iv. 149, n. (*a*).
cannot be held without two justices, *ib.*
authority under which justices sit, *ib.*
are a continuing court, *ib.*
cannot erase records, except on mandamus, *ib.*
venire de novo, after judgment for felony, may issue to, *ib.*
District Courts, Act to Encourage Establishment of (5 & 6 Vict. c. 53). See vol. iii. tit. *Prisons.*
Division of Courts.
repeal of former acts, vol. iv. 166.
but orders, &c. made thereunder, not affected, *ib.*
courts of quarter sessions, general sessions, &c. may appoint two or more justices to form a second court, *ib.*
regulations for apportionment of business need not be renewed at each sessions, *ib.*
appointment and payment of person to record the proceedings of such second court, *ib.*
liability of deputy clerk for negligence of person so appointed, *ib.* n. (*b*).
power to appoint additional crier, vol. iv. 166.
recorder, or person presiding, at quarter sessions *in boroughs*, may form second court, vol. iv. 156.
and appoint an "assistant barrister" to preside, *ib.*
powers of such assistant barrister, *ib.*
clerk of the peace to appoint an assistant, *ib.*
appointment of a crier, *ib.*
recorder may adjourn such second court, *ib.*
preliminary proceedings before exercise of the powers given by act, *ib.*

SESSIONS OF THE PEACE—*continued.*
remuneration to officers of such second courts, vol. iv. 156.
appointments and certificates, &c. exempt from stamp duty, *ib.*

Divisions for holding Special Sessions.
justices may transmit to clerk of the peace statement of places which would form a proper division, vol. iv. 151.
statement to be laid before next quarter sessions, *ib.*
power to adopt or reject the same, *ib.*
clerk of the peace to advertise statement, *ib.*
if approved, justices to make order constituting new division, *ib.*
publication of order, *ib.*
no new division to be made unless five justices resident therein, *ib.*, and vol. iv. 155.
new divisions to be lawful divisions for holding special or petty sessions, vol. iv. 151, 152.
power to justices to inquire into all existing divisions, vol. iv. 152.
and to alter and remodel same, &c. *ib.*
publication of order for, *ib.*
orders to specify a time (not earlier than the fourth quarter sessions next after) for enrolment, *ib.*
parties may in meantime petition against order, *ib.*, and vol. iv. 155.
proceedings on hearing, &c. such petition, vol. iv. 152.
when petitions determined, order to be enrolled, *ib.*
publication of copy of enrolment, vol. iv. 153.
divisions may be altered after three years from the constituting thereof, vol. iv. 155.
proceedings not to be quashed for want of form, vol. iv. 153, 156.
courts of quarter sessions on making order for division, may also make order respecting duties of high constables, *ib.*
rights of lords of manors not to be affected, *ib.*
justices may divide parishes, &c. for constituting divisions, vol. iv. 167.
court to make order, in such case, as to appointments and duties of officers, *ib.*

Fees.
justices at quarter sessions to settle table of fees, vol. iv. 149.
to be laid before judges of assize, *ib.*
when approved, to be the only fees taken, vol. iv. 150.
penalty for taking greater fees, *ib.*
copies of such tables to be hung in conspicuous place where sessions held, *ib.*
penalty for neglect, *ib.*
limitation of actions, *ib.*

Fines, Penalties, &c.
act for more speedy return and levying of (3 Geo. 4, c. 46). See *Sheriff*, and vol. iv. 165.

Juries at Quarter Sessions. See vol. ii. 930.

Jurisdiction of General and Quarter Sessions.
powers of borough justice to commit persons for trial at quarter sessions, vol. iv. 154.
justices in sessions restrained from trying certain offences, vol. iv. 157, 158.
where offence declared a misdemeanour, it may be tried at quarter sessions, in absence of contrary direction, vol. iv. 157, n. (*f*).
decisions as to jurisdiction, &c. *ib.*
proviso saving the sole jurisdiction of the central criminal court in London, &c. vol. iv. 158.
removal of indictments found at sessions, *ib.*
of prisoners by *habeas corpus*, *ib.*
recognizances in such cases, to be obligatory to appear at assizes, vol. iv. 158, 159.

Notice of holding Special Sessions.
where special sessions require to be held, notice to be sent to each justice, vol. iv. 159.
notices to be deemed duly served if sent by post, *ib.*

Petty Sessions, act for holding, and providing places for holding (12 & 13 Vict. c. 18), vol. i. 1083.

Procedure in Courts of General and Quarter Sessions.
in every case of appeal, fourteen days' notice to be given, vol. iv. 161.
notice to be in writing, &c. *ib.*
no evidence to be given of any ground of appeal not set forth in notice, vol. iv. 162.
act not to apply to appeals against orders of removal, bastardy, &c. &c. *ib.*
defects in statement of grounds of appeal, *ib.*
amendment of, *ib.*
costs in case of frivolous grounds of appeal, *ib.*
power of justices over costs, *ib.*, and n. (*a*).
in case of frivolous appeals, vol. iv. 163.
amendment of orders or judgments of justices, on appeal or return to certiorari, *ib.*
rule for certiorari to state objections, *ib.*
amendment of recognizances, *ib.*
decisions of sessions, when final, vol. iv. 164.
amendment of indictment, *ib.*
power to state a special case without going to sessions previously, *ib.*
references to arbitration, *ib.*
by order of the court of sessions, vol. iv. 164, 165.
where reference abortive, queen's bench may order sessions to hear the appeal, vol. iv. 165.
3 & 4 Will. 4, c. 42, to apply to references under this act, *ib.*
arbitrators to have power of amendment, *ib.*
recognizances for prosecution, &c. of appeal, *ib.*
levying and recovery of fines, &c. *ib.*
orders of sessions may be made rules of court of queen's bench, and have effect accordingly, *ib.*, and see n. (*a*).
party affected may take objections, vol. iv. 165, n. (*b*).
recovery of costs, vol. iv. 165, and n. (*c*).
time from which sentences of general or quarter sessions, &c. shall take effect, vol. iv. 166.

Time for holding.
when quarter sessions are to be held, vol. iv. 153, 154.
sessions are considered in law as one day, vol. iv. 153, n. (*a*).

SESSIONS OF THE PEACE—*continued.*
justices at epiphany sessions may name two of their number to fix day for holding next general quarter sessions, vol. iv. 154, 155.
jurisdiction of sessions not ousted by holding of assizes, vol. iv. 154, n. (*c*).
Annexation of detached parts of Counties.
detached portions of counties to be part of county by which they are surrounded, vol. iv. 159.
and to belong to adjoining hundred, or to form a separate hundred, *ib.*
provisions as to special and petty sessions in such cases, vol. iv. 160.
error in stating name of original county not to affect validity of proceedings, *ib.*
saving of ecclesiastical rights, *ib.*
and rights of certain coroners, *ib.*
not to affect land tax or assessed taxes, *ib.*
Middlesex.
excepted out of general acts, vol. iv. 153, 156.
two sessions to be held every month, vol. iv. 160.
which to be the general quarter sessions, *ib.*
general sessions, *ib.*
validity of former proceedings, *ib.*
adjournments, *ib.*
sittings of queen's bench not to affect the sessions, vol. iv. 161.
indictments for misdemeanour not to be traversed without cause shown, *ib.*
allowance to sheriff out of county rates, *ib.*
appointment of assistant judge, *ib.*
and deputy, *ib.*
act not to interfere with appointment of chairman of court, vol. iv. 161.
assistant-judge not eligible to sit in parliament, *ib.*
formation of the court, *ib.*
jurisdiction of justices to continue, *ib.*
Scotland and Ireland
excepted out of acts, vol. iv. 153, 156, 166.

SET-OFF.
as to law of, in general, vol. iv. 167, n. (*a*).
before statutes, cross demands no defence at law, *ib.*
parties may always make deductions, vol. iv. 168, *notes.*
what are deductions, *ib.*
statute allowing mutual debts to be set one against the other, vol. iv. 168—173.
statute not imperative, and defendant may bring cross action for his demand, vol. iv. 167, *note.*
if set-off pleaded, defendant is estopped from bringing cross action, *ib.*
set-off allowed only in actions of assumpsit, debt, and covenant for non-payment of money, vol. iv. 168, n. (*a*).
subject matter of set-off must be a debt, *ib.*
debts sued for and set-off must be mutual and due in same right, vol. iv. 169, *notes.*
what are debts due in same right, *ib.*
no set-off against claim for uncertain damages, *ib.*
where claim consists of liquidated and unliquidated damages, they may be severed and set-off pleaded against former, *ib.*
no set-off in actions for torts, vol. iv. 170, *notes.*

SET-OFF—*continued.*
in *indebitatus assumpsit*, set-off may be pleaded though defendant agreed to pay ready money, vol. iv. 170, *notes.*
amount of verdict may be set-off, after judgment, *ib.*
debt to be set-off must be completely due when action commenced, vol. iv. 170, 171, *notes.*
and must continue due, vol. iv. 171, *notes.*
bringing an action by defendant, or obtaining verdict for a debt, no waiver of right of set-off, vol. iv. 171, *notes.*
as to principal and agent, vol. iv. 171, 172, *notes.*
husband and wife, vol. iv. 172, *notes.*
executors and administrators, vol. iv. 172, 173, *notes.*
partners, vol. iv. 173, *notes.*
when debt of plaintiff assigned to defendant can be pleaded as a set-off, *ib.*
costs, where debt is reduced by set-off below the amount recoverable, &c. *ib.*
equitable right of set-off, *ib.*
mode, &c. of pleading as to set-off, vol. iv. 173, 174, *notes.*
where debt sued for or to be set-off is a penalty the matter must be pleaded, and the debt due on either side stated, vol. iv. 174.
defendant to have benefit of set-off though some plaintiffs improperly joined, vol. iv. 175.
no other action for same claim to be brought, *ib.*
statutes of limitation apply as to debts alleged by way of set-off, if subsequent promise not in writing, *ib.*

SETTLED ESTATES. See *Leases; Trustees.*

SEWERS,
as to law of, generally, vol. iv. 175, n. (*b*).
General Act concerning Commissions of (23 Hen. 8, c. 5).
how far commission of sewers to extend, vol. iv. 175.
and to whom to be directed, *ib.*
form of commission, vol. iv. 176—179.
the several causes of awarding commission, vol. iv. 176.
what things commissioners are authorised to do, vol. iv. 176—179.
surveying walls, streams, &c. vol. iv. 176.
extent of jurisdiction, *ib.*, *notes.*
inquiry by whose defaults annoyances come, vol. iv. 177.
assessing the persons to be contributory to the charge, *ib.*
what persons to be contributory, *ib.* n. (*a*), (*b*).
appointing bailiffs, collectors, &c. vol. iv. 178.
collectors to account, vol. iv. 178, 182.
distraining for rates, &c. vol. iv. 178, 183.
hearing and determining complaints vol. iv. 178.
liability of commissioners and their workmen for damages, *ib.* n. (*b*).
saving of fines, &c. to crown, vol. iv. 179, and n. (*a*).

SEWERS—*continued.*
commissioners to take an oath, vol. iv. 179.
form of oath, *ib.*
no person compelled to take oath unless dwelling in the county, &c. *ib.* n. (*c*).
penalty for refusing to take, *ib.*
no man to sit as commissioner till sworn, vol. iv. 180.
who otherwise may not, *ib.* n. (*c*).
what land each commissioner shall have, vol. iv. 180.
authority of commissioners to make laws, &c. vol. iv. 179, 180.
power by decree to sell and convey lands of persons refusing to pay assessments, &c. vol. iv. 180.
decree to be certified in chancery, &c. *ib.*
and to bind every person interested, *ib.*
decrees of commissioners to bind lands of the king as well as of other persons, *ib.* n. (*b*).
powers of commissioners to decree lands, extended to copyholds, vol. iv. 183.
buyers to agree with the lords for the usual fines, and to be admitted tenants accordingly, *ib.*
avowry or justification of distress taken by authority of commissioners, vol. iv. 180, 181.
damages and costs in actions relating to, vol. iv. 181.
fees to be taken by commissioners, &c. *ib.*
power to pay clerk, collectors, &c. *ib.*
commissions within the duchy of Lancaster, how and by whom appointed, *ib.*
charge of the commissions, *ib.*
duration of, to be three years, *ib.*
extended to ten years, *ib.* n. (*a*).
commission or commissioner may be discharged by *supersedeas*, vol. iv. 181.
how long commissioner's decrees shall endure, *ib.* n. (*b*).
commissions, &c. in counties palatine and in Wales, vol. iv. 182.
royal assent to be certified in chancery, *ib.*
fees for certifying, *ib.*

London, Commissioners of Sewers in (7 Anne, c. 9).
to have same powers as commissioners in counties, *ib.*

Amendment of Laws relating to (3 & 4 Will. 4, c. 22).
qualification of commissioners of, vol. iv. 184.
quakers may act as commissioners, upon making affirmation, *ib.*
additional oath to be taken by commissioners before acting, *ib.*
penalty on persons acting not being qualified, vol. iv. 185.
proceedings not to be impeached on account of disqualification, *ib.*
ex-officio commissioners not required to qualify, *ib.*
commission, how long to be in force, *ib.*
laws, &c. to continue in force though commission expired, and though not certified, &c. *ib.*
regulations as to meetings of commissioners, *ib.*
special meetings, how and when may be called, vol. iv. 186.
description of sewers, &c. under jurisdiction of commissioners, *ib.*

SEWERS—*continued.*
inquiry and presentment by jury, vol. iv. 186.
jury, how to be impannelled in certain cases of difference, vol. iv. 187.
presentment of jury not necessary on each occasion to repair, *ib.*, n. (*a*).
rates to be made for every distinct level, &c. vol. iv. 188.
powers of the commissioners to unite levels, &c. *ib.* n. (*a*).
act not to discharge persons from liability by tenure, &c. vol. iv. 188.
power to order payment of costs and expenses arising out of execution of commission of sewers, vol. iv. 188, 189, n. (*a*).
act not to preclude courts of sewers from causing inquiry, &c. as before, vol. iv. 189.
rates to be apportioned between outgoing and incoming tenants, *ib.*
commissioners may make and maintain new works, *ib.*
act not to interfere with provisions of 16 Geo. 3, c. 62, *ib.*
no new works to be made without consent of owners, and occupiers of three-fourths of lands to be charged, vol. iv. 190.
occupiers of adjoining land may take soil, &c. for their own use, vol. iv. 190.
occupiers neglecting, surveyor may remove soil, *ib.*
commissioners may purchase lands, &c. *ib.*
form of conveyance to commissioners, *ib.*
persons refusing to treat, commissioners to issue warrants for impannelling a jury, vol. iv. 191.
jury may be challenged, *ib.*
witnesses to be summoned and examined upon oath, *ib.*
jury to assess damages, *ib.*
verdict of jury to be binding, *ib.*
commissioners may impose fine on sheriff, witnesses, &c. making default, *ib.*
agreement to be filed with clerk of sewers, *ib.*
who to pay costs of jury and witnesses, vol. iv. 191, 192.
purchase and compensation money, how to be paid, vol. iv. 192.
application of compensation money exceeding 200*l.*, *ib.*
when less than 200*l.*, and not less than 20*l.*, vol. iv. 192, 193.
when less than 20*l.*, vol. iv. 193.
person in possession of premises to be deemed entitled thereto, *ib.*
if compensation money refused, or titles not made, &c. money to be paid into bank, &c. *ib.*
exchequer may direct payment of expenses where purchases of other lands are made, *ib.*
houses, &c. not to be taken without consent, vol. iv. 193, 194.
land to vest in commissioners on payment of purchase-money, vol. iv. 194.
commissioners may sell lands not wanted, *ib.*
owners of adjoining ground to have first offer, *ib.*
form of conveyance from commissioners, *ib.*
power to borrow money to make and maintain works, vol. iv. 194, 195, 201.

SEWERS—*continued.*
courts of sewers may grant securities to persons advancing money, vol. iv. 195, 202.
form of security, *ib.*
securities may be transferred, *ib.*
form of transfer, vol. iv. 195, 196, 202.
transfer to be produced to and registered by clerk of commissioners, vol. iv. 196, 202.
courts may be held out of limits of commission, *ib.*
acts of commissioners done within five miles of the district valid, *ib.*
several defaults may be included in one presentment, and be separately traversed, *ib.*
property in lands, buildings, goods, &c. vested in commissioners, *ib.*, and *notes.*
power to bring actions and prefer indictments, &c. in respect thereto, vol. iv. 197.
officers to account when required, *ib.*
penalty, &c. on refusal or neglect, *ib.*
power to remove officer from possession of property, &c. *ib.*
courts may take securities from officers and sue for forfeitures, vol. iv. 198.
treasurer and clerk not to be the same person, *ib.*
nor partners, *ib.*
penalty for offending, *ib.*
constables to obey orders of commissioners, *ib.*
fines, &c. may be levied by warrant of commissioners, *ib.*
form of warrant for levying fines, &c. vol. iv. 199.
commissioners may decree and assess costs, *ib.*
in default, distress to be raised on lands of defaulters, *ib.*
appropriation of costs when levied, *ib.*
commissioners may sue and be sued in name of clerk, *ib.*
clerks and commissioners to be reimbursed, vol. iv. 200.
clerk, being plaintiff, prosecutor, or defendant, may also be a witness, *ib.*
interpretation clause, *ib.*
act not to prejudice any local act, *ib.*
saving rights of city of London, *ib.*

Amendment of 3 & 4 *Will.* 4, *c.* 22 (4 & 5 Vict. c. 45).
courts of sewers empowered to raise money by tax, vol. iv. 201.
order for the apportionment and collection of the tax, *ib.*
when tax and apportionment to be final, *ib.*
borrowing of money, *ib.*
repayment, *ib.*
securities to persons advancing money, vol. iv. 202.
form of security, *ib.*
securities may be transferred, *ib.*
form of transfer, *ib.*
transfers to be produced and registered, *ib.*
courts of sewers may recompense jurymen, *ib.*
may amend or quash rate, on appeal, *ib.*
rated persons not incompetent witnesses,
choice of chairman at meetings of commissioners, *ib.*
meetings of commissioners, where may be held, vol. iv. 203.

SEWERS—*continued.*
regulations of meetings, vol. iv. 203.
saving of powers of courts of sewers, *ib.*
indemnities under 3 & 4 Will. 4, c. 22, extended, *ib.*
act not to prejudice any local act, *ib.*
saving of the rights of the city of London, *ib.*
and commissioners of sewers for Westminster, *ib.*
and Bedford Level corporation, *ib.*

Further amending Laws relating to (12 & 13 Vict. c. 50).
power to commissioners to form sub-districts, vol. iv. 204.
and to make separate rates, *ib.*
appointment of dyke-reeves, *ib.*
their qualification, *ib.*
to serve without fee or reward, *ib.*
penalty for refusing to serve, *ib.*
power to commissioners to impose fines, *ib.*
recovery of sewers rates and fines, vol. iv. 205.
one summons and warrant sufficient for any number of ratepayers, *ib.*
to whom warrants to be directed, *ib.*
interpretation clause, *ib.*

Metropolitan Sewers Acts, vol. iv. 205—207, and 207, n. (*a*).
continued and amended, vol. iv. 206, 207.
power to borrow money, vol. iv. 206.
liability of persons lending money, *ib.*
securities to continue valid after expiration of act, *ib.*
saving as to certain provisions of 12 & 13 Vict. c. 93, *ib.*
power to metropolitan commissioners of sewers to carry on certain works at expense of owners, &c., vol. iv. 207.
commissioners may simultaneously execute works common to several messuages, and divide the expense, &c. *ib.*

SHEEP (DISEASE IN, PREVENTION). See *Markets.*

SHERIFF.
See in general, vol. iv. 207, n. (*b*).

Appointment of, &c. (3 & 4 Will. 4, c. 99).
3 Geo. 1, cc. 15 and 16, in part repealed, vol. iv. 227.
appointment of sheriff, how made, *ib.*
nomination of, to be on the morrow of Saint Martin, vol. iv. 219.
sheriffs in Wales, when to be appointed, vol. iv. 235.
election of sheriffs of London and Middlesex, how to be approved, vol. iv. 237.
form of warrant of appointment, vol. iv. 230.
clerk of peace to enrol duplicate of warrant, vol. iv. 227.
appointment of under-sheriff, *ib.*
sheriff to transmit duplicate to clerk of peace to be filed by him, *ib.*
appointment and duplicate exempt from stamp duty, *ib.*
deputies resident in London to be named by sheriffs, vol. iv. 226.
oaths of sheriff and under-sheriff, *ib.*
declaration and oath to be taken by sheriff of a city, &c. vol. iv. 230.

SHERIFF—*continued.*
prisoners and writs to be turned over to incoming sheriff, vol. iv. 227, 228.
penalty for neglect, vol. iv. 228.
officers of militia not exempt from the office of sheriff, vol. iv. 234.
under-sheriff to be answerable for sheriff when militia embodied, *ib.*

Levying of Fines, &c. by
statement of fines, &c. to be transmitted to the clerk of the peace by justices imposing same, vol. iv. 222.
clerk of the peace to enrol such fines, &c. together with those imposed, &c. at quarter sessions, vol. iv. 223.
roll to be sent with *distringas* or *fieri facias*, &c. to the sheriff, *ib.*
which shall be authority to sheriff to levy, *ib.*
clerk of the peace to make oath as to fines, *ib.*
form of oath, *ib.*
notice to be given to sureties, *ib.*
appeal by parties to quarter sessions, vol. iv. 223, 224.
hearing and determination of appeals, vol. iv. 224.
sheriff to indorse roll, and return to next sessions, &c. *ib.*
court to certify, &c. and transmit to treasury, *ib.*
exemption of proceedings from stamp duty, *ib.*
allowance to clerk of the peace, &c. *ib.*
penalty on sheriff, &c. for neglect, *ib.*
act not to alter the usual mode of appropriating fines, *ib.*
compensation to officers, *ib.*
act not to prejudice duchy of Lancaster, *ib.*
justices in sessions may insert in succeeding rolls arrears of fines not levied, vol. iv. 225, and *see* 22 & 23 Vict. c. 21, s. 30, vol. iv. 235, 236.
sheriff to detain original writs, vol. iv. 225, 236.
sheriff on quitting office to deliver over rolls and writs to successor, particularizing fines, &c. vol. iv. 225.
roll to be examined and recorded, *ib.*
mode of proceeding when party subject to fines lives in another county, vol. iv. 225, 226, 237.
sheriff to render yearly account of persons incurring fines, &c. vol. iv. 226.
causes of non-payment to be stated, *ib.*
accounts to be transmitted to the treasury, *ib.*
clerks of the peace to send to the treasury copies of rolls delivered by the sheriff, *ib.*
sheriffs not to be chargeable with pre-fines or post-fines, vol. iv. 228.
not to extend to county palatine of Lancaster, *ib.*
receiver-general to keep books, &c. *ib.*
persons entitled to fines may inspect, *ib.*
treasury may order payment to parties entitled, *ib.*
parties aggrieved thereby may appeal by petition, vol. iv. 229.
appeal in case of refusal, &c. of treasury, *ib.*
proceedings thereon, *ib.*
clerks of assize and of markets, commissioners of sewers, and coroners, &c. to make out accounts of fines, deodands, &c. and transmit to treasury and audit commissioners, vol. iv. 229.
same fines, &c. to be certified and estreated into exchequer, *ib.*
payments in respect of, to be paid to and accounted for by sheriffs, *ib.*
repeal of above provisions as to clerks of assize (22 & 23 Vict. c. 21), vol. iv. 236.
in lieu thereof, such fines, &c. to be copied on roll, *ib.*
roll, with writ, to be sent to sheriff, and proceedings thereon, *ib.*
oath of clerk sending process, *ib.*
return of writ to treasury, *ib.*
until fines levied, writ to be in force, *ib.*
proceedings where party resides in another county, &c. vol. iv. 237.
penalty on sheriff for neglect, *ib.*
treasury may direct estreat into exchequer, *ib.*
where fines, &c. estreated on oath, how oath may be taken, vol. iv. 229.
accounts of estreats to be transmitted to treasury, &c. *ib.*
process to levy estreats, to be issued every term or oftener, *ib.*
power to treasury to stay process, and discharge fines, &c. *ib.*
but not to restore fines actually levied, vol. iv. 230.
right of inspecting accounts, *ib.*
treasury may order payment of fines, &c. to parties entitled, *ib.*
right of appeal by parties aggrieved, *ib.*
appeal on rejection of claims, *ib.*
act not to affect rights of corporate bodies, &c. *ib.*
nor jurisdiction of court of exchequer, *ib.*
nor rights of counties palatine or of city of London, *ib.*
nor rights of city of Chester, *ib.*
provision as to setting over fines, &c. vol. iv. 237.
recognizances forfeited at coroners' inquests, how to be returned and levied, &c. *ib.*
original rolls not to be returned into exchequer, *ib.*

Duties and Liabilities of, in respect of Prisoners, Escapes, &c.
formerly, sheriff liable to action of debt for escapes, vol. iv. 209.
but now only to action on the case, vol. iv. 234, 235.
what is an escape within acts, vol. iv. 208, 209, and *notes.*
if sheriff discharge on payment to him of debt and costs, vol. iv. 208, and *notes.*
or on order of attorney, unless written, *ib.*, and see 213, n. (a).
or of court not having competent jurisdiction, vol. iv. 208, and *notes.*
though judgment or *ca. sa.* erroneous, vol. iv. 209, and *notes.*
sheriff not liable for escape, if process void, *ib.*
or where plaintiff appoints a special bailiff, &c. *ib.*
as to measure of damages in action for escape, *ib.*

SHERIFF—*continued.*
on judgment in action of escape, marshal or warden's fees to be sequestered, vol. iv. 212.
marshal, &c. suing a writ of error to reverse judgment, special bail to be put in, *ib.*
no retaking on fresh pursuit to be given in evidence in action of escape unless specially pleaded, *ib.*, and n. (*b*).
prisoner in execution escaping, may be retaken by any new *capias*, vol. iv. 213, and n. (*a*).
if escape voluntary by sheriff, he cannot retake on same process, *ib.*
keeper refusing to show prisoner, an escape, *ib.*, n. (*b*).
penalty on marshal, &c. taking reward to connive at escape, vol. iv. 212.
refusing to give note whether a person be prisoner or not, vol. iv. 213, 214.
prisoner in queen's bench, &c. escaping, judge of court where action tried may grant warrant for retaking, vol. iv. 214.
how such warrants to be obtained, vol. iv. 214, 216.
persons may be apprehended on Sunday, vol. iv. 216.
prisoner when retaken to be committed to custody of sheriff, *ib.*
receipt by sheriff, vol. iv. 215.
return of warrant, *ib.*
sheriff liable for escape after recapture, *ib.*
writ of detainer, by prisoner's bail, *ib.*
return of writ, *ib.*
sheriff liable to action if prisoner afterwards escape, *ib.*
penalty for neglecting to make return of writ, *ib.*
liability of sheriffs for escapes of persons in custody on a decree, vol. iv. 216.
acts to be general law, vol. iv. 215, 216.
costs, vol. iv. 215.
how far sheriff liable for extortions by his bailiff, vol. iv. 210, n. (*g*).

Return of Process.
process unexecuted to be turned over to successor, vol. iv. 219, 225, 236.
sheriff not liable to make return after six months from expiration of office, vol. iv. 219.
of fines levied and in arrear, vol. iv. 224, 226, 236.
of recognizances forfeited at coroners' inquests vol. iv. 237.

Accounts.
sheriffs, bailiffs, &c. to render annual accounts of fines, &c. vol. iv. 226.
causes of non-payment to be stated, *ib.*
accounts to be transmitted to treasury, vol. iv. 226, 235.
transmission of accounts to commissioners of audit, vol. iv. 228.
repealed, vol. iv. 235.
accounts of receiver-general to be audited by audit commissioners, vol. iv. 229.
and transmitted to treasury, *ib.*
accounts of fines and dividends, &c. by clerks of assize and others, vol. iv. 229, 236.
accounts of estreats, *ib.*
oath, &c. of sheriff, relating to accounts, how taken, vol. iv. 228.
quit rents, &c. by whom to be received, *ib.*

SHERIFF—*continued.*
power to treasury to release certain rents, vol. iv. 228.
certain parts of 32 Geo. 2, c. 14, repealed, *ib.*
accounts of sheriffs of Chester and Wales, how passed, vol. iv. 226.

Fees.
what sheriffs may take for executing process, vol. iv. 210, and *notes.*
to what statute extends, vol. iv. 210, n. (*a*).
executing process within cities and towns corporate, vol. iv. 212, n. (*a*).
as to sheriff's remedy for his fees, vol. iv. 210, n. (*f*).
fees of marshal, &c. to be sequestered on judgment in action for escape, vol. iv. 212.
poundage, to what sheriff entitled, vol. iv. 216, 217, 218.
from whom due and how raised, vol. iv. 216, n. (*b*).
where part of debt paid poundage only to be taken for what remains due, vol. iv. 218, 219.
apportionment of between preceding and succeeding sheriff, vol. iv. 217, 218, n. (*a*).
not allowed for caption at suit of sheriff, &c. on bail bond, vol. iv. 221.
nor for taking body of any person in execution, vol. iv. 235.
poundage and expenses of execution may be levied over and above judgment debt, vol. iv. 222.
what are expenses of execution, *ib.* n. (*d*).
no fees for crown debts, except 4*d.* only for an acquittance, vol. iv. 217.
but poundage may be taken for extraordinary service, vol. iv. 218, n. (*a*).
fees to clerks of peace and others, on forfeited recognizances and for copying rolls, &c. vol. iv. 224.
gaolers to take only fees allowed, vol. iv. 221.
petition by prisoners against gaolers for extortion, vol. iv. 220.
bill of cravings to be settled by treasury, vol. iv. 228.
repeal of certain acts (1 Vict. c. 55), vol. iv. 231.
sheriffs, &c. to take only fees allowed by taxing master, vol. iv. 231, n. (*a*).
table of fees, vol. iv. 231, 234, and *notes.*
procedure on complaints against sheriffs for taking greater fees, vol. iv. 232, 234.
award of costs, vol. iv. 234.
punishment of persons pretending to act as officers taking fees, *ib.*
fees to sheriffs of Lancaster and Durham, *ib.*

Penalties, &c.
for extortion, vol. iv. 207, 210, 211, 218, 219, 221, 232, 234.
forfeiture of offenders, how recovered, vol. iv. 211, and *notes.*
suffering prisoner to be at large, vol. iv. 209, and n. (*b*) and (*a*).
taking reward to connive at escape, vol. iv. 212.
false affidavit as to escape, vol. iv. 213.
sequestration of fees on judgment in action for escape, vol. iv. 212.
refusing to give a note whether a person be prisoner or not, vol. iv. 213, 214.

SHERIFF—*continued.*
neglecting to make return of writs, &c. vol. iv. 215.
not duly accounting for sums received, vol. iv. 217, 218.
neglecting duties, &c. vol. iv. 224, 237.
confessing feigned debt to king to delay another's execution, vol. iv. 209.
gaolers taking greater fees than allowed, vol. iv. 221.
clerks to justices, &c. vol, iv. 220.
pretending to act as officers and taking fees, vol. iv. 234.

SHIPPING.

Accidents, Prevention of,
see generally, vol. iv. 308, n. (*a*).
act to extend to all British ships, and to foreign steamships carrying passengers between places in the united kingdom, vol. iv. 308.
rules to be observed as to boats and life buoys, *ib.*, and vol. iv. 378.
penalties on owners and masters, &c. neglecting to provide boats and life buoys, vol. iv. 309.
officers of customs not to clear ships not complying with provisions, *ib.*
regulations as to lights and fog signals, meeting and passing, &c. (under the Merchant Shipping Act, 1854), vol. iv. 309—311, and *notes.*
repealed, vol. iv. 421, 435.
regulations as to lights, fog signals, and sailing rules, under 25 & 26 Vict. c. 63, vol. iv. 425, and 435—437.
power to amend and alter the same, vol. iv. 425.
regulations and alterations, &c. to be published, *ib.*
owners and masters bound to obey, *ib.*
breaches of regulations to imply wilful default, vol. iv. 425.
if collision ensues, ship to be deemed in fault, *ib.*
inspection, &c. in order to enforce regulations, vol. iv. 425, 426.
rules for harbours, under local acts, to continue in force, vol. iv. 426.
where none existing, such may be made, *ib.*
equipment of steamships, what to be provided, vol. iv. 312.
penalty for neglect, &c. *ib.*
for improper weight on safety valve, *ib.*
survey of passenger steamers. See *Steamships, infra.*
misconduct by passengers in steamers, see *ib.*
accidents to steamships to be reported to board of trade, vol. iv. 316.
penalty for neglect, *ib.*
notice to be given of apprehended loss, *ib.*
penalty for neglect, *ib.*
collisions to be entered in official log, *ib.*
penalty for neglect, *ib.*
ships to assist each other in case of collision, vol. iv. 426.
provisions as to carrying dangerous goods, vol. iv. 316, 427.

Acts relating to,
divisions of Merchant Shipping Act, 1854, vol. iv. 252.
application of several divisions of same act,

SHIPPING—*continued.*
vol. iv. 254, 272, 273, 308, 316, 344, 348, 423.
titles of acts, vol. iv. 251, 382, 388, 392, 421.
commencement of acts, vol. iv. 252, 382, 383, 391.
repeal of acts, vol. iv. 251, 382, 383, 384—388, 391, 421.
exemption of her majesty's vessels from Merchant Shipping Act, 1854, vol. iv. 252.
expenses incurred by commissioners of customs in carrying out provisions of Merchant Shipping Act, 1854, how paid, vol. iv. 353.

Agreements with, and Engagement of Seamen,
board of trade may license persons to procure seamen, vol. iv. 279.
penalties for supplying seamen without licence, *ib.*
for employing unlicensed persons, *ib.*
for receiving seamen illegally supplied, *ib.*
for receiving other than authorised fees from seamen, *ib.*
agreements with seamen to contain certain particulars, &c. *ib.*
proviso as to forms for colonial ships, *ib.*
for foreign-going ships, to be made before and attested by a shipping-master, if made in united kingdom, except in special cases, vol. iv. 279, 280.
to be in duplicate, vol. iv. 280.
as to provisions for substitutes in agreements, *ib.*
running agreements with foreign-going ships making short voyages, *ib.*
engagement and discharge of seamen in meantime, *ib.*
duplicates of, *ib.*
fees on, *ib.*
in home trade ships, before whom agreement to be entered into, *ib.*
special agreements where several ships belong to same owners, *ib.*
penalty for shipping seamen without agreement duly executed, *ib.*
changes in crew to be reported, vol. iv. 281.
penalty for neglect, *ib.*
seamen engaged in colonies, to be shipped before shipping-master, *ib.*
in foreign ports, with sanction, &c. of consul, *ib.*
penalty for neglect, *ib.*
rules as to production of agreements, &c. in case of foreign-going ship, *ib.*
penalty for default, *ib.*
rules as to production of agreements, &c. in case of home-trade ships, vol. iv. 281, 282.
penalty for neglect, vol. iv. 282.
alterations in agreements void unless attested to have been made with consent of parties, *ib.*
penalty for falsifying agreements, vol. iv. 282.
seamen not bound to produce agreement, *ib.*
copy of agreement to be accessible to crew, *ib.*
seamen discharged before voyage to have compensation, *ib.*

Apprenticeships to the Sea Service.
shipping-masters to assist boards of guardians and others in binding apprentices, vol. iv. 278.

SHIPPING—*continued.*
and receive fees to be determined on that behalf, vol. iv. 278.
indentures of apprentices bound by guardians, &c. how executed and attested, &c. *ib.*
to be exempt from stamp duty, and to be recorded, *ib.*
penalty for neglect or default, *ib.*
rules to govern apprenticeship of paupers in Great Britain and Ireland, *ib.*
apprentices and their indentures to be brought before shipping-master before each voyage in foreign-going ship, vol. iv. 279.

Bills of Lading,
act to amend the law relating to (18 & 19 Vict. c. 111), vol. iv. 391.

Board of Trade, General Functions of.
to be department to superintend merchant shipping, vol. iv. 292.
documents, &c. purporting to be sealed or signed in a given manner, to be received in evidence, vol. iv. 253.
board of trade to issue forms of instruments, &c. *ib.*
exemption of forms, &c. from stamp duty, *ib.*
penalties for forgery, and fraudulent alteration of forms, *ib.*
for not using, &c. authorised forms, *ib.*
application of monies and fines paid to board, *ib.*
returns to be made to board, *ib.*
officers of board, and certain other persons, may inspect documents and muster crews, vol. iv. 253, 254.
penalty for refusal or neglect, vol. iv. 254.
board may appoint inspectors to report on certain matters, *ib.*
powers of such inspectors, *ib.*
witnesses to be paid expenses, *ib.*
penalty for refusing to give evidence, *ib.*
for obstructing inspectors, &c. *ib.*
dues levied on ships not to be sold or charged without consent of board of trade (16 & 17 Vict. c. 131), vol. iv. 250.

British Ships.
no ship to be deemed British unless belonging wholly to owners of certain descriptions, vol. iv. 255.
with certain exceptions, must be registered, *ib.*
ship not recognised as British unless registered, nor clearance granted without production of certificate, *ib.*
tonnage and number of certificate to be kept permanently marked on main beam, vol. iv. 258.
when ships altered, alteration to be registered, or ship registered anew, and on failure thereof ship not to be recognised as British, vol. iv. 269.
ships ceasing to be, certificates to be given up, vol. iv. 263.
provisional certificates, where ship becomes vested in British owners at foreign port, *ib.*
national character of ship to be declared before clearance, vol. iv. 271.
if not, may be detained, *ib.*

SHIPPING—*continued.*
penalties for unduly assuming British character, vol. iv. 271.
concealment of British or assumption of foreign character, *ib.*
acquiring ownership if unqualified, *ib.*
false declarations as to qualification for ownership, *ib.*
how penalties to be enforced, vol. iv. 271, 272.
officer not liable for seizure made on reasonable ground, vol. iv. 272.
penalty for carrying improper colours, *ib.*
effect of declaration in act that a ship shall not be recognised as British, *ib.*
saving of 3 & 4 Vict. c. 56, as to East Indian ships, *ib.*

Coasting Trade,
act to admit foreign vessels to, (17 & 18 Vict. c. 5)
repeal of former prohibitions, vol. iv. 251.
queen may exercise retaliatory powers, as in 16 & 17 Vict. c. 107, *ib.*
foreign ships in the coasting trade to be subject to same rules as British ships, *ib.*
not to be subject to higher rates than British ships, *ib.*

Colonies and East Indies,
Merchant Shipping Act, 1854, extends to the colonies, vol. iv. 251, n. (*a*), and 273.
power of colonial legislature to alter provisions of, vol. iv. 353.
provisions of, applied by Indian and colonial governments to their own ships, may be enforced throughout the empire, vol. iv. 308.
Indian and colonial acts to require sanction as in other cases, *ib.*
conflict of laws, *ib.*
proviso as to forms of agreement with seamen in the case of colonial ships, vol. iv. 279.
saving of 3 & 4 Vict. c. 56, as to East Indian ships, vol. iv. 272.
contracts may be made with natives of India, on certain conditions, to serve as seamen, vol. iv. 352, 391.
provisions for relief of Lascars found destitute in United Kingdom, vol. iv. 390, 391.
provisions as to lighthouses in colonies, see *Lighthouses, infra.*
provisions as to carriage of passengers from colonies, see *Passengers, infra.*

Delivery of Goods, and Lien for Freight.
interpretation of terms, vol. iv. 432.
power to shipowner to enter and land goods, on default by the owner, *ib.*
conditions attached to such power, vol. iv. 433.
if when goods landed, shipowner gives notice, lien for freight to continue, *ib.*
discharge of lien on proof of payment, *ib.*
discharge of lien on deposit with warehouse owner of sum claimed, *ib.*
payment of deposit to shipowner, when to be made, if no notice to retain, *ib.*
course to be taken if notice to retain given, *ib.*
after ninety days, warehouse owner may sell by auction, vol. iv. 434.

SHIPPING—*continued.*
notices of sale to be given, vol. iv. 434
moneys arising from sale, how applied, *ib.*
warehouse owner's rent and expenses, *ib.*
warehouse owner's protection, *ib.*
saving of powers under local acts, *ib.*

Engagement of Seamen. See *Agreements.*

Engineers, Certificates for,
steamships to carry certificated engineers, vol. iv. 422.
classes of certificates required, *ib.*
examination for engineers' certificates of competency to be held, *ib.*
fees for examinations, *ib.*
certificates to be given to those who pass, *ib.*
engineers' certificates of service, how granted, *ib.*
particulars to be contained in, *ib.*
certain provisions to apply to engineers' certificates, vol. iv. 423.
power to investigate conduct of certificated engineers, *ib.*

Foreign Vessels,
legislature has no authority over foreign vessels on high seas, &c. vol. iv. 251, n. (*a*).
within British jurisdiction, to be subject to certain regulations, vol. iv. 431, 435, 437.
when regulations adopted by foreign country, to apply to its ships on the high seas, vol. iv. 431.
provisions as to salvage of life, with consent of foreign country, may be applied to its ships on high seas, *ib.*
when foreign ships need not be remeasured in this country, vol. iv. 432.
effect of orders in council, *ib.*
limitation and qualification of, *ib.*
revocation and alteration of, *ib.*
to be published in London Gazette, *ib.*
in case of wreck of foreign vessels, consul-general to be deemed agent of owner, vol. iv. 390.
foreign steamships carrying passengers between ports in the United Kingdom, to be subject to the Merchant Shipping Act, 1854, vol. iv. 308.
power to order arrest of foreign vessel that has occasioned damage, vol. iv. 350.
power to detain until application made for order, *ib.*
who to be defendant in such cases, *ib.*

Freight, Lien for. See *Delivery of Goods.*

India. See *Colonies.*

Interpretation Clauses,
in Merchant Shipping Act, 1854, vol. iv. 252.
in other acts, vol. iv. 382, 392, 432.
meaning of "passenger" and "passenger steamer," vol. iv. 312.
certain terms in Scotland, vol. iv. 344.
meaning of "colonial voyage," vol. iv. 411.
meaning of "beneficial interest," vol. iv. 421.

Legal Procedure,
as to proceedings under former acts, vol. iv. 383.
legal procedure generally, vol. iv. 348—350.
manner in which offences to be punished and penalties recovered, vol. iv. 348, 349.

SHIPPING—*continued.*
powers of stipendiary magistrates, vol. iv. 349.
offence where deemed to have been committed, *ib.*
jurisdiction in case of offences on board ship, vol. iv. 390.
jurisdiction over ships lying off coast, vol. iv. 349.
service good, if made personally or on board, *ib.*
sums ordered to be paid, leviable by distress on ship, *ib.*
application of penalties, *ib.*
limitation of time in summary proceedings, vol. iv. 349, 350.
documents how proved, vol. iv. 350.
power of judge of court of record or admiralty, &c. to order arrest of foreign ship that has occasioned damage, *ib.*
power to detain ships until application made to judge, *ib.*
who to be defendant in such cases, *ib.*
legal procedure (Scotland), vol. iv. 350, 352.
misdemeanors and felonies under act, how prosecuted and punished, vol. iv. 350, 351.
summary proceedings, vol. iv. 351.
form of complaint, *ib.*
appearance of defender and witnesses how required, *ib.*
backing arrestments, *ib.*
compelling attendance of witnesses, *ib.*
proceedings to be *vivâ voce*, *ib.*
power to adjourn, *ib.*
sentence to be in writing, *ib.*
imprisonment to be inflicted in default of payment, *ib.*
sentence and penalties in default of appearance, *ib.*
warrant to apprehend in default of appearance, vol. iv. 352.
backing sentences or decrees, *ib.*
orders not to be quashed for want of form, and to be final, *ib.*
general rules as far as applicable to extend to Scotland, *ib.*
20 & 21 Vict. c. 43, s. 3, not to apply to proceedings under shipping acts, vol. iv. 432.

Lighthouses, Lights, &c. (and see *Mercantile Marine Fund.*)
management, &c, of lighthouses, buoys and beacons, to be vested in trinity house, commissioners of northern lighthouses, and port of Dublin corporation, vol. iv. 326, 327.
incorporation of commissioners of northern lighthouses, vol. iv. 327.
power to elect new members, *ib.*
trinity house may inspect lighthouses in Scotland and Ireland, *ib.*
board of trade may appoint persons to inspect, *ib.*
power to general lighthouse authorities to control local authorities, *ib.*
on default by local authorities, lighthouses may be transferred to general authorities, *ib.*
rules for inspection of local lighthouses, &c. vol. iv. 429.
light dues to be levied, vol. iv. 327, 328.

SHIPPING—*continued.*
to be subject to revision by her majesty in council, vol. iv. 328.
powers to general lighthouse authorities to alter and regulate dues, *ib.*
dues and regulations to be published, *ib.*
ship not to be cleared without production of receipt for light dues, *ib.*
power of distress for light dues, *ib.*
liability for and recovery of light dues, vol. iv. 429.
powers of consignees to retain light dues paid by them, *ib.*
light dues, how to be paid over and accounted for, vol. iv. 328.
application of, *ib.*
dues may be levied for local lights, vol. iv. 429.
application and accounts of, *ib.*
may be altered, &c. by her majesty in council, *ib.*
dues for colonial lighthouses to be fixed by order in council, vol. iv. 388.
not to be levied without consent of colonial legislature, *ib.*
mode of levying, *ib.*
to be paid over to paymaster-general, *ib.*
how to be applied, *ib.*
power to borrow money on security of, vol. iv. 389.
accounts to be kept and laid before parliament, &c. *ib.*
construction, &c. of new lighthouses, vol. iv. 328, 329.
power to lighthouse authorities to erect, place, alter lighthouses, buoys, and beacons, *ib.*
but subject to approval by trinity house, with appeal to board of trade, vol. iv. 329.
sanction of board of trade, how to be obtained, *ib.*
trinity house to inform lighthouse authorities of decision of board of trade, *ib.*
power to trinity house, with sanction of board of trade, to direct execution of certain works, vol. iv. 329.
sanction of board of trade, how obtained, *ib.*
dues to be taken at new lighthouses, how fixed, *ib.*
provision as to levying dues in channel islands, *ib.*
lands clauses consolidation acts to apply to lighthouses to be erected under this act, *ib.*
surrender of local lighthouses to general authorities, how to be made, vol. iv. 329, 330.
damage to lights, buoys, and beacons, penalty for committing, vol. iv. 330.
prevention of false lights, *ib.*
power to general authorities to give notice to extinguish, *ib.*
penalty for disobeying notice, *ib.*
power, if notice not obeyed, to abate lights, *ib.*

Local Marine Boards.
constitution of, vol. iv. 273.
mode of conducting elections, *ib.*
board of trade to decide questions as to elections, *ib.*

SHIPPING—*continued.*
qualification of voters for members of, vol. iv. 273, n. (*b*), 274.
lists of voters to be made, vol. iv. 274.
revision of lists, *ib.*
registers to be produced, *ib.*
expenses to be paid by board of trade, *ib.*
persons on revised list qualified to vote, *ib.*
qualification of members of, vol. iv. 275.
error in elections not to vitiate acts done, *ib.*
minutes and business of, *ib.*
board may determine number of quorum, not being less than three, vol. iv. 423.
failing to discharge duties, board of trade may assume duties, or direct new election, vol. iv. 275.
board of trade, on complaint, may alter arrangements made by, *ib.*
continuation of local marine boards elected under the Mercantile Marine Act, 1850, vol. iv. 382.

Log Books.
official log books to be kept in forms sanctioned by board of trade, vol. iv. 306.
entries to be made in due time, *ib.*
what entries to be made, vol. iv. 306, 307.
how entries to be signed, vol. iv. 307.
penalties for offences in respect of, *ib.*
entries to be received in evidence, *ib.*
to be delivered to shipping master, under penalty, *ib.*
to be sent home in case of transfer or loss of ship, vol. iv. 307, 308.
penalty for neglect, vol. iv. 308.
orders by naval courts, to be entered in, vol. iv. 303.

Marine Stores, Dealers in, &c.
regulations to be observed by, vol. iv. 341.
penalties for offending, *ib.*
permit to cut up cables, how to be obtained, *ib.*
permit to be advertised, before acted upon, *ib.*
penalty for neglect, *ib.*
manufacturers to place marks on anchors, *ib.*

Masters and Mates, Examinations and Certificates of.
examinations to be instituted for masters and mates, vol. iv. 276.
provision for examinations at ports where no local marine boards, vol. iv. 423.
power of board of trade over examinations, vol. iv. 276.
fees for examinations, *ib.*
certificates of competency to be granted to those who pass, *ib.*
power to board of trade to require re-examination, *ib.*
certificates of service to be given to certain persons, vol. iv. 276, 277.
particulars to be contained in, vol. iv. 277.
no foreign-going or home trade passenger ships to proceed to sea without certificates of master and mate, *ib.*
penalty for offending, *ib.*
certificates for foreign-going ships available for home trade passenger ships, *ib.*
rules as to production of certificates for foreign-going ships, vol. iv. 281.
for home trade ships, vol. iv. 282, 283.

SHIPPING—*continued.*
registrar to record grants, cancellations, &c. of certificates, vol. iv. 277.
duplicates and entries to be evidence, *ib.*
in case of loss, copy to be granted, *ib.*
penalties for false representations, forging, altering, or fraudulently using or lending certificates, vol. iv. 277, 278.
in what cases certificates may be cancelled or suspended, vol. iv. 298.
power to rest with court hearing case, vol. iv. 424, 425.
suspended or cancelled certificates to be delivered up, vol. iv. 495.
masters and mates may be examined for *pilotage* certificates, &c. vol. iv. 318, 319.
renewal of such certificates, vol. iv. 319.
board of trade may examine and grant, *ib.*
fees to be paid upon certificates and renewals, *ib.*
power to withdraw, *ib.*

Measurement of Tonnage.
rules by which to be ascertained, vol. iv. 255, 389.
for ships to be registered, and ships of which hold is clear, vol. iv. 255—257.
for ships with cargo on board, vol. iv. 257, 389.
allowance for engine-room in steamers, vol. iv. 257, 258.
in ordinary steamers to be rateable, vol. iv. 257.
where unusually large or small, may be measured, *ib.*
mode of measurement, *ib.*
where there are separate compartments, vol. iv. 258.
in case of screw steamers, *ib.*
alteration of engine-room, *ib.*
penalty for carrying goods in such space, *ib.*
open ships, how measured, *ib.*
tonnage to be permanently marked on main beam, *ib.*
when once ascertained to be ever after deemed the tonnage, *ib.*
re-measurement of ships already registered, *ib.*
power to re-measure engine-room improperly extended, *ib.*
officers may be appointed and regulations made for measurement of ships, *ib.*

Mercantile Marine Fund.
provisions for payment of certain existing debts and charges out of, vol. iv. 249, 250, 382.
power to commute pensions and grant superannuation allowances out of, vol. iv. 250.
certain sums to be carried to, vol. iv. 330.
account of fund to be kept, *ib.*
how fund to be applied, vol. iv. 330, 331.
application of ballastage rates, vol. iv. 331.
establishments for lighthouses and ballastage charged on, *ib.*
power to grant superannuation allowances out of, *ib.*
estimates and accounts for other expenses to be approved by board of trade, *ib.*
no expense to be allowed without sanction of board of trade, *ib.*

SHIPPING.—*continued.*
advance of money by treasury for erecting lighthouses, &c. vol. iv. 331.
board of trade may borrow on credit of, vol. iv. 332.
public works loan commissioners may advance on credit of, *ib.*
lighthouse authorities to account for receipts from fund and expenditure, *ib.*
accounts of fund to be audited, *ib.*
and laid before parliament, *ib.*
property accruing to the fund exempted from all rates and taxes, *ib.*
ships, &c. of lighthouse authorities exempt from harbour dues, *ib.*, and vol. iv. 429.
expenses of life-boats, &c. may be charged upon, vol. iv. 382.

Mercantile Marine Offices. See *Shipping Offices.*

Merchant Seamen's Fund.
property belonging to, to be paid into exchequer, vol. iv. 250.
expenses of, to be provided for by annual vote, *ib.*

Mortgages. See *Ownership.*

Naval Courts, on the High Seas and Abroad.
who may summon naval courts, vol. iv. 302.
for what purposes they may be summoned, *ib.*
constitution of, *ib.*
general functions and mode of action of, *ib.*
powers of, vol. iv. 302, 303.
to supersede master, &c. vol. iv. 302.
discharge seamen, *ib.*
forfeit wages, *ib.*
decide disputes as to wages, fines, &c. *ib.*
direct payment of costs, &c. out of wages, *ib.*
send home offenders for trial, vol. iv. 303.
order of payment of costs, *ib.*
additional powers, vol. iv. 390.
orders by, to be entered in official logs, vol. iv. 303.
to report certain particulars to board of trade, *ib.*
reports to be evidence, *ib.*
penalties for preventing complaint or obstructing investigations, *ib.*

Offences by Seamen, &c. And see *Legal Procedure.*
crimes committed on the high seas or abroad, vol. iv. 303, 304.
offences in foreign ports to be within jurisdiction of admiralty, vol. iv. 303.
conveyance of offenders and witnesses to united kingdom or British possessions, *ib.* and n. (*a*).
penalty on master refusing passage, vol. iv. 304.
inquiry into cause of death on board foreign-going ship, *ib.*
depositions to be received when witnesses cannot be produced, *ib.*
how to be authenticated, *ib.*
discipline, vol. iv. 297, 302.
misconduct endangering ship, or life, or limb, a misdemesnour, vol. iv. 297, 298, n. (*a*).
power of admiralty courts to remove master, vol. iv. 298.
power to board of trade or local marine board to investigate alleged incompetency or misconduct, *ib.*

SHIPPING—*continued.*
power of suspending or cancelling certificates in certain cases, vol. iv. 298, 424, 425.
certificates in such case to be delivered up under penalty, vol. iv. 298, 425.
power to grant new certificates, vol. iv. 298.
seamen, &c. liable to summary punishment for certain offences, vol. iv. 298, 299.
neglecting or refusing to join, &c. vol. iv. 299.
for desertion, vol. iv. 299, and n. (*a*).
absence within twenty-four hours of sailing, or without leave, *ib.*
quitting ship before secured, *ib.*
disobedience, *ib.*
assault on officers, *ib.*
combining to disobey, *ib.*
damage and embezzlement, *ib.*
smuggling causing loss to owner, *ib.*
entry of offences to be made in log, and reply of offender, vol. iv. 299, 300.
seamen whom masters are compelled to convey, &c. to be subject to penalties for breach of discipline, vol. iv. 300.
deserters may be apprehended without warrant, *ib.*
penalty if apprehension on improper grounds, *ib.*
deserters may be sent on board in lieu of imprisonment, *ib.*
seamen imprisoned for desertion, &c. may be sent on board before termination of sentence, *ib.*
entries and certificates of desertion to be copied and sent home, *ib.*
facilities for proving desertion so far as concerns forfeiture of wages, vol. iv. 300, 301.
costs of procuring imprisonment, how far may be deducted from wages, vol. iv. 301.
amount of forfeiture, how ascertained where seamen contract for voyage, *ib.*
application of forfeitures, *ib.*
questions concerning forfeitures, how to be decided, *ib.*
penalty for false statement as to name or last ship, *ib.*
fines to be deducted from wages and paid to shipping master, *ib.*
penalty for enticing to desert, or harbouring deserters, vol. iv. 302.
for obtaining passage surreptitiously, *ib.*
on change of masters, documents, &c. to be handed to successor, under penalty, *ib.*
list of such documents to be entered in log, *ib.*

Owners, Liability of.
owners not liable in respect of certain articles, vol. iv. 344.
limitation and measure of liability in other cases, vol. iv. 345, 431.
limitation of invalidity of insurances, vol. iv. 431.
value of carriage of goods and passage money to be considered as freight, vol. iv. 345.
provision for separate losses, *ib.*

SHIPPING—*continued.*
proof of passengers on board lost ship, vol. iv. 431.
in case of loss of life or personal injury, board of trade may direct proceedings, vol. iv. 345.
either party may require special jury, vol. iv. 345, 346.
provisions for conduct of proceedings, vol. iv. 346.
rules to be observed as to damages and application thereof, vol. iv. 346, 347.
person dissatisfied with amount of statutory damage, may bring action, vol. iv. 347.
if board of trade decline to take proceedings, individuals may bring actions, *ib.*
proceedings by board of trade after refusal, *ib.*
proceedings where several claims against one owner, vol. iv. 347, 348.
money paid for damage, how to be accounted for, vol. iv. 348.
act not to lessen liability of master or seaman being also owner or part-owner, *ib.*
limitation of owner's liability where pilotage is compulsory, vol. iv. 326.
persons beneficially interested (except mortgagees) to be jointly liable to penalties, &c. as well as registered owners, vol. iv. 271.

Ownership, Transfers, Mortgages, &c.
property in a ship to be divided in sixty-four shares, vol. iv. 260.
not more than thirty-two individuals to be registered as owners of one ship, *ib.*
no person to be registered for fractional parts of a share, *ib.*
joint owners to be considered as one person, *ib.*
rights and liabilities of part owners, *ib.* n. (*a*).
declaration of ownership by individual owner, vol. iv. 260.
how made and subscribed, *ib.*
form of, vol. iv. 355, 356.
declaration of ownership by corporate body, vol. iv. 260.
form of, vol. iv. 357, 358.
penalty for false declarations as to qualification for ownership, vol. iv. 271.
change of owners to be endorsed on certificate of registry, vol. iv. 261.
penalty for neglect, *ib.*
registry anew may be granted, on change of owners, vol. iv. 269.
transfer of registry not to affect rights of owners, vol. iv. 270.
transfers and transmissions, vol. iv. 263, 265, and see 263, n. (*a*).
ships and shares therein to be transferred by bill of sale, vol. iv. 263.
form of sale, vol. iv. 361.
how to be executed, vol. iv. 263.
declaration to be made by transferee, *ib.*
forms of, vol. iv. 362—365.
where to be made, vol. iv. 264.
transfers to be registered, vol. iv. 264, and n. (*a*).
declaration to be made on transmission of shares, by death, &c. vol. iv. 264.
forms of, vol. iv. 366, 367.
where to be made, vol. iv. 264.
proof of transmission to be given, *ib.*

SHIPPING—*continued.*
transmission to be registered, vol. iv. 264.
registrar to retain certain evidence, *ib.*
unqualified owner entitled by transmission, may apply to court for sale of ship, *ib.*
order to be thereupon made, vol. iv. 265.
limit of time for application, *ib.*
power of courts to prohibit transfers, *ib.*
mortgages, vol. iv. 265, 266.
equitable mortgages, as to, vol. iv. 255, n. (*c*).
ships and shares therein may be mortgaged, vol. iv. 265.
form of mortgage, vol. iv. 368, 369.
to be registered in order of production, vol. iv. 265.
entry of discharge to be indorsed and registered, *ib.*
priority of mortgages, *ib.*
mortgagee not to be deemed owner, *ib.*, and n. (*b*).
to have power of sale, vol. iv. 266, and n. (*a*).
rights of, not affected by bankruptcy of mortgagor, vol. iv. 266.
transfer of mortgages, how made, vol. iv. 266.
form of, vol. iv. 369.
transmission of interest of mortgagee by death, &c. vol. iv. 266.
form of declaration to be made by person taking by transmission, vol. iv. 370, 371.
entry of transmitted mortgage, vol. iv. 266.
certificates of mortgage and sale, *ib.*
powers of mortgage and sale, may be conferred by, *ib.*
particulars to be registered before granting, vol. iv. 266, 267.
restrictions on, vol. iv. 267.
forms of, vol. iv. 372—375.
rules as to certificates of mortgage, vol. iv. 267.
rules as to certificates of sale, vol. iv. 267, 268, and 267, n. (*a*).
power of commissioners of customs in case of loss of, vol. iv. 268.
revocation of, vol. iv. 269, 376.
shares in shipping to be within trustee acts, vol. iv. 389.

Passengers by Sea. (Passengers' Act, 1855.)
commencement of act, vol. iv. 391.
repeal of former act, except as to existing liabilities, &c. and as to order in council of 16th October, 1852, *ib.*
short title, and references to act, vol. iv. 392.
definition of terms, *ib.*
extent of act, vol. iv. 392, 393.
penalty on fraudulently using certificates of exemption, &c. vol. iv. 393.
commissioners of emigration to carry act into execution, *ib.*
emigration commissioners, how may sue and be sued, *ib.*
commissioners and their private estates exempt from liability, *ib.*
emigration officers and assistants to act under commissioners, &c. *ib.*
continuance of existing appointments, *ib.*

SHIPPING—*continued.*
performance of duties of emigration officer, vol. iv. 393.
facilities for inspection of ships fitting for passengers, *ib.*
penalty on master failing to comply, *ib.*
arrangements for the ships.
certificate from emigration officer and bond previous to clearance, vol. iv. 394.
effect of clearing without certificate, *ib.*
where passengers may be carried, *ib.*
penalty for offending, *ib.*
rules for determining number of passengers to be carried, *ib.*
penalty for excess of numbers, vol. iv. 395.
saving of 16 & 17 Vict. c. 84, *ib.*
lists of passengers to be delivered in duplicate before clearance, *ib.*
and of additional passengers, &c. *ib.*
penalties for non-compliance, *ib.*
penalty for fraudulent attempt to obtain passage, *ib.*
passenger-ships to be surveyed, vol. iv. 396.
penalty for neglect, *ib.*
appeal against surveyor's report, *ib.*
construction of beams and deck, *ib.*
penalty for non-compliance, *ib.*
arrangement and size of berths, *ib.*
penalty for non-compliance, *ib.*
numbers and sexes in one berth, *ib.*
single men to be berthed in separate compartment, *ib.*
penalties for non-compliance, *ib.*
berths not to be removed till passengers landed, *ib.*
penalty for non-compliance, *ib.*
space to be allotted as hospital, *ib.*
penalty for non-compliance, *ib.*
regulations as to construction of privies, vol. iv. 397.
light and ventilation, *ib.*
penalties on non-compliance, *ib.*
regulations as to the carrying of boats, *ib.*
life-boats, buoys, anchors, and fire-engines, *ib.*
penalties for non-compliance, *ib.*
regulations as to carrying an efficient crew, *ib.*
penalty for non-compliance, *ib.*
appeal against report of emigration officer, *ib.*
certain articles prohibited as cargo or ballast, vol. iv. 397, 398.
stowage of cargo, &c. to be approved by emigration officer, vol. iv. 398.
penalties for non-compliance, *ib.*
computation of voyages, *ib.*
provisions and water to be surveyed before clearance, vol. iv. 399.
provisions for crew not to be inferior to those for passengers, *ib.*
penalties for offending, *ib.*
emigration officer may direct bad provisions to be landed, &c. *ib.*
penalty for reshipping the same, *ib.*
water tanks, &c. to be approved by officer, *ib.*
penalty for non-compliance, *ib.*
provisions for touching at intermediate ports, &c. *ib.*
dietary scales of provisions, vol. iv. 399, 400.
water, vol. iv. 400.
provisions, *ib.*
substitutions allowed, *ib.*

SHIPPING—*continued.*
penalties for non-compliance, vol. iv. 400.
size of messes, *ib.*
provisions to be issued daily, *ib.*
to be properly cooked, *ib.*
penalties for non-compliance, *ib.*
power to commissioners to authorise alternative dietary, vol. iv. 400, 401.
to alter dietary scale, vol. iv. 401.
passengers' stewards, cooks, and cooking apparatus, *ib.*
penalties for non-compliance, *ib.*
when interpreters to be carried, *ib.*
penalty for non-compliance, *ib.*
when medical man to be carried, *ib.*
penalty for non-compliance, *ib.*
qualification of medical man, *ib.*
penalty on unqualified person proceeding, &c. as medical practitioner in passenger ship, *ib.*
medicines, &c. to be provided, vol. iv. 401, 402.
penalty for non-compliance, vol. iv. 402.
medical inspection of passengers, crew, and medicines, &c. before clearance, *ib.*
power to dispense with, by permission of emigration officer, *ib.*
penalty for non-compliance, *ib.*
relanding of passengers on account of sickness or for purifying ships, *ib.*
penalty for non-compliance, *ib.*
passengers' rights.
return of passage-money to passengers relanded on account of sickness, &c. *ib.*
return of passage-money and compensation where passages not provided according to contract, vol. iv. 402, 403.
subsistence in case of detention, vol. iv. 403.
ships detained or putting into port in united kingdom, to replenish provisions, *ib.*
penalty for default, *ib.*
ships so putting into port, to report cause, &c. *ib.*
penalty for neglect, *ib.*
in case of wreck or damage, passage to be provided in some other vessel, and passengers to be maintained in meantime, *ib.*
in default passage-money to be returned, *ib.*
power to remove passengers from ship, vol. iv. 404.
penalty on passengers refusing, *ib.*
expense of taking off passengers at sea, how paid, *ib.*
governors or consuls may send on passengers if master of ship fail, *ib.*
expenses so incurred to be crown debts, *ib.*
passengers forwarded by governors, &c. not entitled to return of passage-money, *ib.*
insurances of passage-money not to be void, *ib.*
penalty on wrongfully landing passengers, *ib.*
passengers to be maintained forty-eight hours after arrival, *ib.*
penalty for non-compliance, *ib.*
passengers' right of action preserved, *ib.*
power to her majesty by order in council to prescribe rules for certain purposes, vol. iv. 404, 405.
evidence of such orders, vol. iv. 405.
surgeon or master to exact obedience to rules, *ib.*

SHIPPING—*continued.*
penalty for non-compliance, vol. iv. 405
abstract of act and orders to be prepared, *ib.*
copies of abstract and act to be supplied to masters of passenger ships, *ib.*
copy of act to be produced to passengers, *ib.*
copies of abstract to be posted up in ship, *ib.*
penalties for neglect, and for defacing abstract, *ib.*
sale of spirits prohibited, under penalty, *ib.*
bond to be given by masters of passenger ships, *ib.*
form of bond, vol. iv. 415.
counterpart of bond to be certified and sent to colony to which ship bound, vol. iv. 405.
to be evidence, *ib.*
when bond may be sued upon, *ib.*
in absence of contrary agreement, owner to be responsible for default, vol. iv. 405, 406.
passage brokers.
no person to act as, without licence, vol. iv. 406.
exemptions, *ib.*
passage brokers to be responsible for their agents, *ib.*
how licences to be obtained, *ib.*
justices to give notice of licences granted, *ib.*
notice of application for licence, *ib.*
justices may order forfeiture of licences, *ib.*
notice of forfeiture to be given, *ib.*
application for licences in Scotland, *ib.*
passage brokers only to employ agents expressly appointed, vol. iv. 406, 407.
agents to produce appointments on demand, vol. iv. 407.
penalty on persons fraudulently inducing others to engage passages, *ib.*
contract tickets, provisions as to, *ib.*
exempt from stamp duty, *ib.*
penalty for infringing provisions as to, *ib.*
penalty for inducing any one to part with contract ticket, *ib.*
summary remedy for breach of contract, *ib.*
penalty for not producing contract ticket, *ib.*
penalty for acting as runners without licence and badge, *ib.*
on passage brokers employing such persons, *ib.*
mode of licencing and registering runners, *ib.*
licence to be renewed annually, vol. iv. 408.
penalty on runner for certain acts, *ib.*
on persons using badges not issued to them, &c. *ib.*
how fresh badges obtained when old ones lost, &c. *ib.*
runners not entitled to commission from passage broker, unless acting under written authority, *ib.*
runners not to take or demand fees from emigrants, under penalty, *ib.*
list of runners to be exhibited, *ib.*
and sent to emigration commissioners, *ib.*
dock trustees may pass bye-laws, regulating landing and embarkation of emigrants, &c. *ib.*
licencing porters, &c. *ib.*

SHIPPING—*continued.*
power to arrest offenders, vol. iv. 408.
bye-laws to be approved and published, &c. *ib.*
penalty for falsifying documents to obtain passages, and for personation, vol. iv. 408, 409.
procedure for penalties.
by whom penalties to be recovered, vol. iv. 409.
by whom passage, subsistence, and compensation monies may be recovered, *ib.*
tribunal for adjudicating on offences and complaints under the act, *ib.*
mode of proceedings, &c. vol. iv. 409, 410.
police and stipendiary magistrates, and sheriffs in Scotland, to have same powers as justices, vol. iv. 410.
no objections to be allowed, and no convictions quashed, for want of form, *ib.*
application of penalties, *ib.*
power to award compensation out of penalties, *ib.*
burden of proof, *ib.*
proof of negatives, *ib.*
proof of party being an emigration officer, *ib.*
passengers suing not incompetent witnesses, *ib.*
tender of amends, *ib.*
limitation of actions against officers executing act, vol. iv. 410, 411.
defendant may plead general issue, vol. iv. 411.
costs, *ib.*
limitation of legal proceedings generally, *ib.*
colonial voyages.
definition of, *ib.*
application of act to colonial voyages, *ib.*
exceptions, *ib.*
restrictions as to voyages of less than three weeks, *ib.*
governor of colonies may declare length of voyage and prescribe scale of diet, &c. vol. iv. 411, 412.
copies of proclamation to be evidence, vol. iv. 412.
survey of ships and appointment of surgeons, *ib.*
power to governor-general of India in council, to adopt act and make rules, &c. *ib.*
Indian act to be enforced in colonies in same manner as this act, *ib.*
voyages to the united kingdom.
list of passengers brought, to be delivered by the master, *ib.*
penalty for neglect, *ib.*
returns of births and deaths at sea to be made to registrar-general, *ib.*
penalty for having greater number of passengers than prescribed by act, vol. iv. 412, 413.
provisions and water to be issued as in ships carrying passengers from the united kingdom, vol. iv. 413.
schedules to be part of act, and directions therein enforced under penalty, *ib.*
schedules of forms, vol. iv. 413—421.

Pilots and Pilotage.
former statutes relating to (6 Geo. 4, c. 125, and 16 & 17 Vict. c. 129), now repealed by Merchant Shipping Act, 1854. *See* vol. iv. 238, 249.

SHIPPING—*continued.*
application of provisions of merchant shipping act relating to, vol. iv. 316, and *ib.* n. (*b*).
general jurisdiction of pilotage authorities, vol. iv. 316.
powers of pilotage authorities, vol. iv. 316, 317.
to make and extend exemptions from compulsory pilotage, vol. iv. 316.
to determine qualifications of pilots, vol. iv. 317.
to make regulations as to pilot boats, *ib.*
and government of pilots, *ib.*
licences and certificates, *ib.*
to alter and reduce rates of pilotage, *ib.*
and arrange limits of pilotage districts, *ib.*
to establish funds for superannuated pilots, *ib.*
to alter bye-laws, *ib.*
bye-laws, how to be published, *ib.*
to be laid before parliament, *ib.*
parties aggrieved by, may appeal to board of trade, *ib.*
power to board of trade to make provisional orders, vol. iv. 427, 428.
to transfer pilotage jurisdiction, vol. iv. 427.
and make consequent arrangements, *ib.*
to constitute new authorities, vol. iv. 427, 428.
to exempt from compulsory pilotage, vol. iv. 428.
to enable existing authorities to grant licences and fix rates, *ib.*
to raise rates, and facilitate recovery of, *ib.*
to facilitate grants of licences, *ib.*
regulations as to mode of making and confirming such provisional orders, *ib.*
pilotage authorities to make certain returns, vol. iv. 318.
local authorities failing to make returns, their jurisdiction may be transferred to trinity house, *ib.*
returns to be laid before parliament, *ib.*
licensing of masters and mates, vol. iv. 318, 319.
master or mate, if examined and passed, to receive pilotage certificate, vol. iv. 318.
certificate to be renewed annually, vol. iv. 319.
if authority neglect or refuse to examine and grant certificates, board of trade may do so, *ib.*
fees to be paid for certificates and renewals, *ib.*
power to withdraw certificates, *ib.*
pilot boats, vol. iv. 319, 320.
how to be provided, vol. iv. 319.
characteristics by which to be distinguished, vol. iv. 319, 320.
penalty for default, vol. iv. 320.
qualified pilot to display flag though not in pilot boat, *ib.*
penalty for neglect, *ib.*
penalty on ordinary boat displaying pilot flag, *ib.*
pilot licences, *ib.*
every qualified pilot to receive a licence *ib.*
licence to be registered, *ib.*

SHIPPING—*continued.*
licence to be produced to employer, under penalty, vol. iv. 320.
to be delivered up when required, and returned on death, *ib.*
penalty for neglect, *ib.*
copy of regulations to be furnished, and to be produced when required, under penalty, *ib.*
compulsory pilotage, how to be enforced, *ib.* and n. (*b*).
extension of exemptions from, vol. iv. 428.
home trade passenger ships to employ qualified pilots, unless they have certificated masters or mates, vol. iv. 321.
how such certificates to be granted, *ib.*
rights, privileges, and remuneration of pilots, vol. iv. 321, 322.
qualified pilot unable to board, when entitled to pilotage, vol. iv. 321.
not to be taken out of district without consent, *ib.*
allowance to, if taken out of district, *ib.*
penalty for taking or offering improper rate, *ib.*
penalty on masters refusing to declare, or making false declaration as to draught of ship, vol. iv. 322.
or falsifying marks, &c. *ib.*
power to qualified pilot to supersede unqualified pilot, *ib.*
apportionment of charges in such case, *ib.*
penalty on unqualified person acting as pilot, *ib.*
when unlicensed persons may act as pilots, *ib.*
liability for, and recovery of, pilotage dues, *ib.*
power to consignees to retain pilotage dues paid by them, *ib.*
offences of pilots, vol. iv. 322, 323.
penalties on qualified pilot for exercising certain trades, vol. iv. 322.
for offending against revenue, *ib.*
corrupt practices, *ib.*
lending licence, *ib.*
acting when suspended, *ib.*
acting when drunk, *ib.*
unnecessarily causing expense, vol. iv. 322.
declining to go off, vol. iv. 323.
unnecessarily cutting or slipping cable, *ib.*
refusing to conduct ship into port, *ib.*
quitting ship, *ib.*
penalty on pilot endangering ship, life, or limb, *ib.*
penalty on pilot in charge doing wilful injury, *ib.*
trinity house, general powers of, to alter regulations, *ib.*
power to appoint sub-commissioners, &c. *ib.*
and to licence pilots to act within certain districts, vol. iv. 323, 324.
names of pilots so licensed to be published, vol. iv. 324.
bonds to be given, *ib.*
limit of liability, *ib.*
continuance and renewal of licences, *ib.*
power to revoke and suspend licences, *ib.*

SHIPPING—*continued.*
compulsory pilotage (trinity house), vol. iv. 324, 325.
penalty for employing unlicensed pilots, or acting as pilots, vol. iv. 324.
regulations to be made for constant supply of qualified pilots at Dungeness, *ib.*
ships passing Dungeness, &c. to take first qualified pilot, *ib.*
penalty for not displaying usual signal for pilot, *ib.*
exemptions from compulsory pilotage, vol. iv. 325.
rates of pilotage (trinity house), vol. iv. 325.
former rates to continue to be paid, vol. iv. 325.
dues to be paid by foreign ships trading to and from port of London, *ib.*
certificate of payment to be given, *ib.*
application of monies received by trinity house, *ib.*
settlement of difference as to draught of ship, *ib.*
pilot fund, payments to be made to, vol. iv. 326.
penalty on pilots giving false accounts, *ib.*
application of fund, *ib.*
arrangements as to pilot funds for British channel ports, vol. iv. 428, 429.
appointment of sub-commissioners by trinity houses of Hull and Newcastle, vol. iv. 326.
limitation of owners' liability, where pilotage is compulsory, *ib.*

Registry of British Ships.
who to be registrars, vol. iv. 259.
substitution of governors and consuls abroad for commissioners of customs and justices, *ib.*
registrar to keep register books, *ib.*
what to be port of registry, *ib.* and n. (*a*).
names of registered ships, rules to be observed as to, vol. iv. 259.
penalties for neglect, *ib.*
exemption of certain ships, vol. iv. 389.
application for registry, by whom to be made, vol. iv. 259.
ships to be surveyed before registry, *ib.*
certificate of survey, *ib.*, and vol. iv. 354.
entries in register book, rules as to, vol. iv. 260.
declaration of ownership by individual owner, *ib.*, and vol. iv. 355, 356.
by body corporate, vol. iv. 260, 357, 358.
evidence to be produced on registry, vol. iv. 260, 261.
false statements misdemeanors, vol. iv. 260, n. (*b*).
penalty on builder for false certificate, vol. iv. 261.
particulars to be entered in register, *ib.*
no notice taken of trusts, *ib.*
certificate of registry to be granted, *ib.*
particulars to be contained in, *ib.*
form of, vol. iv. 359, 360.
change of owner to be endorsed on certificate, vol. iv. 261.
penalty for neglect, *ib.*
change of master to be endorsed on certificate, vol. iv. 262.
power to grant new certificate, *ib.*
provision in case of loss, &c. of certificate, *ib.*

SHIPPING—*continued.*
provisional certificate to be delivered up on arrival in port, vol. iv. 262.
penalty for neglect, *ib.*
custody of certificate, *ib.*
delivery of certificate may be required, *ib.*
penalty for detention, *ib.* and n. (*b*).
proceedings if party detaining absconds, vol. iv. 262.
penalty for using improper certificate, *ib.*
ship may be seized and brought for adjudication before admiralty courts, vol. iv. 263.
on conviction, ship to be forfeited to crown, &c. *ib.*
ship lost or ceasing to be British ship, certificate to be given up, *ib.*
provisional certificate, where ship becomes vested in British owners at foreign port, *ib.*
by whom granted, &c. *ib.*
how long to be valid, *ib.*
register anew, and transfer of registry, vol. iv. 269.
alteration in ship to be registered, *ib.*
on alterations, registry anew may be required, *ib.*
grant of provisional certificate in respect of alteration, *ib.*
consequence of omission to register alteration or to register anew, *ib.*
on change of owner registry anew may be granted, *ib.*
registry may be transferred from port to port, *ib.*
mode of transfer of registry, vol. iv. 269—270.
delivery of certificate upon transfer, vol. iv. 389.
transfer of registry not to affect rights of owners, vol. iv. 270.
inspection of register books, *ib.*
indemnity to registrars, *ib.*
returns to be made by registrars to commissioners of customs, *ib.*
application of fees, *ib.*
commissioners of customs to provide, and with consent of board of trade, may alter forms and issue instructions, *ib.*
where instruments differ from forms prescribed, &c. under act, registrar not bound to record same without express direction, vol. iv. 389.
power to registrar to dispense with declarations, &c. vol. iv. 270.
power for commissioners or governor in special cases to grant pass to a ship not registered, *ib.*
provisions for cases of infancy or other incapacity, vol. iv. 271.
punishment for forgery, fraudulently altering register books, &c. *ib.*
making false declarations, &c. vol. iv. 389.
copies of registers and declarations to be evidence, and *primâ facie* proof of certain things, vol. iv. 272, 389.

Registration of Seamen.
establishment of general register and record office, vol. iv. 305.
appointment and payment of officers, *ib.*
business at outposts, *ib.*
register of seamen to be kept, *ib.*

SHIPPING—*continued.*
masters of all ships to make out and sign lists of certain particulars, vol. iv. 305.
lists, in case of foreign-going ships, to be delivered to shipping-master on arrival, *ib.*
in case of home-trade ships, half-yearly, *ib.*
penalty for default in each case, *ib.*
lists to be sent home in case of transfer or loss of ships, *ib.*
transmission of documents to registrar, vol. iv. 305, 306.
inspection and production of originals, vol. iv. 306.
copies to be given, and to be evidence, *ib.*
officers of customs to make half-yearly returns of ships to registrar-general of seamen, *ib.*
rules as to delivery of documents to consular officers, *ib.*
penalty for default, *ib.*

Sailors' Homes.
corporations may grant sites for, vol. iv. 353.
in London, may be shipping offices, vol. iv. 276.

Savings Banks. See *Wages*, and SAVINGS BANKS supra.

Schedules.
schedules of forms, &c. vol. iv. 354—381, 384—388, 413—421, 435—437.

Seamen.
accommodation, provisions, and health, vol. iv. 294—296.
survey of provisions, &c. on complaint by, vol. iv. 294.
penalty if defaults not remedied, *ib.*
examinations of surveyor to be entered in log, and reported to board of trade, *ib.*
penalty for frivolous complaints, *ib.*
compensation to be made for short or bad provisions, *ib.*
rates of compensation to be paid, *ib.*
medicines and medical stores, &c. to be provided in certain ships, vol. iv. 294, 295.
penalty for neglect, vol. iv. 295.
weights and measures to be kept on board, *ib.*
penalty for refusing to allow use of, &c. *ib.*
board of trade, &c. may appoint inspectors of medicines, *ib.*
duties and powers of such inspectors, *ib.*
where supply deficient, certificate required before clearance granted for ship, *ib.*
penalty for sailing without such certificate, *ib.*
penalty for supplying bad drugs, &c. to ships, *ib.*
expense of medical attendance and subsistence during illness, and of burial in case of death, how defrayed, vol. iv. 296.
if paid by consul, to be recoverable from owner, *ib.*
certain ships to carry medical practitioners, *ib.*

SHIPPING—*continued.*
penalty on default, vol. iv. 296.
provision not to affect Passengers Act, 1852, *ib.*
place appropriated to seamen to have certain space for each man, to be kept clear, and properly constructed, *ib.*
penalties for defaults, *ib.*
power of making complaints, vol. iv. 297.
seamen to be allowed to go on shore to make complaints, *ib.*
penalty on default, *ib.*
to whom complaints may be made, *ib.*
protection of, from imposition, *ib.*
wages not to be subject to attachment, &c. *ib.*
sale and assignment of, or charge upon wages, to be invalid, *ib.*
powers of attorney to receive wages not to be irrevocable, *ib.*
debt exceeding £5. not recoverable till end of voyage, *ib.*
penalty for overcharges by lodging-house keepers, vol. iv. 297.
for detaining seamen's effects, *ib.*
persons not duly authorized, going on board before final arrival of ship, liable to penalty, *ib.*
may be taken into custody, *ib.*
penalty for solicitations by lodging-house keepers, *ib.*
leaving seamen abroad, vol. iv. 290, 292.
on discharge abroad, certificate of discharge to be given, and seamen sent home at owner's expense, vol. iv. 290.
forcing sailors on shore a misdemeanour, *ib.*
no seaman to be left abroad without certificate of certain functionaries obtained, vol. iv. 290, 291.
penalty for offending, vol. iv. 291.
proof of such certificate to be on master, *ib.*
wages to be paid when seamen left behind on ground of inability, vol. iv. 291, 424.
such wages to be treated as money due, subject to expense of subsistence and passage home, vol. iv. 291.
distressed seamen found abroad may be relieved and sent home at public expense, vol. iv. 291, 292, 389, 390.
masters of British ships compelled to take them, *ib.*
power to sue for amount advanced for their relief, *ib.*
relief in such cases to be regulated by board of trade, vol. iv. 424.
penalty on master leaving natives of Asia and Africa, &c. in distress in this country, vol. iv. 383.

Seamen's families, Relief of, out of Poor Rates.
such relief to be chargeable on certain proportion of their wages, vol. iv. 287.
notice to be given to owner, and charge enforced on return of seaman, *ib.*

Shipping Offices.
local marine boards to establish, vol. iv. 275.
board of trade to have partial control over, *ib.*
business of shipping masters, *ib.*

SHIPPING—*continued.*
fees to be paid on engagements and discharges, vol. iv. 275, 377.
masters to pay fees and deduct part from wages, vol. iv. 276.
table of deductions, vol. iv. 377.
proviso where deduction allowed exceeds fee, vol. iv. 276.
penalty on shipping masters taking other remuneration, vol. iv. 276.
business of shipping offices may be transacted at custom-houses, *ib.*
in London, sailors' homes may be shipping offices, *ib.*
power to dispense with shipping master's superintendence, *ib.*
punishment for embezzlement in shipping offices, vol. iv. 423.
shipping offices to be termed mercantile marine offices, *ib.*
shipping masters to be termed superintendents, &c. *ib.*

Steamships.
provisions as to allowance for engine-room in measuring tonnage of, vol. 257, 258.
equipment of steamships, what to be provided, vol. iv. 312.
penalty for neglect, *ib.*
and for improper weight on safety valve, *ib.*
survey of passenger steamers, vol. iv. 312—315.
definition of passenger steamers, vol. iv. 312.
to be surveyed, *ib.*
appointment and remuneration of surveyors, *ib.*
surveyors to have power to inspect, vol. iv. 312, 313.
board of trade to regulate mode of survey, vol. iv. 313.
penalty on surveyors receiving fees unlawfully, *ib.*
owners to have surveys made by shipwright and engineer surveyors, and surveyors to give declarations, *ib.*
what declarations to contain, vol. iv. 313, 423.
declarations to be sent to board of trade, vol. iv. 313.
penalty for delay, *ib.*
times appointed for surveys, &c. vol. iv. 313, 426.
on receipt of declarations, &c. board of trade to issue certificates, vol. iv. 314.
fees upon certificates, vol. iv. 314, 379.
how long to be in force, vol. iv. 314.
copy to be placed in conspicuous part of ship, *ib.*
ship not to proceed on voyage without, *ib.*
penalties for neglect of above provisions, vol. iv. 314, 315.
board of trade may cancel certificates and require fresh declarations, vol. iv. 314.
surveyors to make returns as to steamships and owners to give information, vol. iv. 315.
penalty for carrying passengers in excess of number specified, *ib.*
forgery of declaration or certificate, a misdemeanour, *ib.*

SHIPPING—*continued.*
steamships to carry certificated engineers, vol. iv. 422.
misconduct by passengers in steamers, vol. iv. 315, 426.
penalties on drunken and disorderly passengers, vol. iv. 426.
power to remove such, vol. iv. 315, 316.
penalties for molesting passengers, vol. iv. 426.
for forcing way on board, or refusing to quit ship when full, vol. iv. 315, 426.
avoiding or refusing to pay fares, &c. vol. iv. 315, 426, 427.
injuring steamer or molesting crew, vol. iv. 427.
manner of apprehending offenders, *ib.*
accidents to steamers to be reported, vol. iv. 316.
penalty for neglect, *ib.*
notice to be given of apprehended loss, *ib.*
penalty for neglect, *ib.*
Transfers and Transmissions. See *Ownership.*
Tonnage. See *Measurement.*
tonnage rates under local acts may be levied on registered tonnage, vol. iv. 422.
Volunteering into Navy.
seamen allowed to leave their ships to enter navy, vol. iv. 292, 293.
stipulations to the contrary void, vol. iv. 293.
penalty on master or owner making such stipulations, *ib.*
clothes to be delivered at once, *ib.*
and wages given to queen's officer on account of seamen, *ib.*
penalty for default, *ib.*
repayment to owner of advances not earned, *ib.*
repayment of extra expense where new seamen are engaged by owner, &c. *ib.*
application for, how decided, *ib.*
amount of, how ascertained, *ib.*
accountant-general to pay same when ascertained, vol. iv. 293, 294.
penalty for forgery or false representations in support of such applications, vol. iv. 294.
entry and service of seamen in her majesty's navy (16 & 17 Vict. c. 69), vol. iv. 247.
Wages of Seamen.
provisions as to wages, &c. received before 1852, vol. iv. 383.
allotment of wages, vol. iv. 282.
stipulations as to, to be inserted in agreement, *ib.*
allotment notes to be in forms sanctioned by board of trade, *ib.*
who may sue upon allotment notes, *ib.*
proceedings thereupon, *ib.*
wife of seaman deserting children, &c. to forfeit right to payments under, vol. iv. 283.
discharge and payment of, vol. iv. 283, 284.
discharge from foreign-going ships to be made before shipping master, vol. iv. 283.
penalty for neglect, *ib.*
master to deliver account of wages, *ib.*
penalty for neglect, *ib.*
on discharge, certificate of discharge to be given to seamen, and certificates of competency returned to mates, vol. iv. 283.
penalty on default, *ib.*
shipping master may decide questions referred to him, *ib.*
masters, &c. to produce ships' papers, and give evidence, *ib.*
penalty for neglect, *ib.*
rules as to settlement of wages, vol. iv. 283, 284.
release to be signed and attested, vol. iv. 283.
release to be a discharge, *ib.*
and evidence, *ib.*
no other receipt to be a discharge, vol. iv. 284.
voucher to be given, and to be evidence, *ib.*
master to make reports of character, *ib.*
punishment for forging or altering reports, *ib.*
remittance of wages and savings banks for seamen, *ib.*
facilities to be given for remitting, *ib.*
power to pay, when order lost, *ib.*
penalty for issuing money orders with fraudulent intent, *ib.*
savings banks for seamen, may be established, *ib.*
provisions to extend to seamen in navy, vol. iv. 390.
legal rights to wages, vol. iv. 285.
when right to wages and provisions to begin, *ib.*
agreements to give up, wholly inoperative, *ib.*
exception in case of ships employed in salvage services, vol. iv. 424.
wages not to be dependent on earning freight, vol. iv. 285.
mode of dealing with wages in case of death of seaman, *ib.*
in case of termination of service by wreck or illness, *ib.*
wages not to accrue during imprisonment or refusal to work, *ib.*
wages, how far forfeited by desertion, vol. iv. 300, n. (*a*).
within what period wages to be paid, vol, iv. 285.
penalty for default, *ib.*
recovery of, vol. iv. 285, 286.
seamen may sue for, in summary manner, vol. iv. 285.
restrictions on suits in superior courts, vol. iv. 286, and *notes* (*a*), (*b*), (*c*).
seamen not to sue for, abroad, except in certain cases, vol. iv. 286.
remedy on return to this country, *ib.*
masters to have same remedies for, as seamen, *ib.* and *notes* (*d*), (*e*).
relief to seamen's families our of poor-rates, to be chargeable on certain proportion of their wages, vol. iv. 287.
notice to be given to owner, and charge enforced on the return of the seaman, *ib.*
wages of deceased seamen, &c. *ib.*
masters to take charge of or sell effects of deceased seamen, and enter same, and wages due, in log, *ib.*

SHIPPING—*continued.*
particulars of such entry, vol. iv. 287.
to be attested, *ib.*
such effects and wages to be paid to consul or shipping master with full accounts, vol. iv. 287, 288.
penalties for not so taking charge of, remitting, &c. vol. iv. 288.
officers of customs and consuls to take charge of effects left by seamen abroad, and to remit same and their wages, *ib.*
extension of these provisions, vol. iv. 424.
wages and effects of seamen dying at home, in certain cases to be paid to board of trade, vol. iv. 288.
if less than 50*l.*, may be paid to persons entitled, without probate or administration, *ib.*
powers of board of trade as to payment under wills made by seamen, vol. iv. 289.
provision for payment of creditors and prevention of fraudulent claims, vol. iv. 289, 290.
mode of dealing with unclaimed wages of deceased seamen, vol. iv. 290.
punishment of forgery and false representations in order to obtain wages and property of deceased seamen, *ib.*
recovery of wages of seamen lost with their ship, vol. iv. 424.
effects of seamen discharged from navy, how disposed of, vol. iv. 290.
payment of wages to seamen left abroad on ground of liability, vol. iv. 291, 424.
such wages to be treated as money due, subject to certain deductions, vol. iv. 291.
on discharge of seamen abroad, certificates of discharge to be given, and seamen sent home at expense of owner, vol. iv. 290.
naval courts may order forfeiture of wages in certain cases, vol. iv. 302.
and decide disputes as to, *ib.*
and direct payment of costs of imprisonment out of, vol. iv. 303.

Wrecks, Casualties, and Salvage.
inquiries into wrecks, when and by whom to be made, vol. iv. 332, 333.
formal investigation before two justices or stipendiary magistrate, vol. iv. 333.
justices, &c. to report to board of trade, *ib.*
board of trade may appoint nautical assessor, *ib.*
where stipendiary magistrate is member of a local marine board, case to be heard before him, *ib.*
remuneration of stipendiary magistrate in such cases, *ib.*
costs of such investigations, *ib.*
extension and amendment of summary jurisdiction of justices in small salvage cases, vol. iv. 429, 430.
investigations in Scotland, vol. iv. 333, and n. (*a*).
master or mate may be required to deliver certificate until close of inquiry, vol. iv. 333.
appointment and duties of receivers, vol. iv. 333, 336.
board of trade, with consent of treasury, may appoint, vol. iv. 333, 334.
VOL. IV.

SHIPPING—*continued.*
receiver-general of admiralty to conform to directions of board of trade, vol. iv. 333.
no successor to be appointed, *ib.*
but powers transferred to board of trade on a vacancy, *ib.*
provisions as to receivers appointed under former act, *ib.*
payment of such receivers, *ib.*
application of fees by, *ib.*
admirals, &c. not to interfere with wreck, vol. iv. 334.
duty of receiver when ship stranded or in distress, *ib.*
powers in such case to summon men, &c. to assist, *ib.*
penalty for refusing, &c. *ib.*
articles washed on shore, &c. to be delivered to receiver, *ib.*
powers of receiver to suppress plunder, &c. *ib.*
certain officers to exercise powers in absence of receiver, *ib.*
power to pass with carriages over adjoining lands, &c. *ib.*
damages occasioned thereby to be paid, vol. iv. 334, 335.
penalty for refusing to allow, vol. iv. 335.
power to institute examination as to ships in distress, *ib.*
copies to be sent to board of trade and to Lloyd's, *ib.*
inspection of copies, *ib.*
original or certified copies to be *primâ facie* evidence, *ib.*
rules to be observed by persons finding, *ib.* and n. (*a*).
power for receivers to seize concealed wreck, vol. iv. 335, 336.
notice of wreck to be given by receiver, vol. iv. 336.
sale of perishable goods, *ib.*
where lord of manor is entitled to unclaimed wreck, notice to be given to him, *ib.*
payments, &c. to receiver, *ib.*, and vol. iv. 381.
disputes to be determined by board of trade, vol. iv. 336.
application of fees, *ib.*
salvage in respect of services rendered in united kingdom, vol. iv. 336, 337.
salvage for life may be paid by board of trade, &c. vol. iv. 337.
remuneration for services by coastguard, vol. iv. 390.
receiver may appoint a valuer in salvage cases, vol. iv. 430.
disputes as to salvage, how settled, vol. iv. 337.
where sum claimed not exceeding 200*l.* *ib.* and n. (*b*).
where sum exceeds 200*l.* vol. iv. 337.
manner in which justices may decide disputes, vol. iv. 338.
costs of arbitration, *ib.*
power to call for documents, and to administer oaths, *ib.*
appeal to admiralty courts, *ib.*
justices to transmit copies of proceedings before them, *ib.*
payment of salvage, to whom to be made in case of dispute as to apportionment, *ib.*
apportionment of salvage, *ib.*

SHIPPING—*continued.*
power to courts having admiralty jurisdiction to apportion salvage when exceeding 200*l.* vol. iv. 344.
manner of enforcing payment of salvage, vol. iv. 338, 339.
as to jurisdiction of court of session in such cases, vol. iv. 430.
power of receiver to sell property salved in cases of non-payment, vol. iv. 339.
subject to payment of expenses, fees, and salvage, owner entitled to wreck, *ib.*
in case of wreck of foreign ships, consul-general to be deemed agent of owner, vol. iv. 390.
receiver to deliver up possession of unclaimed wreck to lord of manor or other person entitled, vol. iv. 339.
delivery of wreck not to prejudice title, vol. iv. 430.
disputed title to, how decided, vol. iv. 339.
right of appeal against decision of justices, *ib.*
power of board of trade on behalf of crown to purchase rights to wreck, &c. *ib.*
unclaimed wreck to be sold, and proceeds paid into exchequer, vol. iv. 340.
provisoes as to hereditary rights of crown, and rights of duchies of Lancaster and Cornwall, vol. iv. 430, 431.
court of admiralty to have jurisdiction in all salvage cases, subject to provision of act, vol. iv. 340.
offences in respect of wreck, *ib.*
when hundred liable for plunder of wrecked ship, *ib.*
penalty for plundering, obstructing saving of wreck, and secreting of same, *ib.*
penalty for selling wreck in foreign ports, *ib.*
no claim for salvage services in respect of loss, &c. of her majesty's ships, *ib.*
claims for salvage by her majesty's officers, &c. not to be determined without consent of admiralty, vol. iv. 342.
steps to be taken when salvage services have been rendered by her majesty's ships abroad, vol. iv. 342.
consular officer or judge to fix amount for which a bond is to be given, *ib.*
on master executing bond, the right of detention to cease, vol. iv. 343.
provision for additional security in the case of ships owned by persons resident out of her majesty's dominions, *ib.*
documents to be sent to England, *ib.*
whom the bond shall bind, *ib.*
court in which it is to be adjudicated on, *ib.*
power of high court of admiralty to enforce bonds, *ib.*
saving clause, *ib.*
voluntary agreements in lieu of bonds, *ib.*
documents free from duty, *ib.*
punishment for forgery and false representations, *ib.*
foreign goods found derelict to be subject to same duties as on importation, vol. iv. 344.
goods saved from wrecks to be forwarded to ports of their original destination, *ib.*
provision as to certain terms in Scotland, *ib.*

SIMONY. See *Clergy.*

SLANDER. See *Libel.*

SPIRITUOUS LIQUORS.
no debt under 20*s.* for, at one time recoverable, vol. iv. 437, and n. (*b*) and (*c*).
repeal of such provision, vol. iv. 438.
retailer taking a pledge for liquors to forfeit 40*s.*, vol. iv. 437, 438.
owner may recover pledge, vol. iv. 438.

STAMPS.
general note as to stamp duties, vol. iv. 438, n. (*b*).
assimilation of stamp duties in Great Britain and Ireland (5 & 6 Vict. c. 82), vol. iv. 565.

Commissioners, Powers and Duties, &c. of.
duties to be under management of, vol. iv. 468.
and in Ireland, vol. iv. 323.
who are to provide stamps, &c. vol. iv. 468.
how to be called, *ib.*
may alter and renew stamps, &c. vol. iv. 468.
opinion of, as to amount of duties, how obtained, vol. iv. 575.
appeal thereon to the exchequer, vol. iv. 576.
of stamps and taxes consolidated into one board of commissioners of inland revenue, vol. iii. n. (*a*).
consolidating boards of stamps and taxes, vol. iv. 554.
transmission of affidavits, copies of wills, and accounts between ecclesiastical courts and commissioners, vol. iv. 472, 473.
may give and extend credit for duties on probates, &c. vol. iv. 474.
powers of, as to granting licences, &c. to bankers, vol. iv. 470.
as to issuing stamped receipts, &c. vol. iv. 443.
affidavits relating to duties in general, to be made before commissioners, vol. iv. 475.
duties under the management of, to be paid to receiver-general, and by him into exchequer, vol. iv. 476.

What Instruments require stamping, and Exemptions.
duties to be taken on instruments set forth in schedule, vol. iv. 467, 468.
when foreign instruments to be stamped, vol. iv. 438, n. (*b*).
notes made abroad, vol. iii. 471.
deeds executed in England of property in Ireland, and *vice versâ*, chargeable with duty on property in places where deed executed, although containing general covenant to pay, vol. iv. 549, 550.
proviso as to description of residence of obligor, &c. in such covenant bond, &c. vol. iv. 550.
such deeds made evidence, &c. *ib.*
duties in England and Ireland now assimilated, vol. iv. 565.
deeds, agreements, or instruments relating to real estate, may be stamped in London or Dublin, vol. iv. 577.
bills of sale of ships, &c. exempt, vol. iv. 552, 553.
bankers may in certain cases issue unstamped notes, &c. vol. i. 158. See *Bankers.*

STAMPS—*continued.*
drafts on bankers in Great Britain issued within fifteen miles of such bankers, exempt from duty, vol. i. 183.
bond, &c. under savings bank act, exempt, vol. iii. 992.

Amount of Stamp. See alphabetical list, *infra.*
conveyances and releases of annuities, and rent charges, exempt from *ad valorem* duty on re-purchase, vol. iv. 471.
duties on sea insurances, when additional stamps may be placed on, vol. iv. 553.
how defect in amount may be cured, vol. iv. 441, *note.*
if equal or greater stamp fixed than necessary, instrument valid, &c. vol. iv. 468.
unless where stamp on face of it is of wrong denomination, *ib.*
composition on transfer of bonds and mortgages of public companies, vol. iv. 322.
composition with bankers in Scotland for stamps on promissory notes, vol. iv. 326.

Denomination of Stamp, and how Defect curable.
where lands are conveyed by bargain and sale, and lease and release, or feoffment, former to be specially stamped to testify payment of *ad valorem* duty on latter, vol. iv. 461.
instrument may have a stamp of proper denomination affixed on paying penalty of 10*l.* vol. iv. 574, 575.
commissioners may remit penalty, vol. iv. 575.
instrument having wrong stamp, but of sufficient value, to be valid, vol. iv. 468.
except where stamp on face of it is appropriated to a different description of instrument, *ib.*
in case of doubts as to proper duty, fee of 10*s.* may be paid to obtain opinion of commissioners, vol. iv. 575, 576.
stamps denoting duties payable in one part of the united kingdom, may be used for instruments liable to stamp duties payable in any other part, vol. iv. 555, 556.

When several Stamps necessary.
appraisements extending to more than one piece of paper liable to one stamp only, vol. iv. 459.
sea policies may be stamped with additional stamps, if not underwritten to an amount exceeding sum warranted by former stamps, vol. iv. 553.

When Stamp should be impressed, and how omission may be cured.
all vellum, paper, &c. to be stamped before engrossed or written, vol. iv. 442, 443.
consequences of omission, *ib.*
instrument having insufficient stamp, may in general be properly stamped at any time on paying penalty of 10*l.* vol. iv. 574, 575.
when interest to be paid in addition, *ib.*
not to extend to instruments for the stamping of which after the signing thereof special provision is made, or to cases where the stamping is by law prohibited, vol. iv. 574.
stamping instruments executed abroad, without penalty, vol. iv. 575.
penalty for not proving wills, &c. in given time, vol. iv. 472.

STAMPS—*continued.*
fourteen days allowed for payment of duty on agreements, vol. iv. 567.
when bill of exchange may be stamped, vol. iv. 456, 457.
receipts not stamped, &c. when may be so within times prescribed, &c. vol. iv. 443, 452, 453.
articles of clerkship, and affidavits, &c. relating to, not stamped in time, may be stamped, when, vol. i. 98, 99.
articles of clerkship to attorneys of the county palatine courts may be stamped for admission of the clerk into superior courts on payment of the additional duty only, vol. iv. 320.
when attorney's certificate to be taken out, vol. i. 98.
when conveyancer's, &c. certificate to be taken out, vol. iv. 553.
when plate and pawnbrokers' licences to be taken out, vol. iv. 553, 554.
commencement of stage carriages licences, vol. iv. 559.

Where Stamp to be placed.
all writings, &c. to be near or on the stamp, under penalty, &c. vol. iv. 438, 441.
stamps on receipts, drafts, and orders must be cancelled by writing thereon, vol. iv. 319, 320.
appraisements to be written on paper, &c. vol. iv. 459.

Effect of want of Stamp, and defective Stamp.
bill, &c. not duly stamped, inadmissible in evidence, vol. iv. 442, 456, n. (*a*), and 457, 458.
receipt, &c. not duly stamped, inadmissible in evidence, vol. iv. 442, 457, 458.
no indenture available unless duly stamped, vol. iv. 456.

Alteration of instrument.
effect of, vol. iv. 441, *note.*
of policy of insurance, vol. iv. 529, n. (*a*).
of bills of exchange, &c. vol. iv. 493, *note.*

Old Stamps.
old stamps may be used to denote new duties, and two or more stamps to denote one duty till single stamp provided, vol. iv. 468.
paper, &c. stamped with former duties, may be used for instruments charged with new duties of same amount, *ib.*
except stamps bearing name of instrument, *ib.*

Unused and Spoiled Stamps.
exchange in case of, on sea policies, vol. iv. 463, 466, 467.
on policies of assurance, vol. iv. 463, 465.
when to be applied for, vol. iv. 464.
other stamps in lieu, *ib.*
affidavits in support of application, vol. iv. 465.
allowance to be made for receipt stamps, vol. iv. 577.

Penalties, &c. for evading, &c.
for not writing on or near the stamp, vol. iv. 440, 441.
on persons drawing, paying, &c. unstamped bills, orders for money, &c. vol. iv. 442.

STAMPS—*continued.*
for not giving a stamped receipt, vol. iv. 457.
for giving unstamped receipt, vol. iv. 442, 443.
for giving receipt for less than sum paid, &c. vol. iv. 443.
for not getting indentures, &c. duly stamped in time, vol. iv. 456.
for administering estates without probate, &c. vol. iv. 472.
for not taking out letters of administration in six months, &c. *ib.*
for unlicensed persons appraising, &c. vol. iv. 459.
for not writing appraisements on stamped paper, *ib.*
for receiving unstamped appraisements, *ib.*
for not setting forth full consideration in purchases, &c. vol. iv. 460.
parties liable to penalty for latter offence, informing against others, indemnified and rewarded, *ib.*
where consideration not truly set forth, purchaser may recover back part of purchase-money, *ib.*
on attorneys, &c. for not inserting true consideration, vol. iv. 461.
no penalty in these cases, unless duty paid be less than duty payable, *ib.*
on officers enrolling deeds of bargain and sale not duly stamped, &c. *ib.*
for not stating consideration, &c. on surrender of copyholds, &c. vol. iv. 461, 462.
for enrolling surrender, &c. of copyholds not duly stamped, vol. iv. 462.
for taking surrenders, &c., granting admissions, &c. not duly stamped, *ib.*
on stewards of manors neglecting to deliver copies of court roll in four months, duly stamped, *ib.*
for making, accepting, or paying bills of exchange not duly stamped, vol. iv. 469.
for post-dating bills, &c. *ib.*
for issuing unstamped drafts on bankers without specifying place where issued, or if post-dated, vol. i. 184.
for receiving such drafts, and for bankers paying them, *ib.*
for issuing notes with printed dates, vol. iv. 469.
for improperly re-issuing and not cancelling certain notes, *ib.*
for taking notes, &c. re-issued contrary to law, vol. iv. 470.
for circulating notes made out of Great Britain not stamped, vol. iv. 471.
for bankers issuing notes without licence, &c. *ib.*
for not proving wills, or taking out letters of administration, vol. iv. 472.
for attorneys, &c. acting without certificate, vol. i. 98.
recovery of, for offences relating to stage carriages, vol. iv. 561, 562.
for signing unstamped bill of lading, vol. iv. 563.
for evading duties on sea assurances, vol. iv. 567.
for committing frauds in the use of adhesive stamps, vol. iv. 320.
persons authorized by the postmaster-general may sell postage stamps, &c. without being subject to penalty, vol. iv. 322.

STAMPS—*continued.*
Offences against.
forgery of, &c. felony, vol. iv. 468.
perjury, penalty, &c. for, vol. iv. 475.
forging, &c. or altering, &c. declaration of return of premium on policies of assurance, vol. iv. 465.
prosecutions for stealing, &c. stamps, vol. iv. 552.
to prevent sale of forged stamps (3 & 4 Will. 4, c. 97), vol. iv. 554.

Actions, Prosecutions, &c.
how and by whom suits, &c. for protection of stamp duties to be brought, vol. iv. 552.
what sufficient description of property in indictment, *ib.*
actions for misappropriated moneys, vol. iv. 573.

Instruments, &c. requiring Stamps, Exemption, and Statutes affecting.
administration, letters of, vol. iv. 543, 546.
regulations as to taking out. See *Probate, infra.*
admissions to act in particular offices, characters, &c. vol. iv. 476, 479.
admissions from one inn of court to another, vol. iv. 555.
in England and Ireland, vol. iv. 563.
advertisements, vol. iv. 555.
duties on, repealed, vol. iv. 598.
admittance to copyhold, vol. iv. 510.
affidavits, vol. iv. 479, and n. (*b*).
agreements in general, vol. iv. 479, 483, and *notes.*
reduced to 2*s.* 6*d.*, vol. iv. 569.
provisions of former acts respecting, applied to agreements chargeable with duty of 1*l.*, vol. iv. 468.
removing doubts as to duties on, for setting and demising land in Ireland, vol. iv. 572.
exemptions, vol. iv. 484, 486, and *notes.*
almanacks, repeal of duty on, vol. iv. 554.
annuities, releases and conveyances of, exempted from *ad valorem* duty on the repurchase, vol. iv. 471.
appointment, vol. iv. 486, 487. See *infra, Deed, Deputation, Grant.*
appraisements, and exemptions, vol. iv. 487.
who an appraiser, and penalties, &c. vol. iv. 459.
apprenticeship and clerkship, vol. iv. 487, 489, and *notes.*
exemptions, vol. iv. 489.
new duty, vol. iv. 323, 324.
articles of clerkship, &c. vol. iv. 489, 491.
reduction of duty, vol. iv. 326.
in counties palatine, vol. iv. 320.
assignation or assignment, &c. vol. iv. 491.
assignments of judgments in Ireland, vol. iv. 325, 326.
assurance. See *Policies, infra.*
award, vol. iv. 491, 492.
banker's licence, vol. iv. 470, 471.
bargain and sale, &c. vol. iv. 492.
exemptions, *ib.*
as to inserting true consideration, &c. vol. iv. 460, 461.
bills of exchange, drafts or orders of money, &c. vol. iv. 492, 495.
penalty for signing unstamped, vol. iv. 442, 469.

STAMPS—*continued.*
not duly stamped, inadmissible in evidence, vol. iv. 442.
cannot be stamped after written upon, vol. iv. 456.
stamping, when wrong denomination, vol. iv. 456, 457.
penalty for post-dating, vol. iv. 469.
exemptions, vol. iv. 495, 496.
bills of lading, vol. iv. 496, 565.
not to be stamped after signing, except in certain cases, vol. iv. 563.
bills of sale. See *Conveyances, Mortgage, infra.*
of ships, vol. iv. 552, 553.
bonds, vol. iv. 496—499.
reduction of duty on, vol. iii. 1353, 1354.
general directions respecting, vol. iv. 499.
what duty chargeable on, when one or several obligors resident in Great Britain or Ireland, vol. iv. 549, 550.
exemptions, vol. iv. 499, 500.
transfer of, of public companies, vol. iv. 322.
certificates to practise, &c. vol. iv. 500, 501.
exemptions, vol. iv. 501.
of registration of designs, vol. iv. 566.
for other purposes, vol. iv. 501, 502.
charter of resignation in Scotland, vol. iv. 502.
charterparty, vol. iv. 502, 565.
stamping after signing on payment of penalty, vol. iv. 563.
clerkship, articles of. See *Articles, supra.*
collations, vol. iv. 502, 565.
commissions in army, &c. vol. iv. 502.
exemptions, *ib.*
for other purposes, *ib.*
composition deed, &c. *ib.*
conditional surrenders, &c. See *Mortgage, infra.*
constat of letters patent. See *Exemplification, infra.*
contract. See *Agreement, infra.*
conveyances, vol. iv. 503—508, and *notes.*
reduction of duty on, vol. iv. 581.
as to statement of full consideration, &c. vol. iv. 461, 462.
exemptions, vol. iv. 508, 509.
when subject to mortgage, vol. iv. 321.
when redemption money of annuity deemed part of consideration, *ib.*
copies of proceedings, &c. vol. iv. 509, 510.
exemptions, *ib.*
counterparts of leases not required to be impressed with denoting stamps, vol. iv.
copyhold estates, vol. iv. 510, 511.
reduction of duty on instruments relating to, vol. iv. 582.
exemptions, vol. iv. 511.
covenants, vol. iii. 1356.
debentures, or certificates for drawbacks, &c. vol. iv. 511.
exemptions, vol. iv. 512.
declaration of uses, &c. *ib.*
deeds, *ib.*
relating to property in Great Britain or Ireland to be charged with the duty payable where deed is executed, vol. iv. 549, 550.
but duties now assimilated, vol. iv. 565.
progressive duties on, vol. iv. 574.

STAMPS—*continued.*
terms and conditions for stamping, after execution, vol. iv. 574, 575.
defeazance, deeds of, &c. vol. iv. 512.
deputations, *ib.*
discharge for money, *ib.*
dispensations for holding ecclesiastical benefices, &c. *ib.*
disposition of lands, &c. vol. iv. 513.
docquet, &c. *ib.*
donation by her majesty or any other patron, vol. iv. 513, 565.
applies to all persons, vol. iv. 566.
draft for money, vol. iv. 513. See also *Bills of Exchange, infra.*
duplicates or counterparts, vol. iv. 583, 603.
eik to a reversion. See *Mortgage.*
exchange, deed of, &c. vol. iv. 513.
exemplification, &c. of letters patent, lands, &c. vol. iv. 514.
exemptions, general, from all duties, vol. iv. 541, and n. (*a*).
extracts from registers and records. See *Copies of Proceedings, supra.*
factory, in nature of power of attorney, in Scotland. See *Letter of Attorney.*
faculty, &c. vol. iv. 514.
feoffments, *ib.*
additional duty on, repealed, vol. iv. 573.
further charge. See *Mortgage.*
gifts, vol. iv. 514.
grants, vol. iv. 515, 517.
heritable bond. See *Bond, Mortgage.*
institution, granted by an archbishop, &c. vol. iv. 565.
insurance. See *Policy.*
inventory. See *Schedule.*
of effects in Scotland, &c. vol. iv. 545, 546.
additional inventories, vol. iv. 546.
land tax, instruments relating to the redemption and sale of. See *Exemptions, General.*
law proceedings, stamps on, vol. iv. 541, 542.
in general, now repealed, vol. iv. 542.
leases or tacks of land, &c. vol. iv. 517, 520, and *notes.*
reduced duty on, vol. iv. 583.
exemptions, vol. iv. 520.
affording relief in certain cases of, vol. iv. 574.
counterparts of, vol. iv. 583, 603.
legacies, vol. iv. 546—549, and *notes.*
exemptions, vol. iv. 549.
new duties on, and how to be assessed, &c. vol. iv. 443—456.
compelling executors to account, vol. iv. 457.
what amounts to a legacy, vol. iv. 458, 570.
letter or power of attorney, &c. vol. iv. 520.
exemptions, *ib.*
of administration, vol. iv. 543, 545.
of licence from creditors to a debtor, vol. iv. 520.
of marque and reprisal, *ib.*
of reversion in Scotland. See *Mortgage, infra.*
letters patent,
substitution of stamp duties for fees, vol. iv. 589.
schedule of duties, vol. iv. 591.
licence for marriage in England, if special, vol. iv. 520.

STAMPS—*continued.*
for marriage in England, if not special, vol. iv. 520.
for non-residence, &c. vol. iv. 520, 521.
exemption from, vol. iv. 521.
to use calling of appraiser, vol. iv. 569.
to be taken out by bankers yearly, vol. iv. 470, 521.
to be taken out by pawnbrokers, vol. iv. 521.
to exercise the faculty of physic. See *Admission.*
to act as a notary public. See *Faculty.*
to demise copyhold lands. See *Copyhold.*
to perform divine service, exemption in certain cases, vol. iv. 593.
for state carriages, vol. iv. 558, 559, 564, 565.
various regulations respecting, vol. iv. 560—562.
for insuring from loss by fire, vol. iv. 562, 563.
for perpetual curacy, vol. iv. 565.
marriage licence. See *Licence.*
matriculation in universities. See *Admission.*
memorial of registered deeds, vol. iv. 521.
reduced duty on, vol iv. 585.
mortgage, vol. iv. 521—525, and *notes.*
reduced duties on, vol. iv. 585.
exemptions, vol. iv. 525, 526.
transfer of, vol. iv. 551, 573, 574.
of public companies on payment of composition, vol. iv. 595.
where *ad valorem* bond duty previously paid, vol. iv. 587.
where property sold subject to, the mortgage money to be deemed part of the purchase-money, whether agreed to be paid by the purchaser or not, vol. iv. 593.
mortgage, wadset, &c. vol. iv. 526, 527.
mutual disposition. See *Exchange; Partition.*
newspapers, vol. iv. 555.
nomination to curacy, &c. vol. iv. 527.
nomination of proxy, vol. iv. 569.
notarial act, vol. iv. 527.
order for payment of money, vol. iv. 527.
See also *Bills of Exchange.*
partition, vol. iv. 527.
passengers by railways, vol. iv. 565. See *Railway Passengers.*
passport, vol. iv. 527.
pawnbroker's licence. See *Licence.*
when to expire, vol. iv. 553.
plate, licence for selling, when to expire, *ib.*
duty on, when not payable, vol. iv. 448, 449.
playing cards, to prevent evasion of duties on, vol. iv. 595.
policies of assurance, vol. iv. 527—531.
regulations as to allowance of duty on, &c. vol. iv. 463—465.
exemptions, vol. iv. 528.
on vessels, vol. iv. 566—568.
act to secure the stamp duties on, vol. iv. 466.
against fire,
collection of duty, &c. vol. iv. 471, 472.
on agricultural produce, vol. iv. 534.
licence for assurance, vol. iv. 562.
on lives, vol. iv. 555.
stamp policy, to be made out, vol. iv. 592.

STAMPS—*continued.*
officers of insurance companies answerable for default, vol. iv. 592.
adhesive stamps for, vol. iv. 599.
power of attorney. See *Letter of Attorney.*
precept of *clare constat*, vol. iv. 531.
presentation, vol. iv. 531.
probates, vol. iv. 543—546, and *notes.*
exemptions, vol. iv. 546.
regulations as to taking out, vol. iv. 472, 473.
probate and administration.
where too high duty paid, vol. iv. 473.
when too little duty paid, *ib.*
penalties on executors, &c. vol. iv. 473, 474.
return of duty on, vol. iv. 475.
affidavits respecting, *ib.*
procuration, deed, or other instrument of, vol. iv. 531, 532.
progressive duties,
how charged, vol. iv. 574.
promissory notes, vol. iv. 532, 533, and *notes.*
exemptions, vol. iv. 533.
re-issue of, by bankers, vol. iv. 470.
protests, vol. iv. 527.
proxies, agreements and instruments for appointing, vol. iv. 569.
purchase deed. See *Conveyance.*
railway passengers, vol. iv. 565.
imposition and collection of duties on, vol. iv. 557—559
real burden. See *Mortgage; Disposition.*
receipts, vol. iv. 533—536, and *notes.*
substitution of penny stamps, vol. iv. 597.
exemptions, vol. iv. 536, 537.
penalty for signing unstamped, &c. vol. iv. 442, 443.
cannot be stamped afterwards, vol. iv. 443.
exceptions, *ib.*
persons requiring may provide the stamp, and demand the duty, vol. iv. 457, 458.
not evidence unless stamped, vol. iv. 458.
recognizances, &c. vol. iv. 537.
registers. See *Admission.*
registry searches in Ireland, vol. iv. 569, 570.
release, vol. iv. 538.
renunciations. See *Conveyance; Release.*
resignations, vol. iv. 538.
revocations, *ib.*
schedules, inventories or catalogues relating to leases, &c. *ib.*
reduced duty on, vol. iv. 588.
exemptions, vol. iv. 538.
scrip certificates, vol. iv. 599.
seisin, vol. iv. 538, 539.
settlements, vol. iv. 539.
reduced duties on, vol. iv. 588.
exemptions, vol. iv. 539.
specifications, *ib.*
stage carriage. See *Licence.*
surrenders, vol. iv. 539, 540.
surrenders of copyhold.
consideration must be stated, vol. iv. 460, 461.
penalties on stewards and others in respect of, vol. iv. 461, 462.
tack of lands. See *Lease.*
tack in security, &c. See *Mortgage.*
testimonials, vol. iv. 540.

STAMPS—*continued.*
transfers, vol. iv. 540. See also *Conveyance* and *Mortgage.*
wadset. See *Mortgage.*
warrants of attorney in general, vol. iv. 540.
reduced duties on, vol. iv. 589.
warrants or orders, vol. iv. 540.

STATUTES.
from queen's printers made evidence, vol. i. 1375, 1382.
clerk of parliament to indorse on act the time it receives the royal assent, vol. iv. 636.
such assent to be the commencement where no other is provided, *ib.*
common law before this enactment, *ib.* n. (*b*).
when bills for continuing expiring acts shall not pass before acts expire, such acts to be continued from their expiration, except as to penalties, vol. iv. 636.
may be altered or repealed in the same session, vol. iv. 637.
may be divided into sections without introductory words, *ib.*
mode of citing, *ib.*
interpretation of certain words for future acts, *ib.*
repealed acts not to be revived by repeal of repealing act, *ib.*
repealed provisions of any act to remain in force until the substituted provisions come into force, *ib.*
construction of words "any thing done under act," vol. i. 323, n. (*f*); vol. ii. 248, n. (*d*), 560, n. (*c*), 947, n. (*c*).

STATUTES MERCHANT, AND STATUTES STAPLE. See *Fraudulent Conveyances.*
to be entered in office of clerk of recognizances, vol. ii. 187.

STEAM VESSELS. See *Ships and Shipping.*

STOCK CERTIFICATE ACT, 1863, vol. iv. 637.

STOCK JOBBING.
contracts made for liberty to be put upon, &c. public stocks, &c. and wagers, &c. made void, &c. vol. iv. 640.
premiums paid recoverable back, and how recoverable, form of declaration, &c. vol. iv. 641.
act a remedial one, vol. iv. 640, n. (*a*).
what amounts to stock jobbing, *ib.* n. (*b*), and 641, n. (*b*).
how far contracts, &c. void, vol. iv. 641, n. (*b*).
persons sued under the act, obliged to answer on oath, vol. iv. 642.
decisions, &c. as to bill of discovery, *ib.* n. (*a*).
security for costs to be given by plaintiff, when, vol. iv. 642.
penalties for stock jobbing, *ib.*
exceptions as to persons discovering, &c. *ib.*
how penalties recoverable, *ib.*
penalty on giving, &c. money to compound differences relating to stock not actually delivered, *ib.*
how penalty recoverable, &c. vol. iv. 643.

STOCK JOBBING—*continued.*
stock sold and not paid for at the time prefixed may be sold to any other person, vol. iv. 643.
what to prove, &c. to recover damages for breach of such contract, &c. *ib.* n. (*a*).
stock bought and not transferred at time prefixed, buyer may purchase other stock, and recover his damage, vol. iv. 643.
how to sue for, &c. *ib.* n. (*b*).
penalty on persons buying or selling stock, of which they are not actually possessed at the time of the contract, vol. iv. 643.
penalty on brokers negotiating such contract, vol. iv. 643, 644.
upon whom penalty attaches, *ib.*, and 644, n. (*a*).
all contracts for stock to be truly entered in broker's book, vol. iv. 644.
on penalty of 50*l.* for omission, *ib.*
7 Geo. 2, c. 8, repealed by 23 Vict. c. 28, vol. iv. 644, n. (*c*).

STYLE. See *Time.*

SUBPŒNA. See *Pleading, Practice, &c.* (*at Law*) *and* (*in Equity*).

SUCCESSION DUTY.
granting duties on succession to property, vol. iv. 644.
interpretation of certain terms, vol. iv. 645.
what dispositions and devolutions of property shall confer successions, *ib.*
definition of terms "successor" and "predecessor," vol. iv. 646.
successors, who to be.
joint tenants taking by survivorship to be deemed, vol. iv. 647.
successions, how conferred.
general powers of appointment, *ib.*
extinction of determinable charges, *ib.*
but persons entitled at commencement of act to immediate reversion, subject to leases for life, not liable to duty, vol. iv. 647, 648.
dispositions accompanied by the reservation of a benefit to the grantor, vol. iv. 648.
dispositions to take effect at periods depending on death, or made for evading duty, *ib.*
duties to be under the care and management of the commissioners of inland revenue, *ib.*
duties on successions, *ib.*
provision as to married persons chargeable with succession or legacy duties, *ib.*
duties payable when the successor is also the predecessor, vol. iv. 648, 649.
provision as to joint predecessors, vol. iv. 649.
duty on transmitted successions, *ib.*
and transferred interests, vol. iv. 649, 650.
succession subject to trusts for charitable or public purposes chargeable with duty, vol. iv. 650.
provision for life policies and certain *post obit* bonds, *ib.*
exemptions, *ib.*
leasehold estates not to be charged with legacy duty as personal estate, *ib.*

SUCCESSION DUTY—*continued.*
duties to be paid on the successor becoming entitled in possession, but in the case of outstanding interests, on the determination thereof, vol. iv. 650, 651.
the interest of a successor in real property to be considered as an annuity, vol. iv. 651.
rules for valuing lands, houses, &c. *ib.*
as to timber, *ib.*
as to advowsons, *ib.*
as to property subject to beneficial leases, *ib.*
as to manors, mines, &c. *ib.*
duty payable by corporations, &c. taking real estates, vol. iv. 652.
allowance for fines, &c. paid by successor, *ib.*
real property, directed to be sold, to be charged as personalty, *ib.*
personal property to be invested in real property, how to be charged, *ib.*
annuities under this act and the legacy duty acts to be valued according to the tables annexed, *ib.*
provisions as to the assessment of personalty, *ib.*
allowance to donee of general power of appointment, *ib.*
what allowance to be made for incumbrances, vol. iv. 653.
no allowance to be made in respect of contingent incumbrances unless they take effect, *ib.*
the duty on successions to be calculated without regard to contingencies, *ib.*
provision for allowance or return of duty, *ib.*
allowance to be made to successor in respect of relinquished property, *ib.*
power for commissioners to compound duties, vol. iv. 654.
to receive duty in advance, *ib.*
to commute future duties, *ib.*
duty to be a first charge on property, *ib.*
provision for the separate assessments of properties, *ib.*
what persons accountable for duty, *ib.*
notice of succession to be given to the commissioners, and a return of the property made, vol. iv. 654, 655.
penalty for not giving notices of succession, vol. iv. 655.
proceeding if return not made, *ib.*
power to enforce returns from executors and administrators, *ib.*
accounting party to verify his account by production of books and documents, and commissioners may, without fee, inspect and take copies of public books, *ib.*
power for accountable party to appeal, *ib.*
duty to be entered by the commissioners in a book, and a stamped receipt to be given, vol. iv. 656.
protection to *bonâ fide* purchasers, *ib.*
court, in suits for the administration of property, to provide for payment of duty, *ib.*
commencement and title of act, *ib.*
appeals from assessments of succession duty may be carried to a supreme court, vol. iv. 657.
courts of appeal, *ib.*
notice of appeal to be given, *ib.*
in summary proceedings for succession duty parties may appeal, *ib.*

SUMMONS.
writ of. See *Pleading and Practice (at Law).*

SUNDAY. See *Church Discipline; Clergy.*
every person shall resort to church on the holy days, vol. iv. 658.
penalty for not going to church, *ib.*
penalty for not repairing to church weekly, *ib.*
every person using any unlawful pastimes on Lord's day to forfeit 3*s.* 4*d.* to poor of parish, vol. iv. 659.
how penalty recoverable, *ib.*
general issue allowed in actions against persons putting act in force, *ib.*
limitations of such actions, *ib.*
ecclesiastical jurisdiction not abridged by act, *ib.*
carriers, &c. travelling on, incur penalty of 20*s.* *ib.*
who such carrier, &c. *ib.* n. (*a*).
butchers killing or selling victual upon, to forfeit 6*s.* 8*d.* *ib.*
after conviction, and by warrant from a justice, &c. constables, &c. may levy penalties to use of poor, or they may be recovered by suit, vol. iv. 659, 660.
tradesmen, artificers, and labourers, exercising ordinary calling, penalty for, vol. iv. 660, 661.
crying or exposing to sale wares, penalty for, vol. iv. 661.
what a person's ordinary calling, vol. iv. 660, n. (*a*).
works of necessity, as baking, &c. excepted, vol. iv. 661, n. (*a*).
drovers, horse coursers, waggoners, butchers, and higglers, travelling, and persons using boats and barges, &c. penalty for, vol. iv. 661.
certain watermen on Thames, &c. may ply on, *ib.* n. (*c*).
form, &c. of conviction, vol. iv. 661.
penalties, how to be levied, *ib.*
in case of insufficiency of distress, offenders to be set in stocks, vol. iv. 661, 662.
penalties, how to be disposed of, vol. iv. 662.
provision for private families, victualling houses, &c. *ib.*
milk may be cried in certain hours, *ib.*
prosecution to be within ten days, *ib.*
hundred not responsible to persons travelling on Lord's day; but to make fresh suit after offenders, *ib.*
service of process on Lord's day void, *ib.*
what other process, &c. on, void, *ib.* n. (*e*).
party may be taken on escape warrant on, *ib.*
provisions as to baking bread, &c. on Sunday, vol. iv. 661, n. (*a*).
sale of beer and other liquors on, vol. i. 387.
proclamations and notices formerly given in church on, how now made, vol. iii. 479.

SURETIES. See *Frauds (Statute of)*, vol. ii. 187, *notes.*

SURGEONS. See *Medical Practitioners.*

SURRENDER
of copyholds. See *Copyholds.*
of terms, &c. to be by deed, vol. i. 824.
stamps on, vol. iv. 539.

TAXES, ASSESSED, vol. iv. 663.

TENANT AND LANDLORD. See *Landlord and Tenant; Leases.*

TENANTS IN COMMON. See *Joint Tenants.*

TENANTS IN TAIL. See *Fines and Recoveries.*

TENDER.
gold coin declared the only legal tender, being the weight and fineness of the Mint indenture, vol. iv. 664.
several acts as to tenders in coin, &c. repealed, *ib.*
no tender of silver coin legal beyond 40s. *ib.*
bank of England notes a legal tender, vol. iv. 664.

TERMS.
when to be held, vol. iii. 693.

TERM OF YEARS.
lease, &c. must (subject to certain exceptions) be by deed, vol. i. 824.

THEATRES.
act for regulating, vol. iv. 750.
all theatres for the performance of plays must be licensed, *ib.*
what licences shall be granted by the lord chamberlain, *ib.*
fee for lord chamberlain's licence, *ib.*
licences may be granted by justices, *ib.*
fee for justices' licence, vol. iv. 751.
to whom licences shall be granted, *ib.*
rules for theatres under the control of the lord chamberlain, *ib.*
rules for enforcing order in theatres licensed by justices, *ib.*
proviso for universities, *ib.*
penalty on persons performing in unlicensed places, *ib.*
no new plays or additions to old ones to be acted until submitted to the lord chamberlain, vol. iv. 751, 752.
fees to be paid for examination of plays, &c. vol. iv. 752.
the lord chamberlain may forbid any play, *ib.*
penalty for acting plays before allowance or after disallowance, *ib.*
what shall be evidence of acting for hire. *ib.*
proof of licence in certain cases to be on the party accused, *ib.*
penalties, how recoverable, *ib.*
appeal, *ib.*
appropriation of penalties, vol. iv. 753.
limitation of actions, *ib.*
interpretation of act, *ib.*
limits of act, *ib.*

THELLUSSON ACT (39 & 40 Geo. 3, c. 98), vol. iv. 916.
why passed, vol. iv. 916, n. (*a*).
does not apply to Irish real estates, *ib.*
or to Irish settlements, by domiciled Irishmen, *ib.*
applies to heritable property in Scotland, vol. iv. 920, n. (*b*).
extends to implied as well as express trusts for accumulation, vol. iv. 916, n. (*d*).
only one of the four permitted periods mentioned in sec. 1 can be taken, vol. iv. 917, n. (*b*).

THELLUSSON ACT—*continued.*
from what time period of 21 years mentioned in that section is to be computed, vol. iv. 917, n. (*e*).
commencement of period for accumulation cannot be deferred, *ib.*
effect of disposition directing accumulation for longer period than allowed by the act, vol. iv. 917, n. (*f*).
time of distribution in case of vested interests not accelerated by the act, vol. iv. 917, n. (*g*).
trust for accumulation for payment of testator's debts valid, though exceeding limits allowed by the rule against perpetuities, vol. iv. 918, n. (*a*).
trusts for accumulation for raising portions, vol. iv. 918, n. (*b*).

TIME. See *Limitation of Actions.*
computation of time in general, vol. iv. 665, and notes (*a*), (*b*).
computation of time from act done, vol. ii. 561, n. (*b*); vol. iii. n. (*a*).
meaning of term "year," vol. iv. 665, n. (*b*).
meaning of term "month," vol. i. 151, n. (*a*); vol. iv. 666 n.
meaning of term "day," &c. *ib.*
fractions of days, when regarded, *ib.*
when day included or excluded, vol. iv. 667 n.
meaning of term "hour," *ib.*
new style created, vol. iv. 665, n. (*b*).
occasion of, *ib.*
old supputation of the year not to be made use of after Dec. 1751, vol. iv. 668.
year to commence on 1st Jan. *ib.*
days to be numbered as now, until 2nd Sept. 1752, and the day following to be accounted 14th Sept., omitting 11 days, *ib.*
hilary and michaelmas terms, and all courts, to be held on same nominal days, *ib.*
courts held with fairs or marts to be excepted, *ib.*
hundredth years, except every fourth hundred, to be common years of 365 days, *ib.*
years bissextile to be 366 days, *ib.*
easter and moveable feasts to be observed according to new calendar, tables and rules, vol. iv. 669.
feasts and fasts, &c. to be according to the new calendar, *ib.*
courts of session and exchequer in Scotland, and markets, fairs, and marts, to be held upon same natural days, *ib.*
times for opening and enclosing the commons not altered, *ib.*
times of payment of rents, annuities, &c. or of delivery of goods, &c. vol. iv. 670.
commencement or expiration of leases, &c. or of attaining age of 21 years, &c. not altered, *ib.*
election of officers, &c. to be done upon same natural days of year 1752 only, as before, *ib.*
times for opening and enclosing grounds for common, and for payment of rents, &c. if same depend on any moveable feast, are to be according to new calendar, vol. iv. 671.
title to such lands not altered, *ib.*

TITHES.
What Things tithable or not, and who to set out.
sylva cædua, vol. iv. 671, n. (*b*).

TITHES—*continued.*
agistment of cattle in a waste where parish not known, vol. iv. 676.
barren heath or waste ground, *ib.*
fish, vol. iv. 678.
payment of tithes by houses, *ib.*
no tithes of marriage goods shall be paid in Wales, &c. vol. iv. 679.
such abbey lands as before the dissolution of the monasteries were discharged of tithes to continue so, vol. iv. 678.
no person to be sued, &c. where lands discharged, vol. iv. 674, 676.
not to pay where discharged by prescription or composition real, vol. iv. 676.
who to pay personal tithes, vol. iv. 677.
handicraftsmen to continue to pay, *ib.*
Mode of setting out or paying.
persons to set forth, &c. their predial tithes in kind without fraud, &c. or forfeit treble value, vol iv. 675.
as to mode of setting out, &c. *ib.* n. (*d*).
tithe owner enabled to view and take tithe away, vol. iv. 676.
penalty for preventing, *ib.*
ground sown with flax or hemp to pay 5*s.* per acre, vol. iv. 682.
Remedies for, and Penalties for evading, &c.
in ecclesiastical courts.
no person to be sued where lands discharged, vol. iv. 674.
remedies to be had in spiritual courts and not in temporal, vol. iv. 675.
offender subtracting tithes may be convented before ordinary, &c. vol. iv. 674, 677, 678.
and be bound by justices of peace to obey ordinary's sentence, vol. iv. 674.
acts not to extend to London, *ib.*
appellant to pay costs of suit to the other party, *ib.*
the ordinary may examine him that refuses to pay his tithe, vol. iv. 677, 678.
payment of offerings, vol. iv. 678.
suits for withholding of tithes shall be in ecclesiastical court, *ib.*
excommunication of party condemned, *ib.*
copy of libel to be delivered to judges before prohibition granted, *ib.*
consultation to be granted for default of proving suggestion, vol. iv. 679.
of what things ecclesiastical judge may hold plea, *ib.*
suits respecting, to be brought in six years, vol. iii. 25.
in temporal courts.
recoveries, &c. may be had in temporal courts, vol. iv. 674.
modes of recovering arrears under lease, vol. ii. 1218, 1219.
penalty, &c. for not setting out tithes, vol. iv. 675, 676.
penalty for obstructing tithe owner, *ib.* n.
limitation of actions, vol. iii. 25.
costs in action for not setting out, vol. iv. 676.
in a summary way before magistrates.
small tithes not paid in 20 days after demand, party may complain to two justices, vol. iv. 680.
TITHES—*continued.*
or where justices are patrons of church, then to justices of adjoining county, vol. iv. 684.
who may summon person complained of, and on default of appearance determine complaint, &c. vol. iv. 680.
on refusal to pay in ten days after notice, constables, &c. may distrain, *ib.*
provisions extended to amount of 10*l.* vol. iv. 690.
proviso as to questions of title, *ib.*
justices to administer an oath, vol. iv. 680.
act not to extend to London, &c. *ib.*
complaint to be made within two years, *ib.*
persons aggrieved may appeal to the sessions, vol. iv. 681.
if judgment confirmed justices to give costs, &c. *ib.*
persons complained of, insisting on any composition, &c. and giving security to pay costs, justices not to give judgment, *ib.*
judgment to be enrolled at next sessions by clerk of peace, &c. *ib.*
persons removing, justices may certify the judgment, &c. *ib.*
justices may give costs not exceeding 10*s.* *ib.*
double costs given, *ib.*
suits for tithes not exceeding 40*s.* not within act, vol. iv. 682.
act to continue three years, *ib.*
subsequently made perpetual, *ib.* n. (*a*).
against quakers before justices.
quakers to make affirmation, which is to be of same force in law as an oath, vol. iv. 683.
form of affirmation, *ib.*
quakers refusing to pay tithes, &c. justices may compel payment if sum be under 10*l.*, vol. iv. 682.
manner of recovering, vol. iv. 690.
persons may appeal to quarter sessions, who are finally to determine, vol. iv. 682.
no judgment therein to be superseded by *certiorari*, *ib.*
Modus, Exemption from, and Composition for.
shortening the time required in claims of modus or exemption, vol. iv. 684.
what prescriptions and claims of modus, &c. to be valid, vol. iv. 685—687, and *notes.*
what compositions to be deemed valid, vol. iv. 686, 687.
certain periods not to be included in computation under act, vol. iv, 688.
proviso as to actions already commenced, vol. iv. 687.
the like as to actions already commenced within limited time after act, *ib.*, and n. (*b*).
power to defendants to stay proceedings since act on payment of costs into court, vol. iv. 689.
plaintiff may give notice to defendant of intention to proceed, *ib.*
defendant receiving such notice may have costs out of court, *ib.*
if plaintiff accepts the costs, proceedings to be abandoned, *ib.*

TITHES—*continued.*
heirs, executors, &c. may act in case of death, vol. iv. 689.
when suspended actions may be proceeded in, to secure evidence, *ib.*
what sufficient to allege in actions commenced under act, vol. iv. 688.
exceptions, &c. to be replied specially, *ib.*
no presumption in support of claim for less period than mentioned in act, *ib.*

Turnips (5 & 6 W. 4, c. 75).
turnips severed from land when subject to tithe, vol. iv. 691.

Commutation of (6 & 7 W. 4, c. 71; 1 Vict. c. 69).
object of act, vol. iv. 691.
commissioners, appointment of, *ib.*
commissioners to report to secretary of state, *ib.*
annual report to be laid before parliament, *ib.*
power to appoint assistant commissioners, &c. *ib.*
number of appointments limited, *ib.*
not to sit in parliament, *ib.*
duration of appointments, *ib.*
continued from time to time, and vested in copyhold inclosure commissioners, vol. i. 868.
salaries and allowances, vol. iv. 691.
travelling and other expenses may be allowed, *ib.*
how salaries, &c. to be paid, *ib.*
oath of commissioners and assistant commissioners, *ib.*
before whom assistant commissioners may be sworn, vol. iv. 715.
appointment to be published in Gazette, vol. iv. 691.
powers of commissioners and assistant commissioners, *ib.*
may summon and examine witnesses, &c. *ib.*
provision for the discovery of books and documents, vol. iv. 730.
no person bound to travel more than ten miles in obedience to summons, vol. iv. 691.
what powers commissioners may delegate to assistant commissioners, *ib.*
construction clause, vol. iv. 691, 692.
where parties to be deemed joint owners of tithes or lands, vol. iv. 692.
when ownership of lands or tithes vested in crown, who to be deemed owner, *ib.*
who to be deemed patron when patronage vested in crown, *ib.*
where same person owner of lands and tithes, or patron, how he may be dealt with, *ib.*
who to act when patron or owner under legal disability, vol. iv. 692, 693.
appointment of agent to carry act into execution, vol. iv. 693.
principal bound by acts of agent, *ib.*
form of appointment, *ib.*
by whom parochial meetings may be called for agreeing on sum to be paid to tithe owners, *ib.*
agreement to be binding on the whole parish, *ib.*
notice of meeting, *ib.*
expenses of attending meeting, *ib.*

TITHES—*continued.*
provisional agreements may be made at such meetings, vol. iv. 693.
when to be binding, *ib.*
power to make award by way of supplement to parochial agreement in cases of fraud, &c. vol. iv. 718.
agreements may be made pending proceedings toward an award, vol. iv. 733.
parties to parochial agreement may fix when it shall begin to operate, vol. iv. 715.
or determine same by supplemental agreement, vol. iv. 733.
otherwise commissioners may fix commencement of rent-charge, vol. iv. 718, 728.
provision for period intervening between end of former composition and the commutation, vol. iv. 715.
extension of powers to fix sum for such period, vol. iv. 728.
particulars to be specified, vol. iv. 728, 729.
proportional interest in lands and tithes, how estimated, vol. iv. 693, 694.
mode of determining lands chargeable with rent-charge, vol. iv. 715.
form of parochial agreement, vol. iv. 694.
commissioners to frame and circulate forms of agreements, &c. *ib.*
commissioner or assistant commissioner may attend to advise terms of agreement, *ib.*
how parochial boundaries to be determined, vol. iv. 713.
judgment of commissioners respecting boundaries removable by *certiorari*, vol. iv. 714, 724.
settlement of disputes as to boundaries by reference to the commissioners, &c. vol. iv. 714, 724.
if removed, how to be dealt with by court of queen's bench, *ib.*
commissioners may award costs of inquiry, vol. iv. 725.
commissioners may adjudicate on parochial boundaries on requisition of landowners, vol. iv. 731, 732.
and on boundaries of glebe, vol. iv. 733.
decisions as to boundary unappealed against to be valid, vol. iv. 742.
power to commissioners to exchange glebe, vol. iv. 733.
although no commutation pending, vol. iv. 742.
suits and differences generally may be referred to arbitration, vol. iv. 694.
submission of persons not having estate in fee not to bind reversioner without consent of commissioners, vol. iv. 695.
provision as to agreements pending at passing of act, *ib.*
consent of patron to be given to every agreement for commutation of ecclesiastical tithe, *ib.*
agreement to be confirmed by commissioners, *ib.*
to be communicated to bishop of diocese before confirmation, *ib.*
parochial agreement for giving land to ecclesiastical tithe-owner by way of commutation, *ib.*
particulars to be specified in such agreement, *ib.*

TITHES—*continued.*
but now may be made at any time, vol. iv. 721.
and powers of giving land for tithes extended, vol. iv. 734.
commissioners to satisfy themselves of title, &c. vol. iv. 696.
expense to be borne by landowners, *ib.*
such lands taken by ecclesiastical tithe-owners to vest absolutely in them, vol. iv. 721.
corporations, trustees, and feoffees to charitable uses may convey lands, *ib.*
extension of last-mentioned powers, vol. iv. 729.
agreements for giving land to operate as conveyances, vol. iv. 696.
appointment of valuers by landowners, *ib.*
valuers to apportion rent-charge, *ib.*
expenses of apportionment to be borne in certain cases as commissioners may direct, vol. iv. 721.
moduses and exemptions to be respected, vol. iv. 696.
umpire may be appointed, *ib.*
valuers may enter on lands for purpose of valuation, *ib.*
to subscribe declaration before acting, *ib.*
old plans and surveys may be used if valuers think fit, vol. iv. 697.
apportionments may be confirmed though commissioners are not satisfied of the accuracy of maps, vol. iv. 721.
agreement for adoption of valuation, &c. vol. iv. 697.
power to commissioners to ascertain total value of tithes in any parish in which no previous agreement made, vol. iv. 697, 733.
how value of tithes to be calculated, vol. iv. 697.
if compounded or demised, composition or rent to be taken as value, *ib.*
reduction, when composition above real value, *ib.*
no deduction to be made on account of parochial and county rates, *ib.*
when commissioners may increase or diminish sum to be paid for commutation, vol. iv. 697, 698.
when cases may be reserved for special adjudication, vol. iv. 698.
special adjudications, how to be made, *ib.*
account may be taken of commutation in neighbouring parishes, vol. iv. 698, 733.
how tithe of hops, fruit, and garden produce to be valued, vol. iv. 698, 723.
how tithe of coppice wood to be valued, vol. iv. 698.
provision for change of culture of hop grounds and market gardens, *ib.*
parties to parochial agreement or commissioners may declare amount of extraordinary charge payable in respect of hop grounds, &c. vol. iv. 698, 729.
no additional amount to be charged during first year, &c. vol. iv. 729, 730.
how valuation to be made where prescribed average not applicable, vol. iv. 699.
provision for tithes of lammas-lands, &c. vol. iv. 719, 729.

TITHES—*continued.*
rent-charge in respect of tithes of common appurtenant to be a charge on the allotments made in respect of the lands to which right of common attached, vol. iv. 720.
provision for dividing the tithe of fruit plantations in certain cases, vol. iv. 723.
newly cultivated fruit plantations to be charged an additional sum, *ib.*
when displanted to be relieved, *ib.*
mixed plantations of hops and fruit, *ib.*
when subject to rectorial and vicarial tithe, screable rent-charge to be fixed, *ib.*
future mixed plantations, *ib.*
how rent-charge for, may be fixed in certain cases, *ib.*
extraordinary rent-charge in respect of hop grounds, market-gardens, &c. need not be distinguished on separate lands in apportionment, vol. iv. 730.
gardens, or lawns of small extent, may be exempted from rent-charge, vol. iv. 731.
moduses, &c. how to be allowed for in award, vol. iv. 699.
proviso as to recent decisions, *ib.*
commissioners may hear and determine disputes, vol. iv. 700.
mode of questioning commissioner's decision, vol. iv. 701, 702.
proceedings before commissioners not to abate by death of parties, vol. iv. 703.
how proceedings for trying decision of commissioners to be carried on in case of death, *ib.*
statutes of limitation not to be affected, *ib.*
but the 2 & 3 W. 4, c. 100, not to have any effect in certain cases, vol. iv. 735.
commissioners to award total sum to be paid for tithes of parish, vol. iv. 703.
award not to extend to giving land, *ib.*
award may be made of rent-charge to certain owners of tithes by general description, vol. iv. 722.
commissioners may hear and determine objections to award, vol. iv. 703.
adjournment of meetings, vol. iv. 703, 722, 723.
award to be confirmed by commissioners, vol. iv. 703.
commissioners to summon parochial meeting to appoint valuers, vol. iv. 704.
if valuation not completed in six months, commissioners to apportion, *ib.*
form of apportionment, *ib.*
apportionment need not contain the several amounts of corn charged on each estate, vol. iv. 714.
when particulars of land need not be stated in voluntary apportionments, *ib.*
when draft of apportionment, or meeting for objections not necessary, *ib.*
comptroller of corn returns to publish average price of corn, vol. iv. 704, 705.
rent-charges to be valued according to average price of corn, vol. iv. 705.
prices at which conversion from money into corn to be made, vol. iv. 715.
rent-charge may be specially apportioned on particular lands at request of landowner, vol. iv. 705.
and amount of rent-charge payable for each close is to be distinguished, vol. iv. 730.

TITHES—*continued.*
how expenses to be paid, vol. iv. 705.
no close to be charged unless three times value of rent-charge, *ib.*
commissioners may employ surveyors, *ib.*
to have power of valuers as to entering lands, &c. *ib.*
apportionment to be signed by person making it, and sent with plan to commissioners, *ib.*
commissioners may hear and determine objections to apportionment, *ib.*
landowner may give land in exchange for ecclesiastical tithes or rent-charge, vol. iv. 706, 721.
with like consent as in case of parochial agreement for land, vol. iv. 706.
former agreement for land to be annulled by subsequent agreement, *ib.*
confirmation of apportionment by commissioners, *ib.*
map or plan to be annexed, *ib.*
apportionments and agreements may be confirmed, although commissioners not satisfied of accuracy of maps, vol. iv. 713.
copies of confirmed instruments, where and with whom to be deposited, vol. iv. 706.
place of deposit may be altered by quarter sessions, vol. iv. 741.
right of inspection, &c. vol. iv. 706.
recitals to be evidence of facts recited, *ib.*
power to use maps for parochial purposes, vol. iv. 735.
commissioners may require notice of agreements, &c. to be given to reversioner, vol. iv. 706.
confirmed agreements, &c. not to be questioned, vol. iv. 706, 743.
may be corrected if land improperly included, vol. iv. 743.
and instruments to be delivered up for that purpose, *ib.*
lands to be discharged from tithes, and rent-charge paid in lieu thereof, vol. iv. 707.
half-yearly payments to be regulated by averages, vol. iv. 730.
rent-charge to be recovered by distress and entry, vol. iv. 707.
no person to be personally liable for, *ib.*
when payment to be made, *ib.*
power of commissioners to fix period of commencement by supplemental award, vol. iv. 728.
same days of payment of all parts of same rent-charge, vol. iv. 735.
lands to be free from tithes when lands given in lieu thereof, vol. iv. 707.
provisions for payment of tithe between award and confirmation of apportionment, vol. iv. 725, 726.
power to declare lands discharged from tithes in certain cases after confirmation of the award or agreement for gross rent-charge, *ib.*
time of commencing such rent-charge, vol. iv. 726.
intermediate payments to be deducted, *ib.*
certain leases of tithes not to be affected by act, *ib.*
notice of declaration to be published, *ib.*

TITHES—*continued.*
provision for landowner paying estimated proportion of rent-charge in aid of security, vol. iv. 726.
certificate of commissioners to be evidence of right of recovery or retainer, vol. iv. 727.
provision for occupying tenant paying (in the place of his landlord) estimated proportion of rent-charge in aid of security, *ib.*
provision for recovery of such rent-charge from persons giving security for same, *ib.*
remedy for the landowner against whom execution has issued, *ib.*
provision for taking accounts between the person giving security and the landowners liable to contribute thereto, vol. iv. 728.
period for which security to be available against such owners, *ib.*
if security insufficient, arrears may be recovered as if accruing after apportionment, *ib.*
security to be free of stamp duty, *ib.*
rent-charge to be liable to rates, vol. iv. 707.
how rates and charges to be assessed and recovered, *ib.*
name of each occupier and sum charged on him to be specified by assessor of taxes on notice from owner, vol. iv. 717.
apportionment of rates, *ib.*
occupying tenant paying same may deduct amount from rent, vol. iv. 707.
and costs in case of distress, &c. vol. iv. 730.
rent-charge to be subject to same incumbrances, &c. as tithe before act, vol. iv. 707, 708.
but fixed rent-charge may be substituted for contingent rent-charge on lands partially exempt, vol. iv. 719, 729.
extended to crown lands, vol. iv. 719.
rent-charge not to merge, but tenant in fee may declare same merged, vol. iv. 708.
persons having power of appointment over tithes may merge them, vol. iv. 716.
when tenant for life may cause tithe of settled lands to merge, *ib.*
on merger, the charges on tithes or rent-charge to be charges on land, vol. iv. 717.
power for special apportionment of such charge on lands being of three times the value of the charge, *ib.*
tithes and rent-charge of glebe may be merged, *ib.*
provision for deducting value of tithes and rent-charge from arbitrary fines in cases of merger in copyholds, vol. iv. 717, 718.
tithes or rent-charge may be merged after agreement or award, and before apportionment, vol. iv. 741.
powers relating to merger may be executed by a person entitled in equity, vol. iv. 741, 742.
apportionment may be altered by commissioners of land-tax if desired, vol. iv. 708.
mode of effecting this alteration, vol. iv. 708, 735.
copy of altered apportionment to be sent to the tithe office, vol. iv. 736.

TITHES—*continued.*
commissioners to cause a new apportionment to be made in cases in which the apportionment shall have included tenements from which no tithe has been taken during seven years previous to Christmas, 1835, vol. iv. 731.
costs of new apportionment, *ib.*
alteration of apportionment after inclosure, division, allotment, or exchange of lands, vol. iv. 740.
when confirmed to be valid, *ib.*
expenses, how borne, *ib.*
supplemental apportionment where rent-charge made payable to one instead of several owners, *ib.*
commissioners empowered to declare that lands as to which doubts have arisen shall be considered a separate district for commutation, vol. iv. 740, 741.
residue to remain subject to the original award, vol. iv. 741.
expenses of witnesses to be paid under direction of commissioners, vol. iv. 708.
expenses of award to be paid by landowners and tithe-owners, as commissioners may direct, vol. iv. 709, 721.
recovery of expenses, vol. iv. 721.
expenses of apportionment to be borne rateably by landowners, vol. iv. 709, 721.
expenses recoverable by distress, vol. iv. 709.
owners of particular estates may charge costs on estate for twenty years, *ib.*
extended to corporate and collegiate bodies, vol. iv. 720.
colleges and corporations aggregate may charge expenses on other lands than those in respect of which such expenses are incurred, vol. iv. 720, 721.
power to charge expenses in certain cases on renewal fines, &c. vol. iv. 730.
costs of ecclesiastical tithe-owners may be charged on benefice for twenty years, vol. iv. 709, 734.
when landlord may take tithes during tenancy, vol. iv. 709.
tenant paying rent-charge to be allowed same in account with landlord, vol. iv. 710.
after twenty-one days' arrears of rent-charge may be distrained for, vol. iv. 710.
not more than two years' arrears are to be recoverable by distress, *ib.*
mode of proceeding where rent-charges in arrear forty days, and no sufficient distress, *ib.*
power to owner of rent-charge to let land taken under writ of possession, vol. iv. 735.
how to proceed in case of quakers, vol. iv. 711.
to what lands power of distress to extend, *ib.*
no land liable to be distrained on for rent-charge of lands washed away, &c. *ib.*
rent-charges may be apportioned under 4 & 5 Will. 4, c. 22, *ib.*
remedy for enforcing payment of contribution to rent-charge, vol. iv. 736.
service of process generally, *ib.*
provision for general avowry in actions of replevin for rent-charge, *ib.*
irregularity not to vitiate proceedings, vol. iv. 737.

TITHES—*continued.*
provision for sale of buildings, &c. rendered unnecessary by act, vol. iv. 711.
extended to collegiate bodies, vol. iv. 720.
leases of tithes may be surrendered, vol. iv. 711.
tithes due before commutation not to be affected, vol. iv. 712.
questions of arrears and costs of suits, how settled, vol. iv. 735.
act not to extend to Easter offerings, &c. vol. iv. 712.
power after award to make parochial agreements for, vol. iv. 718.
not to extend to payments instead of tithes in London, vol. iv. 712.
not to extend to rent-charges by custom or act of parliament, *ib.*
advertisements and instruments under acts not liable to stamp duty, vol. iv. 712, 715, 728.
correspondence of commissioners relating to act free from postage, vol. iv. 712.
false evidence to be deemed perjury, *ib.*
withholding, to be deemed a misdemeanour, *ib.*
limitation of actions, against commissioners, &c. *ib.*
proceedings not to be quashed for want of form, &c. vol. iv. 718.
redemption of rent-charges.
power to landowners to redeem a rent-charge not apportioned where the amount does not exceed 15*l.* vol. iv. 737.
on payment of the consideration money, commissioners to certify that the parish is discharged of tithes, *ib.*
power to redeem rent-charge erroneously apportioned on lands not chargeable therewith, vol. iv. 737, 738.
or to correct same, vol. iv. 743.
costs of such correction, *ib.*
after redemption, apportionment of remainder to be valid, vol. iv. 738.
separate rent-charges not exceeding 20*s.* in amount may be redeemed after apportionment, *ib.*
extraordinary charge not to be affected, *ib.*
commissioners to certify the amount of consideration money for redemption, *ib.*
how payable, *ib.*
if payable to spiritual owners to be paid to the governors of queen Anne's bounty, vol. iv. 739.
where owners under disability, *ib.*
where consideration money under 20*l.* *ib.*
power to persons entitled for limited interests to charge expenses of redemption, *ib.*
commissioners' certificates of redemption to show amount of consideration, vol. iv. 739, 740.
23 & 24 Vict. c. 93.
corn rents under local acts may be converted into tithe rent-charge, vol. iv. 743.

TITHES—*continued.*
county or towns from whose returns average to be calculated, vol. iv. 744.
how average to be calculated, *ib.*
commissioners to apportion rent-charge, *ib.*
power of appeal to a court of law, *ib.*
comptroller of corn returns to furnish information, *ib.*
commissioners to have same powers as in tithe commutations, *ib.*
as to expenses of awards, &c. *ib.*
copies of award to be deposited, &c. *ib.*
as to recovery of rent-charges awarded in lieu of corn rents, *ib.*
where consents not given, drafts of proposed altered apportionment to be deposited for inspection, vol. iv. 745.
in case of objection commissioners to appoint a time for hearing the same, *ib.*
rent-charge may be apportioned and redistributed on the same or on other lands, *ib.*
where fences removed rent-charge may be apportioned on land tithe-free jointly with other land, *ib.*
land not to be charged to a different owner than before, without consent, *ib.*
consent of landowner not required where his lands are not charged, *ib.*
power to commissioners to alter apportionment where successive alterations have made it inconvenient or difficult, but not to alter amount, &c. *ib.*
power to commissioners to alter apportionment where boundaries of parishes have been altered, *ib.*
powers for altering apportionments or awards, vol. iv. 746.
tithes commuted for a sum or rate per head may be converted into a rent-charge, *ib.*
gross rent-charge may be apportioned on gated or stinted pastures, *ib.*
rent-charge on commons may be commuted for a part of the land, or redeemed, *ib.*
if rent-charge is commuted for land, commissioners to set out the land and to vest the same in owner, *ib.*
commissioners to set out land to be sold for purposes of redemption, *ib.*
conveyance of land sold to be executed by commissioners, *ib.*
where rate per head is in arrear the same may be recovered by distress, *ib.*
upon inclosure, rate per head may be converted into rent-charge, vol. iv. 746, 747.
power to commissioners to order maps to be detached from instruments of apportionments, vol. iv. 747.
provision for restoration of damaged instrument of apportionment, *ib.*
justices may order an instrument of apportionment to be restored to proper custody, *ib.*
expenses of recovering rent-charge, *ib.*
notice of intention to distrain may be sent by post, *ib.*
commissioners may order a rent-charge not exceeding 15*l.* to be redeemed before apportionment, *ib.*
where land divided, commissioners may order rent-charge to be redeemed after apportionment, vol. iv. 747, 748.
provision in cases where rent-charge has been charged on lands which, in consequence of error in boundary, are not within the parish where aggregate charge is awarded, vol. iv. 748.
provision for charging rent-charge where land made chargeable for more than one parish, *ib.*
commissioners shall give notice of their intention to order compulsory redemption, *ib.*
if person refuse to receive redemption money, to be dealt with as if under disability, *ib.*
trustees may be appointed to receive sums not exceeding 200*l.* payable to corporation, *ib.*
provisions of recited acts applicable to redemptions under this act, *ib.*
expenses and redemption money, how to be raised, *ib.*
informal arrangements may be confirmed, vol. iv. 749.
copyhold and other lands may be exchanged for glebe, *ib.*
formation of district within which extraordinary charge in respect of hop grounds and market gardens shall be payable, *ib.*
power to enter on land, *ib.*
recited acts and this to be as one, *ib.*

TOLLS. See *Turnpike Roads.*
clerks of bodies empowered to levy tolls, &c. to make annual returns to secretary of state, vol. iv. 753.
returns to be made for the latest year for which accounts are made up, *ib.*
who are to make returns in certain cases, *ib.*
penalty for default, *ib.*
saving for returns already required, *ib.*
abstracts of returns to be laid before parliament, *ib.*
saving for joint-stock companies and private rights of toll, &c. vol. iv. 754.

TONNAGE. See *Highway; Turnpike Roads.*

TOWNS IMPROVEMENT.
The Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), vol. iv. 754.
extent of act, *ib.*
interpretation of terms, *ib.*
title of act, vol. iv. 755.
form in which portions of act may be incorporated with other acts, *ib.*
until appointment of an inspector under some general act, the commissioners may proceed in the execution of act without his approval, *ib.*
appointment of surveyor, *ib.*
declaration by him, *ib.*
appointment of inspector of nuisances, vol. iv. 756.
same person may be inspector and surveyor, *ib.*
offices for surveyor and inspector, *ib.*
appointment of officer of health, *ib.*

Maps and Plans.
formation of map of the district, *ib.*
map to be open to inspection, *ib.*
ordnance may furnish commissioners with maps, or cause surveys to be made, *ib.*
level lines to be marked and bench marks made for denoting the same vol. iv. 757.

TOWNS IMPROVEMENT—*continued.*
copying, engraving or printing maps, vol. iv, 757.
expenses, how paid, *ib.*
plans of alterations, &c. *ib.*
before giving notice of construction of works, plans to be prepared and deposited in the office of the commissioners, *ib.*
the taking of lands to be subject to the provisions of act and the Lands Clauses Consolidation Act, 1845, *ib.*
correction of errors, and omissions in plans, &c. *ib.*
deposit of justice's certificate of same, *ib.*
compensation to parties for damage done by proceedings under act, vol. iv. 757, 758.
how to be determined where parties cannot agree, vol. iv. 758.
management of sewers and other works vested in the commissioners, *ib.*

Drains and Sewers.
formation of drainage districts, *ib.*
powers to commissioners to construct sewers where none exist, *ib.*
compensation to owners of property, *ib.*
alteration of sewers, *ib.*
existing sewers, &c. not to be destroyed without providing others, *ib.*
penalty for neglect, *ib.*
commissioners to cause estimates to be prepared and submitted to the inspector before entering into contracts, *ib.*
expense of new sewers, vol. iv. 758, 759.
reduction of occupiers' rates where lands, &c. were sufficiently drained before, vol. iv. 759.
expense of maintaining sewers, *ib.*
penalty for making unauthorized drains, *ib.*
vaults and cellars under streets not to be made without the consent of the commissioners, *ib.*
streets may be stopped for repairs, *ib.*
sewers, &c. to be covered with traps, *ib.*
sewers may be used by owners and occupiers of land beyond the limits of the town or district, *ib.*
construction of drains from houses, and expense of same, *ib.*
no house to be built without drains, *ib.*
where houses are rebuilt, the level shall be raised sufficiently to allow a drain to be constructed, vol. iv. 760.
notice to commissioners, of buildings and rebuildings, *ib.*
commissioners' disapproval, when may be signified, *ib.*
effect of building without notice or contrary to this or special act, *ib.*
power of parties to proceed if commissioners fail to signify their approval or disapproval of plans, *ib.*
commissioners may require owners of houses to provide privies and ashpits, *ib.*
penalty for neglect, *ib.*
drains, privies, and cesspools to be kept in good order by the owners, *ib.*
if owners neglect, commissioners may cause the same to be done and charge the owners with the expense, *ib.*
inspection of drains, privies, and cesspools, *ib.*
penalty for making or altering drains, &c. contrary to the order of the commissioners, vol. iv. 761.

TOWNS IMPROVEMENT—*continued.*
Streets.
management of, vested in the commissioners, vol. iv. 761.
commissioners to be surveyors of highways, *ib.*
and liable to indictment for want of repair, *ib.*
road trustees not to collect tolls within limits of act, *ib.*
power for the commissioners to pave public streets, *ib.*
and to place fences to footways, *ib.*
commissioners may cause public streets, not before paved, to be paved at the expense of the occupiers of adjoining lands, vol. iv. 761, 762.
future streets may be declared highways, vol. iv. 762.
commissioners, upon completion of two-thirds of any street, may upon application, require remaining one-third to be completed by owners of houses, *ib.*
penalty for altering pavements without the consent of the commissioners, *ib.*
notice to commissioners of intention to lay out new streets, *ib.*
levels to be fixed by the surveyor, *ib.*
on failure to fix levels parties may proceed without, *ib.*
persons laying out streets without notice to be liable to the expenses of subsequent alterations of levels, *ib.*
situation of gas and water pipes to be altered at the expense of the commissioners, vol. iv. 762, 763.
if gas or water company neglect to make the alteration, the commissioners may cause the same to be done, vol. iv. 763.
width of new streets, *ib.*
houses to be numbered and streets named, *ib.*
numbers of houses to be renewed by occupiers, *ib.*
houses may be set forward for improving line of street, *ib.*
commissioners may purchase houses or ground for effecting additional improvements, *ib.*
projecting houses, when taken down, to be set back, *ib.*
future projections to be removed on notice, *ib.*
removal of existing projections, and compensation, vol. iv. 763, 764.
doors to open inwards, vol. iv. 764.
doors opening outwards may be altered, *ib.*
coverings for cellar doors to be made by occupier, *ib.*
penalty for neglect, *ib.*
water spouts to be affixed to houses or buildings, *ib.*
ruinous or dangerous buildings to be taken down or secured by owners, &c. *ib.*
on neglect of owner, &c. to repair, commissioners may cause same to be done at expense of owner, *ib.*
expenses to be levied by distress, *ib.*
if owner cannot be found, commissioners may take the house or ground, making compensation under 7 & 8 Vict. c. 18, vol. iv. 764, 765.
commissioners may sell the materials, restoring to the owner overplus arising from the sale, vol. iv. 765.

TOWNS IMPROVEMENT—*continued.*
bars to be erected across the streets, and lights at night, during repairs or alterations, vol. iv. 765.
hoards to be set up during repairs, *ib.*
penalty for not lighting deposits of building materials or excavations, *ib.*
penalty for continuing deposits of building materials or excavations an unreasonable time, *ib.*
dangerous places to be repaired or inclosed, *ib.*
commissioners to give notice of new levels or sewers, vol. iv. 766.
meeting of commissioners to hear objections in the presence of the inspector, *ib.*
persons aggrieved by order of commissioners may appeal to quarter sessions, *ib.*
commissioners to cause streets to be cleansed, and dust and ashes to be removed from the houses, *ib.*
occupiers to cause footways to be swept, *ib.*
penalty for neglect, vol. iv. 767.
commissioners may compound for sweeping footways, *ib.*
dust, &c. collected to be vested in the commissioners, *ib.*
lands, &c. for deposit of soil and materials, *ib.*
dust boxes to be erected, *ib.*
and public conveniences, *ib.*
streets to be watered, and wells, pumps, &c. provided, *ib.*
appointment of scavengers, *ib.*
penalty for obstructing, *ib.*
penalty for unlawfully removing dirt, *ib.*
or conveying offensive matter at improper times, vol. iv. 767, 768.

Prevention of Nuisances.
stagnant pools of water and other annoyances to be removed, vol. iv. 768.
regulations to prevent accumulation of dung, &c. *ib.*
on certificate of the officer of health, filth to be removed, *ib.*
houses to be whitewashed and purified on certificate of officer of health, &c. *ib.*
regulation as to depth of graves, vol. iv. 768, 769.
justices may order nuisances to be abated, vol. iv. 769.
penalty for disobedience, *ib.*
payment of costs of prosecutions out of rates, *ib.*
act not to affect nuisances at common law, *ib.*
fireplaces of factories, &c. to consume their own smoke, *ib.*

Construction of Houses for the Prevention of Fire.
party walls to be carried up through the roof, vol. iv. 769, 770.
walls of buildings and coverings of roofs to be made of incombustible materials, vol. iv. 770.

Supplying Buildings with fresh air.
construction of buildings intended as places for public meetings, *ib.*
no person to build until plan has been approved by commissioners, *ib.*
on failure of approval or disapproval within fourteen days, party may proceed to build, *ib.*

TOWNS IMPROVEMENT—*continued.*
appeal against determination of commissioners, vol. iv. 770.
cellars in courts not to be occupied as dwellings after letting prohibited, *ib.*
cellars under certain height not to be let as dwellings, *ib.*
penalty for such letting, *ib.*

Lodging Houses,
regulation and inspection of, vol. iv. 771.
register of lodging-house keepers, and rules for promoting cleanliness and ventilation, *ib.*
penalty for not complying with act, *ib.*

Lighting Town or District,
commissioners may contract for lighting the streets, *ib.*
price of gas, how to be ascertained in case of dispute, *ib.*

Supply of Water,
public cisterns and pumps for supply of water to baths and washhouses, *ib.*
such new works not to be constructed without approval, *ib.*
contract by commissioners for the supply of water, *ib.*
price of water, how to be ascertained in case of dispute, vol. iv. 771, 772.
fire plugs, &c. to be provided and maintained, vol. iv. 772.

Slaughter Houses, &c.
licence of, by commissioners, *ib.*
not to be erected in future without licence, *ib.*
register of existing, *ib.*
bye-laws for the regulation of, *ib.*
suspension of licence in addition to penalty, *ib.*
penalty for slaughtering cattle during suspension of licence, *ib.*
right of officers to enter and inspect, vol. iv. 773.

Authority of Commissioners by Special Order.
as to certain matters authorized to be done by the commissioners by special order only, *ib.*
final resolution not to be carried into effect for one month, nor then if a majority of the ratepayers remonstrate against the same, *ib.*
power of commissioners, by special order, to purchase slaughter-houses, &c. *ib.*
and places for public recreation, &c. *ib.*

Baths, &c.
power of commissioners to purchase public bathing places and drying grounds, *ib.*
proportion of baths for the working classes, vol. iv. 773, 774.
charges for the use of baths, vol. iv. 774.
recovery of charges, *ib.*
publication of bye-laws in regard to baths, &c. *ib.*
sale of baths on their discontinuance, *ib.*
application to parliament for additional powers, *ib.*
power of commissioners to provide public clocks, *ib.*

Powers of Entry, &c. of Commissioners.
right to enter lands, &c. for purposes of act, *ib.*
penalty for obstructing commissioners, *ib.*

TOWNS IMPROVEMENT—*continued.*

Execution of Works.

service of notice on owners and occupiers of buildings and lands, vol. iv. 774.
commissioners, in default of owner or occupier, may execute works and recover expenses, vol. iv. 775.
occupier, in default of owner, may execute works, and deduct expenses from rent, *ib.*
recovery of expenses from owner, *ib.*
power to levy charges on occupier, who may deduct the same from his rent, *ib.*
occupier not to be liable for more than the amount of rent due, *ib.*
commissioners may allow time for repayment by owners of improvement expenses, *ib.*
proceedings in case of tenants opposing the execution of this act, *ib.*
effect of act on existing contracts for building, vol. iv. 776.
and on contracts for leases, *ib.*

Rates for Sewers, Drains, and Private Improvements.

power to charge occupiers with rates, *ib.*
power to make special sewer rate, *ib.*
power to make general sewer rate, *ib.*
power to borrow money by mortgage of sewer rates, *ib.*
sewer rate to be of such amount as to pay off moneys borrowed thereon in thirty years, *ib.*
cases where rates may be charged on separate and distinct districts, *ib.*
rates to be levied on separate and distinct districts, vol. iv. 776, 777.
drainage rates, vol. iv. 777.
deduction by occupiers of proportion of drainage rate from their rent, *ib.*
deduction of same by landlords being also tenants, *ib.*
limitation of expenditure for house drains, &c. *ib.*
upon whom rates in general to be levied, *ib.*
proportion to be paid by holders of lands, nursery grounds, &c. *ib.*
exemptions from rates, *ib.*
rates may be prospective or retrospective, *ib.*
estimates to be prepared before making a rate, *ib.*
notice of rate to be given, vol. iv. 778.
form of rate, *ib.*
rate to be open to inspection of ratepayers, who may take copies, &c. *ib.*
rates may be amended, *ib.*
value of property to be ascertained according to poor rate, *ib.*
if poor rate an unfair criterion, a valuation to be made, *ib.*
declaration by valuer before acting, *ib.*
poor rates to be open to inspection by commissioners, *ib.*
owner of property unoccupied to be assessed to the sewer rate, *ib.*
unoccupied premises to be included in the rates, and if the premises are afterwards occupied a portion of the rates to be paid, vol. iv. 778, 779.
owners of property not exceeding 10*l.* per annum to pay instead of occupier, vol. iv. 779.
not necessary to name the owner where unknown, *ib.*

TOWNS IMPROVEMENT—*continued.*

tenants under existing leases to repay the owner, vol. iv. 779.
occupiers may be rated if they think fit, *ib.*

Appeal against Rates.

appeal to petty sessions against rates, *ib.*
and from thence to quarter sessions, *ib.*
decisions to be final, *ib.*
order of justices not to be in force pending appeal, vol. iv. 780.
power of courts of appeal to amend and quash rates, and award costs, *ib.*
order of justices not to be removed by *certiorari*, *ib.*

Recovery of Rates.

rates to be recovered by distress, *ib.*
form of rate, vol. iv. 783.
form of warrant, vol. iv. 780, 783.
constables to assist, vol. iv. 780.
rate books to be evidence, *ib.*
remedy against persons quitting before payment, *ib.*
apportionment of rates on holder quitting, *ib.*
recovery from occupier of rates due from owner, vol. iv. 780, 781.
amount not to exceed rent owing by him, vol. iv. 781.
penalty on occupier refusing to give name of owner, *ib.*
proceedings by surveyors of highways for the recovery of arrears of highway rates, *ib.*

Bye-laws.

power to commissioners to make, *ib.*
may be enforced by penalties, *ib.*
to be confirmed, *ib.*
notice of confirmation, *ib.*
copy of proposed, to be open to inspection, vol. iv. 781, 782.
publication of, vol. iv. 782.
to be binding on all parties, *ib.*
evidence of, *ib.*
penalty on pulling down boards containing, *ib.*

Miscellaneous Provisions.

tender of amends for acts done in execution of act, *ib.*
clauses of Railway Clauses Consolidation Act, 1845, as to recovery of damages, &c incorporated with this and the special act *ib.*
in Ireland, part of penalties to be paid to guardians of unions, *ib.*
powers conferred on one justice, *ib.*
persons giving false evidence guilty of perjury, *ib.*
copies of special act where to be kept, vol iv. 783.
penalty for omission, *ib.*

26 Vict. c. 13.

gardens in certain squares, &c. may be free from neglect, encroachments, &c. and vested in the metropolitan board of work or other corporate authority; or vested in a committee of rated inhabitants, vol. iv 784.
protection of open spaces belonging to private persons from encroachment, vol. iv 785.
expenses how to be defrayed, *ib.*
bye-laws for management of garden, &c. *ib*

TOWNS IMPROVEMENT—*continued.*
evidence of, vol. iv. 785.
penalties, *ib.*
penalty for injuring garden, *ib.*
certain provisions of 18 & 19 Vict. c. 120, to be incorporated with this act, and to apply to penalties, &c. imposed by this act, *ib.*
11 & 12 Vict. c. 43, also to apply, *ib.*
act not to extend to property of the crown or to property under the management of the commissioners of works, &c. *ib.*
extent of act, *ib.*

TRADE-MARKS (COUNTERFEITING),
25 & 26 Vict. c. 88.—"The Merchandize Marks Act, 1862."
construction of words: "person," "mark," "trade-mark," "misdemeanour," vol iv. 786.
forging a trade-mark or falsely applying any trade-mark with intent to defraud, a misdemeanour, *ib.*
applying a forged trade-mark to any vessel, case, wrapper, &c. in or with which any article is sold or intended to be sold, a misdemeanour, *ib.*
selling articles with forged or false trade-marks after 31st December, 1863, penalty equal to value of articles sold, and a sum not exceeding 5*l.* nor less than 10*s.* vol. iv. 787.
additions to and alterations of trade-marks made with intent to defraud, to be deemed forgeries, *ib.*
any person who, after 31st December, 1863, shall have sold an article having a false trade-mark to be bound to give information where he procured it, *ib.*
power to justices to summon parties refusing to give information; penalty for refusal, 5*l.*, *ib.*
marking any false indication of quantity, &c. upon an article with intent to defraud, penalty a sum equal to the value of the article and the further sum not exceeding 5*l.* and not less than 10*s.*, vol. iv. 787, 788.
selling or exposing for sale after the 31st December, 1863, articles with false statement of quantities, &c., penalty not more than 5*l.* nor less than 5*s.*, vol. iv. 788.
proviso that it shall not be an offence to apply names or words known to be used for indicating particular classes of manufactures, *ib.*
description of trade-marks and forged trade-marks in indictments, &c. *ib.*
conviction not to affect any right or civil remedy, *ib.*
intent to defraud, &c. any particular person, need not be alleged in an indictment, &c. or proved, *ib.*
persons who aid in the commission of a misdemeanour to be also guilty, *ib.*
punishment for misdemeanour under this act, *ib.*
recovery of penalties, vol. iv. 789.
summary proceedings before justices to be within 11 & 12 Vict. c. 43, *ib.*
in actions penalties to be accounted for in like manner as other monies payable to the crown, and plaintiffs to recover full costs of suit, *ib.*

TRADE-MARKS (COUNTERFEITING)—*continued.*
limitations of actions, &c. vol. iv. 789.
after 31st December, 1863, vendor of an article with a trade-mark to be deemed to contract that the mark is genuine, *ib.*
after 31st December, 1863, vendor of an article with description upon it of its quantity to be deemed to contract that the description was true, vol. iv. 789, 790.
in suits at law or in equity against persons for using forged trade-marks, court may order articles to be destroyed, and may award injunction, &c. vol. iv. 790.
persons aggrieved by forgeries may recover damages against the guilty parties, *ib.*
defendant obtaining a verdict to have full indemnity for costs, *ib.*
a plaintiff suing for a penalty may be compelled to give security for costs, *ib.*
act not to affect the corporation of cutlers of Hallamshire, nor to repeal 59 Geo. 3, c. 7, vol. iv. 700, 701.
short title, vol. iv. 701.

TRADER. See *Bankruptcy.*

TRANSFER. See *Conveyances; Leases.*
stamp duty as to, vol. iv. 540.

TREASURER
of turnpike roads. See *Turnpike Roads.*

TREATING ACTS. See *Parliament.*

TRESPASS.
limitation of actions of. See *Limitation of Actions.*
costs in actions for. See *Costs.*

TRIAL. See *Pleading, Practice, &c. (at Law).*

TRIAL, WRIT OF. See *Pleading, Practice, &c. (at Law).*

TRINITY HOUSE. See *Ships and Shipping (Pilots).*

TROVER.
limitation of action of, to six years. See *Limitation of Actions.*

TRUCK ACT, vol. iii. 319. See *Master and Servant.*

TRUSTEES, &c. See also *Pleading, Practice, &c. (in Equity). Uses and Trusts.*
For better securing Trust Funds, and for the Relief of Trustees (10 & 11 Vict. c. 96, and 12 & 13 Vict. c. 74), vol. iv. 791, 793.
power to trustees to pay trust moneys or transfer stocks and securities into the court of chancery, vol. iv. 792, 793.
receipt of bank cashier, or certificate of proper officer, to be sufficient discharge, vol. iv. 793.
court of chancery to make orders on petition, without bill, for application of trust moneys and administration of trust, *ib.*
order may be made on concurrence of majority of trustees, vol. iv. 794.
lord chancellor, with master of the rolls, &c. may make general orders, vol. iv. 793.
construction of expression "lord chancellor," *ib.*

TRUSTEES, &c.—*continued.*

Consolidating and amending Laws relating to the conveyance and transfer of Real and Personal Property vested in Mortgagees and Trustees (13 & 14 Vict. c. 60, extended, 15 & 16 Vict. c. 55), vol. iv. 794, 806.

interpretation clause, vol. iv. 794.
lord chancellor may convey estates of lunatic trustees and mortgagees, vol. iv. 796.
and contingent rights, *ib.*
and transfer their stock, *ib.*
power to transfer stock of deceased person whose personal representative is a lunatic, *ib.*
court of chancery may convey estates of infant trustees and mortgagees, vol. iv. 796, 797.
contingent rights of infant trustees and mortgagees, vol. iv. 797.
court of chancery may convey the estate of a trustee out of the jurisdiction of the court, *ib.*
court may make order in cases where persons are seised of lands jointly with parties out of the jurisdiction of the court, &c. *ib.*
contingent rights of trustees, vol. iv. 798.
court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the court to a contingent right in lands, *ib.*
effect of order when it is uncertain which of several trustees was the survivor, *ib.*
when it is uncertain whether the last trustee be living or dead, *ib.*
when trustee dies without an heir, *ib.*
contingent right of unborn trustee, *ib.*
power to make an order for vesting the estate on refusal or neglect of a trustee to convey or release, vol. iv. 806, 807.
power to convey in place of mortgagee, vol. iv. 799.
power to appoint a person to convey in certain cases, *ib.*
court of chancery may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale, vol. iv. 806.
as to lands in Lancaster and Durham, vol. iv. 799, 800.
when trustee of stock out of the jurisdiction, vol. iv. 800.
or refuses to transfer, *ib.*
when one of several trustees of stock refuses to transfer or receive and pay over dividends, vol. iv. 800, 801.
when stock is standing in name of deceased person, vol. iv. 801.
power to make an order for the transfer or receipt of dividends of stock in name of an infant trustee, vol. iv. 807.
on neglect to transfer stock for twenty-eight days, order may be made vesting right to transfer in such person as the court shall appoint, *ib.*
on like neglect by executor, similar order may be made, *ib.*
effect of an order vesting the legal right to transfer stock, vol. iv. 801, 807.
parties empowered to execute deeds and powers of attorney, vol. iv. 807.
bank of England and companies to comply with orders of the lord chancellor or court of chancery, *ib.*

TRUSTEES, &c.—*continued.*

indemnity to bank and companies so obeying, vol. iv. 807.
effect of order vesting legal right in a chose in action, vol. iv. 801.
or vesting copyhold lands, or appointing any person to convey copyhold lands, *ib.*
effect of decree made for sale of real estate for payment of debts, vol. iv. 802.
court to declare what parties are trustees of lands comprised in any suit, and as to the interests of persons unborn, *ib.*
power to make directions how the right to transfer stock to be exercised, *ib.*
power to appoint new trustees, *ib.*
in lieu of persons convicted of felony, vol. iv. 807, 808.
where no existing trustee, vol. iv. 808.
power of new trustees, vol. iv. 803.
power to court to vest lands in new trustees, vol. iv. 803, 808.
and right to sue at law, vol. iv. 803.
old trustees not to be discharged from liability, *ib.*
who may apply, *ib.*
chancellor may make order for appointment of trustees without it being necessary that it should be made in chancery, &c. vol. iv. 808.
as to powers of persons intrusted with the care of lunatics, *ib.*
power to go before the master in the first instance, vol. iv. 804.
and upon certificate of the master to petition the court or the lord chancellor, *ib.*
or to present petition in the first instance, *ib.*
what may be done upon petition, *ib.*
court may dismiss it with or without costs, *ib.*
or make order thereon, *ib.*
orders made by the court of chancery, founded on certain allegations, to be conclusive evidence of the matter contained in such allegations, *ib.*
powers may be exercised with reference to charities, vol. iv. 805.
no escheat of property held upon trust or mortgage, *ib.*
but not to prevent escheat or forfeiture of beneficial interest, *ib.*
money of infants and persons of unsound mind to be paid into court, *ib.*
court may make a decree in the absence of a trustee, *ib.*
powers of the master, *ib.*
costs may be paid out of the estate, *ib.*
commission concerning persons of unsound mind, vol. iv. 806.
suit may be directed, *ib.*
powers of court of chancery to extend to property in the colonies, *ib.*
powers given to the court of chancery may be exercised by that court in Ireland, *ib.*
powers of lord chancellor in lunacy to extend to property in the colonies, *ib.*
and may be exercised by lord chancellor of Ireland, *ib.*
short title and commencement of act, *ib.*
stat. 15 & 16 Vict. c. 55, to be construed as part of it, vol. iv. 808.
orders to be chargeable with the same duty as deeds of conveyance, *ib.*

TRUSTEES, &c.—*continued.*
trustees, &c. making payments under powers of attorney not to be liable by reason of the death of givers of powers, vol. iv. 808.
party entitled to money to have his remedy against the person to whom it is paid, *ib.*
liability of executors and administrators, in respect of rents and covenants, &c. in leases, *ib.*
how this liability may cease, vol. iv. 808, 809.
lessor's right to follow assets of the deceased preserved, vol. iv. 809.
liability of executors, &c. in respect of rents, &c. in conveyances or rent-charge, *ib.*
how this liability may cease, *ib.*
grantor's right to follow assets, *ib.*
executors and administrators, after having given notices as in an administration suit, may distribute assets, *ib.*
not afterwards liable to claims of which they had no notice, *ib.*
right of claimant to follow assets of the deceased preserved, *ib.*
trustees, executors, and administrators, may apply to a judge of chancery for opinion, advice, &c. *ib.*
form of application, vol. iv. 810, 811.
service and hearing of application, vol. iv. 809.
trustees, &c. acting upon opinion or advice of judge, deemed to have discharged their duty, &c. *ib.*
unless fraud or concealment, vol. iv. 809, 810.
every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the trustees, vol. iv. 810.
unless expressly forbidden, trustees may invest in land in any part of the united kingdom, *ib.*
in stock of the bank of England or Ireland, *ib.*
in East India stock, *ib.*
power to lord chancellor, &c. of England and Ireland to make general orders as to investment of cash under the control of the court, vol. iv. 811.
trustees may invest trust funds in the stocks, &c. in which cash under control of the court may be invested, *ib.*

Extent of Act:
act not to extend to Scotland, vol. iv. 810.

23 & 24 Vict. c. 145.
Power of trustees for sale and of renewable leaseholds:
trustees empowered to sell may sell in lots, and either by auction or private contract, vol. iv. 811.
whether vested in them or not, *ib.*
sale may be made under special conditions, and trustees may buy in, &c. *ib.*
trustees exercising power of sale, &c. empowered to convey, vol. iv. 812.
moneys arising from sales, &c. to be laid out in other lands, *ib.*
as indicated by instrument containing power, *ib.*
no leaseholds under sixty years to be purchased, *ib.*
money received may be applied in payment of incumbrances, *ib.*
money arising from sales, &c. not to be laid

TRUSTEES, &c.—*continued.*
out, nor lands exchanged elsewhere than in the country in which lands sold or exchanged are situated, vol. iv. 812.
until purchase of lands, &c. money to be invested at interest, *ib.*
trustees of renewable leaseholds may renew, *ib.*
money for equality of exchange and for renewal of leases may be raised by mortgage, &c. vol. iv. 812, 813.
no sale, &c. to be made without consent of tenant for life, &c. unless there be intention or will, &c. vol. iv. 813.

Provisions as to Investment of Trust Funds.
on what securities trust funds may be invested, *ib.*
trustees may apply income of property of infants, &c. for their maintenance, *ib.*
provisions for appointment of new trustees on death, &c. *ib.*
vesting of property, vol. iv. 813, 814.
appointment of new trustees in cases herein named, vol. iv. 814.
trustees' receipts to be discharges, *ib.*
executors may compound for debts, &c. *ib.*
arbitration, *ib.*

General Provisions:
tenants for life, &c. may execute powers notwithstanding incumbrances, *ib.*
who deemed to be entitled to possession, *ib.*
powers, &c. hereby given may be negatived by express declaration, *ib.*
no persons other than those entitled under the settlement, &c. to be affected, *ib.*
commencement of act, *ib.*
extent of act, *ib.*

25 & 26 Vict. c. 108.
powers of sale, exchange, partition, or enfranchisement, not to be invalid on the ground of want of express mention of exception of reservation of minerals, &c. vol. iv. 815.
not to confirm sales, &c. declared invalid or pending, *ib.*
trustees may dispose of land or minerals separately, without the residue, &c. *ib.*
sanction of court of chancery requisite, *ib.*
extent of act, *ib.*

TURNPIKE ROADS.
as to highways in general. See *Highway.*
as to bridges. See *Bridges.*
regulating the use of locomotives on, vol. ii. 682.
repeal of statutes prior to 3 G. 4, vol. ii. 590*y*.
after 1 Jan. 1823, stat. 3 G. 4, c. 126, to extend to all local acts for making, &c. turnpike roads, vol. ii. 591.
powers of 9 G. 4, c. 77, extended to prior acts, vol. ii. 667.
of 3 G. 4 extended by 4 G. 4, c. 95, vol. ii. 656.
acts for South Wales, vol. ii. 674.
commissioners under inclosure acts have no power to alter turnpike roads, &c. vol. ii. 728.
explanation of words, vol. ii. 664.
union of trusts, vol. ii. 678.
disqualifications for office under commissioners, vol. ii. 612.
rating, vol. ii. 605.

URNPIKE ROADS—*continued.*

ILLS FOR MAKING.

parties interested may signify their consent to any turnpike bill by affidavit, vol. ii. 632.
justices of peace or masters extraordinary in chancery empowered to take all such affidavits, *ib.*
affidavits not liable to stamp duty, *ib.*
proof of handwriting of justice to be deemed sufficient, *ib.*

RUSTEES AND COMMISSIONERS.

Who shall be, Qualifications and Duties of, and Restrictions on.

explanation of word "trustees," vol. ii. 664.
justices of peace to be trustees, vol. ii. 607, 657, 658.
but this not to extend to magistrates taking oath of qualification as trustees, vol. ii. 645.
justices acting for ridings or divisions, &c. through which roads pass, to have like powers for making, &c. turnpike roads as justices for counties, vol. ii. 657, 658.
qualifications of trustees in general, vol. ii. 608.
by personal property within ten miles of London, *ib.*
losing qualification, vol. ii. 645.
trustees to be sworn, vol. ii. 608, 644.
oath to be taken, *ib.*
penalty 50*l.* for not taking, *ib.*
proceedings valid, though oath omitted to be taken, under 3 G. 4, vol. ii. 644, 645.
quakers making affirmation may act as trustees, vol. ii. 608, 644.
explaining trustees' qualification as required by former acts, vol. ii. 645.
trustee losing his qualification to become incapable of acting, *ib.*
trustees not to act where interested, or while keeping a victualling house, &c. vol. ii. 608.
saving mortgages of tolls, *ib.*
owners of estates, &c. not to be disqualified as interested persons, vol. ii. 658.
penalty for acting not being qualified, 50*l.* vol. ii. 608.
person sued, to prove his qualification, *ib.*
proceedings not to be impeached on account of disqualification, *ib.*
mortgagee on tolls not disqualified on that account, *ib.*
trustees and commissioners not to hold places of profit or be concerned in contracts, &c. vol. ii. 609.
penalty on so doing, *ib.*
contracts and bargains, &c. void, *ib.*
trustee having shares in canal companies, &c. which shall contract for conveyance of materials on roads not liable to penalty on account of such contract, vol. ii. 645.
as to appointing new trustees on vacancies, vol. ii. 610.
notice to be given fourteen days before meeting, *ib.*
as to meetings and proceedings, &c. of, see *infra.*

Meetings and Proceedings of.

powers as to meetings after passing of 4 G. 4, c. 95, vol. ii. 645.

TURNPIKE ROADS—*continued.*

regulations as to meetings of trustees, vol. ii. 645.
votes, &c. vol. ii. 646.
notice of meetings, *ib.*
expenses of, vol. ii. 645.
how meetings on emergencies shall be held, vol. ii. 646.
general annual meetings to be held, vol. ii. 610, 669.
if not held, clerk to send statement to secretary of state, vol. ii. 676.
where trustees cannot meet at time appointed, vol. ii. 639.
when sufficient number do not attend on the day appointed, vol. ii. 673.
where a local act has fixed a different time for annual meeting than that mentioned in recited act, it may be held on that day, vol. ii. 646.
orders and proceedings to be entered in books, vol. ii. 610.
inspection, *ib.*
books to be evidence, vol. ii. 611, 664.
books kept under repealed acts to be evidence, vol. ii. 664.
books of accounts to be kept, and to be open to inspection of trustees and creditors, vol. ii. 611.
penalty not exceeding 5*l.* on clerk for refusing inspection, &c. *ib.*
if trustees resolve to apply to parliament to alter powers or increase tolls, copy of resolution to be sent to secretary of state, vol. ii. 670.
joint meetings of trustees of several roads, vol. ii. 674, 675.

Liabilities of.

trustees not to be personally liable as such, vol. ii. 659, and note (*a*).
trustees may sue and be sued in name of clerk, &c. vol. ii. 611.
no abatement by death, &c. *ib.*
expenses of trustee, &c. to be defrayed out of tolls, vol. ii. 612.

TREASURER,

to hold office notwithstanding act repealed, unless removed by trustees, vol. ii. 667.
contracts with, valid though act repealed, vol. ii. 666.

CLERK OF TRUSTEES.

trustees may appoint and remove clerks, and allow salaries, vol. ii. 646.
to hold office notwithstanding act repealed, unless removed by trustees, vol. ii. 667.
to account with trustees when required, and to produce vouchers, &c. vol. ii. 647.
proceedings in case of neglect, *ib.*
clerk, or his partner, not to act as treasurer, vol. ii. 660, 661.
not to be surveyor under penalty of 50*l.* vol. ii. 647.

SURVEYOR,

trustees may appoint and remove, &c. vol. ii. 646.
to hold office, notwithstanding act repealed, unless removed by trustees, vol. ii. 667.
not to act as clerk, vol. ii. 647.
not to accept any other office under penalty, *ib.*
not to have any interest in contracts, &c. *ib.*

TURNPIKE ROADS—*continued.*

COLLECTOR,

appointment of, salary, &c. vol. ii. 646.
trustees may appoint temporary collectors, &c. in certain cases, vol. ii. 648.
no person to gain a SETTLEMENT by renting tolls, or by residence in toll-houses, vol. ii. 605.
collectors permitting carriages to pass otherwise than allowed by act, and not prosecuting, to forfeit not exceeding 5*l.* *ib.*
toll collectors to put up their names, vol. ii. 643.
taking greater or less toll, &c. *ib.*
abusing or obstructing passengers, &c. penalty for, vol. ii. 644.
not to take more or less than authorized toll, vol. ii. 606.
toll collectors taking more toll than allowed, to be proceeded against before a justice, and not by indictment, vol. ii. 648.
if toll collectors abscond, penalties to be levied on lessees of tolls, vol. ii. 605.
collectors not to be incompetent to give evidence, vol. ii. 607.
to account, vol. ii. 647.

CREDITORS,

of tolls, not disqualified as such from being trustees, vol. ii. 608.
or from acting as justices, *ib.*
or from being witnesses, vol. ii. 655.
no reduction of tolls to be made without consent of creditors in certain cases, vol. ii. 603.
mortgagees to be creditors, in proportion to amount of their mortgages, vol. ii. 614.
as to mortgages. See *infra, Mortgage of Tolls.*
books of accounts to be open to inspection of, vol. ii. 611.
instead of paying of creditors rateably, trustees may by agreement do so by lot, vol. ii. 650.
trustees of insolvent turnpike trusts, with consent of two-thirds in value of the creditors, may apply for a personal order for reduction of rate of interest on extinguishment of arrears, vol. ii. 678, 679.
confirmation of order, vol. ii. 679.

ACCOUNTS,

books of accounts, &c. to be kept by clerk, who is to produce same and allow inspection, &c. vol. ii. 611.
accounts of treasurers, surveyors, &c. to be audited at general annual meeting, vol. ii. 612.
proceedings in case of default; *ib.*
such accounts, when settled by trustees, to be signed by chairman, *ib.*
general statement of debts, &c. to be made out by clerk, and when approved, &c. to be transmitted to clerk of peace, *ib.*
penalty for neglect, vol. ii. 613.
time of making, vol. ii. 669.
clerk of peace to register same, and produce them to quarter sessions, vol. ii. 613.
when registered, to be open to inspection, &c. *ib.*
annual account to be printed, and a copy sent to each acting trustee, *ib.*

TURNPIKE ROADS—*continued.*

books of accounts to be evidence, vol. ii. 664.
statements, &c. to be sent to secretary of state, vol. ii. 669, 676.
by mortgages in possession, vol. ii. 676.
statement of probable expenditure for current year to be prepared, vol. ii. 669.
to be laid before parliament, vol. ii. 670.
secretary of state to inquire into, *ib.*

MAKING AND IMPROVEMENT, &c. OF ROADS, POWERS, &c. AS TO PURCHASE OF LANDS, &c.

repeal of 3 Geo. 4, c. 126, as to diverting, &c. vol. ii. 614, 665.
powers for making and improving roads, *ib.*
trustees may vary, alter, &c. vol. ii. 665.
penalty for pulling up, &c. stakes, &c. marked out, vol. ii. 666.
lands may be purchased for improving the road, vol. ii. 615.
bodies politic, &c. and incapacitated persons, empowered to sell, *ib.*
contracts for, binding, *ib.*
when persons interested neglect or refuse to treat, the value may be ascertained by a jury, *ib.*
how jury to be impanneled, &c. vol. ii. 616.
fines may be imposed on sheriffs, &c. making default, &c. *ib.*
money assessed for lands, &c. to be paid by trustees, and tendered to parties entitled thereto, or paid into bank, upon which premises shall vest in trustees, *ib.*
after new road is completed, old road may be sold, vol. ii. 617.
conveyances executed by trustees, and enrolled in office of clerk of peace, to be valid, *ib.*
sale of unnecessary tenements authorised, vol. ii. 650.
how expenses of jury and witnesses are to be borne, vol. ii. 617.
mines, &c. under roads, vol. ii. 618.
when any parts of land not wanted for purposes of roads are to be sold, the first offer to be made to original or adjoining owners, *ib.*
what evidence of such offer and refusal, vol. ii. 619.
in case of dispute as to price, value to be ascertained by jury, *ib.*
application of compensation money, vol. ii. 619, 661, 662.
application, &c. in case of not making out title, or persons not being found, vol. ii. 662.
persons in possession presumptively entitled to premises, vol. ii. 663.
court of exchequer to direct payment of expenses in certain cases, *ib.*
trustees to pay expenses of sales of lands, &c. vol. ii. 649.
power to pay off mortgages, vol. ii. 661.
effect of conveyances, vol. ii. 651.
trustees not to pull down dwelling-houses, or take in gardens, &c. without consent, *ib.*
trustees to fence roads, *ib.*
sale of unnecessary tenements, vol. ii. 650.
regulating repair of roads when widened, &c. in case of liability to repair old roads, vol. ii. 652.

TURNPIKE ROADS—*continued.*
damages and charges, in case of dispute, to be settled by justices, vol. ii. 653.
lands liable to repair of roads and bridges, &c. to continue so, vol. ii. 663, 664.
contracts may be made for amending roads, &c. vol. ii. 654.

MATERIALS, &c.
power to get materials from river, &c. or from waste lands, without expense, vol. ii. 619.
or from lands of any person, not being garden ground, &c. on tendering satisfaction for damages, *ib.*
materials may be carried through any inclosed or open lands on tendering satisfaction, *ib.*
any difference as to damages may be settled by two justices, vol. ii. 619, 620.
justices to award no further sum than materials could be sold for, vol. ii. 663.
proceedings in case of non-payment, vol. ii. 653.
notices to be given before materials taken from private lands, and two justices shall decide therein, vol. ii. 620.
if pits or holes are made in getting materials, surveyors shall cause them to be filled up or fenced off, *ib.*
penalty for not filling up or fencing off, 20*s.* *ib.*
penalty for not fencing off, &c. in six days after receiving notice, not more than 10*l.* nor less than 40*s.* *ib.*
power to contract for lands to get materials, *ib.*
penalty on taking away materials before surveyor has discontinued digging, 5*l.* *ib.*
repositories for materials to be provided, vol. ii. 621.
two justices to settle difference arising as to their value, *ib.*
canal companies may lower tolls on materials for repairing, &c. *ib.*
ground may be purchased for repository of materials within ten miles of royal exchange, vol. ii. 649.

CAUSEWAYS, DITCHES, DRAINS, &c.
power to make causeways by side of road, vol. ii. 622.
where turnpike road is ruinous, roads may be made through adjoining grounds, *ib.*
recompense to be made to owners for damages, *ib.*
in case of difference, two justices shall settle it, *ib.*
trustees not empowered to repair causeways, unless specially authorised, *ib.*
ditches, &c. of sufficient depth and breadth, to be made by occupiers of lands for keeping roads dry, *ib.*
penalty on default not exceeding 5*l.* *ib.*
watercourses and drains may be turned, vol. ii. 622, 623.
trustees may make drains, watercourses, &c. vol. ii. 652.
expenses of repairing drains, &c. in towns to be defrayed equally between trustees and inhabitants, vol. ii. 623.
account of expense of repairs to be laid before two justices, who shall proportion amount to be paid by parties, vol. ii. 623.
penalty for injuring, &c. vol. ii. 625.

MILESTONES, DIRECTION POSTS, LAMPS, &c.
milestones and direction posts to be erected, vol. ii. 624.
names of towns, &c. to be put up at entrance, and stones to mark boundaries of parishes, *ib.*
penalty for defacing them not exceeding 10*l.* *ib.*

SCRAPINGS,
of roads vested in trustees, vol. ii. 607.
penalty for taking, vol. ii. 653.

WATERING,
of roads,
extending time for, vol. ii. 624.

CENTRE, &c.
what shall be deemed the centre, vol. ii. 626.
no encroachment to be made on the waste lands lying on the side of any road, *ib.*

MINERALS, &c.
under road, to belong to original proprietors of land, vol. ii. 664.
although road sold, mines, &c. to belong to persons entitled, vol. ii. 618.

TOLLS,
Letting, Farming of, &c.
tolls to be collected, vol. ii. 607.
vested in trustees, *ib.*
powers for trustees or commissioners to farm out tolls, vol. ii. 605.
notice to be given for letting tolls, *ib.*
form of notice, vol. ii. 634.
tolls to be put up at the sum produced the preceding year, vol. ii. 606.
mode of receiving biddings, *ib.*
if toll be not let at such auction, a private tender may be accepted, *ib.*
penalty on collectors taking more or less than the authorised toll, 5*l.* *ib.*
limiting leases to three years, *ib.*
tolls may be let in lots, vol. ii. 648, 649.
by mortgagee, vol. ii. 676.
trustees may appoint some person to bid at letting tolls, vol. ii. 649.
tolls of another adjoining trust may be farmed, *ib.*
contracts and agreements to be valid when signed by trustees, &c. vol. ii. 607.
lessees may appoint persons to receive, who shall be subject to like penalties as collector appointed by trustees, *ib.*

Mortgage of Tolls,
mortgages prior to 9 Geo. 4, c. 77, made valid, vol. ii. 666.
bonds, &c. to remain in force notwithstanding repeal of act, *ib.*
mortgagees in possession of tolls to account to trustees, vol. ii. 604.
penalty 50*l.* for neglect, &c. *ib.*
mortgagee keeping possession after receipt of money due, to forfeit double sum and treble costs, *ib.*
action of ejectment may be supported by one mortgagee, *ib.*
but not if interest paid, vol. ii. 677, 678.
toll to be applied to benefit of all the mortgagees, vol. ii. 605.

TURNPIKE ROADS—*continued.*
mortgagee in possession may let tolls, vol. ii. 676.
to account, and after payment to deliver up possession, vol. ii. 677, 678.
power to borrow money, vol. ii. 613.
form of mortgage, *ib.*
mortgages may be assigned, vol. ii. 614.
form of assignment, *ib.*
assignment to be produced and notified to clerk of commissioners, &c. *ib.*
trustees may cancel mortgages and execute others, vol. ii. 666.
and renew mortgages lost or mislaid, *ib.*
mortgagees to be paid equally, vol. ii. 614.
instead of paying off creditors rateably, trustees may do so by lot, vol. ii. 650.
power given to pay off in first instance money due on mortgage, vol. ii. 661.
trustees not personally liable for mortgages, vol. ii. 650.
books of accounts, &c. to be kept and be evidence, vol. ii. 650, 664.
subscriptions, recovery of, vol. ii. 665.
sinking fund to pay money borrowed, vol. ii. 675, 677, 679, 680.

Advancing of Tolls,
trustees may advance tolls that have been reduced, vol. ii. 603.
notice of meeting for, *ib.*
such advance not to exceed amount fixed by other act, *ib.*
advances on carriages, &c. to be made in first instance on those with six-inch wheels, and so on, &c. *ib.*

Additional Tolls on Account of Wheels, &c.
nails of tires of wheels of waggons, &c. to be so countersunk as not to project beyond a quarter of an inch above the surface of tires, vol. ii. 640.
penalty on using them contrary thereto, *ib.*
waggons, &c. having fellies of less breadth than four and a-half inches to pay one-half more than toll payable on waggons, &c. having six-inch wheels, vol. ii. 591.
wheels of four and a-half inches and less than six inches in breadth, one-fourth more toll payable, *ib.*
where waggons, &c. are constructed in a particular manner, trustees may order that toll to be taken shall not be less than two-thirds of full toll, *ib.*
power to trustees to measure wheels, *ib.*
penalty on obstructing measurement not exceeding 5*l.* *ib.*
penalty on toll collector allowing waggons to pass before measurement, &c. not exceeding 5*l.* vol. ii. 591, 592.
where 13 Geo. 3, c. 84, in respect of tolls to be taken for carriages with wheels of certain description has not been acted on, tolls shall be payable according to scale herein specified, vol. ii. 640.
where a scale of tolls is adapted to width of wheels, and additional tolls under 13 Geo. 3, c. 84, not collected, scale of tolls imposed by local act to continue, *ib.*
in case tolls not leased, or if leased, &c. they may be reduced, when, *ib.*
breadth of wheels or regulations as to weight, &c. not to extend to coaches, &c. vol. ii. 642.

TURNPIKE ROADS—*continued.*
nor to wheels not less than four and a-half inches broad, vol. ii. 671, 672.

Additional Tolls on Account of Weight of Carriages, &c.
regulations as to weights of waggons, &c. vol. ii. 592.
additional weights for carriages built with springs, vol. ii. 593.
two-wheeled drays drawn with three horses allowed 2 tons 16 cwt. *ib.*
additional tolls for overweight, *ib.*
regulations as to weight not to extend to manure, &c. *ib.*
contractors may be released from contracts so far as regards tolls or penalties for overweight, on giving notice, &c. by a certain time, vol. ii. 593, 640, 641.
new contracts may be made with contractors, vol. ii. 594, 641.
penalty on unloading goods, &c. to evade toll or obstructing weighing, 5*l.* on owner of waggon, &c. and not exceeding 40*s.* on driver, vol. ii. 594.
no exemption by acts prior to 4 Geo. 4, c. 95, to be claimed unless carriages with four and a-half inch fellies are used, vol. ii. 641.
carts, &c. having paid single toll, only to pay single toll on return although subject to double toll, vol. ii. 669.
exemptions from toll not to extend to the tolls for overweight, unless such tolls are also especially exempted, vol. ii. 642.
trustees or commissioners, within ten miles of London, may reduce tolls for overweight, *ib.*
regulations of weight not to extend to one piece of metal, *ib.*
schedule of table of weights to be used instead of schedule No. 2, of 3 Geo. 4, c. 126, vol. ii. 657.

Additional Tolls on Carriages fixed to others and Oxen,
tolls to be paid upon carriages affixed to others, vol. ii. 598.
two oxen to be considered as one horse, vol. ii. 602.

Composition for Tolls, Reduction, or Advance,
composition may be made for tolls for one year, vol. ii. 641.
trustees may reduce tolls, vol. ii. 603, 640.
and afterwards advance them, vol. ii. 603.
form of order for reduction, vol. ii. 603.
reduction not to be made without consent of creditors in certain cases, vol. ii. 634.
reduction or advance of tolls to be made proportionably, *ib.*
on lime, vol. ii. 677.
may reduce additional toll for overweight, vol. ii. 672.
tolls to be taken for locomotives, vol. ii. 682.

Exemptions from Tolls,
exemptions from toll on manure, &c. to be in force notwithstanding same should be carried into, &c. adjoining parish, vol. ii. 595.
cattle going to pasture, to water, or to be shoed, vol. iv. 668.

TURNPIKE ROADS—*continued.*
tolls payable on waggons going empty for road materials, &c. to be repaid when returning laden, vol. ii. 595, 596.
penalty for not returning such tolls not exceeding 5*l.* vol. ii. 596.
toll not to be taken on account of baskets, &c. being in waggons, &c. laden with manure, &c. *ib.*
post horses having passed through any gate may return toll free before nine in morning of following day, *ib.*
decisions thereon, *ib. notes.*
horses having passed through a gate and returning drawing a carriage, the toll paid on the horses to be deducted, vol. ii. 598.
horses and carriages attending the sovereign or royal family, *ib.*
other horses, &c. belonging to the sovereign or royal family exempt, vol. ii. 642.
materials for roads and bridges, vol. ii. 598.
surveyors, &c. not exempt, vol. ii. 598, 642, 643.
manure, unless charged by local act, vol. ii. 589, 599, 642, 672.
lime, unless charged by local act, vol. ii. 639, 673, 677.
abatement to be made in contract for tolls, where toll on lime considered to be payable or contract to be void after expiration of a month, vol. ii. 639.
carts, &c. carrying agricultural produce not sold or for sale, vol. ii. 599.
horses, &c. employed in husbandry, &c. exempt, *ib.*
persons, &c. going to or returning from church, *ib.*
or attending funerals in parish, *ib.*
ministers on their parochial duty, *ib.*
conveying vagrants or prisoners, *ib.*
conveying the mails, *ib.*
horses of officers or soldiers on duty, *ib.*
police, marines, &c. vol. ii. 599, n. (*i*).
conveying baggage, or any sick, ordnance, or public stores, vol. ii. 599, 600.
horses and carriages used by corps of yeomanry, &c. vol. ii. 600.
conveying persons to or from county elections, vol. ii. 601.
crossing roads, &c. vol. ii. 601, 673, 674.
exemption of toll on Sundays, &c. of persons going, &c. to church, not to extend to turnpike within five miles of London, &c. vol. ii. 601.
exempting carriages conveying king's stores, &c. for penalties for overweight, *ib.*
penalty not exceeding 5*l.* on fraudulently taking benefit of exemption, vol. ii. 601, 667.
proof of exemption to be on claimant, *ib.*
penalty for taking from party exempt, vol. ii. 644.
exemptions granted by local acts not taken away, vol. ii. 643, 672.
carts crossing or not passing above 100 yards on road, vol. ii. 673, 674.
horses and carriages, &c. of volunteers exempted, vol. ii. 685.
penalty for demanding toll from volunteers, &c. *ib.*
penalty for personating volunteers, &c. *ib.*

TURNPIKE ROADS—*continued.*
as to exemptions from overweight, &c. See infra, *Weighing Engines, &c.*

Erection, Removal, &c. of Toll Gates,
vested in trustees, vol. ii. 607.
power to continue or erect, vol. ii. 664, 665.
restriction as to erecting toll-gates on sides of turnpike roads, vol. ii. 603.
this repealed, and powers now enlarged, vol. ii. 664, 665.
if trustees cause gates to be erected contrary to any act of parliament, justices may order them to be removed, vol. ii. 604.
lamps to be put up at toll-houses, vol. ii. 661.
form of notice of meeting for ordering erection of side gates, vol. ii. 633.
of order for erecting, *ib.*

Toll Houses,
property of toll-houses, &c. vested in trustees, vol. ii. 607.
actions may be brought in the name of clerk, *ib.*
toll-houses not wanted, to be pulled down and materials sold, vol. ii. 649.
lessees or persons appointed by them may occupy toll-houses, *ib.*
trustees may take possession of toll-house, &c. in default of performance of conditions, &c. vol. ii. 649, 650.
residence in, not to confer a settlement, vol. ii. 644.

Weighing Engines, and additional Tolls for Overweight.
power given for erecting weighing machines, vol. ii. 594.
when erected, toll-keepers to weigh waggons, &c. of weight not allowed, and to compel payment of additional toll, *ib.*
penalty on obstructing weighing not exceeding 5*l.* *ib.*
trustees, &c. may cause waggons, &c. to return to be weighed in case of neglect of collector, vol. ii. 594, 595.
surveyors to make convenient places for turning carriages where weighing-engines erected, vol. ii. 595.
drivers refusing to return, to forfeit not exceeding 5*l.* *ib.*
where roads on different trusts meet, trustees to fix on some place for erecting engine, and proportion the expense, &c. *ib.*

Table of Tolls.
trustees to put up tables of tolls, vol. ii. 601, 643.
penalty for injuring, vol. ii. 653.
tickets denoting payment of toll to be delivered to persons paying toll, vol. ii. 602, 643.

Recovery of Tolls, and Penalties for evading.
mode of recovering tolls pointed out, vol. ii. 602.
collector may distrain, &c. *ib.*
if toll and charges be not paid in four days, distress may be sold, *ib.*
any justice may settle disputes concerning tolls, *ib.*
penalty not exceeding 5*l.* for evading tolls, *ib.*

TURNPIKE ROADS—*continued.*
proof of exemption to be on defendant, vol. ii. 667.
penalty on unloading, &c. to evade, vol. ii. 594.
penalty for obstructing weighing, *ib.*
if there be any ambiguity in the construction of the act, the court will lean to that construction which relieves the subject of a burthen (*Chambers* v. *Williams*, 5 B. & C. 36; *Norris* v. *Poate*, 3 Bing. 41; *Stockton Railway Co.* v. *Barrett*, 11 Cl. & Fin. 590).

Tickets for Tolls,
tickets, denoting payment of, to be given, &c. vol. ii. 602, 643.
production of tickets to clear gates, *ib.*
penalty for forging, &c. vol. ii. 603.
for demanding more or less than legal toll, vol. ii. 643.

OBSTRUCTIONS AND ANNOYANCES, REMOVAL, &c. OF.
provision for removing and preventing annoyances, vol. ii. 622.
throwing dung, &c. on road, or within eighty feet of centre, *ib.*
penalty for second offence 5*l.* vol. ii. 623.
persons making encroachments on roads, making drains, &c. or otherwise injuring, or turning plough on road, &c. to forfeit 40*s.* vol. ii. 624, 653.
encroachments to be removed, vol. ii. 624.
encroachment on waste lands prohibited, vol. ii. 626.
other annoyances, injuries, &c. prohibited, vol. ii. 625, 653.
gates to open inwards, vol. ii. 626.
opening outwards to be removed, *ib.*
owner to pay expense of removal, and forfeit not exceeding 40*s.* *ib.*
penalty on persons riding on footpaths, or damaging bridge, &c. vol. ii. 625.
and this whether repaired by trustees or by parish, vol. ii. 663.
drawing timber, &c. vol. ii. 625.
injuring the road, *ib.*
slaughtering of cattle, *ib.*
driving cattle with panniers, &c. *ib.*
obstructing passage of travellers, *ib.*
light of blacksmiths' shops, *ib.*
making bonfires, &c. *ib.*
baiting bulls, playing at football or other games, *ib.*
leaving waggons, &c. *ib.*
laying timber, &c. *ib.*
running of water or filth, *ib.*
swine, *ib.*
leaving block stones, &c. *ib.*
damaging lamps, *ib.*
pulling down, &c. rails, vol. ii. 653.
damaging bridges, walls, &c. *ib.*
throwing rubbish in drains, *ib.*
taking away materials, dirt, &c. *ib.*
wilfully preventing persons, &c. from passing on road, *ib.*
digging saw pits within thirty feet of centre of road, *ib.*
railway crossings, vol. ii. 571.
no windmill to be erected within 200 yards of road, vol. ii. 626, 627.
carriers' dogs to be fastened to the carriage, vol. ii. 654.
cattle found straying on roads to be impounded, *ib.*

TURNPIKE ROADS—*continued.*
limiting extent of penalty, vol. ii. 654.
right to pasturage not taken away, *ib.*
punishing persons guilty of pound breach, vol. ii. 625.
seizing unknown offenders, vol. ii. 629.
penalty on obstructing measurement, &c. of overweights, vol. ii. 594.

DRIVERS OF CARRIAGES, &c. REGULATIONS AS TO.
one driver may take charge of two carts, provided they are drawn only by one horse each, vol. ii. 627.
not to extend to carts within ten miles of London, *ib.*
children not to drive carts, &c. on penalty of 10*s.* *ib.*
drivers of waggons or carts not to ride thereon, unless some other person on foot to guide, *ib.*
causing hurt to others, or quitting road, *ib.*
or driving carriage without owner's name, *ib.*
or not keeping left or near side, or interrupting free passage, *ib.*
driver, if not owner, to forfeit 40*s.* vol. ii. 628.
if he be owner, 5*l.* *ib.*
penalty on driver not discovering his name, *ib.*
if driver offend against provisions of any act, and abscond, master to pay penalty, vol. ii. 653.
misbehaviour, &c. of stage-coachmen, guards, &c. vol. ii. 627.
as to evading tolls, &c. See *Penalties for evading Tolls, supra.*

Skidpans to be used.
directions as to using skidpans or slippers, vol. ii. 626.
penalty on driver not using them, not exceeding 20*s.*, *ib.*

Carriages, &c. to be marked, &c.
for discovery of offenders, names of owners to be painted on waggons, &c. vol. ii. 641.
penalty for omission, vol. ii. 642.

DESTROYING GATES, &c.
punishment of persons wilfully destroying turnpike gates, &c. vol. ii. 627.

TREES AND HEDGES TO BE CUT, &c.
owners of adjoining lands to cut hedges and branches of trees obstructing road, vol. ii. 623.
power for justice to order same to be done, on pain of penalty, *ib.*
hedges, &c. may be trimmed at expense of defaulter, vol. ii. 623, 624.
time of cutting hedges and trees, vol. ii. 624.

RESISTING OFFICERS, &c.
penalty for, not exceeding 10*l.* vol. ii. 629.

OFFENDERS, APPREHENSION OF.
provision for securing transient offenders, *ib.*

OATHS.
oaths to be taken by trustees, &c. vol. ii. 644.
power to administer oaths, vol. ii. 631.
parties may signify consent to turnpike bills, by affidavit, &c. vol ii. 632.

TURNPIKE ROADS—*continued.*
oath by disinterested party, as to sale of lands, to be evidence of offer, &c. vol. ii. 618, 619.

ACTIONS, &c. RELATING TO.
limitation of actions, vol. ii. 631.
venue, *ib.*
general issue, *ib.*
treble costs, *ib.*
notice of, vol. ii. 630.
trustees may sue and be sued in name of clerk, or one trustee, vol. ii. 611.
in actions against trustees, evidence of their being appointed and acting, sufficient, vol. ii. 628.
no action to abate by death or removal of clerk or trustee, vol. ii. 611.
nominal plaintiff or defendant to be reimbursed his costs, vol. ii. 612.
costs, &c. of trustees to be defrayed out of trust funds, *ib.*
books of accounts, &c. evidence, vol. ii. 664.

INDICTMENTS FOR NON-REPAIR OF.
where parishes indicted for non-repair of turnpike road, court to apportion fine between parish and trustees, &c. vol. ii. 621, 622.
and may order portion for turnpike road to be paid by treasurer, vol. ii. 622.

PROSECUTIONS, AND RECOVERY AND APPLICATION OF PENALTIES.
trustees or commissioners may direct prosecutions for nuisances, &c. vol. ii. 628.
property of turnpike trusts may be laid in trustees, vol. ii. 658.
justices may proceed by summons in recovery of penalties, vol. ii. 655.
within six calendar months, vol. ii. 667.
inhabitants good witnesses, vol. ii. 628.
trustees, &c. may be witnesses, vol. ii. 655.
penalty on witnesses not attending when summoned, 40*s.*, vol. ii. 628, 629.
on constables, &c. refusing to act, vol. ii. 628.
for resisting execution of act, vol. ii. 629.
recovery and application of penalties, *ib.*
prosecutors may recover by information or by action, &c. vol. ii. 630.
notice of action, *ib.*
party aggrieved may recover satisfaction for special damages, *ib.*
tender of amends, *ib.*

APPEAL.
persons aggrieved may appeal to quarter sessions, vol. ii. 655.
if penalty appealed against exceed 40*s.*, vol. ii. 656.
notice to be given, vol. ii. 655.
if not sufficient time to give notice and enter into recognizance, appeal may be to next sessions, *ib.*
proceedings not to be removed by *certiorari*, vol. ii. 656.

EXCEPTION FROM OPERATION OF ACT.
acts not to extend to certain roads, vol. ii. 657, 668.

FORM OF PROCEEDINGS.
forms in schedule to be used, vol. ii. 631.

UNION ACTS. See *Parliament*, vol. iii. 616.

UNIVERSITIES,
leases by the, vol. ii. 1216.
Universities and Colleges Estates Act Extension, 1860, vol. iv. 815.

USE AND OCCUPATION,
assumpsit may be brought for rent when not secured by deed, vol. ii. 1121.
remedy by action for rent. See *Landlord and Tenant.*
distress for rent. See *Distress, &c. Landlord and Tenant.*

USES AND TRUSTS. See also *Trustees, &c.*
statute of uses and trusts, vol. iv. 819.
general notes thereon, *ib. et seq.*
possession of lands to be in him that has the use, vol. iv. 820.
provision as to assurance made of divers, to use of some or one of them, vol. iv. 821.
saving of rights of feoffees to use, *ib.*
land assured to the use that rent should be paid out thereof to some other, vol. iv. 821, 822.
statute not to extinguish any statute of recognizance, &c. vol. iv. 823.
how fines for alienation, reliefs, and heriots to be paid to king, *ib.*
other lords' fines, reliefs, and heriots, *ib.*
cestui que use may take all such advantages as his feoffees might have had, *ib.*
wardships, liveries, or *ouster le main*, of any now being within age or of full age, *ib.*
recognizances taken to the king's use concerning recoveries, vol. iv. 824.
estates of lands executed to persons born in Wales, *ib.*
no land to pass by bargain and sale, unless it be by writing indented, sealed, and inrolled, *ib.*
fee for inrolment in the county, *ib.*
towns corporate, &c. may inrol, vol. iv. 825.
declarations or creations of trusts to be in writing, vol. ii. 163, vol. iv. 825.
trusts arising, transferred, or extinguished by implication of law, are not excepted, vol. ii. 163.
assignments of trusts to be in writing, *ib.*
lands, &c. to be liable to judgment, &c. of *cestui que trust*, vol. ii. 163, 164.
and held free from incumbrances of persons seized in trust, vol. ii. 164.
trusts to be assets in hands of heirs, *ib.*
no heir by reason thereof to become chargeable of his own estate, *ib.*
declarations of uses, trusts, &c. of fines or recoveries made good, vol. iv. 825.

USURY,
all laws against, repealed by 17 & 18 Vict. c. 90, vol. iv. 825, n. (*d*).
general observations as to statutes against, vol. iv. 825, n. (*e*).
no person to take above 5*l.* per cent. interest (12 Anne, st. 2, c. 16), vol. iv. 825, 826.
operation of statutes, vol. iv. 825, n. (*e*).
bonds, &c. for a greater interest void, vol. iv. 828.
persons taking above to forfeit treble value of moneys lent, &c. vol. iv. 829.

USURY—*continued.*
scrivener not to take above 5*s.* for 100*l.* for brokerage, &c. nor above 12*d.* besides stamp duties, for making or renewing any bond, &c. vol. iv. 829.
mortgages, &c. of lands in Ireland or colonies, &c. already made, to be as effectual as if executed in place, &c. and no British subject liable to penalties (14 G. 3, c. 79), *ib.*
mortgages and transfers, hereafter to be executed, to be valid, vol. iv. 829, 830.
not to make good such mortgage if more advanced than lands worth, vol. iv. 830.
borrowing the sums exceeding the value, &c. to forfeit triple the value, *ib.*
mortgages to be registered in the colony, &c. *ib.*
bills in hands of *bonâ fide* holders not avoided by 58 Geo. 3, c. 93, *ib.*
further provisions declaring valid mortgages, demises, or other assurances, &c. executed in G. B. concerning property in Ireland or the West Indies (3 Geo. 4, c. 47), vol. iv. 831.
bills and notes, not having more than three months to run, not subject to usury laws, (3 & 4 Will. 4, c. 98), *ib.*
bills of exchange and contracts for loans or forbearance of money above 10*l.* not to be affected by usury laws (2 & 3 Vict. c. 37), vol. iv. 832.
not to extend to the loan or forbearance of any money on security of lands, &c. or any estate or interest therein, *ib.*, and n. (*c*).
five per cent. to be considered the legal rate of interest in the absence of agreement, vol. iv. 833.
not to affect the law as to pawnbrokers, *ib.*
17 & 18 Vict. c. 90.
all existing laws against usury repealed, vol. iv. 833.
transactions previous to 10th August, 1854, not to be affected, *ib.*
legal or current rate of interest to mean the same as if this act had not passed, *ib.*
law as to pawnbrokers not affected by this act, *ib.*

VACCINATION,
statutes relating to, vol. iv. 834—838.

VAGRANTS. See *Criminal Law. Poor.*

VARIANCE. See vol. i. 55—63, *Amendment, Pleading, Practice, &c. (at Law).*

VENDOR AND VENDEE. See *Conveyance. Frauds (Statute of). Trusts and Trustees.*

VENIRE FACIAS.
writ of, no longer used, vol. iii. 738.

VENUE.
how to be stated in pleadings, vol. iii. 820.
where several causes of action are joined, vol. iii. 729.
power to order local action to be tried in any county, vol. iii. 700.
how to be changed, vol. iii. 797.

VERDICT (SPECIAL). See *Pleading, Practice, &c. (at Law).*

VESSELS. See *Ships and Shipping.*

VESTRIES. See *Poor.*
general observations as to, vol. iv. 838, n. (*a*).
Constitution of.
regulation of vestries and appointment of auditors of parish accounts (1 & 2 Will. 4, c. 60), vol. iv. 845.
act may be adopted by any parish, *ib.*
manner of adopting it in parishes where inhabitants do not assemble in open vestry, *ib.*
form of requisition, *ib.*
upon receipt of requisition churchwardens to give notice of time and place for receiving votes, *ib.*
form of notice, *ib.*
form of declaration, vol. iv. 846.
churchwardens to declare whether votes in favour of adopting act, *ib.*
ratepayers may inspect votes, *ib.*
no person to vote unless he has been rated one year, *ib.*
notice of adoption of act, *ib.*
no similar requisition to be made within three years, *ib.*
act to take effect in all parishes in which adoption notified, *ib.*
penalties on churchwardens and others refusing to call meetings, &c. *ib.*
when not bound to call meeting, *ib.*, n. (*b*).
notices of election to be given, *ib.*
rate collectors, &c. may be summoned to assist at election, vol. iv. 847.
form of proceeding at annual elections, *ib.*
ballot may be demanded, *ib.*
mode of voting, *ib.*
duty of inspectors, *ib.*
proceeding in case of equality of votes, *ib.*
penalty for forging or falsifying voting list, or obstructing election, *ib.*
public notice to be given of vestrymen and auditors chosen by parishioners, *ib.*
penalty on inspector for making incorrect return, *ib.*
elections to be annual, *ib.*
regulations for taking ballot, vol. iv. 848.
how votes to be taken when parish divided into districts, *ib.*
what not a division into districts within act, *ib.*, n. (*a*).
vestry to consist of not less than 12 nor more than 120 householders, vol. iv. 848.
proportion of existing vestry to go out of office at each of first three elections under act, *ib.*
vestrymen to go out of office after three years, and one-third of whole number to be elected annually, *ib.*
qualification of vestrymen, *ib.*
must be complete at time of election, *ib.* n. (*c*).
vestrymen elected under present act cannot be required to take oath directed by former local act, *ib.*
vestries appointed after adoption of act, to exercise authority of former vestries, vol. iv. 849.
not to affect local acts as to vestries, &c. except as expressed, *ib.*
acts of quorum of vestry at any meeting, acts of vestry, *ib.*

VESTRIES—*continued.*
meetings not to be held in the church, vol. iv. 849.
meeting to elect a chairman, *ib.*
proceedings to be entered in books, and to be open to inspection, *ib.*
account books to be kept, and to be open to inspection, &c. *ib.*
auditors to be chosen annually, vol. iv. 850.
qualification of auditors, *ib.*
who disqualified, *ib.*
mode of audit, *ib.*
auditors may call for persons and books, *ib.*
accounts to be signed by auditors, vol. iv. 851.
to be open to inspection after audit, *ib.*
abstracts of accounts to be published within fourteen days after being audited, *ib.*
vestry to make and publish annual list of estates, charities, and bequests, &c. with application thereof, *ib.*
saving of ecclesiastical jurisdiction, *ib.*
interpretation clause, *ib.*
meaning of "church or chapel," as to affixing notices, *ib.*
to what parishes act not to extend, *ib.*

Meetings.
three days' notice to be given of vestries, vol. iv. 838.
by affixing on church door, vol. iii. 1197, vol. iv. 838.
who may be present at, vol. iv. 838, n. (*a*).
chairman of vestries appointed, to have casting vote, vol. iv. 840.
minutes to be entered and signed, *ib.*
manner of voting in vestries, vol. iv. 841.
inhabitants coming into a parish since the last rate, may vote, vol. iv. 843.
persons rated to poor, though not parishioners, may vote, according to value of premises, vol. iv. 844.
so may clerk or agent of corporation, *ib.*
inhabitants refusing payment of poor rate excluded from vestries, vol. iv. 843, 845.
rates which have become due less than three months previous to a vestry meeting, not required to be paid before voting, vol. iv. 844.
mode of voting, &c. vol. iii. 841.
adjourning, vol. iv. 842, n.
preservation of parish books and papers, vol. iv. 843.
retaining or injuring parish books, penalty for, *ib.*
not to affect other proceedings, vol. iv. 843, 844.
provisions in relation to parishes extended to townships, &c. vol. iv. 844.
manner of giving notice of vestries and meetings in special cases, *ib.*
time of holding vestries specially directed, not altered, *ib.*
proviso for special vestries, *ib.*
act not to extend to city of London, *ib.*
nor borough of Southwark, *ib.*
act to extend to England and Wales, *ib.*

Place of holding Meetings.
power to put in force 13 & 14 Vict. c. 57 to prevent the holding of vestry or other meetings in churches, &c. vol. iv. 852.
on expiration of twelve months from the publishing of order, certain meetings prohibited from being held in churches and chapels, *ib.*

VESTRIES—*continued.*
power to provide other places of meeting, vol. iv. 852.
power to purchase lands, &c. under 8 & 9 Vict. c. 18, *ib.*
poor-law commissioners, on receipt of a resolution of the vestry, authorized to require money to be borrowed for the purposes of the act, vol. iv. 853.
interpretation of act, vol. iv. 854.

Vestry Clerks.
regulating the appointment of (13 & 14 Vict. c. 57), vol. iv. 852.
in parishes where population exceeds 2000, upon application of churchwardens, poor-law commissioners may make order to put act in force, *ib.*
churchwardens to convene meetings for election of vestry clerks, vol. iv. 853.
vestry clerks so elected, how removable, *ib.*
duties of vestry clerks, *ib.*
salaries, vol. iv. 854.
churchwardens and overseers not to be discharged from performance of duty, *ib.*

VICAR AND VICARAGES. See *Clergy.*

VICE-ADMIRALTY COURTS. See *Admiralty; Privy Council.*

VICE-CHANCELLORS,
appointment, &c. of, vol. iii. 833, 854.

VIEW,
practice as to, vol. iii. 739, 803.
costs of, vol. iii. 803.

VOTES AND VOTERS. See *Parliament.*

WAGERS. See *Gaming.*

WAGES. See *Master and Servant; Ships and Shipping.*

WARRANT OF ATTORNEY TO CONFESS JUDGMENTS. See also *Judgments; Pleading, Practice, &c.* (*at Law*).
to be executed in the presence of an attorney on behalf of the person, vol. iv. 857.
invalid if not formally executed, vol. iv. 860.
in personal actions to be filed within twenty-one days, vol. iv. 855.
where person giving a warrant becomes bankrupt, same deemed fraudulent and void unless so filed, vol. iv. 855, 862.
defeasance of, to be written on same paper, vol. iv. 856, 863, n. (*b*).
officer of court to keep a book containing particulars of each warrant of attorney, &c. vol. iv. 856, 862.
fee of 1*s.* for filing warrants of attorney, &c. vol. iv. 857.
office copies to be given, on paying the usual rates for copies of judgments, *ib.*
search for, vol. iv. 862.
satisfaction may be entered on warrants of attorney, &c. vol. iv. 857.
signing judgment upon, rules respecting, vol. iv. 863, n. (*b*).

WASTE. See *Dilapidations; Leases.*
fermors not to make waste, &c. vol. iv. 863, 864.

WASTE—*continued.*
remedy for, on statute of Gloucester, vol. iv. 864.
action of, abolished, vol. iv. 863, n. (*d*).

WASTES. See *Commons.*

WATCHING. See *Lighting and Watching.*

WATER AND WATERCOURSE,
limitation of actions respecting, vol. iii. 1311.

WATERMEN,
plying on Sundays, how far prohibited, &c. vol. iv. 661.

WATERWORKS.
Waterworks Clauses Act, 1847, vol. iv. 864.
Waterworks Clauses Act, 1863, vol. iv. 878.

WAY. See *Highway; Turnpike Roads; Bridges.*

WAY, RIGHT OF,
limitation of actions respecting, vol. iii. 1311.
how claimed in pleadings, vol. iii. 1314, 1315.

WEIGHTS AND MEASURES,
ancient statutes respecting, vol. iv. 881, n (*a*).

Establishment of Standard Weights and Measures.
standard yard defined as the measure of length shall be the unit of the measure of extension, vol. iv. 882.
foot, inch, pole or perch, furlong, mile, *ib.*
superficial measures computed from yard, rood, acre, vol. iv. 883.
yard, if lost, &c. to be restored by reference to length of a pendulum vibrating seconds at London, *ib.*
standard pound defined as the measure of weight, *ib.*
ounce, pennyweight, grain, dram, *ib.*
the pound, if lost, &c. may be restored by reference to the weight of a cubic inch of water, *ib.*
standard gallon containing ten pounds avoirdupois of water to be the measure of capacity, *ib.*
quart, pint, peck, bushel, quarter, *ib.*
copies and models of standard length, weight, and measure to be made and verified under direction of treasury, vol. iv. 884.
models and copies to be provided for counties, *ib.*
custody and inspection of, *ib.*
expenses of procuring such models and copies, how to be paid in England and Scotland respectively, vol. iv. 885.
for ascertaining measures of capacity, where reference cannot easily be had to standards, *ib.*
contracts for sale by weight or measure to relate to standard, unless contrary is specified, *ib.*
existing weights, &c. may be used, bearing marks so as to show the proportion they bear to standard weights, &c. *ib.*
for ascertaining rents, &c. payable in England and Ireland, vol. iv. 885, 890.
in Scotland, vol. iv. 886, 890.
costs thereof, how defrayed, vol. iv. 886.

WEIGHTS AND MEASURES—*continued.*
regulation as to fair prices of commodities in Scotland, vol. iv. 891.
tables of equalization to be made and constructed under the authority of treasury, vol. iv. 886.
tables to be constructed for the collection of the customs and excise, *ib.*
regulations and penalties of British acts to be applied to 5 Geo. 4, c. 74, vol. iv. 887.
so much of former statutes, ordinances, or acts as relate to establishing weights or measures repealed, so far as said acts repeal former acts relating to weights and measures, *ib.*
repeal of acts as to models, &c. of standard weights, &c. vol. iv. 888.
weights, &c. stamped at exchequer, legal, though not of shape required by former acts, *ib.*
power of superintending officer to verify and stamp weights, &c. *ib.*
worn copies of standard weights, &c. may be re-verified, &c. *ib.*
officer to keep a register thereof, *ib.*
copies of imperial standards, how to be provided in England and Scotland, &c. vol. iv. 891.
and in Ireland, vol. iv. 892.
legalizing and preserving restored standards, vol. iv. 899.
when to be adjusted, vol. iv. 901.

Equalization of.
local and customary measures abolished, vol. iv. 888.
sale of articles in certain vessels allowed, *ib.*
heaped measure abolished, *ib.*
articles heretofore sold by heaped measure, how to be sold, vol. iv. 889.
coals to be sold by weight, and not by measure, *ib.* See *Coals.*
all articles to be sold by avoirdupois weight, except, &c. *ib.*
sales of bullion and precious stones by the troy ounce, and multiples and decimal parts thereof to be good and valid, vol. iv. 899.
models of the multiples and decimal parts of the troy ounce to be made and verified under the direction of the treasury, *ib.*
and to be deposited, *ib.*
persons using such weights exempted from penalties, *ib.*
incorporation of provisions with previous statutes, *ib.*
contents of troy weights to be stamped thereon, *ib.*
stone, hundred weight, and ton, what to constitute, vol. iv. 889.
contents of weights and measures to be stamped thereon, *ib.*
lead or pewter weights not to be stamped, vol. iv. 890.
measures though partly made of glass, &c. may be stamped, vol. iv. 903.

Inspectors of.
appointment of inspectors, vol. iv. 891, 892, 902.
time for operation of act extended in Orkney and Zetland, vol. iv. 891, 892.
appointment of inspectors in Ireland, vol. iv. 892.

WEIGHTS AND MEASURES—*continued.*
appointment of inspectors by recorders, vol. iv. 891, n. (*a*).
municipal corporations to appoint inspectors, vol. iv. 902.
judges to order copies of standards, &c. in Ireland, when not done by grand juries, vol. iv. 892.
who to procure stamps for inspectors for stamping weights, &c. *ib.*
penalty for using weights, &c. not authorized by act, *ib.*
power to seize weights, &c. *ib.*, and n. (*c*).
what weights and measures need not be inspected or stamped, &c. vol. iv. 892.
expenses of copies of standard weights, &c. to be defrayed out of county rate, vol. iv. 893.
the like, as to remuneration of inspectors, *ib.*
maker or seller of weights, &c. not to be appointed inspector, *ib.*
inspectors to enter into recognizance, *ib.*
to attend market towns, when ordered by justices, *ib.*
to pay fees to treasurer of county, &c. *ib.*
power to magistrates to appoint inspectors, *ib.*
powers of such inspectors, *ib.*
penalty on inspector knowingly stamping weights, &c. of person residing out of district, vol. iv. 894.
weighmasters in Ireland to be supplied with beams, &c. *ib.*
weights, &c. once stamped, need not be restamped, *ib.*
power to justices, &c. to enter shops and inspect weights, &c. *ib.*
penalty on inspector for neglect of duty or misconduct, vol. iv. 895.

Penalties, Offences, and Actions respecting.
penalty for counterfeiting stamps, &c. *ib.*
penalty on price lists denoting other than imperial weight, &c. *ib.*
penalty for making, &c. false beams and scales or weights, &c. vol. iv. 901, 902.
distribution of penalties in England and Ireland, *ib.*
penalties, how to be sued for, *ib.*
form of conviction, *ib.*
recovery of penalties by distress, &c. *ib.*
if no sufficient distress, offender to be committed, &c. vol. iv. 896.
persons aggrieved may appeal to quarter sessions, *ib.*
proceedings not to be quashed for want of form, *ib.*
or removed by *certiorari*, *ib.*
recovery of penalties in Scotland, *ib.*
appeal in Scotland to commissioners, &c. at circuit court, vol. iv. 897.
limitations of actions, &c. *ib.*
plaintiff not to recover after tender of amends, *ib.*

Reservation of certain Rights, &c.
reservation of 31 Geo. 2, c. 17, which empowers dean and high steward of Westminster, &c. to appoint a proper officer to seize and seal weights, vol. iv. 887.
vessels of wine and other gaugeable liquors imported into London, liable to gauge as heretofore by Lord Mayor or his deputies, vol. iv. 887.
contents to be ascertained by standard measure of act, *ib.*
proviso for London as to office of gauger of wines, &c. *ib.*
repeal of 4 Anne, (I.), and 5 Geo. 4, c. 110, except as to duties, &c. of weighmasters, vol. iv. 897.
powers of ward inquests in London, &c. not to be interfered with, *ib.*
rights of Founders' Company reserved, *ib.*
rights of universities of Oxford and Cambridge saved, vol. iv. 897, 903.
not to abridge power of leet jury, &c. vol. iv. 898, 908.

WIDOW. See *Dower.*

WILLS. See also *Evidence, &c. Executors, &c.*
Who may devise or not.
all persons having lands, &c. may devise same, vol. iv. 904, 907.
infants, femes coverts, lunatics, &c. cannot devise, vol. iv. 908, 930, 931.
special provisions as to tenant *pur autre vie*, vol. iv. 912, 930.
What devisable,
before the 1st of January, 1838.
all lands, tenements, rents, and hereditaments are, vol. iv. 904, 905, 907.
estates *pur autre vie*, vol. iv. 912, 930.
copyholds, vol. iv. 921.
personalty, vol. iv. 905, n. (*a*).
lands holden in socage, and none in chief, or by knight service, vol. iv. 904.
lands holden of the king in socage, in chief, and none holden by knight's service, *ib.*
saving of king's primer seisin, and his fines for alienation, *ib.*
lands holden of king by knight's service in chief, vol. iv. 907.
lands holden of the king by knight's service and not in chief, and lands holden in socage, vol. iv. 908.
a will made of the whole, shall be good for two parts, *ib.*
how division of the two parts in three shall be set forth, *ib.*
since the 1st of January, 1838.
meaning of certain words in 1 Vict. c. 26, vol. iv. 928.
repeal of acts, vol. iv. 929.
all property may be disposed of by will, *ib.*
to what property power to extend, *ib.*
as to fees and fines payable by devisees of customary and copyhold estates, vol. iv. 930.
wills or extracts of wills of customary freeholds and copyholds to be entered on court rolls, *ib.*
fines, &c. due to lord of manor, *ib.*
Requisites and Attestation of Wills,
before the 1st of January, 1838.
all devises of lands, &c. before 1st of Jan. 1838, required to be in writing and attested by three or four witnesses, &c. vol. iv. 908.
notes on statute, *ib.*
devisee of beneficial interest attesting it, devise void, but be a good witness, vol. iv. 914.

WILLS—*continued.*
creditor attesting admitted witness, vol. iv. 914.
legatee paid, &c. admitted a witness, when, *ib.*
after refusal, &c. he is barred from legacy, but after acceptance may retain, &c. vol. iv. 915.
legatee attesting and dying in lifetime of testator, or before he has received or refused legacy, may be a good witness, *ib.*
credit of witness to be determined by court, *ib.*
no devisee when devise made void, &c. being examined as to execution of will, shall take compensation, &c. for same, *ib.*
cases where validity of wills and competency of witnesses are not affected, *ib.*
provisions to extend to British colonies, &c. *ib.*
disposition by will of copyholds effectual without previous surrender to uses thereof, vol. iv. 921.
since the 1st of January, 1838.
will to be in writing and signed by testator in presence of two witnesses at one time, vol. iv. 931, 932.
when signature shall be deemed valid, vol. iv. 946.
mode of execution of will of personal estate where made out of the United Kingdom by a British subject, vol. iv. 949.
execution of appointments, vol. iv. 934.
exception as to soldiers' and mariners' wills, vol. iv. 934, 935.
act not to affect certain provisions of 11 Geo. 4 & 1 Will. 4, c. 20, as to petty officers, &c. in navy, vol. iv. 935.
publication of will not requisite, *ib.*
not void for incompetency of attesting witness, *ib.*
gift to attesting witness void, *ib.*
creditors attesting to be competent witnesses, *ib.*
executors competent witnesses, *ib.*
amendment of the law in relation to the wills and domicils of British subjects dying abroad, and of foreign subjects dying within Her Majesty's dominions, vol. iv. 949.

Construction of, and Restrictions upon.
statute concerning, vol. iv. 904.
the words "estate of inheritance," how construed, vol. iv. 905.
a will made of the whole shall be good for two parts, &c. vol. iv. 908.
will to speak from death of testator, vol. iv. 940.
what estates included in a residuary devise, vol. iv. 941.
general devise of testator's lands to include copyhold and leasehold as well as freehold lands, *ib.*
what estates included in a general gift, *ib.*
devise without limitation to pass the fee, vol. iv. 942.
meaning of words "die without issue," &c. vol. iv. 942, 943.
devise to trustees and executors to pass the fee except in certain cases, vol. iv. 943.
trustees under unlimited devise, when to take the fee, *ib.*
devises of estates tail not to lapse, *ib.*
gifts to children, &c. leaving issue at testator's death not to lapse, *ib.*

WILLS—*continued.*
act not to extend to wills made before 1838, vol. iv. 944,
nor to estates *pur autre vie* of persons who die before 1838, *ib.*
devisee of real estate not to claim payment of mortgage out of personal assets, vol. iv. 947, 948.

Perpetuities.
no person, &c. to dispose of property in such manner that the rents or produce shall be accumulated for a longer time than life of settlor or twenty-one years after his decease, or during minority of any party living at his decease, or the minority of persons beneficially entitled, vol. iv. 916, 917.
any other direction void, and rents, &c. go to the persons entitled thereto, vol. iv. 917.
nothing herein to extend to any provision for payment of debts, or for raising portions for children, or touching produce of timber, vol. iv. 918—920.
nor to any disposition of heritable property in Scotland, vol. iv. 920.

Undisposed of Residues (11 Geo. 4 & 1 Will. 4, c. 40).
when and for whom executors to be deemed trustees of, vol. i. 1429.
executors still to take, where no parties entitled to, under statute of distributions, *ib.*
act not to extend to Scotland, *ib.*

Revocation of.
how to be revoked, vol. iv. 911, 936.
general observations as to revocations of, *ib.* n. (*a*).
will revoked by marriage, vol. iv. 936.
not to be revoked by presumption, *ib.*
mode of revocation, vol. iv. 936.
alteration to have no effect unless executed as a will, vol. iv. 938, 939.
how will revoked to be revived, vol. iv. 939.
devise not to be rendered inoperative by subsequent conveyance or act, vol. iv. 940.

Nuncupative,
how to be made, vol. iv. 912.
probate of, vol. iv. 913.
soldiers' and mariners' wills excepted, vol. iv. 934, 935, 913.
who good witnesses to prove, vol. iv. 913.

Protection of Creditors against Alienations by Will.
repeal of acts, vol. iv. 922.
remedy against frauds on creditors by wills, *ib.*
all wills of real estate void as against specialty creditors, *ib.*
freehold and copyhold estates in all cases to be assets for the payment of simple contract or specialty debts, vol. iv. 927.
creditors enabled to recover on bonds, &c. against heir and devisee, vol. iv. 922.
if no heir, action maintainable against devisee only, vol. iv. 923.
limitations for just debts, or portions for children, not to be affected, *ib.*
heir liable, though estate sold before action brought, vol. iv. 924.
plea of riens per descent, &c. vol. iv. 925.

WILLS—*continued.*
devisees to be liable the same as heirs, vol. iv. 925.
real estate of traders to be assets in courts of equity, *ib.*
creditors by specialty to be paid first, *ib.*
parol not to demur by or against infants, *ib.*
infants to make conveyances under order of court, vol. iv. 926.
persons having a life interest may convey the fee, if estate ordered to be sold, *ib.*
extension of provisions to mortgages as well as sales, vol. iv. 945.
and to lands of a deceased debtor, vol. iv. 946.
application of surplus money, vol. iv. 945.

WINCHESTER COLLEGE, Leases by, vol. ii. 1216.

WITNESSES. See *Evidence, &c. Criminal Law* (*Perjury*). *Wills.*

WORDS. See *Libel and Defamation*, vol. ii. 1253.

WORKMEN. See *Factories. Master and Servant.*

WRECKS. See *Ships and Shipping.*

WRIT. See *Pleading, Practice, &c.* (*at Law*).

WRIT OF TRIAL. See *Pleading, Practice, &c.* (*at Law*).

YEAR. See *Time.*

THE END.

198
8

BRADBURY AND EVANS, PRINTERS, WHITEFRIARS.